



The German Act on Corporate Due Diligence in Supply Chains

Impact on businesses in partner countries and support available from the German government

1. THE ACT ON CORPORATE DUE DILIGENCE IN SUPPLY CHAINS

The German Act on Corporate Due Diligence in Supply Chains, which came into effect on 1 January 2023, is aimed at improving respect for human rights (including banning child labour and forced labour) and environmental standards (for example with regard to mercury or waste management) in global supply chains ([full text](#) and [English translation](#) available). Businesses in Germany have to meet certain “due diligence” requirements. That means they have to check whether their business activities could lead to any human rights violations or any damage to the environment. They have to take action to prevent, reduce or end violations. They also have to put in place a complaints mechanism for anybody who might have been affected by violations.

The Act does not define any new human rights or environmental standards. What it does is to ensure that existing international agreements are observed and, in this way, improve living and working conditions above all for people in the Global South and protect the environment.

WHO DOES THE ACT APPLY TO?

It is directed at companies that either have their headquarters in Germany or have a branch in Germany and have

→ at least 3,000 employees in Germany (applies since 2023)

→ at least 1,000 members employees in Germany (new rule from 2024).

In the rest of this text, the companies that fall within this law will be referred to as “buyers”.

Smaller companies and foreign suppliers do not fall under this law. They will therefore not be checked by the German body responsible, the Federal Office of Economics and Export Control (BAFA), and will not have to pay any fines. However, the law can have an indirect impact on businesses that supply to a German buyer.

WHAT ARE THE MOST IMPORTANT PROVISIONS OF THE NEW LAW?

Buyers have to prove that they have properly applied “due diligence”. That means that the buyer not only checks the quality of the product but also has to ensure that certain requirements have been met at all stages of the supply chain with regard to human rights and the environment (decent wages, workplace safety, availability of drinking water etc.). That means above all:

Risk management: Buyers have to put in place a management system for observing due diligence. It has to clearly define who is responsible for these standards and it has to be made part of day-to-day

operations. They must put in place measures that allow them to recognise any risks their business operations might pose to human rights or the environment and take steps to prevent, minimise or end them.

Risk analysis: The buyers analyse whether their actions can lead to violations of human rights or environmental standards. They must evaluate and prioritize the identified risks appropriately.

Measures: Measures are taken to prevent or remedy these issues. The aim is to prevent, reduce or end any violation of human rights and environmental obligations at any point in the supply chain. Buyers work together with suppliers to put in place the necessary mechanisms. Purchasing practices must be designed in such a way as to prevent or minimise the risks that have been identified. This can have an impact on lead times, prices and the length of time for which contracts remain in place.

Complaints procedure: Buyers establish a complaints procedure so that human rights-related or environmental risks or violations can be reported.

Reporting: The buyer publishes a report every year on how it has fulfilled its due diligence obligations. This is made available to the public and to the responsible authorities in Germany.

Scope: The due diligence obligations apply to businesses' own operations and to their direct suppliers. They also apply to indirect suppliers when it comes to the complaints procedure and when the buyer has reliable information that there is a risk of violations. This means that evidence is available showing that a violation is likely to have taken place. This evidence can take the form of the buyer's own information or reports from third parties of child labour or forced labour being used, for example, or of water being contaminated in the area where production is taking place. The Act lists all the human rights and environmental standards that have to be observed. These are all taken from international agreements, which are also listed in the Annex.

Rights of people affected: People who have been affected by human rights violations can be represented at a German court by German non-govern-

mental organisations or trade unions. In cases of human rights violations, it is the law of the country where the violation occurred that applies. In cases of environmental damage, a choice is available. Possible violations can also be [reported](#) to the German monitoring authority responsible, the Federal Office of Economics and Export Control (BAFA).

Monitoring: The monitoring body checks whether due diligence obligations have been observed. If it finds they have been violated, it can impose hefty penalties or fines.

2. WHAT DOES ALL THIS MEAN FOR COMPANIES OUTSIDE GERMANY?

Foreign suppliers do not fall directly under this new law. However, if they enter into a contract with a large German company or want to do so, then they should be aware that the buyer will ask them to provide information on human rights and environmental standards in supply chains. They will also require their suppliers to meet these minimum standards. It is not enough for suppliers to simply commit contractually to fulfil the due diligence obligations.

POSSIBLE CONSEQUENCES FOR SUPPLIERS

Information/transparency: Buyers ask suppliers for information on structure, stakeholders, branches and risks within the company (e.g. in the form of a questionnaire).

Selecting a direct supplier: Buyers will have increased expectations regarding human rights and environmental standards and will judge their suppliers accordingly. Suppliers should work towards observing environmental and human rights standards.

New clauses in contracts: Contracts could be expanded to include a commitment by suppliers to observe human rights and environmental standards in their own business operations and also in their own supply chain. Monitoring mechanisms could also be written into the contracts. These contractual commitments may also include agreements to provide training. Suppliers should get legal advice on the exact formulation of these clauses.

Monitoring mechanisms: Checks will be carried out on whether the supplier is observing the human rights strategy. For example, the buyer might conduct its own checks or audits might be carried out by independent third parties.

Remedial action: If it is found that human rights or environmental violations have taken place at the direct supplier, the buyer will take steps to end or minimise the violation.

Cooperative approach: It is the buyer's responsibility to implement the provisions of the new law. But when remedial action needs to be planned and implemented within a clear timeframe, the buyers will often need the cooperation of the supplier. And they may also call on those who have been affected by the violations and their representatives. If the supplier does not carry out the steps that are agreed on, this can have an impact on the business relationship in the form of, for example

- penalties,
- a temporary suspension of business relations,
- the supplier company being temporarily removed from the list of companies that can be considered for contracts.

Building capacities rather than ending relations: The law only requires buyers to end business relations with their suppliers in extreme circumstances. That option should be a last resort. The law is quite expressly not aimed at making companies withdraw from situations when things get difficult. This could itself cause a different kind of risk. Instead, the buyer is required to first help its supplier to build their capacities. A buyer is not obliged to stop trading with a supplier just because the country's government has not ratified international treaties on human rights or environmental issues.

Complaints: Suppliers can help to make sure the complaints procedures works effectively by, for example, informing their staff and all those who are in any way affected by their business operations about the mechanism. They can also help to ensure that anyone in their business who makes a report via the complaints procedure is protected.

OPPORTUNITIES FOR SUPPLIERS

Fairness: Buyers need to adapt their purchasing practices to minimise identified risks. This is an opportunity for suppliers: they will be able to negotiate favourable prices, supply times and conditions if that will help to improve labour, environmental and social standards.

Resilience: If suppliers keep ongoing records of business processes, human rights and environmental risks, existing regulations and remedial measures, they can gain important information about any risks that exist in their own supply chain.

Cementing buyer-supplier relationship: An improved dialogue with the buyer can strengthen trust and credibility.

Competitiveness: By continuously improving their due diligence processes with regard to human rights and the environment, suppliers can improve their standing with their own customers and make their business stronger for the future.

Efficiency: There is potential to cut costs, for example through improved wastewater and chemicals management. Healthier and happier workers are more productive (see the ILO Better Work Programme).

CHALLENGES FOR SUPPLIERS

Depending on how many of their contractual partners are affected by the Act on Corporate Due Diligence in Supply Chains, suppliers could be faced with a lot of additional work (gathering and transmitting information, identifying risks within their businesses, possibly changing existing practices and processes etc.). Any new or amended clauses in their contracts may have to be legally checked. Although buyers will provide some support, the suppliers may face additional costs. Sometimes it is difficult for suppliers to gain full transparency regarding their own supply chain and supply the information that has been asked for.

PRACTICAL ADVICE FOR SUPPLIERS

Suppliers should familiarise themselves with their buyer's **due diligence obligations**. They should ask what action they need to take themselves.

It would be helpful for them to look at the new Code of Conduct of the buyer and the information requirements for suppliers and check whether they can meet those requirements.

It is a good idea to appoint and train **special staff members** who can act as a contact point for customers on human rights and environmental issues.

Staff and managers should receive **training** on the new codes of conduct and standards. Training should not wait until just before an audit is carried out. Instead, it should be offered as soon as the risk management system is in place.

It is a good idea for suppliers to keep an **ongoing record** of their own processes for observing human rights and environmental standards so they can provide information whenever buyers ask for it.

If suppliers need **help** in meeting the requirements, they should speak to the buyer. This way, the responsibility is shared fairly between supplier and buyer.

Regular **refresher courses** can help integrate the new requirements into day-to-day operations.

Suppliers should check what **management systems** and **certification schemes** for workplace safety or environmental issues are already being used and what ones could possibly be used (in addition) in future.

Suppliers should know what **risks** exist within their own business operations and in their supply chain. That allows them to compare their information against the findings of auditors.

3. SUPPORT FROM THE GERMAN GOVERNMENT

Many governments are offering businesses and civil society organisations increased support as part of **National Action Plans on Business and Human Rights** to help businesses meet their responsibility for better working conditions and environmental protection. This is happening for example in Kenya, Colombia and Thailand.

Germany is also working to help improve the human rights situation and environmental protection in its partner countries. A whole range of support is on offer to help businesses make their supply chains more sustainable and to meet their due diligence obligations. They include, for example:

- **Information in partner countries:** German embassies are setting up focal points that will be able to provide information on the legal requirements and will set up support networks for German businesses and their partners operating in the country.
- **Advice:** The German Chambers of Commerce Abroad advise businesses in 93 countries on all questions relating to bilateral trade with Germany. That includes, for example, the implementation of corporate due diligence obligations. The German government also has 35 [Business Scouts for Development](#) (BS4D), most of whom work within the Chambers of Commerce Abroad. They can provide information and training for local suppliers.
- The [Initiative for Global Solidarity](#) is a programme run by the GIZ, one of Germany's development cooperation implementing organisations. It helps companies in partner countries and German buyers to take on responsibility jointly and share it fairly between themselves, for example by drafting fair contractual clauses.
- The [ESG First Fund](#), established by KfW, a German development cooperation implementing organisation, invests in small and medium-sized enterprises in partner countries. Businesses that supply to German companies can apply for funding to help them improve sustainability management.

- The [Helpdesk on Business & Human Rights](#) offers support to German businesses. It can give them initial advice on how to set up processes for fulfilling human rights due diligence obligations or it can put them in touch with other advisory services. It runs talks and events and also offers various online tools (some of them in English) that can be used by companies both in Germany and abroad, such as the [SME Compass](#).
- **Multi-stakeholder partnerships:** The German government is also supporting a large number of multi-stakeholder partnerships, covering either one or several industries, with the aim of improving sustainability in specific supply chains (the [Partnership for Sustainable Textiles](#), the [German Initiative on Sustainable Cocoa](#), the [Sector Dialogue Automotive Industry](#) etc.).
- **Bilateral, global and regional projects are being implemented by the GIZ on behalf of the German government** to support sustainable development in the textiles sector, agricultural commodities and the extractive sector (e.g. FABRIC, PRO-PLANTEURS, MinSus).

Detailed information on the requirements of the due diligence law and the support available can be found on a special information portal offered by the German government (available in German and [English](#)) and on the [website](#) of the Federal Office of Economic Affairs and Export Control (BAFA).

4. INTERNATIONAL TREND

Any business that works with a company that falls under the Act on Corporate Due Diligence in Supply Chains and that is working on due diligence obligations as laid out in the [UN Guiding Principles](#), the [OECD Guidelines](#) and the Act itself, is better prepared to cope with emerging international trends. As well as the regulations being developed in various different countries, negotiations are also taking place on an **EU Directive on Corporate Sustainability Due Diligence** (CSDDDD). The draft Directive requires EU companies above a certain size and companies with a significant presence on the EU market to demonstrate that they are fulfilling human rights and environmental due diligence obligations. There is also discussion of an international regulation. Export-focused companies are therefore well-advised to adapt early on to the need to meet due diligence obligations.