Global School of Sustainability

Regulating corporate responsibility

The role, value, and limits of corporate sustainability due diligence as a regulatory tool

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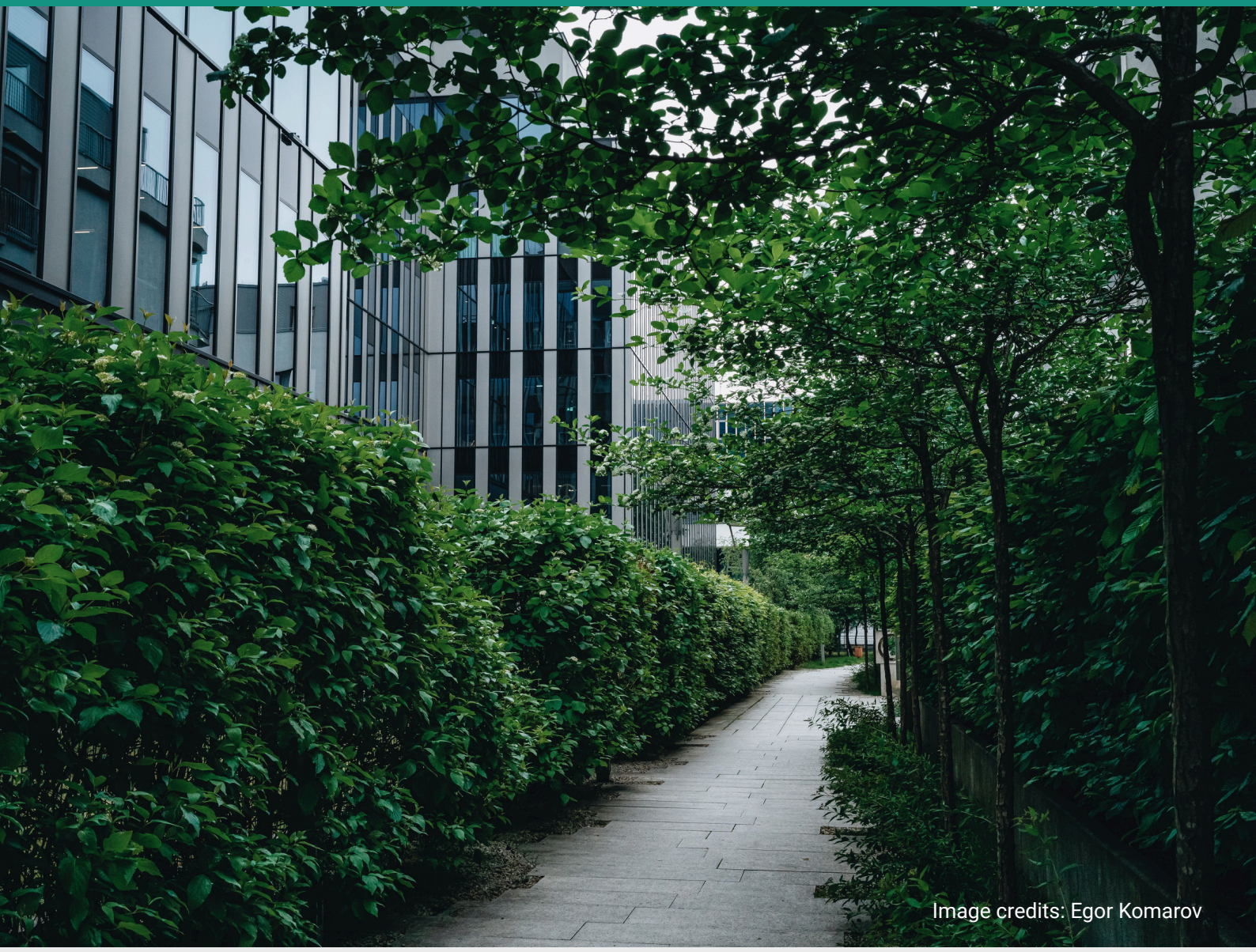


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A policy brief prepared by the Sustainability Regulation Observatory, Global School of Sustainability, London School of Economics and Political Science

About the Sustainability Regulation Observatory

The Sustainability Regulation Observatory (SRO) is an initiative of the Global School of Sustainability (GSoS) at the London School of Economics and Political Science (LSE). Drawing on expertise across the LSE Law School, the Grantham Research Institute on Climate Change and the Environment, the Department of International Relations, and other departments, it is dedicated to understanding how sustainability regulation works, where it falls short, and how it can be improved.

The SRO generates research and analysis for policymakers and practitioners on how sustainability regulation can be designed and reformed in ways that are economically sound, socially just, and politically feasible and durable. It aims to influence how such regulation is designed, reformed, and implemented across jurisdictions and globally. Its current focus areas include the political, economic, cultural, and geopolitical dynamics of the "green backlash" and how regulation can be made more durable in the face of it, and new forms of international cooperation on sustainability.

GSoS is the interdisciplinary centre for sustainability research impact at LSE. It works in partnerships to advance pioneering sustainability research, global policy engagement, and world-leading educational opportunities. Grounded in LSE's interdisciplinary excellence across the social sciences, its global networks target the systemic challenges to sustainability embedded in the world's economies, politics, and societies.

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Foreword

Regulatory tools face a highly contested policy context. They have an essential role to play in mediating societal costs, benefits, and risks, but with few friends fighting their corner against charges of economic barriers and excess red tape. Corporations face a similarly quixotic balance of increasing centrality to daily life, providing the essentials of modern consumption, but with pushback and scepticism across the public realm. Bringing the two together through the tricky lens of sustainability, via corporate sustainability due diligence (CSDD), is then to pull at some difficult seams and enter a policy landscape that risks pleasing no one.

In tracking CSDD's evolution from voluntary standard to legal obligation, this brief heads off this undue pessimism, and offers a framework for how stronger regulatory standards channelled through business decisions strike a balance between environmental gain and political pragmatism. Mandatory CSDD is accused of being too weak a sustainability instrument to bother with, while also facing dilution for being too onerous a burden on business. In reality, it cannot be both, and CSDD finds a clear role for itself in the wider package of carrots and sticks governments can deploy to steer corporate activity towards social benefit. Designed well, it can also embed best practice and drive performance in corporate actors, offering a market advantage to companies who already go beyond the minimum to account for their environmental impact.

By mapping the wider legal terrain across different jurisdictions, the brief also makes clear what CSDD cannot achieve and provides clear guidance for a range of complementary policy measures. Mandatory CSDD can help to raise standards, but it can only make a significant difference as part of a wider corporate cultural turn towards integrated reporting and a holistic view of businesses' responsibility for environmental and social impacts, both benefits and harms.

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Responsibility for the content of this brief, and for any errors, rests with the authors.

Use of generative AI

Generative artificial intelligence (AI) tools, principally Claude (Anthropic), were used in preparing this brief: to research and test formats, to proofread, and to apply the house style. All sources were checked against the original primary and secondary materials, and all text was reviewed, revised, and approved by the authors.

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The views expressed in this policy brief are those of the authors and do not necessarily reflect the positions of the Sustainability Regulation Observatory, the Global School of Sustainability, or the London School of Economics and Political Science. The authors declare no commercial or financial relationships that could be construed as a potential conflict of interest. The analysis was accurate to the best of the authors' knowledge as of November 2026.

This brief follows OSCOLA (5th edition), with citations given as endnotes and full references in the bibliography.

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Why this brief? Why now?

Corporate sustainability due diligence (CSDD) is one of the most contested regulatory ideas of our time. Over the course of a decade, it has evolved from voluntary international principles into legally binding obligations in several of the world's largest economies. However, it has recently been weakened by one of the key institutions that had previously championed it. The Corporate Sustainability Due Diligence Directive (CS3D) of the European Union (EU), which was adopted in 2024, was significantly diluted by the Omnibus package in February 2026.[1] The Omnibus increased the threshold for application from 1,000 to 5,000 employees and from €450 million to €1.5 billion in net worldwide turnover, which reduced the CS3D's field of application by 70%.[2] The amendment also removed climate transition plan obligations, abolished the planned EU-wide civil liability regime (thereby leaving enforcement to national laws), and reduced financial penalties.

Yet the EU's retreat is not the whole story. Even as the EU has partially stepped back, other jurisdictions are moving forward: South Korea, Indonesia, and Thailand are developing mandatory CSDD frameworks of their own, in Indonesia and Thailand driven partly by Organisation for Economic Co-operation and Development (OECD) accession requirements.[3] Within the EU, too, the retreat may prove reversible, since both the CS3D and the Corporate Sustainability Reporting Directive (CSRD) contain review clauses allowing their scope and design to be revisited.[4] The Omnibus may therefore represent a political recalibration rather than a permanent retreat.

This brief assesses the role, value, and limits of CSDD as a regulatory tool: what it can realistically deliver for people, the climate, and nature, and what complementary measures are needed to make it work. On that basis, it offers recommendations for policymakers. It draws on research from the LSE and other institutions as well as on an event held at the LSE ('Due Diligence on Trial') that debated the pros and cons of due diligence.[5]

What problem does corporate sustainability due diligence address?

Corporate sustainability due diligence responds to a specific structural problem: serious harm to people and the environment caused by corporate activity occurs across global value chains at a significant distance from the companies with the greatest power to prevent it, while the legal separation of corporate entities allows a lead firm to benefit from those relationships and disclaim responsibility for the harm they enable.[6] A company shapes conditions far down its supply chain through its purchasing decisions, contractual terms, and choice of partners, yet historically no law required it to use that power to prevent harm.

The United Nations (UN) Guiding Principles on Business and Human Rights (UNGPs), endorsed by the UN Human Rights Council in 2011, addressed this gap by recognising that companies have a responsibility to use their leverage (their ability to effect change in the wrongful practices of an entity that causes harm).[7] Under Principle 19, where a company causes or contributes to an adverse impact it should cease or prevent its contribution and use its leverage to mitigate any remaining harm.[8] The UNGPs require corporate action in proportion to the harm and the leverage a company holds, which tempers the objection that businesses lack the resources to act.[9] Where its leverage is insufficient, the company should seek to increase it rather than simply walk away, and disengagement is a last resort to be weighed against the harm that exit itself may cause.[10] The UNGPs, however, remain voluntary. Mandatory due diligence laws take this same responsibility and convert it into an enforceable duty. Their purpose is therefore not the production of reports, but the exercise of corporate leverage to prevent harm that would otherwise go unaddressed.

What is corporate sustainability due diligence?

Fundamentally, CSDD is a response to a question of power and responsibility: who is accountable for what happens to people and the planet across the distance of a global value chain?

CSDD requires companies to conduct ongoing due diligence across their operations, subsidiaries, and business relationships. This means they must: identify and assess actual and potential adverse human rights and environmental impacts in their value chains; take action to prevent, cease, or mitigate those impacts, prioritising the most severe and likely risks; track the effectiveness of their measures; communicate publicly on how impacts are addressed; and provide for or cooperate in remediation when harm occurs. These obligations are grounded in the UNGPs and operationalised through the OECD Due Diligence Guidance (2018).[11]

The OECD's six-step framework is the operational benchmark for all mandatory CSDD laws:

1. Embed responsible business conduct
2. Identify and assess impacts
3. Cease, prevent, and mitigate
4. Track and communicate
5. Provide remediation
6. Engage stakeholders

The core of this process is not new. The expectation that companies conduct ongoing, forward-looking due diligence across their own operations and their business relationships was already set out in the UN Guiding Principles on Business and Human Rights (2011) and the OECD Due Diligence Guidance for Responsible Business Conduct (2018), which many governments and companies had already endorsed.[12] What mandatory CSDD principally adds is legal force: it turns an expectation companies were previously free to ignore into a binding duty, enforceable through public supervision, penalties, or civil liability, so that for the first time they can be held to account for failing to meet it. The mandatory regimes are not uniform: they differ in scope, reach, and enforcement, as Table 5 sets out, but they share this shift from voluntary commitment to enforceable legal duty. Throughout this brief, "CSDD" refers to mandatory corporate sustainability due diligence: legal duties, not voluntary commitments.

Executive summary

Six insights emerge from the research reviewed for this brief. First, many businesses and the public back mandatory due diligence. Second, as a process obligation, CSDD is only as effective as the enforcement and complementary rules around it. Third, poor design invites firms to manage risks to themselves rather than harm to affected people. Fourth, much of the cost attributed to due diligence stems from poor design and regulatory instability, not the duty itself. Fifth, the rollback in the EU was driven by politics, without new evidence of economic harm. Sixth, voluntary alternatives have proved largely ineffective, making mandatory due diligence a necessary floor.

The brief examines what mandatory due diligence can and cannot achieve. Due diligence can establish a legal duty of care, generate an information architecture for accountability, create common standards across supply chains, hold companies to account for the extraterritorial effects of their conduct, drive global norm convergence, and improve the pricing of sustainability risks. However, it cannot guarantee outcomes, regulate at product level, serve as the primary tool for emissions reduction, capture fast-changing risks, or by itself distribute costs fairly and prevent regulatory arbitrage. Civil liability, product-level rules, real-time traceability, and economy-wide climate measures, among others, can fill these gaps.

The charges against due diligence fall into two groups. Some risks are real and can be mitigated: disproportionate burdens on small and medium enterprises and Global South suppliers, trade diversion, “cut and run” exits from high-risk suppliers, and tick-box compliance. The evidence does not sustain the other charges that due diligence is too costly or contrary to the interests of developing countries. The benefits of due diligence justify its largely one-off costs. Due diligence duties rest on globally negotiated standards. Harm to producing countries has stemmed from disengagement and weak design.

Mandatory corporate sustainability due diligence can raise standards, but only as part of a wider system: its value depends on enforcement, complementary regulation, access to remedy, and the capacity of producing countries and suppliers to meet the standards. Drawing on the analysis below, this brief makes eight recommendations for policymakers.

1. **Strengthen the regulatory infrastructure that supports CSDD.** Pair the due-diligence duty with stronger requirements for disclosure, product-level traceability, and prohibitions on imports of particular products where due diligence requirements are unlikely to prevent serious harm, so that each instrument reinforces the others.
2. **Shift from activity-based to impact-based metrics.** Require companies to measure whether conditions actually improve, not just whether processes exist, and pursue international alignment on common data points rather than new parallel regimes.
3. **Use the state's own market power to reward responsible conduct.** Condition public procurement and export credit on credible due diligence, turning the state's role as a major buyer into a lever for responsible business.
4. **Invest in enforcement and the institutions that deliver it.** Proactive administrative oversight reaches far more companies than litigation alone, but works only where it is adequately resourced and politically sustained.
5. **Design for durability.** Build regulation that resists rollback, including by cultivating the responsible businesses that benefit from a level playing field into a constituency that defends it.
6. **Establish meaningful civil liability and access to remedy.** Without consequences for failing to prevent harm, due diligence can be little more than paperwork. Civil liability, a reversed burden of proof, and resourced routes to remedy are necessary to give due diligence force.
7. **Build international cooperation.** Coordinate standards across markets and help producing countries meet them, so that due diligence raises standards rather than diverts trade to less-regulated markets.
8. **Apply the same evidentiary standard to deregulation as to regulation.** Rollbacks should rest on evidence about the impact of the regulation.

Six key insights from research

Table 1: Six key insights from research

1. Many businesses and the public back mandatory due diligence Treating business as a monolithic opponent of sustainability regulation misreads the political economy and weakens the case for durable regulatory design.[13] In the EU, over 200 companies, investors, and business associations publicly backed mandatory CSDD, many to level the playing field and make responsible practice visible across competitors.[14] Public opinion runs the same way: a September 2025 Ipsos poll across 10 EU countries found 58% in favour of the CS3D and 9% opposed, while an E3G/YouGov survey of 2,500 business leaders found most regard becoming more environmentally sustainable as good for their company's competitiveness.[15]	**2. CSDD is a process obligation, not an outcome guarantee** Because it requires companies to run a process rather than deliver a result, its effectiveness turns on two things around it. First, enforcement: empirical research on Europe's national due diligence laws finds that effectiveness depends on adequate state monitoring and sanctions, capacity that competent authorities have frequently lacked.[16] Second, complementary rules: public supply-chain transparency, in particular, has been shown to help monitor, enforce, and improve due diligence laws.[17] CSDD therefore works only as part of a broader regulatory ecosystem.	**3. Poor design invites a focus on corporate risk, not harm to affected groups** The CS3D directs companies to identify and address adverse impacts on human rights and the environment. In practice, though, firms tend to concentrate on the subset of those impacts that also pose a financial risk to themselves, such as reputational or legal exposure, rather than on the severity of harm to affected people.[18] Weak design entrenches this: without mandatory impact metrics, firms can count activity, such as audits conducted, instead of outcomes, such as worker voice, so a self-interested reading of the duty is hard to detect.[19]
4. Many of due diligence's costs stem from instability and poor design, not the duty itself Much of the cost to companies attributed to due diligence compliance comes from regulatory churn and poor preparation rather than the obligation itself: reopening the CS3D mid-implementation through the Omnibus created more uncertainty than steady implementation of the original framework would have.[20] Poor design shifts costs onto those least able to bear them: when rules give companies a reason to drop high-risk suppliers rather than help them improve, it is the suppliers and their workers who lose income, while the harm itself continues elsewhere as trade moves to less-regulated markets.[21] Poor design also shows in process:	**5. The EU rollback was driven by politics, not evidence of economic harm** No new evidence of economic harm prompted the dilution of the CS3D. By 2022 the Commission had completed its impact assessment, gathered consultation responses (including from more than 200 companies and investors) and resolved most implementation questions; support for the directive's enforcement mechanisms was uniform across the 10 EU countries surveyed, despite their differing economic circumstances, which is hard to square with an economic-harm explanation.[23] The rollback was instead a political recalibration, driven by a rightward shift and by business-association representatives rather than	**6. Voluntary alternatives to CSDD are largely ineffective** The case for mandatory CSDD is not that it is perfect or cost-free, but that the alternatives are demonstrably weaker — one of the few points on which its supporters and critics converge. What distinguishes effective regimes is not whether they are mandatory but whether they require companies to *act* rather than merely *report*. The United Kingdom (UK) Modern Slavery Act illustrates the limit: it is mandatory, but it requires only that companies publish a statement, not that they conduct due diligence, and studies find weak compliance and little change in behaviour as a result.[25] The most detailed comparative assessment of the regulatory options — conducted

the consultation behind the CS3D and its national predecessors involved little structured engagement with exporting-country governments, a gap that international cooperation could close.[22]	businesses themselves.[24] This underpins Recommendation 8: deregulation should meet the same evidentiary standard demanded of regulation.	for the European Commission by the British Institute of International and Comparative Law, Civic Consulting, and the LSE — reached the same conclusion: voluntary guidelines and reporting-only requirements are insufficient, while a substantive due-diligence duty is the most effective option.[26] Tellingly, even those who argue that due diligence does too little call not for a return to voluntarism but for stronger binding measures: advocates for a binding UN treaty on business and human rights press for enforceable corporate liability and access to remedy that due diligence laws, on their own, have not delivered.[27] Mandatory due diligence is therefore a floor that raises conduct above a failed baseline — necessary, even if not sufficient.

What due diligence can and cannot do

Table 2: What mandatory CSDD can and cannot do

What mandatory CSDD can do	What mandatory CSDD cannot do
Establish a legal duty of care. Mandatory CSDD converts the voluntary expectation of responsible business conduct into an enforceable legal obligation, creating conditions under which companies can be held accountable for supply chain harm they did not directly cause but had the power and knowledge to prevent. By translating the UNGPs and OECD Guidelines into law, CSDD raises the floor for all in-scope companies and reduces the competitive disadvantage faced by those already acting responsibly. Several companies advocated for mandatory CSDD precisely to **level the playing field**.[28] **Generate an information architecture for accountability.** CSDD requirements produce publicly accessible documentation — vigilance plans, risk assessments, audit records — giving regulators a basis for enforcement, and civil society and investors a legal basis for scrutiny, litigation, and pressure. As of mid-2025, 30	**Guarantee outcomes.** CSDD requires companies to take appropriate action to prevent and mitigate harm, but judges compliance by the quality of the process, not the effectiveness of the outcome.[37] A company that implements comprehensive due diligence and demonstrates genuine effort has met its legal obligation even if harm continues. Closing the gap between process and outcome is therefore less about replacing this standard than about changing who must prove what. Under a "failure to prevent" model, such as the UK's bribery and fraud offences, a robust programme is still a defence, but once harm connected to the company is shown, the burden shifts to the company to prove its procedures were adequate, rather than the claimant having to prove they were not.[38] Pairing due diligence with civil liability, a reversed burden of proof where the company controls the relevant information, and workable rules on causation is what makes remedy realistically obtainable.

What mandatory CSDD can do	What mandatory CSDD cannot do
formal notices and 13 lawsuits had been filed under France's Loi de Vigilance.[29] The Paris Court of Appeal's first ruling on the merits (La Poste, 17 June 2025) upheld the order requiring La Poste to substantially revise its vigilance plan, establishing that risk mapping must assess and prioritise risks by severity rather than describe them in general terms.[30] **Create common standards across supply chains.** CSDD obligations give companies the legal basis and commercial incentive to engage suppliers constructively. Standardised CSDD tools and common assessment frameworks can reduce duplicative audits, generating cost efficiencies at scale.[31] **Hold companies to account for the extraterritorial effects of their conduct.** Where a company sources from countries with weak labour or environmental enforcement, it can benefit from lower standards without breaking any local law.[32] Mandatory CSDD can require it to apply internationally agreed standards across its supply chain regardless of where its suppliers operate. **Generate global norm convergence.** CSDD can raise standards beyond the countries that enact it, through two distinct routes. Because the duty reaches a company's entire supply chain, firms selling into a regulating market tend to apply the standard across their operations rather than run two systems (a "Brussels effect"). And regulation by a few influential markets can prompt others to follow, particularly where the rules build on international standards such as the UNGPs and OECD Guidelines that governments and companies already recognise. South Korea, Indonesia, and Thailand are developing CSDD frameworks partly in response to this dynamic.[33] **Improve the pricing of sustainability risks and capital allocation.** The contribution here comes from due diligence itself, not from reporting as such: by requiring companies to investigate their own operations and supply chains, mandatory CSDD generates the verified, comparable information about corporate conduct on which any credible disclosure or rating depends. This is important because uncertainty about a firm's sustainability profile is itself a documented barrier to pricing: where investors cannot reliably observe that profile, the required risk premium rises and demand falls.[34] Diligence-based information removes that friction, letting	**Regulate at product level.** Mandatory CSDD requires companies to identify adverse impacts, including those from products they place on the market, but does not set product-level performance standards or information requirements. Some harms, moreover, cannot be managed by a process duty at all: where an activity causes harm too severe to be mitigated, the appropriate response is a bright-line rule prohibiting or limiting it, not diligence exercised over it.[39] Sector-specific legislation fills this gap. The clearest example is the EU's CO_2 emission-performance standards for new cars and vans, which set a binding limit on the product itself rather than on the company's process.[40] **Function as primary tool for emissions reduction.** Mandatory due diligence can support supply-chain emissions mitigation, but it is not the primary instrument for corporate decarbonisation. Emissions reduction requires national transition planning, sustainable finance, carbon pricing, and structural incentives for renewable-energy investment — instruments that operate at economy-wide or sectoral level, not only through company-level supply chain due diligence.[41] This reflects a distinction drawn in the environmental law literature: due diligence belongs to the risk-regulation tradition, which manages harm as a by-product of economic activity, whereas systemic threats such as climate breakdown call for "target laws" — legislation built around binding, quantified outcomes with set deadlines — designed to drive transformative change.[42] A climate transition duty of the kind removed from the CS3D is different in nature from the other due diligence duties: it is closer to an outcome target than to a process of risk management. France's vigilance law contains no express climate transition duty, but in June 2026 the Paris Judicial Court held that France's general duty of vigilance requires TotalEnergies to address its Scope 3 emissions.[43] The case is under appeal, and how far climate transition obligations can be read into the French duty of vigilance remains unsettled. **Capture dynamic risk.** Periodic assessments fail to track evolving supply chain conditions.[44] Climate events, political instability, and market shifts change faster than annual reporting cycles allow. Real-time traceability infrastructure, including Digital Product Passports and continuous supply chain monitoring

What mandatory CSDD can do	What mandatory CSDD cannot do
sustainability risk be priced on evidence about conduct rather than estimates, and it feeds the sustainable-finance rules that draw on it — the Sustainable Finance Disclosure Regulation (SFDR) and EU Taxonomy.[35] Because the obstacle is poor information rather than the subject matter, this benefit extends to labour and human-rights risks, not only the environmental data markets already handle. It remains largely unrealised, however: most disclosed sustainability targets are never written into financial contracts.[36]	technologies, can provide ongoing visibility that static annual assessments cannot. **Distribute costs fairly and prevent regulatory arbitrage.** Compliance costs can fall unevenly: on in-scope companies, on small and medium enterprise (SME) suppliers in sourcing countries, and ultimately on consumers. Proportionality between regulatory burden and actual risk remains inadequately addressed by most current frameworks. Companies may respond to identified high-risk suppliers by terminating relationships rather than improving conditions — legally compliant so-called "responsible disengagement" that reduces documented risk exposure while leaving the underlying harm unchanged.[45] The original supplier continues operating, now supplying companies outside CSDD scope, while the in-scope company sources from lower-risk alternatives. This can lead to supply chain restructuring rather than supply chain improvement.

The charges against due diligence: what holds up and what does not

The charges against due diligence fall into two groups: harms that are genuine and can be mitigated (Table 3), and harms that are contested and that the evidence does not bear out (Table 4). Both sets of charges were tested at the SRO's 'Due Diligence on Trial' mock trial, held at the LSE on 20 May 2026, which considered the potential benefits and harms of due diligence.[46]

Table 3: Real risks and how to mitigate them

Risk	Why it arises	How it can be mitigated
Disproportionate burden on SMEs and Global South suppliers	Small suppliers often lack the expertise, capacity, and legal resources to demonstrate compliance, and face overlapping, bespoke audits and questionnaires from multiple buyers. Under-resourced suppliers in developing countries have warned that the cost and complexity of compliance risk may push them out of business.[47]	Harmonised standards and shared assessment tools to cut duplicative audits; buyer support treated as an aid to due diligence rather than a compliance safe harbour; proportional application of standards calibrated to supplier capacity; capacity building and funding for suppliers and producing-country regulators; and phase-in periods.[48]

Risk	Why it arises	How it can be mitigated
Trade diversion initiated by suppliers	Where the cost or complexity of compliance is too high, suppliers — including smallholder farmers — can be cut out of regulated supply chains and redirect their trade to less regulated markets, so the harm continues elsewhere rather than being addressed.[49]	Capacity building so that suppliers can meet the standards rather than be excluded (see Recommendation 7). Because a supplier dropped by one market can sell to another, product-level market-access rules help where tariff conditionality cannot: instruments like the EU Forced Labour Regulation and the United States (US) Uyghur Forced Labor Prevention Act (UFLPA) bar tainted goods from a market irrespective of the buyer.[50] Mutual recognition between major markets narrows the less-regulated space a supplier could divert into.
Trade diversion initiated by companies with due diligence obligations ("cut and run")	Firms reduce documented risk by exiting relationships with high-risk suppliers rather than improving conditions. When Dyson terminated its Malaysian supplier ATA in 2021 after audits flagged forced-labour indicators, the supplier lost a buyer accounting for around 80% of its revenue, and affected migrant workers were left to pursue remedy through the English courts.[51] The same dynamic can operate at scale: the US conflict-minerals rule triggered a de facto boycott of minerals from the eastern Democratic Republic of the Congo (DRC) that undercut hundreds of thousands of artisanal miners rather than improving their conditions.[52]	Policymakers can require that companies exhaust leverage and remediation before exit, making disengagement a last resort subject to responsible-exit obligations (UNGP Principle 19), and that engagement with affected stakeholders counts as an element of adequate due diligence.[53] Governments can further encourage, without mandating, model contract clauses that build remediation and engagement duties into purchasing relationships, and internal processes that prioritise fixing conditions over switching suppliers.[54]
Over-proceduralisation and tick-box compliance	Process can become an end in itself, generating a focus on documentation that crowds out attention to improvement on the ground.	Impact-based rather than activity-based metrics (Recommendation 2); prioritisation of the most severe and likely risks, as required by the La Poste ruling; enforcement focused on outcomes rather than paperwork.

Table 4: Contested claims and what the evidence shows

Claim	What the evidence shows
Compliance costs make firms uncompetitive	The European Commission's own impact assessment concluded that the benefits of mandatory due diligence justified its costs, and BusinessEurope's January 2025 deregulation proposals acknowledged that sustainability reporting is just a fraction of all regulatory burdens.[55] Costs are largely one-off system investments, and responsibility can shift from a liability to an investment opportunity for firms.[56] The competitiveness reversal was driven more by politics than by economics. Well-designed climate and sustainability action can drive inclusive growth rather than constrain it, which shifts the question from whether developing economies can afford higher standards to how the transition to them is financed and supported.[57]
CSDD is the Global North imposing its norms on the Global South	The duty is grounded in globally negotiated standards, the UNGPs, and developing and emerging economies are themselves advancing frameworks of their own, from Indonesia and Thailand to earlier adopters of business and human rights norms in Latin America such as Colombia and Ecuador.[58] The sharper critique concerns how the rules are made, not whether they should exist. Mason and others find that Global South civil society and producing states have been largely absent from defining due diligence obligations, and call for a 'decolonizing turn' that foregrounds the agency of producing countries rather than applying Northern-designed rules to them.[59] In the same vein, Surya Deva, UN Special Rapporteur on the right to development, treats inclusive design as the condition for getting due diligence right: he cautions that mandatory due diligence laws can become a mirage for rightsholders unless they are built with their participation, supported by capacity-building, and informed by meaningful consultation with affected communities.[60]
Due diligence is net-harmful to developing countries and a discriminatory trade barrier	Trade shifts have multiple drivers, including labour supply, investment shortfalls, and energy costs, and aggregate exports from affected economies have often continued to grow even where sales to a regulating market fell. Where firms used their leverage rather than exit, the German Act has produced concrete gains: in August 2025, banana plantation workers in Costa Rica received compensation from their producer after Oxfam and the union SITRAP complained under the Act and the retailer Aldi engaged its supplier to address the abuses, while Edeka and Rewe, which did not take equivalent steps, were themselves the subject of a complaint to the German regulator.[61] Harms that occur result from disengagement and weak design, rather than the fact of the due diligence duty.

The regulatory landscape: what exists and how does it work?

Table 5: Mandatory due diligence and related instruments by jurisdiction (status in 2026)

Instrument	Jurisdiction	Model	Scope	Enforcement	Status (2026)
EU horizontal framework					
Corporate Sustainability Due Diligence Directive (CS3D) (post-Omnibus)[62]	EU	Mandatory due diligence (DD), applied via national laws	5,000+ employees / €1.5 billion+ turnover. Non-EU: €1.5 billion+ turnover generated in the EU. Approximately 70% of originally in-scope companies removed.	Administrative supervision and civil liability (member state level); fines up to 3% global turnover. Transition plan obligation removed.	Compliance from July 2029
Corporate Sustainability Reporting Directive (CSRD) / European Sustainability Reporting Standards (ESRS)[63]	EU	Reporting	Large companies (thresholds raised under Omnibus)	Financial auditing; no direct conduct obligation. Disclosure without mandatory action.	In force; revised under Omnibus
EU sector-specific instruments					
EU Deforestation Regulation (EUDR)[64]	EU	Sector DD	Operators placing seven commodities on the EU market	Fines up to 4% annual EU turnover; product confiscation; geolocation required	Enforcement from December 2026
EU Batteries Regulation[65]	EU	Sector DD and Digital Product Passport	Battery manufacturers and importers	Notified body audits; market surveillance; mandatory Battery Passport from February 2027	DD obligations from August 2027
EU Forced Labour Regulation[66]	EU	Product prohibition	All operators placing goods on EU market	Commission (extra-EU) and national authorities (intra-EU); product withdrawal and destruction	Enforcement from December 2027

Instrument	Jurisdiction	Model	Scope	Enforcement	Status (2026)
Ecodesign for Sustainable Products Regulation (ESPR) / Digital Product Passports (DPP)[67]	EU	Product and traceability	Manufacturers; textiles from 2027	Market surveillance; product withdrawal	Textiles DPP from 2027
National laws					
Australian Modern Slavery Act[68]	Australia	Disclosure	Entities with over AUD 100 million revenue	Limited; disclosure only. Reform underway: mandatory DD recommended (January 2026) and a criminal "failure to prevent" offence proposed (July 2026), not yet enacted.[69]	Since 2018; under reform
Canada S-211: Fighting Against Forced Labour and Child Labour in Supply Chains Act[70]	Canada	Disclosure	Large companies and government entities	Disclosure-based; limited enforcement	Since 2024
Corporate Duty of Vigilance Law (Loi de Vigilance)[71]	France	Mandatory DD	5,000+ employees in France / 10,000+ globally	Civil liability only; injunctive orders. 30 formal notices and 13 lawsuits filed as of mid-2025.[72] First appellate ruling on merits: Paris Court of Appeal, 17 June 2025 (La Poste).[73]	Since 2017
German Supply Chain Due Diligence Act (Lieferkettensorgfaltspflichtengesetz; LkSG)[74]	Germany	Mandatory DD	1,000+ employees in Germany	Administrative; fines up to 2% global turnover; public procurement exclusion. 851 ex officio audits and 18 fine proceedings initiated in 2024.[75]	Since 2023; reporting obligation abolished September 2025
New Zealand Modern Slavery Bill[76]	New Zealand	Disclosure with penalties	Entities with consolidated annual revenue over NZ$100 million	Penalties and director liability proposed; bipartisan bill introduced February 2026. No mandatory DD obligation.	Proposed 2026

Instrument	Jurisdiction	Model	Scope	Enforcement	Status (2026)
Norwegian Transparency Act[77]	Norway	Transparency	Large enterprises: those meeting two of three thresholds: 50+ employees, NOK 70 million turnover, or NOK 35 million balance-sheet total.	Consumer Authority oversight; duty to respond to information requests; fines	Since 2022
South Korea (Jung bill; Park bill)[78]	South Korea	Mandatory DD (proposed)	In progress; two competing bills in progress	To be confirmed; one bill includes civil liability, one does not	Bill in progress. Not yet in force.
UK Modern Slavery Act[79]	UK	Disclosure	Companies with over £36 million UK turnover	No penalties to date for poor or absent statements. The Immigration and Asylum Bill (introduced June 2026) proposes the first financial penalties (up to £1 million or 1% of turnover), mandatory reporting content, and extension to the public sector; before Parliament, not yet enacted.[80]	Since 2015
US Uyghur Forced Labor Prevention Act (UFLPA)[81]	USA	Import prohibition	Goods originating in Xinjiang	US Customs and Border Protection enforcement; rebuttable presumption of forced labour; active import detentions	Since 2022

Pattern across jurisdictions

Disclosure-only models (UK, Australia, Canada) consistently produce negligible behavioural change.[82] Mandatory due diligence models (Germany, France) produce real but bounded outcomes.[83] Sector-specific instruments (e.g. EU Deforestation Regulation, EU Batteries Regulation) are designed to deliver stronger traceability and enforceability within their scope.[84] No framework has yet combined strong scope, enforceability, and product-level traceability simultaneously.

A closer look at the most developed regime

The EU has constructed the most fully developed example: an interlocking sustainability regulatory ecosystem in which CS3D is the action layer, alongside CSRD/European Sustainability Reporting Standards (ESRS), which require companies to disclose sustainability impacts; ESPR/Digital Product Passports, which enable ongoing supply chain visibility through product-linked digital records; sector-specific instruments including the EUDR, Batteries Regulation, and Forced Labour Regulation; and the EU Taxonomy and SFDR, which classify what counts as a sustainable activity and require financial institutions to disclose how they account for sustainability, channelling capital accordingly, though both are themselves under review as part of the same simplification drive.[85] The Omnibus revisions of 2026 disrupted this architecture, widening the gap between companies required to act and those required to report, and removing the financial-sector review clause that would have assessed extending due diligence obligations to the downstream activities of investors and financial institutions.[86] This severs the intended link between company-level due diligence and investor-driven capital allocation towards responsible practices.

Eight recommendations for policymakers

The recommendations below address what makes due diligence work: the rules that compel companies to act, and the enforcement, civil society pressure, and access to remedy that give those rules effect.

1. Strengthen the regulatory infrastructure that supports CSDD

Due diligence works best as the foundation of an interlocking ecosystem in which distinct instruments perform complementary functions: a binding obligation to identify, prevent, and mitigate harm; obligatory disclosure that makes impacts visible and comparable; requirements for product-level traceability that allows conditions to be verified continuously

rather than in periodic snapshots (Digital Product Passports); and prohibitions on imports of particular products where due diligence requirements are unlikely to prevent serious harm (EU Forced Labour Regulation; US UFLPA).[87]

These functions reinforce one another only when the information each generates is used to change corporate behaviour: informing sourcing, pricing, and contracting decisions, rather than being filed away to satisfy separate reporting obligations.

As Table 5 shows, disclosure-only regimes tend to produce little change in behaviour: a company can publish a report while continuing to operate as before. Due diligence has real effect only when its findings shape commercial decisions: which suppliers a company uses, on what terms, and where it invests.[88]

2. Shift from activity-based to impact-based metrics

Required reporting frameworks can go beyond counting audits, codes of conduct, and supplier questionnaires to require reporting on outcomes in the supply chain (wages paid, accident rates, freedom of association and worker representation, alongside pollution incidents and verified carbon emissions), measured consistently over time and against a baseline so that change can be interpreted. Audit- and certification-based checks can miss the very conditions they are designed to detect: the Ali Enterprises factory in Karachi held a current SA8000 social-compliance certificate, issued by its auditor just weeks before a 2012 fire killed more than 250 workers trapped behind barred windows and locked exits.[89] Activity measures still matter, but they evidence effort rather than results.

Governments should aim to base disclosure requirements on internationally aligned standards, so that meaningful data points are reported consistently rather than through a proliferation of separate regimes. A global baseline such as the International Sustainability Standards Board's (ISSB) IFRS S1 and S2 standards can provide such alignment.[90] Sector initiatives show it is achievable: the garment sector's Social & Labor Convergence Program standardises working-conditions data across facilities in more than 120 countries.[91]

Metrics should be risk-based, prioritising the most severe risks to people and the environment. These are not the same as the commercial risks a company faces, and the two do not always align; where rules blur them, firms can end up managing risk to themselves rather than preventing harm to affected people.[92] Some disclosure regimes already bridge this gap: double-materiality frameworks such as the CSRD and China's Corporate Sustainability Disclosure Standards require reporting on value-chain harm in its own right, whereas financial-materiality regimes capture it only where the resulting reputational or legal risk is financially foreseeable, which varies with a company's own rigour.[93]

Without impact metrics, companies can demonstrate compliance while measuring the wrong things, and the misapplication of risk-based approaches stays difficult to detect.

3. Use the state's own market power to reward responsible conduct

Complying with due diligence standards is not only a matter of goodwill; it is also a rational response to market pressure. That pressure already comes from the private sector (buyers, investors, and lenders that increasingly condition access on responsible conduct), but governments are themselves major buyers, financiers, and guarantors, and can apply the same pressure. Public procurement alone accounts for around 13% of gross domestic product across OECD economies.[94]

Policymakers can therefore condition public procurement and export credit on credible due diligence, turning the procurement exclusion some laws already contain (e.g. the German Supply Chain Due Diligence Act bars serious violators from public contracts) into positive preferences for firms that use their leverage to improve conditions rather than exit high-risk relationships, an approach the OECD now treats as a transversal tool for sustainable public procurement.[95]

4. Invest in enforcement and the institutions that deliver it

What distinguishes a binding due-diligence regime from the voluntary frameworks that preceded it is enforcement, and it is enforcement that most determines whether a mandatory duty changes conduct. The most important lever is proactive administrative oversight: a public authority that audits companies on its own initiative rather than waiting for claimants to bring cases. On the record so far, this reaches far more companies than the reactive, litigation-dependent civil model: BAFA, Germany's Federal Office for Economic Affairs and Export Control, conducted 851 ex officio audits in 2024, whereas France's Loi de Vigilance has generated only 13 lawsuits in eight years.[96] Civil litigation has produced landmark rulings that administrative oversight has not (La Poste; TotalEnergies), but only routine public monitoring delivers system-wide coverage rather than case-by-case redress.[97] For this to work, competent authorities must be adequately resourced and penalties genuinely dissuasive: the German Supply Chain Due Diligence Act showed what this can look like, combining ex officio audits with a cooperative enforcement philosophy, escalating penalties, and exclusion from public procurement for serious violations.[98] That example also shows how fragile such oversight is: in September 2025, on government instruction, BAFA suspended its review of company reports and now pursues only the gravest violations,

pending the Act's replacement by a law transposing the CS3D.[99] Proactive oversight delivers, in other words, only where it is politically sustained (see Recommendation 5).

5. Design for durability: build regulation that sticks

The political economy of CSDD favours rollback: the companies that bear compliance costs are concentrated, well-resourced, and organised through trade associations, which lets them press their case more effectively than the dispersed workers, communities, and civil society organisations the regulation protects.[100] The Omnibus dilution shows that even adopted law can be reversed.

Durability is therefore worth designing for. Regulation tends to last when it is specific enough to be operational, when it generates constituencies that will defend its continuation, and when it builds on internationally agreed standards such as the UNGPs and OECD Guidelines. A law that codifies norms that companies already recognise tends to be stickier, because firms are not starting from scratch, and reversing it carries a visible reputational cost. Policymakers can consider durability from the outset. Durability can be shored up if a policy-feedback dynamic develops in which laws reward compliant behaviour, so that the firms benefiting become a constituency that later defends the law — illustrated by California, where clean-energy businesses helped defeat a 2010 ballot measure to repeal the state's climate law.[101] In the same vein, due diligence legislation could deliberately cultivate the responsible businesses that support a level playing field as a standing constituency for its continuation.

6. Establish meaningful civil liability and access to remedy

Without civil liability, a company that runs the due diligence process but still fails to take reasonable steps to prevent harm faces no consequence, and due diligence collapses into a paperwork exercise. Civil liability grounded in a duty of care is a key mechanism for closing that gap, provided it gives affected people a genuine route to remedy. Policymakers can, among other things: remove barriers to remedy for affected communities and representative organisations; reverse the burden of proof where the company controls the relevant information; and ensure adequate resources for legal aid and third-party litigation funding in transnational cases.

7. Build international cooperation

Due diligence raises standards only where the expected requirements can reasonably be met in the producing countries; where they cannot, it risks diverting trade to less regulated markets rather than improving conditions. Meeting this challenge has two conditions.

First, coherent standards. Governments can coordinate on what due diligence requires and how it applies to multinationals, so that companies face consistent expectations rather than divergent national interpretations. This need not mean identical rules: it can be achieved through joint official guidance, multilateral recognition of equivalent due diligence regimes, shared enforcement intelligence, and consultation between regulators across the value chain, building on existing fora such as the OECD's responsible business conduct framework and the sustainability chapters of trade agreements.[102]

Second, capacity to comply. Producing countries may need support to meet these standards. As the largest market setting the pace, the EU and other wealthier receiving jurisdictions can fund capacity-building for suppliers and competent authorities in producing countries.[103] They can also use trade instruments, such as conditionality under the EU's Generalised Scheme of Preferences (GSP+), to reward responsible business conduct, through tariff preferences for producing countries that uphold core labour and environmental standards and preferential financing or customs treatment for firms with credible due diligence.[104] This support works best alongside responsible engagement by companies themselves: using leverage to help suppliers meet standards, and treating disengagement as a last resort rather than a first response to identified risk.

8. Apply the same evidentiary standard to deregulation as to regulation

The original CS3D was adopted only after a full regulatory impact assessment, as the EU's Better Regulation rules require. The Omnibus then removed roughly 70% of companies from its scope without a comparable assessment showing that compliance would impose disproportionate harm, a failure the European Ombudsman identified as a case of maladministration.[105]

Future reviews, including those foreseen in the review clauses of both CS3D and CSRD, must be grounded in evidence. Review clauses should be used as opportunities for evidence-based recalibration, rather than arbitrary deregulation.

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