



WEBINAR

# Using Effective Human Rights Due Diligence to Streamline Compliance Efforts

27 SEPTEMBER 2022

## About Ksapa

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



**Farid Baddache**

CEO



# Introducing Ksapa: A Mission-Driven Organization

Our goal is to catalyze the **fair and sustainable transition of economic players** towards economically, socially and environmentally efficient business and investment models.

Our teams are headquartered in Paris with Offices in **London** and **New York City** has worked with numerous Fortune 500, bilateral and multilateral organizations in consulting and collaborative formats.

Ksapa operates through a network of renowned **partnering organizations** and **150+ associated experts** across G20 countries, Africa and Asia-Pacific region. That way, we offer close contextual and operational support, to achieve **proven impact** with **teams on the ground**





# Ksapa's Solutions to Mainstream Integrative Due Diligences for Granular and Scalable Action



Define a comprehensive Human Rights due diligence **strategy** with:

- **Analyses** and **recommendations** per priority issue
- Overarching **vision**
- Progress **monitoring**



Develop actionable **tools** to identify, assess, remediate and monitor Human Risks across corporate value chains, such as:

- Upgrading your **policy and processes**
- Designing **awareness-raising** initiatives, **grievance mechanisms** and **large-scale capacity-building programs** for workers and smallholders



Select topical **technologies** to address your supply chain risks thanks to greater **visibility** and **predictability** (Big Data, Blockchains...)

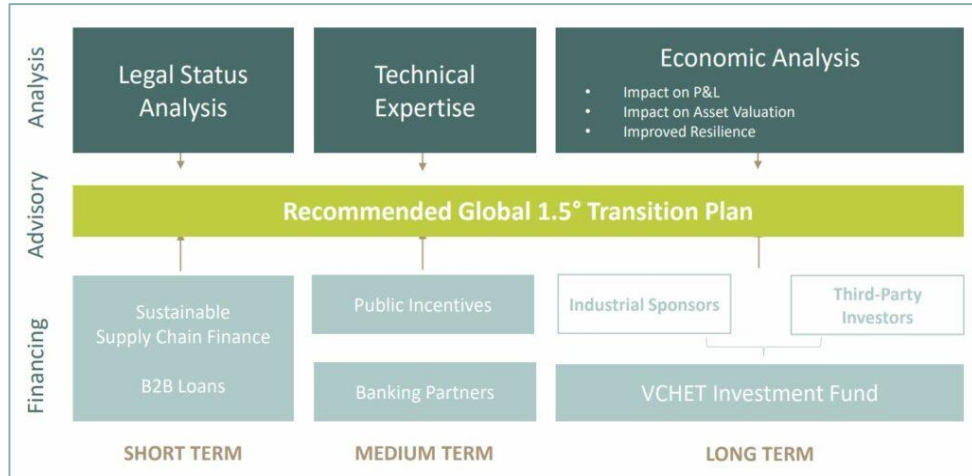


Identify, source and manage the necessary financial resources to match recommended strategies. Ksapa helps you **federate third-party** and **impact investors** to diversify your financing plan.

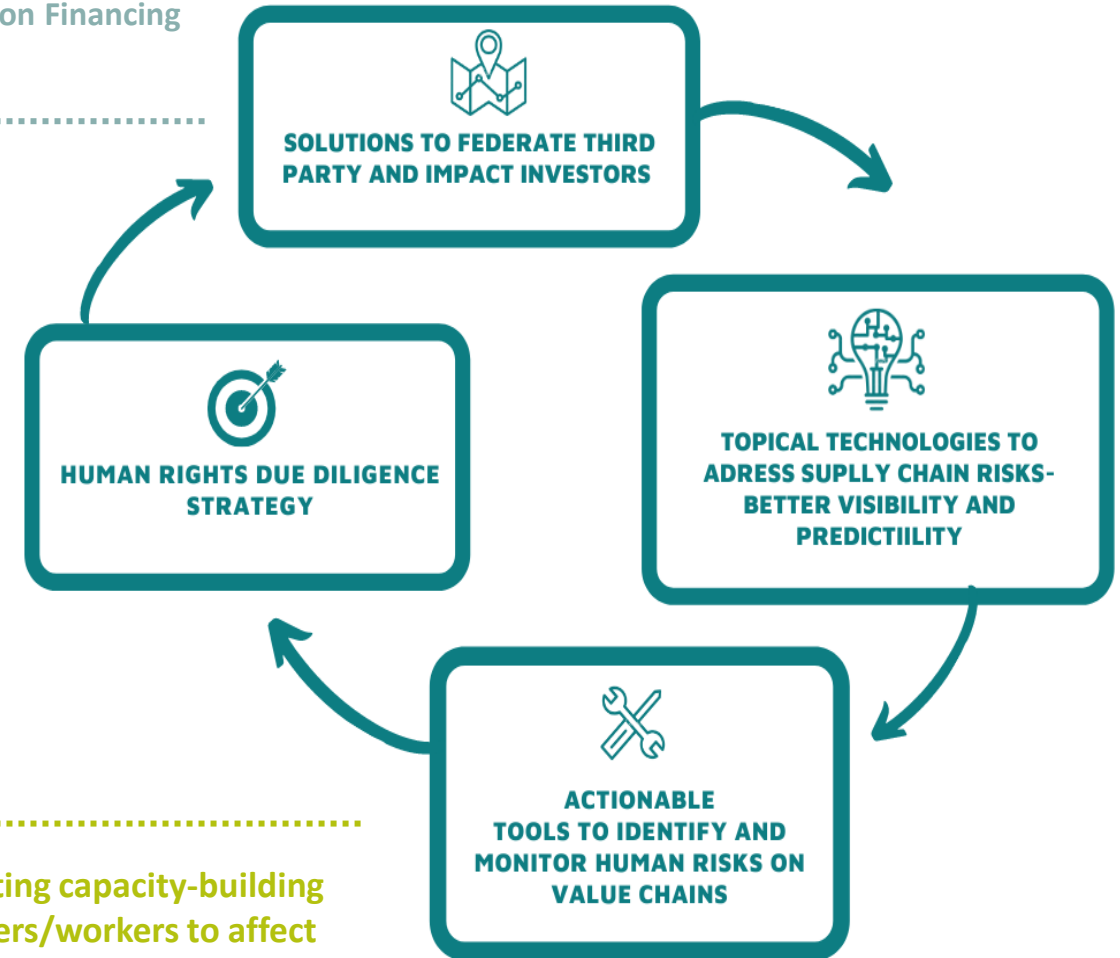


# Not Just Assessments: Actual Impact

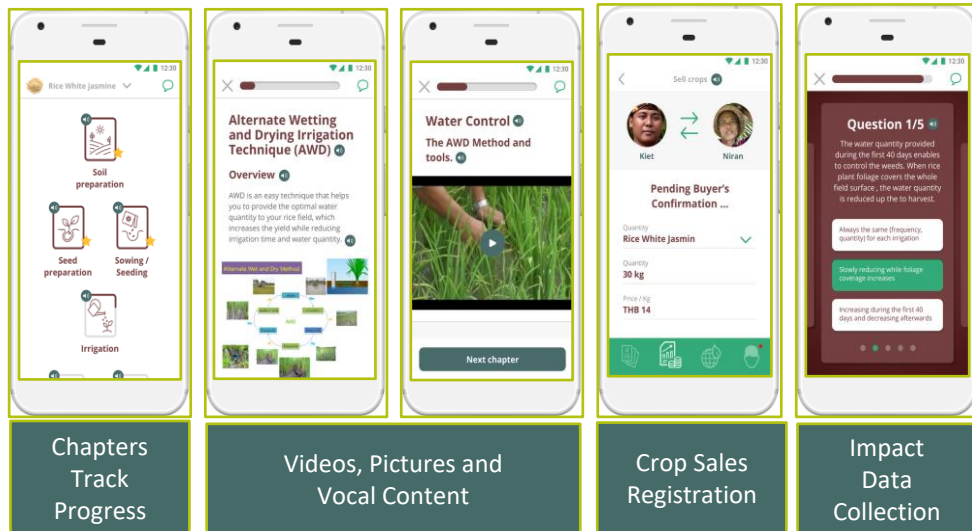
## Ksapa's Granular And Scalable Due Diligence Solutions



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



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





# Human Rights Due Diligence To Date

# Human Rights are Gaining Momentum



## Regulatory Pressures

- High-profile transnational **lawsuits** (and adjoining jurisprudence in numerous countries)
- EU **Mandatory** Corporate Sustainability Due Diligence (2024)
- Multiple **Due Diligence & Disclosure requirements more or less converging / conflicting altogether**
- Over 50 countries working on National Business and Human Rights **Action Plans**
- **US Withhold-Release Orders** (imported cocoa in Ivory Coast, cotton from Xinjiang Province, latex gloves from Malaysia...)



## Corporate Pressures

- Human Rights implications for **Opex and Capex**
- **Sectorial calls** for mandatory Due Diligence



## Financial Pressures

- The PRI publishes new recommendations for member institutions to **promote Human Rights by 2025**
- Various **investor coalitions** have called for Human Rights Due Diligence, as have business alliance, mutually-reinforcing concerted action.

Article

### Spain approves National Action Plan on Business and Human Rights

What is Westpac accused of, and how is this related to child exploitation? - explainer

The most damaging allegation relates to money that a dozen bank customers paid to people in the Philippines

Joint position paper on the EU's policy and regulatory approach to cocoa



Story

Boohoo: Investors drop fast fashion brand over allegations of labour rights abuses in supply chains

Investors with US\$5 trillion call on governments to institute mandatory human rights due diligence measures for companies

Why and how investors should act on human rights

22 October 2020





# A Series Of Converging Human Rights Initiatives From Various Markets



## South Africa Black Economic Empowerment Act (2003, amended 2013)

address Apartheid by empowering black people to own businesses, foster better representation of black women and mainstream access to governmental benefits



## California Human Trafficking (2012)

- Human trafficking in supply chain scope addressing fundamental rights, safety, environment
- disclose 5 items: verification, audits, certification, internal accountability, and training efforts
- Limited scope of eligible companies



## UK Modern Slavery Act (2015 – being amended)

- Broad human right in supply chain scope addressing fundamental rights, safety, environment
- Map risks, develop action plan, share externally
- Limited scope of eligible companies



## France's Duty Vigilance (2017)

- Broad human right in supply chain scope addressing fundamental rights, safety, environment
- Map risks, develop action plan, share externally
- Limited scope of eligible companies



## Australia Modern Slavery Act (2018)



## Dutch Child Labor Due Diligence Act (2020)



## Uyghur Forced Labor Prevention Act (2021)

US Customs and Border Protection are calling for clear and convincing evidence ensuring no forced labor in any goods imported in the US produced or manufactured wholly or in part in the Xinjiang Uyghur Autonomous Region / China



## Germany Supply Chain Act (2021)

- Social rights emphasize across supply chain Manufacturing sites, direct suppliers
- Map risks, develop action plan, share externally
- Broad scope of eligible companies starting 2023



## Norway Transparency Act (2022)

(...)





# What's in Compliance?

## The EU has been particularly active on Human Rights



### Overview of the European Human Rights Duty of Vigilance

- The EU CS3D legislation is expected in 2024
- It will push a very sizeable number of companies in and out of EU or doing business with EU markets to conduct Human Rights due diligence activities and ultimately report on their action plan and impact
- Climate and broader environmental considerations are clearly embedded in the scope of Human Rights due diligences



EU is building a regulatory framework, calling for business and finance to respect Human Rights



**Commission moves to ban products made with forced labour on the EU market**

28.06.2022

EU Environment Council votes for deforestation-free supply chains



# For What Due Diligence?

## Ksapa's 5 Core Principles for a Robust Human Rights Risk Assessment

Based on our expertise, we recommend the following principles for VFC to conduct a robust and trustworthy Human Rights impact assessment aligned with local regulation as well as the UN Guiding Principles on Business and Human Rights.



1

**Systemic perspective** = UN Guiding Principles on Business and Human Rights are calling for a systemic review of socio-environmental and Human Rights risks (100+ potential topics)

2

**Action Plan and Impact of Corrective Actions** = Action Plans should demonstrate reasonable efforts to mitigate risks. Over time, demonstrating concrete impact of actual risk mitigation measures is critical. Continuous improvement may help delve deeper into targeted topics and demonstrate reasonable efforts are made to mitigate risks.

3

**Rightsholder perspective** = UN Guiding Principles on Business and Human Rights demand risks be reviewed from a right-holders' perspective, which may involve stakeholders as relevant proxies

4

**Grievance mechanisms** = Implementing and collecting information from grievance mechanisms may reflect effective Vigilance monitoring as well as continuous improvement across issues and systems

5

**Transparency** = The methodology must be transparent to actually engage with stakeholders and explain risk-mapping and decisions



# Open Sourced Guidance on Conducting Human Rights Due Diligence From on the Ksapa.Org Publication Section

Several Ksapa briefing papers are based on best practices to effectively frame a duty of care approach in its specificities compared to other risk analyses

Several Ksapa briefing papers offer methodological and regulatory articulations to deepen the understanding of complex issues: due diligence and supply chains of 10,000+ references, territorial insertion, conflict minerals...



4 QUESTIONS TO DESIGN EFFECTIVE AND SCALABLE TRAINING PROGRAMS FOR VULNERABLE WORKERS



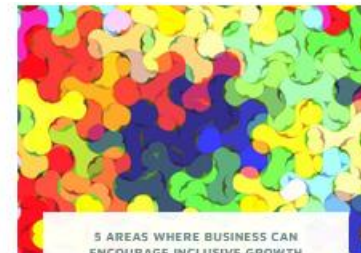
UNDERSTANDING THE CONCEPT OF DOUBLE MATERIALITY



4 QUESTIONS TO STRUCTURE SUSTAINABLE BUSINESS TRANSFORMATIONS



STAKEHOLDER ENGAGEMENT: STRATEGIES AND TACTICS TO ADDRESS GROWING COMPLEXITY AND CONTENTIOUSNESS IN THE DIGITAL AREA



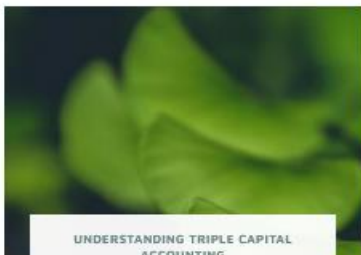
5 AREAS WHERE BUSINESS CAN ENCOURAGE INCLUSIVE GROWTH



5 HUMAN RIGHTS RISK AREAS TO ASSESS INVESTMENT DECISIONS



UNDERSTAND THE EUROPEAN UNION'S CSRD - CORPORATE SOCIAL RESPONSIBILITY REPORTING DIRECTIVE



UNDERSTANDING TRIPLE CAPITAL ACCOUNTING



IMPACT VALUATION: DELIVERING AND MEASURING SUSTAINABLE LOCAL BENEFITS



5 PRINCIPLES TO CONDUCT A ROBUST HUMAN RIGHTS DUE DILIGENCE



HOW TO PRIORITIZE ESG RISKS ACROSS COMPLEX SUPPLY CHAINS



RESPONSIBLE BUSINESS AND GRIEVANCE MECHANISM



5 PRINCIPLES TO SECURE COMPLIANCE OF MINERALS AND OTHER SENSITIVE RAW MATERIALS SOURCING ACTIVITIES



KEY PRINCIPLES FOR GETTING YOUR CORPORATE VISION, MISSION AND PURPOSE RIGHT



SELECT HUMAN RIGHTS RISKS AREAS BY INDUSTRY: GUIDING BUSINESS AND INVESTORS' MITIGATIVE ACTION



HUMAN RIGHTS DUE DILIGENCE AND LOCAL STAKEHOLDERS ENGAGEMENT THROUGHOUT PROJECT CYCLE



6 QUESTIONS TO DEFINE AND DEPLOY A PERTINENT SUSTAINABILITY STRATEGY



6 QUESTIONS TO ASK WHILE CONDUCTING A MATERIALITY ASSESSMENT



# Top Challenges and Chokeholds in Mainstreaming Human Rights Due Diligence

## THE CHALLENGE

- Human Rights instruments are often not **legally-binding** and vary from one **territory** to another, impeding concerted action.
- Conversely, while Human Rights principles are intended as universal, legally-binding tools call for business to **adapt their mitigative measures to different operating environments**
- Due diligences must be carried out across the **entire value chain**, from operated sites down to joint-ventures and subsidiaries and throughout a Group's ecosystem of priority suppliers.
- Done right, Human Rights Due Diligences are a key lever of **competitiveness** and **resilience**.

## 5 MAJOR CHOKEHOLDS

1. **Systemic Strategies and Roadmaps**
2. **Connecting Environment AND Human considerations in a same plan**
3. **Effective Management, Remediation and Monitoring Tools**
4. **Supply Chain Visibility and Predictability in Uncertain Times**
5. **Concerted Investment Capabilities**







# Panel Discussion

Facilitation: Farid Baddache, CEO, Ksapa

## Using Effective Human Rights Due Diligence to Streamline Compliance Efforts

27 September 2022 | 5pm (CEST) | 11am (ET) | 8am (PT)  
| 11pm (Singapore)

With insights from expert panelists



**THOMAS THOMAS**  
CEO,  
ASEAN CSR NETWORK

**ERIC EKERN**  
CONSULTANT,  
EX-TELENOR



**FARID BADDACHE**  
CEO,  
KSAPA

# Approaching the Norwegian Transparency Act

- What are the implications of Norway's new Transparency Act?
- How will this Transparency Act and other Human Rights regulatory initiatives amplify corporate efforts towards mitigating safety and industrial risks?



**ERIC EKERN**

Ex-Telenor

Management consultant  
HR, OHS, Sustainability

# Background on Norway's new Transparency Act

See Norway's Act relating to corporate transparency and work on fundamental human rights and decent working conditions (Transparency Act) - Lovdata

- Came into force 1st July 2022, based on a broad political alignment
- The Act shall promote Enterprises 'respect for fundamental human rights and decent working conditions' in connection with the production of goods and the provision of services
- Expressing a clear responsibility for human rights and decent working conditions not only in-house but also in the supply chain and with business partners
- OECD guidelines for multinational companies are specifically referenced
- Shall ensure the general public access to information regarding how enterprises address adverse impacts on fundamental human rights and decent working conditions.
- More tightly linked to ethical guidelines for NBIM than to the UK Anti Slavery act.

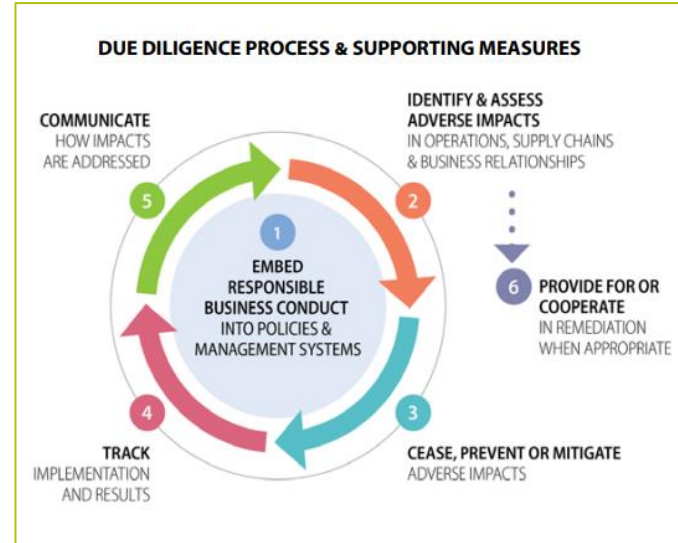
## KEY CONSIDERATIONS ON SCOPE

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- The Act includes corporates' clear responsibility for human rights and decent working conditions, not only in-house but also in the supply chain and with business partners
- The origin of raw materials, environmental factors and climate change are currently not included

# Consequences for business

- Assign responsibility in the management team and make resources available
- Assess current practices and how they comply with legal requirements
- Identify partners and networks for cooperation
- In scope = 9000 Norwegian businesses, with an estimated accumulated cost of 8000 MNOK year 1, 4000 MNOK year 2 and 2000 MNOK in the following years



## NEXT STEPS

- ☐ Assign responsibility and allocate resources
- ☐ Familiarize with OECD guidelines for RBC
- ☐ Integrate with management system policies and procedures
- ☐ Conduct high-level risk assessment (DueDil)
- ☐ Develop improvement plan and initiate mitigative measures for identified concerns
- ☐ Prepare external communication and responses to questions from the public
- ☐ Get ready for reporting (june 2023 deadline) – can be aligned with sustainability statement per the Accounting Act.

## OUTLOOK

- Slow reception within the business community despite some media attention over the Summer.
- We cannot expect radical changes in the near future. General awareness among businesses must increase first



# Way forward

## FOR LEGISLATION

- Influence from EU legislation should be expected
- Potential updates to broaden scope
- The launch of local regulation to ease interpretations

## FOR BUSINESSES

- From manual to digital reporting
- Include secondary processes once the primary risks have been managed
- Question to what degree one can trust compliance with local legislation and third party certification

# Anchoring Human Rights in the ASEAN Context

- How are policy-makers in ASEAN contexts using the growing regulatory movement, especially from the EU, to nurture foreign investment and the broader attractiveness of their economies?
- How are Business Executives in ASEAN contexts adapting strategies and practices to comply with Human Rights regulatory initiatives?
- How can Human Rights regulatory initiatives help make progress on sensitive issues like safety risks, wages or gender in ASEAN contexts?



**THOMAS THOMAS**  
**CEO**  
**ASEAN CSR Network**



# Discovering the ASEAN Responsible and Inclusive Business Alliance (ARAIBA)



## **ASEAN RESPONSIBLE AND INCLUSIVE BUSINESS ALLIANCE (ARAIBA)**

### **A JOINT INITIATIVE OF ASEAN BUSINESS ADVISORY COUNCIL AND THE ASEAN CSR NETWORK**

**To promote responsible business conduct in ASEAN to meet the objectives of the**

**ASEAN 2025: Forging Ahead Together.**

### **CODE ON RESPONSIBLE AND INCLUSIVE BUSINESS**

#### **1. Introduction / Objectives / Rationale**

1. This Code seeks to outline the expectations the ASEAN community has of businesses operating in the region, regardless of size, sector, ownership, structure and origin. While acknowledging that Small and Medium Enterprises (SMEs) may not have the same capacities as larger enterprises, the Code nevertheless encourage them to observe these Guidance to the fullest extent possible.
2. This Code draws inspiration and guidance from internationally-accepted standards on responsible and inclusive business, in particular the Sustainable Development Goals (SDGs), G20 Inclusive Business Framework, ISO26000 Guidance on Social Responsibility, UN Global Compact 10 Principles, UN Guiding Principles on Business and Human Rights, OECD Guidelines on MNEs, as well as ASEAN's documents, such as the ASEAN Human Rights Declaration, ASEAN CSR Guidelines on Labour, ASEAN Consensus on the Protection and Promotion of the Rights of Migrant Workers.
3. This Code does not seek to replace or reduce existing standards, but instead complement them by presenting the ASEAN perspective.
4. While it is intended to be a useful starting point for an understanding on responsible and inclusive business, companies are encouraged to conduct further stakeholder consultations and materiality assessments, as well as seek out other comprehensive international guidelines for specific issues material to their operations.



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# Join our Collaborative Initiative on Forced Labor



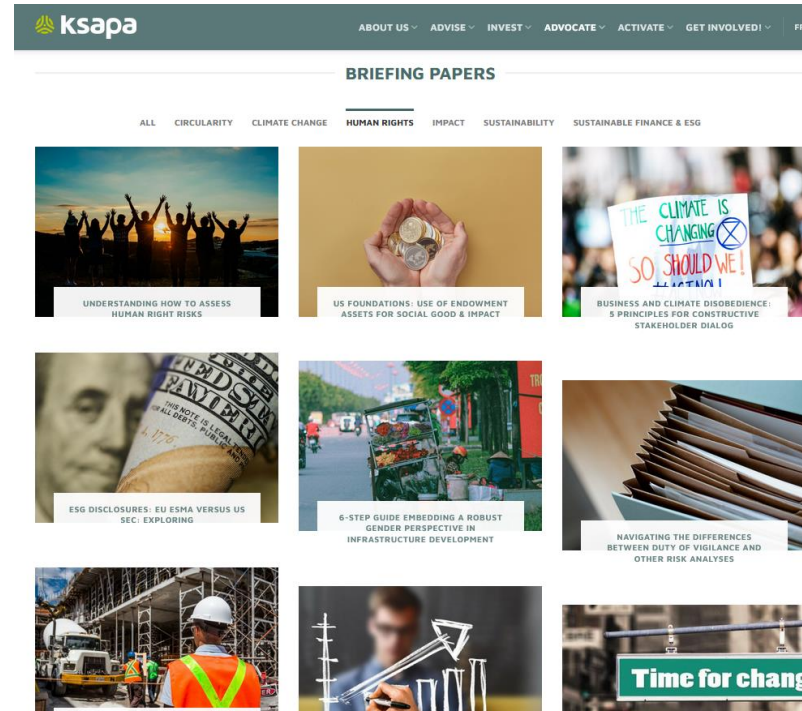
We suggest coordinating a small group of interested companies willing to **join efforts, develop and test concrete a toolkit towards addressing forced labor in sourcing solar panels and battery-related sensitive materials**. The goal is to share results with the broader community of interested organizations (bilateral and multilateral organizations, associations, syndicates...).

- Gather a **group of supply chain and sustainability experts from at least 4 companies** interested in solar/EV battery sourcing activities. Working together, the goal is to better identify high-risk sourcing activities, develop concrete guidance and the corresponding set of engagement materials:
  - ❑ Set of principles clarifying concepts and occurrence of forced labor cases,
  - ❑ Checklist of core questions to be included across all engagement materials – supplier screening criteria, specific evidence to be provided by suppliers, technical terms to be included in targeted auditing materials...
  - ❑ KPIs aligning practices against documented good practices in eliminating forced labor risks
  - ❑ Stakeholder mapping enabling further engagement by participants.
- **Test toolkit with sample suppliers, or stakeholders** – collect feedback on the relevance and applicability of the sourcing criteria it contains in order to improving the toolkit itself or develop a broader approach towards maximizing its dissemination and uptake by peer companies or other stakeholders.
- Invite interested parties to **review findings for discussion in closing conference**. The toolkit to be produced in this collaborative effort will **remain accessible open sourced**, for maximum adoption, adaptation and reuse by all interested organizations

**Companies across industries have already confirmed their contribution in Q4 to launch the initiative in Q1 2023. Inquire at [contact@ksapa.org](mailto:contact@ksapa.org) for more information**

# Stay Appraised of Ksapa's Latest Insights

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



Join the community and register to our monthly newsletter to keep abreast of the latest practical insights in amplifying the transformation of finance and business, ultimately building a more resilient, inclusive and competitive economy



## Getting in Touch

[Ksapa.org](https://ksapa.org) – [contact@ksapa.org](mailto:contact@ksapa.org)





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Invest  
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