Shift

CSDDD Guidance Consultation – Shift Submission

August 6, 2026

This document contains Shift's submission for the development of Guidelines under the Corporate Sustainability Due Diligence Directive (CSDDD) as well as further context. Any questions may be directed to ruben.zandvliet@shiftproject.org.

Question	Draft submission
Integrating due diligence into relevant policies and risk management systems	
1.Considering the experience in your company with integrating (or your plans to integrate) due diligence into the relevant corporate governance policies, which policies d you consider most relevant?	No specific response - we are focusing Shift's answers on other points
Human rights (including labour rights) and environmental impacts	
2. Do you think that the guidelines should seek to offer examples on adverse human rights (including labour rights) or	• How impacts are interconnected. This can be because one impact is the root cause of another impact, for example the failure to pay living wages as a root cause of child labor. Furthermore, climate & environmental impacts may affect human rights • The implications of Recitals 33 and 42 on the relevance of conventions not in the Annex (especially on FPIC and IHL)

environmental impact, and which are the most relevant types of impacts for which you see this need? Please explain.	• Relevant differences in timelines in how impacts are expected to be addressed (e.g. progressive realization of living wages versus prompt action on state-imposed forced labor) **<u>Further context</u>** In response to Question 2, we note that Recital 32 of the CSDDD clarifies that the legislative intention is 'to ensure comprehensive coverage of human rights'. Various recitals further elaborate on this point.[1] It is important that the Guidelines reiterates this vision and use examples that enable proper understanding of the Recitals. We especially see benefits of examples in three areas: 1) Where impacts are interconnected, for example because one impact is the root cause of another, which implies that they cannot be separated for the purpose of prioritization and taking action. In a similar vein, climate adaptation and risk reduction measures, as well as nature-related/environmental damage mitigation actions can generate significant human rights impacts. Making such interactions explicit will raise awareness about the benefits of taking an integrated approach to addressing sustainability impacts. 2) Where Recital 33 carries practical implications, for example in relation to impacts on Indigenous Peoples. Examples can be used to clarify what the practical implications are of the fact that the Annex does not cover certain key UN conventions that protect vulnerable groups, but Recital 33 nonetheless comments that "companies may need to consider other standards", as well as how international humanitarian law is relevant in situations of impacts in conflict-affected and high-risk areas. Where key elements of the Directive are likely to be assessed differently depending on the type of adverse impact. For example, the timeframe for determining whether an impact "could not be prevented or adequately mitigated" may differ significantly between impacts relating to adequate living wages, where progressive improvement over time may be considered acceptable, and forced labour, where the expectation is likely to be that the impact requires immediate action wherever possible. In the case of state-imposed forced labor, this expectation is further heightened as the recitals make clear.
3. If you already apply corporate sustainability due diligence in your value chain, do you have a defined set of indicators to identify and monitor the adverse impacts listed in the Annex? If so, were they	Guidance should emphasize the need to use leading indicators to assess whether DD systems and actions are likely to identify, prevent or mitigate impacts, and not only lagging indicators to assess whether outcomes for people are improving. Also, it can clarify what the guardrails and guidelines for indicator design are. Indicators should not only measure inputs and outputs, but changes in behaviors that raise/lower risk, and should require stakeholder engagement. **<u>Further context:</u>**

[1] For example: Recitals 32 (on the human rights dimension of environmental degradation), 33 (on the need to take into account additional standards to recognize specific contexts or vulnerabilities), 35 (on the interlinkage between health of people, animals and ecosystems) and 36 (on corruption and bribery).

developed in-house or do they rely on external input? Please give a few examples and the data source(s) they rely upon.	In response to Question 3, we note that in practice companies with robust due diligence approaches use a combination of leading and lagging indicators. Leading indicators assess whether DD systems and actions are likely to identify, prevent or mitigate impacts (e.g. quality of worker engagement, purchasing practices and grievance mechanism effectiveness). Lagging indicators assess whether outcomes for people are improving (e.g. excessive working hours, recruitment fees, injuries, land disputes and evidence of improved conditions). The quality of indicators varies greatly. Often, they are focused solely on inputs, outputs and activities. Typical indicators that are of low value are the number of trainings, assessments or audits that occurred. In a suite of publications on indicators, Shift has identified general guardrails (what to avoid) and guidelines (what to aim for) in indicator design. An example of the former is that indicators should not create perverse behavioural consequences. An example of the latter is that indicators should be designed to speak the quality of the due diligence process. In the development of indicators, stakeholder feedback will be particularly important. This will help companies to consistently focus on the effectiveness of the measures they take. While the Omnibus deleted the explicit requirement in Article 13.3(d) companies should be reassured that stakeholder engagement in the development of indicators, and more generally in assessing the (potential) effectiveness of measures remains a key quality characteristic and will help companies to be more cost-effective. With regard to data sources, we note that mature due diligence systems draw on multiple indicators and on multiple complementary data sources, including company operational and supply chain data, worker and community engagement, grievance mechanisms, civil society reports, government and international datasets, and emerging technologies. Triangulating these different sources is more reliable than relying on any single metric or audit. We also recommend the Commission to recognize the benefits of consistent use of indicators for the purpose of CSDDD compliance and CSRD/ESRS reporting. For example, metric S1-9 in the ESRS may be used to identify and monitor whether a company's own employees are paid an adequate living wage. To properly identify and monitor impacts for CSDDD compliance companies will need to define indicators beyond the ESRS. In the example used here, they may need to track how large the living wage deficit is and assess whether certain vulnerable groups are being impacted disproportionately. This information is not required by the ESRS for the purpose of external disclosures, although companies may want to disclose such information on a voluntary basis. Encouraging consistent use of indicators, but with higher granularity for internal management compared to external disclosures, will foster integrated implementation of EU standards.
Identification of adverse impacts (including data and information sources)	
4. In your experience, what tools proved particularly	• DD needs the best available information, not perfect information in order to get to action

helpful to carry out a scoping of risk areas across your company's activities, those of your subsidiaries and those of your business partners? What approaches or solutions could help in performing these requirements in the cost-effective way?	• Effort peaks in the first cycle; once risk areas are known it shifts to monitoring new triggers — changes in the business or external context • Cost-effective = efficient for the company and effective for DD: credible external risk data, existing relationships (e.g. agreements with global unions), pooled scoping with peers, and in-house HR/environment expertise over expensive bespoke tools. **<u>Further context:</u>** In response to Question 4, we would emphasize at the outset that guidance on scoping tools should make clear that due diligence does not require perfect or complete information: the objective is informed decision-making based on the best available information. Guidance that, in the name of cost-effectiveness, encourages companies to wait for definitive proof before acting — or to treat impacts as "not occurring" because direct evidence has not yet been gathered — would delay intervention and undermine the preventive purpose of due diligence. For the same reason, we would caution against any framing that makes identification deeper in the chain of activities merely reactive to "plausible information" brought to the company's attention. Two points follow for cost-effectiveness. The first concerns the cycle: the level of effort in scoping is highest the first time a company undertakes it. Once the areas of most significant impacts are well understood, the exercise shifts to monitoring for new triggers — changes in the company's own operations, sourcing or business model, and changes in the external context. Guidance should reflect this, so companies do not assume the first-cycle investment recurs in full each year. The second concerns what cost-effectiveness means: not the cheapest process, but the one that is both efficient for the company and effective in supporting due diligence — producing reliable insight into where the most severe risks lie. In practice this points to concrete approaches: drawing on credible external risk data (sectoral and commodity-level analyses, expert organizations) rather than investing early in granular, bespoke data collection; making use of relationships that exist or are feasible to build — for example existing framework agreements or relationships with global union federations, which are familiar with due diligence and can act as credible proxies with insight into workers' experiences or connect companies to legitimate representatives of specific groups of affected workers; collaborating with peers and sector initiatives so that broad scoping, and some in-depth assessment, is shared — as in the Dutch sectoral agreements, where sector-level risk mapping is pooled and companies then take individuated action; and building on in-house expertise, including human rights and environmental specialists and staff who already hold stakeholder relationships, rather than defaulting to expensive bespoke tools. The specific methods and sources useful at this stage are set out in our responses to Questions 8, 10 and 11.
5. In your experience, what tools proved particularly	• In-depth tools take many forms — a full HRIA is not always required • Audits, questionnaires and digital tools support but not replace engagement with stakeholders and their representatives — often the only reliable source on systemic harms (debt bondage, sexual harassment, freedom of association)

helpful to carry out an "in-depth assessment" in areas that were identified as most severe and most likely? What approaches or solutions could help in performing these requirements in the cost-effective way?	• Cost-effectiveness means the ability to synthesize diverse sources and knowing when direct engagement is essential to real insight **<u>Further context:</u>** In response to Question 5, we would encourage the Commission to make clear that in-depth assessment tools take many forms: a full human rights impact assessment is not always required. Depending on the risk and context, targeted issue-, country-, commodity- or site-level assessments, worker-voice mechanisms or focused engagement with affected groups can each be appropriate, provided the method fits the severity and nature of the risk being examined. Audits, supplier questionnaires and digital tools can support an in-depth assessment, but they cannot substitute for direct engagement with affected stakeholders and their legitimate representatives. For the most serious and systemic harms — such recruitment fee-driven debt bondage, sexual harassment, restrictions on freedom of association — such engagement is often the only reliable source of insight, because these are precisely the harms that standard audit methods are known to miss. Recital 68 helpfully supports a realistic approach by noting that digital tools "could support" due diligence, without suggesting they are indispensable. Cost-effectiveness at this stage therefore lies in knowing when direct engagement is essential to gaining real insight: concentrating it on the severe risks prioritized during scoping, where understanding how harm is actually experienced — by whom, in what numbers and with what consequences — is decisive (see our response to Question 43). More broadly, the challenge is less about collecting additional data than about synthesizing the sources a company already has — audits, supplier engagement, public datasets, civil society research, worker voice — into actionable intelligence, which itself underlines the case for in-house capacity made in our response to Question 4. The methods and sources useful for in-depth assessment are set out in our response to Question 11.
6. In your experience, what tools proved particularly helpful to identify indirect business partners in the value chain?	• Limited visibility is a risk indicator to investigate, not proof of no impact (Recital 41): where credible sector evidence shows severe impacts, assume likely connection and consider appropriate action, even before tracing a direct link to the company's operations, products or services. • Don't treat identifying indirect partners as contractual cascading or tier-1 auditing. Use sector/commodity risk analysis, peers and credible proxies; traceability is a tool, not a precondition

	<u>Further context:</u> In response to Question 6, we note that the identification of indirect business partners, and of the impacts connected to them, should not be approached primarily as an exercise of contractual cascading or tier-1 supplier auditing. In practice, visibility tends to be lowest precisely where severe impacts are most likely to be concentrated. It would help companies if the Guidelines disentangled several terms that are often conflated. Traceability is the capacity to determine a product's origin, the geographical path it has travelled, who has handled it and how it has been transformed. Chain-of-custody information is the documented record of who has taken custody of the material along that path — one component of traceability, not a synonym for it. Both are distinct from the broader body of existing information on which identification can draw — sectoral and commodity-level risk analyses, civil society and worker voice reporting, and data generated by industry schemes — which does not depend on tracing the company's own material at all. As the OECD's comparative analysis of due diligence legislation makes clear, traceability is not equivalent to due diligence: a product may be fully traceable and still be produced under problematic conditions, and, conversely, a company can identify likely impacts without full traceability. The Guidelines should therefore present traceability and chain-of-custody systems as tools that can support identification in some supply chains — particularly where control points such as smelters or refiners exist — and not as a precondition for it. This matters because the decisive question at this stage is not whether a company can trace a specific input to a specific source, but what assumptions it should make about the likelihood of its operations, products or services being connected to impacts. Where credible sector- or commodity-level evidence documents severe impacts — as with artisanal and small-scale cobalt mining in the Democratic Republic of the Congo, where child labour and unsafe working conditions occur several tiers upstream, invisible to direct suppliers and tier-1 audits but well documented by civil society and specialised organisations — a company sourcing from that chain should assume likely connection and consider what appropriate it should take based on that assumption, rather than waiting until the material can be precisely connected to its own operations. Recital 41 supports this by recognising that companies may need to look beyond their direct business partners where severe impacts are likely to occur. Limited visibility is a risk indicator that warrants further investigation through alternative means, not a basis for assuming that impacts are absent. This connects to our response to Question 7: the restrictions on information gathering and civic space referred to there are typically most acute at the level of indirect business partners.
7. Have you faced any legal obstacles or conflicts when collecting information for the purpose of either carrying out a scoping of risk areas,	There are both general restrictions on civic space – such as freedom of association – that impair efforts to identify impacts, as well as more explicit restrictions on information gathering. They require different responses. In general, collaborative rather than policing approaches to due diligence with business partners and engagement with credible proxies and experts will help companies understand and address impacts in sensitive contexts, as well as to avoid creating risk to affected stakeholders.

or an “in-depth assessment” as a result of third countries’ laws? Companies and stakeholders are invited to signal barriers to due diligence they may face in third countries when conducting due diligence.	**<u>Further context:</u>** In response to Question 7, we would distinguish between two kinds of obstacle, as they call for different responses. The first is the general restriction of civic space — the absence of a free press, the suppression of trade union rights, surveillance and the risk of retaliation — which makes information scarce at source rather than formally prohibiting its collection. The second is a specific legal conflict, such as data protection and privacy laws, state secrecy or blocking statutes, or restrictions on supplier audits and on the cross-border transfer of worker-level data. The Commission Guidelines should address both, and not treat the question only as one of explicit restrictions on the assessment of supplier performance. On the first, lack of freedom of speech, violations of trade union rights and restrictions on a free press can create information black boxes. It is important that this is recognized in the Guidelines, so that companies do not assume too easily that the absence of "evidence" means that there are no potential or actual impacts. On the contrary, and consistent with the UNGPs and the OECD Guidelines, these are precisely the contexts in which heightened due diligence is expected The Guidelines should make clear that legal and practical barriers change how a company conducts due diligence, not whether it is expected to do so. On the second, where there are legal restrictions on the collection of information, it is important to assess what the scope of those restrictions actually is. A restriction on supplier audits, for example, does not necessarily affect other types of information gathering, and a data protection rule limiting the cross-border transfer of personal data need not prevent the collection of aggregated or de-identified information, or engagement with worker representatives. A concrete illustration is a jurisdiction that combines restrictions on independent trade unions and independent auditing with data-localisation rules limiting the transfer of worker-level data abroad: the company cannot rely on conventional audits or direct data collection, but can still draw on sectoral and commodity-level risk analysis, credible local proxies and aggregated information that falls outside the restriction. This points to a further consideration the Guidelines should address: in repressive or high-risk contexts, the choice of method is not only a question of access but also of safety. Engaging workers or community members directly can expose them to retaliation, and companies should design their information-gathering so as not to put affected stakeholders (or their own staff) at risk, working through credible proxies and trusted intermediaries where direct engagement would be unsafe. This connects to the points made in response to Questions 45 and 48 on confidentiality, security and protection against retaliation. Finally, it is generally advisable to embed information gathering in an integrated, partnership-based approach to due diligence wherever possible, rather than as a separate exercise focused on policing "issues of non-compliance by the supplier". An approach that seeks to collaboratively identify and address impacts, rather than signalling a "zero tolerance" stance, may help to overcome real or perceived legal restrictions, and it is in this context that companies can — and should — gather insights through credible proxies and experts. As noted in response to Question 6, these restrictions tend to bite hardest at the level of indirect business partners, where visibility is already lowest.

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<tr><td>8. In your experience what data currently collected by public administrations may be particularly useful for the purposes of effective due diligence? Do you believe there is a need for access to such data to be facilitated?</td><td>

- Most useful at scoping to identify general risk factors, not a substitute for in-depth assessment
- Useful sources include labor inspectorate records, public risk lists and sanctions/trade data
- Central access would support SMEs; absence from a dataset does not mean absence of impact

<u>Further context:</u>

In response to Question 8, we note that data collected by public administrations can be particularly useful at the scoping stage of due diligence, where the objective is to establish general risk factors across operations, activities, partners and potentially affected groups, as set out in response to Question 11. Useful categories include the findings of labour inspectorates, judicial and enforcement records, environmental permitting and inspection data, and authoritative public risk lists that are based on a transparent methodology informed by human rights standards rather than purely political considerations. A concrete example has been the List of Goods Produced by Child Labor or Forced Labor maintained by the United States Department of Labor, which many companies already use as a commodity- and country-level risk indicator. Data held in both home and host countries is relevant, and in some cases home-country data — for example export, customs or sanctions data — can help identify exposure that is not visible through the company's own systems. We would encourage the European Commission to facilitate access to such data, including by supporting centralised and machine-readable resources, as this would lower the cost of scoping in particular for SMEs. The database of forced labour risk areas foreseen under the Forced Labour Regulation is one example of how public data can be made more usable, and is also an opportunity to promote an integrated approach across EU instruments. At the same time, the Guidelines should be clear that public data informs the identification of general risk factors and does not replace in-depth assessment or engagement with affected stakeholders, and that the absence of an entry in a public dataset should not be read as evidence that no impact exists.
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<tr><td>9. Please indicate which of the following due diligence methods or other actions you
consider most useful and cost effective for identifying adverse impacts in value chains? What are the pros and cons of these approaches in terms of cost effectiveness)?

[List of options]</td><td>

[Check: Stakeholder engagement; Complaints; Media/NGO/independent reports; Site visits; Other methods]

Other methods:

- Methods are complementary, not substitutes; cost-effective = efficient AND effective for DD: where impacts are complex, interconnected or hidden by context (restricted civic space, no unions), engagement with those affected or credible proxies is what yields real insight.
- Methods closest to affected people best surface severe impacts that audits and information requests miss; use a range of approaches appropriate to context, not ranked by cost.

<u>Further context:</u>

In response to Question 9, and consistent with our responses to Questions 4 and 5, we would caution against the premise that a single method can be identified as the most useful and cost-effective for identifying adverse impacts. These methods are complementary, and the quality of identification depends on bringing them together rather than selecting one in isolation. If a
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	selection is required, we would prioritise stakeholder engagement; complaints and operational grievance mechanisms; the use of media, NGO and other independent reports; site visits; and information requests to business partners. The reason follows from what cost-effectiveness means in due diligence: a method is cost-effective when it is both efficient for the company and effective in serving the aims of due diligence, that is, producing reliable insight into actual and potential impacts. Judged on that standard, the methods closest to affected people — stakeholder engagement, complaints and independent reporting — carry particular weight, because they are the most likely to surface the severe impacts that supplier self-reporting, third-party audits and information requests alone routinely miss. This is especially the case where impacts are complex or interconnected, or hidden by wider contextual factors such as restrictions on civic space or weak protection of trade union rights: in those conditions, engagement with those affected, directly or through credible proxies, is often the only route to understanding what is actually going on. Third-party verification, industry and multi-stakeholder initiatives, and digital or technical surveillance can each add value, but they are least reliable when treated as stand-alone proof that a relationship is free of impacts. We would therefore encourage the European Commission to frame these methods in the Guidelines as a range of methods to be combined according to context, rather than ranked by cost.
Risk factors	
10. Which are particularly useful examples of such sources of information and in which areas/sectors and/or for which impacts do you see a gap in terms of documented risk factors? Do you believe there is a need for access to such data to be facilitated (e.g. via a centralised web-page)?	• Useful sources: OECD sector DD guidances (e.g. garment, minerals, agriculture), ILO and trade union data, commodity risk repositories and credible CSO databases — grounded in standards the CSDDD builds on • Biggest gaps: downstream and use-phase impacts including product/service design, services, environment-human rights links, and informal sectors • Rather than a new centralised resource, the Commission should strengthen signposting to existing helpdesks (EU, UN, national) **<u>Further context:</u>** In response to Question 10, we note that particularly useful sources of documented risk factors include the OECD's sector-specific due diligence guidances, for example for the garment and footwear sector, for minerals, and for agricultural supply chains, alongside ILO data, information from trade unions and worker organisations, and credible civil society databases. These are valuable precisely because they are grounded in the international standards that the CSDDD is intended to build on. We see the most significant gaps in documented risk factors in relation to downstream and use-phase impacts, including those connected to product and service design, in services sectors more generally, in the linkages between environmental harm and human rights impacts, and in informal or hidden segments of the value chain where, by definition, little is documented.

	On facilitating access, we would not encourage the Commission to create a new centralised resource. The architecture for this support already exists: Article 21 of the Directive requires the Commission to establish a single helpdesk through which companies can seek information, guidance and support, and Article 20 requires Member States to operate websites, platforms or portals that give access to it. Beyond the Directive, credible helpdesks already operate at international and national level, such as the OHCHR Helpdesk, ILO Helpdesk for Business and Germany's Helpdesk on Business and Human Rights. An additional, parallel resource would risk duplication and fragmentation. The more cost-effective route is to strengthen signposting: the Guidelines and the single helpdesk should point companies clearly to the UNGP- and OECD-aligned sources identified above, and national helpdesks should do the same. Where the Commission does consolidate references to risk factor sources, these should be clearly framed as a starting point for identifying general risk factors, and not as a checklist or safe harbour that companies could treat as the outer limit of their due diligence.
11. What other methods or information sources does your organisation use to support its risk identification (during both scoping and in-depth assessments) or monitoring efforts as part of due diligence? If available, please include references to specific methods or sources and elaborate briefly on their pros and cons.	• Scoping: structure the broad scan around location, activities, partners and affected people, and bring business model red flags into the analysis (Recital 41) • In-depth: direct engagement with affected stakeholders and their representatives becomes central, alongside desk research, to establish how harm is actually experienced • Monitoring: include direct stakeholder feedback, not internal assessment alone, or risk failing the "reasonable grounds to believe" test (Article 15; Recital 61) **<u>Further context:</u>** In response to Question 11, we would distinguish between the methods and sources that support scoping, those that support in-depth assessment, and those that support monitoring, as each calls for a different emphasis. For scoping, companies benefit from structuring the broad, risk-based scan around four areas: where operations are located, what activities are carried out, which business partners are involved, and who could be affected. At this stage companies should also analyse features of their own or their partners' business model that can create or heighten risks to people, whether in the value proposition (for example competing on lowest cost in ways that put pressure on labour rights), the value chain (for example production or delivery speeds that create health and safety risks), or the cost structure and revenue model (for example reliance on gig or other precarious forms of work). Shift has developed a resource, "Business Model Red Flags", that supports this kind of analysis which is being used by a growing number of organizations to evaluate risk. The design of a company's own products and services belongs in this analysis as well (see our response to Question 18). Recital 41 reflects this logic. Consistent with Article 8, scoping is carried out on the basis of reasonably available information: the aim is to combine existing sources with relevant risk factors, not to launch new large-scale data collection. On sources, identification should be data-informed but not data-driven: no single dataset or tool can tell a company where the greatest risks to people lie. Three categories of information work together. First, the company's own channels: most companies

	already hold more relevant information than they realise, including complaints and notification data under Article 14, prior assessments, worker feedback and the knowledge of operational staff. Second, curated external information, from independent reports and international datasets to trade union and civil society reporting; the value lies in discernment and weighting, not in volume. Third, expert judgment and the perspectives of affected stakeholders. Three cautions bear on cost-effectiveness. The absence of data is not evidence that no impact exists: information is often missing precisely where risk is highest, for example where civic space is restricted. Working with estimates, proxies and assumptions is legitimate, provided the rationale is recorded. And proprietary risk tools should be handled with care: many are built on exposure or spend weightings and can quietly substitute a measure of how much business is involved for a judgment about how severe an impact is. Information requests to business partners should remain targeted, reasonable and proportionate. For in-depth assessment the emphasis shifts: direct engagement with affected stakeholders and their legitimate representatives becomes central, alongside desk research, to establish how a potential or actual impact is experienced, by whom, in what numbers and with what consequences. This is where hidden or systemic harms tend to surface, such as recruitment fee-driven debt bondage or harassment, which are seldom visible in supplier self-reporting. Where direct engagement is not feasible or safe, companies should work through credible proxies, and should first review what affected stakeholders, trade unions and expert organisations have already made public. For monitoring, companies should seek feedback directly from affected stakeholders and not rely on internal assessment alone. A purely internal assessment risks failing the "reasonable grounds to believe" test in Article 15, with the result that concerns surface through the complaints procedure instead of being detected through monitoring. The Guidelines should make clear that due consideration of relevant information from affected stakeholders, as referred to in Recital 61, is vital to effective monitoring.
Digital tools	
12. What digital tools do you consider most useful to facilitate the identification, monitoring and assessment of possible adverse impacts? Please explains pros and cons.	• Per Recital 68, digital tools "could support" but are not indispensable; guidance should not imply credible DD always requires digital tools • Most useful: supply chain mapping/traceability platforms, adverse media and sanctions screening, geospatial monitoring, and worker voice tools • Pros: scale and triangulation. Cons: false confidence, weak on certain harms, digital exclusion of the most vulnerable • Treat them as support for further enquiry, not a substitute for stakeholder engagement **<u>Further context:</u>**

	In response to Question 12, we note at the outset that Recital 68 helpfully frames digital tools as something that "could support" due diligence, and we would encourage the Commission to preserve that framing rather than suggesting that credible due diligence depends on sophisticated digital tools. Among the more useful categories are supply chain mapping and traceability platforms, adverse media and sanctions screening, geospatial and satellite monitoring (which can be particularly useful for environmental impacts such as deforestation)— and worker voice tools that gather feedback directly from workers. The principal advantage of these tools is scale: they allow companies to screen and triangulate signals across a large number of business relationships that could not realistically be assessed individually. The principal limitations are equally important. Digital tools can create a false sense of confidence and encourage a box-ticking approach; they tend to be weak at capturing certain harms, such as the suppression of freedom of association; and they can systematically exclude the most vulnerable people, since worker voice tools reach only those who are connected, literate in the relevant language and not afraid to respond. For these reasons the Guidelines should treat digital tools as a means of supporting and prioritising further enquiry, not as a substitute for engagement with affected stakeholders.
13. Have you encountered any difficulties or problems with digital tools, including issues that cause unnecessary burdens?	• Several difficulties arise, not one dominant one • Duplication: SMEs face many overlapping platforms and questionnaires • Tools assessing country/company risk often rely on adverse media or public reporting, so they under-detect risk where civic space is restricted and the vulnerable are most exposed • AI offers real opportunities to analyse and synthesise data, but its outputs carry imperfections and need human judgement and verification **<u>Further context:</u>** In response to Question 13, we note that companies encounter several difficulties with digital tools rather than a single dominant one. One is duplication: business partners, and SMEs in particular, are asked to provide similar information through many overlapping platforms and questionnaires operated by different buyers and schemes. This creates largely unnecessary burden, and is one of the clearest cases where greater interoperability and collaboration between companies — consistent with Articles 10 and 11 and Recital 49 — could reduce cost without weakening due diligence. Tools also tend to surface large numbers of "red flags" without indicating which are most significant or what action they call for, which can produce either false assurance or undifferentiated alerts. A more fundamental difficulty concerns the data on which many tools rely. Tools assessing risk at country or company level frequently depend on adverse media or other public domain reporting, so they register risk where reporting already exists and under-register it where it does not. As noted in response to Question 7, the contexts where civic space is most restricted are often where the most severe impacts occur and affected people are most vulnerable, yet they generate the least public reporting — and the workers and communities most at risk are also least able to access or safely use digital channels.

	AI is opening significant new opportunities to analyse and synthesise diverse information, speaking directly to the point in response to Questions 4 and 5 that the central challenge is synthesis rather than collection; but its outputs carry well-known imperfections that are not always easy to detect, and should be subject to human judgement and verification rather than treated as a substitute for it. Consistent with Recital 68, digital tools — including AI — "could support" due diligence but do not replace engagement with affected stakeholders. This connects to Question 11: monitoring that relies on internal systems and digital data, without direct stakeholder feedback, risks failing to detect when measures are no longer adequate or effective, as Article 15 requires.
14. Do you think there should be additional digital tools? What functionalities and tasks should these focus on? **[No word limit in the questionnaire]**	We would place less emphasis on the development of additional proprietary tools and more on two priorities. The first is shared infrastructure and interoperability that reduces duplication — for example the kind of centralised public risk resource discussed in response to Question 10, and common data standards that allow information to be reused across schemes rather than re-collected. The second is functionality that strengthens, rather than substitutes for, engagement with affected stakeholders. There is real value in tools that make worker voice and grievance channels more accessible and secure, including for informal and vulnerable workers, with appropriate safeguards for anonymity and against retaliation, which connects to the points made in response to Questions 45 and 48. We would also see value in functionality that helps companies synthesise diverse sources of information into actionable intelligence, and that supports collaboration between companies within the limits of competition law, as recognised in Recital 49. We would, however, caution the Commission against framing any of this in a way that suggests credible due diligence always requires sophisticated digital toos. Consistent with Recital 68, digital tools "could support" due diligence; presenting them as indispensable would disadvantage smaller companies and risk turning due diligence into a procurement exercise rather than a process of identifying and addressing impacts.
Prioritisation	
15. Are there situations where in your view the severity or likelihood of a specific adverse impact is (or might be) particularly difficult to assess? How could such difficulties be overcome?	We recommend the inclusion of three points in the guidance: (1) that prioritisation should not default to a focus on direct business partners; (2) the use of severity and likelihood as the only factors for prioritisation; and (3) the need to take full account of severity over likelihood in the case of adverse human rights impacts specifically. First, prioritisation should not default to a focus on direct business partners ("tier 1"). Article 8.2a.c provides that companies *may* prioritise the in-depth assessment of direct business partners where impacts are equally severe *or* equally likely. This is a narrow permission tied to a specific stage of assessment, and it should not be read as endorsing a general tier-1 focus. Every other test for focusing due diligence under Article 8 — and, importantly, the prioritisation rule in Article 9 — refers to severity *and*

[No word limit in the questionnaire]	likelihood together. Companies would therefore be ill-advised to deviate from that general ‘severity-and-likelihood’ approach on the basis of Article 8.2a.c, and the Commission guidance should make this clear. Where severe impacts arise deeper in the chain of activities, they should be prioritised on the same basis as impacts closer to the company, regardless of tier. Second, severity and likelihood are the only relevant factors for prioritisation under the CSDDD. Recital 44 helpfully notes this, and makes explicit that factors such as influence, involvement, proximity and potential liability are therefore not relevant to prioritisation. It is important that these exclusions are also made explicit in the guidance. Without it, experience shows that companies may be tempted to let such factors drive prioritisation decisions — for example deprioritising an impact over which they have limited control, or one that sits far from their own operations — which would displace the focus on the most severe actual and potential impacts on people. Third, the guidance should address the importance of severity in the case of adverse human rights impacts specifically. The CSDDD covers both human rights and environmental impacts and places severity and likelihood alongside each other; unlike the UNGPs, it does not single out severity as the key criterion for human rights impacts. However, the guidance can, and should, make clear that companies are not precluded from giving particular weight to severity when prioritising human rights impacts—in particular, that a high severity human rights impact should not be discounted simply because it is judged as unlikely to occur. Official reviews of major catastrophes, including the Fukushima nuclear disaster and the BP Gulf of Mexico oil spill, found that the companies involved had failed to put adequate prevention and remedy measures in place because the events were considered too unlikely, despite their catastrophic consequences for people. This illustrates why low likelihood alone should not remove a severe potential impact from prioritisation. Of course, this does not mean that high likelihood impacts should be discounted in a company’s prioritization process. Nor does it mean that companies should focus all their subsequent efforts on high severity, low likelihood impacts. The UNGPs recognize that the effect of delayed action on the remediability of an impact should influence decisions at the next step of due diligence, when the company is deciding what actions, resources and overall effort to direct towards each of its prioritized impacts. For example, if there is widespread evidence of violations of workers’ rights to collective bargaining, where workers have lost their jobs and delayed action may make reinstatement difficult or impossible, then there is a strong argument for companies to prioritize resources to tackle this. Prioritising human rights impacts on this basis reflects the UN’s official guidance on the UNGPs, and is fully compatible with the CSDDD. It is also the approach taken in the ESRS, which provides expressly that for a potential negative human rights impact, the severity of the impact takes precedence over its likelihood (Simplified ESRS 1, para 40). This approach would thus support a single, coherent process across due diligence under the CSDDD and reporting under the CSRD. Likelihood remains relevant,

	including in distinguishing between impacts of comparable severity; the point is that low likelihood alone is not sufficient reason to set aside a severe potential impact.
16. Regarding situations when it is “not feasible to address all identified impacts at the same time and to their full extent”, what other elements are particularly relevant to support companies in performing an appropriate risk prioritisation process? **[No word limit in the questionnaire]**	We recommend that the guidance clearly distinguishes between two steps that this question risks conflating: the prioritisation of impacts under Article 9, and the subsequent planning of appropriate action. The "other elements" the question refers to are relevant to the second step, not the first. Keeping these steps distinct preserves the architecture of Article 9 and gives companies a workable management logic. First, prioritization itself is based exclusively on severity and likelihood. As set out in our response to Question 15, Recital 44 makes explicit that these are the only relevant factors. Guidance should therefore not introduce other elements into the prioritization step. In practice, companies may be tempted to rely on other factors such as business volume or exposure, leverage or reputational concern. Treating any of these as prioritization criteria would be contrary to the Directive. It would also confuse the market at the very moment companies are aligning their processes with the CSDDD. Second, the guidance can helpfully clarify when prioritization is necessary at all. Whether it is "not feasible to address all identified impacts at the same time and to their full extent" should be assessed at the level of the whole enterprise and taking into account the seriousness with which the business addresses other enterprise-wide risks, not, for example, against the budget of the sustainability function. Different impacts are typically owned by different business functions: occupational health and safety for the own workforce sits with human resources, potential forced labor in raw material sourcing sits with procurement, and other impacts sit with operations, legal or commercial teams. These functions do not compete for the same resources. Even where addressing a forced labor situation requires significant procurement resources, this does not necessarily make it less feasible to address potentially less severe OHS impacts in parallel. Recognizing this enterprise-wide view of risk expands a company's practical capacity to act on multiple impacts simultaneously and may in some cases reduce the need to prioritize in the first place. The guidance should also distinguish capacity as a genuine constraint from capacity as a resourcing choice: constrained resources are a reason to sequence action transparently over time, not to treat current resourcing as fixed, particularly for larger companies that are expected to grow due diligence capacity over time. Third, once impacts have been prioritized, a range of considerations may legitimately shape how companies plan and organize action: • Leverage: greater influence over one business relationship may justify acting there quickly, without changing the underlying ranking of impacts • Nature of involvement: whether the company causes, contributes to or is directly linked to an impact shapes the appropriate action under Articles 10 and 11

	• Sequencing and resources: some measures can begin immediately while others realistically start later; provided sequencing is transparent and time-bound, this is implementation planning, not a change in the initial prioritization • Organizational ownership: assigning impacts to the functions best placed to address them may also lead to different timelines in taking action. Finally, the guidance should make clear that companies ultimately are expected to prevent and address all identified impacts. Impacts that are not prioritized are not permanently abandoned: they may be scheduled into a later cycle, managed through existing mitigation measures, or placed under monitoring so that any escalation is detected. Any change in an impact's priority should rest on new evidence about the severity or likelihood of the impact on people, not on the impact proving difficult or costly to address. For this reason we recommend that the guidance avoids the term "deprioritized" impacts, which suggests an indefinite or permanent status, or a matter of company discretion, rather than a question of sequencing in good faith based on a transparent rationale.
Responsible disengagement	
17. Are you aware of examples where a decision was taken not to disengage from a business relationship because this would have potentially resulted in more severe impacts compared to those that triggered due diligence in the first place? How was the situation dealt with?	• Yes — deciding not to disengage because of severe additional impacts is a recognised feature of responsible DD • Shift's work with companies and stakeholders in the Ethical Trading Initiative on Myanmar shows how: brands pooled an evidence-based assessment of whether staying or exiting would cause more severe harm to workers; staying was conditional on heightened DD and transparency; where exit later became unavoidable, it followed a framework negotiated with unions. • Keep the decision under active review **<u>Further context:</u>** In response to Question 17, we would answer yes: situations in which a company decides not to disengage because exit would cause more severe impacts than those that triggered due diligence are a recognised and expected feature of responsible business conduct, not an anomaly. Suspension and termination of a business relationship are measures that should be treated with care , to be considered typically only once other appropriate measures have been exhausted, and the CSDDD expressly provides that a relationship need not be suspended where doing so would lead to manifestly more severe adverse impacts than the impact that could not be addressed. Rather than 'cutting and running', a company should prioritise engagement with the business partner and adopt an enhanced prevention or corrective action plan, drawing on a broader range of leverage than the closed list of measures in Articles 10 and 11 (including collaborative leverage exercised together with peers, buyers and other actors) where there is a reasonable

	prospect that leverage can still bring about change. The process of explicitly considering suspension can itself create leverage that reduces the need for exit. The appropriateness of the timeline for an enhanced plan should take into account the severity of the impact and the need to identify and prevent or mitigate any additional adverse impacts that suspension would cause, including impacts on SMEs and smallholders in the value chain. Where the company decides to stay because suspension would be manifestly more harmful, it should keep the situation under active review, continue to use and build its leverage, and be prepared to report its reasoning to supervisory authorities; where it does suspend, it should take steps to mitigate the additional impacts of doing so. A concrete example is a decision to remain in a high-risk sourcing context — for instance an agricultural supply chain dependent on smallholders, or a manufacturing relationship on which a large and vulnerable workforce depends —where a sudden withdrawal of orders would deprive workers or farmers of their livelihoods . In such cases the responsible course is to stay and continue to try to build and use leverage to drive change, consistent with the point we make in our responses to Questions 20 to 22 that investment, support and collaboration are more effective than a policing or exit-based approach. We would encourage the Commission to reflect this clearly in its guidance, so that suspension is not read as a default or a safe harbour, and so that a decision to stay and exercise leverage based on a documented rationale is recognised as a legitimate and often preferable due diligence outcome. **Resources:** • ETI, Myanmar Enhanced Due Diligence Sectoral Assessment (2022), https://www.ethicaltrade.org/sites/default/files/shared_resources/Myanmar%20enhanced%20due%20diligence%20sectoral%20assessment.pdf
Purchasing practices	
18. In your experience, what purchasing practices proved most cost-effective while at the same time ensuring that adverse impacts are prevented and mitigated? What are their pros and cons? Out of these, are there purchasing practices that are inherently sector-	• Cost-effective purchasing means moving from policing to partnership; purchasing, design and distribution practices are named measures in the closed list (Art 10(2)/11(3)) • Core practices: fair, transparent cost negotiation (open costing; prices accounting for labour costs/living wages); timely, shortened payment terms; adequate lead times and co-created calendars; accurate forecasting and avoiding penalties • While these changes may raise short-term unit costs, overall they are cost-effective because poor purchasing is a root cause of severe impacts (excessive overtime, wage theft, unsafe conditions, unauthorised subcontracting). Addressing them up front prevents harm and cuts disruption, defects and exposure • Most context-specific in fast seasonal sectors (lead times/forecasting) and agriculture (living income pricing) • Example terms: responsible/shared responsibility contracting; no unfair unilateral changes or chargebacks; prices reflecting verified labour costs

or context-specific? If possible, please provide examples of specific contract or commercial terms or other best practices.	<u>**Further context:**</u> In response to Question 18, we would encourage the European Commission to recognise that the most cost-effective purchasing practices come from an integrated approach: commercial decisions and sustainability due diligence analysed and revised within a single business process, not run in parallel. Poor purchasing practices are among the most significant root causes of severe impacts such as excessive overtime, inadequate wages, unsafe conditions and unauthorised subcontracting. These include price pressure that ignores labour costs, late payment, short lead times, last-minute order changes, inaccurate forecasting and unilateral risk transfer. Addressing them up front is more cost-effective than remediating the resulting impacts afterwards. The practices that work, which should be embedded in a policy with cross-functional ownership, include: • fair, transparent cost negotiation, including open costing that makes labour costs and living wage progress visible in the price; • timely, shortened payment terms; • adequate lead times and co-created production calendars; • accurate forecasting; and • avoiding penalties, chargebacks and order changes that shift risk onto suppliers and ultimately onto workers. While they may raise short-term unit costs, overall responsible purchasing builds supplier resilience, reduces disruption and defects, and lowers enforcement exposure. Lead-time and forecasting practices matter most in fast-moving sectors such as apparel; living income pricing is central in agriculture. Specific terms include: • responsible or shared responsibility contracting; • no unilateral changes or unfair chargebacks; and • prices reflecting verified labour cost increases (see also Questions 11, 21 and 22). Finally, design practices should be treated as a distinct appropriate measure, named alongside purchasing in Articles 10(2) and 11(3), not a sub-set of it. Design choices shape downstream and use-phase impacts. In technology products, for example, features, default settings and safeguards directly determine human rights outcomes in use (distinct from the practices of downstream business partners that resell or retail products, which are out of scope under the CSDDD). Design that helps prevent such impacts at source (such as 'privacy by design') is typically more cost-effective than mitigating them once products are in circulation (see also Questions 10 and 11).

<table>
<tr><th colspan="2">Living income and living wage</th></tr>
<tr><td>19. What are most cost-effective available data that you are aware of for determining the living income for self-employed suppliers (“an adequate living income for self-employed workers and smallholders, which they earn in return from their work and production”, see CSDDD Annex, Part I point 6)? Are there sectors/geographies where no such data exist or are particularly difficult /costly to obtain?</td><td>

Two inputs: a living income benchmark (Anker Country Index; ALIGN; LICOP) and actual household income — the gap is what you act on; a Living Income Reference Price (Fairtrade; GIZ) tests pricing.
Biggest gap is actual income data (surveys are costly) and missing benchmarks for some commodities/geographies; pool data, use estimation tools and proxies
HRDD lens: averages mask the poorest farmers — prioritise the most severe deficits: see Shift's LICOP living income DD guidance

<u>Further context:</u>
In response to Question 19, we would first clarify that determining a living income rests on three related concepts. A living-income benchmark estimates the cost of a basic and decent standard of living for a household in a given place. The living-income gap is the difference between that benchmark and the household's actual net income from all sources; this is what companies ultimately need to determine and act on. A Living Income Reference Price (LIRP) is the farm-gate price a typical household would need to earn a living income from crop sales, and is a useful tool for assessing whether pricing contributes to the gap.
The benchmarks are established shared resources that companies do not need to reconstruct:

the Anker Research Institute Country Index, covering around 200 locations and updated annually;[1]
the ALIGN tool and the LICOP resource library;[2] and
for pricing, the Fairtrade LIRP map and the GIZ LIRP Estimator.[3]

Poverty-line data (for example the World Bank Poverty and Inequality Platform)[4] can serve as an initial screen, but is not equivalent to a living income. Shift has developed, for LICOP, a Technical Guidance on Due Diligence for Living Income that sets out this approach in detail.[5]
The most significant gaps are less in the benchmarks than in the actual-income data: household surveys are expensive and must be repeated across countries, commodities and time, and are hardest for informal and deeper-tier producers. The cost-effective responses lie in shared and estimation-based approaches:

pooling household-income surveys and building shared data platforms; and
streamlined estimation tools such as the living income gap tool developed by ofi and Olam Agri on the basis of LICOP resources and the Anker Methodology, now taken forward by TRACT in collaboration with IDH.[6]

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	Where a precise benchmark is not available, companies should use credible proxies and proceed; consistent with our response to Questions 4 and 5, the absence of a perfect benchmark is not a reason to defer action. Finally, we would caution against relying on average income gaps. Averages tend to direct resources towards farmers already close to a living income and can mask the most severe poverty among the most vulnerable smallholders. Consistent with the severity-led logic of human rights due diligence (see Questions 15 and 16), the cost-effective determination of a living income is the one that reliably identifies the most severe deficits, not the one that optimises an average. **Resources** [1] Anker Research Institute, *ARI Country Index*, https://www.ankerresearchinstitute.org/ari-country-index. [2] *ALIGN: Guidance tool on living wages and living income* (Hivos, Fairfood, Rainforest Alliance, Sustainable Food Lab), https://align-tool.com/; Living Income Community of Practice, *Publications*, https://www.living-income.com/tools-resources/publications/. [3] Fairtrade International, *Living Income Reference Price tool*, https://reference-prices.fairtrade.net/; GIZ, *Living Income Reference Price Estimator*, https://www.sustainable-supply-chains.org/toolbox/tools-on-living-income-and-wages/. [4] World Bank, *Poverty and Inequality Platform*, https://pip.worldbank.org/. [5] Shift and the Living Income Community of Practice, *Technical Guidance on Due Diligence for Living Income* (2026), https://www.living-income.com/news-events/news/technical-guidance-on-due-diligence-for-living-income/. [6] ofi, *TRACT to lead next phase of living income gap tool shared by ofi and Olam Agri* (June 2025), https://www.ofi.com/en-us/news-and-events/press-release/tract-to-lead-next-phase-of-living-income-gap-tool-shared-by-ofi-and-olam-agri.
Investment	
20. Which cost-effective practices are you aware of as regards companies making	• Cost-effective investments are specific and preventive: management-systems, OHS and worker-voice/grievance upgrades, plus supplier financing • Pooled investment via industry initiatives lowers cost, but only where tied to verified change in practice (e.g. the International Accord's inspection-and-remediation model), not participation alone • Investing in improving the buyer's own practices (forecasting, planning) often outperforms supplier-side spend alone

<table>
<tr><td>investments in their value chains to prevent or address adverse impacts?</td><td>
Further context:
In response to Question 20, we would point to three categories of cost-effective investment practice. First, investments that build supplier capacity to prevent recurring impacts:

upgrading management systems, occupational health and safety, and worker-voice and grievance infrastructure;
the supplier improvements needed to support living wages; and
financial support such as direct financing, low-interest loans or guarantees of continued sourcing, which the Directive expressly envisages (Articles 10(2)-(3) and 11(3)-(4)).

Second, pooled investment through collaboration and industry or multi-stakeholder initiatives (Articles 10(2)(f) and 11(3)(g); Recital 49) spreads cost and can address systemic impacts. But we would encourage the guidance to be direct about the condition for cost-effectiveness here: participation in an initiative is not itself an appropriate measure. Pooled investment is cost-effective only where it is tied to rigorous verification that conditions are actually changing, as in the International Accord's model of independent inspections and tracked, financed remediation. Investment in initiatives without checking for change in practice is a common and costly approach that does not amount to effective due diligence.
Third, some of the most cost-effective investment is in reforming the company's own practices, alongside strengthened engagement with suppliers: better forecasting, planning and capacity management prevent the impacts that purely supplier-side investment would otherwise have to address reactively. Guidance should not treat investment narrowly as expenditure on suppliers when investment in reducing the negative effects of the buyer's own systems on suppliers is frequently a key part of the solution.
</td></tr>
<tr><td colspan="2" align="center">SMEs</td></tr>
<tr><td>21. In your experience, have you used specific contractual terms that are fair, reasonable, and non-discriminatory when entering into contractual relationships with SME business partners to facilitate or support the</td><td>

Contractual terms with SME partners should support, not police them: the CSDDD requires them to be fair, reasonable and non-discriminatory and not to shift compliance burden (Arts 10–11)
Pair contractual terms with active support; contracts alone do not deliver due diligence
Avoid cascading one-way representations and zero-tolerance clauses that incentivise hiding rather than addressing impacts

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</table>

due diligence process? Please explain pros and cons.	<u>**Further context:**</u> In response to Question 21, we would emphasise that fair, reasonable and non-discriminatory contractual terms should be designed to support due diligence rather than to police business partners or transfer compliance burden and liability onto them; the CSDDD's safeguards for SME business partners in Articles 10 and 11 point in this direction. In practice this means responsible or shared-responsibility contracting models, in which the buyer also commits to the behaviours that enable the supplier to meet its obligations — reasonable lead times, fair payment, and support — rather than the traditional model of cascading one-way representations and warranties down the chain. The principal advantage of such terms is that they align contractual incentives with the actual drivers of impacts and avoid setting SMEs up to fail. Companies should generally avoid simplistic zero-tolerance clauses, which can incentivise suppliers to conceal rather than disclose and address impacts. We would stress that contractual terms alone do not deliver due diligence: they need to be paired with the support measures discussed in our response to Question 22, and embedded in the partnership approach described in our responses to Questions 7 and 18.
22. In your experience, what are the most cost-effective measures to support SMEs? What are the pros and cons?	• Targeted, proportionate support: training, systems upgrades and, where compliance threatens viability, financial support or guarantees of continued sourcing (Art 10(2)/11(3)) • Companies may also take supportive/capacity-building measures beyond the closed list for any partner (Art 10(3)/11(4)) • Support is more cost-effective than enforcement: it builds capacity that prevents impacts; collaboration cuts duplicative demands on SMEs (Recital 49) <u>**Further context:**</u> In response to Question 22, and building on the safeguards in the CSDDD, we would highlight that the most cost-effective measures to support SMEs are targeted and proportionate to the resources, knowledge and constraints of the SME. These include training and capacity-building, help to upgrade management systems, and — where compliance with the company's requirements would threaten the SME's financial viability — financial support or guarantees of continued sourcing. Articles 10(3) and 11(4) recognise that companies may take supportive and capacity-building measures beyond the closed list where relevant, and we would encourage the Commission to make explicit that such support is expected, rather than optional, where it is needed for due diligence to be effective. Support of this kind is more cost-effective than enforcement: it builds the capacity that prevents impacts and reduces the disruption, defects and relationship breakdowns that follow from a policing approach. It is also more cost-effective when delivered collaboratively: pooling support and harmonising requirements through industry and multi-stakeholder initiatives reduces the duplicative and overlapping demands that fall especially heavily on SMEs, consistent with Recital 49. The main trade-off is the up-front investment of time and resources, which is recovered through more resilient and reliable supply relationships.

Remediation	
23. In your experience, what are the most effective, including cost-effective, practices related to remediation? Please explain pros and cons.	Please clarify that effective remediation is about process and outcomes that effectively address harm from the perspective of those affected. It should explain that remedy for harms extends beyond compensation: e.g. apologies, restitution, rehabilitation and guarantees of non-repetition. Remedy must respond to stakeholder needs and context, otherwise apparent 'solutions' may miss what is truly important to them, leading to greater costs for companies in the medium-long term. **Further context:** In response to Question 23, we note that the CSDDD guidelines should emphasise that remediation is both about the process of providing remedy for adverse impacts as well as the substantive outcomes that counteract or make good the adverse impact. For affected stakeholders to experience something as 'remedy', companies need to pay attention to both aspects. The guidance can expand on the CSDDD by providing other examples of remedy apart from compensation, going beyond the confusing reference in the recitals to 'non-financial compensation'. In practice, remedy for human rights harms may entail apologies, restitution, rehabilitation, as well as the prevention of harm through, for example, guarantees of non-repetition, as is made clear in the UNGPs. Remedy needs to be adequate and effective from the perspective of those impacted to make sure that matters are truly resolved, and do not linger on or escalate. Prompt remediation can limit financial risk to the business, for example in the form of continuing community protests. In the longer term, companies are better served by listening to what stakeholders are actually asking for. For example, stakeholders may seek restoration of land and not monetary compensation, but companies may assume that sufficiently high compensation will 'do the trick'. This is fundamentally not the case where Indigenous Peoples are involved given their recognized connections to territorial lands and waters. The guidance should help companies understand how they can organise their grievance handling systems for maximum effectiveness. For example, the more effective and efficient approaches allow for multiple points of entry (i.e. ways for stakeholders to raise concerns) with complaints channelled into a central 'clearing function' which then directs the issue on to the relevant function or unit. Having a single coordination point that assesses cases and steers them towards the appropriate channel for resolution helps ensure that issues are not missed and that appropriate records are kept of how complaints are handled.

	Resources: • Shift, Remediation, Grievance Mechanisms and the Corporate Responsibility to Respect Human Rights, Shift Workshop Report No. 5, May 2014 - https://shiftproject.org/wp-content/uploads/2014/05/Shift_remediationUNGPs_2014.pdf
24. What are best practices that you are aware of to determine a company's proportionate involvement in an adverse impact for the purpose of remediation when a company jointly causes the adverse impact together with others (e.g., its business partner(s) or other companies)? Have there been difficulties to determine appropriate remediation in case of joint causation in certain situations and how have these difficulties been overcome?	Companies need clarity and confidence about the intent of the CSDDD's terminology. Reiterating that the CSDDD-specific terminology is intended to map to the concepts of cause, contribute and directly linked as they are understood in the international standards (per recitals 45 and 53) is key. It should also specify what the parameters of 'jointly causing' (or 'contributing') are, in incl. contribution in parallel with another entity as well as contribution through a business relationship. **<u>Further context:</u>** In response to Question 24, we note that to correctly determine responsibility for remediation, it is essential that the guidance makes clear that the terminology used in Articles 10 and 11 to describe the different types of involvement is intended to map to the terminology used in the international due diligence standards (as well as the ESRS). This is confirmed in Recitals 45 and 53 of the CSDDD. It can provide companies and other stakeholders with confidence that the approach proposed in the CSDDD does not seek to introduce a different understanding of the scope of a company's responsibility to remediate than that already reflected in the UNGPs and OECD Guidelines. This clarification is especially important for the category of impacts that Question 24 seeks to create clarity on. Companies need explicit acknowledgement that 'jointly causing' means the same as 'contribution' under the international standards and that this can cover a range of scenarios – specifically that it includes contribution in parallel with another entity as well as contribution through a business relationship as is made clear in the text of the recitals. The international standards are clear that companies should contribute to remedy to the extent of their contribution to the harm, as well as using their leverage with other relevant parties. We would urge the Commission to consult the UN OHCHR's detailed guidance from its 'Accountability and Remedy Project' on implementing the UNGPs for further insight on this question.
Conflict-Affected and High-Risk Areas (CAHRAs)	
25. In your experience, what are the most significant operational challenges preventing effective due diligence in CAHRAs? How can these challenges be overcome?	[Check all options] **<u>Further context:</u>** In response to Question 25, our experience working with companies confirms all five challenge categories. What helps most in practice:

	- Limited access to information: combine different types of sources (conflict-event data, country indices, reports from credible organisations) and cross-check them, since no single source can be relied on in these contexts. - Safety risks to stakeholders: put safety first. Check whether engagement could expose people to surveillance or reprisals. Where direct engagement is unsafe, work through trusted intermediaries or credible experts outside the country, with strict confidentiality. Engagement should still happen, just through safe channels: weak stakeholder engagement has been a central criticism of high-profile exit decisions. - Safety risks to staff: build human rights into the company's existing crisis-management and security processes rather than creating a separate track. - Legal conflicts: treat demands under secrecy, counter-terrorism or surveillance laws as a due diligence signal in their own right, with a clear internal route to legal and compliance functions and escalation to senior leadership where complying could link the company to harm. - Opaque supply chains: link extra checks to concrete business decisions (sourcing from a high-risk area, hiring local subcontractors or security providers) rather than trying to trace everything all the time. Companies do not have to solve this alone: a jointly commissioned expert assessment can give a group of companies reliable insight into severe risks without exposing affected people to repeated interviews. The ETI assessment of Myanmar's garment sector, to which Shift contributed guidance on the UNGPs, combined 3,120 worker interviews across 70 factories with over 100 expert interviews on behalf of the sector as a whole. **Resources:** - ETI, Myanmar Enhanced Due Diligence Sectoral Assessment (2022), https://www.ethicaltrade.org/sites/default/files/shared_resources/Myanmar%20enhanced%20due%20diligence%20sectoral%20assessment.pdf
26. To assist companies in determining when specific due diligence obligations apply, would specific guidance regarding the identification of "high-risk" areas beyond active	[Check all options] With option ‘Other’ add: Per recital 42 CAHRA status operates as a risk factor under Art 8 not as a parallel process with its own method **<u>Further context:</u>** In response to Question 26, we would caution against developing substantial new guidance in this area. A considerable body of authoritative material already exists, including the indicative list of conflict-affected and high-risk areas maintained under Regulation (EU) 2017/821, the indices the question itself references, the OECD Due Diligence Guidance for Responsible Supply Chains of Minerals from Conflict-Affected and High-Risk Areas, and the UNDP and UN Working Group guide on heightened

conflict zones be helpful? If so, please indicate your preference:	human rights due diligence.[1] The most valuable contribution the Guidelines can make is to signpost these resources and to clarify how they fit within the Directive: consistent with Recital 42, CAHRA status operates as a geographic and contextual risk factor within the identification process under Article 8, not as a separate parallel process with its own methodology. To the extent the Guidelines do include material on identifying high-risk contexts beyond active conflict, our experience suggests three insights any such material should reflect: • Indices are pragmatic entry points for screening at scale, but they are starting points, not conclusions: they lag sudden shifts and should be paired with more current sources and qualitative analysis. • It is important to consider multiple signals. Beyond active conflict, relevant signals include deteriorating governance and rule of law, pressure on civil society and the media, sector-specific government demands, and international signals such as sanctions. Simultaneous deterioration across several dimensions is itself an important signal. • Practitioner judgment about pre-conflict deterioration is best built through real cases: early-warning signals such as sustained civil society campaigns, investigative reporting on misuse of products or infrastructure, or recurring controversy over compliance with government directives can materialise in seemingly stable environments. Shift's guidance on human rights due diligence in high risk circumstances provides diagnostic questions and sources of heightened risk.[2] Early identification also benefits the company directly: recognising deteriorating contexts before escalation is far less costly than crisis response, and high-risk circumstances for people often converge with heightened commercial, legal and reputational risk for the company. **Resources:** [1] UNDP and UN Working Group on Business and Human Rights, Heightened Human Rights Due Diligence for Business in Conflict-Affected Contexts: A Guide (2022), https://www.undp.org/publications/heightened-human-rights-due-diligence-business-conflict-affected-contexts-guide [2]Shift, Human Rights Due Diligence in High Risk Circumstances (2015), https://shiftproject.org/resource/human-rights-due-diligence-in-high-risk-circumstances/
27. In your experience, which specific practical tools or frameworks (e.g. examples of structural drivers and root causes,	Tools that some companies have made good use of include: tiered country screening that reserves in-depth assessment for the most severe contexts; red-flag indicators, external and internal, that signal when conflict analysis is needed; structured questionnaires for in-country input; conflict actor mapping; and scenario planning that connects findings to decisions on entering, staying, adjusting or exiting.

early warning "red flag" indicators, conflict actor mapping, targeted questions for self-evaluation, scenario planning) proved to be particularly useful and cost-effective in integrating conflict analysis into your company's scoping and in-depth assessment?	**<u>Further context:</u>** In response to Question 27, the tools that we have seen companies use that have proved most useful and cost-effective have included: The • Tiered country screening: most contexts need only periodic reassessment, while in-depth assessment is reserved for a small number of severe situations. Brief structured screening by the people closest to the business activity keeps this workable at scale. • Red-flag indicators, both external (see our response to Question 26) and internal, tied to business decisions such as market entry, partner onboarding or the use of local subcontractors and security providers. They can provide a, documented rationale for when conflict analysis is required. • Structured questionnaires for in-country input: a way to gather contextual insight for in-depth assessment where deploying assessors is unsafe or costly. • Conflict actor mapping within in-depth assessment, covering key actors and authority structures, conflict drivers and escalation patterns, and pathways through which the company could contribute to harm. This reflects the two-way analysis of heightened due diligence: impacts of the context on the company and of the company on the conflict.[1] • Scenario planning that connects assessment findings to decisions on entering, staying, adjusting or exiting, which links identification to appropriate measures under Articles 10 and 11; on the role of leverage in those decisions, see our response to Question 17. • exit from a conflict-affected context may carry its own risks and should naturally be subject to a responsible disengagement process, taking into account the views of affected stakeholders. For a public example, see HEINEKEN's approach, published by the company, in which mapping risks to people across the local value chain preceded stakeholder validation and a multi-year action plan, in a methodology rolled out across operating companies that include conflict-affected contexts. [2]. **Resources:** [1] UNDP and UN Working Group on Business and Human Rights, Heightened Human Rights Due Diligence for Business in Conflict-Affected Contexts: A Guide (2022), https://www.undp.org/publications/heightened-human-rights-due-diligence-business-conflict-affected-contexts-guide [2] Shift, How Value Chain Mapping is Helping Companies Respect Human Rights, https://shiftproject.org/how-value-chain-mapping-is-helping-companies-respect-human-rights/; HEINEKEN Myanmar, Creating a Human Rights Action Plan (2018), https://www.slideshare.net/slideshow/2018-0705heineken/105131751

Sharing of information and resources, collaboration	
28. What are the main reasons that make information problematic to share with business partners? What best practices have emerged to address such concerns?	Information sharing between business partners is hindered by suppliers' fear of buyer-imposed zero-tolerance commitments, excessive and fragmented data requests, and concerns over confidentiality and competitiveness. Efforts such as shared assessment frameworks and wage analysis tools aim to reduce burdens while protecting sensitive data. Industry initiatives, including the Sustainable Terms of Trade Initiative and anonymous supplier surveys, promote fairer purchasing practices and collaboration. **Further context:** A key constraint to sharing information between business partners is the tendency by buyers to impose strict commitments to 'zero-tolerance' on suppliers. This makes suppliers reluctant to share information that would allow companies to start addressing impacts. Another obstacle is the number and variety of information demands made by buyers on suppliers. Attempts have been made (eg the Converged Assessment Framework) to reduce the burden by enabling suppliers to complete a single questionnaire that is accepted by multiple buyers, but further work is needed to better align information requests with due diligence requirements, and reduce the complexity and the number of questions to only those that provide actionable insights. Concerns related to competitiveness and data privacy can make suppliers reluctant to share employee wage data for the purpose of determining living wage gaps. The Fair Labor Association Wage Data Collection Tool works with average wage data so that individual wages are not shared with buyers. The Shift Living Wage Progress Tool is free to download and enables suppliers to input their own wage data and receive an analysis of living wage gaps that can be shared with buyers without disclosing wage data. In the textile and garment sector, a positive development has been the creation of the Sustainable Terms of Trade Initiative by suppliers. The STTI focuses on creating fairer purchasing practices in the industry, bringing together the voices of 70,000 suppliers globally to speak to buyers and policy makers. Cascale provides an online Better Buying survey for suppliers to anonymously share data that is used to assess overall purchasing practices of buyers, as well as a simple survey to rate the performance of individual buyers.
29. As regards cooperation with other companies (i.e., with peers, in the framework of industry schemes) to carry out	Cooperation is most effective when companies within the same supply chain collaborate to address systemic human rights issues that require collective action and shared leverage. Initiatives such as the International Accord and the Responsible Sourcing Initiative in plastics recycling demonstrate the value of coordinated approaches. While perceived competition law risks can discourage collaboration, successful examples such as ACT on Living Wages and the International Accord show that

certain aspects of due diligence (e.g., risk analysis, stakeholder engagement, remediation, investment, capacity building, exercising leverage) what has worked well and what has not? Have competition law considerations constrained cooperation for due diligence? How can compliance burden be further reduced by data sharing and collaboration? Please describe the types of constraints encountered and any solutions (e.g. organisational or procedural steps) found to overcome those obstacles.	companies can work together with shared suppliers while remaining compliant. These and similar pre-competitive collaboration models used for environmental challenges can be applied to address human rights risks. **Further context:** In response to Question 29, we note that cooperation typically works best between companies operating in the same supply chain, even sharing some of the same suppliers. This allows for targeted efforts to be made to address specific systemic issues that lead to adverse human rights impacts, and that cannot be effectively addressed without collective action and use of leverage. Examples include the International Accord addressing health and safety in the garment industry in targeted countries and the Responsible Sourcing Initiative on human rights in plastics recycling value chains. The perception of potential competition law constraints can be more of an obstacle to cooperation than any actual restrictions. It is also sometimes invoked by companies looking for a reason not to collaborate. The Commission has started to send more helpful signals about what is permitted in terms of collaboration for sustainability purposes and this needs to be further strengthened. Meanwhile, collective initiatives such as ACT on Living Wages and the International Accord have been able to make progress with multiple buyers working with shared suppliers without falling foul of competition law, and there are other successful examples of pre-competitive collaboration among competitors on environmental issues that can be replicated to address human rights risks.
Due diligence support at group level	
30. In your experience, are there particular aspects of the cooperation between the parent company and its subsidiaries that may raise particular difficulties (including any legal requirements under other regulatory	No specific response - we are focusing Shift's answers on other points

regimes that might create obstacles)?	
	Model Contractual Clauses
31. What is your experience of cooperating with business partners to ensure efficient due diligence?	Effective due diligence between companies and business partners is often hindered by a relationship model focused on monitoring and enforcement rather than partnership and shared responsibility. Companies too often seek to “police” suppliers through codes of conduct, contractual requirements and audits, with responsibilities flowing mainly from buyer to supplier. Embedding shared responsibility for due diligence requires a relational and iterative approach, which typical commercial contracts do not accommodate. Effective due diligence depends on ongoing cooperation, transparency, trust and mutual engagement. Key barriers include tensions between human rights commitments and purchasing practices focused on cost and risk reduction; commercial consequences linked to failed audits and zero-tolerance approaches that discourage transparency and remediation; and insufficient buyer support to help business partners meet due diligence commitments. **Further context:** In response to Question 31, we note that effective due diligence cooperation between companies and their business partners is often hindered by a relationship model that remains primarily focused on monitoring and enforcement rather than partnership and shared responsibility. Too often, companies seek to “police” their business partners through supplier codes of conduct, contractual requirements, and audits, with expectations and responsibilities flowing largely in one direction—from buyer to supplier. One of the most challenging elements to translate into contractual terms is the embedding of a genuinely shared responsibility for due diligence across business relationships. Achieving this requires a relational and iterative approach rather than standardized contractual clauses or template provisions. Effective due diligence depends on ongoing cooperation, transparency, and mutual engagement between business partners, which cannot be fully achieved through contractual obligations alone.

	In practice, this can create significant barriers to effective collaboration. These include (1) tensions between contractual requirements to respect human rights and stringent purchasing practices that remain primarily focused on minimising cost and risk for the buyer, (2) commercial consequences for failed audits and zero-tolerance expectations that can create a culture of fear rather than encourage transparency and remediation, and (3) insufficient support from buyers to enable business partners to meet contractual and due diligence commitments. Moving from a policing approach to a partnership approach requires more than contractual alignment. It requires relationships based on mutual obligations, dialogue and shared responsibility, where buyers actively contribute to identifying and addressing risks and support their business partners in improving practices. Effective due diligence cooperation therefore depends on going beyond compliance monitoring towards a model of collaboration that enables meaningful prevention, mitigation and remediation of adverse impacts.
32. What cooperation should the model contract clauses recommend between the in scope company and its business partners as regards: • **the adoption and implementation of any prevention/correction action plan** • **the cost of addressing adverse impacts** • **stakeholder engagement** • **the notification and complains mechanisms** **with a view to ensure that due diligence is efficient and cost effective while compliance burden is not**	We urge the Commission not to develop a prescribed or closed list of cooperation models. Instead, guidance should set out principles that contracts should support, including shared responsibility, responsible purchasing practices, remediation of impacts and responsible exit. Simply integrating predefined contractual clauses will not be sufficient to foster effective cooperation. Contractual coherence is also essential. Companies must ensure that other provisions do not create conflicting incentives. For example, supplier codes of conduct risk becoming tokenistic if suppliers are simultaneously subject to unrealistic lead times, last-minute order changes or delayed payments. Companies are increasingly including provisions that directly address environmental and social impacts, such as living wages.

shifted to the business partners? Please provide examples of appropriate contractual clauses, if possible.	
33. In situations where the in-scope company and its business partner(s) are located in different countries, is there a need for specific contractual clauses on jurisdiction and applicable law to the contract? If so, why and can you provide examples of such clauses?	No specific response - we are focusing Shift's answers on other points
34. Are there other elements required by CSDDD that are challenging to translate into contractual terms? What could be ways to overcome this challenge?	The most challenging element is embedding genuinely shared responsibility for due diligence into contracts. Effective due diligence requires an ongoing, collaborative and risk-based approach—not just standard clauses. Continuous risk management, dialogue and adaptation cannot be fully captured in static contracts. Contracts should therefore be part of a broader due diligence framework, supported by governance mechanisms such as regular reviews, cooperation and capacity-building.
35. Are you aware of any useful and relevant best practices for contractual clauses operationalising human rights and environmental	No specific response - we are focusing Shift's answers on other points

due diligence? If yes, elaborate.	
Guidance on fitness criteria for industry and multi-stakeholder initiatives (Article 20)	
36. In your view, for which due diligence measures do industry or multi-stakeholder initiatives offer the biggest added value? **[List of options]**	Check: o Identification of adverse impacts, where these are common to a supply chain o SME support where there are shared suppliers o Increasing leverage through collaboration, also to encourage consistency of effort and outcomes o Remediation, where responsibility is shared o Stakeholder engagement, to reduce the burden of multiple demands Other: Complaint mechanisms, to provide clarity for complainants
37. What are, in your view, the main challenges for existing industry and multistakeholder initiatives in view of their role in supporting due diligence under the CSDDD? What are the main gaps in the geographical, sectoral, topical or value chain coverage of existing industry and multi-stakeholder initiatives?	No specific response - we are focusing Shift's answers on other points

38. Which of the following governance or other challenges of existing industry or multistakeholder initiatives do you consider as being the most important?	No specific response - we are focusing Shift's answers on other points
Accompanying measures	
39. From the list below, which specific potential facilitation role of the European Commission would benefit your organisation the most and how?	Check 'Other roles': providing companies clarity they can implement various legislative requirements through a single, coherent approach. **Further context:** In response to Question 39, we would emphasize that legislative and policy coherence is a prerequisite for effective accompanying measures. The European Commission should take an integrated approach, ensuring that measures supporting CSDDD implementation do not create confusion, conflicting expectations or unintended incentives across EU legislation. Where differences exist—such as the emphasis on traceability and certification under the Batteries Regulation or the outcome-based approach of the Forced Labour Regulation—they should be clearly explained. Wherever possible, the Commission should encourage integrated compliance approaches to reduce duplication and costs. For example, although the Forced Labour Regulation does not prescribe due diligence, guidance should encourage companies to integrate forced labour due diligence into their broader CSDDD processes. Likewise, given the CSRD's full value chain perspective, accompanying measures should support companies in aligning due diligence and reporting across the entire value chain, rather than focusing solely on the CSDDD's chain of activities.
Guidance on third-party verification (Article 20)	

40. What best practices could ensure the independence of third-party verifiers from the companies that they assess, from the companies on whose behalf they act and from external influence?	The Commission should promote safeguards for credible assurance and audit processes, including separation between verification and advisory services, governance structures that protect independent decision-making from commercial pressure, and remuneration models that avoid conflicts of interest. Verification fees should be fixed in advance and not linked to outcomes. Guidance should also encourage transparency through disclosure of methodologies, assessment criteria, limitations and verification reports to enable meaningful external scrutiny. **<u>Further context:</u>** In response to question 40, we note that the objective of third-party verification should be to generate credible, reliable evidence about whether companies' due diligence is effectively identifying, preventing, mitigating, bringing to an end and minimising the extent of actual and potential adverse human rights and environmental impacts. Independence is a necessary condition for achieving this objective, but it is not sufficient on its own. Recital 52 and Article 29(5) therefore rightly require third-party verifiers to act with objectivity, complete independence, and freedom from conflicts of interest and external influence. These safeguards are fundamental to the credibility of any verification process. However, experience with social auditing demonstrates that formal independence alone does not necessarily result in reliable or meaningful assessments of companies' human rights and environmental performance. The UNGP Assurance Guidance identifies independence and impartiality as essential competencies for human rights assurance practitioners. This reflects a history in which certain labour and social audit schemes have faced criticism for perceived commercial dependence on the companies they assessed or for insufficient impartiality. To strengthen institutional independence in practice, the Commission should encourage safeguards commonly used in assurance and audit, including: • structural separation between verification and advisory or consulting services so that verifiers do not assess work they have helped design; • governance arrangements that insulate verification decisions from commercial pressures; • remuneration models that avoid actual or perceived conflicts of interest. Fees should be fixed in advance and should not depend on the outcome of the verification or otherwise create financial incentives that could influence the scope, methodology or conclusions of the assessment; and • transparent disclosure of verification methodologies, assessment criteria, limitations and verification reports to enable external scrutiny. Institutional safeguards alone, however, cannot ensure meaningful verification. In the context of human rights, independence also depends on the ability of verifiers to obtain evidence that is not controlled solely by the company being assessed. Effective human rights verification therefore requires evidence from rightsholders and other external sources in addition to company documentation and management interviews. Verifiers should have unrestricted access to workers and other relevant stakeholders, including through confidential interviews where appropriate, and should meaningfully engage trade unions, civil society organisations, affected communities and independent human rights and environmental experts. Stakeholder

	engagement provides an independent source of evidence that complements company information, helps identify differing perspectives on risks, impacts and root causes, and enables verifiers to assess whether companies' due diligence measures are effective in practice. For example, an assessment of a manufacturing facility that relies primarily on documentation and management interviews, without confidentially engaging workers or their representatives, is unlikely to provide a reliable assessment of actual labour rights conditions or whether the company's due diligence measures are effective in practice. Confidential whistleblower mechanisms should also be available to allow workers, contractors and other stakeholders to report attempts to improperly influence verification activities or raise concerns about a verifier's independence. Finally, the Commission should avoid limiting eligible verifiers to statutory auditors or traditional financial assurance providers. Verification should be open to a broader range of qualified assurance providers, certification bodies and specialised human rights or environmental experts, provided they can demonstrate both independence and the necessary subject-matter expertise.
41. In your view, what level of experience and competence in human rights (including labour rights) or environmental matters, according to the nature of the adverse impact, would be necessary for third-party verifiers to support companies in implementing the Directive's requirements?	The competence of third-party verifiers should be proportionate to the risks assessed and judged by the quality and reliability of their insights, not technical qualifications or audit experience alone. Verification teams should combine assurance skills with human rights and environmental expertise, including an understanding of due diligence principles, and apply an interdisciplinary approach reflecting the links between human rights and environmental impacts. **Further context:** The level of experience and competence required of third-party verifiers should be proportionate to the nature, severity and complexity of the actual or potential adverse human rights or environmental impacts being assessed. Verification should therefore adopt a risk-based approach, with the expertise, methodology and composition of the verification team tailored to the company's sector, operating contexts, chain of activities, geographical footprint and the adverse impacts identified. Competence should encompass both assurance expertise and subject-matter expertise. Given the breadth of human rights and environmental issues, no individual verifier can reasonably be expected to possess expertise across all relevant topics. As recognised in the UNGP Assurance Guidance, expert practitioners should understand the limits of their own knowledge and ensure that additional expertise is incorporated where necessary. The lead verifier should ensure that the verification team, including external experts where appropriate, collectively possesses the competencies required for the engagement. In addition to assurance expertise, verification teams should collectively demonstrate expertise in: - internationally recognised human rights standards; - the UN Guiding Principles on Business and Human Rights and the corporate responsibility to respect human rights; - human rights due diligence and impact assessment methodologies; - the human rights and environmental issues most relevant to the company's sector, operating contexts and chain of activities;

	- and effective engagement with affected stakeholders, including workers, trade unions, affected communities and vulnerable or at-risk groups. Verifiers should also understand the objectives and rationale underpinning the key steps of due diligence. This enables them to critically assess whether companies' due diligence measures are appropriate and effective in preventing, mitigating, bringing to an end and minimising the extent of adverse impacts, rather than merely confirming the existence of policies, procedures or documentation. Finally, verification teams should make transparent the competencies included in the engagement, particularly those relevant to the adverse impacts under assessment. The guidance should also encourage an interdisciplinary approach, recognising that human rights and environmental impacts are often interconnected and should not be assessed in isolation.
42. In your experience, what are the most effective standards ensuring that the third-party verifiers are accountable for the quality, effectiveness, reliability and integrity of the verification?	No specific response - we are focusing Shift's answers on other points
Meaningful stakeholder engagement	
43. Taking into account the requirements of the CSDDD, in your experience what are the most cost-effective means to engage with stakeholders in the performance of due diligence? What are the pros and cons?	• Three tiers: 1) affected stakeholders and legitimate representatives (eg trade unions); 2) credible proxies for their views; 3) experts — are complementary, not substitutes • Cost-effectiveness means knowing when to engage with which tier. Eg, engagement with affected stakeholders is essential for in-depth assessment; proxies and experts more appropriate for initial scoping and informing prioritization • Poor quality engagement has financially material effects. High quality engagement gives insights into impacts and effectiveness of action **Further context:**

	In response to Question 43, it is important that the Commission clarifies that there are different categories or 'tiers' of stakeholders, why the distinction matters for companies, and which is most relevant at different stages of the due diligence process. There are three tiers: 1) engagement with affected stakeholders themselves and their legitimate representatives, such as trade unions or recognized community leaders (Article 3.1(n)); 2) engagement through credible proxies — organisations with informed insight into affected stakeholders' perspectives who can play a role where direct engagement is not feasible or safe, such as trusted local civil society organisations with sustained presence among affected groups; and 3) engagement with human rights or environmental experts. The second and third are both captured in Article 13(4), which uses the term 'experts' but makes clear that what matters is that they provide 'credible insights'. In Shift's experience, it is important that companies distinguish between these two categories as they play different roles. Both credible proxies and experts speak about, not for, affected stakeholders. However, a trusted local organisation embedded among affected groups may bring credible insight into their experiences in a way that a more distant academic or policy-level organization with subject-matter expertise does not. The Guidelines should make clear that credible proxies and experts are distinct and that they also complement, and do not directly substitute for, engagement with affected stakeholders themselves. Cost-effectiveness comes from being deliberate about who the company is engaging with at different due diligence steps and why. At the broad scoping stage, companies can engage with public materials already produced by credible proxies and experts, or with legitimate representatives of affected stakeholders where they have existing relationships (such as where they have a Global Framework Agreement with an international union). Direct engagement with affected stakeholders or their legitimate representatives is particularly important during in-depth assessment, where the purpose is to understand how an impact is actually experienced. Severe impacts that go undetected at this stage can escalate into grievances, disputes or enforcement. The potential costs of poor quality engagement are clear: a 2026 Shift review of 1,200+ cases of community engagement found that in 69% of cases the quality of engagement had a demonstrable effect on the company's financial prospects.[2] Of course engagement with a company's own employees should always use existing social dialogue, trade union and works council structures (Article 13(7)). In some cases, direct engagement with affected stakeholders will not be feasible. For example, Ericsson's 2021 human rights assessment of its 5G technology illustrates this: with virtually every mobile user a potentially affected stakeholder and most impacts still potential, Ericsson engaged primarily through expert organisations and credible proxies, including digital rights

	organisations at global, regional and local level, briefing them on the technology before seeking their insights — showing that proxy-based engagement can still be rigorous and produce actionable insights.[1] Once a company moves into the prioritisation process, it needs to consider again what appropriate engagement looks like. For example, it is not appropriate to ask different affected stakeholders to rate the issues that affect them against ones that do not. At this stage, it is typically credible proxies and experts that need to be consulted. Targeted engagement concentrates resources where they yield the most reliable insight into the most severe risks, and helps avoid the costs (to stakeholders and companies) of getting engagement wrong, including the resulting consultation fatigue. We would encourage the Commission to ensure cost-effectiveness is anchored in Article 13(1): effectiveness is judged by whether and how engagement informs company decisions, not simply the number of meetings held. It is important that companies establish feedback loops explaining how stakeholder input has been taken into account. Without knowing how their input was used, there is little motivation for stakeholders to invest time in responding to future engagement requests. Stakeholder engagement raises the question of how stakeholders' costs, time and expertise are recognised and resourced — companies should consider and seek guidance on what is appropriate in specific contexts. This may include enabling stakeholders to access their own legal or technical advice, reducing power imbalances in certain engagement contexts. The guidance should also clarify the connections between stakeholder engagement and complaints mechanisms. A well-designed complaints mechanism can perform a critical role as an early warning system, helping resolve issues for stakeholders and preventing escalation. So investment in a robust mechanism is also an investment in better stakeholder relationships. **Resources:** • Shift, *Community Engagement, Nature and Financial Materiality: An evidence review of the financial effects of engagement with Indigenous Peoples and local communities on nature-related issues* (June 2026), with a companion document of 24 detailed case studies. Available at: https://shiftproject.org/resource/community-engagement-financial-effects/ • Shift and Mondiaal FNV, *Respecting Trade Union Rights in Global Value Chains* (2019). Available at: https://shiftproject.org/wp-content/uploads/2020/05/US-Respecting-TUR-digital-RV.pdf • Ericsson, *5G Human Rights Assessment* (March 2021), conducted with Shift; engagement methodology at pp. 6–9. Available at: https://www.ericsson.com/en/blog/2021/3/5g-human-rights
44. Which methods have proven most cost-effective in identifying and involving marginalized groups (for example certain groups of	• The most severely affected stakeholders are often those who lack status or influence; companies should avoid engaging only with those who are loudest or most visible • Companies are responsible for identifying and addressing barriers to their participation by seeking appropriate expertise to understand cultural and other constraints and adapting methods of engagement • 'Hidden stakeholders' can often best be reached by credible proxies who are already in touch with them

indigenous people) or ‘hidden’ stakeholders, such as those working in the informal sector or victims of human trafficking?	<u>**Further context:**</u> In response to Question 44, we note that as a general point of guidance, companies need to ensure they are focusing their efforts on those stakeholders most at risk of or severely affected by impacts. These will often be people who lack status or influence, rather than groups that are loud, visible or easiest to engage with. Particular effort is needed to gain insight into the perspectives of the most marginalised groups and 'hidden' stakeholders — such as informal sector workers, undocumented migrants, or victims of trafficking. Companies will often need to rely on engagement with credible proxies (or potentially experts) as described in our response to Question 43 to reach hidden populations. For example, through the Issara Institute, companies sourcing from Thai and Southeast Asian supply chains engage migrant workers via the independent organisation's trusted, multilingual channels — a helpline, messaging, social media and a worker app — that can reach workers that audits routinely miss, in a joined-up model across buyers that also reduces duplicative assessments. In an informal sector example, The Circulate Initiative has developed a framework grounded in the UNGPs for companies sourcing recycled materials on how to respect the rights of informal sector waste workers. The Framework was developed with direct input from waste workers, including informal sector workers, and is now being implemented in national pilots. This work is also informing individual company action (for example, Tetra Pak’s engagement with waste picker cooperatives in Brazil). More generally when dealing with marginalized stakeholders, companies should identify and address the barriers these groups face, adapting methods to language, gender, retaliation risk and other relevant considerations as appropriate (Article 13(5)). The guidance can clarify the importance of companies: • Actively identifying power imbalances between the company and stakeholders and among stakeholders themselves and considering how to appropriately minimize them; • Organizing meetings in venues/formats chosen by stakeholders to create safety and prevent surveillance; • Using appropriate specialists when engaging with victims of severe harms (particularly gender-based harms) to avoid re-traumatization of stakeholders, or with specific groups like children; • Respecting traditional authority structures and forms of self-governance when engaging with Indigenous Peoples, and the need to allow time for culturally appropriate decision-making, which may not align with the company’s own operational timeframes. **Resources:** • Issara Institute, an independent organisation working with global brands and suppliers to address forced labour and trafficking in Southeast Asian supply chains through worker voice channels available in multiple languages. See: https://www.issarainstitute.org/

	• The Circulate Initiative, Harmonised Responsible Sourcing Framework for Recycled Materials, available at: https://www.thecirculateinitiative.org/responsible-sourcing/harmonized-framework-for-recycled-materials/ • Tetra Pak, "Empowering Brazil's autonomous waste pickers". Available at: https://www.tetrapak.com/insights/cases-articles/collaboration-waste-pickers-brazil
45. What are the most robust and cost-effective mechanisms for guaranteeing confidentiality and protecting participants from retaliation?	Measures should be adapted to the nature of the risk and can include more limited and/or anonymized data gathering and sharing, using trusted third-party facilitators, choosing safe/neutral venues, using digital reporting channels, conducting detailed risk assessments in CAHRAs, and seeking stakeholder verification of whether the company's measures are working in practice. Companies should rely on independent trade unions where they exist. Mechanisms that involve and/or are led by workers or local communities are more likely to be trusted by affected stakeholders. **<u>Further context:</u>** In response to Question 45, we note that the most robust mechanisms combine genuine anonymity where it is needed (rather than assuming it), secure channels, independent or third-party-operated options where affected people do not trust company-run channels, explicit non-retaliation commitments, and appropriate data protection. These measures should be proportionate and targeted to the risk in the specific context, in the same way as engagement itself (see our response to Question 43). Companies should rely on independent trade unions as the legitimate representatives of workers where they exist. More generally, mechanisms that are worker- or community-driven, or that use trusted intermediaries, tend to be both the most credible and the most cost-effective where there are risks of reprisals against stakeholders because they are more likely to be trusted by the people they are meant to serve. One example is the Fair Food Program in US agriculture which has a worker-designed code of conduct, a 24/7 complaint line staffed by independent investigators, and strict, market-backed consequences for retaliation. Reports show that workers typically report violations without fear and abuses that audit-based systems routinely miss are surfaced and resolved. The Issara Institute (see our response to Question 44) provides another example. More specifically we recommend the guidance highlight good practices on: • Clear rules on data handling on sensitive topics, including anonymizing and aggregating information before it is shared with management or publicly; • Use of trusted third-party facilitators to act as a buffer when direct contact with the company poses safety risks;

	• Letting stakeholders choose the location for engagement; • Digital reporting channels or SMS-based systems that workers to voice concerns without management oversight; • Use of anonymous voting procedures and avoiding written records for highly sensitive or polarizing topics; • Evaluation of potentially heightened legal and security threats to participants before beginning engagement in CAHRAs or repressive environments; • Involvement of affected stakeholders in verifying that protection measures are actually working in practice or if they need adjusting. **Resources:** • The Fair Food Program, a worker-driven social responsibility programme founded by the Coalition of Immokalee Workers, in which participating buyers commit to cease purchases from growers that violate the worker-developed code of conduct, including its retaliation protections. See: https://fairfoodprogram.org
Information for stakeholders and their representatives on how to engage throughout the due diligence process	
46. What are the most critical issues for stakeholders covered by the Directive in terms of engagement with companies at different stages of the due diligence process? What are best practices leading to an effective (including cost-effective) due diligence process?	• Focusing on the right tier of stakeholder to engage with at each stage matters for stakeholders, just as it matters for companies (Q 43). It helps ensure engagement is not tokenistic or captured by the most influential voices. • Appropriate feedback loops ensure stakeholders understand how their input was valued. • Engagement should recognise power imbalances between a company and affected stakeholders and should be designed to , including taking protective steps (Qs 44, 45). **<u>Further context:</u>** In response to Question 46, we would reiterate the points made in response to Q 43 – that credible proxies and experts are distinct and that they also complement, and do not directly substitute for, engagement with affected stakeholders themselves. All three tiers of engagement are relevant for companies and the guidance should clarify when and why. At the stages of scoping and enterprise-level prioritisation, engagement should be focused on credible proxies and experts. During in-depth assessment of prioritised general areas, direct engagement with affected stakeholders or their legitimate representatives is central. In prevention and corrective action, engagement with affected stakeholders or their legitimate representatives can test whether measures are capable of addressing root causes and how they are likely to be received. Engagement with experts can confirm whether they reflect good or leading practice in the sector or on the specific issue. In

	remediation, engagement with those who have been directly affected is essential to shape both the process of providing remedy and the outcomes around the experience and needs of those impacted. As stated in our answer to Q 43, is important that companies establish feedback loops explaining how stakeholder input has been taken into account. Without knowing how their input was used, there is little motivation for stakeholders to invest time in responding to future engagement requests. Companies should also recognise the likelihood of power imbalances and design their engagement approaches accordingly using approaches described above in answers to Qs 43-45.
47. In your experience, what the most cost-effective approaches that companies can use to involve stakeholders at the level of indirect business partners? What are pros and cons?	• At indirect partners, direct engagement is rarely feasible; companies should rely on credible proxies and collaborative/sectoral engagement. • Where collaborative, sharing/publishing findings (while protecting stakeholders) spreads cost and avoids reengaging the same stakeholders. • Art 13(6) allows engagement via industry/MSIs where leverage is limited, if procedures meet Art 13 but this is not a replacement for direct engagement where feasible, or for own employees (13(7)). **Further context:** In response to Question 47, we note that at the level of indirect business partners, direct engagement with affected stakeholders is rarely going to be feasible for companies, and that the cost-effective approach is being deliberate about which tier of stakeholder to engage with and focusing on credible proxies and collaborative approaches, not simply confining engagement to direct, tier-one relationships because that is easier – especially where that does not align with the presence of the most severe risks. As set out in our responses to Qs 6 and 11, visibility is lowest precisely where severe impacts often concentrate. This is when trusted intermediaries such as local NGOs or workers organisations that have established relationships with affected stakeholders and insight into the relevant context become particularly important. Collaborative engagement among peer companies in a sector or region can be the least burdensome for the people concerned. For example, the Better Work programme replaces separate per-brand worker interviews with a common assessment, advisory and social dialogue platform across brands, factories, governments and workers' and employers' organisations. In UK horticulture, the multi-stakeholder Seasonal Worker Scheme Taskforce — retailers, growers, scheme operators and non-profits — funds a single multilingual worker information and feedback app, Just Good Work, instead of each company separately surveying the same seasonal migrant workers. And the Freedom of Association Protocol in Indonesia, negotiated between

	unions, sportswear brands and local manufacturers and covering some 300,000 workers, shows collaborative engagement creating reach no individual buyer could achieve alone. A strong practice is to share the findings of collaborative engagement at sector level or publicly, subject to the confidentiality and stakeholder protection safeguards set out in our responses to Qs 44 and 45 — spreading cost across those who benefit, enabling smaller buyers to act on credible insights, and sparing the same stakeholders repeated approaches for the same information. Collaborative approaches to information gathering should also connect directly to collaborative approaches to prevention, mitigation and remediation where companies jointly invest in programs and initiatives that support indirect business partners to strengthen their own risk management systems. **Resources:** • Better Work, a partnership between the ILO and the IFC operating in the garment industry. See: https://betterwork.org/ • FiftyEight, Just Good Work: https://fiftyeight.io/solution/just-good-work/; on the Seasonal Worker Scheme Taskforce version, see https://justgood.work/uksws • Shift and Mondiaal FNV, *Respecting Trade Union Rights in Global Value Chains* (2019). Available at: https://shiftproject.org/wp-content/uploads/2020/05/US-Respecting-TUR-digital-RV.pdf
48. What are best practices in terms of the company's security procedures so that vulnerable stakeholders feel safe to engage (e.g., in terms of guarantees of anonymity, protection against retaliation, other)?	See our answer to Q44

49. How can companies engage with stakeholders in a way that specifically addresses and removes barriers for vulnerable stakeholders or groups (such as, depending on the context, workers representatives, indigenous peoples, women, or migrant workers)? In your view, what specific support do vulnerable stakeholders Need?	See our answers to Q44 and 45
Guidelines for supervisory authorities (specific questionnaire targeted to supervisors only)	
50. Which aspects of the CSDDD do you expect to present the greatest practical challenges for supervisory authorities when carrying out their oversight functions? What would be new challenges compared to	(1) Transparency about which companies are covered by its operations, about its methodology and approach to enforcement, the pathways for complaints and for review of its decisions, the existence of active investigations, and any formal orders or penalties imposed. (2) Hiring staff that have expertise in HRDD, and specifically with implementing the UNGPs and OECD Guidelines. It will also need staff with experience engaging with business and with civil society stakeholders. (3) Deciding which companies to prioritise for assessment. As in other areas of regulation, decisions about which companies to scrutinise will need to be risk-based. Stakeholder input will be essential in making credible decisions in this regard.

the enforcement tasks of existing supervisors (including in other policy areas)? How can the guidelines contribute to addressing those challenges?	<u>**Further context:**</u> In response to Question 50, based on our work with UN OHCHR in which we interviewed experts on administrative supervision in other relevant EU policy domains, we would highlight three key design points. First, the authority should be transparent about which companies are covered by its operations; a failure to do so has led to a loss of stakeholder trust in other contexts. It should also be transparent about its methodology and approach to enforcement, the pathways for complaints and for review of its decisions, the existence of active investigations, and any formal orders or penalties imposed. This can all help protect against perceptions that the authority is following political direction, or otherwise not acting on the basis of clear and objective criteria, in implementing its mandate and can reassure business and civil society stakeholders alike. Second, the authority will need to hire staff that have expertise in human rights and environmental due diligence, and specifically with implementing the UNGPs and OECD Guidelines. It will also need staff with experience engaging with business and with civil society stakeholders. Given that affected individuals and civil society organisations will have far fewer resources than business to proactively engage, authorities will need to address this through their own engagement approaches, including targeted outreach through established structures such as trade unions (as has been seen in at least one public instance with BAFA under the German national due diligence law). Third, authorities will need to decide which companies to prioritise for assessment. As in other areas of regulation, decisions about which companies to scrutinise will need to be risk-based. The authority's mandate should make clear that stakeholder input will be essential in making credible decisions in this regard. This input could take a number of forms. For example, the authority could bring stakeholders together on an annual basis to consult on its overall strategy, or it could establish a standing stakeholder advisory group or specific 'stakeholder challenge groups' to test the robustness of proposed regulations. There are a number of examples from different EU Member States of stakeholder consultation, including in the approaches of the Irish Commission for Regulation of Utilities; the French Agency for Food, Environmental and Occupational Health and Safety; and the Netherlands Environmental Assessment Agency. **Resource:** • Shift and UN OHCHR "Enforcement of Mandatory Due Diligence: Key Design Considerations for Administrative Supervision", https://shiftproject.org/wp-content/uploads/2021/10/Enforcement-of-Mandatory-Due-Diligence_Shift_UN-Human-Rights_Policy-Paper-2.pdf

51. Based on experience with other enforcement regimes (deforestation, conflict minerals, product safety, etc.) what types of information, documentation and/or evidence have proven most useful when checking compliance with due diligence-type obligations?	(1) Consider how authorities can incentivise greater disclosure of risks by companies as the identification and prioritisation of salient human rights issues is central to robust due diligence (2) Assess the quality and effectiveness of companies' due diligence in order to determine whether they have taken appropriate measures (3) Ability to seek insights from stakeholders into conditions on the ground that will often be outside the EU **<u>Further context:</u>** In response to Question 51, based on our work with UN OHCHR in which we interviewed experts on administrative supervision in other relevant EU policy domains, we would highlight three considerations. First, authorities will need to consider how they can help incentivise greater disclosure of risks by companies since the identification and prioritisation of salient human rights issues is central to robust due diligence. Administrative supervision could help address this by clearly sanctioning non-disclosure of known human rights and environmental risks. It could also encourage greater disclosure by allowing companies that proactively identify and disclose certain breaches a certain period in which to address the breach and any harms involved. This would draw on current practice in the area of consumer protection, but would require careful consideration about which kinds of breaches it could appropriately apply to, given the broad scope of due diligence duties. Second, authorities will need to assess the quality and effectiveness of companies' due diligence in order to determine whether they have taken "appropriate" measures. This involves a qualitative and outcomes-oriented form of supervision. At the moment, external assessments of corporate due diligence efforts tend to focus on the "observable basics" of what a company has in place, such as the existence of a human rights policy, staff with responsibility for human rights, internal training, clauses in contracts with business partners or a grievance mechanism. While an authority will certainly need to look at these more easily observable elements, it will also need to consider how well a company works to meet the standard of due diligence in practice. Administrative supervision will need to pay attention to key features of HREDD that are indicative of the seriousness of a company's efforts. These offer important signals of whether there is an authentic and consistent intent and effort within a company to both find and reduce risks to workers, communities and other affected stakeholders, as well as to the environment. Requests to companies should be proportionate and focus on whether due diligence is effective in practice, rather than primarily on documentary evidence that activities have been carried out. Third, the authority needs to be able to seek insights from affected stakeholders into conditions on the ground that will often be outside the EU. National administrative authorities should be able to call upon their home State embassies or consular offices in third countries to provide support in this regard. There is some experience with this in the National Contact Point (NCP) system.

	For example, the German embassy in India reached out to workers and their representatives in a case before the German NCP to gather information about impacts. The experience of obtaining expert input from the ILO in a dispute under the US-Mexico-Canada Agreement about alleged violations of workers' rights in Mexico also provides a useful example. ILO country offices would be a natural source of credible insight for administrative authorities into the local context with regard to labour rights, and potentially into specific situations.
52. What would be best practices (e.g., organisational steps, procedures, other mechanisms) from other policy areas that have proven useful for the coordination among supervisors? Which aspects of cooperation with other supervisors do you expect to present the greatest practical challenges in practice?	No specific response - we are focusing Shift's answers on other points
53. Which factors listed in Article 27(2) do you expect to be most difficult to operationalise when determining the level of pecuniary penalties? **[List of options]**	No specific response - we are focusing Shift's answers on other points

54. In your experience as a supervisory authority, are there circumstances characterising an infringement that raise specific questions in determining the level of fines (and that therefore should be addressed in the guidance)?	No specific response - we are focusing Shift's answers on other points
55. What features of the guidance to be issued in accordance with Article 27(4) of the CSDDD would be most helpful in assisting supervisory authorities in determining the level of penalties, in a way that contributes to a uniform fining practice across the EU?	No specific response - we are focusing Shift's answers on other points
56. Are there best practices from other policy areas (at EU or national level) that, in your view, could usefully inform sanctioning and fining decisions under the CSDDD? Please provide concrete	No specific response - we are focusing Shift's answers on other points

examples (e.g., fining guidelines, assessment frameworks, judicial approaches).	