Federal Ministry of Labour and Social Affairs

SECTOR DIALOGUE
Automotive Industry

Business & Human Rights

Respecting human rights along global supply and value chains of Germany's automotive industry

Guideline
for the core element

Risk analysis

Contents

1. Introduction to the guidelines

Context

Protecting human rights is a duty of the state. This duty cannot be transferred to any other social actors. Business enterprises also have a responsibility to respect human rights. This means they must be aware of the impact of their activities on human rights, and establish due diligence processes in order to prevent, mitigate or compensate for any adverse impacts.

Against this background, the German Federal Government adopted the National Action Plan for Business and Human Rights (NAP) on 21 December 2016. The NAP is based on the United Nations Guiding Principles on Business and Human Rights (UN Guiding Principles), which the United Nations Human Rights Council adopted by consensus in 2011, thus creating an internationally recognised framework for human rights due diligence. In accordance with the content of the UN Guiding Principles, the NAP sets out the duty of the state to protect human rights and the responsibility of enterprises to respect human rights in their global supply and value chains.

Germany's Federal Government has established 'sector dialogues' to support enterprises operating in sectors with particularly high human rights risks. The dialogues are implemented by the Federal Ministry of Labour and Social Affairs (BMAS). The goal of the dialogues is to help enterprises find appropriate ways of implementing the five core elements of human rights due diligence and therefore contribute to the improvement of the human rights situation.

The five core elements are:

- human rights policy statement
- procedures for the identification of actual or potential adverse impacts on human rights
- measures to ward off potential adverse impacts and to review the effectiveness of these measures
- reporting
- grievance mechanism

In addition, from 2023 onwards, the German Supply Chain Act (Lieferkettensorgfaltspflichtengesetz, LkSG) requires certain enterprises to take appropriate action to observe human rights and environmental due diligence obligations in their supply chains.[1] As there is a great deal of overlap between the LkSG and the NAP, the sector dialogues also offer meaningful support to help enterprises meet the requirements of the Supply Chain Act.

As a key industry in the German economy, at its production sites around the world, and together with a network of suppliers, the automotive sector contributes to employment, training and economic development. Over half of the value added within the sector is generated by suppliers – from the extraction of raw materials and manufacture of inputs through to component assembly and the production of entire vehicles. At the same time, the situation in the automotive sector's globally dispersed supply and value chains poses significant human rights risks in many areas. This is particularly the case in upstream processes. Furthermore, human rights violations and corruption are more likely to occur in states where the rule of

[1] The German Supply Chain Act came into force on 1 January 2023. All enterprises based in Germany with at least 3,000 employees, regardless of their legal form, and all enterprises with a branch in Germany and at least 3,000 employees in the country, are now required to fulfil certain human rights and environmental due diligence obligations. Within affiliated enterprises, the figure for the parent company includes the total number of workers employed at all the group's companies in Germany and any employees currently on international secondments. From 1 January 2024, the threshold will fall to 1,000 employees. Small and medium-sized enterprises (SMEs) will also be affected indirectly, since enterprises subject to the LkSG will impose their own due diligence obligations on their suppliers.

law is lacking, institutions are weak, and poverty is endemic. Human rights risks that may arise in such countries include damage to the health or safety of workers and local people, discrimination, restrictions on freedom of association and violations of indigenous peoples' rights. The responsibility of the German automotive industry to design sustainable global supply and value chains and to respect human rights is therefore of great importance.

Why is there a Sector Dialogue Automotive Industry?

Enterprises in the automotive industry maintain close links with their consumers. As such, the increasingly stringent requirements surrounding sustainability performance and human rights due diligence go beyond large manufacturers and suppliers of the automotive industry. Increasingly, small and medium-sized enterprises (SMEs) must also rise to the challenge of developing responsible supply and value chains – from the extraction of raw materials to the final product and eventual disposal.

In this context, implementing human rights due diligence can be seen as a learning journey, an individual and ongoing process that each enterprise will need to monitor regularly and keep on improving.

Furthermore, the challenges involved are often complex and diverse, reflecting the highly interwoven nature of supply and value chains. Many vehicle manufacturers and suppliers are already actively engaged in the field of human rights, either as individual enterprises or through national and international initiatives. A joint sectoral approach and industry-wide cooperation can have an even greater impact given the structural similarities between supply and value chains. This is why industry actors representing enterprises, business associations and unions have come together with civil society organisations and the Federal Ministry of Labour and Social Affairs (BMAS) to establish a sector dialogue for respecting human rights along global supply and value chains of Germany's automotive industry.

The goal of the Sector Dialogue is to contribute to the improvement of the human rights situation along the industry's global supply and value chains. It focuses on the responsibility of enterprises to respect human rights. The five core elements described in the NAP support enterprises in implementing human rights due diligence in their business activities and integrating it into their operational management processes. With this goal in mind, the members of the Sector Dialogue have produced a series of guidelines for implementing the five NAP core elements. In this context, the guidelines are designed to act as both a point of reference and a toolbox for enterprises.

How do the guidelines differ from other advice?

The guidelines for the five NAP core elements of human rights due diligence differ in key areas from previous advice and therefore provide significant additional value.

- The guidelines form a collection of self-contained and structurally identical manuals that fully address the NAP requirements.
- The purpose of the NAP is to set out the UN Guiding Principles on Business and Human Rights from an implementation perspective. The guidelines reference the UN Guiding Principles and therefore contribute significantly to the implementation of the wider international framework, whose goals are explicitly recognised by all members of the Sector Dialogue.
- The guidelines include concrete references to the requirements of the Supply Chain Act (LkSG). This will help enterprises that fall under the scope of the law to meet their statutory obligations at the same time. In certain areas, the guidelines go beyond the above-mentioned policy frameworks and regulatory requirements.
- Other relevant guidance has been incorporated into the guidelines alongside examples of current business practice. The guidelines take into account the characteristics of both large enterprises and SMEs.
- With the help of the guidelines, users can review their progress towards fulfilling the NAP requirements (e.g. through checklists). In this way, they create transparency and verifiability for enterprises and their stakeholders and can demonstrate the progress made towards implementation.
- The guidelines – or parts of them – can also be used by your enterprise for training courses or as training resources.

Members of the Sector Dialogue have spent roughly two years drawing up the guidelines in a multi-stakeholder process. The strength of the guidelines lies in the wealth of knowledge and experience of individual members, and as such they have been broadly welcomed among the Sector Dialogue's various stakeholder groups.

How are the guidelines structured?

This document focuses on the core element 'Risk analysis' and

- summarises the key points in the guideline at a glance (section 2);
- clearly explains the NAP requirements for this core element and cites which parts of the LkSG apply to risk analysis (section 3);
- sets out practical and industry-specific steps to integrate the NAP requirements into business management processes (section 4);
- shows how progress towards implementation can be reviewed and made transparent in business practice (section 5);
- lists further information and sources of additional reading (sections 6.1 and 6.4);
- compares the NAP and LkSG requirements side by side in a table, with references to the implementation steps in the guideline (section 6.2);
- contains a glossary of relevant terms used in the field of human rights due diligence as well as selected definitions from the LkSG and the explanatory memorandum to the LkSG (section 6.3).

2. Core element 'Risk analysis' – the key points at a glance

As a precondition for meeting their human rights due diligence obligations, enterprises must first develop an understanding of the adverse impacts of their activities and their contractual and business relationships on human rights. By conducting a human rights risk analysis, enterprises can systematically identify, evaluate and prioritise actual and potential adverse impacts of this kind.

The results of this analysis serve four key purposes:

1. They provide the basis for specifying and implementing effective measures to prevent, mitigate and provide redress for (potential) human rights violations.
2. They are used to develop (or update) grievance mechanisms, especially when it comes to identifying relevant target groups and issues.
3. They are incorporated into your enterprise's reporting and its internal and external communications on the area of human rights.
4. They form part of your enterprise's policy statement, which sets out a public commitment to fulfil your responsibility to respect human rights and explains how you will do this.

You can use this guideline to help you implement the due diligence processes required by the NAP step by step. The result should be a continuous and formalised procedure that will enable you – both at regular intervals and on an ad hoc basis – to identify, evaluate and prioritise (potential) adverse human rights impacts along your own value chain.

The guideline proposes the following steps:

1. As part of your baseline assessment, compile all your existing human rights due diligence and, in particular, risk analysis procedures, as well as relevant internal and external information. Identify possible sources for your subsequent analysis and evaluation of risks.
2. The Sector Dialogue's shared understanding of sector-specific human rights risks along the automotive sector's global supply and value chains can serve as a starting point, allowing you to add further risks on the basis of your enterprise's own risk analysis.
3. Establish the required framework conditions and the depth and breadth of your risk analysis in line with your enterprise's specific risk profile. This should reflect:
   - the severity of (potential) adverse human rights impacts;
   - the size of your enterprise;
   - the nature of your business activities;
   - the fact that you belong to the automotive industry, i.e. a sector whose supply and value chains present significant risks to human rights.
4. Prepare an overview of your main activities and your contractual and business relationships, then identify possible areas of risk with regard to international human rights standards, also taking into account other factors (e.g. the political context of persons potentially affected by your activities or particularly vulnerable groups).
5. Prioritise. Starting with the areas of risk you identified, conduct a more detailed analysis of the risk areas that your initial evaluation suggests as potentially having a more severe impact on human rights. On this basis, draw up a list of risks to rights holders in order of severity. With a view to developing measures for each risk, add further information on the impacts, probability of occurrence, your enterprise's causal contribution and your ability to exert influence. Involve external stakeholders in your in-depth analysis of risks, above all (potentially) affected groups or their legitimate representatives. Check whether you can also do this for other, earlier steps of your risk analysis. For example, there may be opportunities to engage and consult with stakeholders when designing your risk assessment and due diligence strategy, and when identifying specific risks and risk mitigation measures.

6. Specify how frequently and under which circumstances you will conduct future risk analyses to ensure that relevant risks are reviewed at regular intervals and in response to any significant changes.
7. Integrate the steps for conducting a human rights risks analysis into your enterprise's standard processes and systems. This will ensure that you conduct a systematic, continuous, process-accompanying and sector-specific analysis of the adverse impacts of your business activities on human rights along your entire value chain.

To help you implement these steps efficiently, the guideline offers good practice examples from the automotive and other related industries as well as advice on where you can find additional information. It also highlights the LkSG requirements for risk analysis and explains which steps in the guideline are designed to support you in meeting those requirements. Finally, the guideline includes a checklist that you can use to assess your progress towards implementing the NAP's human rights due diligence requirements.

Connection to the guideline for the core element 'Measures and effectiveness tracking' – without appropriate risk analysis there are no effective measures

There is a close link between human rights risk analysis, and the development and implementation of measures. Risk analysis involves first identifying all the actual and potential adverse human rights impacts in your enterprise's value chain. Decisions on which measures you take to counter those risks will depend on other criteria:

- **Weighting and prioritisation:** As an enterprise, you are required to counter in an appropriate way all potential and actual adverse human rights impacts which you cause, to which you contribute or with which you are associated through your business activities. In practice, given that many value chains are complex, dynamic and geographically highly dispersed, and often involve reciprocal relationships between customers and suppliers, it can be difficult to address all these risks at the same time. Consequently, based on the NAP and widely accepted reference instruments such as the UN Guiding Principles, your risk analysis should assess the relative severity of a potential human rights violation compared with the other human rights impacts identified by the enterprise. Once you have completed your risk analysis, the next step is to decide on and implement measures. To begin with, enterprises should concentrate on those risks which could cause the greatest harm to people. This way, the enterprise can follow a risk-based approach that focuses initially on the (potentially) most serious impacts and then address other risks step by step.

  In practice, as you prioritise your risks and go on to develop and implement measures, you will also need to consider other criteria, in particular the probability that adverse impacts will occur, and the degree to which your enterprise can influence the actions of suppliers and business partners. These criteria are explained in greater detail in the guideline for the core element 'Measures and effectiveness tracking'.

- **Causal contribution:** The risk evaluation process also involves establishing how closely your enterprise is linked to the risks you have identified. The closer you are to an impending violation or to one that has already materialised, and the more you contribute to or directly cause that violation, the greater your responsibility to end or at least minimise the violation. An enterprise's causal contribution is therefore most decisive for choosing and implementing measures, yet it is already assessed during the risk analysis.

Think of risk analysis as a key mechanism to create more transparency

The findings of your risk analysis provide the basis for specifying and implementing appropriate measures for prevention, mitigation and redress. Don't be put off by the link between risk analysis and the question of developing countermeasures. Instead, think of risk analysis first and foremost as a mechanism that can help you create transparency. Lack of knowledge is a risk in itself. All the findings of your risk analysis will help you to gain a better understanding of the relevant issues and linkages in your own value chain so that you can fulfil your responsibility to respect human rights. It is therefore recommended that you initially conduct your risk analysis for its own sake, without linking it at this stage to the later task of developing measures.

Adapt the procedure to appropriately reflect your enterprise's size and resources

The NAP requirements provide for different levels of responsibility that reflect an enterprise's size and its position in the value chain. This is examined in greater detail in this guideline as part of the description of requirements and implementation steps. Section 6.1 draws attention to specific aids available to SMEs in the form of templates and external support services.

3. What are the requirements that risk analysis must meet?

Crucially, in order to fulfil your human rights due diligence obligations, you will need to understand the impact of your own business activities on people and their human rights along your value chain. The purpose of the risk analysis is to identify, assess and prioritise actual and potential adverse impacts on human rights. Unlike traditional business risk management, the focus here is on risks to people caused by an enterprise's activities rather than on risks to the enterprise itself. It can therefore be seen as an extension to the usual business perspective on risk. The findings serve as a basis for specifying effective measures that will prevent, mitigate or remedy adverse human rights impacts for potentially affected groups.

The purpose of the NAP is to implement the UN Guiding Principles. To this end, however, it does not fully replicate the Guiding Principles. The NAP sets out the requirements from an implementation perspective and highlights issues of particular importance. With this in mind, the NAP requirements set out in this guideline refer back to consistent stipulations and explanations in the UN Guiding Principles.

The NAP provides for different levels of responsibility. The way in which an enterprise conducts its risk analysis should appropriately reflect its size and position in the supply and value chain. The statutory obligations set out in the Supply Chain Act (LkSG), which applies only to enterprises of a certain size, differ from the NAP in some ways and are therefore explained separately in an additional section. The NAP[2] requirements are summarised at right.[3]

Establish a procedure for identifying risks

A. Establish a procedure that helps you to systematically identify potentially adverse impacts of your business activities on the human rights of potentially impacted persons along your value chain. That includes your own employees, workers in your supply chain, local populations, customers, etc.

B. Ensure that the procedure allows for a continuous, process-accompanying and sector-specific risk analysis.

C. Conduct this analysis at regular intervals for your existing activities and on an ad hoc basis. Ad hoc analysis is typically appropriate if your enterprise begins operating in new business areas or countries, acquires new equity interests, introduces new products and services or launches new projects.

D. Identify possible risks and potentially affected groups in connection with your enterprise's main activities and the associated value chains and business relationships. To this end, analyse your activities by business area, product, service or location.

Assess and prioritise the identified risks

E. Examine the risks you have identified with regard to the type of causal contribution. Distinguish between (a) risks caused directly by your enterprise, (b) risks that your enterprise plays a part in causing and (c) risks with which your enterprise is indirectly linked through its business activities.

[2] See Federal Government (2016) National Action Plan: Implementation of the UN Guiding Principles on Business and Human Rights, pages 9 and 21.

[3] Note: Section 6.3 contains a glossary of terms used in the LkSG. Section 6.2 compares the NAP and LkSG requirements side by side in a table with references to the implementation steps recommended in the guideline.

F. Once you have identified the risks, rank them in terms of 'severity'. This will help you decide which risks you need to analyse in greater detail and the order in which you should address them. Severity is based on the scale of the impact (to what extent are human rights actually or potentially damaged?), their scope (how many people are affected?) and their irremediability (to what extent are the consequences irremediable?).

G. Conduct a more detailed analysis if you identify a risk of particularly severe impacts on human rights or if you need more information in order to take appropriate measures. At a minimum, you will need to speak to (potentially) affected groups in the area and engage with both internal and outside experts in the field of human rights.

H. When choosing a method and assessing risks, you should, among other approaches, conduct your own document research, hold talks within your enterprise and with your subsidiaries and business partners, and bring in outside expertise.

Consider the following risk analysis parameters:

I. Your risk analysis must cover every tier of the value chain in the life cycle of a product or the delivery of a service.

J. The depth and breadth of your risk analysis increases with the size of your enterprise and depends on the sector in which you operate and the nature of your business activities.

K. The international human rights standards (e.g. the Universal Declaration of Human Rights, the UN's Human Rights Covenants, the ILO Core Labour Standards and the OECD Guidelines for Multinational Enterprises) form the basis for identifying possible risks.

L. Your analysis should also take account of context-specific factors such as the political situation of potentially affected persons and the vulnerability of certain groups (e.g. indigenous peoples).

What requirements does the Supply Chain Act (LkSG) impose with regard to the 'risk analysis'?[4]

Section 3 (1) sentence 1 LkSG states that enterprises must take appropriate action to fulfil the human rights and environmental due diligence obligations which relate to their supply chains with a view to preventing or minimising human rights and environmental risks and ending any violations of human rights-related or environment-related obligations. This includes **establishing a risk management system** [section 3 (1) sentence 2 no. 1 LkSG in conjunction with section 4 (1) sentence 1 LkSG], **conducting a risk analysis** as part of your risk management system [section 3 (1) sentence 2 no. 3 LkSG in conjunction with section 5 (1) sentence 1 LkSG] and, in the case of 'substantiated knowledge' of a violation by an **indirect supplier, adapting your existing risk management system** and **conducting an ad hoc risk analysis** [section 3 (1) sentence 2 no. 8 in conjunction with section 9 (2) and (3) no. 1 LkSG].

Establishing a risk management system (section 4 LkSG)

1. The risk management system must be **appropriate** and **effective** [section 4 (1) sentence 1].
2. Risk management must be enshrined **in all relevant business processes** through appropriate measures [section 4 (1) sentence 2].
3. Each enterprise must specify **internal responsibilities** for monitoring the risk management system, for example by appointing a human rights officer [section 4 (3) sentence 1], and senior management must seek information at least once a year about the work of the responsible person or persons [section 4 (3) sentence 2]. As recommended in the Federal Government's explanatory memorandum, the responsible person or persons should report directly to senior management. The memorandum also specifies that the enterprise must provide the resources needed to allow for appropriate and effective monitoring.
4. When setting up and implementing a risk management system, an enterprise must give due consideration to the **interests** of its employees, employees within its supply chains and those who may otherwise be directly affected in a protected legal position by the economic activities of the enterprise or by the economic activities of an enterprise in its supply chains [section 4 (4)].

Conducting a risk analysis (section 5 LkSG)

Section 5 (1) sentence 1 LkSG states that 'the enterprise must conduct an **appropriate** risk analysis … to identify the human rights and environment-related risks **in its own business area** and at its **direct suppliers**'. **Indirect suppliers** must also be taken into account in the following manner:

Notwithstanding the general definition, an indirect supplier is deemed to be a direct supplier if the enterprise has **'structured a direct supplier relationship in an improper manner** or has engaged in a transaction in order to circumvent the due diligence obligations with regard to the direct supplier' [section 5 (1) sentence 2 LkSG]. This scenario could arise, for example, if the enterprise were to set up a kind of 'straw man' with no significant economic activity of its own as an intermediary, solely in order to avoid or weaken the enterprise's supply chain obligations.

Section 4 (1) LkSG requires the establishment of an effective risk management system. Risk analysis is one part of this system. '**Effective** are those measures that make it possible to identify and minimise human rights and environment-related risks and to prevent, end or minimise the extent of human rights-related or environment-related obligations if the enterprise has **caused** or **contributed to** these risks or violations within the supply chain' [section 4 (2) LkSG]. In line with the Federal Government's explanatory memorandum, the term 'cause' is taken as a general principle to mean that the enterprise has either directly created the risk on its own or has contributed through its (causal) actions to the emergence or intensification of the risk.

[4] Note: The glossary in section 6.3 includes definitions of key terms used in the LkSG. Section 6.2 compares the NAP and LkSG requirements side by side in a table with references to the steps recommended in the guideline.

The reference to the supply chain makes clear that the risk can lie with the enterprise itself (i.e. in its own area of business), with a direct supplier or with an indirect supplier.

The following requirements must be met when conducting the risk analysis process:

1. The identified human rights and environment-related risks must be **weighted and prioritised appropriately** [section 5 (2) sentence 1]. 'The [appropriateness] criteria listed in section 3 (2), amongst others, are decisive in this regard' [section 5 (2) sentence 2].
2. The enterprise must ensure that the results of the risk analysis are **communicated** internally to the relevant decision-makers, such as the board of directors or the purchasing department [section 5 (3)].
3. The risk analysis must be carried out **once a year** as well as **on an ad hoc basis** if the enterprise must expect a significantly changed or significantly expanded risk situation in the supply chain, for example due to the introduction of new products, projects or a new business field [section 5 (4) sentence 1].
4. Findings from the processing of (grievance mechanism) **reports** according to section 8 (1) are to be taken into account [section 5 (4) sentence 2].

According to the Federal Government's explanatory memorandum, the success of risk analysis is crucially dependent on the enterprise establishing a clear overview of its own procurement processes, the structure, the stakeholders at its direct suppliers and the groups potentially affected by its activities. In this context, with regard to prioritisation, the LkSG allows enterprises to exercise discretion over the choice of appropriate methods for obtaining and evaluating the information needed for the risk analysis. The findings of the risk analysis provide the foundation for specifying effective preventive and remedial measures (section 6 et seq LkSG).

Implementing due diligence obligations related to risks at your indirect suppliers (section 9 LkSG)

With regard to indirect suppliers, 'the enterprise must adapt its existing risk management system' [section 9 (2) LkSG] and perform an ad hoc risk analysis in accordance with section 5 (1) to (3), i.e. for the purposes described above [section 9 (3) no. 1 LkSG] if it has 'actual indications that suggest that a violation of a human rights-related or an environment-related obligation at indirect suppliers may be possible (substantiated knowledge)'.

How are selected terms described in the LkSG and in the explanatory memorandum?

The enterprise's risk management system and its risk analysis must be appropriate. The appropriateness categories are the relevant criteria for determining risk weightings and priorities. According to section 3 (2) LkSG, the **appropriateness** of actions to meet due diligence obligations depends on:

1. the nature and extent of the enterprise's business activities;
2. the ability of the enterprise to influence the party directly responsible for a human rights or environment-related risk or for the violation of a human rights-related or environment-related obligation;
3. the severity of the violation that can typically be expected, the reversibility of the violation, and the probability of the occurrence of a violation of a human rights-related or an environment-related obligation as well as
4. the nature of the causal contribution of the enterprise to the human rights or environment-related risk or to the violation of a human rights-related or environment-related obligation.

According to the Federal Government's explanatory memorandum, all due diligence obligations are subject to the following general principle: the greater an enterprise's scope to exert influence, the more likely and more severe the anticipated violation of the protected legal position, and the greater an enterprise's causal contribution, the more effort an enterprise can reasonably be expected to make in order to prevent or end a violation. Equally, the more vulnerable a business activity (in terms of products and production sites) to human rights risks, the more important the monitoring of the supply chain as part of the enterprise's human rights risk management system.

With regard to indirect suppliers, the enterprise must adapt its existing risk management system and perform an ad hoc risk analysis if it is in possession of substantiated knowledge, for example through its own grievance mechanism (section 8 LkSG), its own findings, the relevant public authority or other sources (e.g. publicly available reports). You are assumed to have 'substantiated knowledge' if your enterprise is in possession of verifiable and credible indications of a (potential) human rights or environmental violation by an indirect supplier. Actual indications of substantiated knowledge may take the form of reports on the poor human rights situation in the region of production, the fact that an indirect supplier belongs to a sector exposed to a particularly high level of human rights or environmental risks, previous incidents involving an indirect supplier, or information about risks in a particular region in which an enterprise or multiple suppliers operate.

Damage to the environment can also lead to violations of human rights

Inevitably, the activities of enterprises and their relationships with other businesses through supply and value chains also involve impacts on the environment that may lead directly or indirectly to human rights risks as well as adverse human rights impacts. In this context, the actions of enterprises and any related environmental damage may also create human rights risks and may have an adverse impact on human rights both directly and indirectly. Air, water and soil pollution, for example, can threaten the livelihoods of local populations. If an enterprise extracts too much groundwater in a region already suffering from water shortages, for instance, it may violate the right to an adequate standard of living. Equally, the mishandling of hazardous waste may lead to human rights violations if it creates a danger to human health. Furthermore, any deliberate destruction of culturally and ritually important sites may constitute a violation of human rights, as it limits the right of people to take part in cultural life. It follows that preventive and remedial measures must also take account, at least implicitly, of any environmental damage that could have an adverse impact on human rights and that was therefore identified in the risk analysis.

With regard to environment-related obligations, the LkSG contains a number of explicit prohibitions: causing any harmful soil change, water pollution, air pollution, harmful noise emission or excessive water consumption; the manufacture, use and treatment of mercury; the production and use of persistent organic pollutants; the handling, collection, storage and disposal of waste in a manner that is not environmentally sound; and exports and imports of hazardous waste.

4. How can your enterprise implement the requirements step by step?

The purpose of a human rights risk management system is to avoid any harm to people's universal rights by analysing and evaluating risks, developing and implementing appropriate measures, and measuring the effectiveness of those measures. As an enterprise, you are required to identify, prevent and end human rights risks, or at least to minimise such risks in cases where it is either not possible to end them or if the cost of doing so would be disproportionate.

A regular risk analysis is the starting point for your risk management system and corporate due diligence processes. This will help you to systematically identify, evaluate and prioritise human rights risks. It will provide the information you need about the impacts of your own business activities on people who are connected in whatever manner to your enterprise.

The risk analysis as an important instrument for securing the success of your business

On its own, the risk analysis has no intrinsic purpose. From a business management perspective, however, it is an important instrument for ensuring the long-term success of your enterprise. Adverse impacts on human rights due to business activities often lead to operational disruption, delays and interruptions in the supply chain, productivity losses, a reduction in quality, reputational damage and fines or even penalties. As such, they can have a direct impact on the enterprise's economic success. Corruption and bribery, which often go hand in hand with human rights violations, can have similar consequences.

In addition, conducting a risk analysis can serve as a starting point to help you deal more responsibly with human rights risks, benefit from public support for human rights engagement, strengthen your relationships with employees and other stakeholders (e.g. local residents, civil society organisations, investors, city councils and municipalities) and attract business partners that prefer to work with socially responsible enterprises as a way of reducing their own risk exposure.

A shared understanding of automotive industry risks

The Sector Dialogue Automotive Industry developed a shared understanding of sector-specific human rights risks along global supply and value chains of the automotive industry. This process involved the key actors of the German automotive industry and stakeholders in the form of industry associations, trade unions, civil society organisations and the BMAS. As an enterprise, you can incorporate this shared understanding as one element of your own risk analysis and adapt it to your specific value chain and business activities.

Step by step towards your first risk analysis

Depending on your enterprise's business model, size and position in the supply and value chain, conducting a risk analysis can be a complex undertaking. You may find it helpful to begin with a pilot analysis covering a limited number of areas.

From the abstract to the specific – start your risk analysis by establishing an overview

Begin by establishing an initial overview of possible areas of risk. You can then use this overview and the areas you have identified to conduct a more detailed risk analysis.

Take a step-by-step approach, e.g. along your different business areas, products, locations, regions and business relationships. A good place to start is with your main activities and the associated value chains and business relationships. You can present your results in the form of a risk map that incorporates other relevant factors such as the political context and vulnerable groups.

Maintain an overview – be pragmatic and reduce complexity

Especially in the case of complex value chains, it is often not possible to identify all the risks at once. In practice, it may be helpful to preselect a number of value chains for analysis so that you can identify specific affected groups or human rights issues within the context of your analysis. When conducting a pilot analysis, you might also choose to focus initially on selected products or services, human rights issues, raw materials, regions, source countries and business relationships.

This approach could work as follows:

- Select the raw materials you want to analyse.
- Specify the reference documents (e.g. by drawing on relevant studies) that you will use to assess the abstract risks associated with each raw material.
- Identify those of your internal products which could contain potentially risky raw materials.
- Establish priorities within your enterprise's internal supply chain for these products to fully screen them for actual and potential risks.

Tip: Start with your own business operations and with your direct suppliers. For example, you can examine the location (high-risk country – yes/no) and the type of activity (sector and whether highly automated or labour-intensive).

Finally: concentrate initially on the most severe of the risks you have identified

In line with the NAP and widely accepted reference instruments such as the UN Guiding Principles, you can prioritise the risks you have identified on the basis of their severity. When you come to develop and implement measures, you should therefore concentrate on those risks which could cause the greatest harm to people.

4.1 Step 1 – Prepare, conduct a baseline assessment and use it as a starting point

In practice, it is clear that many enterprises in the automotive industry have already analysed the human rights risks associated with their activities using internal and external data sources and in collaboration with their stakeholders. This approach ranges from ad hoc analyses of press articles and evaluations of audit findings through to the consideration of grievances and the mapping of conflict-affected and high-risk areas from which they obtain raw materials and products. For many enterprises, the process of systematically identifying and managing risks is also nothing new. By way of example, a similar methodological approach is already well known in the area of operational environmental protection (e.g. EMAS– see Regulation 1221/2009). Moreover, some established management systems and processes already include action to identify human rights risks.

Through these mechanisms, initial findings and basic procedures are already in place at many enterprises and can serve as the basis for conducting an NAP-compliant risk analysis. Draw on this existing business information and these sources within your enterprise when it comes to determining your status quo.

Rules and standards

The first step is to collate all the rules and standards you have already adopted and examine how they relate to human rights risks and potentially affected groups. Your collection may include:

- internal guidelines
- codes of conduct
- contract components
- policy statements/corporate position papers
- regulatory frameworks
- work instructions
- statements

If your existing rules and standards already address human rights issues or reference particular groups, this can be taken as an indication of potential adverse human rights impacts linked to your enterprise's activities. On the other hand, in some cases, rules and standards can – unintentionally – lead to or at least facilitate adverse human rights impacts. When developing measures to prevent or mitigate such impacts, you will have to decide whether you need to adapt your enterprise's existing rules and standards (see the guideline for the core element 'Measures and effectiveness tracking').

Internal activities

You can also review your enterprise's internal activities in order to identify potential and actual human rights violations, even beyond your own premises, and then use the findings as a source of information and as part of your risk analysis. For example, you may wish to examine the following elements:

- processes for dealing with tip-offs and grievances
- stipulations for handling audit findings
- supplier evaluation methods
- processes for handling press reports
- procedures to follow when initiating new business relationships
- approach to establishing new business areas, breaking into new markets and introducing new products and services
- your environmental management system
- processes already established as part of a 'traditional' system of corporate risk management
- traditional risk and compliance management processes

Analyses and investigations

When conducting your risk analysis, you can also make use of any existing findings, analyses or investigations related to human rights. You can draw on external and internal expertise for both the baseline assessment and your subsequent work to identify risks (see also section 6.1 'Further information').

Overview of illustrative internal and external sources for the risk analysis:

Examples of internal sources

- Overview of conflict-affected and high-risk procurement countries in your supply chain
- Findings of (human rights) audits and evaluations within the purchasing department (e.g. workplace safety audits or supplier evaluations)

- Summary of reports and grievances
- Information from your risk and compliance management system
- Summary of reports from codetermination bodies
- Report on potentially conflict-affected raw materials in your own products
- Evaluation of employee surveys
- Information from your customer and business partner management and from consumer protection groups
- Overview of reports submitted via your grievance mechanisms
- Internal reporting systems
- Non-financial or sustainability reporting

Examples of external sources

- Reports and studies by NGOs, universities, government authorities, business associations and trade unions (e.g. on particular sectors, countries and human rights issues)
- List of relevant national and international press reports about the enterprise or the sector on human rights issues
- Information from sector initiatives
- List of relevant sources for monitoring the human rights situation
- Results of risk ratings and rankings
- Case law and legal commentaries

As a general principle, you should base your analysis on information that is as reliable and objective as possible. It is worth checking the integrity of the publisher and the quality of the methods used to gather the information. Drawing on a variety of reliable sources will also allow you to build up a broader and often more balanced picture.

The corresponding guidelines for the policy statement and the grievance mechanism include a recommendation to conduct a baseline assessment as part of the first step. These baseline assessments can be combined with your baseline assessment for the risk analysis. This allows you to create synergies and avoid any potential duplication.

Designate a central coordination office

Create a central coordination office, for example a human rights officer, whose role is to bring together all the information you have compiled, including the human rights risks and potentially affected groups identified in your analysis. At this point, it can be useful to hold direct talks with experienced colleagues in relevant divisions and departments, e.g. risk management, legal and compliance (to ensure that reports of corruption are also considered), purchasing, sales, sustainability, human resources and occupational safety – and in your enterprise's codetermination bodies.

4.2 Step 2 – Use the shared understanding of risks to supplement your own baseline assessment

The Sector Dialogue Automotive Industry developed a shared understanding of sector-specific human rights risks along global supply and value chains of the automotive industry. This process involved the key actors of the German automotive industry and stakeholders. The joint assessment is therefore based on the specialist knowledge and experience of participating enterprises, trade associations, trade unions, institutes, ministries and civil society organisations as well as the relevant UN Guiding Principles and the NAP. It can point you towards other potential human rights issues and groups in addition to those you identified in your internal baseline assessment (step 1).

You can use the shared understanding of sector-specific human rights risks along global supply and value chains of the automotive industry as the basis for your risk analysis regardless of the size of your enterprise and the nature of your business activities. It is essential in order to supplement the findings of your enterprise's own risk analysis, as this is the only way you can fulfil the NAP's procedural and informational requirements. This means that you will need to evaluate, adapt and supplement the typical risks and affected groups listed in this guideline to ensure that they relate to your specific value chain and business activities.

Relevant issues

These are the issues which members of the Sector Dialogue believe present the greatest risks of adverse impacts on people who are directly or indirectly linked to the business activities at their sites and in their global supply and value chains:[5]

- child labour
- forced labour and modern forms of slavery
- restrictions on freedom of assembly and association (including systematic opposition to and the suppression and sabotage of worker representation bodies)
- any form of discrimination (e.g. based on gender, age, ethnic and social origin, nationality, religion or worldview, physical or mental disability, sexual orientation)
- risks to data protection and privacy
- risks to health and safety in the workplace
- precarious employment and labour conditions (e.g. in the case of unregulated temporary work or the misuse of short-term contracts)
- corruption and bribery
- risks to consumer protection and failure to assume product responsibility
- restrictions on the rights of local communities and indigenous peoples
- damage to health, shelter or the economic resources needed for subsistence, e.g. due to water, soil or air pollution or deforestation
- restrictions on land rights
- restrictions on access to education

The shared understanding also reflects the fact that human rights violations can occur as a result of the destruction of and damage to the environment. It follows that such potential violations must also be considered.

Vulnerable groups

As part of endeavours to respect human rights, the focus of members of the Sector Dialogue is on the following groups, as their human rights are potentially at risk from business activities along the automotive industry's global supply and value chains:

- the enterprise's own employees and trainees at its national and international sites
- employees of controlled joint ventures
- employees of business partners, e.g. non-controlled joint ventures, joint venture partners, (sub)-contractors and others (see below, for example, in relation to the direct supply chain)
- groups in the upstream value chain, i.e. in the enterprise's own direct and indirect value chain: workers involved in the production and processing of raw materials and the manufacture of intermediate goods, small-scale prospectors, smallholders, the employees of service providers and direct suppliers
- groups in the enterprise's own downstream value chain: employees of customers, end customers, people with other links to the enterprise's products and services (e.g. through the enterprise's sponsorship of large sports events)
- groups regardless of their position in the value chain: people with informal or precarious employment conditions, local trade union representatives or trade union members (within the enterprise or at its suppliers, service providers, business partners, joint ventures and joint venture partners)
- groups that are linked to but do not form a direct part of the value chain (members of local communities, indigenous peoples, people living near the enterprise's local sites and family members)

Highly vulnerable groups

Within these groups, members of the Sector Dialogue have identified people who are exposed to a higher risk of adverse human rights impacts. These 'highly vulnerable groups' have specific needs and are socially marginalised or find it difficult to make their voices

[5] Note: Some of the issues listed go beyond the protected legal positions set out in the LkSG.

heard or to assert their rights out of fear of reprisals:

- women
- children
- local communities (especially indigenous peoples and their representatives)
- elderly people
- poor people
- sick people
- people with disabilities
- groups in unregulated or poorly regulated situations
- ethnic or religious minorities
- members of the lesbian, gay, bisexual, transgender, queer and intersex community
- representatives of certain groups (especially human rights defenders and trade union representatives)
- whistleblowers
- workers in precarious or informal employment
- migrant workers

Taken together, the risks and the potentially and highly vulnerable groups identified in your baseline assessment (step 1) and in the Sector Dialogue provide a broad basis for your enterprise's own risk analysis. However, this is merely a first illustrative list that will require further specification in the next step. It is possible that some of the human rights issues and potentially affected groups identified in your own initial list, or those included in the shared understanding, may prove not to be material. If so, there is no need to include them in your internal due diligence processes.

Your examination of human rights risks and potentially affected groups should also consider environmental damage as a (potential) cause of adverse human rights impacts.

4.3 Step 3 – Make sure you cover all the main risk identification parameters

The NAP explicitly requires enterprises to consider their entire supply and value chain when conducting a risk analysis. In practice, the automotive industry is frequently characterised by dynamic, complex and, to some extent, untransparent networks, with many reciprocal customer-supplier relationships. This means you will need to systematically examine all the risks that may arise at any stage of value creation in the life cycle of a product or the delivery of a service and in your business relationships. This will encompass, e.g., the extraction of raw materials, production (from individual components to the finished product), sale, use, recycling and disposal, implementing projects, investment activities, lending and sponsorship arrangements.

The term business relationships includes your enterprise's business partners, your majority and minority equity interests, controlled and non-controlled joint ventures, enterprises in your supply and value chain (including enterprises in tiers located further upstream or downstream) and public authorities or institutions that have direct links to your sites, products and services.

In the case of reciprocal customer-supplier relationships, your risk analysis should consider the business partners in question, both for your enterprise and your suppliers, and the subsequent processing and use of intermediate and end products. Under these circumstances, suppliers that also act as customers may also often be subject to human rights due diligence obligations.

The initial goal of risk analysis is to build a transparent picture of all the risks associated with your activities. One such risk is the sale of products to customers that pose a very high risk of improper use, for example in the case of 'dual use' products, i.e. technologies and goods, mainly intended for civil applications, which can also be used for military purposes. When it comes to deciding on appropriate measures, you will also need to consider your enterprise's ability to influence and its causal contribution to actual and potential adverse impacts. Accordingly, in the case of adverse impacts that are more remote from your enterprise, you are expected to meet other requirements in the area of human rights observance (see also the guideline for the core element 'Measures and effectiveness tracking').

Human rights due diligence in equity interests and joint ventures

One of the questions that often arises when conducting a risk analysis is how you should treat majority and minority equity interests and joint ventures in terms of human rights due diligence. As a general principle, your responsibility to exercise due diligence covers all your enterprise's activities and business relationships. As such, it also applies to any long-term equity interests and joint ventures, whether or not your enterprise has operational control or a controlling influence over the activities of such equity interests.

This has implications for risk analysis:

1. **Existing long-term equity interests and joint ventures:** Evaluate the risks using the criteria described above (severity, probability of occurrence, ability to influence, causal contribution, any other factors that will help you set out appropriate measures). Experience suggests that it is better to start with majority equity interests, although this is not a general rule. Information on specific actions can be found in the separate guideline for the core element 'Measures and effectiveness tracking'.

2. **Newly acquired equity interests:** In the case of mergers, acquisitions and long-term equity interests, your enterprise will 'inherit' human rights due diligence obligations. By conducting a thorough analysis of relevant risks in the due diligence phase, you can obtain a good overview of the human rights risks and impacts – and any associated (potential) costs and legal and reputational risks – that may lie ahead.

What is it essential to consider in the case of mergers and acquisitions?

What Do Human Rights Have to Do with Mergers and Acquisitions? published by Shift, contains practical advice on how enterprises can recognise and deal with human rights risks when making decisions on the structuring of mergers and acquisitions.

Going beyond your own enterprise and its business relationships – analyse the entire supply and value chain

When it comes to identifying risks, it is both logical and necessary to examine the human rights situation beyond your own 'factory gates'. This view is supported by the practical experience of enterprises in the automotive industry and by (NGO) studies (e.g. by **Brot für die Welt, Misereor and PowerShift**, **INKOTA and PowerShift**, **ÖNZ and INKOTA**, **Business and Human Rights Resource Centre**). This is based on the fact that human rights risks often lie at the beginning of the supply chain or in downstream tiers of the wider value chain, e.g. product use. Here are some examples:

- Child labour in cobalt mining in the Democratic Republic of the Congo (DRC), from where the ore is shipped to smelters, which in turn use it to make input products for the global automotive industry.
- Risk of violating the rights of local and indigenous populations in the 'lithium triangle' (Bolivia, Argentina and Chile), whose livelihoods could be threatened by the contamination or decimation of water resources.
- Damage to the health of local people caused by pollution of bodies of water and soil as a result of the improper disposal of heavy metal waste from nickel mining in Indonesia.
- Allegations that freedom of expression has been suppressed in connection with motor sport events such as the Formula 1 Grand Prix in Bahrain.
- Allegations that the rights to freedom of expression and freedom of assembly are violated at factories producing vehicle components in China.
- Human rights implications of the use of vehicle components in the arms industry.
- Excessive working hours at service centres operated by IT service providers for autonomous driving applications.

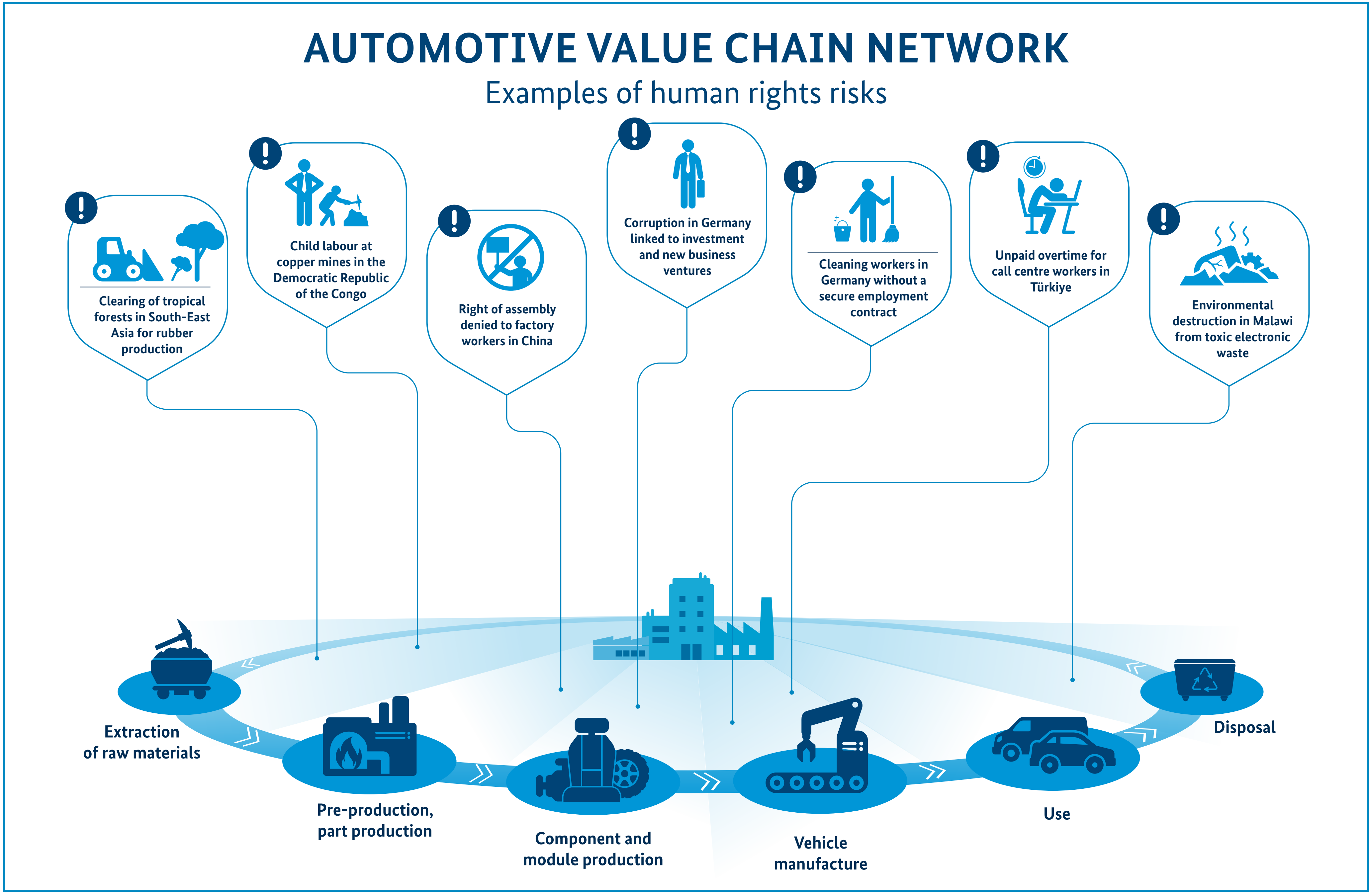


Figure 1: Examples of human rights risks

NAP vs LkSG – Which parts of the supply and value chain do you need to cover in your risk analysis?

Area (from the perspective of the enterprise applying the NAP or LkSG)	NAP	LkSG
Own business area	√	√
Direct suppliers	√	√
Indirect suppliers	√	(√)[5]
Entire upstream and downstream value chain	√	–

[5] Ad hoc in the case of substantiated knowledge of (potential) human rights violations.

As required by the NAP, and internationally recognised frameworks such as the UN Guiding Principles, your risk analysis should cover the entire upstream and downstream supply and value chain.

For the purposes of the LkSG, the term 'supply chain' includes all your products and services and every step, in or outside Germany, which is essential to the manufacture of your products or the provision of your services – from the extraction of raw materials through to final delivery to your end customers. As such, it applies to the actions of your enterprise in its own area of business, the actions of direct suppliers and the actions of indirect suppliers. The LkSG requires you to identify, weight and prioritise the risks in your own area of business and those involving your direct suppliers. If an enterprise has actual indications of a possible violation at an indirect supplier (substantiated knowledge), it must conduct an ad hoc risk analysis that includes its indirect suppliers without undue delay. Actual indications as the basis for substantiated knowledge may, for example, take the form of reports on the poor human rights situation in the region of production, the fact that an indirect supplier belongs to a sector exposed to a particularly high level of human rights or environmental risks, previous incidents involving an indirect supplier, or information about risks in a particular region in which an enterprise or multiple suppliers operate. In addition, enterprises can obtain substantiated knowledge of adverse human rights impacts in their supply and value chain through reports in the media, from NGOs and from tip-offs and grievances submitted by rights holders.

Regardless of whether an enterprise falls under the scope of the Supply Chain Act (LkSG), both this NAP implementation guideline and the Act take a proactive and preventive approach to meeting due diligence obligations. This is designed to identify risks, wherever possible, along the entire upstream and downstream supply and value chain – also in the enterprise's own economic interest.

Identify the actual risk situation

Your risk analysis must account for the local risk situation in those locations where value is added. To this end, identify and evaluate the countries and regions within your own upstream and downstream supply and value chain to make an initial assessment of whether the procurement and use of products and services could be linked to human rights risks.

Simply defining countries and regions as either 'conflict-prone' or 'conflict-free', however, is insufficient to make a definitive assessment of the human rights situation. For example, it may still be possible to obtain conflict-free raw materials through a responsible business partner operating in a conflict-affected or high-risk country. Equally, products sourced from a country in the EU classed as low risk may still be associated with human rights violations. As an enterprise, you must therefore be aware that human rights violations can occur in any country. Consequently, in addition to a regional risk analysis, you must conduct risks analyses for specific product groups and locations.

Human rights violations may occur in the following forms and situations, for example:

- modern forms of forced labour (e.g. taking away the identity documents of foreign workers in the agriculture, construction and cleaning staff)
- circumventing safety standards by offering bribes to licensing and supervisory bodies (e.g. in relation to fire protection in buildings and occupational safety)
- selling products to customers that violate human rights directly or indirectly through their use of those products
- damage to human health (e.g. through water pollution caused by heavy metal waste)
- providing loans to enterprises that use the money to finance projects without due regard for human rights
- obstructing the formation of worker representation bodies (e.g. through the harassment of workers or threats that they will lose their jobs)
- discrimination against lesbian, gay, bisexual, transgender and intersex people within your enterprise
- unequal pay for women and men
- disregard for minimum wage requirements in the supply chain or at the enterprise's own sites (e.g. through the use of subcontractors that violate national or German minimum wage regulations)
- excessive working hours and failure to observe break times
- disregard for the right to free, prior and informed consent (FPIC) by (potentially) affected indigenous groups

Insight into corporate practice: risk analysis as part of the Human Rights Respect System at Mercedes-Benz Group AG

In accordance with the UN Guiding Principles, Mercedes-Benz Group has implemented a variety of measures to ensure that it fulfils its human rights due diligence obligations along its value chain. These measures are based on the Human Rights Respect System, developed by Mercedes-Benz Group AG, which involves conducting systematic risk-based analyses to monitor compliance with human rights among Group companies and in the supply chain. Dialogue with rights holders, for example local workers and population groups, is a cornerstone of the Group's approach.

The first step in the Human Rights Respect System is to identify those human rights issues which are most important to Group companies based on core human rights standards. Using this information, supply chain-specific analyses are conducted yearly with the help of a human rights survey in order to identify sets of measures that address specific risks. The results of this analysis are subsequently documented and used to develop measures.
The long version of this **good practice example** is available online.

Questionnaire on human rights risks at suppliers

Using the standardised questionnaire produced by the sector initiative **Drive Sustainability**, automotive enterprises have adopted a comparable, cross-company approach to requesting information from their suppliers so that they can draw conclusions about the presence of human rights risks and other issues linked to responsible corporate governance.

You can use the questionnaire and the accompanying documentation to help you collect data in a structured manner from your own suppliers. If necessary, in consultation with trade unions and civil society actors, you can also build on the findings of this survey to gain a better understanding of the risks associated with your supply chain and classify the information provided by suppliers.

Several OEMs and a number of suppliers, some of which are members of the Sector Dialogue, use the questionnaire for their own human rights due diligence processes in the area of procurement. This ranges from incorporating it into their risk analysis in order to identify individual high-risk suppliers, and identifying trends and patterns within certain sectors and countries, through to using it as a basis for drawing up agreements on preventive measures between operational purchasing teams and suppliers.

The duty of the state and support for efforts to protect human rights

Even if a state is unable or unwilling to fulfil its duty to protect against human rights violations or is even involved in such violations, enterprises are not absolved from their responsibility to fulfil their own human rights due diligence obligations. Especially in situations where there is an increased risk of severe human rights violations, enterprises are responsible for countering the adverse human rights impacts through appropriate measures for prevention, mitigation and redress.

Although action of this kind by enterprises cannot compensate for state inaction, the risk of human rights violations should nevertheless be identified and designated as such. In this context, Germany's Federal Government fulfils its obligations to protect human rights and addresses issues of this nature at international talks on economic matters.

The Federal Government also provides a range of tools to help enterprises analyse the risks associated with their activities. Advice is available, for example, from **German missions abroad**, the **Network of German Chambers of Commerce Abroad** (AHKs) and **Germany Trade & Invest** (GTAI). Further information about the relationship between states and enterprises in areas affected by conflict can be found in the guideline for the core element 'Measures and effectiveness tracking'.

Whether small or large enterprises – it depends on the severity of possible human rights violations

The complexity and scope of your individual risk analysis can be influenced by the size of your enterprise, its industry affiliation and the nature of your activities, although these factors are not necessarily correlated. It follows that the size of an enterprise does not necessarily determine the complexity of its value chain – even the value chain of a small enterprise may include products, raw materials or services associated with a greater level of risk. However, the depth and breadth of analysis increase in line with the size of the enterprise, its industry affiliation and the nature and context of its business activities.

The size of an enterprise does not necessarily determine the complexity of its value chain.

The smaller an enterprise is, the more informal the structures for conducting a risk analysis frequently tend to be. Larger enterprises have more employees, whose human rights they have to consider. Typically, large enterprises also engage in a wider range of business activities and tend to establish more diverse business relationships in relatively complex value chains spanning more countries. Consequently, they may find that they have to deal with a potentially greater number of more serious human rights risks, while also implementing and monitoring a more complex set of due diligence obligations. On the other hand, when it comes to decision-making, communications, controls and supervision, larger enterprises generally have more comprehensive systems and procedures in place.

Against this background, the key factor to bear in mind when evaluating actual or potential adverse impacts on human rights is severity. For example, a small enterprise with only a handful of employees that trades in minerals or metals from a region where mining activities are associated with conflict or human rights violations will have a very high human rights risk profile (see step 5).

4.4 Step 4 – Identify risks

Your baseline assessment (step 1) involved putting together an initial overview of human rights risks and potentially affected groups. In step 2, you then fleshed out that analysis using the Sector Dialogue's shared understanding of sector-specific human rights risks along the global supply and value chains of the automotive industry. Based on experience, many human rights violations occur when enterprises overlook risks, or when rapidly evolving situations are recognised too late. In such cases, it can often prove impossible to take measures in good time. That is why you need to complete your analysis of the entire supply and value chain. It stands to reason that you have to identify risks before you can evaluate them.

That does not mean you have to undertake a detailed evaluation of the human rights risk of every direct or indirect business relationship and activity or of every single product and service. This would be practically impossible, especially for enterprises with complex and multi-tiered value chains involving thousands of suppliers. The same is true for small and medium-sized enterprises that have a large number of business relationships compared to their own resources. Therefore, risk analysis is much more about taking a risk-based approach. This involves identifying problems that potentially hinder or constrain people from exercising their human rights. Criteria such as the enterprise's ability to influence risks and its causal contribution come into play later on when you assess the risks of different courses of action (steps 5 and 7).

Prepare an overview of your supply and value chain and your business relationships

Start by preparing a rough overview of your own sites, products and services as well as your main business activities and relationships (e.g. suppliers, customers, controlled and non-controlled joint ventures, and joint venture partners). Many enterprises have to purchase a large number of (input) products, so they have correspondingly large supplier networks. You can reduce the level of complexity by grouping them. This kind of structured overview will make it easier to conduct a systematic risk analysis. You can use the following questions to help you prepare an overview.

Corruption and breaches of human rights due diligence obligations

The fight against corruption and bribery plays an important role in wider efforts to respect human rights. As shown in various studies, for example by Transparency International, human rights violations and corruption occur more frequently, for example, in states where the rule of law is lacking, institutions are weak and poverty is endemic. Potential human rights risks in such countries include damage to the health or safety of workers and the local population, discrimination, restrictions on freedom of association and violations of indigenous peoples' rights.

With regard to human rights due diligence processes, it is recommended that enterprises observe the following:

- As part of their human rights risk analysis, enterprises should be aware that corruption and bribery can be an indication of human rights violations.
- When developing rules and processes designed to ensure respect for human rights, you should consider measures to fight corruption and bribery as a cross-cutting task.
- Enterprises should integrate anti-corruption measures into their business processes and impose anti-corruption requirements across their supply chains. If you have not yet established processes of this kind at your enterprise, the expansion of your existing due diligence processes provides a good reason to do so and an opportunity to harness synergies.
- With regard to implementation, the recommended approach involves close collaboration between the compliance department and the various divisions and departments responsible for observing human rights.

Some examples of further reading on this subject: **Corruption as a Violation of International Human Rights**, research paper by Prof. Dr Anne Peters, in European Journal of International Law, Volume 29, Issue 4, November 2018, pages 1251–1287, Published: 14 February 2019; **Integrating Human Rights in the Anti-Corruption Agenda**, a study by the International Council on Human Rights Policy in collaboration with Transparency International, 2010; **Corruption and Human Rights: Making the Connection**, a study by the International Council on Human Rights Policy in collaboration with Transparency International, 2009.

Activities	What are the key **activities** within the enterprise itself, and within the upstream and downstream tiers of the value chain? • Material goods (e.g. extracting and processing raw materials, manufacturing pre- and intermediate products, in-house production and processing, transport, marketing and distribution, use, return, recycling, disposal) • Services (e.g. maintenance, customer support, IT, security, consulting, training, cleaning, catering, transport and logistics) • Other important business activities (e.g. sponsorship, lending, investment)
Business partners	Who are your **business partners** in the upstream and downstream value chain?
Raw materials	What are the main **raw materials** you use as ingredients in the final product (e.g. iron, copper, lithium, cobalt, platinum, nickel, rare earth metals, mica, bauxite, aluminium, leather, rubber, wool)?
Countries or regions	Which **countries or regions** are part of your value chain (e.g. your own production and distribution sites, points of origin of your raw materials, business partner and supplier locations, other key locations where value is added to the product, the countries where your product is distributed)?

Insight into corporate practice: risk management of suppliers using S ratings at Volkswagen AG, AUDI AG and Porsche AG

Volkswagen Group uses 'S' (sustainability) ratings to evaluate its (potential) affiliates with regard to their sustainability performance and to navigate potential risks. Only suppliers that achieve a positive S rating are considered eligible for a partnership. This creates a direct incentive for suppliers to improve their sustainability performance.
S ratings are based on self-disclosure surveys.

The Group recommends actions that can be taken by any suppliers that fail to meet its criteria.

Additional on-site checks can also be conducted on the basis of risk.

As well as ensuring a high degree of transparency with regard to the overall sustainability performance of its suppliers, Volkswagen Group uses the S rating system proactively to encourage long-term improvement in the sustainability performance of its affiliates.
The long version of this good practice example is available online.

Identify potentially affected individuals and groups

Once you have prepared an overview, the next task is to identify all the individuals and groups – within your own enterprise, along your supply and value chain and in your business relationships – that could be affected by any adverse impacts of your activities. Do not forget to include groups that might be affected indirectly as a result of any environmental damage and impairment. Particular attention should be paid to 'vulnerable' groups. This term is used for people who are socially disadvantaged, marginalised or excluded and who find it difficult to make their voices heard or assert their rights, sometimes out of fear of reprisals. One example is the indigenous peoples of the Amazon, who are illegally displaced from their land due to forest clearance for livestock and the associated production of cowhides (see step 2).

Use recognised international reference instruments to complete your risk survey

With the help of international human rights reference instruments you can now examine which risks could apply to the potentially affected and vulnerable groups you identified in your overview. As guidance, you can use both the Sector Dialogue's shared understanding of sector-specific human rights risks along global supply and value chains of the automotive industry and the section of the Supply Chain Act (LkSG) on 'protected legal positions' (see next page under the heading 'Protected legal positions and environmental obligations as set out in the LkSG').

The following reference instruments will help you answer the question to what extent human rights may be compromised in your supply and value chain and in your business relationships:

- United Nations International Bill of Human Rights, which includes the **Universal Declaration of Human Rights**, the **Civil Covenant** and the **Social Covenant**
- Core Labour Standards of the International Labour Organization (ILO)[6]

From these reference instruments, you can deduce what human rights are and how they can be adversely affected by business activities and relationships.
To ensure that your analysis accounts for any highly vulnerable groups and human rights issues in your business environment, you can also draw on additional reference instruments, for example:

- **OECD Guidelines for Multinational Enterprises**
- **OECD Due Diligence Guidance for Responsible Supply Chains of Minerals from Conflict-Affected and High-Risk Areas**
- Other ILO standards, e.g. **ILO Convention 169**

You can draw on a wide range of information and sources, both within your enterprise and outside, to help you identify potential adverse impacts as comprehensively as possible (see step 1). It is quite possible, too, that for many tiers of your value chain you will not find any risks, in which case no further action will be required until you conduct the next analysis.

You might find the question presented on page 30 helpful when you are looking to identify specific risks based on your overview. The questions are not intended as an exhaustive checklist. It is also important to look at how they relate to each other, as the answers to some questions may depend on each other.

[6] The ILO's Core Labour Standards (also known as the Fundamental Principles) are set out in the ILO Conventions 29, 87, 98, 100, 105, 111, 138 and 182.

Protected legal positions and environmental obligations as set out in the LkSG

As set out in section 2 (1) LkSG, the term 'protected legal positions' refers to legal positions established under international conventions on the protection of human rights. A 'human rights risk' or 'environment-related risk' within the meaning of the Act is 'a condition in which, on the basis of factual circumstances, there is a sufficient probability that a violation of one of the following prohibitions is imminent' [section 2 (2) and (3)]. Within the meaning of the Act, a 'violation' in respect of a human rights or environmental obligation refers to any violation of one of the listed prohibitions [section 2 (4) LkSG]. The Annex to the Supply Chain Act lists all the international conventions on the protection of human rights. For the purposes of the LkSG, this is an exhaustive list.

The Act specifies the following prohibitions in order to protect human rights and sets out environmental obligations:

- child labour, forced labour, slavery
- disregard for occupational health and safety obligations
- disregard for the right to freedom of association
- unequal treatment, unless justified by the requirements of the employment
- withholding an adequate living wage
- causing harmful contamination of soil, water pollution, air pollution, harmful noise emission or excessive water consumption
- unlawful eviction and the unlawful taking of land, forests and waters
- hiring or use of private or public security forces with disregard for human rights
- any other act which severely impairs a protected legal position
- the manufacture, use and treatment of mercury
- the production and use of persistent organic pollutants
- the handling, collection, storage and disposal of waste in a manner that is not environmentally sound
- exports and imports of hazardous waste

Geographical risks

Geographical risks (see also 'Dealing with the particular challenges of operating in conflict-affected and high-risk areas'). Are there particular risks in the countries and regions linked to your operations, e.g. due to:

- conflicts or lack of the rule of law?
- natural disasters or serious environmental damage?
- corruption?
- discriminatory laws or social practices?

Raw material risks

Raw material risks (see p. 34 "Specific issues that enterprises must consider in the case of conflict minerals"). Are any of your raw materials potentially linked to conflicts, e.g. because:

- trade in those materials is used to finance armed groups?
- extraction harms resources due to the use of forced labour violence and other human rights violations?
- mining operations facilitate corruption, money-laundering and other criminal activities?
- the extraction process causes environmental damage, e.g. deforestation, severe levels of surface water, groundwater and air pollution, and destroys local subsistence resources?

Risks linked to specific activities

What are the risks associated with specific activities, e.g. risks to:

- freedom, health and safety?
- ecosystems and natural resources needed for support of livelihoods?
- reasonable limits on working hours?
- data protection and privacy?
- equal pay (e.g. between women and men) and living wages?

Sector-specific risks

What are the risks associated with different industries?

- Automotive
- Mining
- Services
- Textiles
- Agriculture (e.g. rubber, cotton)
- Leather
- Transport
- Recycling and waste disposal

Risks linked to specific product groups

What are the risks caused by labour-intensive operation (as opposed to automation) for product groups and at different tiers of the value chain?

Risks to vulnerable groups

What are the particular risks affecting vulnerable groups who:

- have advocated for the rights of minorities?
- are employed in precarious working conditions?
- work in a poorly regulated environment?
- belong to an ethnic or religious minority?
- have reported human rights violations?

Choose one area of your business as a 'pilot' to conduct your first risk analysis

If you are performing your first human rights risk analysis and are dealing with a complex supply and value chain, it can be helpful to start by focusing on a selection of products, services, raw materials, human rights issues, regions and tiers of your value chain and assessing the severity of any potential adverse impacts in this manageable 'pilot' area. You might, for example, start with direct suppliers and analyse their location (e.g. risk country) and the nature of their business activities (e.g. automated vs labour-intensive). You can then use that information as the basis for a broader analysis.

Insight into corporate practice – risk analysis as part of Knorr-Bremse AG's ethical recruitment policy

Among the results of its risk analysis, it emerged that temporary workers, service providers and supply chain employees were significant risk groups for Knorr-Bremse AG in terms of labour conditions. For this reason, the enterprise conducts a Group-wide review of potential risks for these categories, with an in-depth analysis on the issue of ethical recruitment. The goal of the analysis is to make the risks associated with these groups of workers visible and to address those risks whenever necessary. In future, it is intended that transparency will be created by means of a detailed questionnaire to be answered by HR and Purchasing specifically for at-risk workers as part of the recruitment process.
The long version of this good practice example is available online.

Marine freight as an example of human rights risks in the logistics sector

Over 80% of world trade is handled by sea. The container shipping industry is one of the biggest players in this market. Around 1.5 million seafarers currently live and work on merchant ships. Human rights risks can be found in the supply and value chains of enterprises in the form of excessive overtime, insufficient rest days, low pay and no healthcare. These risks were exacerbated by the COVID-19 pandemic, which left seafarers stranded on their ships, unable to leave and return to their home country. The maximum permitted time spent aboard was frequently exceeded by a considerable margin. Given the resulting impact on the human rights to health, freedom and family of those seafarers, the overall situation was classed as a humanitarian crisis by the UN. When conducting your risk analysis, you may find it helpful to use databases that record anomalies found during official inspections and that are publicly accessible, e.g. Paris MoU.

Structured analysis of risks linked to specific product groups

The risk of adverse human rights impacts is often greater in the case of products manufactured using largely unautomated processes. The nature of those risks depends to a large extent on the sector and on geography. It can make sense to conduct a structured analysis of the risks linked to specific product groups, especially if your procurement team uses a dedicated system for classifying products and services, for example the UNSPSC (United Nations Standard Products and Services Code).

South Africa's platinum mining industry as an example of sector-specific human rights risks

Apart from the chemicals industry, the automotive sector is the world's largest buyer of platinum-group metals (PGM). Platinum is particularly important as a raw material in the production of vehicles with a conventional drive because PGMs are used in catalytic converters. An estimated 70% of the platinum extracted worldwide comes from mines in South Africa, where precarious labour conditions can lead to a range of human rights violations. For economic reasons, platinum is often extracted using surface-mining techniques that can lead to the displacement of local populations. Underground mining, on the other hand, poses risks to the health and safety of workers due to the frequently poor working conditions. Protests organised by South African mineworkers in 2012 were violently suppressed, costing some people their lives.
Source: Brot für die Welt (2018) (in German)

South America's lithium mining industry as an example of environment-related human rights risks

Lithium is a key raw material in the manufacture of electric vehicle (EV) batteries. According to recent estimates, South America's Lithium Triangle (Bolivia, Argentina and Chile) produces around two thirds of the global supply. However, most of the processing of lithium into cathode material for battery cells takes place in East Asia before the cells are then imported by German battery and vehicle manufacturers. This production chain is sometimes associated with adverse social and environmental impacts. Lithium mining uses vast amounts of water. This can lead to a fall in groundwater levels and the mixing of fresh and salt water. As such, it can pose a threat to agriculture and vegetation, and therefore to the livelihoods of local and indigenous communities, in the Lithium Triangle. The rights of these groups are also undermined by the fact that in most cases they have insufficient or no say in the mining companies' planning processes.
Source: research by participants in the Sector Dialogue Automotive Industry, Brot für die Welt (2018) (in German) and Brot für die Welt (2021) (in German)

Human rights risks linked to the digitalisation of product and service portfolios

Other relevant risks you may come across in your analysis relate to the digitalisation of automotive industry products and the development of new markets and business areas. One example is car-sharing services, which record and process a large volume of personal data related to customer behaviour and geolocation data. This can quickly lead to violations of the right to privacy unless the data is adequately protected and anonymised.

Moreover, insurers can use vehicle sensors as a way of monitoring the insured person's driving. The resulting data can then be used to charge a higher premium for those whose driving may be considered riskier or who have a higher rate of accidents. This may violate the prohibition against discrimination.
Source: Danish Institute for Human Rights (2020)

Artisanal cobalt mining in the Democratic Republic of the Congo as an example of human rights risks

Most of the world's cobalt deposits are located in the **Democratic Republic of the Congo** (DRC). Artisanal mining is a largely informal activity. Although it is an important source of income for the local population, it is frequently unregulated and without legal protection. Civil society organisations have criticised the current situation, citing a range of abuses. Many small-scale prospectors put themselves at risk as they lack protective clothing and safety procedures. They also expose themselves to health risks, such as developing respiratory diseases. Adolescents and even younger children often work in artisanal mining. Artisanal cobalt mining creates environmental risks, such as forest clearance and water pollution, and the camps by the mining areas are prone to violence (by the security forces and armed militias) and prostitution. There are frequent conflicts between industrial mining firms and artisanal miners over extraction rights and the lack of land for artisanal mining. Small-scale prospectors are driven off without compensation for the loss of their livelihood. They are treated unfairly by intermediaries and often receive only the smallest fraction of the profits. Value chain costs are unfairly distributed, and in many cases prospectors have to pay the additional costs of certification schemes and industry initiatives.
Source: **INKOTA-netzwerk and Ökumenisches Netz Zentralafrika (2018)**
(in German)

Use the right sources and methods

To help you identify risks in terms of (potential) human rights violations, you can draw on internal and/or independent external expertise (step 1), refer to the sources listed in section 6 and consult relevant stakeholders and potentially affected groups. The size of your enterprise and the nature and context of your business activities will play a role in your choice of suitable sources and methods. The less complex your enterprise's supply and value chain and its business relationships are, the more likely it is that a smaller selection of sources and methods will suffice in order to complete the risk inventory. Some useful methods for risk analysis are outlined below:

Methods

- Desk-based research and analysis (e.g. using the further information and sources given in sections 6.1 and 6.4 of this guideline)
- Discussions within your enterprise, at subsidiaries, with business partners and with their union representatives
- Consultation with internal and external sources of expertise and dialogue with internal/external stakeholders
- Direct talks with and surveys of external stakeholders
- Use of checklists
- On-site inspections
- Evaluations of suppliers and business partners
- Cooperation with business partners
- Participation in sector dialogues
- Holding of stakeholder dialogues
- Analysis of reports received through your grievance mechanisms
- Use of information from your compliance management system

Engaging both internal and external stakeholders

Consulting stakeholders within your enterprise and from outside is a central component of the methods outlined above. **Internal stakeholders** from various departments can be a great source of useful information. By bringing together colleagues from different departments, you can, on the one hand, ensure that your analysis incorporates the subject expertise that you need and that is available. On the other hand, this inclusive approach can increase acceptance of the findings and the resulting measures, and raise awareness of your enterprise's human rights due diligence obligations. Make sure that when selecting stakeholders you include not only permanent employees but also temporary staff and contract workers in order to gain a broad impression and engage groups potentially affected by human rights impacts.

Relevant internal contacts can usually be found in the following departments:

Departments

- Risk management
- Human resources
- Legal and compliance
- Occupational safety
- Purchasing
- Codetermination bodies
- Sales and marketing
- Logistics
- Sustainability
- Production
- Environmental management
- Quality management

Engaging **external stakeholders** can also provide access to relevant expertise and can help you better understand the perspective of (potentially) affected persons. As a minimum, you must engage with such groups (or their legitimate representatives) on the ground when conducting your detailed analysis of risks that could have particularly severe impacts (step 5). However, this approach can also be important and offer valuable insights in the earlier stages when identifying and evaluating risks.

In detail: Dealing with the particular challenges of operating in conflict-affected and high-risk areas

According to the OECD Due Diligence Guidance for Responsible Supply Chains of Minerals from Conflict-Affected and High-Risk Areas (CAHRAs), the main features of such areas are armed conflict and widespread violence or other risks of harm to people. This designation is consequently used above all for politically unstable countries or regions with deposits of minerals for which there is strong local, regional or global demand. The term 'politically unstable' is applied to countries which are currently experiencing armed conflict (e.g. a civil war), which find themselves in an unstable post-conflict situation, which have weak or non-existent systems of national governance, and in which international law and human rights are systematically violated.

There is no fundamental contradiction between the procurement of raw materials from CAHRAs and the responsibility to respect human rights, provided that enterprises exercise the required due diligence and are not directly or indirectly involved in human rights violations. As part of your risk analysis, you therefore need to ensure that you know whether your enterprise's products and services, or part of their value chain, originate from a CAHRA. In addition to the countries in which you operate, your evaluation should cover the countries from which you source materials and countries involved in their transit. Transit countries are important because transport and logistics operations can lead to human right violations in conflict-affected areas, e.g. through payment flows to armed and criminal groups.

Enterprises are expected to examine whether the countries in their supply and value chain have been identified as high-risk countries under relevant regulations. For example, the European Commission has published non-binding guidelines to help enterprises better understand the definition of 'conflict-affected and high-risk areas' and identify such areas and other risks in their minerals supply chains. In line with the EU Conflict Minerals Regulation, the European Commission has also produced an indicative, non-exhaustive list of **conflict-affected and high-risk areas**.

On its own, however, the act of assessing a country as a CAHRA does not constitute a statement on the human rights risk linked to a given procurement – in part because the human rights situation evolves rapidly. As part of your risk assessment, you should also examine the activities of your suppliers to ensure that all goods and services are responsibly sourced. Bear in mind that although countries may be classified as CAHRAs, conflicts might be concentrated at a regional or local level and might affect only certain locations, institutions and actors.

In detail: Specific issues that enterprises must consider in the case of conflict minerals

In politically unstable areas, the trade of minerals can end up financing armed groups, facilitating forced labour, violence and other human rights violations, supporting corruption and money-laundering, and financing other criminal activities abroad. Tin, tungsten, tantalum and gold, often referred to as conflict minerals, are mainly used in electronic devices and therefore also in automotive components.

The EU Conflict Minerals Regulation, which aims to stem the trade of these four minerals, came into force on 1 January 2021.[7] It covers the activities of EU importers of tin, tantalum, tungsten (and their respective ores) and gold from CAHRAs if the volume of minerals imported exceeds certain annual thresholds. Importers are obliged to perform a due diligence review of their supply chain to ensure that the import of these minerals (whether in the form of metal, ore, powder or concentrate) does not contribute to the risks set out in the OECD Due Diligence Guidance for Responsible Supply Chains of Minerals from Conflict-Affected and High-Risk Areas.

In addition, the OECD's due diligence guidance offers detailed recommendations for how enterprises can design responsible procurement systems, i.e. with respect for human rights and avoiding any contribution to conflict. The OECD also encourages small and medium-sized enterprises to implement the guidance in a manner that reflects their size and risk profile.

Overview of current conflict-affected and high-risk areas (CAHRA list)

The European Commission's CAHRA list is updated every three months. The raw materials in question are specifically named in a separate report for each CAHRA.

Other publicly accessible sources of information developed and updated by outside organisations:

- Heidelberg Conflict Barometer, https://hiik.de/?lang=en
- Rule of Law in Armed Conflicts (RULAC – Geneva Academy), http://www.rulac.org/
- Assessment Capacities Project – Global Emergency Overview, https://www.acaps.org/en/countries/
- Uppsala Conflict Data Program – Georeferenced Event Dataset, https://ucdp.uu.se/
- CrisisWatch, https://www.crisisgroup.org/
- Global Peace Index, https://www.visionofhumanity.org/
- Armed Conflict Location and Event Data (ACLED), https://acleddata.com/#/dashboard
- Fragile States Index, https://fragilestatesindex.org/

To help you identify CAHRAs, you can also refer to the sanctions lists published by the EU (EU sanctions list) and the United Nations (UN sanctions list) as another source of information. Links to other sources and indices are given in section 6.

Gaining a deeper understanding of conflict-affected and high-risk areas

For enterprises that wish to address the issue of conflict-affected and high-risk areas (CAHRAs) in greater depth as part of their risk analysis, Conflict-Sensitive Business Practice – Guidance for Extractive Industries, published by International Alert, offers a useful guideline and screening tools to support responsible conduct in high-risk and conflict areas.

[7] Regulation (EU) 2017/821 of the European Parliament and of the Council of 17 May 2017 laying down supply chain due diligence obligations for Union importers of tin, tantalum and tungsten, their ores, and gold originating from conflict-affected and high-risk areas, downloadable at https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex:32017R0821

Useful resources for working with the EU Conflict Minerals Regulation

The EU has published further resources on a dedicated information platform to help enterprises implement the Regulation. These include:

- Background information on conflict minerals, the countries affected and the Regulation (https://ec.europa.eu/trade/policy/in-focus/conflict-minerals-regulation/regulation-explained/index_de.htm)
- Tools and guides for implementing the Regulation (https://policy.trade.ec.europa.eu/development-and-sustainability/conflict-minerals-regulation/help-your-business_en)
- A seven-page 'quick guide' summarising the main points of the Regulation https://circabc.europa.eu/ui/group/8a31feb6-d901-421f-a607-ebbdd7d59ca0/library/01973777-1e98-44b2-90af-35e09a74e0d8/details

Studies, experience-sharing and tools to help you procure minerals and metals responsibly

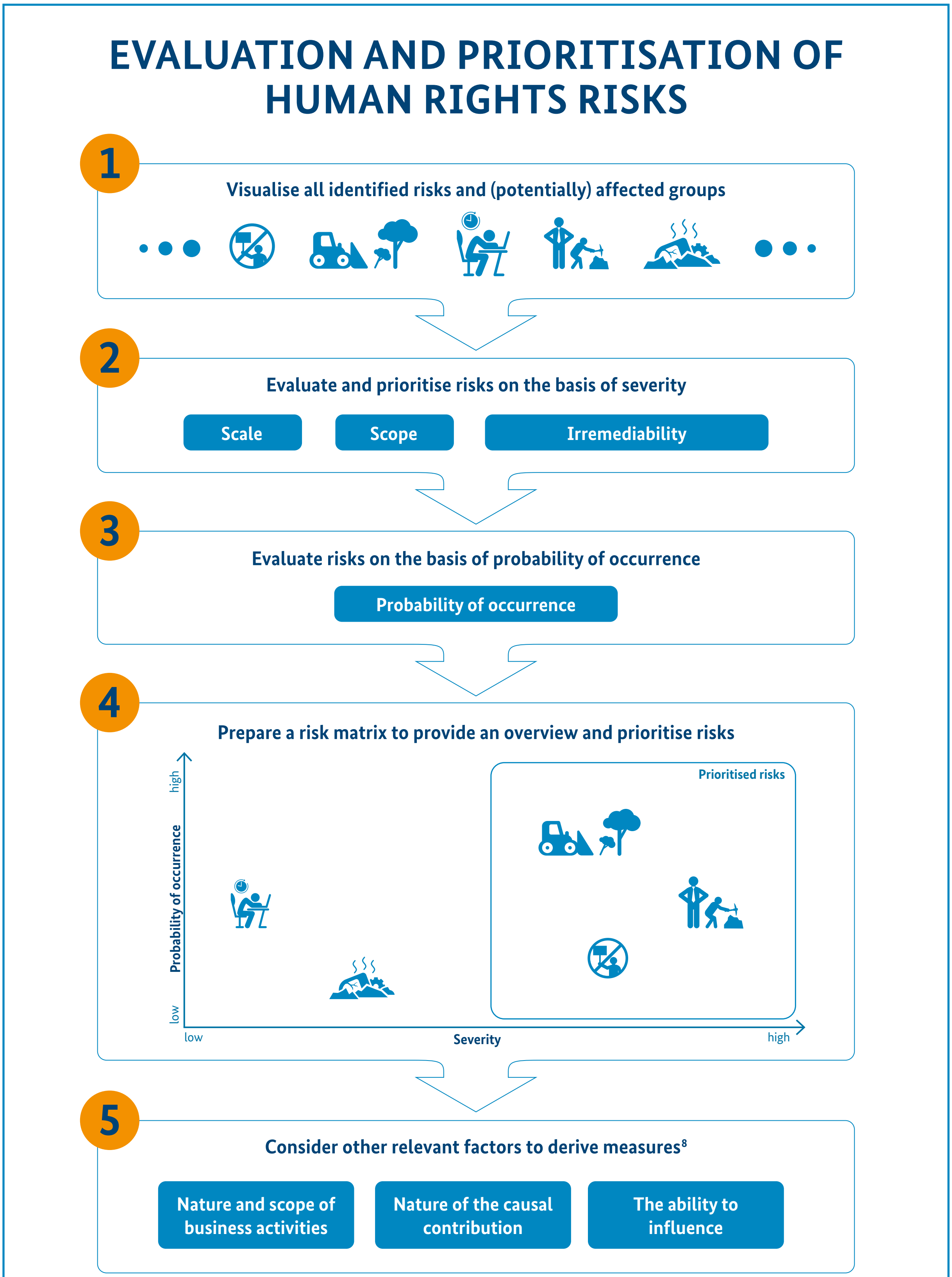
The study **Human Rights Risks in Mining: A Baseline Study** and the corresponding user guidance produced by the Max Planck Foundation for International Peace and the Rule of Law were commissioned by the Federal Institute for Geosciences and Natural Resources (BGR). They outline the main human rights risks associated with industrial and artisanal mining and with particular circumstances, e.g. conflicts. These and similar studies can help you identify general risks for your context analysis and allocate them to your value chain.

The **European Partnership for Responsible Minerals** is a joint voluntary initiative by NGOs and other civil society organisations, the industry and governments. With a view to making the trade more sustainable, the partnership has set up a forum where members can share experience of the responsible sourcing of minerals and metals and of investing in conflict-affected and high-risk mining areas. Case studies offer an insight into corporate due diligence practices and are intended to support the efforts of the organisations through practical tips and reports based on actual experience.

Based on the OECD Guidance, the Responsible Minerals Initiative provides **tools and resources** that allow enterprises to conduct individual and joint due diligence assessments within their supply chains in order to source minerals responsibly.

4.5 Step 5 – Assess risks, analyse them in greater depth and rank them in order of priority

In the last step, you produced an overview of your main business activities and relationships and matched them to (potentially) affected groups and possible human rights risks. The next task is to establish a basis for identifying relevant measures. To this end you must assess and prioritise the risks you have identified. As a general rule, there is no hierarchy of human rights, and enterprises are expected to counteract all adverse impacts on human rights. In practice, given that many value chains are complex and geographically highly dispersed, it can be difficult to address all these risks at the same time. Consequently, the NAP and other well-known reference instruments, such as the UN Guiding Principles, require enterprises to rank all the risks they identify. When you develop and implement measures, you should therefore concentrate on those risks which could cause the greatest harm to people.



[8] In accordance with section 5 (2) LkSG, risks must be prioritised not only on the basis of probability and severity but also on the basis of other appropriateness criteria as listed in section 3 (2), i.e. the 'ability of the enterprise to influence the party directly responsible', the 'nature of the causal contribution of the enterprise' and the 'nature and extent of the enterprise's business activities'.

Figure 2: Evaluation and prioritisation of human rights risks

Suggested procedure

Visualise the risks and (potentially) affected groups

To reduce complexity and make it easier to evaluate individual risks, prepare a simple and clear visual representation of the risks and (potentially) affected groups you identified in step 4.

Evaluate risks and prioritise them by impact severity

There are three criteria you can use to determine whether a potential adverse impact should be classed as severe. For evaluation purposes, you should class it as severe if it fulfils one of the following criteria:

- **Scale:** To what extent would human rights be damaged? For example, would there be a risk to life?
- **Scope:** How many people would be affected?
- **Irremediability:** Is the impact irreversible, or can the damage be compensated or rectified, e.g. in the case of severe violations causing lasting injury or the death of workers or the complete destruction of an ecosystem, taking away people's livelihoods.

The three severity criteria for human rights impacts – examples from practice

Scale means the extent of the damage, i.e. the gravity of the actual or potential impact on human rights.

- For example, the impact on a person's health is greater if that person is forced to work 14 hours a day over a longer period with very few days off, than if additional work builds up overtime credits that can be used over the six-month period prescribed in German employment law.
- While an enterprise may regard the use of land belonging to an indigenous community for economic purposes as a minor impact, it may constitute a severe restriction on the right to property if the land plays an important role in the culture, traditions and beliefs of the community.
- Changes to a factory's shift times may appear to make economic sense but could have a significant impact on workers if the new times are incompatible with their religious practices.
- Damage to a person's bodily integrity is greater if that person loses a body part due to inadequate workplace safety precautions than if a high workload leads to ill health.

Scope means the number of people that are or could be affected by an adverse impact.

- For example, if the fire safety precautions at a factory are inadequate, the entire workforce is affected, whereas a lack of protective clothing for handling chemicals will only affect those working in that area.
- If an enterprise sources key input products from a sector characterised by precarious working conditions, the scope of the impact is determined by the number of people who work in that sector.

Irremediability means the extent to which adverse impacts cannot be remediated or whether it is possible to restore the situation that existed before the potential violation.

- The chances of redress are more limited, for example, in the case of severe physical injury causing persistent damage or even the death of individuals, or if severe environmental pollution leads to a loss of biodiversity and therefore to the destruction of an ecosystem in a region that provides a livelihood for local people, than they are in the case of soil contamination, which can be rectified.
- Adverse impacts on groundwater levels in platinum mining areas should be classed as a more severe threat to livelihoods than the use of surface water in countries with plentiful water resources.

How do you prioritise risks correctly?

The publication **Exploring the Concept of Prioritization: An Explanatory Note for the Dutch Sector Covenant Process** provides a series of brief and clear questions related to the prioritisation of human rights risks.

The **OECD Due Diligence Guidance for Responsible Business Conduct** cites practical examples of applying the three severity criteria (see page 45) that can serve as a guideline for enterprises' evaluation of risks.

Evaluate risks using a scale or a traffic-light system

There is no need to establish a specific threshold (e.g. for the number of people affected as the basis for a decision on whether an impact should be classed as severe) or a specific probability of occurrence. An approximate method (e.g. a scale or traffic-light system) is sufficient to allow you to assess the risks in relation to each other:

- scale of potential damage (low to high)
- scope (individuals to many)
- irremediability (reversible to irreversible)

Assess the risks according to their probability of occurrence

In corporate practice, the probability of occurrence, in addition to the severity of the risk, often plays a role in assessment. Of course, efforts to mitigate the potential impact of a severe human rights risk should not be reduced simply because that impact is unlikely to materialise. While probability of occurrence may be a criterion in your risk evaluation, it should be given less weight than severity of impact.

Some of the factors that can increase the probability of occurrence are, for example:

- **country-specific risks**, e.g. poverty, corruption,[9] defective rule of law, the absence of environmental regulations, weak governance or the suppression of human rights by the state;
- **industry-specific risks**, e.g. conflicts and known risks associated with certain raw materials, product and services;
- **product group-specific risks**, e.g. labour-intensive, repetitive work;
- **presence of particularly vulnerable groups**, e.g. migrant workers, untrained workers, women, children, indigenous peoples, certain minorities;
- **lack of relevant management systems to deal with identified risks**, either in your own enterprise or among your business partners.

Section 6 of this guideline includes a list of useful sources of information and advice on evaluating risks.

Create a risk matrix

You can now transfer the results of your risk evaluation into a risk matrix. This will help you visualise your enterprise's risk situation and give you a clearer overview. One axis could indicate the severity of each risk. The other can be used, for example, for the probability of occurrence.

- Risks of severe human rights violations with a high probability of occurrence should be addressed first when developing measures.
- Risks of severe human rights violations with a low probability of occurrence should also be prioritised. For example, you should immediately follow up any risk of life-threatening injury due to inadequate fire safety precautions at a production site, even if the probability of a fire is classed as low.

Involve external stakeholders wherever possible

External stakeholders, above all potentially affected groups, can often provide a hugely valuable perspective and crucial new information in relation to actual and potential adverse human rights impacts. They can often help to build a fuller picture and consequently make the analysis more reliable. It follows that you should consult potentially affected groups directly on the ground or gather information about how they view the situation through their legitimate representatives.

[9] The Corruption Perceptions Index (CPI) is the best-known international indicator of corruption. It is produced by the International Secretariat of Transparency International and ranks countries on the basis of perceived corruption in political and administrative life.

You may choose to actively involve the following external stakeholders in the process of analysing your risks:

External stakeholders

- Affected groups or their representatives
- Vulnerable groups, as defined in the shared understanding of automotive industry risks (see step 2), and their legitimate representatives
- Local residents
- Trade unions
- Business associations
- Public authorities
- Civil society organisations
- Experts
- Customers, consumers and end users
- Employees in the supply and value chain
- Members of sector initiatives
- Shareholders, investors and small stockholders
- Actors with relevant human rights expertise

Indigenous peoples – an example of vulnerable groups and the importance of engagement processes

Lithium is an important raw material in the production of batteries for electric vehicles. It is often mined in areas with a large indigenous population. These population groups can be particularly affected by risks to their rights to an adequate standard of living, health and economic self-determination. Risks of this kind can arise due to the considerable volumes of water used in lithium mining and the large areas of land required. They also highlight how environmental damage and destruction can lead to adverse impacts on human life.

The right to free, prior and informed consent (FPIC) enshrined in Article 9 of ILO Convention 169 is particularly important in terms of engaging with indigenous communities. In addition, Article 15 of the Convention establishes their 'rights ... to the natural resources pertaining to their land', including the right to participate in decisions on the 'use, management and conservation' of these resources. The right of indigenous peoples to the preservation and practice of their own culture (Article 27 of the International Covenant on Civil and Political Rights) also includes a provision that the free, prior and informed consent of indigenous peoples must be obtained whenever plans to exploit natural resources could restrict the practice of their culture.

At the same time, making contact with (potentially) affected or vulnerable groups and persons found in more remote areas or outside the tiers of the value chain often poses a particular challenge for enterprises. This can be particularly difficult if there is no direct contact, if those groups fear reprisals or if dialogue is hampered by linguistic, cultural or gender-specific barriers. To facilitate the effective involvement of affected persons, enterprises should therefore recognise and if possible resolve communication barriers, differences in power and any other plausible obstacles, and, if necessary, protect the identity of individuals who are in danger. If it is not possible to establish direct dialogue, it may make sense to engage in a 'proxy' dialogue with representatives of (potentially) affected groups, civil society, independent experts or local human rights defenders. This approach is also useful if the risks are of similar relevance to several enterprises. In such cases it can be helpful to coordinate your discussions jointly or to seek the views of the groups in question through their designated representatives or officially recognised experts.

Engaging stakeholders

The guideline **Stakeholder Engagement in Human Rights Due Diligence** by the UN Global Compact Network Germany and twentyfifty enables enterprises to engage stakeholders appropriately and effectively as part of the human rights due diligence process. It covers all the core elements of the NAP and can therefore help you establish a comprehensive approach. The guidance is practical in nature and is also suitable for SMEs.

Maintaining the long-term engagement of stakeholders

Risk analysis should be seen as a continuous process. Stakeholder contributions are very important in this context. The valuable insight they provide can help you to review the effectiveness of your measures and to establish and monitor effective grievance mechanisms. Decisions on the selection and involvement of stakeholders should therefore be taken with foresight and with the goal of building up a longer-term relationship. In this regard, too, the members of the Sector Dialogue advocate setting up cross-company dialogue formats with external stakeholders. This makes it possible to pool capacity and resources, share experience and reduce demands on stakeholders, e.g. by avoiding multiple requests.

Conduct a more detailed analysis where necessary

An in-depth analysis is necessary in the case of particularly severe risks and when you do not have the information needed to take appropriate measures. You can use the methods and sources set out in step 5 and section 6 and apply them with a specific focus on those risks you have identified which need further analysis. Your in-depth analysis can examine different levels (e.g. locations, processes, business partners, supply chain tiers, groups). As stipulated in the NAP, however, it should at a minimum:

- include context-specific factors such as the political situation or the presence of vulnerable groups, e.g. indigenous populations, minorities;
- incorporate internal and external expert knowledge;
- involve dialogue with (potentially) affected groups, conducted either by the enterprise itself or by commissioning, for example, local civil society organisations for this purpose, e.g. as part of a country-specific human rights impact assessment.

The purpose of this in-depth analysis is to obtain a better understanding of potential harms, cause-and-effect relationships and the concerns of potentially affected groups.

- For example, if you have identified a CAHRA in your own supply chain, you may often need to perform an in-depth analysis (e.g. by reviewing available audit findings or conducting an unannounced on-site inspection) in order to determine whether your business partners are (potentially) contributing to serious human rights problems.
- Equally, you may have concluded from your risk assessment that the issue of child labour could be a problem in your own value chain. In this case, however, only an in-depth analysis can help you determine whether your business partners are observing their terms of reference and ensuring that no work is being performed by children.

As well as engaging with external stakeholders, you can use some of the following methods to obtain a more detailed analysis of risks:

- Perform additional desk research using documents and databases, e.g. country-based and sector-specific studies or risk indices (see section 6.1 for a list of possible sources).
- Conduct, commission or take part in studies designed to identify and clarify risks, the factors that lead to those risks and the associated cause-and-effect relationships.

Tools for in-depth risks analysis

Human Rights Impact Assessment Resources and **Human Rights Impact Assessment Methodology Tool**, published by the Danish Institute for Human Rights, provide enterprises with a comprehensive and solid collection of tools and supplementary guidance on human rights impact analyses. In addition to numerous templates, there are plenty of examples to illustrate the process. The collection is aimed at enterprises that already have some experience of implementing human rights due diligence requirements. The guidance not only covers all the steps required for an in-depth risk analysis but also sets out approaches for engaging with (potentially) affected groups and other stakeholders.

Consider other relevant factors

The key factors involved in prioritising risk are severity and probability of occurrence. However, other factors may also play a role in later on determining which measures you adopt. It therefore makes sense to include these in your risk analysis, too, even if they only serve to provide further information on which to base your measures rather than to exclude specific risks from your analysis. The most important of these factors are described below:

- The nature and scope of your business activities: Larger enterprises (based on turnover, balance sheet total or employee numbers) are expected to take wider-ranging measures than SMEs.
- The nature of your causal contribution: The closer you are to an impending violation (or to one that has already materialised) and the more you contribute to that violation, the greater your responsibility to end or at least minimise the (potential) violation. A relevant factor, for example, is whether your enterprise has a direct or indirect relationship with a supplier that has been linked to human rights violations. This is why it is essential to build traceability and transparency into your supply and value chain. Traceability allows you to determine more precisely who is affected, while transparency enables you to determine the exact nature of those impacts.
- Your ability to influence the perpetrator of the (potential) violation: This means the ability of an enterprise to bring about change in unlawful practices caused not by the enterprise itself but by a third party, or to which that third party is contributing. Your ability to influence depends partly on whether you have a direct contractual relationship with the third party that has been linked to human rights risks. It also depends on how many other enterprises have a contractual relationship with the third party. It follows that the measures you adopt, especially in response to serious violations, should include steps to increase your ability to influence (e.g. through engagement in sector initiatives), since a lack of influence cannot be used as an excuse for not taking measures.

The three levels of causal contribution according to the UN Guiding Principles

A crucial factor when it comes to specifying and implementing appropriate measures at a later stage is how closely your enterprise is linked to a (potential) adverse impact. The closer your link to an impending or existing violation and the greater your contribution, the more you will need to take action to end or at least minimise the (potential) violation.

When assessing these risks, you will therefore need to distinguish between the following three types of causal contribution:

- **Cause:** Cause is established if your enterprise can be held responsible for harm that has arisen through a cause-and-effect relationship. This applies, for example, to the following harms: dangerous working conditions in your own business operations as a result of missing safety equipment; contamination of a local community’s drinking water due to the introduction of chemical wastewater; late evening shiftwork despite being aware that armed attacks occur more frequently in darkness in the surrounding area.

- **Contribute:** You are contributing to a human rights violation if your enterprise causes an adverse impact together with others, or if its actions contribute to impacts caused by others, e.g. by facilitating or incentivising their actions. This might, for example, involve passing on information about employee use of the internet to a government that uses the information to persecute political dissidents. Other examples would be changing your product specifications for suppliers at short notice without adjusting your deadlines or prices, with the result that the supplier can only fulfil the contract by violating labour standards or setting up a joint venture (minority holding) with a partner linked to human rights risks.

- **Linked:** There is considered to be a link if a human rights violation due to your enterprise’s business relationships is directly linked to your business activities, products or services. Although your enterprise may not be directly responsible for any adverse impacts, it may be linked to such impacts through its business relationships. This may occur, for example, if you buy leather products from businesses that employ children contrary to your terms of reference, or if you sell products to customers where there is a particularly high risk of misuse. Other examples include a lack of workplace safety measures in mining operations as part of the upstream supply chain to which you are linked through components you procure containing those raw materials, or the procurement of minerals from a region in which local industry is responsible for severe contamination of drinking water and the resulting damage caused to the heath of local people.

Useful risk analysis tools

- CSR Risk Check by MVO is a free online program that can be used to assess the local human rights situation as well as environmental, social and governance issues.
- SME Compass produced by the Federal Government’s Business & Human Rights Helpdesk is an online tool that is also suitable for larger enterprises. Phase 2 – ‘Perform a risk analysis’ is particularly helpful.
- The study Material Change, produced by the sector initiatives Drive Sustainability, The Responsible Minerals Initiative and The Dragonfly Initiative, evaluates the sustainability risks and opportunities for 18 priority raw materials. You may find the information in this study very useful when performing your risk analysis.
- To help you assess the risks from your suppliers, you can use the standardised Automotive supplier sustainability questionnaire produced by the sector initiative Drive Sustainability.
- Five Steps towards Managing the Human Rights Impacts of Your Business, published by the UN Global Compact Network Germany and twentyfifty, is a clear and practical guide to developing due diligence processes for both large enterprises and, in particular, SMEs. Step 4 is particularly useful when conducting a risk analysis.

4.6 Step 6 – Analyse your risks at regular intervals and ad hoc

The human rights situation is dynamic and can change constantly as a result of national and international standard-setting, cultural shifts, social tension, eruptions of violence, heightened (or reduced) levels of conflict and other developments. This means that the risk analysis is not a one-off task. It is a continuous, process-accompanying procedure that you should perform at regular intervals for existing business activities (at least once a year for those enterprises subject to the LkSG), with additional ad hoc analyses as required in the event of significant changes. Developments that typically require your enterprise to conduct a new risk assessment include, for example:

Circumstances

- Commencing business operations
- Developing new areas of business
- Upcoming entry into a new market
- Introducing new products and services
- Construction, expansion or relocation of a factory within the country or abroad
- Establishing new business relationships
- Launching new projects

You may also need to conduct an ad hoc risk analysis if you become aware of information about changes to or a widening of the risk situation. Typically, this might be in response to:

Triggers

- Press reports on human rights violations in the sector or linked to a specific enterprise
- Information received through grievance mechanisms or internal codetermination processes
- Publication of relevant human rights studies
- Information and reports from NGOs with, e.g. , direct links to affected groups
- Findings of compliance reviews and other audits
- Changes on the ground in countries of procurement or distribution (e.g. a change of government to an authoritarian regime, collapse in political order in a country, democratically illegitimate coup by the military forces or other groups)

4.7 Step 7 – Integrate risk analysis into your systems and processes

Because the risk analysis is not a one-off, standalone task, it should be set up as a continuous, process-accompanying procedure. It is most effective if you start it before launching any new business projects and as early as possible in the life cycle of an activity or a business relationship.

Close any gaps in your existing processes and systems

Current management systems and processes are not always sufficient to effectively address human rights risks. Gaps often exist in the following (and other) typical processes and systems in relation to human rights:

- **Processes:** strategic processes (e.g. developing new areas of business); mergers, acquisitions, divestment and investment; service provider management; use of raw materials and products sourced from your lower supply chain; product responsibility (including management of sales and service partners); risk and compliance management system
- **Systems:** conventional risk management; control systems for the environment, healthcare and safety; supplier management systems

These processes and systems are generally considered for the first time in step 1 as a mostly incomplete source of information. Your goal should be to gradually address human rights risks in all your enterprise's processes and systems. As the approach to identifying and evaluating human rights risks differs from that used in conventional risk management, it is recommended that you prepare internal process descriptions and specifications to ensure that the approach you adopt is consistent and efficient.

- For example, you might choose to draw up assessment guidelines explaining and illustrating the severity criteria in relation to human rights impacts in different areas (e.g. procurement, HR, sales) to ensure comparability between different people and departments when evaluating risks.
- You can update your supplier management system by requesting information that facilitates transparency over the structure of your (upstream) supply chain and the maturity of your suppliers' due diligence processes.
- You can also link this to the self-disclosure questionnaire produced by the sector initiative Drive Sustainability.

Use and expand your grievance channels

Another crucial source of data for ongoing risk analysis are the channels through which information relevant to human rights risks are received or early indications of a risk emerge, e.g. grievance procedures, purchasing, customer services, internal audit, public relations work, the legal and compliance unit, codetermination bodies, human resources, product responsibility. To this end, it is important to establish processes – above all, functioning and effective grievance mechanisms – that allow you to spot relevant information and pass it on internally. You will find implementation details in the separate guidelines for the NAP core elements 'Grievance mechanism' and 'Measures and effectiveness tracking'.

The success of your efforts to identify risks at an early stage will depend crucially on raising awareness among employees.

Train your employees

As a continuous, process-accompanying procedure, risk analysis requires collaboration between your internal and external stakeholders. The success of your efforts to identify risks at an early stage will depend crucially on raising awareness among employees. For most enterprises, the key departments in this context are HR, purchasing, compliance and sales. It is important to provide initial and further training that explicitly sets out the goals and principles of corporate social responsibility.

Use the findings of your risk analysis

With regard to how you use the findings, here are some points to bear in mind when setting up a continuous risk analysis process:

- All findings should be passed on internally to significant decision-makers (e.g. senior management, head of purchasing), given due consideration and monitored.
- Make sure that you define clear responsibilities, provide the necessary resources and establish implementation measures and time frames for your due diligence processes.
- Formalise and regularly review the risk analysis process.
- Incorporate the findings into your policy statement and into your internal communications and external reporting (see the separate guidelines for the NAP core elements 'Policy statement' and 'Reporting').
- Use the findings to help you develop preventive and remedial measures and to establish and expand your grievance mechanisms (see the separate guidelines for the NAP core elements 'Measures and effectiveness tracking' and 'Grievance mechanism').

As with conventional risk management, it can be useful to immediately add information on measures already implemented or planned alongside the risks you have identified and evaluated in your systems or documents. This integrated approach to your due diligence obligations in the areas of risk analysis and risk prevention/mitigation can help those in positions of responsibility develop a greater overall understanding of the issues. The steps to be followed when deciding on and implementing appropriate prevention and mitigation measures are detailed in the guideline for the NAP core element 'Measures and effectiveness tracking'.

5. Monitoring your progress towards implementing the requirements

You can use the following list of criteria to check whether you have fully completed the steps and therefore fulfilled the NAP requirements for the core element 'Risk analysis'.

	Steps implemented to fulfil the NAP requirements for the core element 'Risk analysis'	**Reference to step in the guideline**
☐	The enterprise's risk analysis takes into account the illustrative human rights risks and the list of potentially vulnerable groups set out in the Sector Dialogue's shared understanding of sector-specific human rights risks along global supply and value chains of the automotive industry.	2
	In addition to the above-mentioned shared understanding, the enterprise has conducted its own risk analysis along its entire supply and value chain, for:	3, 4
☐	its own operations, including its own sites	
☐	affiliated enterprises in which it has a majority holding both in and outside Germany	
☐	affiliated enterprises in which it has a minority holding both in and outside Germany	
☐	direct business relationships	
☐	indirect business relationships	
☐	products	
☐	services and projects	
☐	investment activities	
☐	business areas	
☐	Enterprise-specific risks have been identified and documented in a list.	2, 3, 4
☐	Potentially affected groups have been identified and documented in a list.	2, 4
☐	Human rights reference instruments have been taken into account in the risk analysis.	4
	The following contextual factors have been taken into account in the risk analysis:	4
☐	political situation	
☐	vulnerable groups	
☐	The enterprise has identified its causal contribution to identified risks.	5

☐	Identified risks have been prioritised on the basis of severity (scale, scope and remediability).	5
An in-depth analysis has been conducted:		
☐	for serious human rights problems	5
☐	in the case of risks for which insufficient information is available	
For the in-depth analysis, the enterprise has:		
☐	held local discussions with (potentially) affected groups	
☐	incorporated internal expertise (through dialogue with or surveys of employees who have specialist knowledge of human rights issues)	5
☐	incorporated external expertise (i.e. drawn on studies or consulted experts or civil society organisations)	
The enterprise has established a procedure that can be used to help identify human rights risks for potentially affected groups along the entire supply and value chain as follows:		
☐	systematically (i.e. part of a structured process)	
☐	continuously and regularly (i.e. findings updated at regular intervals)	
☐	process-accompanying (i.e. integrated into existing processes)	
☐	on an ad hoc basis (i.e. in response to specific changes in risk exposure or business activity or if the enterprise becomes aware of significant human rights violations)	6, 7
☐	on a sector-specific basis (i.e. with due regard for those risks and groups deemed relevant to the automotive industry and other sectors with important links to the enterprise's business model)	
☐	The enterprise has established a procedure for regularly updating the risk analysis process.	6, 7

6. Where can you find more information?

6.1 Further information

This guideline is a standalone document covering all the relevant steps that you will need to implement in order to completely fulfil the NAP requirements for the core element 'Risk analysis'. In addition to this guideline and the other external documents cited so far, the following sources will help you to acquire a deeper understanding of the subject.

Guidance, templates and digital tools to familiarise you with human rights risk analysis

- OECD Due Diligence Guidance for Responsible Business Conduct
- CSR Risk Check produced by the Business & Human Rights Helpdesk at the Agency for Business and Economic Development. This is an online tool designed to help enterprises assess local human rights situations and environmental, social and governance issues.
- Assessing Human Rights Risks and Impacts – Perspectives from Corporate Practice published by the UN Global Compact Network Germany and the German Institute for Human Rights. This offers examples of good practice and lessons learned to help identify human rights risks in supply chains. It also includes a case study from the automotive industry.
- Weniger Autos, mehr globale Gerechtigkeit – Diesel, Benzin, Elektro: Die Antriebstechnik allein macht noch keine Verkehrswende (in German) (Fewer cars, more global justice – Diesel, petrol, electric: the mobility transition is not just a question of drive technology) published by Brot für die Welt, Misereor and PowerShift. This report includes risk profiles of key raw materials used in the automotive industry that are linked to human rights risks. Its purpose is to develop a better understanding of human rights problems in upstream supply chains, with a focus on types of impacts, potentially affected groups and geographical relevance. Recent examples and assessments of human rights risks can be found in a follow-up study (also in German) entitled "Weniger Autos, mehr globale Gerechtigkeit – Warum wir die Mobilitäts- und Rohstoffwende zusammendenken müssen" (Fewer cars, more global justice - why the mobility and raw material transitions go hand in hand).
- CSR in Deutschland, an information platform operated by the Federal Ministry of Labour and Social Affairs (BMAS) containing information on the NAP and LkSG, useful background knowledge and a collection of general and industry-specific guides, advisory services, training courses and practical examples. The site includes a regularly updated list of answers (in German) to the most frequently asked questions about the LkSG.
- Business & Human Rights Resource Centre, an online platform providing a wide range of information on human rights issues in relation to business. The site creates transparency and emphasises responsibility through position statements by enterprises and reports on human rights violations. Some of the materials relate specifically to the automotive industry.
- The CSR Practitioner Days informational website set up by UPJ, econsense and the German Federal Ministry of Labour and Social Affairs provides an overview of tools, publications and practical tips that can be used to help create responsible supply chains.
- The Atlas on Environmental Impacts in Supply Chains by adelphi and Systain Consulting highlights significant environmental impacts and hotspots along supply chains. The sector profile shows particular environmental challenges relevant to the automotive industry.
- A study (in German) entitled Umweltrisiken und -auswirkungen in globalen Lieferketten deutscher Unternehmen – Branchenstudie Automobilindustrie (Environmental risks and impacts in the global supply chains of German enterprises – sector study of the automotive industry) published by the German Environment Agency (UBA) offers guidance on the environmental impacts of manufacturing vehicles and selected components.

- The **Berlin CSR Consensus on Corporate Responsibility in Supply and Value Chains** was produced by the German Federal Government's National CSR Forum. It sets out requirements and points of reference for the responsible management of supply and value chains.

Guidance, templates and digital tools to support in-depth human rights risk analysis

- **Risk Awareness Tool for Multinational Enterprises in Weak Governance Zones**. This OECD tool helps multinational enterprises to answer a series of issue-specific questions designed to support responsible business practice in high-risk and conflict-affected areas.
- **Guide to Human Rights Impact Assessment and Management** by the International Finance Corporation (IFC). This guide on human rights impact assessments is designed for enterprises that already have some experience of implementing human rights due diligence obligations.
- **Business and Human Rights Impacts – Identifying and Prioritizing Human Rights Risks** by Shift. This is a report on the findings of a multi-stakeholder workshop on identifying human rights risks with abstracted descriptions of possible approaches to risk analysis.
- **Stakeholder Engagement in Human Rights Due Diligence. A Business Guide** by the UN Global Compact Network Germany and twentyfifty. The publication offers detailed guidance on engaging with and involving stakeholders.
- **OECD Due Diligence Guidance for Meaningful Stakeholder Engagement in the Extractive Sector**. This document offers practical support for dealing with the challenges of stakeholder participation in the mining, oil and gas sectors. Much of the guidance is relevant to the automotive industry.
- **Guidance on Human Rights Impact Assessment of Digital Activities** developed by the Danish Institute for Human Rights. Guidance on how to analyse human rights risks and impacts related to digital services and products. Digital services are increasingly important in the automotive industry. For example, the use of car-sharing apps by OEMs to develop new markets involves collecting and processing a large volume of data on user behaviour and location.
- **Human Rights Due Diligence Info Portal** set up by the UN Global Compact Network Germany. Information and tools to help enterprises design and improve their human rights due diligence processes. Some of the materials relate specifically to the automotive industry and SMEs.
- **Human Rights Translated – A Business Reference Guide** produced by the Castan Centre for Human Rights Law, the International Business Leaders Forum, the Office of the UN High Commissioner for Human Rights and the UN Global Compact. This is a very detailed source of information with explanatory notes that cover internationally recognised human rights individually and specifically.
- **Human Rights and Business Dilemmas Forum** designed by the UN Global Compact and Verisk Maplecroft. This is a collection of case studies on specific human rights challenges facing large enterprises and the approaches they have adopted.
- **Menschenrechte achten – Ein Leitfaden für Unternehmen** (Respecting Human Rights – An Introductory Guide for Business) by the UN Global Compact Network Germany, twentyfifty and the German Institute for Human Rights. This background document (in German) looks at fundamental human rights principles and how to implement them in the business context. It also examines the associated opportunities and challenges and selected human rights in greater detail.
- **No Way Around Due Diligence**, published by econsense, provides a good overview of (inter)national frameworks and standards on human rights due diligence.

Focus: Resources providing in-depth information on conflict minerals and the EU's Conflict Minerals Regulation

- **Due Diligence Ready**. This information portal was set up by the European Commission to help enterprises find information, tools and training material that they can use when conducting due diligence assessments of their minerals and metals supply chain and as an aid to responsible procurement.
- **OECD Due Diligence Guidance for Responsible Supply Chains of Minerals from Conflict-Affected and High-Risk Areas**. This publication by the OECD is designed to help industry meet responsible procurement expectations.

- Due Diligence Guidance for Minerals – 5-Step Framework for Upstream and Downstream Supply Chains, published by the OECD.
- Case studies on implementing due diligence in relation to conflict minerals. These are available on the website of the European Partnership for Responsible Minerals (EPRM).

Focus: Data sources to help enterprises independently identify conflict-affected and high-risk countries

Data on general and overarching human rights issues:

- **Country risk profiles**
  - Amnesty International, https://www.amnesty.org/en/countries/
  - Human Rights Watch, https://www.hrw.org/
  - Know Your Country, https://www.knowyourcountry.com/
  - Office of the United Nations High Commissioner for Human Rights, https://www.ohchr.org/EN/Countries/Pages/HumanRightsintheWorld.aspx
  - US Department of State Human Rights Report, https://www.state.gov/reports-bureau-of-democracy-human-rights-and-labor/country-reports-on-human-rights-practices/

- **Indices and ratings**
  - Transparency International: Corruption Perception Index, https://www.transparency.org/en/cpi/2021
  - Cato Institute Human Freedom Index (HFI), https://www.cato.org/human-freedom-index/2021
  - Fund for Peace: Fragile States Index, https://fragilestatesindex.org/ (see Human Rights and Rule of Law indicator)

- **Sources of data on specific human rights issues**
  - Transparency International: Corruption Perception Index, https://www.transparency.org/en/cpi/2021
  - Walk Free: Global Slavery Index Proportion in Slavery, https://www.globalslaveryindex.org/
  - World Governance Indicators (World Bank), http://info.worldbank.org/governance/wgi/#home
  - World Bank List of Classification of Fragile and Conflict-Affected Situations (FCS): List of conflict and risk areas, https://www.worldbank.org/en/topic/fragilityconflictviolence/brief/harmonized-list-of-fragile-situations
  - US Department of Labor: List of Products and List of Goods Produced by Child Labor or Forced Labor, https://www.dol.gov/agencies/ilab/reports/child-labor/list-of-goods
  - The Environmental Justice Atlas (EJAtlas) documents social conflicts linked to environmental problems. See https://ejatlas.org/featured/mining-latam

- **Armed conflicts**
  - Heidelberg Institute for International Conflict Research: List of and information on areas affected by armed conflict, https://hiik.de/conflict-barometer/current-version/?lang=en
  - Armed Conflict Location and Event Data (ACLED), https://acleddata.com/#/dashboard
  - CrisisWatch, https://www.crisisgroup.org/
  - University of Uppsala: Uppsala Conflict Data Program (UCDP), https://ucdp.uu.se/

- **Further data sources to help enterprises independently identify conflict-affected and high-risk countries**
  - Control Risk Worldmap, https://www.controlrisks.com/riskmap
  - 2020 ITUC Global Rights Index of the International Trade Union Confederation, https://www.ituc-csi.org/IMG/pdf/ituc_globalrightsindex_2020_en.pdf
  - Global Witness, https://www.globalwitness.org/en/
  - INFORM worldmap, https://drmkc.jrc.ec.europa.eu/inform-index
  - Mines and Communities, http://www.minesandcommunities.org/
  - National Resource Governance Institute, https://resourcegovernance.org/, e.g. Resource Governance Index (RGI)
  - United Nations Human Rights Council, https://www.ohchr.org/EN/HRBodies/HRC/Pages/AboutCouncil.aspx
  - Mining Conflicts in Latin America, https://ejatlas.org/featured/mining-latam
  - International Peace Information Service (IPIS) — Conflict Mapping, https://ipisresearch.be/
  - Order and Security Index, https://worldjusticeproject.org/rule-of-law-index/country/2021/Order%20and%20Security/
  - Political Stability Index, https://www.theglobaleconomy.com/rankings/wb_political_stability/
  - Regulatory Enforcement Index, https://worldjusticeproject.org/rule-of-law-index/country/2021/Regulatory%20Enforcement/

- Rule of Law Index (World Justice Project), https://worldjusticeproject.org/rule-of-law-index/
- TIP Report Index (US Department of State), https://www.state.gov/trafficking-in-persons-report/
- UNDP Human Development Indicators (including country profiles), http://hdr.undp.org/en/countries
- United Nations Security Council Resolutions (UNSC): Recent events and developments in countries, https://www.un.org/securitycouncil/content/resolutions
- World Bank Doing Business Report, https://www.doingbusiness.org/en/reports/global-reports/doing-business-2017
- Risk Readiness Assessment (RRA) of the Responsible Minerals Initiative
- RJC Risk Assessment Toolkit, by Responsible Jewellery: Responsible Sourcing Council risk assessment tool for actors across the supply chain

6.2 Similarities and differences between the NAP and the LkSG

Both the NAP and the LkSG are based on the UN Guiding Principles (2011) as a reference framework. It follows that the steps set out in these guidelines for meeting the NAP requirements will also help you to fulfil the due diligence processes stipulated in the LkSG. Although the fundamental requirements of the NAP and the LkSG are comparable, the rights and obligations they establish are not identical.

One of the key differences between the two regulatory frameworks is that the NAP is voluntary, reflecting a basic expectation of the German Federal Government that enterprises will take appropriate action to fulfil their responsibilities at every point in their supply and value chains. By contrast, the LkSG is mandatory for all enterprises that fall under its scope of application. It obliges them to meet clearly defined due diligence obligations in their own area of business and in their dealings with both direct and indirect suppliers.

This guideline is designed to help enterprises understand and implement generally accepted and appropriate due diligence obligations. With this goal in mind, it covers all the requirements of the NAP core element 'Risk analysis'. Additional references in this guideline to LkSG requirements also draw attention to the due diligence obligations imposed by the legislation. This will help enterprises that fall under the scope of the law to meet their statutory obligations at the same time. In certain areas, the guidelines go beyond the above policy frameworks and regulatory requirements.

The Federal Office for Economic Affairs and Export Control (BAFA) will assess each case individually to determine whether an enterprise is meeting the requirements of the LkSG. In deciding whether the measures taken are appropriate, it will consider the enterprise's specific business model. BAFA will publish information, aids and recommendations to facilitate compliance with the LkSG.

Section 3 of this guideline sets out both the NAP specifications and the LkSG requirements. The overview on the next page illustrates which steps in the guideline can be used to help fulfil the LkSG obligations.

Step	Page	Corresponding NAP requirement[9]	Link to LkSG requirements
1) Prepare, conduct a baseline assessment and use it as a starting point	16	No explicit requirement, merely established good practice	Section 4 (Risk management) Section 9 (Indirect suppliers) (2) and (3) no. 1
2) Use the shared understanding of risks to supplement your own baseline assessment	17	No explicit requirement, extended commitments based on the Sector Dialogue	Section 2 (Definitions) (2) and (3) Section 4 (Risk management) Section 9 (Indirect suppliers) (2) and (3) no. 1
3) Make sure you cover all the main risk identification parameters	19	A, D, I	Section 3 (Due diligence obligations) Section 9 (Indirect suppliers) (2) and (3) no. 1
4) Identify risks	25	A, B, D, H, I, J, K, L	Section 4 (Risk management) (4) Section 5 (Risk analysis) (1) sentence 1 and (4) sentence 2 Section 9 (Indirect suppliers) (3) no. 1
5) Assess risks and conduct an in-depth analysis	36	E, F, G, H, L	Section 3 (Due diligence obligations) (2) Section 4 (Risk management) (2) and (4) Section 5 (Risk analysis) (2) and (4) sentence 2
6) Analyse your risks at regular intervals and ad hoc	44	B, C	Section 5 (Risk analysis) (4)
7) Integrate risk analysis into your systems and processes	45	A, B	Section 4 (Risk management) Section 5 (Risk analysis) (3) and (4)

[9] The NAP requirements are in alphabetical order as shown in section 3 of this guideline.

6.3 Glossary

Civil society organisations

See 'Non-governmental organisations (NGOs)'.

Conflict-affected and high-risk areas (CAHRAs)

This term applies to areas currently in a state of armed conflict or a fragile post-conflict setting. It also includes areas affected by weak or absent governance and security, and by widespread and systematic violations of international law and human rights.

Corruption

Criminological research defines corruption as the 'abuse of a public office, a position in the economic sector or a political mandate in favour of a third party, upon their instigation or one's own initiative to obtain an advantage for oneself or a third party, with the occurrence or in the expectation of the occurrence of damage to or a disadvantage for the general public (in official or political functions) or for an enterprise (if the offender holds a pertinent position in the economic sector).'

Definitions of terms used in the Supply Chain Act

- In some cases, the LkSG sets out obligations that must be fulfilled annually and, additionally, '**on an ad hoc basis**'. In sections 5 (4), 6 (5), 7 (4) and 8 (5) LkSG, the obligation to meet a requirement on an ad hoc basis depends on whether the enterprise should expect a significantly changed or expanded risk situation in that area of its business. By contrast, with regard to the enterprise's due diligence obligations on the basis of '**substantiated knowledge**' [section 9 (3) LkSG], the requirement applies if the enterprise has actual indications that suggest that a violation of a human rights-related or environment-related obligation at indirect suppliers may be possible. If this is the case, the enterprise must take action on an ad hoc basis.
- Section 3 (1) sentence 1 LkSG states that enterprises must exercise due regard for the human rights and environment-related due diligence obligations set out in that division of the Act which relate to their supply chains, with the aim of preventing or minimising human rights or environment-related risks or of ending the violation of human rights-related or environment-related obligations. Section 3 (2) LkSG sets out criteria for determining whether actions to fulfil due diligence obligations are appropriate. This depends on:
  - the nature and extent of the enterprise's business activities;
  - the ability of the enterprise to influence the party directly responsible for a human rights or environment-related risk, or for the violation of a human rights-related or environment-related obligation;
  - the severity of the violation that can typically be expected, the reversibility of the violation, and the probability of the occurrence of a violation of a human rights-related or an environment-related obligation;
  - the nature of the causal contribution of the enterprise to the human rights or environment-related risk, or to the violation of a human rights-related or environment-related obligation.

According to the Federal Government's explanatory memorandum, all the due diligence obligations covered by the Act are subject to the general principle that the scale of the efforts to be made by an enterprise to prevent or end a violation should reflect its ability to exert influence, the likelihood and severity of the anticipated violation of a legal position and the extent of the enterprise's causal contribution. Equally, the importance of efforts to monitor the supply chain should reflect the degree to which the products and production sites associated with a business activity are vulnerable to human rights risks.

- The term '**own business area**' is defined in section 2 (6) as covering every activity of the company, as a legal entity representing the enterprise, to achieve the business objective. This includes any activity related to the creation and exploitation of products and services, regardless of whether it is carried out at a location in Germany or abroad. In affiliated enterprises, the parent enterprise's own business area includes a group enterprise if the parent enterprise exercises a decisive influence on the group enterprise.
- The term '**direct supplier**' is defined in section 2 (7) LkSG as any supplier or service provider with which the enterprise has a contractual relationship and whose supplies are required to produce the enterprise's product or to provide and use the relevant service.

- The term '**indirect supplier**' is defined in section 2 (8) as any enterprise which does not meet the definition for a direct supplier but whose supplies are nevertheless essential to the enterprise's activities. This includes all suppliers with which your enterprise is linked through contractual relationships, business activities, products or services even if there is no direct contractual relationship.

Excerpt from the NAP setting out requirements for the core element 'Risk analysis' – procedures for the identification of actual and potential adverse impacts on human rights

Central to the exercise of due diligence is the establishment of a procedure that serves to identify, to prevent or to mitigate potentially adverse effects of corporate activity on human rights. It is not – or not only – a matter of considering risks to the company's own business activity but is primarily about risks to the human rights of those who may be affected by corporate activity, such as employees of the enterprise itself or of other companies in the supply chain, local populations and customers.

The consideration of potentially adverse impacts on human rights is a continuous task that accompanies work processes and, in particular, is performed with a sectoral focus. It should take place when new divisions, products or projects are launched as well as in the context of existing business activities. When potential risks are examined, a distinction must be made between the following types of impact:

- those generated directly by the enterprise itself;
- those to which the enterprise contributes, for example through direct contractual relations with suppliers;
- those connected indirectly with the enterprise through its business relations, its business activity or its products or services even though no direct contractual relationship exists, for example in situations involving numerous intermediary dealers. Granting loans, issuing credit lines and providing other financial services to other banks, insurers or other financial service providers do not in themselves constitute a relationship in the above sense if those transactions cannot be unambiguously attributed to a particular business activity in the real economy.

This systematic approach to identifying key impact factors and risks is nothing new and is already part of established management systems and processes, as may be seen, for instance, in Annex I to Regulation (EC) No. 1221/2009 on the voluntary participation by organisations in a community eco-management and audit scheme (EMAS), which deals with the internal environmental review to be conducted by participating organisations.

The size of an enterprise, the sector to which it belongs and the nature of its business activity directly influence the risk that its operations will have an impact on human rights. The required depth and breadth of the risk assessment depends on these factors. An initial risk analysis on the part of an enterprise should be conducted for each division or each product category and possibly for each location too. The starting point may be a simple overview of the company's main activities and of the value chains and business relations these activities entail. On the basis of this overview and with due regard to the international human rights standards enshrined in instruments such as the Universal Declaration of Human Rights, the International Covenants on Human Rights, the ILO Core Labour Standards and the OECD Guidelines for Multinational Enterprises, potential risk areas can be identified. Contextual circumstances such as the political framework and the presence of vulnerable groups of people (indigenous populations, for instance) should be factored into the analysis. The choice of method and the evaluation of risks can be made on the basis of the analysts' own research, interviews in-house, in subsidiary enterprises and/or with business partners and input from external specialists.

With the aid of this analysis, enterprises should determine whether an in-depth review is needed. This is most likely to be the case if the risk of an adverse impact on the human rights of particular groups is particularly high and fuller information is required before any action can be taken. For this reason, the recognised problem areas should be ranked in order of priority.

The risk of a particularly adverse impact arises, for example, in cases where a large number of people may be affected or the potential impact would have serious, unforeseeable, or irreversible consequences. The in-depth review should at least include local dialogue with actually or potentially affected parties and recourse to both internal and external expertise in the field of human rights.

Grievance mechanisms

In the context of this series of guidelines, the term grievance mechanism refers to any routine procedure, whether internal or cross-company, that can be used to submit complaints of human rights violations by the enterprise and to seek remedy.

Human rights

Human rights are fundamental rights held by all individuals regardless of any discrimination, e.g. on the grounds of nationality, place of residence, sex, national or ethnic origin, skin colour, religion, native language or other characteristics. They are brought together in key international standards. The goal of those standards is to ensure that all people worldwide are treated equally and with dignity. Among these rights are those set out in the United Nations International Bill of Human Rights and the fundamental rights established in the ILO's Core Labour Standards.

Human rights due diligence obligations and processes

Human rights due diligence obligations are those obligations which an enterprise must fulfil in order to satisfy its responsibility to respect human rights in its global supply and value chains. These obligations are specified in particular in the UN Guiding Principles. Human rights due diligence processes constitute a continuous risk management process that enterprises must establish in order to identify, prevent, mitigate and provide redress for adverse human rights impacts and demonstrate accountability for the way they deal with such impacts. The five core elements of the NAP set out the main steps involved in fulfilling human rights due diligence obligations.

Human rights impacts (adverse, severe)

Adverse human rights impacts occur when an enterprise directly or indirectly contributes to a situation in which individuals are prevented from exercising their human rights or restricted in the exercise of those rights. The focus of this concept is on the risk to the individual rather than the risk to the enterprise. However, there is a recognised correlation between the highest levels of risk to human rights and the risk to the enterprise. Adverse human rights impacts are assessed as severe if they meet the criteria for severity in terms of their scale, scope or irremediability. These criteria may be fulfilled whether or not the enterprise is in a position to exert any influence on the situation. The potential severity of human rights impacts is specific to an enterprise's activities or business relationships and therefore varies between enterprises.

Human rights risks and risk analysis

The term 'human rights risks' refers to the potential adverse impacts of an enterprise's activities on human rights. They should always be understood as risks to those affected and not primarily as a risk to the enterprise itself. In order to assess such human rights risks, the enterprise should conduct a risk analysis. The purpose of the risk analysis is to identify and assess any actual or potential adverse human rights impacts with which the enterprise may be involved either through its own activities or as a result of its business relationships.

ILO Core Labour Standards

The ILO Core Labour Standards are eight conventions of the International Labour Organization (ILO) that provide a basic framework of global labour and welfare standards. They have the status of international legal instruments and are therefore binding on all states that have ratified them. The eight conventions are: Convention No. 87 – Freedom of Association and Protection of the Right to Organise (1948), Convention No. 98 – Right to Organise and Collective Bargaining (1949), Convention 29 – Forced Labour (1930), Convention 105 – Abolition of Forced Labour (1957), Convention 100 – Equal Remuneration (1951), Convention 111 – Discrimination (Employment and Occupation) (1958), Convention 138 – Minimum Age (1973), and Convention 182 – Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour (1999).

International human rights reference instruments

International human rights reference instruments are agreements under international law, conventions, regulations, policies, guidelines, standards and other provisions designed to promote CSR in the area of human rights. These documents serve as an important point of reference for a shared understanding of human rights, and an obligation to respect them.

International law

International law is a supranational legal system imposed by states on themselves as subjects of international law. Among the main sources of international law are the United Nations International Bill of Human Rights, bilateral and multilateral agreements under international law, customary international law and court rulings. Enterprises are not subjects of international law and are not directly bound to observe international law agreements. Nevertheless, within their own context and in accordance with the UN Guiding Principles, they are obliged to respect the human rights specified in international treaties.

Local communities

In the context of human rights due diligence, the term 'local communities' is used for communities that are located in close proximity to the sites operated by business enterprises or that are or could be directly impacted by the activities of those sites. Such impacts can be positive (e.g. job creation) or negative (e.g. groundwater pollution). Local communities are not necessarily homogeneous. In most cases there are overlaps with indigenous communities and vulnerable individuals.

Mitigation measures

The term 'mitigation measures' refers to all measures that can be taken to reduce the scale of actual adverse human rights impacts or the probability that potential adverse human rights impacts will occur.

National Action Plan for Business and Human Rights (NAP)

The NAP was established by the German Federal Government to implement the UN Guiding Principles. It was adopted by the Federal Cabinet in 2016. This is the first time that the German Federal Government has embedded the responsibilities of German enterprises to respect human rights into an established framework (the Action Plan). In the NAP, the Federal Government sets out its expectation that enterprises must exercise their human rights due diligence obligations and respect human rights at all points in their supply and value chains. The NAP consists of five 'core elements': a human rights policy statement; procedures for the identification of actual or potential adverse impacts on human rights; measures to ward off potential adverse impacts and reviews of the effectiveness of these measures; reporting; and a grievance mechanism.

Non-governmental organisations (NGOs)

The term 'non-governmental organisations' is used for non-state organisations, institutions, associations, foundations and other private bodies that are not run for profit and whose purpose is to contribute to the common good in the broadest sense. NGOs may operate locally, regionally, nationally and even internationally. As such, the term includes both local civil society organisations and national and international NGOs. Church-based aid agencies, organisations that form part of the solidarity movement and foundations linked to political parties are also classed as NGOs. NGOs can pursue a wide range of interests. For the purposes of the UN Guiding Principles, enterprises and business associations are not treated as NGOs.

OECD Guidelines for Multinational Enterprises

The OECD Guidelines for Multinational Enterprises are recommendations by the Organisation for Economic Co-operation and Development (OECD) to states and enterprises. Their purpose is to promote sustainable business activity in global supply and value chains. They include recommendations on transparency, working conditions, the environment, corruption, consumer protection, reporting, technology transfer, competition and taxation.

Preventive measures

Preventive measures are measures designed to ensure that adverse human rights impacts do not occur.

Remedial measures

This term is used to describe both the processes by which actual or imminent adverse human rights impacts are ended and those which are intended to provide redress for those violations. Remedial measures and redress may take various forms, such as ending the violation, an apology, the restoration of rights, rehabilitation, financial or non-financial compensation, follow-up measures (e.g. criminal penalties against individuals or sanctions under administrative law, for example a fine imposed on the enterprise in question), a temporary legal remedy or a guarantee of non-recurrence.

Redress

See 'Remedial measures'.

Rights holders

This term includes all people irrespective of their personal characteristics. In this series of guidelines it refers mainly to persons and groups who may potentially be affected by human rights violations ('potentially affected groups/individuals').

Stakeholders

Stakeholders are individuals or organisations that have actual or potential influence over the activities and decisions of an enterprise or that are or may be influenced by those activities and decisions.

United Nations Guiding Principles on Business and Human Rights (UN Guiding Principles)

The UN Guiding Principles are a framework of 31 principles that set out requirements for political and business actors. As such, they are the first generally recognised reference framework for the human rights obligations of states and the responsibilities of enterprises in global supply and value chains. The UN Guiding Principles are based on three 'pillars': the duty of the state to protect human rights, the responsibility of business enterprises to respect human rights, and access to remedy for those affected by human rights violations. The Guiding Principles were adopted in 2011 by the United Nations Human Rights Council.

United Nations human rights treaties

The UN human rights treaties are binding agreements under international law. They apply in those states that have signed and ratified the treaties. The UN's human rights treaties are listed below: International Covenant on Civil and Political Rights (ICCPR), International Covenant on Economic, Social and Cultural Rights (ICESCR), International Convention on the Elimination of All Forms of Racial Discrimination (ICERD), Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT), Convention on the Rights of the Child (CRC), International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (ICMW), Convention on the Rights of Persons with Disabilities (CRPD), International Convention for the Protection of All Persons from Enforced Disappearance (ICPPED).

United Nations Universal Declaration of Human Rights

The Universal Declaration of Human Rights was adopted by the United Nations General Assembly on 10 December 1948. As a resolution of the General Assembly, it is not legally binding. However, it is regarded as part of customary international law. The Universal Declaration sets out the fundamental rights held by all people regardless of their origin, religion, sex or other characteristics. It forms part of the United Nations International Bill of Human Rights, which also includes the International Covenant on Civil and Political Rights (Civil Covenant), the International Covenant on Economic, Social and Cultural Rights (Social Covenant) and their respective Optional Protocols.

Value chain

An enterprise's value chain comprises all the activities linked to the manufacture, sale, use and disposal of its products or to the delivery of its services. In addition to its business activities, the enterprise's value chain therefore includes other enterprises with which it has a direct business relationship, enterprises in its direct and indirect upstream supply chain (right up to the procurement of raw materials), its customers and any downstream business partners providing disposal services. Business support functions also form part of the value chain, e.g. investment and financing activities.

The automotive industry's value chain is characterised by dynamic supplier networks based on reciprocal relationships between suppliers and customers. This means that indirect suppliers in particular can change frequently and in many cases are not known to the procuring enterprise. Furthermore, individual enterprises in the value chain can act simultaneously as each other's suppliers and customers for different products.

Vulnerable groups

For the purposes of the UN Guiding Principles, vulnerability is a measure of both the extent to which a group is vulnerable to adverse human rights impacts as a result of a business activity, and of how it can overcome those impacts. Accordingly, vulnerable groups may experience adverse human rights impacts not only as a result of a specific business activity, since these impacts can be exacerbated by any existing cultural, social, environmental, political or economic disadvantages affecting those groups.

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