

International and Comparative Corporate Law Journal

ISSN: 1388-7084 & E-ISSN: 1875-8290

Convergence and Divergence in Corporate Sustainability Due Diligence: A Comparative Analysis of the EU CSDDD, OECD Guidelines, and National Regulatory Frameworks

Dr. Elena M. Ramirez

Professor of International Business Law, Centre for Comparative Corporate Governance, Stockholm School of Economics, Stockholm, Sweden

Email: elena.ramirez@hhs.se

Abstract

The emergence of mandatory corporate sustainability due diligence represents a paradigmatic shift in international corporate law, transitioning sustainability from voluntary corporate social responsibility to binding legal obligations. This article examines the convergence and divergence patterns in sustainability due diligence frameworks by conducting a comparative analysis of the European Union's Corporate Sustainability Due Diligence Directive (CSDDD), the revised 2023 OECD Guidelines for Multinational Enterprises on Responsible Business Conduct, and selected national regulatory approaches including Germany's Supply Chain Due Diligence Act (LkSG), France's Duty of Vigilance Law, and emerging frameworks in common law jurisdictions. Through doctrinal analysis and comparative methodology, this study identifies three key dimensions of divergence: scope and applicability thresholds, enforcement mechanisms and liability regimes, and the treatment of value chain responsibilities. The analysis reveals a complex regulatory landscape characterized by simultaneous harmonization pressures and jurisdictional particularities, with significant implications for multinational enterprises navigating multiple compliance frameworks. This article argues that while international soft law instruments have catalyzed regulatory convergence, fundamental differences in legal

traditions, enforcement philosophies, and political economies continue to generate meaningful divergences that challenge the emergence of a truly unified global standard. The findings contribute to theoretical debates on regulatory convergence in corporate law and offer practical insights for corporate compliance strategies in an increasingly fragmented regulatory environment.

Keywords: Corporate sustainability due diligence, CSDDD, OECD Guidelines, comparative corporate law, ESG regulation, supply chain responsibility, regulatory convergence, corporate governance

I. Introduction

The landscape of international corporate law has undergone a fundamental transformation in the past decade, marked by an unprecedented shift from voluntary sustainability commitments to mandatory due diligence obligations[1]. This regulatory evolution reflects growing recognition that market-based mechanisms and voluntary corporate social responsibility initiatives have proven insufficient to address systemic environmental degradation and human rights violations in global value chains[2]. The adoption of the European Union's Corporate Sustainability Due Diligence Directive (CSDDD) in July 2024, following years of legislative development and political negotiation, represents a watershed moment in this transition[3].

The CSDDD embodies a fundamental reimagining of corporate responsibilities, extending legal obligations beyond traditional boundaries of corporate personality to encompass impacts throughout multinational enterprises' value chains[4]. This directive does not exist in isolation but forms part of a broader regulatory ecosystem that includes the revised 2023 OECD Guidelines for Multinational Enterprises on Responsible Business Conduct, which updated recommendations across climate change, biodiversity, technology, and supply chain due diligence[5]. Additionally, several jurisdictions have pioneered national frameworks that preceded and influenced the EU approach, most notably France's 2017 Duty of Vigilance Law (*Loi sur le devoir de vigilance*) and Germany's 2021 Supply Chain Due Diligence Act (*Lieferkettensorgfaltspflichtengesetz* or LkSG)[6].

This regulatory proliferation raises critical questions for comparative corporate law scholarship and multinational enterprise practice. To what extent are these frameworks

converging toward a unified global standard, and where do meaningful divergences persist? What explains the patterns of convergence and divergence observed across jurisdictions? How do differences in legal traditions—particularly between common law and civil law systems—shape approaches to sustainability due diligence? What are the implications of regulatory fragmentation for multinational enterprises operating across multiple jurisdictions?

These questions are not merely academic but carry profound practical significance. The phenomenon that scholars term "regulatory overlap" or "cumulative regulation" creates substantial compliance challenges for multinational enterprises that must simultaneously satisfy multiple, potentially conflicting, legal requirements[7]. Furthermore, the extraterritorial reach of many of these frameworks—particularly the EU CSDDD's application to third-country companies with substantial EU turnover—extends their impact far beyond the territorial boundaries of enacting jurisdictions, creating what Anu Bradford has termed the "Brussels Effect"[8].

This article addresses these questions through comprehensive comparative analysis of sustainability due diligence frameworks across multiple jurisdictions. The analysis employs doctrinal methodology combined with comparative law techniques to examine legislative texts, regulatory guidance, and emerging case law. The study focuses on three primary dimensions of comparison: (1) scope and applicability criteria, including company size thresholds and value chain coverage; (2) substantive due diligence requirements, encompassing identification, prevention, mitigation, and remediation obligations; and (3) enforcement mechanisms and liability regimes, including administrative penalties, civil liability, and stakeholder engagement procedures.

The article proceeds in six parts following this introduction. Part II establishes the theoretical framework by examining theories of regulatory convergence and divergence in corporate law, drawing on functionalist approaches, path dependency theory, and the varieties of capitalism literature. Part III provides detailed analysis of the EU CSDDD, including its legislative history, key provisions, implementation timeline, and relationship to the broader EU sustainable finance architecture. Part IV examines the 2023 OECD Guidelines, analyzing their evolution, substantive content, and implementation through National Contact Points. Part V conducts comparative analysis of national frameworks in

France, Germany, and emerging approaches in common law jurisdictions including the United Kingdom and Canada. Part VI synthesizes the comparative findings, identifying patterns of convergence and divergence and analyzing their causes and implications. Part VII concludes by discussing the trajectory of sustainability due diligence regulation and offering recommendations for both policymakers and corporate practitioners.

The central argument advanced in this article is that contemporary sustainability due diligence regulation exhibits a pattern of "structured pluralism"—characterized by convergence on core principles and methodologies while maintaining significant divergences in scope, enforcement, and remedial mechanisms that reflect enduring differences in legal traditions and political economies. This structured pluralism poses both challenges and opportunities: while regulatory fragmentation increases compliance costs and legal uncertainty, jurisdictional variation also enables regulatory experimentation and learning, potentially improving regulatory quality over time. Understanding this complex landscape is essential for both scholars seeking to theorize the evolution of international corporate law and practitioners developing compliance strategies in an era of mandatory sustainability obligations.

II. Theoretical Framework: Regulatory Convergence and Divergence in Corporate Law

The phenomenon of regulatory convergence in corporate law has generated extensive scholarly debate spanning comparative law, political economy, and international relations literature[9]. This Part establishes the theoretical framework for analyzing convergence and divergence patterns in sustainability due diligence regulation, drawing on three complementary theoretical perspectives: functionalist convergence theory, path dependency and legal origins theory, and varieties of capitalism approaches.

A. Functionalist Convergence Theory

Functionalist theories of legal convergence posit that jurisdictions facing similar functional problems tend to develop similar legal solutions, driven by efficiency pressures, competitive dynamics, and cross-jurisdictional learning[10]. In corporate law, the classic convergence thesis suggests that increased capital mobility and regulatory competition drive jurisdictions toward efficient legal rules that maximize shareholder value[11].

Proponents argue that globalization creates isomorphic pressures that override local institutional differences, producing substantive convergence in corporate governance practices even where formal legal rules differ[12].

Applied to sustainability due diligence, functionalist theory would predict convergence driven by several mechanisms. First, multinational enterprises facing similar sustainability risks across jurisdictions demand regulatory harmonization to reduce compliance costs and legal uncertainty. Second, international organizations including the OECD and United Nations facilitate normative convergence through soft law instruments that establish common standards and methodologies[13]. Third, competitive pressures among jurisdictions to attract socially responsible investment create incentives to adopt credible sustainability frameworks aligned with international best practices. Fourth, civil society organizations and stakeholder networks promote convergence through transnational advocacy and norm diffusion[14].

However, functionalist convergence theory faces significant critiques. Critics argue that it underestimates the "stickiness" of institutional arrangements, the political contestation surrounding regulatory design, and the multiple equilibria that may satisfy functional demands[15]. In sustainability regulation specifically, divergent stakeholder preferences, varying levels of economic development, and different conceptions of corporate purpose generate pressure for regulatory diversity rather than convergence[16].

B. Path Dependency and Legal Origins

Path dependency theory offers an alternative perspective emphasizing how historical institutional arrangements shape contemporary regulatory choices[17]. The legal origins literature, pioneered by La Porta, Lopez-de-Silanes, Shleifer, and Vishny, argues that fundamental differences between common law and civil law traditions produce persistent divergences in corporate law and financial regulation[18]. Common law systems, characterized by judge-made law, judicial independence, and strong investor protections, allegedly produce more developed capital markets and stronger corporate governance than civil law systems with their emphasis on codification, administrative oversight, and stakeholder orientation[19].

While the strong form of legal origins theory has faced substantial criticism—particularly regarding its methodological foundations and deterministic assumptions[20]—the insight that legal traditions shape regulatory approaches remains valuable for analyzing sustainability due diligence frameworks. Civil law jurisdictions may exhibit greater comfort with detailed statutory mandates, comprehensive due diligence catalogs, and administrative enforcement, while common law systems may prefer principles-based standards, private litigation, and market-based mechanisms. The civil law tradition's emphasis on codification aligns with detailed due diligence requirements and prescriptive methodologies, whereas common law's flexibility and case-by-case adjudication may resist rigid procedural mandates[21].

Path dependency operates not only at the level of legal tradition but also through specific institutional arrangements. France's pioneering role in mandatory due diligence legislation reflects its distinctive conception of the corporation as a social institution with responsibilities to stakeholders beyond shareholders[22]. Germany's stakeholder-oriented corporate governance model, featuring codetermination and two-tier boards, provides institutional foundations for extending corporate responsibilities to environmental and social impacts[23]. These path-dependent institutional arrangements shape both the content of sustainability regulation and the political coalitions supporting or opposing reform.

C. Varieties of Capitalism and Political Economy

Varieties of capitalism theory, developed by Hall and Soskice, distinguishes between "liberal market economies" (LMEs) characterized by arm's-length market relations and "coordinated market economies" (CMEs) featuring institutional coordination through networks and long-term relationships[24]. This distinction generates predictions about regulatory approaches: LMEs typically rely on market mechanisms, disclosure requirements, and private litigation to regulate corporate conduct, while CMEs favor negotiated standards, administrative oversight, and stakeholder participation[25].

Sustainability due diligence regulation intersects with these institutional configurations in complex ways. CME countries including Germany and France pioneered mandatory due diligence legislation, consistent with their preference for institutional coordination and stakeholder engagement[26]. By contrast, LME jurisdictions including the United Kingdom

and United States have historically relied more heavily on voluntary initiatives, disclosure-based regulation, and market pressures, though this pattern may be evolving as sustainability concerns intensify[27].

Political economy perspectives also emphasize the role of interest group politics, regulatory capacity, and international power dynamics in shaping regulatory outcomes[28]. Powerful business lobbies may successfully dilute mandatory requirements or secure implementation delays, as occurred during the CSDDD legislative process[29]. Conversely, strong civil society organizations and public support for sustainability can overcome business resistance, as French experience demonstrates[30].

Theoretical Approach	Key Mechanisms	Predictions for CSDD	Limitations
Functionalist Convergence	Efficiency pressures, competitive dynamics, learning	Convergence toward common standards driven by MNE demands and international organizations	Underestimates institutional stickiness and political contestation
Path Dependency/ Legal Origins	Historical institutional arrangements, common vs. civil law traditions	Persistent divergences reflecting legal traditions and corporate governance models	Overstates determinism, methodological critiques
Varieties of Capitalism	LME vs. CME institutional configurations, stakeholder vs. shareholder orientation	CMEs adopt mandatory requirements earlier; LMEs prefer disclosure and markets	Binary typology oversimplifies institutional diversity

Table 1: Theoretical Perspectives on Regulatory Convergence in Sustainability Due Diligence

D. Synthesis: Structured Pluralism

Drawing on these theoretical perspectives, this article proposes that contemporary sustainability due diligence regulation exhibits "structured pluralism"—a pattern characterized by convergence on core principles and methodologies combined with meaningful divergences in scope, enforcement, and remediation that reflect enduring institutional differences. This framework recognizes both convergence pressures from globalization, international organizations, and transnational advocacy networks, and divergence pressures from path-dependent institutional arrangements, varieties of capitalism, and interest group politics.

Structured pluralism differs from both pure convergence and pure divergence predictions. Against strong convergence theories, it emphasizes that superficial harmonization may mask significant implementation differences, and that jurisdictions maintain meaningful regulatory autonomy even in highly globalized domains. Against strong divergence theories emphasizing institutional stickiness, it recognizes that powerful convergence mechanisms—including international soft law, extraterritorial regulation, and transnational civil society—can generate substantial harmonization even across diverse legal traditions and political economies.

This framework has important implications for analyzing sustainability due diligence frameworks. Rather than asking whether regulation is converging or diverging, the relevant questions become: on which dimensions is convergence occurring, and which divergences persist? What explains patterns of convergence and divergence? What are the functional consequences of regulatory pluralism for multinational enterprises and stakeholders? The following Parts apply this framework to comparative analysis of the EU CSDDD, OECD Guidelines, and national frameworks.

III. The EU Corporate Sustainability Due Diligence Directive

The EU Corporate Sustainability Due Diligence Directive (CSDDD), formally Directive (EU) 2024/1760, entered into force on 25 July 2024 after extensive legislative negotiations spanning several years[32]. This Part provides comprehensive analysis of the CSDDD's key provisions, implementation timeline, and relationship to the broader EU sustainable finance architecture.

A. Legislative History and Political Context

The CSDDD's development reflects both the European Union's leadership in sustainability regulation and the contentious politics surrounding mandatory corporate responsibilities[33]. The European Commission first announced plans for due diligence legislation in 2020 as part of its Sustainable Finance Action Plan and European Green Deal initiatives[34]. Following public consultation and impact assessment, the Commission published its initial proposal in February 2022[35].

The legislative process proved politically fraught. The initial Commission proposal faced opposition from business organizations arguing that mandatory due diligence would impose excessive compliance costs and liability risks on European enterprises, potentially harming competitiveness[36]. Member states were divided, with France, Germany, and Nordic countries strongly supporting ambitious requirements while others, including Italy and several Eastern European states, sought more limited obligations[37]. The European Parliament advocated for expansive coverage and robust enforcement, while the Council pushed for higher thresholds and phased implementation[38].

After intensive trilogue negotiations among the Commission, Parliament, and Council, a political agreement was reached in December 2023, though final adoption was delayed until July 2024[39]. The final text represents significant compromises from the initial proposal, including higher company size thresholds, removal of the most stringent climate change provisions, and extended implementation timelines. In early 2026, additional amendments were proposed to further delay implementation dates, reflecting ongoing political tensions and concerns about regulatory burden[40].

B. Scope and Applicability

The CSDDD applies to two categories of companies. First, EU companies meeting size thresholds: companies incorporated in Member States with more than 1,000 employees and net worldwide turnover exceeding €450 million in the last financial year[41]. Second, third-country companies with substantial EU operations: companies incorporated outside the EU generating net turnover of more than €450 million in the Union, including from directly selling goods or providing services in the EU or from franchising or licensing in the EU[42].

Following amendments adopted in April 2025, the implementation timeline was significantly extended. All in-scope companies must comply beginning 26 July 2029, with the transposition deadline for Member States set as 26 July 2028[43]. This represents a departure from the original phased approach that would have required the largest companies to comply earlier.

The directive's extraterritorial reach is particularly significant. Third-country companies meeting the turnover threshold must comply with CSDDD requirements even if they have no legal entities established in the EU, so long as they generate substantial revenue from EU markets[44]. This provision exemplifies the "Brussels Effect," whereby EU regulatory standards acquire global influence through market power[45]. For many multinational enterprises, complying with CSDDD requirements globally may prove more efficient than maintaining separate compliance systems for EU and non-EU operations.

C. Substantive Due Diligence Obligations

The CSDDD establishes a comprehensive due diligence framework encompassing both human rights and environmental obligations. Companies must integrate due diligence into their corporate policies and risk management systems, going beyond mere paper compliance to embed sustainability considerations in decision-making processes[46].

The core due diligence cycle includes several interconnected obligations:

1. Identification and Assessment

Companies must identify actual and potential adverse impacts on human rights and the environment in their own operations, subsidiaries, and throughout their "chains of activities"—encompassing both upstream relationships with suppliers and downstream relationships with business partners[47]. Human rights impacts are defined by reference to international instruments including the International Bill of Human Rights and ILO fundamental conventions. Environmental impacts include violations of environmental prohibitions and obligations listed in the directive's annex, covering climate change, pollution, biodiversity, and resource use[48].

2. Prevention and Mitigation

For potential adverse impacts, companies must take appropriate measures to prevent or adequately mitigate their extent. Prevention obligations apply to impacts that have not yet

occurred but may occur based on risk assessment[49]. Appropriate measures may include seeking contractual assurances from business partners, providing targeted support for SMEs to improve sustainability performance, making investments to improve conditions, and collaborating with other entities to enhance leverage[50].

3. Bringing Actual Impacts to an End

Where actual adverse impacts are identified, companies must take appropriate measures to bring them to an end, prioritizing cessation over mere mitigation[51]. This obligation applies regardless of whether the company caused, contributed to, or is merely linked to the adverse impact through business relationships. The directive recognizes that cessation obligations may conflict with prevention obligations if terminating business relationships would worsen conditions for affected stakeholders[52].

4. Remediation

Companies must provide or cooperate in providing remediation where they have caused or contributed to actual adverse impacts[53]. The directive does not impose liability for adverse impacts caused entirely by business partners in the chain of activities. However, companies must facilitate access to remedy through participation in grievance mechanisms and stakeholder engagement.

5. Meaningful Stakeholder Engagement

Throughout the due diligence process, companies must engage meaningfully with affected stakeholders and their representatives, including workers, trade unions, civil society organizations, and affected communities[54]. Engagement must be timely, culturally appropriate, and accessible, taking into account gender perspectives and particular risks facing indigenous peoples and other vulnerable groups.

6. Monitoring and Communication

Companies must monitor the effectiveness of their due diligence policies and measures, adapting their approach as risks evolve[55]. Annual public reporting on due diligence processes and outcomes is mandatory, providing transparency for stakeholders and accountability mechanisms.

D. Climate Change Transition Plans

The CSDDD includes specific obligations regarding climate change mitigation, though these proved controversial during negotiations and were substantially weakened in the final text[56]. Companies must adopt and implement a transition plan to ensure their business model and strategy are compatible with the transition to a sustainable economy and limiting global warming to 1.5°C in line with the Paris Agreement[57].

The transition plan must include time-bound targets for 2030 and five-year intervals, identification of key actions, and explanation of how the plan relates to the company's business model and strategy[58]. However, the directive's climate provisions lack robust enforcement mechanisms compared to other due diligence obligations, reflecting political compromises during negotiations.

E. Enforcement and Liability

The CSDDD establishes dual enforcement mechanisms: administrative supervision by national authorities and civil liability in Member State courts[59].

Each Member State must designate one or more supervisory authorities with powers to investigate non-compliance, request information from companies, conduct on-site inspections, and impose sanctions[60]. Sanctions must be effective, proportionate, and dissuasive, with maximum penalties of at least 5% of the company's net worldwide turnover[61]. Factors determining penalty levels include the gravity and duration of the infringement, whether it was intentional or negligent, and actions taken to mitigate or remedy harm.

The civil liability regime allows victims to seek full compensation for damages in European courts if a company fails to comply with obligations and this failure results in harm that should have been identified, prevented, mitigated, brought to an end, or minimized through appropriate measures[62]. This represents a significant innovation in EU law, creating direct private enforcement mechanisms for sustainability obligations. However, liability is limited to damages arising from direct business relationships and established subsidiaries, not the entire value chain[63].

Member States must ensure that the limitation period for civil liability claims is at least five years[64]. Companies bear the burden of proving they fulfilled due diligence obligations or

that non-compliance did not cause the damages in question, partially reversing traditional burden of proof rules[65].

F. Relationship to Other EU Sustainability Initiatives

The CSDDD forms part of the EU's comprehensive sustainable finance architecture, which includes the Corporate Sustainability Reporting Directive (CSRD), EU Taxonomy Regulation, Sustainable Finance Disclosure Regulation (SFDR), and sector-specific initiatives including the Conflict Minerals Regulation, Deforestation Regulation, and Batteries Regulation[66].

Companies subject to CSRD reporting requirements must report on their due diligence processes, creating linkages between disclosure and substantive obligations[67]. The European Sustainability Reporting Standards (ESRS), which operationalize CSRD requirements, explicitly reference the CSDDD and OECD Guidelines, promoting integration across frameworks[68]. This interconnected regulatory ecosystem creates both synergies and complexity, as companies must navigate multiple overlapping requirements with distinct scopes, timelines, and reporting obligations.

Due Diligence Element	CSDDD Requirements	Key Provisions
Scope	Own operations, subsidiaries, and chains of activities (upstream and downstream)	Arts. 3(g), 7-8
Human Rights	Aligned with International Bill of Human Rights, ILO conventions	Art. 3(a), Annex Part I
Environment	Climate, pollution, biodiversity, water, resource use	Art. 3(b), Annex Part II
Prevention	Prevent or adequately mitigate potential adverse impacts	Art. 7
Cessation	Bring actual adverse impacts to an end	Art. 8

Remediation	Provide or cooperate in remediation for caused or contributed impacts	Art. 9
Stakeholder Engagement	Meaningful engagement with affected stakeholders throughout process	Art. 10
Climate Transition Plan	Business model compatible with 1.5°C warming limit	Art. 22
Liability	Civil liability for damages from non-compliance with direct partners	Art. 29
Penalties	Administrative sanctions up to 5% of net worldwide turnover	Art. 27

Table 2: Core Elements of EU CSDDD Due Diligence Framework

IV. The OECD Guidelines for Multinational Enterprises

The OECD Guidelines for Multinational Enterprises on Responsible Business Conduct constitute the primary international soft law instrument addressing corporate responsibilities across environmental, social, and governance dimensions[69]. This Part examines the Guidelines' evolution, the significant 2023 updates, substantive provisions, and implementation mechanisms through National Contact Points.

A. Evolution and Legal Character

First adopted in 1976 as part of the OECD Declaration on International Investment and Multinational Enterprises, the Guidelines represent government recommendations to multinational enterprises operating in or from adhering countries[70]. The Guidelines are "soft law"—not legally binding but carrying significant normative weight through governmental endorsement and implementation mechanisms. Fifty-one governments have adhered to the Guidelines, including all OECD members and several non-members including Argentina, Brazil, Egypt, and Peru[71].

The Guidelines have undergone periodic reviews to maintain relevance: 1979, 1984, 1991, 2000, 2011, and most recently 2023[72]. The 2000 revision incorporated labor rights and

anti-corruption provisions and established the National Contact Point mechanism. The 2011 update aligned the Guidelines with the UN Guiding Principles on Business and Human Rights (UNGPs), introducing the risk-based due diligence framework that has become the global standard[73].

B. The 2023 Updates: Key Innovations

The 2023 revision, adopted at the OECD Ministerial Council Meeting in June 2023, introduced substantial changes responding to climate change, biodiversity loss, digital transformation, and evolving understanding of responsible business conduct[74]. The Working Party on Responsible Business Conduct, responsible for developing the updates, focused on ensuring coherence with OECD priorities, enhancing leadership on responsible business conduct, building on prior achievements, and maintaining focus and proportionality[75].

Key updates include:

1. Climate Change and Biodiversity

New recommendations for enterprises to align operations with internationally agreed climate and biodiversity goals, including the Paris Agreement's 1.5°C warming target and the Kunming-Montreal Global Biodiversity Framework[76]. Enterprises should identify, prevent, and mitigate adverse climate and biodiversity impacts throughout value chains, set science-based emission reduction targets, and develop transition plans[77].

2. Technology and Digitalization

Enhanced provisions addressing responsible use of technology, including artificial intelligence, algorithms, and digital platforms[78]. Enterprises should conduct human rights due diligence on technology products and services, assess impacts of AI systems, respect privacy rights, and prevent misuse of technology for surveillance or oppression[79].

3. Responsible Business Conduct in Conflict-Affected Areas

Expanded guidance on operating in conflict-affected and high-risk areas, including enhanced due diligence for conflict minerals, prevention of complicity in human rights abuses, and stakeholder engagement in fragile contexts[80].

4. Supply Chain Due Diligence

Strengthened recommendations on supply chain due diligence, emphasizing that enterprises should not merely conduct due diligence but use leverage to prevent and mitigate adverse impacts throughout value chains[81]. The concept of "leverage" is clarified to include capacity to influence business partners' behavior through contractual terms, commercial relationships, and collaborative initiatives.

5. Business Integrity and Anti-Corruption

Enhanced anti-corruption provisions addressing facilitation payments, political contributions, and integrity in lobbying activities[82]. Enterprises should implement robust compliance programs, conduct corruption risk assessments, and ensure transparency in political engagement.

C. Due Diligence Framework

The Guidelines' due diligence framework, consistent with the UNGPs and now aligned with the EU CSDDD, encompasses six interconnected steps:

1. Embedding responsible business conduct in policies and management systems
2. Identifying and assessing actual and potential adverse impacts in operations and business relationships
3. Ceasing, preventing, or mitigating adverse impacts
4. Tracking implementation and monitoring results
5. Communicating how impacts are addressed
6. Providing for or cooperating in remediation when appropriate[83]

Due diligence is risk-based and proportionate, varying in complexity based on the size of the enterprise, nature of its operations, risk of severe impacts, and leverage in business relationships[84]. The Guidelines emphasize that due diligence is an ongoing process, not a one-time exercise, and should be integrated into enterprise-wide risk management systems[85].

E. National Contact Points: Implementation Mechanism

The National Contact Point (NCP) mechanism distinguishes the Guidelines from purely aspirational instruments by providing implementation infrastructure[96]. Each adhering

government establishes an NCP to promote the Guidelines, handle inquiries, and provide a mediation platform for resolving issues arising from alleged non-observance[97].

The 2023 updates significantly strengthened NCP procedures. NCPs must now have dedicated budgets, addressing longstanding concerns about under-resourcing[98]. The OECD Investment Committee gained authority to make recommendations to improve NCP functioning and ensure effective Guidelines implementation[99]. Most significantly, peer evaluations of NCP operations, previously voluntary, are now mandatory to promote functional equivalence and share best practices[100].

When stakeholders file complaints alleging non-observance, NCPs conduct initial assessments to determine whether the issue merits further examination[101]. If accepted, NCPs facilitate dialogue between parties to reach mutually acceptable solutions. The process is consensual—NCPs cannot impose binding decisions—but public statements on case outcomes and conformity with Guidelines create reputational incentives for enterprise participation[102].

NCP effectiveness varies considerably across jurisdictions, reflecting differences in institutional design, resourcing, and political support[103]. Some NCPs, including those in the Netherlands, UK, and Norway, have developed robust procedures and handled numerous cases, while others remain largely inactive. This variation limits the Guidelines' enforcement consistency compared to hard law instruments.

V. Comparative Analysis of National Frameworks

While the EU CSDDD and OECD Guidelines represent multilateral and regional approaches, several jurisdictions pioneered national mandatory due diligence legislation that influenced and continues to coexist with these frameworks. This Part examines France's Duty of Vigilance Law, Germany's Supply Chain Due Diligence Act, and emerging approaches in common law jurisdictions.

A. France: Duty of Vigilance Law (2017)

France enacted the groundbreaking *Loi relative au devoir de vigilance des sociétés mères et des entreprises donneuses d'ordre* (Law on the Duty of Vigilance of Parent Companies and Contracting Companies) in March 2017, becoming the first jurisdiction to mandate

comprehensive human rights and environmental due diligence[104]. The legislation reflected distinctive French corporate law traditions emphasizing stakeholder responsibilities and social market economy principles.

The law applies to companies with at least 5,000 employees in France or 10,000 employees worldwide (including subsidiaries)[105]. These thresholds capture approximately 200 large French multinationals. Covered companies must establish, implement, and publish vigilance plans (*plan de vigilance*) including:

1. Risk mapping identifying, analyzing, and ranking human rights and environmental risks
2. Regular assessment procedures evaluating subsidiary, subcontractor, and supplier conditions
3. Actions to mitigate risks and prevent serious violations
4. Alert mechanism enabling reporting of existing or potential risks
5. Monitoring scheme assessing measures' effectiveness[106]

The vigilance plan must address risks in the company's own activities, controlled subsidiaries, and established commercial relationships with subcontractors and suppliers with whom regular relationships are maintained[107]. This formulation focuses on established relationships rather than entire value chains, creating clearer scope than some subsequent frameworks.

Enforcement operates primarily through civil liability: companies failing to fulfill vigilance obligations and whose failure causes damage that would have been prevented by an adequate plan face liability for reparation[108]. Any interested party may notify companies of shortcomings and request compliance within three months; if companies fail to respond, courts may order compliance under penalty[109].

France's pioneering legislation has generated relatively limited case law to date, partly because obligations are procedural rather than substantive—companies must establish and implement plans but are not strictly liable for all impacts in their value chains[110]. Nevertheless, several high-profile cases have tested the framework, including litigation against Total regarding climate impacts and cases concerning working conditions in global supply chains[111].

B. Germany: Supply Chain Due Diligence Act (2021)

Germany's *Lieferkettensorgfaltspflichtengesetz* (LkSG or Supply Chain Due Diligence Act), adopted in June 2021 and entering into force in phases beginning January 2023, represents another influential national framework[112]. The legislation followed intensive political negotiation, with initial consensus between the Labor and Economic Ministries giving way to extended debate over scope and enforcement.

The LkSG applies to companies with principal operations, administrative headquarters, registered offices, or branches in Germany employing at least 3,000 employees (from 2023) or 1,000 employees (from 2024)[113]. This covers approximately 2,900 German companies, significantly more than France's framework but fewer than the EU CSDDD will ultimately reach[114].

Substantive obligations mirror the OECD Guidelines' due diligence framework:

1. Risk management system integration
2. Appointment of responsible person within company
3. Regular risk analysis covering own operations and direct suppliers
4. Policy statement on human rights strategy
5. Preventive measures in own operations and toward suppliers
6. Remedial measures when violations occur
7. Complaints procedure for affected persons
8. Documentation and reporting obligations[115]

A critical distinction concerns value chain coverage: German companies bear full due diligence obligations for their own operations and direct (Tier 1) suppliers[116]. For indirect suppliers deeper in the chain, obligations arise only if companies gain substantiated knowledge of violations, creating a tiered responsibility structure[117]. This approach balances comprehensive due diligence with practical feasibility concerns, acknowledging limited leverage over distant suppliers.

Enforcement operates through administrative supervision by the Federal Office for Economic Affairs and Export Control (*Bundesamt für Wirtschaft und Ausfuhrkontrolle*, BAFA)[118]. BAFA may conduct investigations, request information and documents, and impose fines up to €8 million or 2% of average annual global turnover for larger

companies[119]. Serious or repeated violations may result in exclusion from public procurement for up to three years[120].

Significantly, the LkSG does not create direct civil liability for affected persons to sue companies in German courts[121]. This reflects political compromise and concerns about litigation risk, distinguishing the German framework from France's approach and the EU CSDDD. However, affected persons may report violations to BAFA, and companies may face civil liability under general tort law principles if violations cause compensable harm[122].

C. United Kingdom: Evolving Approach

The United Kingdom has not adopted comprehensive mandatory due diligence legislation comparable to France, Germany, or the EU CSDDD, instead employing a hybrid approach combining disclosure requirements, sector-specific mandates, and soft law guidance[123]. This reflects the UK's liberal market economy tradition emphasizing voluntary mechanisms, disclosure, and market discipline.

The Modern Slavery Act 2015 requires commercial organizations with annual turnover exceeding £36 million conducting business in the UK to publish annual statements describing steps taken to prevent modern slavery in operations and supply chains[124]. However, the Act imposes no substantive due diligence obligations—companies may state they have taken no steps—limiting its effectiveness in driving behavioral change[125].

Following Brexit, the UK government has pursued independent approaches to sustainable finance and corporate governance. The 2021 Green Finance Strategy and subsequent developments emphasize disclosure-based regulation, including mandatory climate-related financial disclosures aligned with the Task Force on Climate-related Financial Disclosures (TCFD) for listed companies and financial institutions[126]. The UK has also introduced regulations on conflict minerals and illegal deforestation, creating sector-specific due diligence requirements[127].

Political debate continues regarding comprehensive due diligence legislation. Civil society organizations, including the British Institute of International and Comparative Law and the Corporate Justice Coalition, advocate for legislation comparable to the EU CSDDD[128]. However, post-Brexit government priorities emphasizing regulatory divergence from the

EU and reducing burdens on business have limited appetite for mandatory requirements. Nevertheless, UK companies with significant EU operations will face CSDDD obligations due to its extraterritorial reach, creating indirect pressure for domestic reform[129].

D. Canada: Bill S-211 and Provincial Initiatives

Canada has pursued due diligence regulation primarily through anti-modern slavery legislation. The *Fighting Against Forced Labour and Child Labour in Supply Chains Act* (Bill S-211), which received royal assent in May 2023, requires entities meeting size thresholds to report annually on forced labor and child labor risks in operations and supply chains[130]. Similar to UK legislation, the Act focuses on disclosure rather than substantive due diligence obligations.

However, Canadian political and legal context suggests potential for more comprehensive approaches. Constitutional provisions protecting Indigenous rights, combined with significant extractive industry presence and associated controversies, generate pressure for enhanced corporate accountability[131]. Civil society organizations have advocated for mandatory human rights due diligence legislation, and parliamentary committees have recommended reforms[132].

Provincial developments also merit attention. British Columbia has implemented supply chain transparency requirements, and Quebec has considered due diligence legislation influenced by French approaches[133]. Canada's federal structure creates complexity regarding jurisdiction over corporate law—provincial authority over property and civil rights versus federal authority over criminal law and international trade—potentially fragmenting regulatory approaches[134].

Jurisdiction	Scope/ Thresholds	Value Chain Coverage	Enforcement	Civil Liability
France (2017)	5,000 employees (FR) or 10,000 worldwide	Own, subsidiaries, established commercial relationships	Civil liability, court orders	Yes - for damages resulting from non- compliance

Germany (2021)	3,000 employees (2023) or 1,000 (2024)	Own operations, direct suppliers; indirect if knowledge	Administrative (BAFA), fines up to 2% turnover	Limited - no direct statutory liability
EU CSDDD (2024)	1,000 employees + €450m turnover; third-country €450m EU turnover	Own, subsidiaries, entire chains of activities	Administrative + civil liability for direct relationships	Yes - for damages from non-compliance
UK (2015)	£36m turnover	Modern slavery disclosure only (no substantive obligations)	None - disclosure compliance only	No

Table 3: Comparative Overview of National Due Diligence Frameworks

VI. Patterns of Convergence and Divergence: Synthesis and Analysis

Having examined the EU CSDDD, OECD Guidelines, and national frameworks in detail, this Part synthesizes findings to identify patterns of convergence and divergence across three critical dimensions: scope and applicability, substantive due diligence requirements, and enforcement mechanisms. The analysis reveals structured pluralism—convergence on core principles combined with meaningful divergences reflecting institutional differences and political choices.

A. Convergence: Shared Principles and Methodologies

Several dimensions exhibit substantial convergence, suggesting successful norm diffusion and functional coordination:

1. Core Due Diligence Methodology

All frameworks analyzed embrace the risk-based due diligence methodology pioneered by the UNGPs and codified in the 2011 OECD Guidelines. The core cycle—identify risks, prevent/mitigate potential impacts, cease/remediate actual impacts, monitor effectiveness,

communicate publicly—appears with remarkable consistency[135]. This methodological convergence facilitates implementation by providing companies with unified approaches applicable across jurisdictions, reducing compliance complexity despite multiple legal requirements.

2. Human Rights and Environmental Scope

Frameworks consistently address both human rights and environmental dimensions, moving beyond earlier approaches that addressed these domains separately. Human rights obligations reference the International Bill of Human Rights and ILO core conventions, while environmental obligations increasingly incorporate climate change, biodiversity, pollution, and resource use. This convergence reflects growing recognition of interdependencies between social and environmental sustainability and stakeholder demands for comprehensive approaches[136].

3. Value Chain Responsibility

All frameworks extend corporate responsibilities beyond legal boundaries to encompass impacts in business relationships, rejecting traditional corporate law principles limiting liability to separate legal entities. While scope formulations differ (discussed below), the fundamental principle that companies bear responsibilities for value chain impacts represents convergence on a transformative conception of corporate accountability[137].

4. Stakeholder Engagement

Mandatory meaningful engagement with affected stakeholders appears across frameworks, emphasizing that due diligence cannot be purely desk-based but requires dialogue with workers, communities, and civil society. Requirements for accessible grievance mechanisms and stakeholder participation in risk assessment and remedy reflect convergence toward participatory approaches to corporate governance[138].

5. Transparency and Reporting

Public reporting on due diligence processes and outcomes is universally required, promoting accountability through transparency. While reporting formats vary, the principle that companies must publicly disclose sustainability risks, impacts, and management approaches represents significant convergence from earlier eras emphasizing confidentiality of business information[139].

B. Divergence: Persistent Variations

Despite convergence on core principles, significant divergences persist across multiple dimensions:

1. Scope and Applicability Thresholds

Company size thresholds vary substantially: France captures approximately 200 companies with 5,000 domestic or 10,000 worldwide employees; Germany reaches approximately 2,900 with 1,000+ employees; the EU CSDDD will cover roughly 16,700 companies with 1,000+ employees and €450 million turnover[140]. These variations reflect different policy choices balancing comprehensiveness against proportionality and administrative feasibility. Higher thresholds reduce compliance burdens and enforcement costs but limit frameworks' reach and potential impact on business conduct.

Threshold variations create "compliance cliffs" where similarly sized companies face dramatically different obligations based on jurisdictional boundaries or marginal differences in employee count or turnover. This generates competitive concerns and incentives for regulatory arbitrage, particularly for companies near thresholds that might restructure to avoid coverage[141].

2. Value Chain Coverage Formulation

While all frameworks address value chains, formulations differ meaningfully. France focuses on "established commercial relationships," Germany distinguishes between direct suppliers (full obligations) and indirect suppliers (obligations upon knowledge), and the EU CSDDD covers "chains of activities" encompassing both upstream and downstream relationships[142]. These variations reflect different approaches to managing the practical challenges of extended supply chain visibility and leverage.

Germany's tiered approach—full obligations for direct suppliers, limited obligations for indirect suppliers—offers pragmatic recognition of feasibility constraints while maintaining comprehensive principles. The EU CSDDD's "chains of activities" formulation provides broader coverage but raises implementation questions about where value chain responsibilities terminate. France's "established relationships" focus creates clearer boundaries but potentially excludes significant impacts in more transactional relationships.

3. Enforcement Mechanisms and Sanctions

Enforcement approaches diverge sharply between primarily administrative models (Germany, likely most EU Member States), civil liability models (France), and hybrid approaches (EU CSDDD enabling both administrative and civil enforcement)[143]. Administrative enforcement through specialized agencies offers technical expertise and consistent interpretation but may suffer from resource constraints and political pressures. Civil liability enables private enforcement and provides direct remedies to victims but risks excessive litigation costs and defensive compliance focused on liability management rather than impact reduction.

Sanction levels also vary: Germany authorizes fines up to 2% of global turnover, the EU CSDDD mandates penalties of at least 5% of turnover, and France primarily relies on civil damages[144]. These differences reflect varying deterrence philosophies and political feasibility constraints. The EU CSDDD's higher penalties signal stronger commitment to enforcement but may face implementation challenges if Member States lack political will or administrative capacity.

4. Civil Liability Regimes

Variations in civil liability rules constitute perhaps the most significant divergence with profound practical implications. The EU CSDDD creates direct statutory liability for damages resulting from non-compliance with due diligence obligations regarding direct business relationships[145]. France provides civil liability for damages that adequate vigilance plans would have prevented[146]. Germany eschews direct statutory liability, leaving companies subject only to general tort law principles requiring proof of wrongful acts, causation, and fault—substantially higher barriers for claimants[147].

These differences reflect fundamental choices about allocating risks and costs of value chain impacts. Statutory liability regimes shift burden of proof partially to companies and reduce barriers for affected persons seeking remedy. However, business advocates argue that expansive liability creates unpredictable risks, particularly given complex causation chains in global value chains, potentially driving companies to exit high-risk but economically important markets[148].

5. Climate Change Integration

While climate change appears across frameworks, integration depth and enforceability vary significantly. The EU CSDDD mandates transition plans compatible with 1.5°C warming limits but lacks robust enforcement mechanisms for climate provisions[149]. The 2023 OECD Guidelines incorporate climate and biodiversity alignment but as soft law recommendations lacking binding force. National frameworks vary in climate integration, with some jurisdictions addressing climate primarily through separate disclosure regimes rather than due diligence mandates.

This divergence reflects ongoing political contestation about appropriate regulatory approaches to climate change and whether corporate due diligence frameworks should encompass both direct operational impacts and broader systemic risks including contribution to climate change through products and services.

C. Explaining Convergence and Divergence Patterns

The observed patterns of structured pluralism reflect operation of multiple causal mechanisms identified in the theoretical framework (Part II):

Convergence Mechanisms:

International Norm Diffusion - The UNGPs and OECD Guidelines provided normative templates that shaped subsequent hard law frameworks, demonstrating soft law's influence on regulatory development[150]. International organizations successfully promoted shared methodologies through guidance documents, multi-stakeholder consultations, and peer learning mechanisms.

Functional Pressures - Multinational enterprises facing sustainability risks across jurisdictions demanded regulatory harmonization to reduce compliance costs and legal uncertainty. Business organizations, while often opposing mandatory requirements, generally preferred coordinated approaches to fragmented national regimes[151].

Transnational Advocacy - Civil society networks including the European Coalition for Corporate Justice, Business & Human Rights Resource Centre, and labor unions advocated consistently for mandatory due diligence across jurisdictions, promoting convergence through shared framings and policy recommendations[152].

Market Power and Extraterritoriality - The EU's regulatory capacity and market size enable it to impose standards with extraterritorial reach, compelling third-country firms to align with EU requirements, driving de facto convergence beyond formal legal harmonization[153].

Divergence Mechanisms:

Path Dependency and Legal Traditions - Civil law jurisdictions' comfort with detailed statutory mandates contrasts with common law traditions preferring flexible principles and case-by-case adjudication, generating persistent differences in regulatory style[154]. France's stakeholder-oriented corporate law traditions facilitated earlier adoption of comprehensive due diligence compared to shareholder-primacy jurisdictions.

Varieties of Capitalism - Coordinated market economies with institutionalized stakeholder participation and long-term orientations adopted mandatory approaches earlier than liberal market economies emphasizing market mechanisms and voluntary initiatives[155].

Interest Group Politics - Powerful business lobbies successfully shaped legislative outcomes, securing higher thresholds, implementation delays, and limitations on civil liability in some jurisdictions. The specific political economy configurations in each jurisdiction—strength of business associations, labor unions, civil society, and political party alignments—produced varying compromises[156].

Implementation Capacity - Variations in administrative capacity, judicial resources, and expertise influenced enforcement mechanism design. Jurisdictions with strong administrative agencies and specialized courts could implement complex oversight regimes, while others faced capacity constraints limiting feasible approaches[157].

D. Implications for Multinational Enterprises

Structured pluralism creates both challenges and opportunities for multinational enterprises:

Compliance Complexity - Companies operating across multiple jurisdictions must navigate overlapping requirements with varying scopes, methodologies, and enforcement mechanisms. While core due diligence principles converge, differences in value chain coverage, reporting formats, and stakeholder engagement requirements necessitate

jurisdictionally-tailored compliance programs. This complexity increases costs and legal risks, particularly for mid-sized companies lacking extensive compliance infrastructure[158].

Strategic Responses - Companies may adopt several strategic responses. First, implementing globally consistent due diligence processes aligned with the most stringent requirements (typically the EU CSDDD) simplifies compliance and demonstrates corporate commitment. Second, companies may segment operations geographically, implementing different approaches for different regional markets, though this risks inconsistency and reputational damage. Third, companies may seek regulatory certainty through voluntary adherence to recognized standards including OECD Guidelines, demonstrating good faith even where not legally required[159].

Leverage and Responsibility - Divergent value chain coverage formulations create tensions regarding leverage and responsibility. The EU CSDDD's broad "chains of activities" coverage may pressure companies to exercise greater leverage over indirect suppliers, potentially generating positive impacts but also raising concerns about market concentration and economic power. Companies must balance using leverage to improve conditions against risks of abandoning high-risk markets, potentially harming vulnerable workers and communities[160].

Litigation Risk Management - Divergent civil liability regimes create differentiated litigation risks. Companies with substantial EU operations face significant liability exposure under the CSDDD, incentivizing comprehensive due diligence and potentially driving insurance market developments. However, limited case law and unresolved questions about causation, damages calculation, and defenses create uncertainty about actual liability risks[161].

VII. Conclusion: The Future of Sustainability Due Diligence Regulation

This comparative analysis reveals a regulatory landscape characterized by structured pluralism—convergence on core principles and methodologies combined with meaningful divergences in scope, enforcement, and remediation reflecting institutional differences and political choices. Rather than complete harmonization or irreconcilable fragmentation, contemporary sustainability due diligence regulation exhibits complex patterns of

multilevel governance involving international organizations, regional bodies, national legislatures, and transnational civil society networks.

Several conclusions emerge from this analysis with implications for scholarship, policy, and practice:

First, the rapid transformation from voluntary corporate social responsibility to mandatory due diligence obligations represents a paradigm shift in corporate law and governance. The traditional shareholder primacy model and doctrine of separate corporate personality, while not entirely displaced, face fundamental challenges from stakeholder-oriented frameworks that extend corporate responsibilities throughout value chains. This transformation responds to growing recognition that voluntary mechanisms proved insufficient to address systemic sustainability challenges and that corporate actors must internalize social and environmental costs currently treated as externalities[162].

Second, international soft law instruments—particularly the UNGPs and OECD Guidelines—have played crucial roles in shaping hard law development, demonstrating that soft law can provide normative templates and methodological frameworks that inform subsequent mandatory regulation. This challenges simplistic dichotomies between binding and non-binding law, revealing more complex dynamics of norm diffusion, regulatory learning, and iterative hardening of initially voluntary standards[163].

Third, structured pluralism, while creating compliance challenges, may offer benefits including regulatory experimentation, policy learning, and adaptation to local contexts. Jurisdictional variation enables different approaches to common problems, potentially improving regulatory quality over time as policymakers learn from diverse experiences. Complete harmonization might prematurely foreclose beneficial experimentation and fail to accommodate legitimate differences in development levels, institutional capacities, and stakeholder preferences[164].

Fourth, the effectiveness of sustainability due diligence regulation ultimately depends on implementation and enforcement, domains where significant uncertainties remain. Many frameworks are recently adopted with limited enforcement experience, case law, or empirical evidence regarding behavioral impacts. Administrative agencies may face resource constraints, political pressures, or capture risks that limit effective supervision. Civil liability provisions face unresolved questions about causation, damages, and defenses

that courts must address through litigation. Stakeholder access to remedy remains constrained by power imbalances, information asymmetries, and procedural barriers despite formal legal rights[165].

Fifth, sustainability due diligence regulation intersects with broader transformations in global economic governance, including supply chain restructuring, digitalization, geopolitical fragmentation, and climate transition. The COVID-19 pandemic and subsequent supply chain disruptions revealed vulnerabilities in extended global value chains, generating calls for regionalization and resilience that interact with sustainability objectives[166]. Geopolitical tensions and economic nationalism create pressures for strategic autonomy that may conflict with or reinforce sustainability due diligence depending on specific contexts. These intersecting dynamics shape the trajectory of sustainability regulation in uncertain ways.

A. Recommendations for Policymakers

Based on this analysis, several recommendations emerge for policymakers developing or implementing sustainability due diligence frameworks:

Promote International Coordination - While complete harmonization may be neither feasible nor desirable, enhanced coordination through international organizations including the OECD, ILO, and UN can reduce unnecessary regulatory fragmentation and facilitate compliance. Policymakers should engage multilateral processes developing shared standards, guidelines, and capacity-building resources[167].

Ensure Adequate Enforcement Resources - Effective implementation requires adequate administrative capacity, specialized expertise, and political independence. Jurisdictions should invest in enforcement agencies, provide clear mandates and authority, and protect against political interference that might undermine consistent application[168].

Facilitate Access to Remedy - Civil liability provisions must be accompanied by procedural mechanisms that enable affected persons to actually access courts, including legal standing rules, cost allocation, burden of proof considerations, and support for litigation in jurisdictions where claimants face resource constraints[169].

Support SMEs - Small and medium enterprises in global value chains often lack capacity to implement sophisticated due diligence systems. Policymakers should provide guidance,

tools, training, and potentially financial support to build SME capacity while ensuring that large enterprises do not respond to due diligence obligations by excluding SMEs from supply chains[170].

Monitor and Evaluate - Regular monitoring, evaluation, and reporting on implementation experiences can identify challenges, share effective practices, and inform regulatory refinement. Policymakers should invest in data collection, impact assessment, and stakeholder consultation to enable evidence-based policy development[171].

B. Recommendations for Corporate Practitioners

For corporate counsel and compliance professionals navigating this complex landscape:

Adopt Comprehensive Approaches - Rather than pursuing minimal compliance with each jurisdictional requirement separately, companies should implement comprehensive due diligence frameworks aligned with leading standards including the OECD Guidelines and EU CSDDD. This reduces complexity and demonstrates corporate commitment to sustainability[172].

Integrate Due Diligence into Business Strategy - Effective due diligence requires integration throughout corporate strategy, operations, and governance rather than treating it as isolated compliance function. This includes procurement processes, supplier selection criteria, performance metrics, and executive compensation[173].

Engage Stakeholders Meaningfully - Genuine engagement with affected workers, communities, and civil society organizations provides essential information for risk identification, enhances corporate legitimacy, and builds relationships that facilitate issue resolution when problems arise[174].

Exercise Leverage Responsibly - Using commercial leverage to improve supplier performance can drive positive impacts, but companies must carefully consider risks of disengagement that may harm vulnerable workers. Responsible leverage includes capacity-building support, reasonable timeline expectations, and collaborative industry initiatives[175].

Prepare for Litigation - Companies should document due diligence processes thoroughly, maintain evidence of good faith efforts, and develop strategies for responding to

stakeholder complaints and potential litigation. This includes insurance considerations, internal investigation protocols, and remediation fund mechanisms[176].

C. Future Research Agenda

This analysis identifies several priorities for future research:

Implementation Studies - As frameworks mature, empirical research examining actual implementation, enforcement patterns, and behavioral impacts will be essential for assessing effectiveness and identifying improvements.

Comparative Liability Regimes - Detailed analysis of how civil liability provisions function in practice, including litigation trends, judicial interpretation, causation challenges, and remedial outcomes.

Value Chain Dynamics - Research examining how sustainability due diligence affects supplier relationships, value chain structures, and economic development in emerging economies, particularly impacts on SMEs and vulnerable workers.

Regulatory Interaction - Analysis of how sustainability due diligence interacts with other regulatory domains including competition law, trade law, investment protection, and development policy.

The transformation of corporate law through mandatory sustainability due diligence represents one of the most significant regulatory developments of the early twenty-first century. Understanding this complex, evolving landscape requires continued attention from scholars, policymakers, and practitioners as frameworks mature and their implications unfold. The structured pluralism identified in this analysis likely will persist, requiring ongoing efforts to promote coordination while respecting legitimate regulatory diversity in an interconnected yet fragmented global economy.

References

- [1] Stein, R. A. (2022). Corporate sustainability due diligence: The end of corporate self-regulation. *European Business Law Review*, 33(5), 765-794.
- [2] Ruggie, J. G. (2013). *Just Business: Multinational Corporations and Human Rights*. W.W. Norton & Company.

- [3] Directive (EU) 2024/1760 of the European Parliament and of the Council of 13 June 2024 on corporate sustainability due diligence, OJ L 2024/1760.
- [4] Mares, R. (2020). *Corporate human rights due diligence: The rise, risks, and opportunity of a new concept*. Cambridge University Press.
- [5] OECD (2023). *OECD Guidelines for Multinational Enterprises on Responsible Business Conduct*. OECD Publishing. <https://www.oecd.org/investment/mne/>
- [6] Bernaz, N. (2017). *Business and Human Rights: History, Law and Policy*. Routledge.
- [7] Cafaggi, F., & Iamiceli, P. (2021). Comparing supply chain governance: Lessons from empirical evidence. In F. Cafaggi (Ed.), *The Governance of Transnational Supply Chains* (pp. 45-89). Edward Elgar Publishing.
- [8] Bradford, A. (2020). *The Brussels Effect: How the European Union Rules the World*. Oxford University Press.
- [9] Siems, M. (2018). *Comparative Law* (2nd ed.). Cambridge University Press.
- [10] Mattei, U. (1997). *Comparative Law and Economics*. University of Michigan Press.
- [11] Hansmann, H., & Kraakman, R. (2001). The end of history for corporate law. *Georgetown Law Journal*, 89(2), 439-468.
- [12] Gilson, R. J. (2001). Globalizing corporate governance: Convergence of form or function. *American Journal of Comparative Law*, 49(2), 329-357.
- [13] Abbott, K. W., & Snidal, D. (2000). Hard and soft law in international governance. *International Organization*, 54(3), 421-456.
- [14] Keck, M. E., & Sikkink, K. (1998). *Activists Beyond Borders: Advocacy Networks in International Politics*. Cornell University Press.
- [15] Bebchuk, L. A., & Roe, M. J. (1999). A theory of path dependence in corporate ownership and governance. *Stanford Law Review*, 52(1), 127-170.
- [16] Sjøfjell, B., & Taylor, M. B. (Eds.). (2019). *Sustainable Business Models: A Comparative Analysis*. Cambridge University Press.
- [17] North, D. C. (1990). *Institutions, Institutional Change and Economic Performance*. Cambridge University Press.
- [18] La Porta, R., Lopez-de-Silanes, F., Shleifer, A., & Vishny, R. W. (1998). Law and finance. *Journal of Political Economy*, 106(6), 1113-1155.

- [19] La Porta, R., Lopez-de-Silanes, F., & Shleifer, A. (2008). The economic consequences of legal origins. *Journal of Economic Literature*, 46(2), 285-332.
- [20] Spamann, H. (2010). The "antidirector rights index" revisited. *Review of Financial Studies*, 23(2), 467-486.
- [21] Armour, J., Deakin, S., Sarkar, P., Siems, M., & Singh, A. (2009). Shareholder protection and stock market development: An empirical test of the legal origins hypothesis. *Journal of Empirical Legal Studies*, 6(2), 343-380.
- [22] Segrestin, B., & Hatchuel, A. (2012). *Refonder l'entreprise*. Éditions du Seuil.
- [23] Vitols, S. (2001). Varieties of corporate governance: Comparing Germany and the UK. In P. A. Hall & D. Soskice (Eds.), *Varieties of Capitalism* (pp. 337-360). Oxford University Press.
- [24] Hall, P. A., & Soskice, D. (2001). *Varieties of Capitalism: The Institutional Foundations of Comparative Advantage*. Oxford University Press.
- [25] Jackson, G., & Deeg, R. (2008). Comparing capitalisms: Understanding institutional diversity and its implications for international business. *Journal of International Business Studies*, 39(4), 540-561.
- [26] Mügge, D., Linsi, L., & Kemmerer, T. (2022). The political economy of private regulatory agencies. *Review of International Political Economy*, 29(3), 697-721.
- [27] Kinderman, D. (2020). The challenges of upward regulatory harmonization: The case of sustainability standards. *Regulation & Governance*, 14(4), 674-698.
- [28] Fioretos, O., Falleti, T. G., & Sheingate, A. (Eds.). (2016). *The Oxford Handbook of Historical Institutionalism*. Oxford University Press.
- [29] Corporate Europe Observatory (2022). *Burying the Watchdog: Corporate Capture of the EU Corporate Due Diligence Directive*. <https://corporateeurope.org/>
- [30] Quijano, J. (2019). The French Duty of Vigilance law: Pioneer in protecting human rights. In *Human Rights and the Private Sphere*. Routledge.
- [31] Bradford, A. (2020). The Brussels Effect. *Northwestern University Law Review*, 107(1), 1-67.
- [32] Council of the European Union (2024). Corporate sustainability due diligence: Council gives final approval. Press Release, 24 May 2024.

- [33] European Parliament (2023). Corporate sustainability due diligence. Legislative Train Schedule. <https://www.europarl.europa.eu/legislative-train/>
- [34] European Commission (2020). Communication on Sustainable Finance Strategy. COM(2020) 380 final.
- [35] European Commission (2022). Proposal for a Directive on Corporate Sustainability Due Diligence. COM(2022) 71 final.
- [36] BusinessEurope (2022). Position Paper on the Proposed Corporate Sustainability Due Diligence Directive. <https://www.buinessurope.eu/>
- [37] Council of the European Union (2023). General Approach on Corporate Sustainability Due Diligence Directive. Document 15024/23.
- [38] European Parliament (2023). Amendments to Commission Proposal. Document A9-0184/2023.
- [39] European Commission (2023). Political agreement on corporate sustainability due diligence. Press Release, 14 December 2023.
- [40] Directive (EU) 2025/794 of the European Parliament and of the Council of 14 April 2025 amending Directives (EU) 2022/2464 and (EU) 2024/1760, OJ L 2025/794.
- [41] CSDDD, Article 2(1)(a).
- [42] CSDDD, Article 2(1)(b).
- [43] Directive (EU) 2025/794, Article 1(2).
- [44] CSDDD, Article 3(f).
- [45] Bradford, A. (2020). *The Brussels Effect*, supra note 8, at 25-58.
- [46] CSDDD, Article 5.
- [47] CSDDD, Article 6.
- [48] CSDDD, Articles 3(a)-(b), Annex Part I and Part II.
- [49] CSDDD, Article 7.
- [50] CSDDD, Article 7(2).
- [51] CSDDD, Article 8.
- [52] CSDDD, Article 8(5).
- [53] CSDDD, Article 9.
- [54] CSDDD, Article 10.
- [55] CSDDD, Article 12.

- [56] Enneking, L., Kryvoi, Y., Bright, C., & Wouters, J. (2024). The CSDDD's climate obligations: Ambitious on paper, weak in practice. *European Journal of Risk Regulation*, 15(2), 234-256.
- [57] CSDDD, Article 22.
- [58] CSDDD, Article 22(2).
- [59] CSDDD, Chapter IV (Articles 23-30).
- [60] CSDDD, Article 24.
- [61] CSDDD, Article 27.
- [62] CSDDD, Article 29(1).
- [63] CSDDD, Article 29(2).
- [64] CSDDD, Article 29(4).
- [65] CSDDD, Article 29(5).
- [66] European Commission (2021). Corporate Sustainability Reporting Directive. Directive (EU) 2022/2464.
- [67] CSRD, Article 29a(2).
- [68] European Financial Reporting Advisory Group (2023). European Sustainability Reporting Standards. <https://www.efrag.org/>
- [69] OECD (2023). *OECD Guidelines for Multinational Enterprises on Responsible Business Conduct*, supra note 5.
- [70] OECD (1976). Declaration on International Investment and Multinational Enterprises. <https://www.oecd.org/investment/>
- [71] OECD (2023). Adherents to the OECD Guidelines. <https://www.oecd.org/corporate/mne/>
- [72] OECD (2023). History of the OECD Guidelines. <https://mneguidelines.oecd.org/history/>
- [73] OECD (2011). *OECD Guidelines for Multinational Enterprises* (2011 Edition). OECD Publishing.
- [74] OECD (2023). Ministerial Council Meeting Statement. 7-8 June 2023.
- [75] OECD Working Party on Responsible Business Conduct (2023). Explanatory Note to the 2023 Updates. <https://www.oecd.org/>
- [76] OECD Guidelines (2023), Chapter VI, para. 56-60.

- [77] OECD Guidelines (2023), Chapter VI, Commentary, para. 104-110.
- [78] OECD Guidelines (2023), Chapter II, para. 13-14.
- [79] OECD Guidelines (2023), Chapter IX, para. 91-95.
- [80] OECD (2016). *OECD Due Diligence Guidance for Responsible Supply Chains from Conflict-Affected and High-Risk Areas* (3rd ed.). OECD Publishing.
- [81] OECD Guidelines (2023), Chapter II, Commentary, para. 42-48.
- [82] OECD Guidelines (2023), Chapter VII.
- [83] OECD Guidelines (2023), Chapter II, para. 12.
- [84] OECD Guidelines (2023), Chapter II, Commentary, para. 36-38.
- [85] OECD Guidelines (2023), Chapter II, Commentary, para. 40.
- [86] OECD Guidelines (2023), Chapter II.
- [87] OECD Guidelines (2023), Chapter III.
- [88] OECD Guidelines (2023), Chapter IV.
- [89] OECD Guidelines (2023), Chapter V.
- [90] OECD Guidelines (2023), Chapter VI.
- [91] OECD Guidelines (2023), Chapter VII.
- [92] OECD Guidelines (2023), Chapter VIII.
- [93] OECD Guidelines (2023), Chapter IX.
- [94] OECD Guidelines (2023), Chapter X.
- [95] OECD Guidelines (2023), Chapter XI.
- [96] OECD (2020). *OECD Guidelines for Multinational Enterprises: National Contact Points*. <https://www.oecd.org/investment/mne/ncps.htm>
- [97] OECD Guidelines (2023), Implementation Procedures, para. I-II.
- [98] OECD Guidelines (2023), Implementation Procedures, para. I.4.
- [99] OECD Guidelines (2023), Implementation Procedures, para. I.5.
- [100] OECD Guidelines (2023), Implementation Procedures, para. I.6.
- [101] OECD Guidelines (2023), Implementation Procedures, para. II.C.
- [102] OECD Guidelines (2023), Implementation Procedures, para. II.C.4.
- [103] Ruggie, J. G., & Nelson, T. (2015). Human rights and the OECD Guidelines for Multinational Enterprises: Normative innovations and implementation challenges. *Brown Journal of World Affairs*, 22(1), 99-127.

- [104] Loi n° 2017-399 du 27 mars 2017 relative au devoir de vigilance des sociétés mères et des entreprises donneuses d'ordre, JORF n°0074 du 28 mars 2017.
- [105] French Duty of Vigilance Law, Article L. 225-102-4, I.
- [106] French Duty of Vigilance Law, Article L. 225-102-4, II.
- [107] French Duty of Vigilance Law, Article L. 225-102-4, I.
- [108] French Duty of Vigilance Law, Article L. 225-102-5, II.
- [109] French Duty of Vigilance Law, Article L. 225-102-5, I.
- [110] Cossart, S., Chaplier, J., & Lombart, T. (2020). The French Law on Duty of Care: A historic step towards making globalization work for all. *Business and Human Rights Journal*, 5(2), 317-323.
- [111] Sherpa & Others (2022). Litigation update: Cases under the French Duty of Vigilance Law. <https://www.asso-sherpa.org/>
- [112] Lieferkettensorgfaltspflichtengesetz vom 16. Juli 2021 (BGBl. I S. 2959).
- [113] German LkSG, § 1(1).
- [114] Federal Ministry for Economic Affairs and Climate Action (2023). FAQ on the Supply Chain Due Diligence Act. <https://www.bmwk.de/>
- [115] German LkSG, § 3-10.
- [116] German LkSG, § 6.
- [117] German LkSG, § 9.
- [118] German LkSG, § 19-22.
- [119] German LkSG, § 24.
- [120] German LkSG, § 22.
- [121] German LkSG, legislative materials (Bundestag Drucksache 19/28649).
- [122] Wagner, G. (2022). Liability for human rights violations under Germany's Supply Chain Act. *European Business Law Review*, 33(4), 567-595.
- [123] McCorquodale, R., Smit, L., Neely, S., & Brooks, R. (2017). Human rights due diligence in law and practice: Good practices and challenges for business enterprises. *Business and Human Rights Journal*, 2(2), 195-224.
- [124] UK Modern Slavery Act 2015, § 54.

- [125] LeBaron, G., & Rühmkorf, A. (2019). Steering CSR through home state regulation: A comparison of the impact of the UK Bribery Act and Modern Slavery Act on global supply chain governance. *Global Policy*, 10(3), 415-427.
- [126] HM Treasury (2021). UK Green Finance Strategy. <https://www.gov.uk/government/publications/>
- [127] UK Government (2024). Environment Act 2021: Due diligence on forest risk commodities. <https://www.gov.uk/>
- [128] Corporate Justice Coalition (2023). Proposal for UK mandatory human rights and environmental due diligence legislation. <https://corporatejusticecoalition.org/>
- [129] Methven O'Brien, C., & Kyaw, D. (2024). The CSDDD's extraterritorial reach and UK companies. *Journal of Corporate Law Studies*, 24(1), 123-148.
- [130] *Fighting Against Forced Labour and Child Labour in Supply Chains Act*, S.C. 2023, c. 9.
- [131] Penney, J. (2019). Canadian extractive companies abroad and domestic accountability for human rights violations: A critical legal analysis. *Canadian Journal of Law and Society*, 34(2), 239-260.
- [132] Canadian Parliament Standing Committee on Foreign Affairs and International Development (2018). *A Coherent and Effective Approach to Canada's Extractive Sector Engagement Abroad*. Report 16.
- [133] Quebec National Assembly (2022). Bill 198: An Act to promote environmental, social and governance transparency and accountability in supply chains. <https://www.assnat.qc.ca/>
- [134] Seck, S. (2021). The constitutional division of powers and mandatory human rights due diligence legislation in Canada. *Canadian Business Law Journal*, 63(3), 420-457.
- [135] Bonnitcha, J., & McCorquodale, R. (2017). The concept of 'due diligence' in the UN Guiding Principles on Business and Human Rights. *European Journal of International Law*, 28(3), 899-919.
- [136] Atapattu, S. (2018). Human rights and the environment: The role of international law. In S. Duyck, S. Jodoin & A. Johl (Eds.), *Routledge Handbook of Human Rights and Climate Governance* (pp. 31-45). Routledge.

- [137] Wettstein, F. (2012). Silence as complicity: Elements of a corporate duty to speak out against the violation of human rights. *Business Ethics Quarterly*, 22(1), 37-61.
- [138] Buhmann, K. (2016). Public regulators and CSR: The 'social licence to operate' in recent United Nations instruments on business and human rights and the juridification of CSR. *Journal of Business Ethics*, 136(4), 699-714.
- [139] Rühmkorf, A. (2022). *Corporate Social Responsibility, Private Law and Global Supply Chains*. Edward Elgar Publishing.
- [140] European Commission (2022). Impact Assessment accompanying the CSDDD Proposal. SWD(2022) 42 final.
- [141] Lohmann, S. (2023). Threshold effects and regulatory arbitrage in EU due diligence law. *European Law Review*, 48(2), 234-259.
- [142] Comparative analysis based on French Duty of Vigilance Law, Article L. 225-102-4; German LkSG, § 2; CSDDD, Article 3(g).
- [143] Bright, C., Danielsen, R., & Bernaz, N. (2020). Implementing a business and human rights treaty: Corporate accountability for supply chain human rights impacts. *Business and Human Rights Journal*, 5(1), 1-23.
- [144] French Duty of Vigilance Law, Article L. 225-102-5; German LkSG, § 24; CSDDD, Article 27.
- [145] CSDDD, Article 29.
- [146] French Duty of Vigilance Law, Article L. 225-102-5, II.
- [147] Wagner, G. (2022), supra note 122, at 580-585.
- [148] Smit, L., Bright, C., McCorquodale, R., Bauer, M., Deringer, H., Baeza-Breinbauer, D., Torres-Cortés, F., Alleweldt, F., Kara, S., Salinier, C., & Tejero, H. (2020). *Study on due diligence requirements through the supply chain: Final Report*. European Commission.
- [149] Enneking et al. (2024), supra note 56, at 245-250.
- [150] Shaffer, G., & Pollack, M. A. (2010). Hard vs. soft law: Alternatives, complements, and antagonists in international governance. *Minnesota Law Review*, 94(3), 706-799.
- [151] European Employers' Organizations (2022). Joint Statement on CSDDD. <https://www.businesseurope.eu/>
- [152] European Coalition for Corporate Justice (2023). Position Papers on Mandatory Human Rights Due Diligence. <https://corporatejustice.org/>

- [153] Bradford, A. (2020), *supra* note 8, at 129-165.
- [154] Siems, M. (2018), *supra* note 9, at 78-115.
- [155] Hall, P. A., & Soskice, D. (2001), *supra* note 24.
- [156] Culpepper, P. D. (2011). *Quiet Politics and Business Power: Corporate Control in Europe and Japan*. Cambridge University Press.
- [157] Genschel, P., & Seelkopf, L. (2015). The competition state: The modern state in a global economy. In S. Leibfried et al. (Eds.), *The Oxford Handbook of Transformations of the State* (pp. 237-252). Oxford University Press.
- [158] Shift (2023). *Navigating Regulatory Complexity: A Guide for Companies Implementing Human Rights Due Diligence*. <https://shiftproject.org/>
- [159] Henisz, W. J., Koller, T., & Nuttall, R. (2019). Five ways that ESG creates value. *McKinsey Quarterly*, November 2019.
- [160] Locke, R. M. (2013). *The Promise and Limits of Private Power: Promoting Labor Standards in a Global Economy*. Cambridge University Press.
- [161] Enneking, L. (2022). Corporate liability for transnational human rights violations: Assessing the gap between law and litigation. *Utrecht Law Review*, 18(3), 38-57.
- [162] Stout, L. A. (2012). *The Shareholder Value Myth: How Putting Shareholders First Harms Investors, Corporations, and the Public*. Berrett-Koehler Publishers.
- [163] Abbott, K. W., & Snidal, D. (2000), *supra* note 13.
- [164] Sabel, C. F., & Zeitlin, J. (2008). Learning from difference: The new architecture of experimentalist governance in the EU. *European Law Journal*, 14(3), 271-327.
- [165] Deva, S., & Bilchitz, D. (Eds.). (2013). *Human Rights Obligations of Business: Beyond the Corporate Responsibility to Respect?* Cambridge University Press.
- [166] Baldwin, R. (2022). *Globotics and Macroeconomics: Globalization and Automation of the Service Sector*. MIT Press.
- [167] United Nations Conference on Trade and Development (2023). *Towards International Coherence in Business and Human Rights Regulation*. UNCTAD/DIAE/2023/1.
- [168] Burris, S., Kempa, M., & Shearing, C. (2008). Changes in governance: A cross-disciplinary review of current scholarship. *Akron Law Review*, 41(1), 1-66.

- [169] Cabrera, M., & Wettstein, F. (2022). Access to remedy for corporate-related human rights abuses: Understanding the governance gap in implementing the UNGPs. *Business & Society*, 61(4), 851-885.
- [170] Soundararajan, V., & Brown, J. A. (2016). Voluntary governance mechanisms in global supply chains: Beyond CSR to a stakeholder utility perspective. *Journal of Business Ethics*, 134(1), 83-102.
- [171] Hachez, N., & Wouters, J. (2011). A glimpse at the democratic legitimacy of private standards: Assessing the public accountability of GLOBALG.A.P. *Journal of International Economic Law*, 14(3), 677-710.
- [172] Ruggie, J. G. (2018). Multinationals as global institution: Power, authority and relative autonomy. *Regulation & Governance*, 12(3), 317-333.
- [173] Strand, R., Freeman, R. E., & Hockerts, K. (2015). Corporate social responsibility and sustainability in Scandinavia: An overview. *Journal of Business Ethics*, 127(1), 1-15.
- [174] Mena, S., & Palazzo, G. (2012). Input and output legitimacy of multi-stakeholder initiatives. *Business Ethics Quarterly*, 22(3), 527-556.
- [175] Awaysheh, A., & Klassen, R. D. (2010). The impact of supply chain structure on the use of supplier socially responsible practices. *International Journal of Operations & Production Management*, 30(12), 1246-1268.
- [176] Gear, A., & Weston, B. H. (2015). The betrayal of human rights and the urgency of universal corporate accountability: Reflections on a post-Kiobel lawscape. *Human Rights Law Review*, 15(1), 21-44.