



**Responsible Business Alliance**

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Advancing Sustainability Globally

# **RBA ROADMAP FOR EUROPEAN UNION DUE DILIGENCE**

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# EXECUTIVE SUMMARY

As one of the world's largest industry coalitions dedicated to corporate social responsibility in global supply chains, the [Responsible Business Alliance](#) (RBA) enables member companies and their suppliers to conduct human rights and environmental due diligence deep into their supply chains. As the European Union (EU) seeks to develop due diligence legislation, it is crucial to pursue alignment with existing best practices such as the due diligence standards and tools provided by the RBA.

The RBA provides members with a robust toolbox of resources including risk-assessments, validated third-party assessments, corrective action plans and remediation assistance, verification and capacity-building, which has changed the very culture of workplaces across the globe. RBA members are held accountable to a common Code of Conduct and specific compliance requirements based on their membership levels.

Founded in 2004 by a group of leading electronics companies, the RBA is now a cross-industry initiative comprised of companies committed to supporting the rights and well-being of workers and communities worldwide. The RBA also hosts several initiatives, including the Responsible Minerals, Labor and Factory Initiatives, which address specific risks in supply chains. Today the RBA and its Initiatives have nearly 400 members with combined annual revenues of greater than \$7.7 trillion, directly employing over 21.5 million people, with products manufactured in more than 120 countries.

The RBA is convinced that companies, governments and civil society have shared interests and well-aligned goals when it comes to ensuring human rights and environmental due diligence in global supply chains. No responsible company wants these conditions anywhere in their supply chain.

As an industry body, the RBA has been advancing human rights due diligence across its membership by helping companies operationalize and implement due diligence into their operations and supply chains over the past 15 years. Via the RBA, companies can develop scalable solutions that impact workers and the environment and drive continuous change and improvement.

As RBA member companies have deep supply chains with thousands of suppliers providing services to more than one industry sector, it is crucial to leverage common standards and tools along with shared leverage to achieve change.

The RBA supports efforts by European governments and the European Commission (EC) to develop a harmonized European approach to due diligence and responsible sourcing across global supply chains, as opposed to separate and independent approaches by member countries. The RBA commits to playing a constructive role in helping to define a common approach to due diligence across Europe that builds and enables industry efforts.

We welcome the inclusion of a diverse range of stakeholder views in this discussion as it is important that we learn from best practices and experiences that have already led to positive impacts for people and the planet. In our view, it is crucial to identify effective and proven ways to work collaboratively to address fundamental issues in the supply chain while providing clarity and flexibility on how companies can operationalize international recommendations and regulations and meet national and international expectations on responsible business conduct.

The February 2020 DG Justice report, “Study on due diligence requirements through the supply chain,” is a comprehensive and meaningful contribution that helps outline existing efforts while presenting various policy options to drive due diligence. Moreover, on April 29, 2020, the European Commissioner for Justice made a landmark announcement expressing his intention to pursue mandatory EU-level due diligence legislation. In this RBA Roadmap for European Union Due Diligence we outline several key principles we hope can assist European policymakers, at this early stage, in developing effective policy that optimally incentivizes due diligence:

- 1 Incentivize due diligence, through an outcome-oriented approach.
- 2 Build on existing best-in-class industry due diligence tools and best practices and promote existing industry schemes to drive collective leverage.
- 3 Ensure harmonization of requirements and policy coherence at the EU level.
- 4 Support leading international frameworks such as the UN Guiding Principles on Business and Human Rights (UNGP), the ILO Declaration on Fundamental Principles and Rights at Work and the UN Universal Declaration of Human Rights.
- 5 Pursue a “smart mix” of governmental policies to drive due diligence, including:
  - a. Harmonized public procurement requirements EU-wide;
  - b. Strengthened public-private collaboration and dialogue to address root causes that lead to human rights abuses; and
  - c. Encourage and enable governments, including in producing countries, to uphold their duty to “Protect Human Rights” aligned with the UNGP.
- 6 Develop capacity-building measures on how to design and implement due diligence for companies, specifically small and medium enterprises (SMEs), by building on industry expertise and providing support.
- 7 Set transparency expectations consistent with existing human rights reporting frameworks and disclosure requirements from other jurisdictions.

No organization, government or industry can do this alone. We are much more effective together than any one of us is individually. It is only by working collectively that we can truly address these complicated challenges. It is also important to implement multiple strategies and continually improve based on best practices and lessons learned by companies working toward common goals.

# 1 INCENTIVIZE DUE DILIGENCE, THROUGH AN OUTCOME-ORIENTED APPROACH

Future legislation should aim at encouraging companies to implement due diligence by identifying risks, mitigating impacts, providing remediation, and reporting. In our experience, effective due diligence that makes a substantive difference involves the crucial steps of comprehensive risk assessment and identifying issues, and can include finding gaps in management systems or policies. Such is a prerequisite for ensuring that when adverse impacts eventually occur, rights holders benefit from remediation. Given the complexity of supply chains and risks inherent in some markets, no supply chain is entirely issue-free. Companies fulfil their responsibilities through their commitment to continuous improvement and by remediating findings. Only when companies are encouraged to uncover issues and provide remediation to those whose rights may have been affected will supply chains meaningfully improve.

It is on these outcomes that EU legislation should evaluate companies, by pragmatically giving companies time for continual improvement and by encouraging companies to not shy away from doing due diligence. An approach that overly relies on legal liability of companies for issues found deep in supply chains or termination of contracts runs the risk of creating a “compliance only” mindset in the business community, thereby becoming detrimental to workers and the environment.

## The RBA’s Responsible Labor Initiative (RLI)

The RLI is a multi-industry, multi-stakeholder initiative focused on ensuring that the rights of workers vulnerable to forced labor in global supply chains are consistently respected and promoted. RLI and RBA member efforts have led to positive impacts for workers, including:

- Reimbursement of \$40 million in recruitment fees
- Returning tens of thousands of passports
- Breaking the cycle of exploitation by transforming the market for ethical business practices and including workers in developing solutions

## 2 BUILD ON INDUSTRY TOOLS AND PROGRAMS TO DRIVE COLLECTIVE LEVERAGE

It is important to acknowledge the effectiveness of many existing industry initiatives, tools and programs. Years of applying these tools in practice resulted in unique industry insight and practical experience with sector-specific risks, but also in continual improvement of these tools and enabled the emergence of a substantive and impactful implementation of due diligence in several sectors. It is important that EU legislation builds on this foundation.

As an industry body, the RBA has been advancing due diligence across its membership by helping companies operationalize and implement due diligence into their operations and supply chains over the past 15 years. Through our efforts we have developed a robust set of resources including risk-assessments, validated third-party assessments, corrective action and methodologies that enable remediation, verification and capacity-building, which have improved workplaces across the globe. Via the RBA, companies can develop scalable solutions that impact workers and the environment and drive continual change and improvement. When issues are identified, the RBA works with members on corrective action plans to drive improvements, increase efficiency and cascade responsible business conduct and worker protection throughout global supply chains.

### EU Conflict Minerals Regulation and the [Responsible Minerals Initiative \(RMI\)](#)

The European Union Conflict Minerals Regulation will require importers of 3TG (Tin, Tantalum, Tungsten, Gold) to undertake due diligence in line with the OECD Due Diligence Guidance for Responsible Supply Chains of Minerals from Conflict-Affected and High-Risk Areas (OECD Guidance), effective January 1, 2021. To help implement the regulation, the EU and OECD jointly developed a scheme for the recognition of industry-level due diligence programs (that can gain recognition after a successful alignment assessment with the OECD Guidance), through which individual companies comply with the regulation. The EU Conflict Minerals Regulation builds on these existing industry programs to achieve its policy goals.

The RBA's RMI is currently undergoing review to become a recognized industry due diligence scheme under the Regulation.

The RMI is the most utilized and respected resources for companies from a range of industries addressing mineral supply chain challenges in their supply chains. The RMI provides companies with tools and resources to make sourcing decisions that improve regulatory compliance and support responsible sourcing of minerals globally.

Moreover, when complex and deep-rooted issues such as conflict minerals or forced labor are identified, the RBA provides a forum where companies can come together to devise effective and scalable solutions. The RMI and RLI initiatives are practical examples of this approach.

While some voices have questioned the role and even advocated the exclusion of industry due diligence schemes, this would not address deep-rooted issues in global supply chains, and such an approach would undermine the unique impact of due diligence schemes in systematically identifying and remediating human rights impacts on an unparalleled scale. Instead, we need a collaborative dynamic that builds on scalable private sector tools and best practices to prevent, identify and address adverse impacts in supply chains.

Efforts by the RBA are aimed not only at member companies but reach far beyond as

our members push the standards in our Code of Conduct down their supply chain, thereby touching suppliers, recruiters, smelters and refiners to drive markets for responsible business conduct. By expanding these efforts across multiple industries, we can drive market transformation while creating a “race to the top” where businesses are not only doing good because it is the right thing to do but are also realizing benefits by doing so. While efforts like these take time, we are already witnessing demonstrable impact and building a public good that will extend beyond RBA members, across markets and national borders. EU-wide legislation that builds and strengthens this action can catalyze impact. The EU Conflict Minerals Regulation that comes into effect on January 1, 2021 could be an example in this regard in that it relies on a common international standard and industry schemes, and incentivizes action.

### 3 HARMONIZATION AT THE EU LEVEL

Today there is a risk that the proliferation of frameworks and regulations related to due diligence creates a daunting challenge for many companies and contributes to diverting critical resources toward reporting rather than focusing attention where the greatest risks exist and from the urgent need to work collectively to address complicated problems. EU policymakers have a unique opportunity to harmonize standards and set clear expectations for companies, which will avoid duplication of efforts and allow optimal use of companies' resources to achieve the most important positive impact for people and the planet.

We expect that such standards regulating the European internal market could potentially be globalized through their adoption by multinational companies. Therefore, this would also provide an opportunity to position the EU as a global leader in this debate and provide responsible companies an opportunity to ensure a level playing field and prioritize responsible business practices as the way to do business.

### 4 ALIGNMENT WITH INTERNATIONAL STANDARDS

Leading international frameworks such as the UN Guiding Principles on Business and Human Rights (UNGP), the ILO Declaration on Fundamental Principles and Rights at Work, the UN Universal Declaration of Human Rights, the OECD Guidelines for Multinational Enterprises and the OECD Due Diligence Guidance for Responsible Business Conduct are widely accepted and reflected in existing standards, tools and programs. It is important that future EU due diligence legislation acknowledges their effectiveness and uptake in industry practice, by aligning its efforts with these existing frameworks.

These international frameworks provide high-level principles on what is expected of companies in terms of responsible business conduct and due diligence. They crystalize expectations on companies' responsibility to identify risks, prevent adverse impacts in their supply chains, communicate progress and, where appropriate, provide remedy. The RBA Practical Guide to Implementing Responsible Business Conduct Due Diligence in Supply Chains provides an overview of major international standards on responsible business conduct and demonstrates how RBA initiatives, programs and tools help companies operationalize and live up to international supply chain due diligence expectations utilizing the OECD Due Diligence Guidance for Responsible Business Conduct as a framework.

The RBA Code of Conduct is based on leading international norms, including but not limited to the UNGP, Universal Declaration of Human Rights, ILO International Labor Standards, OECD Guidelines for Multinational Enterprises, and ISO and SA standards. The Code provides a baseline to help companies operationalize and implement due diligence into their operations and supply chains. The standards set out in the Code help ensure that working conditions are safe, workers are treated with respect and dignity, business operations are conducted ethically and responsibly, and the environment is protected.

## 5 PURSUE A “SMART MIX” OF POLICIES TO DRIVE DUE DILIGENCE

It is only through collaboration among industry players and with governments and civil society that we can drive improvements to deep-rooted developmental challenges. Industry cannot solve this challenge alone, and no one-size-fits-all solution exists.

Thus, it is critical that future EU-level legislation includes a “smart mix” of policies, legislation and other measures to stimulate greater due diligence across all actors. This should include:

- Harmonized public procurement requirements at the EU level. The RBA supports the inclusion and harmonization of responsible business conduct requirements in public procurement at the European level. Public procurement agencies across Europe are beginning to add new social and environmental requirements in contract updates with many providers. Through these contractual requirements, public buyers are looking for insight and transparency on supply chain policies and practices in the manufacturing of the products they buy. The RBA has long been at the intersection of buyers, brands and civil society. This gives us a unique perspective to see opportunities for harmonization, consolidation and consistency across Europe. Buyers are grappling with how to integrate social and environmental responsibility into purchasing decisions. The RBA Practical Guide to Transparency in Procurement maps out a spectrum that buyers can use as a resource to assess companies’ disclosures on social and environmental responsibility and meet their own sustainable purchasing goals.
- Strengthened public-private collaboration and dialogue to address root causes that lead to human rights abuses. Any potential legislation should be accompanied by increased collaboration between public and private sectors toward identifying and tackling the root causes underlying human rights risks in global supply chains. Global supply chains are by definition embedded in local socio-economic realities that cause or contribute to human rights risks associated with these supply chains. Many of these risks can only be tackled through a holistic approach that considers their root causes. Better governmental policies have the potential to solve issues at the source more effectively. Leveraging and expanding on existing dialogues in key markets and industries with leading inter-governmental organizations such as the OECD and ILO would be important.
- Encourage and enable governments to uphold their duty to “Protect Human Rights” aligned with the UNGP. It is crucial that future EU-level due diligence efforts promote and support local governments’ responsibility to enforce worker protections as it is their responsibility under the UNGP’s “States Duty to Protect” pillar. Involving business in the implementation of these provisions and taking a gradual, partnership-based approach that demonstrates the benefits of responsible business conduct should be a part of the EU-wide action on due diligence.

## **6 DEVELOP CAPACITY-BUILDING MEASURES ON HOW TO DESIGN AND IMPLEMENT DUE DILIGENCE FOR COMPANIES, SPECIFICALLY SMES, BY BUILDING ON INDUSTRY EXPERTISE AND PROVIDING SUPPORT**

Any EU-wide effort should acknowledge that not all companies are at the same point in their journey toward conducting greater due diligence or adopting responsible business practices. Concerns of different natures, including factors relating to costs, resources and capacity, can be barriers to the smooth uptake of these practices as required by international standards. This is why from an RBA perspective it is critical to develop a step-wise approach that gives companies time to design, develop and implement due diligence building on existing practices. It would be important to leverage existing systems and programs, as many capacity-building resources exist today and would benefit from wider dissemination through public-private partnerships. Small and medium-sized enterprises should also receive support. The objective should not be to sanction but to incentivize and support efforts to drive continuous improvement in their supply chains.

## **7 SETTING TRANSPARENCY EXPECTATIONS CONSISTENT WITH EXISTING HUMAN RIGHTS REPORTING FRAMEWORKS AND DISCLOSURE REQUIREMENTS FROM OTHER JURISDICTIONS**

A critical component of effective due diligence is transparency to all stakeholders. There have been significant efforts to create internationally recognized reporting and disclosure frameworks that many responsible companies are using to report their due diligence efforts, which are widely accepted by governments, public buyers, investors and other stakeholders. It is imperative that future regulation recognizes these frameworks as acceptable for appropriate transparency, and that EU due diligence legislation is aligned with the ongoing revision of the EU Non-Financial Reporting directive. As previously mentioned, the RBA Practical Guide to Transparency in Procurement provides an overview of these frameworks and has been further enhanced with issue-specific resources such as [Modern Slavery Reporting](#) and [Responsible Mineral Sourcing Reporting](#) Toolkits developed in collaboration between the RLI, RMI and the Global Reporting Initiative.

# CONCLUSION

The RBA's mission and vision are centred on the principle of shared value; what is good for workers and the environment is good for business. The intersection of public and private due diligence is an example of implementation of this belief. Future EU due diligence legislation may take various forms. Whatever policy choices are made, due diligence can only be implemented and scaled if the wide range of general and sector-specific tools necessary for it are available. Enabling due diligence is at the core of the RBA's mission, and we stand ready to be a catalyst for the implementation of future EU due diligence legislation. Through our European office in Brussels, we aim to make ourselves available to the European institutions to provide substantial support in this endeavour.

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