



WEBINAR

**Human Rights Due Diligence:
Legally-binding Instruments To Date**

27 APRIL 2021

About Ksapa

- Ksapa's 3 Core Services
- Ksapa's Team and Network
- Ksapa's Inbuilt Commitment to Advocacy



Farid Baddache

CEO



Introducing Ksapa



CONSEILLER



INVESTIR



MOBILISER

Ksapa is an impact business.

Our mission is to catalyze an economy-wide shift towards **economically, socially and environmentally-sound** operating and investment models

Our services range from **Sustainability Advisory** to **Innovative Investment Schemes** and **Advocacy**

Sustainability, finance and investment, IT, agronomy, development and field expertise all **aggregated at core team level**



Thanks to a **network of partnering organizations** and **150+ experts worldwide**, we offer close contextual and operational support for effective impact on the ground



Ksapa's Inbuilt Commitment to Advocacy

REPORTS & BRIEFING PAPERS



ILLUSTRATIVE LIST OF BLOG POSTS ON HUMAN RIGHTS



REGULAR WEBINARS



Mar 23 WEBINAR: Digital Training and Impact Investing Tools for Responsible Sourcing



Jun 29 Matching SDG Pledges with Impact Metrics



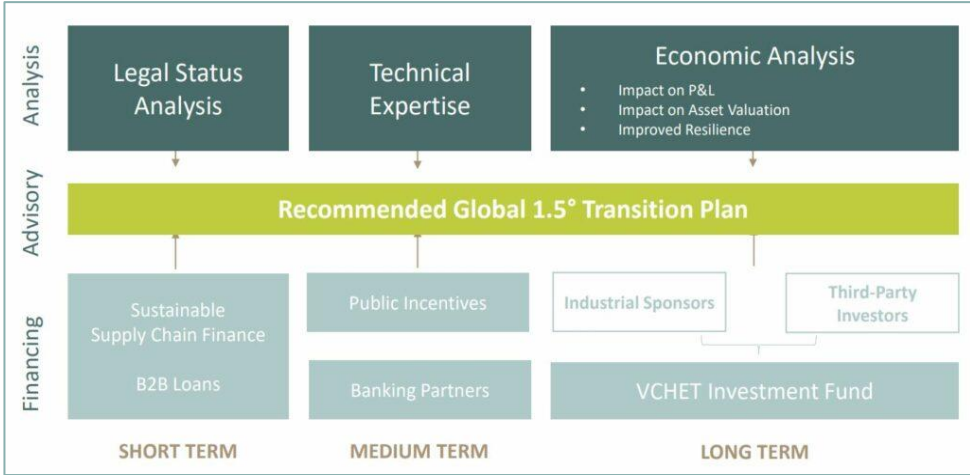
Learning from International Rights Due Diligence Endeavors

1. **Social audits of the past 20 years pinpoint recurring risks**, high-risk buying categories and geographies. The EU mandatory directive as well as other regulatory levers (ex: US Customs) will make it increasingly difficult to commerce without a solid, cross-cutting Human Rights plan;
2. There are many **approaches** to mainstreaming Human Rights Due Diligence – nationally and multilaterally;
3. Companies and investors have mostly voiced Human Rights Due Diligence commitments devoid of **effective enforcement mechanisms**: the goal is for them to map their specific risks, enforce meaningful risk mitigation efforts and report on progress;
4. Now, with the EU Directive and likeminded national endeavors, the private sector will need a form of **4 x 4 Human Rights Due Diligence process**, to adapt and comply to various regulations in each market and wherever they operate.

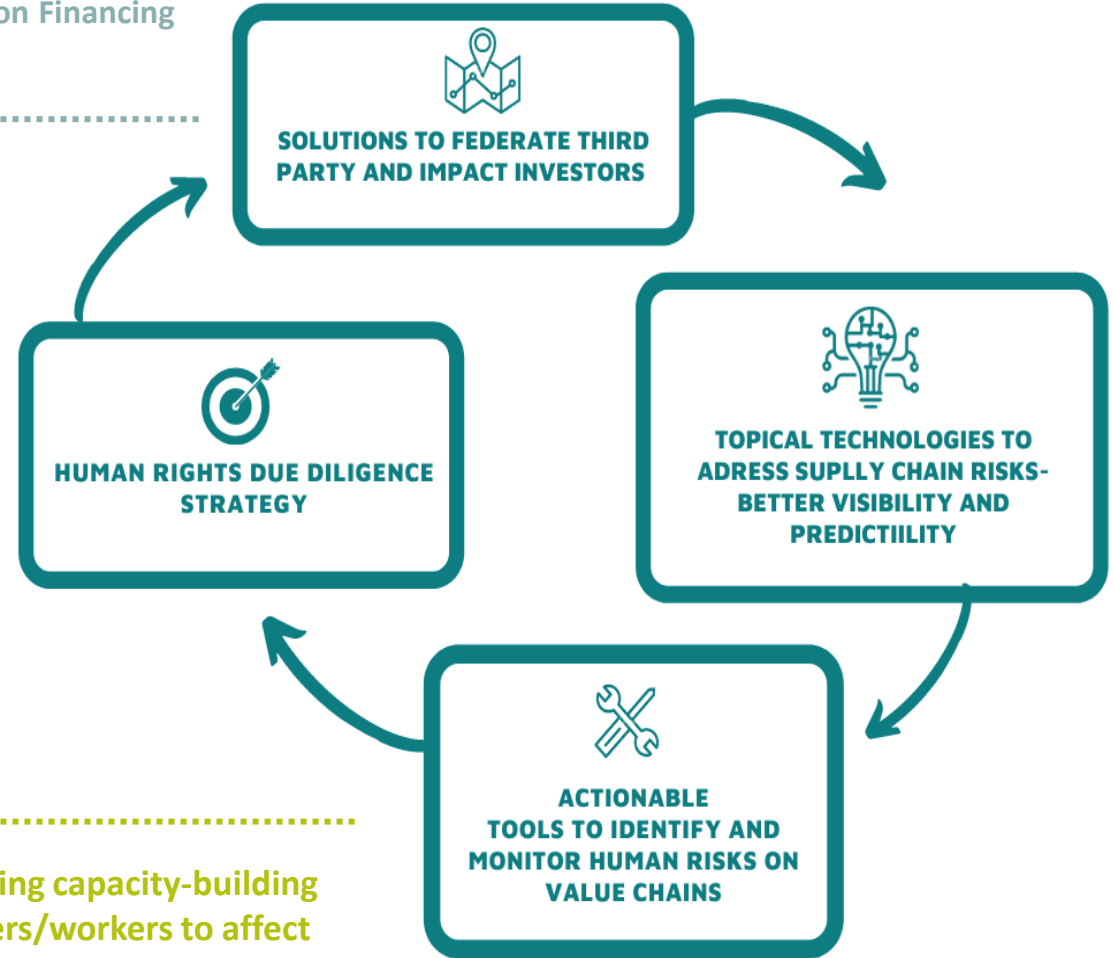


Not Just Assessments: Actual Impact

Ksapa's Granular And Scalable Due Diligence Solutions



VCHET, a Modular Cross-Value Chain Energy Transition Financing Scheme



SUTTI, a cross-cutting capacity-building program for farmers/workers to affect sustainable change

Chapters Track Progress

Videos, Pictures and Vocal Content

Crop Sales Registration

Impact Data Collection



Human Rights Due Diligence To Date



Panel Discussion

Facilitation: Farid Baddache, CEO, Ksapa



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With insights from expert panelists



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SOCIAL SUSTAINABILITY
AND SUSTAINABLE SUPPLY CHAIN
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LENE WENDLAND
CHIEF, BUSINESS & HUMAN RIGHTS,
DEVELOPMENT AND SOCIAL AND
ECONOMIC ISSUES BRANCH

- Global perspective beyond the EU mandatory due diligence directive
- UNGPs 10+ – towards a decade of global implementation
- UN Treaty process underway and updates since the 6th session of the IGWG – what to expect
- The digital hub initiative



Lene Wendland

Chief of Business & Human Rights branch (Office of the UN High Commissioner for Human Rights)



Combining Methodology + Solutions to Comply With Soft Law and Legally-Binding Treaties

2011

2021+

The UN Guiding Principles
on Business and Human Rights
outline a 4-step HRDD approach:

1. Assess actual or potential impact – focus on risk to people
2. Take steps to prevent and mitigate impacts
3. Track the effectiveness of such steps
4. Communicate externally, including to those impacted

NEXT DECADE | 10+

**BUSINESS AND
HUMAN RIGHTS**
UN GUIDING PRINCIPLES



Hub for Human Rights
and Digital Technology

An Ambitious Vision And
Roadmap for Implementing the
UNGP More Widely Between
Now and 2030

UN intergovernmental working
group negotiating a binding
treaty on BHR

The UN Human Rights B-Tech
Project: Applying the UNGP to
digital technologies
OHCHR | B-Tech Project

Human Rights Legally Binding Tools

- EU Mandatory Human Rights
- Illustrative Country Level Approaches
- Illustrative Supportive Initiatives



Farid Baddache

CEO



What to Expect from the EU Mandatory Human Rights Due Diligence Directive Slated for 2021

2021

Second half of 2020

Public Consultation

Mid 2021

Expected Release

Milestone promise a positive step toward mandatory due diligence in supply chains



A recent announcement from the European Commission could spell the start of a new normal for corporate responsibility writes Claire Ivers, Senior EU Adviser at Anti-Slavery International.

PRESENTATION AND DISCUSSION WITH
COMMISSIONER FOR JUSTICE DIDIER REYNDERS
ON DUE DILIGENCE STUDY
HOSTED BY RESPONSIBLE BUSINESS CONDUCT WORKING GROUP
#duediligence #bizhumanrights

Slating a mandatory Human Rights Due Diligence Directive in the EU Justice Commission's 2021 Workplan addresses a **major gap** in:

Enforcement
Mechanisms

Civil Liability
Provisions

Expected EU Directive Requirements

1. Demand companies take steps to **identify, prevent, mitigate and account for Human Rights risks** – including **environmental** ramifications
2. Cover corporate activities and their subsidiaries, but also **extend to the entire value chain**
3. Include not only **actual** but also **potential negative Human Rights impacts**, to publicly report on **results, mitigative efforts and impact**



France's Duty of Vigilance as a Blueprint for the upcoming EU Human Rights Directive



Overview of France's Duty Vigilance

- The French corporate duty of vigilance law, which is now a sound starting point for the EU, establishes a legally binding obligation for parent companies to identify and prevent adverse human rights and environmental impacts resulting from their own activities, from activities of companies they control, and from activities of their subcontractors and suppliers, with whom they have an established commercial relationship.
- According to the most recent information available at the time of publishing, an estimated 100 - 150 large companies meet the above conditions.
- The companies covered by the law must establish, publish and implement a vigilance plan which includes a mapping that identifies, analyses and ranks risks, procedures, actions, alert mechanism and a monitoring scheme.

Overview of European's Duty Vigilance

- EU HRDD (mHRDD) legislation is expected in 2021 and should require companies to respect human rights in line with the UNGPs. This means that the scope of the responsibility to respect should cover a company's operations, including its own activities, as well as all its business relationships, throughout the value chain.
- Companies are expected to respect and enforce Human Rights via policies and assessing actual and potential adverse impacts into their own operations and value chain, tracking the effectiveness of their efforts, implementing grievance mechanisms to help address impacts and finally they should maintain consistency with the UNGP.
- Human Rights and environmental issues are inherently interlinked, calling for greater clarity on which environmental standards are relevant to Human Rights and how due diligence obligations interrelate with existing environmental management approaches



Different Approaches, 1 Single Goal: Human Rights Due Diligence



Germany

- **Timeline** = The *Lieferkettengesetz* Due Diligence law should come into force in January 2023
- **Focus** = Social rights emphasis = The law covers manufacturing sites as well as their direct suppliers'. It does not however systematically involve legal liability.
- **Criteria** = Applies to all companies having more than 3000 workers and companies with 1000 workers in a latter stage (2024)
- **Feedback** = For most of their supply chain, companies may only have to act if – and only when – they are informed of violation, posing the question of artificially engaging intermediates to appear compliant.



The Netherlands

- **Timeline** = Mid-2019, the Netherlands passed the Child Labor Due Diligence Act. Implementation will likely be pushed back to 2022 by the Senate.
- **Scope** = Child Labor in the supply chain
- **Application** = The law requires Dutch companies of all sizes as well as companies with commercial ties to the Netherlands, to track any instances of child labor in their supply chains and develop corresponding action plans.



Switzerland

- **Timeline** = Swiss Responsible Business Initiative election (November 2020)
- **Goal** = This provision required companies based in Switzerland to carry out appropriate Human Rights and environmental due diligence.
- **Criteria** = The law applies for companies exceeding three of the following values in two consecutive financial years: balance sheet total of 40 million Swiss francs, sales of 80 million Swiss francs and 500 full-time positions on an annual average.



UK and Australia – Commonwealth

- **Timeline** = The United Kingdom passed the U.K. Modern Slavery Act in 2015, modeled in part on the California law. Australia passed a Modern Slavery Act in November 2018.
- **Scope** = The Act requires large companies doing business in the U.K. to disclose steps taken to address human trafficking or forced labor in their supply chains.
- **Application** = analysis of +16k compliance statements from the largest global companies over the past 5 years concluded the UK Act failed in its intentions, demanding renewed focus on more effective approaches.



International Human Rights Due Diligence Endeavors



Bangladesh

- **Timeline** = Following the Rana Plaza collapse, 200+ garment brands & retailers signed a legally-binding Accord on Fire and Building Safety in Bangladesh with global union federations and Bangladeshi trade union affiliates (2013).
- **Scope** = The Accord requires corrective action to remediate hundreds of thousands safety hazards at more than 1,600 factories covering more than 2 million workers.
- **Application** = Though it targets worker safety, the Accord is referenced by the [European Commission](#) and the [ILO](#) as a model for Human Rights due diligence.



South Africa

- **Timeline** = Broad-based black economic empowerment Act (2003), amended in 2013.
- **Application** = The BEE followed a moral imperative to address Apartheid by empowering black people to own businesses, foster better representation of black women and mainstream access to governmental benefits.



California (USA)

- **Timeline** = The California Transparency in Supply Chains became effective in 2012.
- **Criteria** = The law applies to any company doing business in California with > \$100 million in annual worldwide gross receipts and that identifies itself as a retail seller/manufacturer on its California tax return.
- **Application** = Companies must disclose 5 items: verification, audits, certification, internal accountability, and training efforts – on their Internet websites.



Mongolia

- **Timeline** = Mongolia became the first country in Asia to adopt a [law on the Legal Status of Human Rights Defenders](#) which will enter into force on July 1, 2021.
- **Application** = A new member of the Human Rights Commission will be named to focus on matters related to Human Rights defenders and establish a committee to protect the human rights defenders, gathering both government and non-government organizations.



Corporate Initiatives Supportive of mRHDD

- **The PRI** is the world's leading proponent of responsible investment fully cognizant of Human Rights risks:
 - understand the investment implications of environmental, social and governance (ESG) factors
 - support its international network of signatories in incorporating these factors into their investment and ownership decisions
- **The EU Taxonomy** is a tool to help investors, companies, issuers and project promoters navigate the transition to a low-carbon, resilient and resource-efficient economy. EU Taxonomy encourages to
 - make a substantive contribution to one of six defined environmental objectives
 - do no significant harm (DNSH) to the other five, where relevant
 - meet minimum safeguards (e.g., OECD Guidelines on Multinational Enterprises and the UN Guiding Principles on Business and Human Rights)
- Human Rights due diligence has also been included in international standards such as **the OECD Guidelines for Multinational Enterprises** and the **ILO Tripartite Declaration of Principles concerning Multinational Enterprises and Social Policy**

The **Corporate Human Rights Benchmark** helped make the case for mHRDD. Of the 230 companies across all sectors that CHRB assessed **in 2020, nearly half (46%) failed to score any points** at all aligned with the prospective mHRDD.

Illustrative Corporate examples – declarative but encouraging:

- 2020 = Cocoa companies called on the European Union, by far the largest importer and consumer of cocoa in the world, to strengthen human rights and environmental due diligence requirements of companies in global cocoa supply chains, aligned with the United Nations Guiding Principles on Business and Human Rights
- Support for EU framework on mandatory human rights and environmental due diligence from 26 companies, business associations and initiatives
- Call for mandatory Human Rights and environmental due diligence legislation in support of a German law paving the way for EU legislation signed by 71 companies as of December 2020
- Investor Alliance for Human Rights statement from investors representing \$5 trillion call on governments to make Human Rights due diligence mandatory throughout investment lifecycle

- Industry engagement: the key to advancing Human Rights across consumer good value chains
- Key learnings from the Human Rights Coalition – Working to End Forced Labor
- Implementation in Malaysia (Palm Oil)
- On the importance of coalitions: zooming in on partnering with the Fair Labor Association



Didier Bergeret
Director Social Sustainability & SSCI (The
Consumer Goods Forum)

Human Rights Coalition – Working to End Forced Labour

Working to advance our **Forced Labour Resolution** and its **Priority Industry Principles**, in alignment with the UNGPs, we will drive individual and collective action in our businesses and supply chains to:

What?

Implement Human Rights Due Diligence Systems targeting forced labour

Support Responsible Recruitment markets

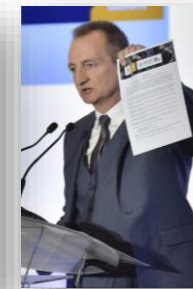
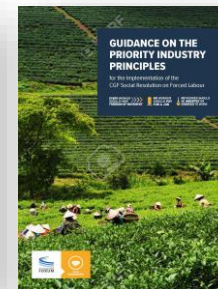
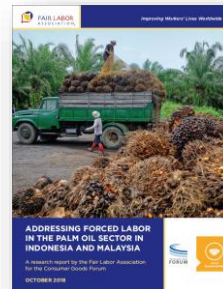
Support a focused movement with all relevant stakeholders to jointly expedite the elimination of forced labour

Who?

CEO-led, helping to accelerate our collective impact



How?



Overview: HRDD Steps, Minimum Criteria and Stages of Maturity	HRDD Step 1: Policy Commitment & Governance	HRDD Step 2: Assess HR Potential and Actual Impacts	HRDD Step 3: Integrate & Act in Order to Prevent & Mitigate	HRDD Step 4: Track the Effectiveness of Responses	HRDD Step 5: Report	HRDD Step 6: Remedy
Maturity Level 1: Launched	<ul style="list-style-type: none"> Publicly available commitment against forced labour aligned with the PIPs in line with the UNGPs Governance and management systems are being developed and conducive of the commitment 	<ul style="list-style-type: none"> A process to identify forced labour and other human rights risks and impacts in own operations is being developed Assessment processes and tools are being developed 	<ul style="list-style-type: none"> With governance and management system in place, commitment is communicated and staff trained Grievance mechanism for own employees is being developed 	<ul style="list-style-type: none"> Awareness raising and training activities, including number of workers, labour agencies and contractors reached are being recorded 	<ul style="list-style-type: none"> Annual public reporting about the Company's HRDD approach to forced labour and future implementation plans 	<ul style="list-style-type: none"> Effective remediation measures for forced labour impacts are being explored, including through collaborative actions
Maturity Level 2: Established	<ul style="list-style-type: none"> Publicly available Human Rights (HR) Policy that integrates the PIPs and the UNGPs amongst others Governance and management systems established with responsibility defined Management responsibility related to responsible recruitment is clearly defined 	<ul style="list-style-type: none"> Salient HR risks and impacts in own operations are identified Assessments actively and regularly conducted in prioritised own operations globally, including third-party employees 	<ul style="list-style-type: none"> Immediate steps taken to mitigate identified forced labour issues relating to direct labour Actions taken with contractors/ labour agencies to mitigate forced labour impacts on own prioritised sites 	<ul style="list-style-type: none"> Outputs are monitored and impact are tracked over time: e.g. compliance status, action plan implementation 	<ul style="list-style-type: none"> Annual public reporting about the Company's HRDD progress in addressing forced labour through HRDD 	<ul style="list-style-type: none"> Remediation processes are in place in own prioritised operations Actions with labour agencies/contractors to remediate forced labour impacts relating to their direct labour
Maturity Level 3: Leadership	<ul style="list-style-type: none"> Board involved in the monitoring of the HR Policy Governance and management systems have expanded to include third party labour 	<ul style="list-style-type: none"> Assessments actively and regularly conducted covering full scope of operations globally including third-party labour 	<ul style="list-style-type: none"> Grievance mechanisms are extended to third-party labour working regularly on own sites either through own or the contractors'/ labour agencies' mechanism Actions taken with contractors/ labour agencies to mitigate forced labour impacts on own prioritised sites 	<ul style="list-style-type: none"> Outcomes are monitored and impact tracked over time: e.g. reduction in number of grievances received by facility; reduction in recruitment fees paid by workers if any 	<ul style="list-style-type: none"> Annual public reporting includes assessment of effectiveness of HRDD systems in mitigating forced labour and remediation activities 	<ul style="list-style-type: none"> Remediation processes in place for all own operations Actions with labour agencies/contractors to remediate forced labour impacts relating to their employees



CGF Sustainability Cross-Coalition Efforts

Palm Oil: Key Activities

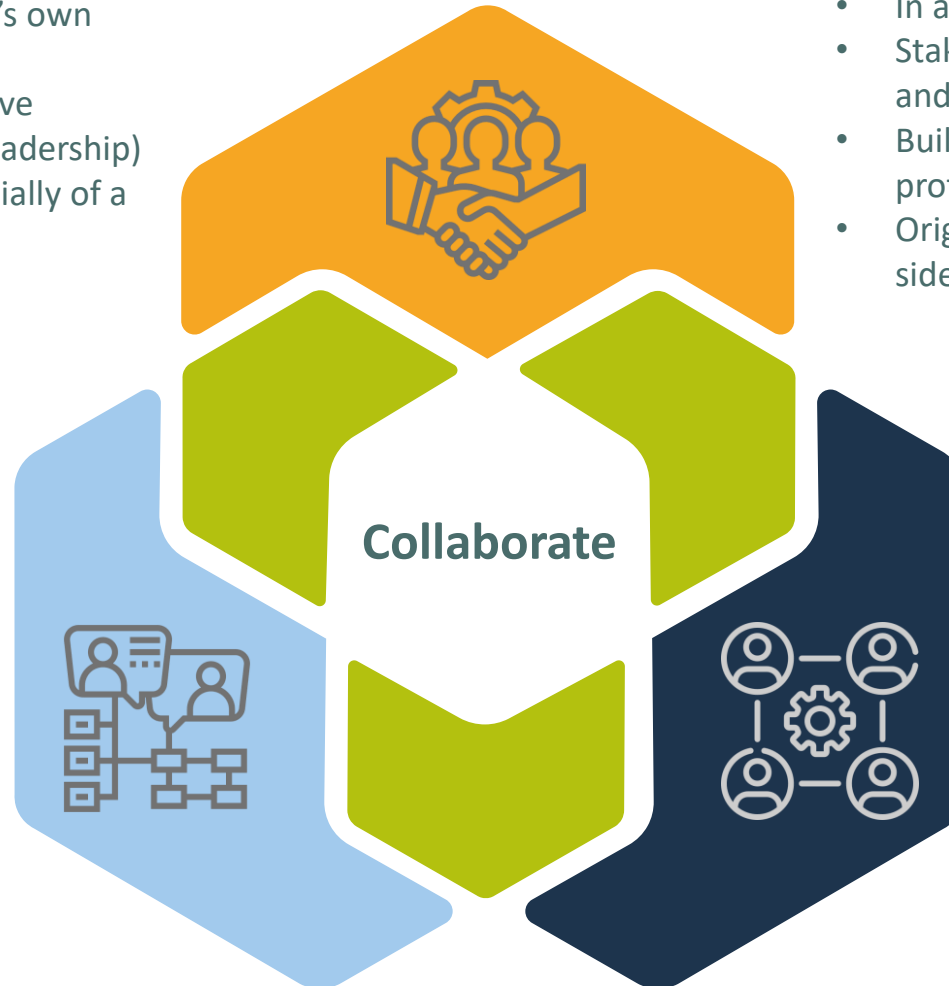
FL-FOCUSED HRDD SYSTEMS

- Modelled after the framework for company's own operations
- Step-by-step approach based on a progressive maturity journey (Launched, Established, Leadership)
- Deployment amongst selected suppliers initially of a typical palm oil value chain

RESPONSIBLE RECRUITMENT

Effective prevention & remediation via ethical recruitment and collective engagement in Malaysia by 2025, e.g.

- Supplier trainings
- Guidance development



GOVERNMENT ENGAGEMENT

- In alignment with the Forest Positive Coalition
- Stakeholder engagement/advocacy on the adoption and forced labour enforcement measures
- Build the enabling environment to ensure greater protection of workers.
- Origin & Destination countries; Producer & Demand side countries

INDUSTRY RELEVANCE

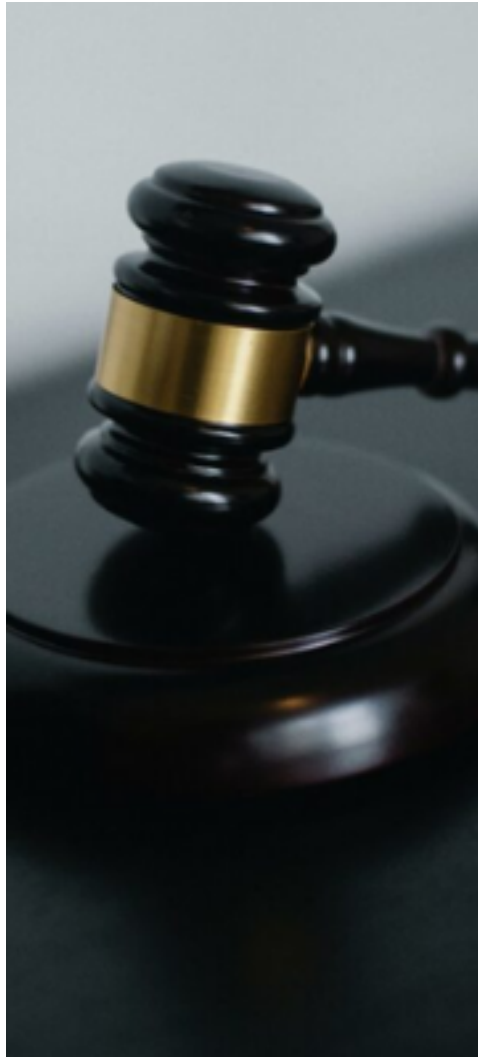
Connecting with the Forest Positive Coalition on:

- Defining an industry positioning for Land rights & Human Rights Defenders
- Palm Oil Sourcing Guidelines update



Panel Discussion

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Ksapa's 3-Point Approach to Address Uncertainty

Concrete solutions to advance Human Rights Due Diligence

Ours is a volatile context marred by health and economic crises, a volatile investment world and changing politics.

So how do we navigate these uncertainties? Here are **3 steps** to adapting to such changes and anticipating future developments:

1

Continue efforts to identify **socio-environmental risks** throughout corporate activities and value chains. Above all, take **responsibility** and structure **cross-cutting risk reduction efforts**

2

Highlight the positive **impacts** of existing activities. Implement **impact measurement systems** in line with international reference standards – such as the GIIN's IRIS+ system or the Impact Management Project

3

Integrate social and environmental impacts as a **fundamental criterion** from the inception of new activities or products onwards





**Closing Remarks
Questions/Answers**

Stay Appraised of Ksapa's Latest Insights

– Upcoming Ksapa webinars –

A circular graphic of the 17 Sustainable Development Goals (SDGs) arranged in a ring around the central text "SUSTAINABLE DEVELOPMENT GOALS". Each goal is represented by a colored segment with an icon and a number.

Jun 29 Matching SDG Pledges with Impact Metrics

A photograph showing several people, likely in a rural or developing area, carrying large, colorful loads on their heads and backs. They are wading through a muddy stream or river.

Oct 26 Solutions for Resilient Raw Materials Supply

Find out more directly from our [website](https://www.ksapa.org) at [ksapa.org](https://www.ksapa.org)



QUESTIONS & ANSWERS

ksapa.org – contact@ksapa.org





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