

UK Consultation on proposal for environmental due diligence: Forest Peoples Programme (FPP)

1. Should the Government introduce legislation designed to make forest risk commodities more sustainable?
2. Should it be illegal for businesses to use forest risk commodities in the UK that have not been produced in accordance with relevant laws?
3. Should businesses in the UK be obliged to have a system of due diligence in place to ensure that the forest risk commodities they use have been produced in accordance with relevant laws?
4. Should businesses be required to report publicly on their system of due diligence?
5. Should the Government be able to levy fines against businesses that use forest risk commodities that have not been produced in accordance with relevant laws?

Each of these questions are marked YES

6. Should the legislation apply to larger businesses, over an employee number and turnover threshold, that use forest risk commodities in production or trade? OTHER
7. If you responded 'Other' to Question 6, please expand.

The proposed due diligence law should cover companies in all sectors and of all sizes carrying out business in the UK, financial organisations and public sector bodies procuring forest-risk commodities. The requirement for all businesses in all sectors, no matter what their size, to undertake human rights due diligence throughout their operations, supply and value chains is set out in the UN Guiding Principles (UNGPs), which is widely considered as the baseline expectation for all companies.¹ Business responsibility to ensure respect for human rights throughout their operations, including respect for the rights of indigenous peoples and customary landowners, is well established under different international human rights instruments ratified by the UK.²

The OECD Guidelines on Multinational Enterprises³ expands the focus on human rights due diligence set out in the UNGPs to include environmental due diligence. In describing the characteristics of human rights and environmental due diligence, the OECD guidelines highlight that:

“The purpose of due diligence is first and foremost to avoid causing or contributing to adverse impacts on people, the environment and society, and to seek to prevent adverse impacts directly linked to operations, products or services through business relationships. When involvement in adverse impacts cannot be avoided, due diligence should enable enterprises to mitigate them, prevent their recurrence and, where relevant, remediate them.” (2018: 16).

The size of the business, its turnover, the number of people it employs or the volume it buys does not directly correlate with the scale of impacts and risks of commodity production on people or the environment. Therefore, the proposed law should cover UK companies in all sectors and of all sizes, financial organisations and public sector bodies because their operations and supply chains may cause, be associated with or exacerbate harmful impacts on communities and forests where commodities are produced with UK finance and/or to meet UK and global consumer and commercial demand for these products. A combined human rights and environmental due

¹ https://www.ohchr.org/documents/publications/guidingprinciplesbusinessshr_en.pdf

² See, for example: UN CESCR (2017) *General comment No. 24 (2017) on State obligations under the International Covenant on Economic, Social and Cultural Rights in the context of business activities* E/C.12/GC/24 at paragraph 12; See also UN Committee on the Rights of the Child (2017) *Concluding observations on the combined third to fifth periodic reports of Cameroon* CRC/C/CMR/CO/3-5, 6 July 2017 at paragraph 12;

³ <https://mneguidelines.oecd.org/OECD-Due-Diligence-Guidance-for-Responsible-Business-Conduct.pdf>

diligence obligation (HREDD) would enable effective sustainability reforms in business practices and help address commodity driven human rights and environmental violations, and their root causes. This has the potential to deliver positive impacts for rightsholders including indigenous peoples, local communities, smallholders, and workers. Furthermore, a gender-lens should be applied in order to ensure the rights of women are properly taken into account.

A survey by the British Institute of Comparative Law (BICL) of Businesses (62.5% of respondents indicated that their companies were primarily based or headquartered in the UK) showed agreement that a mandatory human rights and environmental due diligence regulation may provide benefits to business through offering:

- legal certainty (82% of respondents agreed);
- a level playing field (74% of respondents agreed);
- the facilitation of leverage with third parties, including in the supply chains (75% of respondents agreed).⁴

Ways to ease the burden for smaller companies

The way in which the UK Government and experts, including Southern and Northern Civil Society Organisations (CSOs), envision and set out the process of human rights and environmental due diligence⁵ under the secondary legislation could ensure that the requirements are not burdensome for companies that do not fall under the description of “large”.

Key areas that could potentially make it easier for smaller businesses to undertake due diligence are:

(a) whether a centralised commodity supplier list, which details the information resulting from the transparency requirements set down in the law such as supply chain mapping, rights-holder mapping and grievances, will be publicly available. This would allow SMEs to refer to this list as part of their due diligence to check whether any grievances or issues have been flagged in relation to their suppliers also providing goods and services to larger UK corporate actors.

(b) the role of a dedicated, expert, properly funded and independent enforcement body that is able to undertake investigations in the places of production, perhaps through a system of spot-checks and investigations where rights-holders or other interested parties have reported human rights and environmental violations.⁶

Inclusion of investors and financial services industry

One of the key recommendations of the UK Government Taskforce, the Global Resource Initiative, is that due diligence obligations should cover finance. There is a precedent for this under the French Duty of Vigilance Law and the proposed EU legislation on cross-sectoral mandatory human rights and environmental due diligence expressly covers companies of all sectors and sizes.⁷ The European Parliament is also clear in its call on the Commission to come forward with due diligence requirements for financial institutions.⁸

Furthermore, in April 2020, a group of 101 global investors, representing over US\$5 trillion in assets under management, released a statement calling on governments to adopt mandatory human rights and environmental due diligence (mHREDD).⁹

⁴ https://www.biicl.org/documents/84_failure_to_prevent_final_10_feb.pdf

⁵ See response under question 9 for reasons why due diligence under this proposal must encompass human rights and environmental due diligence

⁶ <https://static1.squarespace.com/static/59242ebc03596e804886c7f4/t/5f69fa52ccfcab6a566f1d39/1600780900693/Research+report+1.pdf>

⁷ <https://www.business-humanrights.org/en/latest-news/eu-mandatory-due-diligence/>

⁸ https://www.europarl.europa.eu/doceo/document/TA-9-2020-0212_EN.pdf, no 24

⁹ <https://investorsforhumanrights.org/news/investor-case-for-mhrdd>

8. Large businesses have existing obligations to report on climate and environment issues including in relation to net zero. To what extent are there opportunities to align the proposal set out in this consultation with businesses' reporting under existing international frameworks [e.g. the recommendations of the Taskforce on Climate-Related Financial Disclosures (TCFD)]?

There are a huge number of reporting frameworks currently in use by businesses that cover human rights, deforestation and climate change. There are zero references to human rights in the TCFD task-force recommendations.¹⁰ This is a worrying indication that the TCFD does not recognize the need to address human rights and apply rights-based approaches in order to ensure effective climate change initiatives.

The UN Office of the High Commissioner for Human Rights (OHCHR) advises that states adopt a human rights-based approach to climate action and ensure that national environmental and climate policies are implemented in accordance with international human rights standards.¹¹ The UN Working Group on the issue of transnational corporations and other business enterprises has stated that “business enterprises may not be able to discharge their responsibility to respect all internationally recognized human rights unless they integrate climate change considerations into their human rights due diligence processes”.¹²

The Global Reporting Initiative (GRI)¹³ is currently updating its reporting requirements to be more aligned with the UN Guiding Principles on Business and Human Rights (UNGPs). The UNGP reporting framework also sets out reporting requirements for businesses to show how they respect human rights.¹⁴ However, it may be necessary to set out specific requirements and guidance on reporting as part of the proposed due diligence law on forest risk commodities. Furthermore, it should be recognized that reporting alone is not considered due diligence and that action must be taken on human rights and environmental violations identified.

There is little doubt that human rights outcomes are understood as a requirement for reporting by companies: Under Principle 21, the UNGPs set out that businesses must report formally on how they address human rights impacts and details key points to guide businesses on what this will require.¹⁵ The OECD Guidelines on Multinational Enterprises¹⁶ clearly state that Businesses should: “Communicate externally relevant information on due diligence policies, processes, activities conducted to identify and address actual or potential adverse impacts, including the findings and outcomes of those activities.”

In light of the need for businesses to report on their actual and potential impacts, it is necessary for reporting to ensure that an outcomes focused approach is adopted. Businesses must report on the outcomes of addressing, mitigating and remedying these. Therefore, reporting only against process-based indicators on the due diligence process is not sufficient. Business due diligence reporting rules must include requirements for outcome focused reports, including reporting on what the UNHCR names “compliance indicators”¹⁷

¹⁰ https://www.fsb-tcf.org/wp-content/uploads/2020/03/TCFD_Booklet_FNL_Digital_March-2020.pdf

¹¹ <https://www.ohchr.org/en/issues/hrandclimatechange/pages/hrclimatechangeindex.aspx>

¹² <https://www.ohchr.org/EN/Issues/Business/Pages/Climate-Change-and-the-UNGPs.aspx>

¹³ <https://www.globalreporting.org/>

¹⁴ <https://www.ungpreporting.org/>

¹⁵ https://www.ohchr.org/documents/publications/guidingprinciplesbusinesshr_en.pdf

¹⁶ <https://mneguidelines.oecd.org/OECD-Due-Diligence-Guidance-for-Responsible-Business-Conduct.pdf>

¹⁷ https://www.ohchr.org/documents/publications/human_rights_indicators_en.pdf

9. Do you have any further information or comments you would like us to be aware of?

The transition towards a just, equitable and sustainable world is one that requires fundamental changes to the mode of production and consumption: forestry and agricultural supply chains are at the heart of this.¹⁸ It is undeniable that sustainable, responsible, ethical supply chains and food production are needed. A new modus operandi, corporate accountability and reordering of priorities in a post-covid world is vital for the well-being of humanity as a whole. The interdependence between human rights, the environment, biodiversity and human well-being must be addressed in all national and global initiatives seeking to promote good corporate governance and sustainable trade. An effective UK legal instrument to require companies to prevent the harmful impacts of trade in forest risk commodities must ensure that mandatory due diligence requirements address the interlinkages between deforestation, forest conflicts and human rights violations.¹⁹

The protection of the environment cannot be separated from the rights of those who live in places that are the subject of legal and illegal deforestation, ecosystem conversion, and wider environmental degradation such as to water, soil and air quality. Environmental harms, such as these, cause serious and long-lasting impacts on livelihoods, food security and the health of indigenous peoples and local communities. This is because human rights and the environment are inextricably interconnected.

Insecure land tenure and poor law enforcement expose community forests to encroachment and expropriation by agribusiness companies and middlemen. These unscrupulous actors act with total impunity and are increasing in number in forest frontiers, such as in Brazil.²⁰ 'Land grabbing' linked to forest conversion for industrial farming and extractive industries dispossesses indigenous communities and increases the likelihood of commodity driven deforestation and associated rights abuse.²¹ Lack of clear tenure rights and tenure violations leads to land and environmental conflicts that lead to further serve human rights harms and prolonged disputes, lasting years or even decades.

Global commodity supply chains are known to be associated with conflict, and in too many contexts this manifests through violent conflict, intimidation, discrimination and killings of human rights defenders.²² It is well documented that there has been a year-on-year increase in attacks and assassinations of human rights and environmental defenders who question land ownership and resource access, deforestation, conversion, ecosystem destruction and biodiversity loss.²³

These are just some of the salient issues that demonstrate why human rights, and indigenous peoples and local communities' rights specifically, must be at the heart of this UK legal proposal to establish mandatory regulations for UK businesses dealing in, and/or financing, forest-risk commodities.

Secure customary land tenure, particularly in contexts with an enabling legal environment and good governance, have been proven effective in slowing expansion of the deforestation frontier. Scientific studies show that indigenous titled lands, managed through community governance frameworks, are often more effective in sustaining healthy and intact forests and other ecosystems than conventional government run protected areas.²⁴ Deforestation rates within customary-owned territories are comparable to those found in protected conservation areas.²⁵ This is because for many indigenous peoples, afro-descendants and local communities the survival of their cultures and way of life depends on a balance that sustains the forests they call home.

The UK Government has recently made a number of pledges and statements that set out its commitments towards policy options that could potentially support real, lasting and transformative changes for generations

¹⁸As noted by the Global Resource Initiative (GRI) report highlights that the agricultural and forestry supply chains are "are at the core of the transformation required and the UK's own import and consumption of seven key commodities"
https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/876465/gri-taskforce-executive-summary.pdf

¹⁹ See, especially, FPP (2018) *Closing the Gap: rights based solutions for tackling deforestation* at pages 14-15

https://www.forestpeoples.org/sites/default/files/documents/Closing%20The%20Gap_0.pdf

²⁰ <https://www.zerotoleranceinitiative.org/zti-message-to-consumer-goods-forum>; <https://www.socioambiental.org/pt-br/noticias-socioambientais/invasoes-e-expropriacoes-de-terras-indigenas-dobraram-no-primeiro-ano-do-governo-bolsonaro>

²¹ <https://www.forestpeoples.org/en/node/50213>

²² <https://www.zerotoleranceinitiative.org/about>

²³ <https://www.globalwitness.org/en/campaigns/environmental-activists/defending-tomorrow/>

²⁴ Schleicher J, Peres C A, Amano T, Lactayo W and Leader-Williams N (2017) "Conservation performance of different conservation governance regimes in the Peruvian Amazon" *Nature Scientific reports* Article number 7: 11318 (2017) doi:10.1038/s41598-017-10736-w

²⁵ <http://67.222.18.91/~rrnew/wp-content/uploads/2020/09/Brief-Final.pdf>

to come.²⁶ The Leaders Pledge for Nature, signed by Boris Johnson, makes clear that meaningful action must be taken amid the “planetary emergency” stemming from biodiversity loss and climate change. This pledge recognises the importance of “**...full and effective participation of indigenous peoples and local communities in decision making and recognition of their rights, as acknowledged in relevant national and international human rights instruments.**”²⁷

This inclusive and rights-based approach will be fundamental to the success of the post 2020 global biodiversity framework: 80% of terrestrial biodiversity is found in indigenous peoples’ forests.²⁸ Indigenous authors of the Local Biodiversity Outlooks Publication (September 2020) have highlighted that their values, ways of life, knowledge, resource governance and management systems have much to offer towards addressing global crises and helping the reimagining of the diverse global systems that can deliver shared visions of solidarity and ensure no one is left behind.²⁹

Indigenous people and local communities can also offer much insight into the best approaches to tackling climate change. Securing collective tenure rights has the potential to ensure that 153 billion tonnes of carbon are not released into the atmosphere³⁰ whilst also ensuring that communities can continue to exercise their rights to self-determination, to development and to cultural integrity. The direct participation of indigenous peoples, local communities and their representatives at COP26 will ensure that their insights, knowledge and experience are central in any agreements made.

The most effective way for the UK to be a world leader in tackling deforestation and related harm to global ecosystems, as well as the biodiversity and climate crisis is if a rights-based approach is taken.³¹ **To this end, the UK Government must ensure that human rights are integrated into the current legal proposals, including through the inclusion of specific provisions to safeguard the collective customary tenure rights of forest-dependent communities in producer countries. To do otherwise would place the UK in breach of its own international human rights and environment law obligations.**

The rights of indigenous peoples must be integrated in the scope of the requirements placed on UK companies

Forest Peoples Programme (FPP) works with indigenous peoples, local communities and their representative organisations across the globe to secure their rights.³² A key lesson from our work on sustainable supply chains is that Free, Prior, Informed Consent (FPIC) is a fundamental enabling right that ensures the self-determination of indigenous peoples and safeguards other rights such their right to development. International law and related international sustainable commodity standards require FPIC for any production, extraction or infrastructure development planned on collective customary land, whether formally titled or not, to be considered legal under International Human Rights Standards.

These participation and consent rights as derived from the right to self-determination of indigenous peoples, are recognized by human rights treaty bodies (including the Human Rights Committee, Committee on Economic, Cultural, and Social Rights, and Committee on the Elimination of Racial Discrimination) and various international human rights treaties and standards to which the UK is a state party. As noted in question 7, the UK is a signatory to multiple human rights treaties. It has also endorsed the United Nations Declaration on Indigenous Peoples (UNDRIP)³³ and committed to various soft law and international standards on sustainable supply chains and responsible corporate conduct, including, *inter alia*, the UN Guiding Principles for Business and Human Rights, the FAO’s Voluntary Guidelines on the Responsible Governance of Tenure of Land, Fisheries and Forests (VGGT),

²⁶ Earlier this year the British government also announced that tackling deforestation and curbing climate emissions linked to global commodity production and trade is one of its strategic priorities, and that the UK will push the matter to be top of the agenda of the UN climate summit to be hosted in Scotland in 2021: <https://www.gov.uk/government/speeches/environment-secretary-speech-at-the-cop26-business-leaders-event>

²⁷ https://www.leaderspledgefornature.org/Leaders_Pledge_for_Nature_27.09.20.pdf

²⁸ <http://67.222.18.91/~rrnew/wp-content/uploads/2020/09/Brief-Final.pdf>

²⁹ <https://localbiodiversityoutlooks.net/wp-content/uploads/2020/09/LBO-2-Summary-English.pdf>

³⁰ <http://67.222.18.91/~rrnew/wp-content/uploads/2020/09/Brief-Final.pdf>

³¹ Both the Convention on Biological Diversity (CBD) and the Conference of Parties (COP26) are key instruments in the fulfilment of the Sustainable Development Goals (SDGs)

³² <https://www.forestpeoples.org/en/about>

³³ <https://www.un.org/development/desa/indigenouspeoples/declaration-on-the-rights-of-indigenous-peoples.html#:~:text=The%20United%20Nations%20Declaration%20on,%2C%20Bangladesh%2C%20Bhutan%2C%20Burundi%2C>

the OECD Guidelines for Multinational Enterprises and the OECD-FAO Guidance for Responsible Agricultural Supply Chains.³⁴ The UK is also duty bound under the Convention of Biological Diversity (CBD) and the UN Framework Convention on Climate Change (UNFCCC).

Effective UK legislation must include norms and requirements fully aligned with international human rights law and standards, including in relation to the customary land and territorial rights of indigenous peoples and communities. Provisions should require respect for the right to FPIC in line with the UN Declaration on the Rights of Indigenous Peoples and related legally binding human rights instruments. It also needs to contain robust safeguards and requirements for solid corporate actions to improve safety and protection for human rights defenders and whistle-blowers who lodge complaints against a specific company or investor.

The respect for rights in relation to commodity production and supply chains is something that indigenous peoples and local communities have called for successively themselves.³⁵ Evidence shows that securing forest peoples' customary tenure rights is a vital precondition for effective measures to slow deforestation and curb land use GHG emissions.³⁶ Secure land, territory and resource rights, therefore, are an essential part of ensuring that indigenous peoples and local communities can keep forests they call home standing. Land and resource rights can be described as enabling rights that lay the foundations for other human rights to be upheld, such as the right to self-determination, right to cultural integrity, right to development, and right to adequate standard of health amongst many others.³⁷

Aside from the key points made under the answers for questions 7 and 8, which are deemed by FPP as legally necessary recommendations to improve the UK proposal, the following principles are also necessary to strengthen the UK's approach and ensure this legal proposal is truly "world leading" and future-proof:

- 1. Require businesses to undertake combined human rights *and* environmental due diligence;**
- 2. Go beyond a local 'liability' approach by basing the new legal requirements on international human rights and sustainability standards;**
- 3. Cover the UK's global trade and commodity footprint, not just products placed on the British market;**
- 4. Ensure that certification and supplier management systems do not become a checklist proxy for corporate due diligence;**
- 5. Mitigate unintended consequences to rights-holders by incentivising supplier engagement rather than "cut and run";**
- 6. Require UK businesses to assess human rights and environmental impacts and risks in their supply chains and investments;**
- 7. Be specific about the transparency and reporting requirements;**
- 8. Establish robust compliance frameworks and credible independent verification systems;**
- 9. Guarantee access to effective judicial and non-judicial remedy;**
- 10. Ensure the legislation is backed by robust enforcement mechanisms;**
- 11. Insert a review mechanism in the primary legislation.**

³⁴ <http://www.fao.org/3/i2801e/i2801e.pdf>

³⁵ https://3f24981b-c8f8-4fbe-af3c-265866c85eaf.filesusr.com/ugd/fdb8c1_393ff25e988d4b418dfd0ea56eac47b6.pdf;
http://www.forestpeoples.org/sites/default/files/news/2014/03/declaration_english.pdf

³⁶ See, for example, Blackman, A et al (2017) "Titling indigenous communities protects forests in the Peruvian Amazon" *PNAS* 114(16)(2017):4123-412; Davis A and Kandel S (2016) *Conservation and Community Rights: Lessons from Mesoamerica* RF-US, Clark University and PRISMA; Ding H, Veit P, Gray E, Reytar K, Altamirano J C, Blackman A and Hodgdon B (2016) *Climate Benefits, Tenure Costs: The Economic Case For Securing Indigenous Land Rights in the Amazon* WRI, Washington DC; Vergara-Asenjo G and Potvin C (2014) "Forest protection and tenure status: The key role of indigenous peoples and protected areas in Panama" *Global Environmental Change* 28 (September 2014): 205-215; Persha L, Agrawal A and Chhatre A (2011) "Social and ecological synergy: local rulemaking, forest livelihoods, and biodiversity conservation" *Science* 331(6024)(2011):1606-8. doi: 10.1126/science.1199343; Ricketts T H et al (2010) "Indigenous Lands, Protected Areas, and Slowing Climate Change" *PLoS Biology*, March 2010; Sobrevilla, C (2008) *The Role of Indigenous Peoples in Biodiversity Conservation: The Natural but Often Forgotten Partners* World Bank, Washington DC; Hayes, T M and Murtinho, F (2008) "Are indigenous forest reserves sustainable? An analysis of present and future land-use trends in Bosawas, Nicaragua" *International Journal of Sustainable Development & World Ecology*, 15(6)(2008): 497-511; Nepstad, D., Schwartzman, S, Bamberger, B., Santilli M, Ray, D., Schlesinger, P., Lefebvre, P., Alencar, A., Prinz, E., Fiske, G., and Rolla, A (2006) "Inhibition of Amazon Deforestation and Fire by Parks and Indigenous Lands" *Conservation Biology* 20(1)(2006): 65-73

³⁷ https://s30882.pcdn.co/wp-content/uploads/2020/09/OG_Respecting_Rights_IPLC-2020-5.pdf

1. Require businesses to undertake combined human rights *and* environmental due diligence

It is well-established that businesses have a responsibility to adhere to internationally recognized human rights norms and standards. United Nations treaty body jurisprudence;³⁸ UN guidance instruments such as the Guiding Principles on Business and Human Rights³⁹ and the Voluntary Guidelines on the Responsible Governance of Tenure⁴⁰; regional human rights court decisions⁴¹; and reports of the Inter-American Commission on Human Rights⁴² and of the African Commission on Human and Peoples' Rights⁴³ all confirm that international human rights norms require that businesses respect human rights and that meeting that responsibility requires the conduct of human rights due diligence.

Businesses are expected to conduct human rights due diligence in order to identify, prevent, and mitigate potential rights violations; address negative impacts by the operations of their own business, their subsidiaries, or their business partners; and remedy past human rights violations.⁴⁴ It is essential to note that human rights due diligence differs from traditional risk-based management because it focuses on past, present and potential impacts to people, rather than to the business.⁴⁵ A due diligence system that focuses on the impacts to rights-holders should ensure specific provisions are put in place to protect human rights defenders and whistle-blowers.

The UK proposal to establish a duty of corporate conduct that requires businesses to undertake environmental due diligence should be amended to include the requirement for UK companies to undertake combined human rights *and* environmental due diligence on forest risk commodities. This new law should mandate all UK companies, investors and public bodies to undertake combined human rights and environmental due diligence throughout their operations, supply chains and business partnerships, ensuring that companies are legally liable if they fail to prevent, mitigate, address or remediate harm. This is clearly set out in the OECD Guidelines on Multinational Enterprises.⁴⁶ The Global Resource Initiative (GRI) taskforce has already recommended that the UK Government “urgently introduce” a mandatory obligation on companies dealing in forest-risk commodities, requiring them “...to analyze the presence of *environmental and human rights risks and impacts* within their supply chains, within their supply chains, take action to prevent or mitigate those risks, and publicly report on actions taken and planned.”⁴⁷ It is clear that the GRI consider human rights and environmental due diligence as inseparable.

It is important to note that the GRI has stated that the focus on forests and land conversion is merely the first step and that wider human rights and environmental impacts associated with commodity production and trade must be addressed.⁴⁸ It has also advised the UK Government to establish a broader corporate duty of due diligence to uphold human rights and protect the environment.⁴⁹

The Government has a unique opportunity to preempt the expansion of scope and can future-proof this legal proposal by codifying the interconnections between human rights and the environment within the primary legislation.

³⁸ See, e.g., CESCR, General comment No. 24 (2017) on State obligations under the International Covenant on Economic, Social and Cultural Rights in the context of business activities, E/C.12/GC/24, 10 August 2017

³⁹ UN Guiding Principles on Business and Human Rights: Implementing the United Nations “Protect, Respect and Remedy” Framework, 2011, https://www.ohchr.org/documents/publications/guidingprinciplesbusinesshr_en.pdf

⁴⁰ FAO Voluntary Guidelines on the Responsible Governance of Tenure of Land, Forests and Fisheries in the Context of National Food Security, 2012, <http://www.fao.org/3/i2801e/i2801e.pdf>

⁴¹ See, e.g., IACtHR, *Case of the Kaliña and Lokono Peoples v. Suriname*, Judgment of November 25, 2015 (Merits, Reparations and Costs), Series C No. 309

⁴² See, e.g., IACHR, Business and Human Rights: Inter-American Standards, 2019, <https://www.oas.org/es/cidh/informes/pdfs/EmpresasDDHH.pdf>

⁴³ See, e.g., ACHPR, Extractive Industries, Land Rights and Indigenous Populations’/Communities’ Rights: East, Central and Southern Africa, 2017, <https://www.iwgia.org/images/documents/extractive-industries-africa-report.pdf>

⁴⁴ See CESCR 2017, paras 16, 33; CESCR 2011, paras 4-5; UNGPs, Para 17; VGGT, para 3.2

⁴⁵ https://www.businessrespecthumanrights.org/image/2016/10/24/business_respect_human_rights_full.pdf

⁴⁶ <https://mneguidelines.oecd.org/OECD-Due-Diligence-Guidance-for-Responsible-Business-Conduct.pdf>

⁴⁷ https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/876465/gri-taskforce-executive-summary.pdf

⁴⁸ https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/876465/gri-taskforce-executive-summary.pdf

⁴⁹ CORE Coalition, who represent over 50 UK-based Human Rights Organisations are working to find practical solutions for the implementation of a corporate duty to prevent human rights and environmental impacts.⁴⁹

2. Go beyond a local 'liability' approach by basing the new legal requirements on international human rights and sustainability standards

National laws in producer countries are often inconsistent or in direct violation of international human rights and environmental law and therefore fail to adequately protect forest peoples' rights and the lands and territories they traditionally occupy and use. Adopting a selective 'national legality-only' approach represents a serious threat to indigenous peoples and other local communities since national land allocation and concession systems in producer countries are still often rooted in the colonial expropriation of forest lands and resources (perpetuated in current law and practice). The systems regularly ignore these groups' collective rights to the lands and resources they have traditionally occupied and used as well as their right to give or withhold their free, prior and informed consent (FPIC) before any interference with their rights or lands. As observed by respected journalist Fred Pearce in the context of the EU Voluntary Partnership Agreements (VPA) mechanism: "Rigorous enforcement of laws requires that those laws are just, or it brings injustice and conflict".⁵⁰

Effective due diligence regulations must include international sustainability and human rights laws as the benchmark for legal compliance in the UK's proposed law on reducing deforestation in UK supply chains. This includes close attention to protecting customary tenure rights and respect for the core standard of FPIC. A failure to require human rights due diligence to address rights impacts and risks of abuse associated with deforestation would significantly undermine the usefulness of the UK's regulatory initiative and be contrary to its obligations and commitments to uphold human rights, thus compromising its legality.

To give a concrete example, the EU Forest Law Enforcement, Governance and Trade initiative – of which the EU Timber Regulation and Voluntary Partnership Agreements (VPA) are part – and which has recently been passed into UK law in the UK Timber Trade Regulation – has proven the shortcomings of a narrow legality definition based on national laws.⁵¹ The main findings of a rights-based analysis of the VPAs is that VPA systems fail to evaluate human rights law compliance across the participating countries; that the VPAs themselves do not reference international human rights standards and instruments; that the verification processes rely on top-down assurances or certification with little checks and balances, making the falsification of documentation commonplace; and, that consultation standards related to indigenous peoples are not included.⁵² Overall, it is fair to say that, aside from a few exceptions where human rights standards are already substantially embedded in national laws (e.g. land laws in Liberia), the incorporation of community tenure rights and the principle of free, prior and informed consent has been so far largely non-existent in FLEGT VPAs.

For example, in Indonesia some 40-60 million people, most indigenous, in over 32,000 administrative villages live in or overlap Indonesia's forest zones. Yet the current agreed legality definition for large logging concessions set out in the SVLK⁵³ does not require timber companies to respect customary rights, even though these rights are upheld by Indonesia's international treaty obligations, enshrined in the Indonesian Constitution and affirmed by the Constitutional Court. In effect, therefore, SVLK certificates legalize timber theft from indigenous peoples' lands and impoverish forest communities.

If this model of legality – with neglect of international human rights and customary laws, and in the Indonesian example even the country's own Constitution – is adopted in the future UK law, it will manifestly fail to learn important lessons from previous initiatives and risk resulting in the illegal dispossession of community forest lands; unjust criminalisation of legitimate community forest resource use; and trade in forest-risk commodities harvested from indigenous peoples' land without their prior consent with potential adverse impacts on the rights, traditional livelihoods and cultures of affected communities. It could also perpetuate legal uncertainty, as it leads to a situation where a forest product is deemed legal without being able to demonstrate compliance with all applicable laws.

The current proposal only covers "illegal deforestation"; however, as the UK government acknowledges in its own consultation document, only half of all recent tropical deforestation is the result of illegal clearance for

⁵⁰ https://www.fern.org/fileadmin/uploads/fern/Documents/fern_foreststands_internet.pdf

⁵¹ The FLEGT Action Plan defines illegal timber as that "harvested in violation of national laws": <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:52003DC0251&from=EN>, page 4

⁵² https://www.forestpeoples.org/sites/fpp/files/publication/2016/02/fpplegalcomparativestudyforweb_0.pdf

⁵³ Standard of Timber Legality Verification for IUPHHK-HA, IUPHHK-HT, IUPHHK-RE and Management Rights

commercial agriculture and timber plantations.⁵⁴ The UK has already signed up to international initiatives and commitments on deforestation that go beyond national laws – such as the New York Declaration on Forests and the Amsterdam Declaration Partnership.⁵⁵

The negative effects to people and planet of deforestation are the same whether the deforestation is deemed ‘legal’ or ‘illegal’. In some country contexts, the legal framework can be comprehensive, yet the legal permitting of forest concessions is marred with bribery and corruption, which blurs the line between what is legal and illegal deforestation. Ecosystem conversion should also be in scope of this proposal. This would reduce negative impacts to important ecosystems that are not defined as “forests”; the Cerrado biome in Brazil, an important biodiversity hotspot, is one example of why the proposal should not only concern itself with deforestation alone.⁵⁶

Finally, forest-rich countries with weak legal enforcement are at higher risk of unscrupulous actors operating with impunity. Planned deregulation roll-backs in Brazil⁵⁷ and Indonesia⁵⁸ have been widely publicized this year: in Brazil, a recent study shows that invasions and expropriation of indigenous lands doubled in the first year of the Bolsonaro government.⁵⁹

3. Cover the UK’s global trade and commodity footprint,, not just products placed on the British market

Restrictions on the regulatory scope of the law means that it would only apply to UK companies and traders that import and place goods on the UK market, without due attention to British business investments and commodity supply to other countries and external markets. The current DEFRA proposal leaves a large loophole for unsustainable UK business in other countries and markets. This is because supply chains in which UK companies and financiers are involved extend well beyond the UK market, and involve supply to markets across the world.

To prevent harmful leakage of unsustainable commodities outside the UK market, it is critical that any legislation on forest risk commodities also applies to UK businesses supplying and/or financing commodity production for markets worldwide, including an obligation to conduct due diligence. This broader scope for the regulation of British businesses offers genuine potential for reducing the UKs environmental footprint overseas and building momentum for global supply chain reform. Critically, the legislation should cover all deforestation-risk commodities and include commodities derived from the extractives industry that cause equally devastating effects that are detrimental to human rights and the environment.

4. Ensure that certification and supplier management systems do not become a checklist proxy for corporate due diligence

In order to ensure the development of effective primary and secondary legislation, it is essential that clear requirements and related guidance are established. This is particularly important in relation to how supplier management systems and so-called ‘control systems’, such as certification, form part of due diligence. Where downstream companies based in the UK already have supplier management systems in place, these are often underpinned by self-reporting by those suppliers. A ground-truthing approach, which places emphasis on speaking directly with those who know what is happening in areas of commodity production and referring to independent reports by local academics, think-tanks and CSOs, is required.⁶⁰ Although supplier compliance systems are a legitimate part of corporate due diligence frameworks, certification and supplier management systems must not become a synonym for effective “due diligence”. Legal requirements under the proposed law must establish that UK companies are expected to conduct their own due diligence along their supply chains and across their business operations and partnerships linked to trade or finance in forest risk commodities.

An effective process of human rights and environmental due diligence must ensure that respect for human rights and the environment is embedded within company policies and systems that enable the business entity

⁵⁴ https://consult.defra.gov.uk/eu/due-diligence-on-forest-risk-commodities/supporting_documents/duediligenceconsultationdocument.pdf

⁵⁵ <https://ad-partnership.org/about/>

⁵⁶ <https://advances.sciencemag.org/content/5/7/eaav7336>

⁵⁷ <https://www.theguardian.com/environment/2020/may/28/studies-add-to-alarm-over-deforestation-in-brazil-under-bolsonaro-covid-19>

⁵⁸ <https://news.mongabay.com/2020/05/indonesia-deregulation-omnibus-environment/>

⁵⁹ <https://www.socioambiental.org/pt-br/noticias-socioambientais/invasoes-e-expropriacoes-de-terras-indigenas-dobram-no-primeiro-ano-do-governo-bolsonaro>

⁶⁰ <https://www.forestpeoples.org/sites/default/files/documents/Ground-truthing%20Discussion%20Paper.pdf>

to identify, prevent, address, monitor, report and remedy harms as set out in the UNGPs and OECD Guidelines. For this to be genuinely valuable to rights-holders such as indigenous peoples affected by UK business operations and investments, the due diligence process should open up space for their voices to be heard and their self-determination respected.⁶¹ This includes when setting out how an actual or potential impact is deemed as “salient” and putting parameters in place in relation to how downstream companies can credibly prioritise actions, whether these be in relation to prevention, mitigation, addressing or remedying. This should be aligned with the current UNGP+10 programme “Business and human rights: towards a decade of global implementation” being led by the United Nations Working Group on Business and Human Rights and United Nations Development Programme (UNDP).⁶²

Sector specific industry standards, such as the Roundtable on Sustainable Palm Oil (RSPO) and the Forest Stewardship Council (FSC), recognise the links between human rights and the environment and have embedded the rights of indigenous peoples such as FPIC. However, mandatory human rights and environmental due diligence is the responsibility of each corporate actor along investment and supply chains and therefore, it is not acceptable to merely place responsibility onto suppliers. It is not advised to rely on certification alone: there are serious shortcomings relating to existing certification schemes, including their auditing systems and the falsification of documentation. Furthermore, there remains a serious lack of meaningful and independent verification of audit results.⁶³ There is also a mosaic of standards and definitions that is as unhelpful to rights-holders as it is for businesses procuring a varied range of commodities. The Accountability Framework Initiative (AFI) has already set out, in a multi-stakeholder manner, the key definitions that can be codified into legislation⁶⁴ and much of its guidance could be re-interpreted for the legal proposal.

5. Mitigate unintended consequences to rights-holders by incentivising supplier engagement rather than “cut and run”

The proposed UK law should find ways to encourage investors and downstream companies to play an active role in capacity building and engagement with their suppliers. The proposed law must be nuanced enough to ensure it does not inadvertently incentivise a “cut and run” approach which can have unintended negative consequences for rights-holders on the ground. A range of options are available, as set out by the Accountability Framework Initiative (AFI), in relation to managing supplier non-compliance.⁶⁵

FPP’s experience is that the call for divestment or supplier disengagement is highly context specific. This means that a top-down approach may be counter to the desires and perspectives of indigenous peoples and local communities, which would undermine their right to self-determination. Guidance on supplier exclusion criteria and divestment, therefore, should set out an approach that integrates the perspective of rights-holders on whether engagement in that specific context has the potential to deliver positive outcomes on the ground.

The move to divest or disengage from badly performing suppliers can also have grave consequences for smallholder farmers, who are already among some of the poorest in the world and disadvantaged in many ways including their access to markets, investment and training.⁶⁶ It would be disastrous should the UK law encourage a simplistic approach that leads to unintended negative consequences, such as the increased purchasing from large commodity production estates that in turn disincentivises smallholder inclusion and drives the further consolidation of land into fewer and fewer hands.

Companies in the UK who purchase forest-risk commodities should use their purchasing leverage to ensure continued engagement with suppliers, this may require the suspension of purchasing whilst supporting efforts to address and remediate human rights and environmental violations. Once the incentive to engage with a purchaser has been removed it is clear that there is not enough incentive for suppliers to act.

Fairer prices and procurement practices, as interim steps before the full reform of outdated business models, will help to ensure suppliers do not seek out buyers in less regulated countries. Provision of meaningful

⁶¹ https://www.businessrespecthumanrights.org/image/2016/10/24/business_respect_human_rights_full.pdf; https://www.ohchr.org/documents/publications/guidingprinciplesbusinesshr_en.pdf; <https://mneguidelines.oecd.org/OECD-Due-Diligence-Guidance-for-Responsible-Business-Conduct.pdf>;

⁶² <https://www.ohchr.org/EN/Issues/Business/Pages/UNGPsBizHRsnext10.aspx>

⁶³ <https://eia-international.org/report/who-watches-the-watchmen-2/>

⁶⁴ <https://accountability-framework.org/definitions/>

⁶⁵ <https://accountability-framework.org/contents-of-the-framework/supply-chain-management/4-managing-supplier-non-compliance>

⁶⁶ <https://fairtrade-advocacy.org/wp-content/uploads/2020/06/UoG-HRDD-Executive-Summary-8pp-d5.pdf>

incentives to suppliers will be more likely to lead to positive outcomes for indigenous peoples, local communities, smallholder farmers and workers.

6. Require UK businesses to assess human rights and environmental impacts and risks in their supply chains and investments

The UK Government is signatory to a number of international human rights standards and voluntary standards as already detailed in this submission, and has set out clear commitments in its SDG National Action Plan (NAPs)⁶⁷ and its UNGP NAP⁶⁸ and pledge to “leave no one behind” will depend on due diligence taking an outcome-focused approach that enables equitable outcomes for rights-holders.⁶⁹ This is because it is the outcomes of interventions that indicate real and lasting changes that are more likely to lead to positive impacts. Specific assessments that integrate participatory approaches within their methodologies, such as human rights and environmental impact assessments (HREIAs)⁷⁰ must be a core part of the mandatory due diligence system that companies and investors are expected to undertake. These assessments may be undertaken to evaluate supply chains and associated business partnerships as well as in producer countries in agreement with suppliers (e.g. as part of supplier contracts and control systems operated by UK companies). These assessments must be conducted by an independent and expert team and ensure meaningful participation by affected rights holders and communities.

Where HRIA and ESIA are undertaken on the ground, these must be undertaken in a culturally appropriate manner. Such assessments should analyse the root causes of actual or potential harmful impacts linked to commodity production, processing and trade, with special attention being paid to unresolved community grievances linked to land tenure rights, forest ownership and use rights, livelihood security and other related rights to, *inter alia*, food, water, and them means of subsistence. Businesses and investors must be obliged to ensure that any plans or agreements made in relation to remediation for harmful human rights and environmental impacts are inclusive of the priorities and perspectives of affected rightsholders and subject to FPIC.

7. Be specific about the transparency and reporting requirements

The legal proposal should require companies to publish:

1. All suppliers of forest risk commodities, including third party suppliers;
2. Potentially affected rightsholders, communities and local populations in production areas;
3. Grievances and/or complaints related to each supplier along the supply and value chain.

The success of any Human Rights and Environmental Due Diligence legislation will be underpinned by the level of transparency achieved in supply chain mapping. Investors and companies should additionally undertake rights-holder mapping to understand who is affected, or potentially affected by their operations, supply or value chains. The need for rights-holder mapping is highlighted in the Accountability Framework Initiative’s (AFI) guidance on Respecting the Rights of Indigenous Peoples and Local Communities.⁷¹ For example, understanding where indigenous peoples are present will help to ensure that specific attention and resources are placed by the investor and companies to do more detailed “ground truthing”, including independent verification that FPIC has been conducted to the satisfaction of indigenous peoples, that any benefit-sharing agreements have been upheld and that there are no outstanding grievances that communities seek redress for.

Learning from existing initiatives, such as the palm oil industry’s Universal Mill List (UML)⁷², improving upon them and rolling this out to other sectors would be transformative because it would allow for greater supply chain transparency and more effective ground-truthing of issues related to human rights and deforestation. It may also be helpful to investigate further how scientific methods (such as isotope analysis to determine the provenance of a commodity) may contribute to mapping and traceability, to reduce risks such as falsified

⁷¹ https://s30882.pcdn.co/wp-content/uploads/2020/09/OG_Respecting_Rights_IPLC-2020-5.pdf

⁷² https://data.globalforestwatch.org/datasets/5c026d553ff049a585b90c3b1d53d4f5_34

documentation of place of origin.⁷³ Initiatives such as these must be built with a wide range of stakeholders, including those who have knowledge of what information would be useful for rightsholders.

In relation to the requirements on companies in relation to reporting, the UK government must learn from and improve on the approach taken in the Modern Slavery Act, which involves reporting but does not require companies to act on their findings or hold companies to account when they fail to act. Public disclosure of the issues that investors' and companies' human rights and environmental due diligence raises must be incentivised by the legislation, as should the disclosure of detailed plans that set out how they will address, prevent, mitigate and remedy any issues as applicable. It is important that accountability mechanisms support both preventative action (e.g. when due diligence is inadequate to prevent foreseeable future risks that have not yet materialised) as well as to remedy harms that have been suffered.

Reporting on the due diligence process itself is not adequate to ensure that continuous improvements and outcomes have been achieved. Process-based indicators will not be sufficient and compliance indicators anchored in internationally-recognised human rights and environmental standards will be necessary.⁷⁴ This means that monitoring by an enforcement agency is twofold: monitoring of disclosures made by investors and companies and monitoring the way in which violations are addressed, the improvements made over time and the outcomes achieved.

8. Establish robust compliance frameworks and credible independent verification systems

Credible, independent verification of compliance and progress of company commitments and obligations, as set out by the UK law, should focus on the social and environmental outcomes of supplier engagement and monitoring systems.⁷⁵ Many of the monitoring and verification methodologies in use today are not effective in identifying non-compliant suppliers: integrating ground-truthing approaches within the due diligence requirement will be helpful in this regard. The inclusion of data from community-based monitoring as well as media reports and other information from local or international civil society organisations with direct links to affected communities can be one way to help companies evaluate whether this supplier declarations and auditing results correspond with the perspectives of rights-holders.

Monitoring against specific indicators, as already highlighted, needs to go beyond process-based indicators to ensure monitoring of outcomes. These outcome indicators cannot be developed in a top-down manner, but rather should be developed alongside rights-holders to ensure that their perspectives and desires are taken into account. This is especially important in relation to the delivery of remedy, especially where decades-long conflict over the recognition of customary land rights is occurring. In the case of indigenous peoples and local communities, this co-development of outcome indicators serves to ensure their right to self-determination and right to development is upheld.

The verification of whether progress is being achieved according to co-developed plans and associated indicators needs to be assessed and validated independently. The independent entity tasked with this should incorporate relevant information and perspectives of indigenous peoples and local communities or their chosen representatives, local CSOs and academic experts. Any reports should be made available in the languages spoken by rights-holders and presented in ways that are understandable to communities. This requires ensuring that specific, technical language be debunked for verification reports to be useful for communities (this is also a key consideration in relation to ensuring FPIC was "informed" in the first place).

9. Guarantee access to effective judicial and non-judicial remedy

Both judicial and non-judicial redress mechanisms are fundamentally important to the effectiveness of the proposed due diligence law. Ensuring effective access to remedy and justice for indigenous peoples and local communities who have had their rights violated by corporate activities is vitally important: so much so that it was the subject of the very first thematic report by the UN Working Group on the issues of human rights and transnational corporations and other businesses to the Human Rights Council.⁷⁶

⁷³ <https://www.forestpeoples.org/sites/default/files/documents/Ground-truthing%20Discussion%20Paper.pdf>

⁷⁴ https://www.ohchr.org/documents/publications/human_rights_indicators_en.pdf

⁷⁵ <https://accountability-framework.org/contents-of-the-framework/monitoring-and-verification/>

⁷⁶ <https://enip.eu/web/wp-content/uploads/2015/03/Business-and-Human-Rights-Indigenous-Peoples-Experience-with-Access-to-Remedy.pdf>

The UNGPs, Committee on Economic, Social, and Cultural Rights' General Comment No. 24 and the UN Commissioner for Human Rights⁷⁷ have all recommended specific actions states (and businesses) should take to ensure that victims of rights violations have access to effective state-based and non-state-based remedies. Under the UNGP 'respect, protect and remedy' framework, States should provide judicial and non-judicial mechanisms and ensure that affected rights-holders have access to effective remedies. This includes access to remedy where companies' 'failure to act with due diligence to mitigate risks allows such infringements to occur'⁷⁸. Judicial remedies have been recognized as of critical importance, as other means of accountability could be 'rendered ineffective if they are not reinforced or complemented by judicial remedies'.⁷⁹ The Committee recommended that to improve access to effective judicial remedy, states should, inter alia, remove barriers to effective access to remedy, such as by establishing parent company and group liability regimes, facilitating access to information, and enabling human rights class actions and public interest litigation.⁸⁰

The legislation should also ensure that companies provide operational-level grievance mechanisms. Principle 31 of the UNGPs sets out key effectiveness criteria for non-judicial grievance mechanisms, detailing that they should be legitimate, accessible, predictable, equitable, transparent, rights-compatible and a source of continuing learning. Furthermore, company grievance mechanisms should be based on engagement and dialogue with affected rights-holders, including ensuring that the mechanism itself is created with input from rights-holders so that it is fit for purpose.⁸¹ The report of the UN HR Commissioner elaborates on these points and provides more detailed guidance on how to implement some of these principles.⁸²

In order to ensure accessibility for affected rights-holders abroad, the enforcement body (see point 10) should offer a direct way for submissions to be made to investigate grievances and ensure a remedy directly.

10. Ensure the legislation is backed by robust enforcement mechanisms

A dedicated, independent and well-funded enforcement body with real expertise in human rights, the environment and corporate accountability is necessary. Recent research assesses how a regulatory body could best be designed by looking at the current precedents in the UK; showing in practical terms how such a regulator could monitor and enforce a human rights due diligence law⁸³, environmental aspects could be integrated into this.

Experience from the Modern Slavery Act shows that dedicated enforcement mechanisms are necessary. An independent review of the Act, published in 2019, stated that an estimated 40 per cent of eligible companies are not complying with the legislation at all and limited penalties for non-compliance have not been enforced.⁸⁴

The current proposal indicates that fines will be the sanction for companies not complying with the law. This is insufficient even if those fines were to be channeled directly into the UK's sustainable development funding. The Government should explore what level of minimum penalty would effectively deter non-compliance and be commensurate with the severity of the abuses that this provision seeks to tackle. Penalties should go beyond fines to include the disqualification of non-compliant companies from public contracts and directors' disqualification. Such provisions are expressly included in current proposals for mandatory human rights and environmental due diligence at the EU level. The law should also include criminal and civil liability provisions⁸⁵, shift the burden of proof on to companies rather than victims, and provide effective access to justice for affected rights-holders including financial support for claims.⁸⁶

⁷⁷ Report of the United Nations High Commissioner for Human Rights: Improving accountability and access to remedy for victims of business-related human rights abuse through non-State-based grievance mechanisms, A/HRC/44/32, 19 May 2020, [available at https://documents-dds-ny.un.org/doc/UNDOC/GEN/G20/113/99/PDF/G2011399.pdf?OpenElement](https://documents-dds-ny.un.org/doc/UNDOC/GEN/G20/113/99/PDF/G2011399.pdf?OpenElement)

⁷⁸ CESCR, General Comment No. 24, para 15

⁷⁹ CESCR General Comment No. 24, para 39.

⁸⁰ CESCR, General Comment 24, paras 40-48

⁸¹ https://www.ohchr.org/documents/publications/guidingprinciplesbusinesshr_en.pdf

⁸² See Report of the United Nations High Commissioner for Human Rights: Improving accountability and access to remedy for victims of business-related human rights abuse through non-State-based grievance mechanisms, A/HRC/44/32, 19 May 2020, Annex

⁸³ <https://static1.squarespace.com/static/59242ebc03596e804886c7f4/t/5f69fa52ccfcab6a566f1d39/1600780900693/Research+report+1.pdf>

⁸⁴ <https://www.gov.uk/government/publications/independent-review-of-the-modern-slavery-act-final-report>

⁸⁵ https://corporate-responsibility.org/wp-content/uploads/2020/04/Duty-to-prevent_principal-elements_FINAL.pdf

⁸⁶ <https://fairtrade-advocacy.org/wp-content/uploads/2020/06/UoG-HRDD-Executive-Summary-8pp-d5.pdf>

11. Insert a review mechanism in the primary legislation

The need for a mandatory review measure that assesses the effectiveness of measures taken by the UK Government within this proposal should be inserted into the primary legislation. This is necessary in order to ensure that additions can be made that guarantee better outcomes and the progressive enhancement of human rights and environmental protection. An effective review clause would set out the timeframe for review, specify the need for it to be an independently conducted, that it will include public consultation and seek independent advice from human rights and environmental experts, express that the Secretary of State will lay the report before parliament, and set out the requirement to set out the steps in intends to take in relation to the resulting recommendations.

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