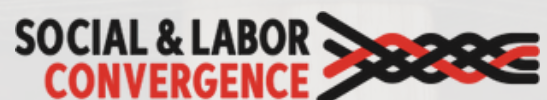


SLCP Human Rights Due Diligence Toolkit

How the Converged Assessment Framework can support due diligence compliance

Published May, 2023



Disclaimer:
The responsibility to conduct human rights due diligence remains on companies, regardless of the use of initiatives such as SLCP.

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Introduction

Mandatory human rights due diligence (HRDD) is a crucial step towards ensuring that companies respect human rights in their operations and supply chains. HRDD refers to the process of identifying, assessing, and mitigating actual or potential adverse human rights impacts that a company may cause or contribute to. It is an important tool for companies to address human rights risks and impacts in their operations, as well as in their supply chains.

However, mandatory HRDD alone may not be enough to ensure that companies respect human rights. Sustainability initiatives that support HRDD are also necessary to ensure that HRDD achieves its potential impact.

Credible and actionable data is a crucial starting point for any due diligence. This is where SLCP's value lies: the tool is mapped against international labor standards and national labor laws, and data quality and integrity are a priority for SLCP.

SLCP provides a foundational assessment for conducting human rights due diligence. Follow-up investigations or actions will likely be required in the case a specific risk is severe or likely.

The Converged Assessment Framework (CAF) - adopted by 7250 facilities globally in 2022 - is already used by many brands to support their largely voluntary due diligence efforts, with 89% using the CAF to identify risks and 93% to track progress.* As part of SLCP's recent policy roundtable, various policy stakeholders** echoed the same message - SLCP's CAF can be useful for supporting due diligence.

What is of critical importance is the question of "how?"

Given the emerging policies and laws, how is SLCP unique and special in supporting companies to conduct robust mandatory HRDD?

Sustainability initiatives, or 'accompanying measures' should be clear on which components of due diligence they can support. This claim should be based on an honest depiction of the tool, system, design and scope, while ensuring that the approach aligns with the demands of the policy, guidance, or law. This Toolkit aims guide users of the tool on how SLCP is uniquely useful to support HRDD compliance.



Picture: based on the OECD six-step due diligence framework

SLCP Signatory brands report* using SLCP assessments to:



Objective of the Toolkit:

This Social and Labor Convergence Program toolkit on human rights due diligence (SLCP HRDD Toolkit) aims to set out:

- How the CAF can support stakeholders to implement HRDD
- How SLCP data is aligned with emerging policy demands

*Based on SLCP Signatory Survey, December 2022

** The SLCP Policy Roundtable, (February 15th 2023, Paris,) occurred on the side of the OECD Due Diligence Forum for the Garment & Footwear sector



A snapshot of global human rights due diligence laws

2023 ENFORCED



- UK Modern Slavery Act - In force as of 26th March 2015



- French Corporate Duty of Vigilance Law - In force as of 27th March 2017



- Australia's Modern Slavery Act - In force as of 1st January 2019



- US Uyghur Forced Labour Prevention Act - In force as of June 2022



- Japan's Guidelines on Respect for Human Rights in Responsible Supply Chains - In force as of 2022



- Norwegian Transparency Act - Companies required to report by 30th June 2023



- German Supply Chain Act - In force for companies with over 3000 employees as of 1st January 2023



- Mexico's Forced Labour Regulation - Comes into force 18th May 2023

2024

- German Supply Chain Act - to be extended to companies over 1000 employees as of 1st January 2024
- Canada's Forced Labour Prevention Act* - expected to be passed in 2023 - comes into force Jan 1 2024



2025



- New York Fashion Act* - expected to be passed in 2023 - comes into force 2025



- EU Corporate Sustainability Due Diligence Directive* - expected to be passed in 2023 - comes into force from 2025



- EU Forced Labor Regulation* - expected to be passed in 2023 - comes into force from 2025

CHAPTER 1

SLCP's value-add for HRDD

SLCP's tool, system and process has a unique value-add for supporting human rights due diligence, as highlighted by the following four categories:

1

The CAF is a foundational social assessment

The Converged Assessment Framework (CAF) is a broad social assessment that can act as a first step for companies when undertaking human rights due diligence. By asking questions on a wide range of social & labor compliance topics, it comprehensively covers many risks that companies need to address in their supply chain. Read more about the [areas the CAF covers](#).

2

SLCP prioritises credible and actionable data

SLCP prioritises data quality. This is so the data represents the working conditions in the facility. With facility ownership at the core of the data collection process, SLCP understands the immense demand for actionable and credible data particularly when it is used for policy compliance. Find out more [here](#).

3

The tool is mapped against international labor standards and national labor laws

Through SLCP's collaboration with ILO Better Work, the CAF is mapped against international labor standards and national labor law. This means that the data collected is highly relevant to any emerging policy which aligns with the existing standards. Find out more about [interpreting SLCP reports for social compliance](#).

4

Capacity to unlock resources for improvement programs

By using a converged tool, stakeholders can reduce the focus on repetitive auditing and redirect resources into improvement programs. Improvement programs can include measures to prevent, mitigate, and remedy harms - other key steps to the due diligence process.

SLCP is collaborating with Fair Wear to drive collaborative and holistic solutions for companies to facilitate meaningful human rights due diligence.

"Through increased alignment, Fair Wear and SLCP re-iterate the joint vision for enhanced cooperation between brands and reducing the burden on manufacturers in the gathering and verification of social and labor data to support human rights due diligence. By facilitating companies in conducting human rights due diligence, we can jointly avoid duplicative efforts & focus on promoting impactful implementation."

Hester Janssens, Fair Wear Foundation

As the following chapters of this toolkit will highlight, the landscape of due diligence instruments is diverse. This means that the value-add of the CAF differs per policy.

SLCP as a facilitator to support company due diligence efforts

According to the OECD, there is a distinction between sustainability initiatives that facilitate due diligence, and ones that verify due diligence compliance. Both types of initiatives can play different supporting roles.

SLCP facilitates due diligence efforts by informing companies of their due diligence impacts. This is a critical part of the 'facilitation initiative' role.

Further, SLCP is built on the principles of stakeholder collaboration, harmonization of assessments, accountability and driving transparency. With quality data and a unique 'facility ownership' model, facilities and workers can provide information regarding human rights impacts to stakeholders such as complying companies.

SLCP's CAF includes many of the relevant sector risks and quality checks demanded by policymakers for due diligence. The CAF can inform companies of their human rights risks without verifying or certifying company performance. This is left to other verification initiatives and the company itself.



Data Sharing

SLCP facilitates the sharing of aggregated data and works with key partners to inform industry stakeholders on the sector specific trends in supply chains.



Transparency of Scope

SLCP clearly communicates that the CAF is not a one-stop-shop for due diligence implementation, accurately conveying its scope.

" Initiatives that can demonstrate alignment with policy makers' objectives and a willingness to address issues related to scope, implementation and overall credibility can and should play an important role in promoting effective implementation and in driving best practice."

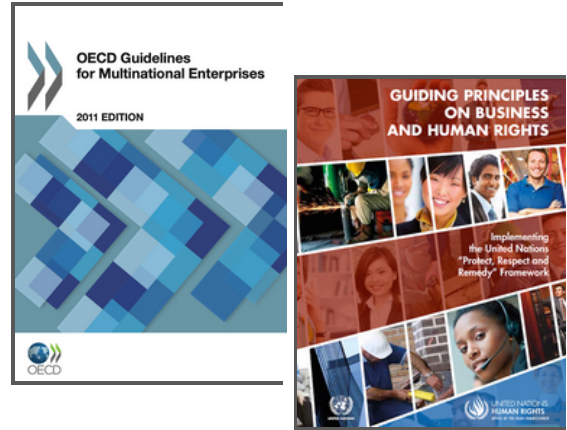
OECD (2022), The role of sustainability initiatives in mandatory due diligence: Background note on Regulatory Developments Concerning Due Diligence for Responsible Business Conduct



OECD Guidelines & UNGP's instrumental to the development of the Converged Assessment Framework (CAF)

SLCP was established within the context of two key international frameworks that address the responsibilities of businesses to respect human rights:

- **The United Nations Guiding Principles on Business and Human Rights (UNGPs),**
- **The OECD Guidelines for Multinational Enterprises.**



These Guidelines set the framework for the State's duty to protect, and businesses responsibility to respect human rights. By implementing the CAF, SLCP has a specific mandate that supports businesses in respecting human rights in global supply chains through meaningful human rights due diligence implementation.

"By measuring and verifying social and labor conditions in alignment with international labor standards and national labor law, SLCP cements itself as an effective tool to facilitate companies to implement due diligence. Through our partnership with SLCP, there are exciting opportunities to leverage the aggregate social and labor data to support businesses to conduct robust human rights due diligence, and provide insights for policymakers to make impactful decisions and improvements"

- **Joseph Wozniak, Director of the Trade for Sustainable Development (T4SD) Programme, International Trade Center**

Credible & actionable data required for proper due diligence

SLCP has a unique process for collecting social & labor data. As the tool is developed in collaboration with ILO Better Work and mapped against international labor standards and national labor laws, this ensures the data is actionable and built with policy compliance at its core.

Further, SLCP ensures data quality and integrity by implementing its Verification Oversight and Quality Assurance strategy. The strategy focuses on personnel (to ensure qualified, professional, and ethical Verifier Bodies and Verifiers), process oversight (to identify and manage quality issues), and continuous improvement (to establish feedback mechanisms and collaborations). This underpins the usefulness of SLCP data for due diligence, and continues to be a priority area.

Verifier Bodies & Verifier performance	Personnel Qualified, Professional, Ethical
Management and execution of QA processes and procedures	Process Oversight High Quality, Consistent & Precise
Stakeholder feedback & collaboration	Continuous Improvement Transparent & Inclusive

*The OECD Guidelines set out the expectation that enterprises 'identify actual and potential adverse impacts on matters covered by the OECD Guidelines.' (OECD Guidelines, II, A10). This includes human rights (Chapter IV) impacts linked to the enterprise through a business relationship, such as being in its supply chain (OECD Guidelines, II, A12; For definition on 'business relationship' see OECD Guidelines, Commentary 43).

Core labor standards & the Converged Assessment Framework (CAF)

Following a risk-based approach to due diligence, the most severe risks should be prioritized given that their adverse impacts are often greatest. The five core labor standards, as outlined by the International Labour Organization's (ILO) [Fundamental Principles and Rights at Work](#), have increased severity and therefore warrant greater attention from companies conducting due diligence. SLCP has prioritized understanding:

- How the CAF can be valuable for capturing specific instances of these human rights areas via a broad social assessment; and
- The associated insights and possible trends on these risks.

The below table outlines the initial findings of the project, including the number of associated data points mapped against the core labor standards. This is helpful for companies looking to understand where the CAF asks questions relating to the most salient human rights.

Core Labor Standard	Related ILO Conventions	Number of associated data points in CAF 1.5	Relevant Steps in CAF v1.5
Freedom of Association	87 & 98	95	Step 1/2
Discrimination	100 & 111	155	Step 1/2/3
Forced Labor	29 & 105	107	Step 1/2
Child Labor	138 & 182	40	Step 1/2
Safe & Healthy Work Environment	155 & 187	396*	Step 1/2/3*

Limitations

SLCP is aware that core labor standards are often the most difficult to uncover, particularly through a one-off broad assessment. By following the general principle set by the OECD Guidance that the more severe the impact, the greater the level of assurance the company needs to ensure the impacts are addressed, core labor standards will often require more than a broad social assessment to identify, track, and monitor the risk.

*The right to a safe & healthy working environment was added to the Fundamental Rights in 2022 by the ILO. We are currently working to understand what is covered by this right, which will determine the number of data points and the associated steps. Currently, there are 396 data points in the health and safety section of the tool.

CHAPTER 2

SLCP & the OECD Due Diligence Guidance for the Garment & Footwear Sector

The OECD Due Diligence Guidance for Responsible Supply Chains in the Garment and Footwear Sector (OECD Guidance) provides recommendations for companies to address the risks of adverse impacts related to human rights, labor rights, and the environment in their supply chains.

What is the recommended approach?

- Risk-based approach
 - Measures should correspond to the likelihood and severity of the harm.
 - Priority may be given to address risks based on the likelihood they will occur, and their severity.

What does the Guidance say about the use of Multi-Stakeholder Initiatives (MSIs)?

- The OECD Guidance recognizes the diverse role of MSIs for fostering collaboration in implementing due diligence.
- The OECD Guidance supports the use of converged tools (like the CAF) that can facilitate sector collaboration by:
 - helping enterprises to pool information (by reducing audit duplication),
 - scaling preventative measures (due to redirected resources),
 - increasing transparency of working conditions (by analysis aggregated data).
- Enterprises should retain responsibility for conducting due diligence, meaning they cannot rely on third parties to undertake their due diligence.

How does SLCP align with the recommended method for assessing suppliers at the site level?

- An SLCP assessment could be used as an initial broad social assessment.
- Where there are known risks, further in-depth and targeted tools can be used complementarily.
- See the Annex for more comprehensive commentary on how the SLCP system & process aligns with the OECD Guidance.

Published

2018

Affected Companies

Enterprises which are operating in the garment & footwear sector and seeking to implement the OECD Guidelines.

Scope of Supply Chain

- Own operations
- 'Business relationships' (such as facilities in the enterprises supply chain)







Penalties

The OECD Guidance is voluntary, meaning companies are not legally bound by its contents and there is no formal enforcement mechanism.

OECD steps for conducting due diligence

The OECD Guidance recommends companies establish a risk management system in order to identify, prevent, mitigate and eliminate human rights or environment-related risks. This is to be done through a six step process, outlined below.

What steps do companies need to take to conduct due diligence, and where is an SLCP assessment relevant?

Due diligence step	SLCP relevance	Notes
1. Embed responsible business conduct into policies & management systems		SLCP might not help a company embed responsible business conduct into policies & management systems but it does help companies identify if their suppliers (facilities) do.
2. Identify actual and potential harms in the enterprise's own operations and in its supply chain		SLCP can support the initial assessment of human rights risks (2.3) - See the Annex.
3. Cease, prevent or mitigate harm in the enterprise's own operations and in its supply chain		SLCP does not cease, prevent, or mitigate harms, but companies can use SLCP data to inform this step.
4. Track implementation and results		By conducting an annual SLCP assessment, enterprises can verify and monitor progress on addressing harms.
5. Communicate how impacts are addressed		SLCP data can be used by enterprises for communicating due diligence efforts.
6. Provide for or co-operate in remediation when appropriate		Enterprises can check SLCP data against their Code of Conduct and implement corrective action plans accordingly.

How does an SLCP assessment align with the Garment & Footwear Sector risks?

The OECD Guidance recognizes that the garment and footwear sector faces unique challenges related to working conditions, labor rights, and human rights more broadly. Given that SLCP has closely aligned the Converged Assessment Framework with the key human rights risks as outlined in the OECD Guidance, all those related to human & labor rights are aligned.

Risk	Risk Coverage in the CAF	Step in the Tool
Child labor	Addressed	Step 1/2
Discrimination	Addressed	Step 1/2/3
Forced labor	Addressed	Step 1/2
Occupational health & safety	Addressed	Step 1/2/3
Violations of the right of workers to establish or join a trade union and to bargain collectively	Addressed	Step 1/2
Non-compliance with minimum wage laws	Addressed	Step 1
Wages do not meet basic needs of workers and their families	Partially addressed	Step 3
Hazardous chemicals	Addressed	Step 1/2
Water pollutions	Not addressed	N/A
Greenhouse Gas (GHG) emissions	Not addressed	N/A
Bribery and corruption	Addressed	Step 2

CHAPTER 3

SLCP & the draft European Corporate Sustainability Due Diligence Directive*

The EU's proposed Corporate Sustainability Due Diligence Directive (CSDDD) aims to promote greater corporate responsibility, improve sustainability due diligence standards and corporate governance of human rights, and aid stakeholders' rights to access remedies. The draft Directive proposes a mandatory due diligence framework for companies that will require them to identify, prevent and mitigate potential adverse impacts on human rights, the environment and governance practices.

What is the proposed approach?

While the draft Directive provides for some risk prioritization, companies should largely take a compliance-based approach to identifying and assessing their potential adverse impacts on human rights, the environment, and governance practices. Companies should take into account the specific risks associated with their operations and supply chains.

- An SLCP assessment could be used as a broad initial social assessment. Where risks are identified, further in-depth and targeted tools can be used complementarily.

What does the proposed Directive say about the use of sustainability initiatives such as SLCP?

- The proposed Directive mentions that the EU Commission and the Member States could support companies to fulfil their due diligence obligations by devising new measures, including the facilitation of joint stakeholder initiatives.
- Companies may rely on industry schemes and multi-stakeholder initiatives to support the implementation of their obligations to the extent that such schemes and initiatives are appropriate to support the fulfilment of those obligations.
- The CAF is aligned with international labor standards and national labor laws, ensuring it is one of a number of useful tools for supporting CSDDD efforts.

Penalties

Combination of sanctions and civil liability (fines).

- Sanctions should be effective, proportionate and dissuasive,
- Fines are based on the company's turnover

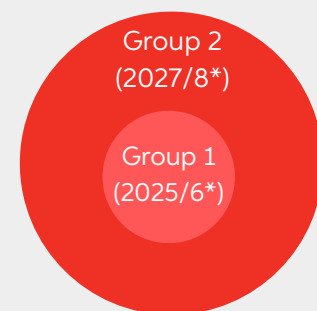
Enforcement

TBA

Earliest 2025

Affected Companies

EU and non-EU companies that meet turnover and employee thresholds:



■ Group 1 companies (Large): 500+ employees and €150million in net turnover worldwide.

■ Group 2 companies (Medium-sized in high risk sectors): 250+ employees and at least €40 million in net turnover worldwide, where at least 50% is from high impact sectors.

Proposed Scope of Supply Chain

- Own operations
- Subsidiaries relating to the value chain
- 'Established business relationships'







**As the proposed Directive is still in draft phase, this chapter is written with reference to the current text. When the final Directive is adopted, SLCP will also revise this chapter.*

EU steps for conducting due diligence

According to the legislation, companies must conduct due diligence in a manner that would allow them to identify, prevent, mitigate and eliminate human rights or environment-related risks and violations.

What steps do companies need to take to conduct due diligence, and where is undertaking an SLCP assessment helpful?

The due diligence process should follow a six-step process:

	Article Number	SLCP relevance	Notes
1. Integrating due diligence into companies' policies	Art.5		SLCP might not help a company embed responsible business conduct into policies & management systems but it does help companies identify if their suppliers do.
2. Identifying actual and potential adverse impacts	Art.6		SLCP supports the initial identification of adverse human rights impacts.
3. Preventing and mitigating potential adverse impacts. Bringing actual adverse impacts to an end and minimising their extent	Art.7-8		SLCP does not prevent or mitigate adverse impacts, but companies can use SLCP data to tailor measures for this step.
4. Establishing and maintaining a complaints mechanism	Art.9		SLCP might not help a company establish a complaint procedure but it does help companies identify if their suppliers have grievance systems in place (data points on grievance systems in Step 1 and Step 2).
5. Monitoring the effectiveness of the due diligence policy and measures	Art.10		SLCP can support companies track and monitor their progress through year on year comparisons.
6. Publicly communicating on due diligence	Art.11		SLCP data can be used as one source of evidence when companies communicate their due diligence efforts.

How does an SLCP assessment align with draft Directive?

According to the draft text, the risk analysis should focus on any persons whose lives may be impacted by a company's (in)action. This includes workers in the supply chain. As outlined in the Directives' [Annex](#), The draft EU CSDDD covers specific human rights in accordance with international treaties and legislation. The below table displays where SLCP's CAF is aligned.

Risk	Risk Coverage in the CAF	Section of the Tool
Child Labor & rights of the child	Partially addressed	Step 1/2
Forced Labor and all forms of slavery	Addressed	Step 1/2
Occupational Safety and work-related health hazards,	Addressed	Step 1/2/3
Freedom of association and the right to collective bargaining	Addressed	Step 1/2
Equality in employment (Discrimination)	Addressed	Step 1/2/3
Decent work (healthy working conditions, reasonable working hours, a decent living)	Addressed	Step 1/2/3
Fair wages (living wage)	Partially addressed	Step 2/3
Torture, cruel, inhuman or degrading treatment	Addressed	Step 1/2

Please note: This is a high-level table developed as a guide only. It is based on the draft Annex of the EU CSDDD. SLCP will be updating this table once the text is finalised.

SLCP & the European Corporate Sustainability Due Diligence Directive

Risk	Risk Coverage in the CAF	Section in the Tool
Importation or exportation of prohibited specimens	Not addressed	N/A
Use and importation of prohibited substances and chemicals	Not addressed	N/A
Waste management (hazardous waste use)	Partially addressed	Step 1/2
Causing environmental degradation	Not addressed	N/A
Biodiversity	Not addressed	N/A
Land rights (indigenous, vital resources)	Partially addressed	Step 3
Hiring or use of private/public security forces	Partially addressed	Step 1/2/3
Violation of the people's right to life and security	Addressed	Step 1
Arbitrary or unlawful interference with a person's privacy, family, home or correspondence and attacks on their reputation	Partially addressed	Step 1

Please note: This is a high-level table developed as a guide only. It is based on the draft Annex of the EU CSDDD. SLCP will be updating this table once the text is finalised.

EU Regulation on prohibiting products made with forced labour touch points with SLCP

The European Commission has proposed a Forced Labor Regulation, banning any product made with forced labor from the European market. This is a separate law to the CSDDD, and will require companies of all sizes to conduct due diligence to ensure no product in Europe touches forced labor in their supply chain.

SLCP's CAF can play a role alongside other effective tools by supporting companies to understand their supply chains across a broad range of social & labor topics, including forced labor. In addition, SLCP's aggregated data can contribute to the proposed 'database of risk' by understanding social and labor trends, particularly in the textile & garment sector.

By undertaking comprehensive human rights due diligence, companies can proactively identify potential risks associated with forced labor. This can decrease the likelihood of non-compliance with the EU Forced Labor ban. An SLCP assessment could be one piece of evidence to support compliance.



CHAPTER 4

SLCP & the German Act on Corporate Due Diligence Obligations in Supply Chains

With the aim of ensuring companies observe human rights and environmental standards in their supply chains, the German Act on Corporate Due Diligence Obligations in Supply Chains ("Lieferkettenschutzgesetz") came into force in 2023. The law will prompt companies to understand the effects of their supply chain activities, and take action where there are adverse human rights or environmental impacts.

What is the approach?

Companies must follow a risk-based approach, allocating resources in a targeted way and addressing the most severe and likely human rights issues first.

- An SLCP assessment could be used as a broad initial social assessment. Where risks are known, further in-depth and targeted tools can be used complementarily.

What does the legislation say about the use of sustainability initiatives such as SLCP?

- The law specifically mentions the possibility of using industry-wide or multi-stakeholder initiatives as a means of implementing due diligence processes.
- Companies may use "generally accepted industry standards or standards developed by recognized multi-stakeholder initiatives" as a basis for their due diligence processes.
- The CAF is not a standard - rather it is aligned with international labor standards and national labor laws. This ensures it is one of a number of useful tools for supporting due diligence efforts.

Penalties

BAFA (Federal Office of Economics and Export Control), is tasked with ensuring companies abide by the law.

Penalties for non-compliance include:

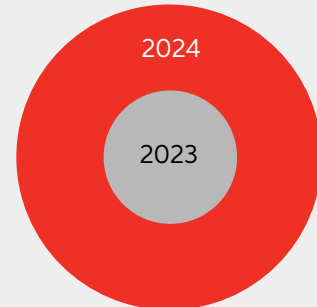
- Fines
- Exclusion from public contracts for up to 3 years

Enforcement

1st January 2023

Affected Companies

Companies based in Germany (or German-registered branches of foreign companies) within the following scope must comply:



■ Enforced for companies with over 3000 employees

■ Enforced for companies with over 1000 employees

Scope of Supply Chain







- Own operations
- Direct suppliers
- Indirect suppliers (only if there is an indication of a violation)

Steps for conducting due diligence

According to the legislation, companies shall establish an appropriate and effective risk management system in order to identify, prevent, mitigate and eliminate human rights or environment-related risks and violations.

What steps do companies need to take, and where is conducting an SLCP assessment helpful?

The due diligence process should follow a six-step process:

Due Diligence Step	Article Number	SLCP relevance	Notes
1. Establishing an effective risk management system	s4		An SLCP assessment can form part of the risk management system.
2. Undertaking risk analysis	s5		SLCP can support the initial identification of human rights risks.
3. Derivation of preventative measures	s6		Companies need to implement their own preventative measures. However, an SLCP assessment could inform this step as brands can use SLCP data to tailor preventative measures.
4. Provision for remedial measures	s7		Brands can check SLCP data against the policy requirements and implement corrective action plans accordingly.
5. Establishment of complaints procedure	s8		SLCP does not help a company establish a complaints procedure, but it does help complying brands understand if their suppliers have grievance systems in place.
6. Documentation and reporting	s10		SLCP assessments can be used as one of the measures included in annual reporting.

What does compliance look like? s10(2-3)

- On an annual basis, companies must report via an [online questionnaire](#):
 - the identified human rights and environmental risks,
 - the measures the company has implemented,
 - how effective the measures have been,
 - conclusions drawn for future measures.

Using a converged tool like SLCP for part of the risk analysis can free up resources that companies can reallocate to the other often very complex stages of due diligence - prevention and remedy.

How does an SLCP assessment align with the Act?

The focus of the due diligence risk analysis should be on the interests of the workers within the supply chain and any other persons whose lives may be impacted. The German Supply Chain Due Diligence Act covers specific human rights envisaged in international treaties and legislation. The below table displays where SLCP's CAF is aligned and can be used to identify risks in the facility.

Risk	Risk Addressed in the CAF	Section in the tool
Child Labor	Addressed	Step 1/2
Forced Labor and all forms of slavery	Addressed	Step 1/2
Occupational Safety and work-related health hazards	Addressed	Step 1/2/3
Freedom of association and the right to collective bargaining	Addressed	Step 1/2
Equality in employment (Discrimination)	Addressed	Step 1/2/3
Fair Wages	Partially addressed	Step 1/2/3
Destruction of vital natural resources through environmental pollution	Not addressed	N/A (However, Step 1 & 2 asks a some high-level questions on this broad topic)
Land rights	Partially addressed	Step 3
Hiring or use of private/public security forces without an adequate command structure or proper oversight to prevent harm	Partially addressed	Step 1/2/3

CHAPTER 5

SLCP & the Uyghur Forced Labor Prevention Act (UFLPA)

Building on the existing forced labor ban in the US, the UFLPA prohibits companies from importing goods made with forced labor into the United States. It particularly focuses on the Xinjiang Uyghur Autonomous Region (Xinjiang) of the People's Republic of China (China) by presuming all goods made wholly or in part in the region are made with forced labor ('the rebuttable presumption'). Companies can rebut the presumption by producing clear and convincing evidence that it was not made with forced labor, which could include an SLCP assessment with an interpretation layer (such as a law overlay, company Codes of Conduct, or the Sustainable Apparel Coalition's vFSLM).

What is the approach?

The Act follows a risk-based approach, meaning the Forced Labor Enforcement Task Force (FLETF) has published sectors and products of higher risk:

- Sectors include textile & apparel, electronics.
- Products include cotton.

As these are known risks, further in-depth and targeted tools should be used in complementarity with the CAF.

What type and nature of information is needed to be exempt from the import ban?

- Clear and convincing evidence which demonstrates that the imported goods or products have not touched forced labor before entering the US.
- Documents showing a robust due diligence system or process
 - Engagement with suppliers and other stakeholders regarding the assessment and addressing forced labor risks in the supply chain (see below for how an SLCP assessment could be useful)

While an SLCP assessment could be useful for forced labor risk identification, it alone will not meet the exceedingly high threshold set by the 'rebuttable presumption.' Generally, a variety of sources of evidence in addition to an SLCP assessment are needed to successfully prove the supply chain did not touch forced labor, particularly for higher-risk materials or for products from higher-risk geographies.

Enforcement

21st June, 2022

Affected Companies

Companies importing goods into the United States that have been made (wholly or in part) in Xinjiang.

Scope of Supply Chain

The ban applies to the whole supply chain.

Penalties

The US Customs and Border Force (CBP) are tasked with enforcing the import ban.









Penalties for attempting to import goods from Xinjiang include:

- detention of goods
- exclusion of goods
- seizure / forfeiture of goods

Steps for establishing 'clear and convincing' evidence

Companies importing into the US have been warned that the threshold for establishing 'clear and convincing evidence' is high. For this reason, it is important to conduct thorough due diligence to document that forced labor does not touch any part of the supply chain.

The Forced Labor Enforcement Task Force (FLETF) relies on the U.S. Department of Labor's "Comply Chain" to outline the elements of a social compliance system they look for when determining whether an importer's due diligence system is effective. Below outlines the due diligence elements, and how an SLCP assessment could be used by complying importers.

	SLCP relevance	Notes
1. Engage Stakeholders and Partners		Importers can use SLCP assessments to engage with suppliers.
2. Assess Risks and Impacts		SLCP can support the initial identification of forced labor risks.
3. Develop a Code of Conduct		Importers would need to develop their own code of conduct, which could be mapped against SLCP data for compliance.
4. Communicate and Train Across your Supply Chain		By adopting SLCP in the supply chain, suppliers can be made further aware of their social & labor conditions. Training & communication requires more measures than SLCP.
5. Monitor Compliance		For repeat users of SLCP, year on year social & labor data can be used to monitor the risk of forced labor in the facility.
6. Remediate Violations		Although SLCP does not remediate violations, it supports companies in prioritizing their remediation activities.
7. Independent Review		As outlined in the ILAB comply chain, an independent review could be an unannounced assessment (which is possible within the SLCP system).
8. Report Performance and Engagement		SLCP assessments can be used as one of the measures included in reporting on performance.

How does an SLCP assessment align with the UFLPA?

As outlined in the [operational strategy](#), companies importing goods into the US should be conducting human rights due diligence to prevent any risk of forced labor in their supply chain. Below highlights how an SLCP assessment could be used as one piece of data for UFLPA compliance.

How can SLCP's model address growing concerns about forced labor in supply chains?

The CAF provides a comprehensive set of high-quality, credible social and labor data that reduces the need for duplicative social audits. An SLCP assessment provides a strong foundation for brands and other stakeholders to take a data-driven approach to identifying non-compliances and risks at facilities within their supply chain, including on topics such as forced labor.

The CAF is not an investigative tool, but a broad social assessment. By eliminating the need for proprietary social audits, the CAF creates efficiencies for stakeholders such as brands and suppliers, allowing them to focus their efforts on more meaningful activities. This might include in-depth investigations into specific issues raised in the SLCP data (such as forced labor) and remediation of possible non-compliances.

"Social auditing is one of the primary ways—in addition to engagement with unions and workers and grievance mechanisms—to obtain information about violations of a company's code of conduct in your supply chain. Auditing uncovers problems; it does not solve problems. It is one piece of the larger social compliance system along with stakeholder engagement, communication, remediation, and the other steps in the process."

U.S. Department of Labor, ILAB, Comply Chain, Step 5: Monitoring Compliance.



Self-assessments as part of risk analysis

The use of self-assessments can form part of the due diligence under the UFLPA. According to ILAB, it presents an opportunity for capacity building particularly for facilities that have a pattern of good performance. However, like the SLCP model, ILAB suggests these results should still be verified by an independent party, such as a SLCP Verifier.

Appendices

Appendix 1

Where does an SLCP assessment align with OECD Due Diligence Guidance's Step 2 & Step 4?

The OECD Guidance outlines a number of elements a facility should consider when conducting the risk assessment (Step 2). An SLCP assessment can be used for certain criteria, as outlined below. Complying companies should keep in mind that there are a number of additional criteria that they should meet to complete Step 2 which are outside the scope of SLCP, as outlined in the Guidance.

OECD Guidance Criteria	Section	SLCP Alignment
The enterprise carries out a self-assessment of its own operations to determine the extent of risks and actual impacts	2.1	In the first instance, a facility self-assesses its social & labor conditions to understand the conditions and any existing risks.
The enterprise reviews its policies and systems to assess the extent to which risks are being prevented or mitigated	2.2	An SLCP assessment supports facilities to review their policies and systems, and track progress against addressing such risks.
Supplier assessments are conducted when there are gaps in information or where the context has likely changed	2.2	SLCP recommends assessments are undertaken every 12 months.
Risks of harm which are subjective (such as human rights), tool has multiple data points to assess the situation	2.2	Worker interviews are conducted in the local language. Multiple data points are used to understand situations (as evidenced by the 'core labor standard' data points).
The assessment team have the capability to conduct the assessment within the local context (e.g. language)	2.2	SLCP Verifiers are usually based in the country of the facility (or have approval to travel to the facility from another country), so they can have dialogue with the facility & workers when conducting the interviews in the local language.
The enterprise should seek to understand the context in which it is operating in order to tailor supplier assessments appropriately	2.2	SLCP verifiers are trained in the local context to so that they are experts in the national laws relevant for the facility. The assessment is tailored in the sense that it is mapped against the local national law, but the questions remain the same internationally. Further in-depth & tailored assessments would be needed where there is a known risk.
Verify progress on due diligence and its effectiveness in the enterprise's supply chain	4.2	SLCP assessments can verify whether progress has been made. E.g. was the facility effective in addressing excessive overtime.

OECD Guidance Criteria	Section	SLCP Alignment
Monitor progress on due diligence and its effectiveness in the enterprise's supply chain	4.2	SLCP can monitor progress (for example, annually), however it does not provide on-going tracking against indicators of improvements in addressing specific risks.
Validate progress on due diligence and its effectiveness in the enterprise's supply chain	4.2	SLCP data may feed into validating whether the actions the company or facility took to address the harm were effective.

As per the OECD Guidance, there are a number of other steps an enterprise should take when conducting Step 2 and Step 4 of due diligence. It will depend on various factors, including the product, location, visibility, severity, and leverage as to what additional measures should be taken.

Appendix 2

SLCP's priorities for upcoming due diligence legislation

SLCP supports the increasing role of governments in promoting responsible business conduct by adopting a 'smart-mix' of measures. In particular, enforced mandatory human rights due diligence will be a central measure used as part of a range of smart mix approaches to improve human rights, including working conditions in global supply chains.

In alignment with our public comments in [2022](#), SLCP believes that, in order to promote collaboration and converged solutions backed by credible and actionable data, HRDD policies should:

1

Follow a risk-based approach

that aligns with current expectations as the most effective way to advance human rights in global supply chains.

2

Support the use of credible sustainability initiatives

or ('accompanying measures') which provide actionable data such as SLCP. SLCP has [highlighted a number of criteria for what constitutes 'credible'](#). Note that companies must retain responsibility for conducting due diligence.

3

Provide practical (sectorial) guidance

that acknowledge the unique complexities of each sector, particularly those with opaque supply chains such as in textile & garments. HRDD will only be successful if the necessary practical tools articulating what is expected accompany the policy. This will promote a level playing field.

Resource List for Users



Legislation & Guidelines Text

- [Act on Corporate Due Diligence Obligations in Supply Chains Germany \(bmas.de\)](#)
- [OECD Due Diligence Guidance for Responsible Supply Chains in the Garment and Footwear Sector](#)
- [Proposal for a Directive on corporate sustainability due diligence and annex](#)
- [Uyghur Forced Labor Prevention Act](#)
- [EU Regulation on prohibiting products made with forced labour](#)



Further reading

- [ILO, Handbook for employers and business – Booklet 4 A Checklist and Guidance for Assessing Compliance](#)
- [OECD \(2022\), The role of sustainability initiatives in mandatory due diligence: Background note on Regulatory Developments concerning Due Diligence for Responsible Business Conduct](#)
- [Seeking a Smart Mix : Multi-stakeholder Initiatives and Mandatory Human Rights Due Diligence](#)
- [Strategy to Prevent the Importation of Goods Mined, Produced, or Manufactured with Forced Labor in the People’s Republic of China](#)
- [U.S. Department of Labor’s Comply Chain](#)

Glossary

Abbreviations

- BW - Better Work (ILO)
- CAF - Converged Assessment Framework
- CSDD - Corporate Sustainability Due Diligence
- FLETF - Forced Labor Enforcement Task Force (US)
- HRDD - Human Rights Due Diligence
- MSI - Multi-Stakeholder Initiative
- OECD - Organisation for Economic Co-operation and Development
- UFLPA - Uyghur Forced Labor Prevention Act

Definitions

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

For a detailed explanation of general SLCP terms, visit the [SLCP Glossary](#).



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Feedback and further information:

- Please contact info@slconvergence.org for feedback or questions
- Please visit the [Gateway](#) for the latest information on SLCP roll-out
- For questions about the SLCP assessment & verification process, consult the [FAQs](#) on our [helpdesk](#).

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