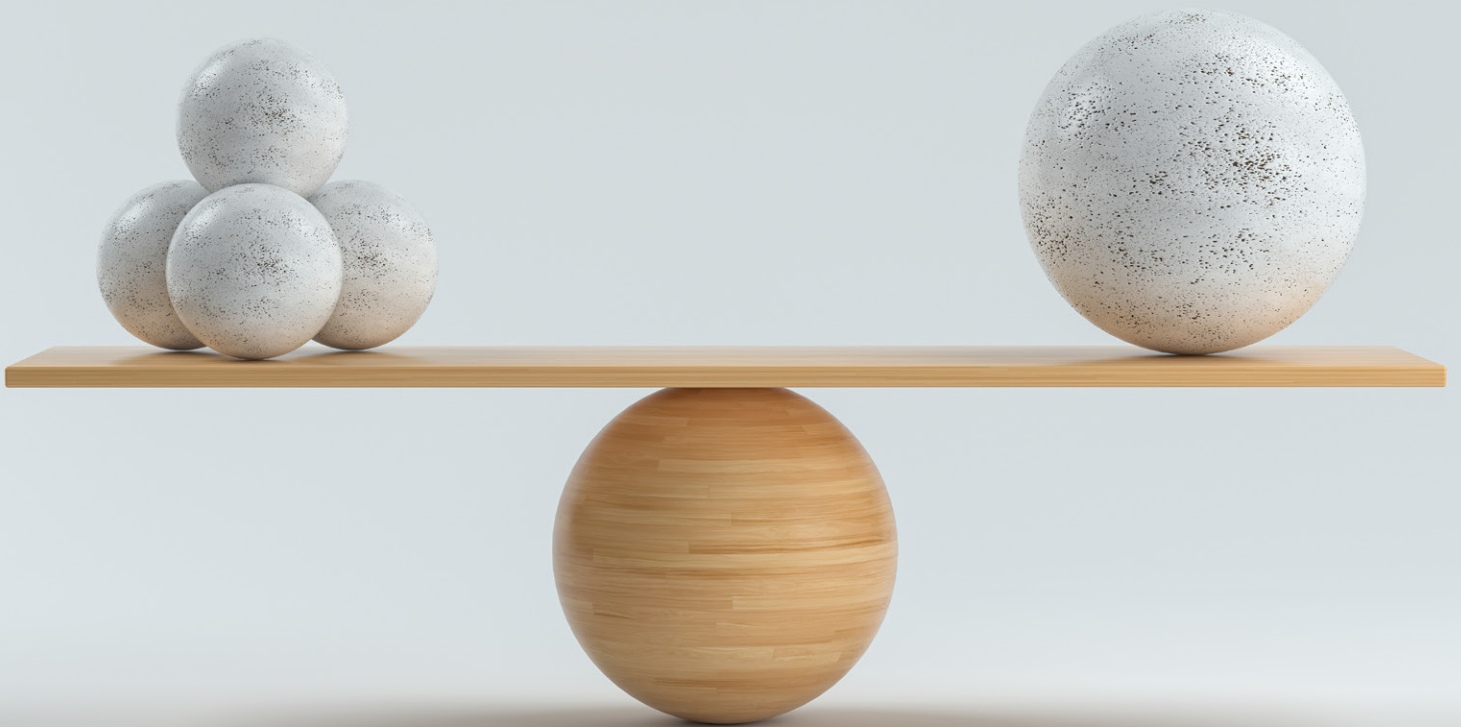


# *Appropriateness*

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Handout on the principle of appropriateness according to the requirements of the Act on Corporate Due Diligence Obligations for the Prevention of Human Rights Violations



Federal Office  
for Economic Affairs  
and Export Control

# Contents

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1. Introduction.....	3
2. The principle of appropriateness and what it means.....	4
2.1 The principle of appropriateness.....	4
2.2 The principle of effectiveness in relation to the principle of appropriateness .....	6
3. Putting appropriateness into practice .....	9
3.1 Establishment and continuous implementation of risk management .....	13
3.2 Identification, weighting and prioritisation of human rights or environment-related risks.....	15
3.3 Selection and implementation of preventive measures.....	19
3.4 Development and implementation of remedial measures.....	22
3.5 Establishment of or participation in complaints procedures.....	25
4. Verification of appropriate implementation by the Federal Office of Economics and Export Control.....	28
Annex – Possible assistance.....	29

# Introduction

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The principle of **appropriateness** sets the overarching framework for the implementation of the due diligence requirements established by the Supply Chain Due Diligence Act (LkSG, Lieferkettensorgfaltspflichtengesetz). Companies are required to establish, monitor and develop **appropriate** and effective **processes to implement their due diligence obligations**. This handout explains the **concept of appropriateness** in the sense of the law and provides advice on what it means in practical terms. This is supplemented by references to selected guidelines.

# The principle of appropriateness and what it means

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The following section explains the general meaning of the **principle of appropriateness**.<sup>1</sup>

This handout also addresses the principle of effectiveness since the **concept of effectiveness**<sup>2</sup> is closely linked to that of **appropriateness**.

## 2.1 The principle of appropriateness

The **principle of appropriateness** is an abstract legal term. It is defined in more detail in the Supply Chain Due Diligence Act in the appropriateness criteria set forth in section 3 (2).

### Info box 1 – Wording of section 3 (2)

Section 3 (2) The **appropriate manner of acting in accordance with the due diligence obligations** is determined according to

1. the **nature and extent** of the company's **business activities**,
2. the ability of the company to **influence** the **party directly responsible** for a human rights or environment-related risk or the violation of a human rights or environment-related obligation,

3. the **severity** of the violation that can be typically expected, the **reversibility** of the violation and the **probability** of the occurrence of a violation of a human rights or environment-related obligation, and
- 4 the **nature** of the company's **causal contribution** to the human rights or environment-related risk or to the violation of a human rights or environment-related obligation.

The principle of appropriateness takes into account the fact that the resources, activities or even the value chains of companies, for instance, can differ considerably.

Businesses are required to **exercise due diligence** in their supply chains in a **manner that is appropriate (for them)**, with the aim of preventing or minimising human rights or environment-related risks, and ending<sup>3</sup> or minimising the impact of violations of human rights or environment-related obligations<sup>4</sup>.

<sup>1</sup> See, in particular, section 3 (1) and (2) of the Supply Chain Due Diligence Act. All the sections listed are those of the Supply Chain Due Diligence Act.

<sup>2</sup> See, in particular, section 4 (1) and (2).

<sup>3</sup> Section 3 (1).

<sup>4</sup> Section 7 (1), first sentence.

The principle of appropriateness provides each company with the necessary **discretionary power and scope of action** enabling them to decide how to implement their due diligence obligations.<sup>5</sup> **The risks that** the company must address, **and in which order and to what extent**, depends on each individual company and risk situation.<sup>6</sup> In this way, companies can address their risks as effectively as possible. At the same time, it ensures that companies are not expected to do anything unreasonable: The **extent and the manner in which they conduct their suitable measures** can and may **vary** according to the appropriateness criteria.

Under the duty of care laid down in the Supply Chain Due Diligence Act, companies are not required to guarantee that their supply chains are free from violations of human rights or adverse effects on the environment.<sup>7</sup> Rather, they must be able to prove that they have implemented the due diligence obligations described in more detail in sections 4 to 10. These require companies to take appropriate and effective measures to identify and address risks according to their specific business activities. In principle, therefore, companies cannot be prosecuted if – from an ex-ante perspective – an appropriate and effective measure ultimately fails to have its practical effect.

#### **Info box 2 – Duty of care and duty to ensure success in the Supply Chain Due Diligence Act**

As outlined in the previous paragraph, the due diligence obligations of the Supply Chain Due Diligence Act fundamentally establish a duty of care to prevent, end or minimise the impact of human rights violations or breaches of environmental obligations. In as far as companies comply with the due diligence obligations laid down in the Act in an effective and appropriate manner, a violation of a human rights or environment-related obligation therefore does not in principle constitute a breach of the due diligence obligations under said Act.

In the case of violations in a company's **own business area**, the Supply Chain Due Diligence Act does, however, as an exception demand success.

If, for instance, a company identifies a violation of a human rights or environment-related obligation in its own **domestic** business area, it is required to take remedial action that must end the violation. In such cases, suitable remedial measures must therefore be taken that do in fact have the desired effect. If it turns out that remedial measures in this area have put an end to the violation, the duty to remedy continues. Companies must then immediately take further remedial measures or improve the effect of the measures taken.

Companies must typically end the violation in their own business area **abroad** as well as in their own **business division (attributed to it)** pursuant to section 2 (6) third sentence.

<sup>5</sup> See Government Explanatory Memorandum, BT-Drs. 19/28649, p. 42.

<sup>6</sup> See Government Explanatory Memorandum, BT-Drs. 19/28649, p. 42.

<sup>7</sup> See Government Explanatory Memorandum, BT-Drs. 19/28649, p. 41.

The appropriateness criteria are not in hierarchical relation to each other, but must always be considered equally. They can vary from one company to another, for instance, at different operating facilities, sites or companies, but also in relation to different supply chains and suppliers. Companies need to continuously decide how, the order in and extent to which they address the various risks and violations within their own business area and at different suppliers.

## 2.2 *The principle of effectiveness in relation to the principle of appropriateness*

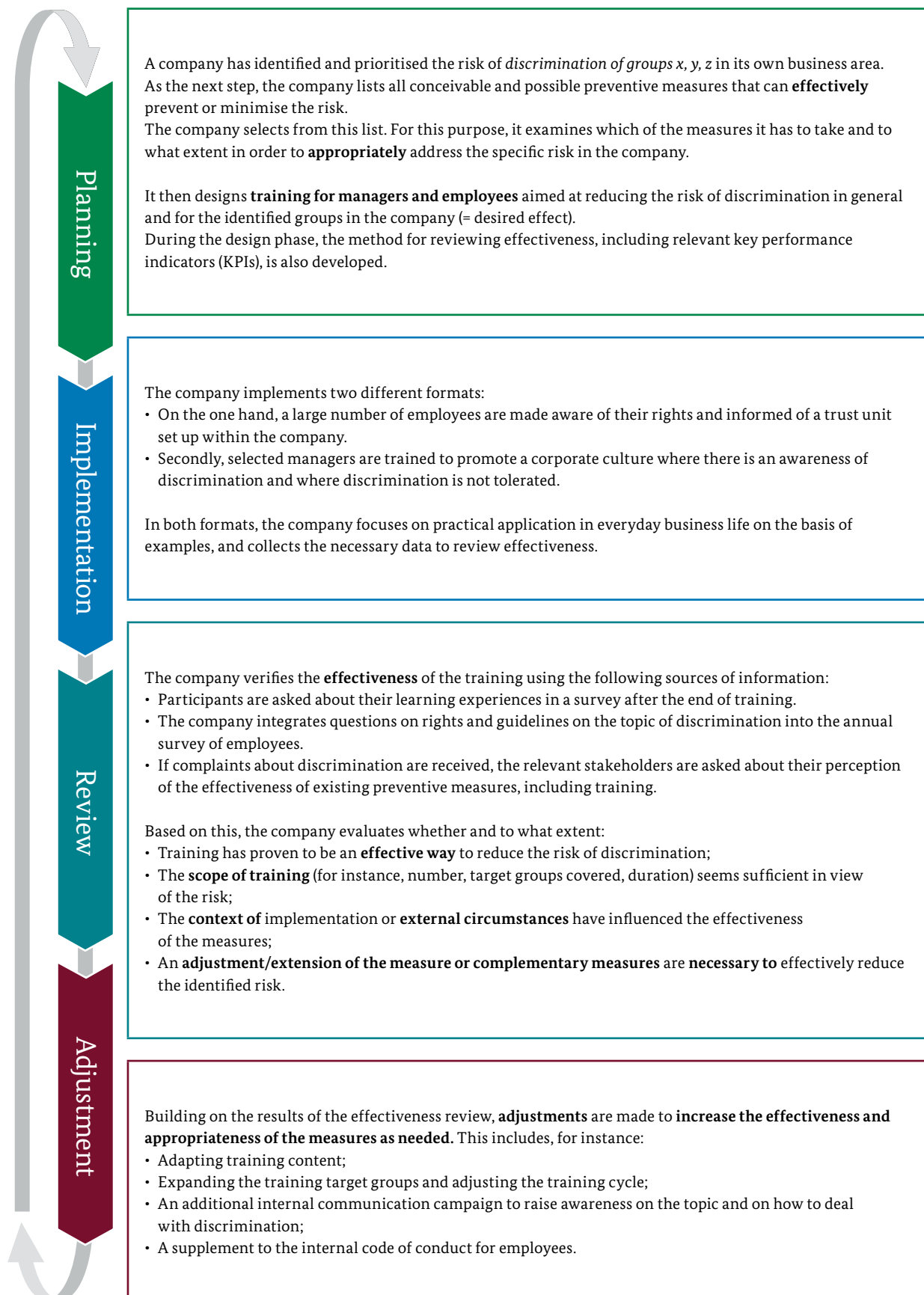
When it comes to planning, implementing and further developing due diligence processes, the principle of effectiveness is also important in addition to the **principle of appropriateness**. It serves the fundamental objective of the Act, i.e., to improve individual human rights protection, the human rights situation at international level and to protect the environment.

Pursuant to section 4 (2), effective measures are those *“that make it possible to identify and minimise human rights and environment-related risks and to prevent, end or minimise the extent of violations of human rights-related or environment-related obligations, if the company has caused or contributed to these risks or violations within the supply chain”*.

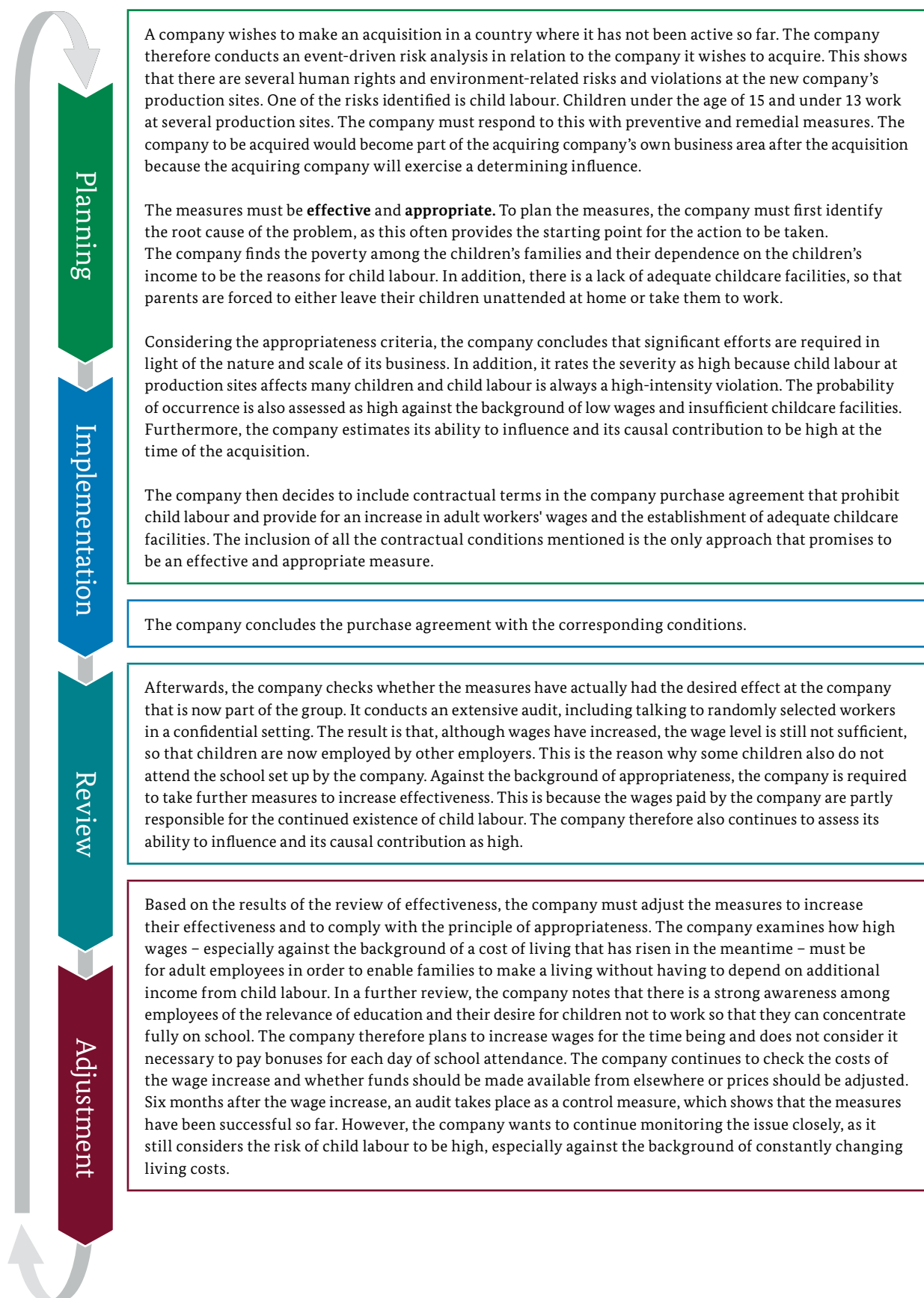
A measure is effective if it can in fact improve or help to improve the situation of people or protection of the environment. This must be considered from an ex ante perspective when planning and implementing measures. The Act also explicitly demands a review of effectiveness in the individual due diligence obligations. This means that companies are required to regularly check whether their own measures and processes have in fact achieved the desired effect and to make adjustments if necessary.

The principles of **appropriateness** and **effectiveness** are closely related. Companies are required to make an **appropriate selection** exclusively from **effective measures**. This ensures that an **appropriate measure** can always be **effective** and in fact reduce or end risks or violations. The **review of effectiveness** provides companies with insights into the **effectiveness** and **appropriateness** of their measures so that they can make appropriate adjustments and use their resources in a more targeted way. The following two examples illustrate this connection.

**Example 1** Illustrating interaction between appropriateness and effectiveness in the implementation of a preventive measure



**Example 2** Illustrating interaction in the implementation of preventive and remedial measures





# Putting appropriateness into practice

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The practical implementation of the principle of appropriateness and the associated weighting of intensity, order and manner of action are relevant to all due diligence obligations:

This applies to the design of risk management, risk analysis, preventive and remedial measures and the establishment of a complaints procedure as well as to documentation and reporting.

Sections 3.1 to 3.5 provide guidance on the application of the appropriateness criteria to the individual due diligence obligations.

First, however, the application of the individual appropriateness criteria from section 3 (2) is examined in more detail irrespective of the various due diligence obligations. The purpose of this is to provide companies with orientation and support when assessing their individual business and risk situation. A summary is provided in the table at the end of this section.

As shown above, the appropriateness of action is determined by four criteria:

- The first criterion, **nature and extent of the business activity**, is made up of risk and resource-related aspects. The task here is to examine the complexity of the nature and type of products or services, the diversity of services and business relationships, whether the company has a supraregional or international orientation and whether there are factors for

country, sector or commodity group-specific risks (see info box 3 for the latter). The company's susceptibility to risks, i. e., their frequency, is also an important matter here. In addition, the size of the company, i. e., the number of employees and their roles, turnover, fixed and working capital as well as production capacity must be considered.

- The second criterion, the company's **ability to influence**, is measured especially in terms of the proximity of the obligated company to the risk. This means that the relevant criterion is where the risk arises: at the company itself, at a direct supplier or at an indirect supplier.

If a supplier is the cause of a risk or violation, the company's degree of market dominance is an important indicator for assessing the company's ability to influence. In order to assess this, the size of the obligated company must be compared with that of its competitors and suppliers. The order volume of the obligated company in relation to the total turnover of the entity causing the effect is also particularly relevant. In this context, it is not useful to determine how high the order volume at this supplier is in relation to the total order volume at all suppliers. This is because, although this would allow conclusions to be drawn regarding the importance of the supplier for the company, it does not provide any insight into how

important the company is for the supplier and therefore the extent of the company's ability to exert influence. The question of the ratio of the order volume to the supplier's (total) turnover might be difficult to answer for many companies at the beginning. After all, the supplier's total turnover is rarely known. Companies can try to gradually work towards more transparency. It is also possible that the supplier's own importance is reflected in its willingness to cooperate in measures for improvement.

- The third criterion refers to the possible breach of a duty and addresses its **severity and probability of occurrence**. If the breach has not yet occurred, companies must make a forecast here.

**Severity** is determined according to several (auxiliary) criteria. On the one hand, the degree of impairment (intensity or depth of a breach or violation) determines severity. At the same time, some violations – such as forced labour and other forms of involuntary labour or the worst forms of child labour – can always be assumed to be of high intensity. In addition, the number of stakeholders or the size of the affected area of the environment are relevant. Finally, the reversibility of the violation must be considered. The first thing to check here is whether it is at all possible to eliminate the negative impacts. Irreversible effects weigh particularly heavy. In the case of reversible violations, the time/effort and resources required to remedy the negative impacts must also be considered.

The **probability of occurrence** is measured by how likely it is that the risk will result in a violation. What's important here is whether and how often the risk has already led to a

violation in the past. But even in cases where no violation has yet occurred, it is still possible to assess the probability of a risk occurring as high. Important indicators for this are the previous behaviour of the entity causing the risk and any effective preventive measures already implemented. The fundamental risk propensity is also an important aspect. Factors for susceptibility to country, sector and commodity group-specific risks are listed as examples in info box 3.

- With regard to the fourth criterion, the **nature of causal contribution**, the extent of the company's responsibility for the risk or violation must be determined.

- Companies can cause risks and violations directly on their own or together with other players, such as the supplier where the violation takes place. In the case of risks and violations in its own business area, the company usually causes the risk or violation itself, as the company itself is responsible for complying with human rights and environmental standards.
- However, companies can also contribute to a risk or violation. Contributing means that although the impact is the result of an action by a third party, the company permits, enables or motivates that action. The type of causal contribution then depends on how strong the company's contribution to the risk and violation is.

The type of causal contribution and the ability to influence are typically closely linked. If the company has considerable influence, the causal contribution is often also high, and vice versa.

Generally speaking it can be said that the more susceptible a company's business activity, business model or supply chain structure is to human rights or environment-related risks, the more likely and severe the expected violation of the protected right, the greater the causal contribution and the ability to exert influence, and the more powerful a company is, the greater the **efforts that can be expected from it to prevent, end or minimise a violation.**<sup>8</sup>

The susceptibility of business activities can be better assessed with the help of the factors listed in info box 3 below.

**Info box 3 – Factors for susceptibility to human rights or environment-related country, sector and commodity group-specific risks (selection):**

- Operating in or sourcing from countries where there are high risks to human rights and the environment (risk country)<sup>9</sup>
- Operating in or belonging to a sector in which there are typically high risks to human rights and the environment (risk sector)<sup>10</sup>
- Raw materials that are demonstrably extracted in conflict or high-risk regions, or that are usually accompanied by violations of human rights or damage to the environment

- Complex, widely ramified or non-transparent supply chain structures
- Specific procurement models, such as short-lived and changing business relationships, high price pressure, tightly timed or short-term delivery deadlines and conditions with suppliers adjusted at short notice
- Use of hazardous machinery and/or chemicals in the manufacture of (preliminary) products
- Own production or supply chain contractors with a high proportion of low-skilled, manual labour, migrant workers, remote/difficult-to-access workplaces and/or seasonal/fluctuating manpower needs
- A low proportion of employees at the company's own sites or in the supply chain who are (union) represented
- Poor sustainability performance by a contractual partner in the past, for instance, careless handling of toxic substances
- High number of human rights or environment-related violations at a contracting partner in the past
- High number of complaints regarding a risk

<sup>8</sup> See Government Explanatory Memorandum, BT-Drs. 19/28649, p. 42; instructive also OECD Due Diligence Guidance for Responsible Business Conduct, p. 18: "The nature and extent of due diligence can be affected by factors such as the size of the enterprise, the context of its operations, its business model, its position in supply chains, and the nature of its products or services. Large enterprises with expansive operations and many products or services may need more formalised and extensive systems than smaller enterprises with a limited range of products or services to effectively identify and manage risks."

<sup>9</sup> For guidance on the question of whether a country is a risk country, see Annex.

<sup>10</sup> For guidance on the question of whether a country is a risk country, see Annex.

The table below summarises the auxiliary criteria for assessing the characteristics of the individual appropriateness criteria.

**Guidance** on the application of the appropriateness criteria<sup>11</sup>

Appropriateness criteria Section 3 (2)	Auxiliary criteria
<p><b>1. Nature and extent of the company's business activities</b></p>	<p><b>Nature:</b></p> <ul style="list-style-type: none"> <li>• Complex nature or type of products or services</li> <li>• Diversity of services and business relationships</li> <li>• Supraregional or international orientation</li> <li>• Factors for country, sector and commodity group-specific risks (info box 3)</li> </ul> <p><b>Extent:</b></p> <ul style="list-style-type: none"> <li>• Size of enterprise (number of employees and their roles, turnover, fixed assets and working capital, production capacity)</li> <li>• Susceptibility (frequency of country, sector and commodity group-specific risks)</li> </ul>
<p><b>2. The company's ability to influence the entity directly causing a risk or breach of duty</b></p>	<ul style="list-style-type: none"> <li>• Size of the company (compared to its competitors – market dominance – and to the entity causing the risk)</li> <li>• Order volume of the company in relation to the total turnover of the entity causing the risk</li> <li>• Proximity to the risk (where does the risk arise and who causes it: at the company itself, at a direct supplier or at an indirect supplier?)</li> </ul>
<p><b>3. The typically expected severity and probability of a breach of duty</b></p>	<p><b>Severity:</b></p> <ul style="list-style-type: none"> <li>• Degree (intensity/depth) of impairment</li> <li>• Number of stakeholders/size of environmental areas affected</li> <li>• Impossibility to remedy the negative effects (irreversibility)</li> <li>• Effort (resources, time) required to remedy the negative, but (still) reversible impacts</li> </ul> <p><b>Probability:</b></p> <ul style="list-style-type: none"> <li>• Whether and when the risk will lead to a violation (for instance, if there is already information available regarding poor performance by the supplier) – increased likelihood – or effective preventive measures – reduced likelihood)</li> </ul>
<p><b>4. Nature of the company's causal contribution to the risk or violation</b></p>	<ul style="list-style-type: none"> <li>• The company directly (alone) largely contributes to or causes the risk</li> <li>• Contributing/causing means that the impact is the result of an action by a third party. The company makes a contribution if the act or even omission by the company in any way permits, enables or motivates the violation of a specific duty.</li> </ul>

<sup>11</sup> Government Explanatory Memorandum, BT-Drs. 19/28649, p. 42 et seq., and Grabosch, Das neue Lieferkettensorgfaltspflichtengesetz, 2021, p. 43 et seq.

### 3.1 Establishment and continuous implementation of risk management

The principle of appropriateness must be considered in the establishment and implementation of corporate risk management in accordance with section 4.

The following **guiding questions** can support companies in this matter:

**Task:** Establishment of an appropriate risk management system: i.e., (i.) all relevant business processes must be enshrined through appropriate measures (section 4 (1) second sentence), (ii.) responsibilities must be clearly defined for the implementation of the individual due diligence obligations (section 4 (1) second sentence) as well as for monitoring risk management within the company (section 4 (3) first sentence), the latter, for instance, by appointing a human rights officer, (iii.) management must seek information (section 4 (3) second sentence) and (iv.) must give due consideration to the interests of (potential) stakeholders (section 4 (4)).

#### Obtain an overview of the company's own risk disposition:

To what extent is the company susceptible to human rights or environment-related risks due to the nature and extent of its business activities and in view of the maturity of existing due diligence processes?

#### Determine resources:

What financial and/or human resources must be made available (in the year/fiscal year) for risk management and dealing with human rights or environment-related risks or violations in order to meet the company's specific risk disposition?

#### Determine responsibilities:

How is it ensured that the persons entrusted with the operational implementation of the due diligence obligations as well as the person(s) entrusted with monitoring risk management have the necessary expertise, sufficient access to information and documents, and with a view to financial resources, human resources and (decision-making) powers, are adequately equipped to fulfil their monitoring role?

#### Create structures:

- How is it ensured that management is involved in important decision-making processes?
- How is it ensured that appropriate measures are in place to anchor risk management in all relevant business processes (for instance, in purchasing, human resources, management)?

**Task:** Continuous review of risk management (results from the requirement of an effective risk management system pursuant to section 4 (1) first sentence in conjunction with (2))

**Consider (potential) stakeholders:**

- How are the interests of the company's own employees, employees within the supply chains and other (potential) stakeholders within the meaning of section 4 (4) identified and sufficiently considered in the implementation of the risk management system and in the selection and design of measures?
- To what extent are the measures to be taken considered appropriate and effective from the point of view of the stakeholders involved?

**Draw conclusions from the effectiveness review for the appropriateness of the measures:**

- What conclusions can be drawn from the effectiveness review of preventive or remedial measures or complaints procedures with regard to the target-oriented use of the resources deployed and the sufficient intensity and scope of the company's efforts?
- Can existing resources be used more effectively by redistributing them?
- Are additional resources necessary for the further development of risk management?
- Does the risk management system enable the company to identify risks as early as possible and to react to them appropriately?

**Review risk management:**

Based on findings from implementation, how is risk management reviewed across the board with a view to its appropriateness and effectiveness and the adequate consideration of the interests of (potential) stakeholders?

**Task:** If applicable, adjustment of risk management (results from the requirement of an effective risk management system pursuant to section 4 (1) first sentence in conjunction with section (2))

**Consider changes:**

- To what extent has the company's fundamental risk disposition changed as a result of strategic decisions?
- What does this mean in terms of available resources for implementing the risk management system?
- What fundamental strategic decisions are pending in the near future?
- What are the possible impacts of these decisions on the company's risk disposition?
- How can the company prepare for these changes and plan any necessary resources?

## Examples

### ***Establishment of a risk management system (resource planning)***

Following precise stocktaking of existing processes and expertise, the company evaluates what expertise already exists within the company to address human rights or environment-related risks and what gaps exist in relation to specific topics, areas or regions. Many companies, for instance, have established environmental management systems or expertise on the sustainability of specific raw materials, supply chains or regions. The company hires additional staff or (partially) exempts existing staff from work to perform due diligence activities as needed. The more advanced the processes a company already has in place, the fewer additional resources will be needed to meet the requirements of the Supply Chain Due Diligence Act.

### ***Adaptation of the risk management system***

The company made an important investment decision last year and invested in a joint venture in another country. Prior to the investment decision, the company identified and prioritised a number of new risks using an event-related risk analysis and introduced preventive measures, which must be continued on an ongoing basis during further cooperation with the joint venture partner. As further business activities are planned in the country, the company is proactively planning additional resources to deal with risks in this context.

## ***3.2 Identification, weighting and prioritisation of human rights or environment-related risks***

Companies are required to perform one or more appropriate regular (annual) and, if necessary, event-related risk analyses. Risks must be identified, weighted and prioritised. The appropriateness criteria come into play both in the identification of risks<sup>12</sup> and in the weighting and prioritisation of human rights and environment-related risks.

In the context of identifying risks, the criteria of appropriateness determine the different levels of investigative efforts in relation to different parts of the company's own business area and different suppliers<sup>13</sup>. The more the appropriateness criteria are met, the more extensive the investigative efforts must be. For instance, a company should investigate risks more extensively at high-risk suppliers than at other suppliers.

At the same time, it is not permitted to use certain appropriateness criteria to exclude certain players from the risk analysis from the outset. For instance, companies are not permitted to limit the risk analysis to only those parties they can influence. There is no specific hierarchy to the appropriateness criteria, instead each criterion must be considered equally.

Extensive investigative measures may be necessary, for instance, if the severity and probability of occurrence are strong, but the ability to influence and the causal contribution are weak. Likewise, extensive investigative measures may be necessary if the ability to influence is high, but the severity, probability of occurrence and causal contribution are low. In the context of risk analysis, it should also be noted that companies must consider the interests of (potential) stakeholders.

<sup>12</sup> Section 5 (1).

<sup>13</sup> As part of the regular risk analysis, only direct suppliers are to be considered in addition to the company's own business area. Event-related risk analyses may also include indirect suppliers (sections 5 (4), 9 (3)).

The same applies to the weighting and prioritisation of the risks identified.

Further information on the topic can be found in the handout on risk analysis.<sup>14</sup> The following guiding questions can support companies in preparing and conducting an appropriate risk analysis:

**Task:** Preparation phase of the risk analysis according to section 5 (1) (4) and section 9 (3) No. 1

#### Determine resources:

To what extent is the company's risk disposition (in particular, the nature and extent of business activities and the potential susceptibility to risks) considered in resource planning for the risk analysis?

#### Determine structures:

Are all company areas, departments or sites/regions that could be prone to risks involved in the risk analysis process? Is the process managed in a target-oriented way (for instance, clear definition of responsibilities)?

#### Access to existing company information:

How is access to relevant data guaranteed?

What knowledge does the company already have regarding:

- Risks and violations in the company's own business area, at direct suppliers and in the deeper supply chain?
- The nature and extent of the company's own business activity as well as its procurement and supply chain structure (see the handout on risk analysis)?

**Task:** Performance of the risk analysis according to section 5 (1) (4) and section 9 (3) No. 1

#### Create sufficient information bases:

- Which available and relevant sources<sup>15</sup> on industry or country risks can the company access for an abstract view of human rights and environment-related risks?
- Which external<sup>16</sup> sources can the company access for a concrete risk analysis?
- Which internal sources can the company access, for instance, human rights impact assessments, evidence from complaints procedures, analyses of existing preventive measures, results of audits and other risk-based controls, evaluation of talks with suppliers, results of local consultations with (potential) stakeholders and their representatives (for instance, trade unions or civil society organisations) or analyses of the impact of procurement or purchasing practices?
- Are further risk identification measures required for the concrete risk analysis (self-disclosure by suppliers, conducting audits, on-site visits)?
- Are the risk identification measures appropriate for the specific risk analysis? Should more in-depth investigative measures take place in relation to specific suppliers?
- Is the information gathered through existing sources sufficient to identify the specific risks and to weight and prioritise them, while considering the appropriateness criteria?
- Where are there gaps in data, for instance, in the company's own supply chain, and how can these data gaps be closed, for instance, through in-depth audits or exchange with experts? What additional resources, if any, are required for this?

<sup>14</sup>BAFA handout "Identifying, weighting and prioritizing risks", available online at [https://www.bafa.de/SharedDocs/Downloads/DE/Lieferketten/handreichung\\_risikoanalyse.pdf?\\_\\_blob=publicationFile&v=6](https://www.bafa.de/SharedDocs/Downloads/DE/Lieferketten/handreichung_risikoanalyse.pdf?__blob=publicationFile&v=6).

<sup>15</sup>The results of the risk analysis can only be properly understood through a plausible selection, evaluation and documentation of the sources used.

<sup>16</sup>For instance, reports, press releases or indices from independent local or international expert organisations, international or local civil society or trade union organisations or media. Further information can be found in the annex to the BAFA handout Identifying, weighting and prioritising risks, available online at [https://www.bafa.de/SharedDocs/Downloads/DE/Lieferketten/handreichung\\_risikoanalyse.pdf](https://www.bafa.de/SharedDocs/Downloads/DE/Lieferketten/handreichung_risikoanalyse.pdf).



**Task:** Performance of the risk analysis according to section 5 (1) (4) and section 9 (3) No. 1

#### Weight and prioritise the identified risks:

- How are the appropriateness criteria according to section 3 (2) considered in the weighting and prioritisation of risks?
- To what extent does the weighting and prioritisation of risks consider the nature and scope of the business activity and the associated risk disposition as an overarching criterion for resource planning? (see 'Determine resources')
- To what extent are the severity and probability of occurrence of risks assessed individually, for instance, using a scale<sup>17</sup> and/or a so-called heat map?
- How and at what point are the ability to influence and the nature of the causal contribution to risks assessed and related to the results of the assessment, severity and the probability of occurrence?
- To what extent are relevant internal and external stakeholders involved in the weighting and prioritisation process,
  - for instance, relevant personnel from procurement/purchasing for assessing possibilities to influence individual suppliers or
  - local employees who can provide assessments of the severity, probability of occurrence and causal contribution of specific risks in local contexts, or
  - (potential) stakeholders or their trade union representatives for assessing the severity of the impairment of workers' rights; or
  - residents or their interest groups for assessing the severity of the expected impairment of health or the possibility of using water and land?
- How are conflicts in the weighting and/or prioritisation of risks addressed and how are internal decision-makers involved in this?

#### Draw conclusions from the findings of the risk analysis:

- How are learning experiences from the analysis process identified and their consideration in future risk analyses ensured?
- How is the internal communication of the results of the risk analysis and the identification of appropriate and effective preventive measures prepared and ensured?

### Examples

#### *Preparation of the risk analysis*

When preparing the regular (annual) risk analysis in a company, a distinction is made between the company's own business area and that of its direct suppliers. Two coordinators for the respective areas provide the necessary data in cooperation with the departments involved. In the company's own business area, there is an established structure in human resources that also involves the worldwide sites through local

representatives and compiles information from complaints procedures or health and safety audits. These structures should form the basis for implementing the risk management system and risk analyses. The risk analysis of direct suppliers is more complex, because they have hardly been included in sustainability management so far. The company plans additional resources and onboarding of relevant departments to ensure appropriate implementation of the analysis.

<sup>17</sup>For instance, a scale with three or four levels that distinguishes between low, medium, high and very high/extreme risks.

### ***Performance of the risk analysis: Method selection***

A company has already carried out an abstract risk analysis and in the next step wishes to determine in the concrete risk analysis which of the risks possible in the abstract risk analysis are actually relevant for its immediate suppliers. The company has several thousand direct suppliers, about half of them based in high risk countries, and half of them again belong to risk sectors. The company initially plans to verify the results from the abstract risk analysis using a self-disclosure questionnaire for suppliers. The company quickly comes to the conclusion that this approach does not satisfy the obligation to conduct an appropriate risk analysis in all cases. This is because more extensive risk identification efforts may be needed for suppliers in risk countries and sectors. The company's next step, therefore, is to examine which suppliers require an on-site visit or audit in order to comply with the obligation to conduct an appropriate risk analysis.

### **Another example**

#### ***Weighting and prioritisation of the identified risks***

A multinational company with over 200,000 employees worldwide operates in a high-risk sector and in countries with high human rights and environment-related risks and has set up an extensive risk analysis process based on

this fundamental risk disposition. In its own business area, the company works with regional internal human rights officers and contact persons at its local sites. Once a year, local colleagues receive a questionnaire on human rights and environment-related risks and are consulted on this basis in a personal interview. The feedback is validated by those in charge using desktop analyses of public data sources and an evaluation of internal data, for instance, on accident statistics or feedback from employee surveys. The appropriateness criteria play a central role in the evaluation process. Using a defined scale, those in charge assess the severity (intensity, number of stakeholders and irreversibility) of the risk or risk area per site or region. The probability of occurrence of risks is assessed while considering the context (for instance, by evaluating country indices) and internal factors (existing preventive measures and their effectiveness). Due to the focus on its own business area, the ability to exert influence is assessed as high across the board. A numerical value is applied to the causal contribution, which is combined in the last step with the values for severity and probability of occurrence in order to prioritise the company's risks. Based on the results, priorities are set at head office level and for the individual regions/countries and corresponding preventive and remedial measures.

### 3.3 Selection and implementation of preventive measures

The Supply Chain Due Diligence Act defines (non-exhaustive) preventive measures for a company's own business area (section 6 (3)), in relation to direct suppliers (section 6 (4)) and in relation to indirect suppliers (section 9 (3) No. 2), which companies must take to an appropriate extent to prevent or minimise risks.

Within the framework of appropriateness, companies are at liberty to decide,

- which of the listed measures they specifically implement,
- whether they take measures other than those specified by law in individual cases because these appear to be more effective,
- whether further measures are required beyond those specified in the Act, and
- how they concretely implement the selected measures.

The following guiding questions can be of assistance when developing and implementing appropriate preventive measures.

**Task:** Selection of preventive measures (section 6 (3) and (4), section 9 (3) No. 2)

#### Identify and design preventive measures:

- Are the results of regular (annual) or incident-related risk analyses as well as findings from complaints procedures the starting point for selecting preventive measures?
- Are the preventive measures mentioned in the Supply Chain Due Diligence Act target-oriented and sufficient with regard to risks or are additional/different measures required?
- How severe are the (possible) violations and how likely are they to occur? What effort is therefore required in terms of preventive measures?
- To what extent have learning experiences from implementing previous preventive and remedial measures and from prior reviews of effectiveness been considered?
- When selecting and designing preventive measures, to what extent was consideration given to which measures are appropriate and sufficient in view of the company's risks in the specific contexts?
- To what extent were local legal, political or cultural conditions considered?
- To what extent are the interests of (potential) stakeholders identified and sufficiently considered when selecting and designing preventive measures?

**Task:** Implementation of preventive measures (section 6 (3) and (4), section 9 (3) No. 2)

#### Involve other stakeholders:

How can preventive measures be implemented in cooperation with relevant internal stakeholders (e.g. local sites), suppliers and/or other companies or organisations as part of industry initiatives or multi-stakeholder initiatives in order to use existing resources effectively?

#### Draw conclusions from the effectiveness review for the appropriateness of the measures:

- What conclusions can be drawn from the review of the effectiveness of preventive measures with regard to the selection and design of measures? Are adjustments necessary?
- Can existing resources be used more effectively by redistributing them?
- Are additional resources necessary for existing or new preventive measures?

## Example

### ***Planning and implementation of risk-based preventive measures***

A company has so far relied on all its direct suppliers to sign its code of conduct as a preventive measure against forced labour. This code of conduct lists all human rights and environmental standards to be complied with, including the prohibition of forced labour.

The review of the appropriateness of a company's preventive measures reveals that the code of conduct for suppliers is not appropriate with regard to the prevention and minimisation of forced labour.

This is because the company identifies that the likelihood of forced labour occurring at a specific direct supplier is to be assessed as very high due to the country context and the industry. At the same time, forced labour is always rated as a high-intensity violation and must therefore be assessed as severe. The company can simply not yet assess how many people may be affected. At the same time, it classifies its own causal contribution as low. It assesses its ability to influence the entity directly causing the violation as medium. Although cooperation with the supplier has always been constructive in the past and the supplier always responded satisfactorily to criticism, due to the political context in the country, however, little influence can be expected with regard to the issue of forced labour. Since the

company also assesses the nature and extent of its business activities as high, it concludes that the existing code of conduct is inadequate as a preventive measure.

As a result, the company revises its code of conduct. The supplier is then obliged to tolerate unannounced on-site inspections, including talks with workers. It also includes provisions on the consequences of non-compliance with the agreed standards. The supplier is therefore obliged to cooperate in or tolerate remedial measures. In addition, the supplier is to pay a contractual penalty for serious violations. An extraordinary right of termination is additionally included for serious violations if remedial measures remain unsuccessful after the deadline provided for in the action plan and milder means are not considered.

The company also considers conducting regular audits of suppliers with high risks of forced labour. However, since experience shows that audits cannot reliably detect the presence of forced labour, the company decides to focus its audits on those issues that are realistically covered by audits, such as occupational health and safety, human resources and environmental management systems. In addition, the company develops training on how to deal with employment agencies as well as on the integration of concrete specifications into contracts with personnel service providers.

## Another example

### ***Planning and implementation of risk-based preventive and remedial measures***

As part of a risk analysis, a company that sources textile goods from direct suppliers in a Southeast Asian country identifies the issue of appropriate wages as a risk in relation to several of its suppliers, and in some cases also as a violation – because some suppliers fall short of the statutory minimum wage. As a preventive and remedial measure, the company obliges its suppliers to comply with the respective applicable statutory minimum wage within the framework of a code of conduct.

A number of suppliers report back to the company that they cannot possibly pay the statutory minimum wage to their workers at the prices currently paid by the company. The company takes this as an opportunity to review the effectiveness and appropriateness of its code of conduct.

It concludes that this is not effective and also inappropriate because the minimum wage was already raised a year ago. However, the company has not changed its purchase prices for quite some time. The company then determines how high the purchase price would have to be in each case in order to enable its suppliers to pay adequate wages.

The examination of the appropriateness criteria also shows that further measures are necessary. The company notes that more is expected of the company in light of the nature and extent of its business activities. In addition, the company assumes that the severity and probability of occurrence are strong. This is because falling below the minimum wage affects many people and has a strong negative impact on their living and working conditions as well as other protected rights. Low wages, for instance, typically lead to working hours being exceeded because workers depend on overtime to generate further income to make a living. Exceeding working hours increases the risk of accidents. Low wages are also a risk factor for child labour, as poverty-stricken families often depend on their children for income. The company also assesses its ability to influence and its causal contribution to be high. It assumes that it can influence the situation by changing its purchasing practices (in particular, the purchase price) and that it has contributed to the problem by keeping purchase prices too low.

The company therefore decides both to increase purchase prices and to include control measures and consequences for non-compliance in its code of conduct. This is to ensure that its suppliers actually pay appropriate wages.

### 3.4 Development and implementation of remedial measures

In developing and implementing appropriate remedial measures, the following applies: The measures must first be differentiated according to whether they concern the company's own business area (section 7 (1) first to fourth sentence)<sup>18</sup> or direct suppliers (section 7 (1) first sentence, (2) and (3)). In as far as it is not possible to end a violation at a direct supplier in the 'foreseeable future', the company must prepare and implement a concept to end or minimise the violation (section 7 (2)).

The Supply Chain Due Diligence Act foresees measures to be considered when drawing up a remedial concept pursuant to section 7 (2).

With regard to indirect suppliers, a company must prepare and implement a concept to end or minimise a violation pursuant to section 9 (3) No. 3 if it has substantiated knowledge of a (pending) violation.

Within the scope of appropriateness, the company has a margin of decision-making and discretion when it comes to selecting and implementing suitable measures.

The following guiding questions can be of assistance when developing and implementing appropriate remedial measures:

**Task:** Developing remedial measures (section 7 (1) to (3), section 9 (3) No. 3)

#### Identify and design remedial measures:

- To what extent does the company have targeted and sufficient channels or possibilities to identify violations of human rights or environment-related obligations?
- Are the results of regular (annual) and incident-related risk analyses as well as findings from complaints procedures the starting point for developing/selecting preventive measures?
- When selecting and designing remedial measures, to what extent is consideration given to what level of effort is appropriate and sufficient in view of the specific violation and the stakeholders, as well as the relevant local context?
- How is it ensured that remedial measures lead to the end of violations in the company's own business area in Germany or, as a rule, to the end of violations in the company's own business area abroad as well as at group companies with decisive influence?
- How is it recorded and ensured that similar circumstances are also treated comparably, i.e., that similar efforts are taken to address comparable human rights violations?
- To what extent are the appropriateness criteria considered in the selection and design of measures, for instance, by assessing the severity of the violation? Have all options for exerting influence been exhausted?
- To what extent was the perspective of stakeholders identified and considered in the selection and design of remedial measures?
- To what extent have learning experiences from implementing previous remedial measures and from prior reviews of effectiveness been considered?

<sup>18</sup> Regarding the special feature of a 'duty to ensure success', see 'Introduction'.

**Task:** Implementing remedial measures (section 7 (1) to (3), section 9 (3) No. 3)

**Review the success of the measures:**

- Were the remedial measures successful?
- To what extent is documentation and justification carried out for deviating measures for violations that must be ended 'as a rule' in the company's own business area abroad and in its own business area according to section 2 (6) third sentence?

**Involvement of suppliers:**

To what extent have concepts to end or minimise violations been drawn up and implemented in cooperation with suppliers?

**Link with other measures:**

To what extent is the implementation of the concepts linked to existing prevention measures, for instance, the adaptation of procurement or purchasing practices?

**Draw conclusions from the effectiveness review:**

- Do the effectiveness reviews determine how the measures used have worked, and how are stakeholders involved in this process?
- What conclusions can be drawn from the effectiveness review of remedial measures with regard to the appropriateness of the selection and scope of the measures, in particular, with regard to the relationship between the company's own remedial measures, the effectiveness of concepts to end or minimise violations and the termination of a business relationship? Are adjustments necessary?
- Can existing resources be used more effectively by redistributing them, especially in order to avoid breaking off a business relationship as a last resort?
- Are additional resources necessary for existing or new remedial measures?

## Example

### ***Determination and implementation of remedial measures***

A human rights impact assessment finds that employees do not wear protective gloves and masks in the company's own production.

This contradicts local occupational health and safety standards.

Since the infringement takes place in the company's own business area, the remedial measure must lead to an end to the violation in the home country, and usually to an end abroad.

In order to develop effective and appropriate remedial measures, a root cause analysis is carried out, which in several steps and with the participation of stakeholders, finds that at present no one feels responsible for providing the available protective equipment in the right sizes. Staff therefore prefer to work without gloves.

The company concludes that the appropriateness criteria are strong. It classifies the nature and extent of business activity as high. Violations have already occurred, which is why the probability of occurrence must be assessed as

very high. The company classifies severity as medium. In particular, however, the criteria of causal contribution and ability to influence are very strong – as is usually the case in a company's own business area. This is because the violation is directly caused alone (and not jointly with another party or only indirectly): The company is legally obliged to establish responsibilities for the procurement of protective equipment and the enforcement of its use.

Approaches for remedial measures emerge from the identification of the root causes of the problem and the application of the appropriateness criteria. The company first clearly defines responsibilities. Employees are provided with suitable equipment, informed about who is responsible and who they can turn to when questions or problems arise in the future. In addition, all employees are trained in the correct use of protective equipment. Annual retraining is planned. The company also plans to follow up on the effectiveness of the measure with appropriate control measures, including regular unannounced visits to the site.



### 3.5 Establishment of or participation in complaints procedures

The guiding questions below can be useful when establishing an internal company complaints procedure or an appropriate external complaints procedure and in order to comply with the specific procedural requirements of the Supply Chain Due Diligence Act. For more information about complaints procedures, in particular, on the effectiveness criteria to be applied in complaints procedures, companies can refer to the handout on this topic.<sup>19</sup>

**Task:** Establishment of or participation in complaints procedures (sections 8, 9 (1))

- In view of the information on the company's own risk disposition and the results of the risk analysis (in as far as this information is available)<sup>20</sup>, how is it determined when establishing and selecting complaints procedures which level of effort is appropriate and sufficient?
- To what extent were the results of the risk analysis and, in particular, information on contexts with (priority) risks (countries, regions, individual sites, sectors) as well as the respective target groups of the procedure considered when establishing or selecting the complaints procedure?
- To what extent have the interests of the target groups of the procedures (i.e., the groups potentially affected by violations) been identified when establishing and selecting complaints procedures and, in particular, have they been sufficiently considered with regard to the accessibility of the complaints procedures?
- How is it ensured that these target groups are informed about the complaints procedure?

**Task:** Implementation and review of complaints procedures (sections 8, 9 (1))

- To what extent can those potentially affected by risks or violations identified through the risk analysis or the implementation of previous preventive or remedial measures (sufficiently) access a complaints procedure?
- To what extent are those for whom the procedure is intended consulted as part of the review? To what extent are learning experiences from complaints handling and effectiveness reviews used to make more targeted use of available resources?
- Are adjustments or additional resources necessary?
- How is it ensured that these target groups are informed about the complaints procedure?

<sup>19</sup> BAFA handout 'Organising, implementing and evaluating complaints procedures', available online at [https://www.bafa.de/SharedDocs/Downloads/DE/Lieferketten/handreichung\\_beschwerdeverfahren.html](https://www.bafa.de/SharedDocs/Downloads/DE/Lieferketten/handreichung_beschwerdeverfahren.html).

<sup>20</sup> The complaints procedure must be in place for all companies falling within the scope of the Supply Chain Due Diligence Act from 1 January 2023. Otherwise, from the time a company falls within the scope of the Act. Companies that do not carry out their first risk analysis until 2023 should build on its results to review the effectiveness of their complaints procedure on an ad hoc basis and, if necessary, to make adjustments to improve accessibility to the procedure for the target groups.

## Example

### ***Establishment of complaints procedures***

Before establishing the complaints procedure, a fashion company holds numerous talks, also with workers of different suppliers as well as their representatives. In this way, it aims to determine how the procedure should be designed and made accessible. In this context, it identifies employees of its suppliers in the ready-to-wear sector as a particularly relevant target group. The company also learns in these talks that many direct suppliers supply many fashion labels in Europe and North America. It therefore concludes that information on a separate complaints procedure would not be useful for these employees. For the workers on site and those living near the factories, it is probably not clear which complaints procedure

of the many fashion labels is the one they can refer to. The problem has also been recognised by some other companies. For this reason, these companies decide to join forces to form a regional industry initiative. The industry initiative is to implement the complaints procedure for workers and residents. The procedure is to be publicised online as well as via notices and large information signs in the national language at the supplier factories. This information also shows the specific contact persons who can be reached via the hotline, the e-mail address and via the website. In addition, there is an office in the provincial capital as a direct contact for people. As a result, the company participates in the external procedure of the regional industry initiative.

## Another example

### *Review of complaints procedures*

As part of the annual effectiveness review, the company also checks the accessibility of the external procedure of the regional industry initiative. For this purpose, it sifts through anonymised information on the number and subject of complaints as well as the persons who use the procedure. In addition, the company considers the results from the risk analysis. In this way, the company has identified discrimination as well as sexual harassment against female workers as a major problem among its ready-made garment suppliers. However, the comparison with information from the external complaints procedure shows that no complaints were received on these issues and that on the whole women are clearly underrepresented as complainants. After applying the appropriateness criteria, the company decides to focus its accessibility efforts on women and complaints about discrimination and sexual harassment as part of the adaptation of its complaints procedure.

This is because the appropriateness criteria are strong in this area. This concerns, in particular, the severity and probability of violations. A large number of women are potentially and actually affected by discrimination and sexual harassment at supplier companies in the textile industry. Numerous media and trade union reports as well as non-governmental organisations (NGOs) have been drawing attention to this problem for many years. Moreover, it is an intensive violation of rights, especially since the use of sexualised violence under these conditions is obvious.

After the company raises the issue in regular exchanges in the regional industry initiative, the initiative sets up a working group to determine why the complaints procedure is so rarely used by women and why no complaints of discrimination and sexual harassment have been received. The working group consults a European NGO working to achieve better working conditions for women in the textile industry, a women's initiative in the region and two trade unions. Through these players, contact is also established and sufficient trust can be built up with stakeholders to discuss the accessibility of the procedure in a trusted setting.

It quickly turns out to be causal that all the contact persons of the complaints procedure are male and that the girls and women are uncomfortable talking to men about these issues. They fear that they will not be believed, that they will not be taken seriously, that they will be confronted with the perpetrators, that they will be treated even worse because of the complaint or that they will even be dismissed.

As a result, the regional industry initiative first recruits enough women as contact persons for complaints and makes this public. Complainants can now decide whether they prefer to speak to a man or a woman. In addition, some of the female contact persons are to receive special training on how to deal with discrimination and sexual harassment.

# Verification of appropriate implementation by the Federal Office of Economics and Export Control

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As part of the official report review pursuant to section 13 (1), the Federal Office of Economics and Export Control (BAFA) will review whether the report pursuant to section 10 (2) is available and whether the requirements pursuant to section 10 (2) and (3) are complied with.

In the risk-based control according to section 14, BAFA checks whether the companies concerned implement the requirements of the Supply Chain Due Diligence Act. Within the framework of risk-based control, this also includes an overall

assessment of the appropriateness of risk management as well as the appropriate implementation of the individual requirements of the Act.

In doing so, the companies' discretionary power and scope of action are recognised and considered with reference to the specific company situation. In accordance with the duty of care<sup>21</sup> laid down in the Supply Chain Due Diligence Act, BAFA examines whether a company acted appropriately at the time of the decision, i. e., ex ante.

<sup>21</sup> On the exception to a 'duty to ensure success', see info box 2.

# Annex – Possible assistance

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## Assistance for identifying **risk sectors**:

- The government’s explanatory memorandum to the Supply Chain Due Diligence Act names sectors in which German companies are particularly confronted with human rights challenges in their supply chains. *“This applies, in particular, to economically important sectors, such as the automotive industry, mechanical engineering, the metal industry, chemicals, textiles, food and luxury goods, wholesale and retail trade, the electronics industry and energy suppliers.”*<sup>22</sup>
- A research report by the Federal Ministry of Labour and Social Affairs analyses 29 industries with identifiable human rights risks.<sup>23</sup>
- The Commission’s proposal for the EU CSDD Directive lists *“high-impact sectors”*.<sup>24</sup>
- The OECD’s sector-specific guides on the implementation of the OECD Guidelines for Multinational Enterprises can also be useful when it comes to identifying risk sectors. OECD sector guides exist for the conflict minerals, agriculture, extractive and clothing and footwear sectors.
- UN Global Compact, Business and Human Rights Helpdesk and Verisk Maplecroft: <https://bhr-navigator.unglobalcompact.org/> The practical guide provides assistance for due diligence processes in relation to ten human rights issues and also addresses risk sectors.

## Assistance for identifying **risk countries**:

- Transparency International, Corruption Perception Index: [www.transparency.org/en/cpi/2021](http://www.transparency.org/en/cpi/2021)
- Yale Center for Environmental Law & Policy, Environmental Performance Index: [www.epi.yale.edu](http://www.epi.yale.edu)
- ITUC CSI IGB, ITUC Global Rights Index: Walk Free, Global Slavery Index: [www.globalslaveryindex.org](http://www.globalslaveryindex.org)
- United Nations Development Programme, Human Development Index: <https://hdr.undp.org/data-center/country-insights#/ranks>
- Weltbank, World Wide Governance Indicators: <https://info.worldbank.org/governance/wgi/Home/Documents>
  - Voice and Accountability
  - Political Stability and Absence of Violence/Terrorism
  - Government Effectiveness
  - Regulatory Quality
  - Rule of Law
  - Control of Corruption
- The Heritage Foundation, Index of Economic Freedom: <https://www.heritage.org/index/>
- Freedom House, Freedom in the World Score: <https://freedomhouse.org/countries/freedom-world/scores>
- World Economic Forum, Global Gender Gap Report: <https://www.weforum.org/reports/global-gender-gap-report-2022/>

<sup>22</sup> Government Explanatory Memorandum, BT-Drs. 19/28649, p. 23.

<sup>23</sup> Research report of the Federal Ministry of Labour and Social Affairs *“Die Achtung von Menschenrechten entlang globaler Wertschöpfungsketten, Risiken und Chancen für Branchen der deutschen Wirtschaft”*, available online at: <https://www.bmas.de/DE/Service/Publikationen/Forschungsberichte/fb-543-achtung-von-menschenrechten-entlang-globaler-wertschoepfungsketten.html>.

<sup>24</sup> Commission proposal for a Directive of the European Parliament and of the Council on *Corporate Sustainability Due Diligence* with and amending Directive (EU) 2019/1937, 2022/0051 (COD), p. 42, recital 22.

- Bertelsmann Stiftung, Transformationsindex: <https://bti-project.org/de/>

**Sector-specific guidelines** from the OECD:

<http://mneguidelines.oecd.org/sectors/>

- OECD (2019), Leitfaden für die Erfüllung der Sorgfaltspflicht zur Förderung verantwortungsvoller Lieferketten für Minerale aus Konflikt- und Hochrisikogebieten: <https://www.bmwk.de/Redaktion/DE/Downloads/M-O/oecd-leitfaden-fuer-die-erfuellung-der-sorgfaltspflicht-zur-foerderung-verantwortungsvoller-lieferketten-fuer-minerale-aus-konflikt-und-hochrisikogebieten.pdf>
- OECD/FAO (2016), Leitfaden für verantwortungsvolle landwirtschaftliche Lieferketten: <https://www.oecd.org/daf/inv/mne/48004323.pdf>
- OECD (2017), Due Diligence Guidance for Responsible Supply Chains in the Garment and Footwear Sector: <http://mneguidelines.oecd.org/OECD-Due-Diligence-Guidance-Garment-Footwear.pdf>

Overview of further **sector and topic-specific guidelines**:

- CSR in Deutschland (BMAS), Branchenspezifische Leitfäden: <https://www.csr-in-deutschland.de/DE/Wirtschaft-Menschenrechte/Umsetzungshilfen/Leitfaeden/Allgemeine-Leitfaeden/allgemeine-leitfaeden.html>
- UN Global Compact, Business & Human Rights Helpdesk and Verisk Maplecroft, including a list of other implementation tools): Praxislotse Wirtschaft & Menschenrechte: <https://bhr-navigator.unglobalcompact.org/?lang=de>
- Bündnis für nachhaltige Textilien (2020), Risiken ermitteln und priorisieren: <https://www.textilbuendnis.com/download/risikoanalyse/>

Guidelines for dealing with risks and violations in **conflict and high-risk areas**:

- United Nations Development Programme (2022), Heightened Human Rights Due Diligence for business in conflict-affected contexts; A Guide: [https://www.undp.org/sites/g/files/zskgke326/files/2022-06/UNDP\\_Heightened\\_Human\\_Rights\\_Due\\_Diligence\\_for\\_Business\\_in\\_Conflict-Affected\\_Context.pdf](https://www.undp.org/sites/g/files/zskgke326/files/2022-06/UNDP_Heightened_Human_Rights_Due_Diligence_for_Business_in_Conflict-Affected_Context.pdf)
- BSR (2021), Business in Conflict-Affected and High-Risk Contexts: <https://www.bsr.org/reports/BSR-Business-in-Conflict-Affected-High-Risk-Contexts-Report.pdf>
- Institute for Economics and Peace, Global Peace Index (for identifying potential risk countries) <https://www.visionofhumanity.org/maps/>

Guidelines for dealing with **child and forced labour**:

- International Labour Organisation (2020), Supplier guidance on preventing, identifying and addressing child labour: [https://www.ilo.org/wcmsp5/groups/public/---ed\\_norm/---ipec/documents/publication/wcms\\_792211.pdf](https://www.ilo.org/wcmsp5/groups/public/---ed_norm/---ipec/documents/publication/wcms_792211.pdf)
- ILO-IOE (2016), Child Labour Guidance Tool for Business: <https://www.unglobalcompact.org/library/3881#:~:text=ILO-IOE%20Child%20Labour%20Guidance%20Tool%20for%20Business%20Provides,to%20advance%20the%20progressive%20elimination%20of%20child%20labour.>
- Impactt (2008), Operational Procedures for Remediation of Child Labour in Industrial Contexts: <https://respect.international/wp-content/uploads/2022/06/Operational-procedures-for-remediation-of-child-labour-in-industrial-contexts.pdf>
- Ethical Trading Initiative & Ergon Associates (2018), Managing Risks Associated with Modern Slavery. A Good Practice Note for the Private Sector: <https://assets.cdcgroup.com/wp-content/uploads/2018/12/03105819/Managing-Risks-Associated-with-Modern-Slavery.pdf>

Guidelines for **establishing and/or adapting operational complaints procedures:**

- UN GCD (2018), Zuhören lohnt sich, Menschenrechtliches Beschwerdemanagement verstehen und umsetzen:  
[https://www.globalcompact.de/migrated\\_files/wAssets/docs/Menschenrechte/Publikationen/DGCN\\_GM-Leitfaden\\_20181005\\_WEB\\_Ringbuch.pdf](https://www.globalcompact.de/migrated_files/wAssets/docs/Menschenrechte/Publikationen/DGCN_GM-Leitfaden_20181005_WEB_Ringbuch.pdf)

Guidelines for **defining key performance indicators to measure effectiveness:**

- Econsense (2020), Menschenrechte messbar machen, Discussion Paper 2020 ([https://econsense.de/wp-content/uploads/2020/09/2020\\_econsense\\_Menschenrechtsindikatoren\\_Diskussionspapier.pdf](https://econsense.de/wp-content/uploads/2020/09/2020_econsense_Menschenrechtsindikatoren_Diskussionspapier.pdf)) and the overview of human rights indicators contained therein

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D-65760 Eschborn

<http://www.bafa.de/>

E-Mail: Lieferkettengesetz@bafa.bund.de

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