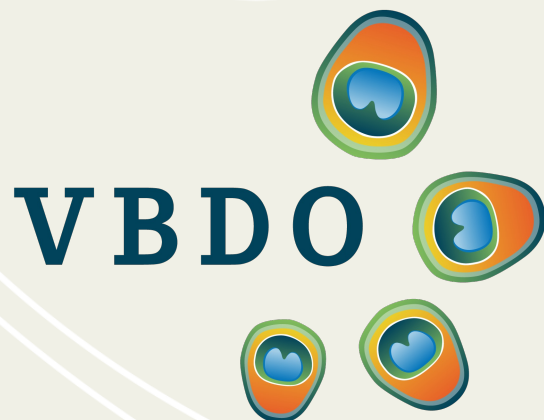


HUMAN – Access to Remedy

a.s.r., Utrecht

13-12-2022



Vereniging van Beleggers
voor Duurzame Ontwikkeling

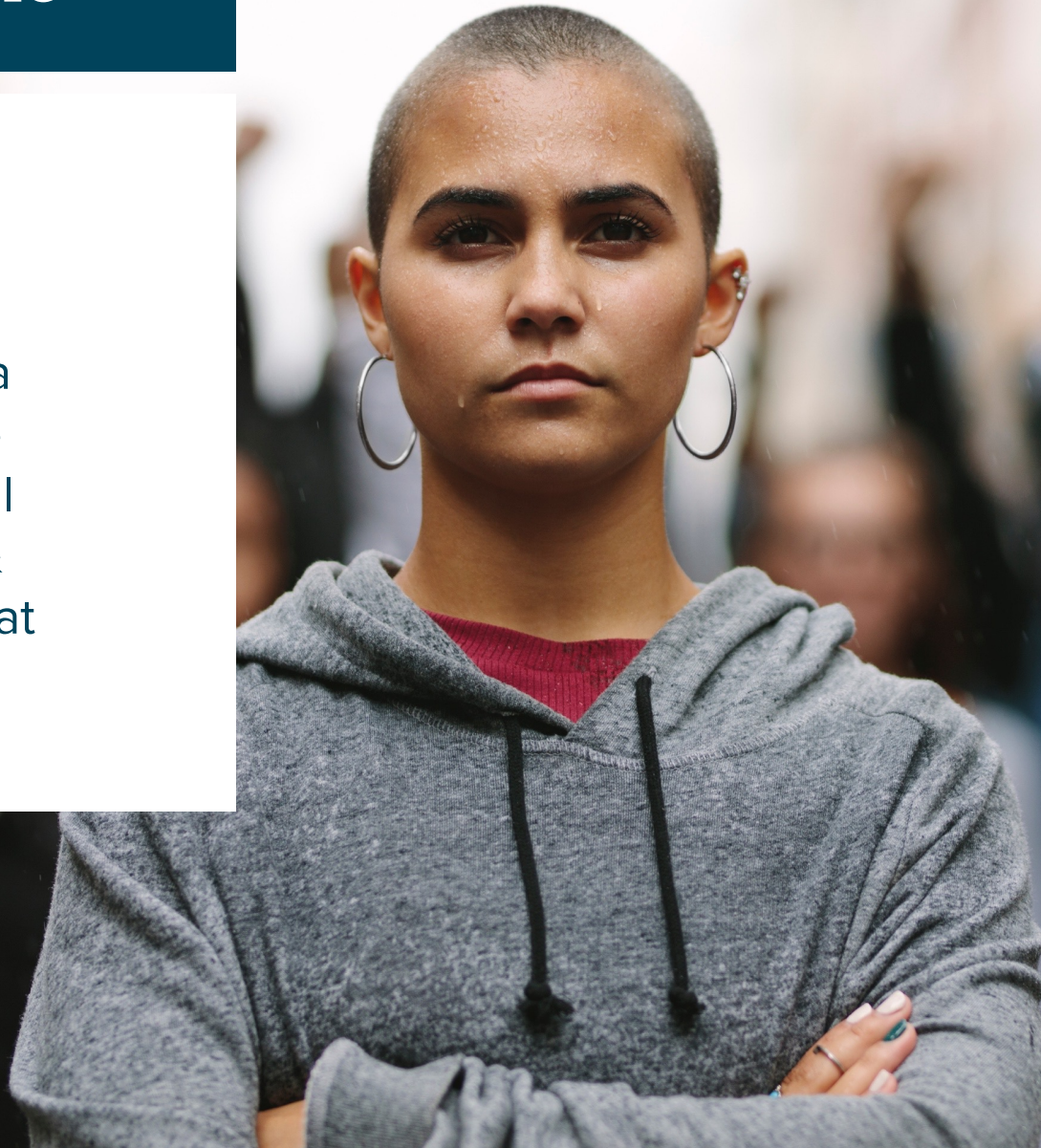


a.s.r.
de nederlandse
verzekerings
maatschappij
voor alle
verzekeringen

Hosted by

Setting the scene

- Angélique Laskewitz (director VBDO)
- Raquel Criado Larrea (Head of Sustainable Investments, External Manager Selection & Balanced Mandates at ASR Nederland N.V.)



Program

- 15:15 – 15:30 | **Why Access to Remedy matters for Investors** | Kees Gootjes (ABN Amro)
- 15:30 – 16:20 | **Breakout sessions;**
 - ✓ Both ENDS (VC3): Access to Remedy perspective from The Illusion of Abundance (documentary) at Work
 - ✓ EY (VC4): Legislation: what do you have to comply with as a company?
 - ✓ CNV Internationaal (plenary): Grievance mechanisms in the clothing industry
- 16:20/25 – 16:50 | **How Human Rights Data can be used in Investment Methods** | K. Chad Clay (Human Rights Measurement Initiative)
- 16:50 – 17:00 | **Closure** | Angélique Laskewitz (VBDO)
- 17:00 | **Drinks**

Break out sessions (15:30 -16:20)

- **Room VC3:** Access to Remedy perspective from The Illusion of Abundance (documentary) | Cindy Coltman (sr. Policy Officer Both ENDS)
- **Room VC4:** Legislation: what do you have to comply with as a company? CSRD, CSDDD & Taxonomy minimum safeguards | Colette Grosscurt, Bas Sprenger de Rover & Emma Fabius (EY)
- **Plenary room:** Grievance mechanisms in the clothing industry from a union perspective | Eva Smulders, CNV Internationaal / Bart Slob (Consultant, Ethics at Work)

An aerial photograph of a busy port. A large container ship is docked at a pier, with several yellow gantry cranes positioned along its length. The ship's deck is filled with stacks of colorful shipping containers. To the left of the ship, there are numerous stacks of containers on the ground, organized in neat rows. The water is a deep blue-green color. The overall scene depicts a major hub of international trade.

Corporate sustainability due diligence in the EU

An Overview on the European
Commission's Proposal

The EY logo, consisting of the letters 'EY' in a bold, white, sans-serif font. A yellow diagonal line is positioned above the 'Y'.

Building a better
working world

Contents

1. Context
2. Responsibilities of companies and their directors
3. Due diligence requirements
4. Our reflections and questions for organizations
5. Appendix

Key takeaways

On 23 February 2022, the European Commission adopted the “Just and Sustainable Economy” package, which is a proposal, setting out a horizontal framework for companies operating in the EU, governing how they respect human rights and environment through their global value chains.

It includes changes to directors’ duties and requirements for value chain due diligence.



Andrew Hobbs
EY EMEIA Public Policy Leader

“

We need a shift in our economic model. The momentum in the market has been building in support of this initiative, with consumers pushing for more sustainable products. I am confident that many business leaders will support this cause.

Didier Reynders

EU Commissioner for Justice



Context

Just and Sustainable Economy package

The European Commission wants the EU economy to address adverse impacts on human rights and environment throughout its global value chain.

An increasing number of EU companies are using value chain due diligence to identify risks and build resilience. However, **voluntary action has not resulted in large scale improvement** and, as a consequence, negative externalities from EU production and consumption are being observed.

In line with the [European Green Deal](#), the **just and sustainable economy package** introduces EU [legislation on corporate due diligence](#) and a [communication on decent work worldwide](#), which sets out an intention to ban products made by forced labor from entering the internal market.

“

A new law on corporate due diligence will set the standard for responsible business conduct in Europe and beyond, and ensure fairness, a level playing field and legal clarity for all businesses, workers and consumers.

MEP Lara Wolters, on the recommendation adopted by the European Parliament on 10 March 2021

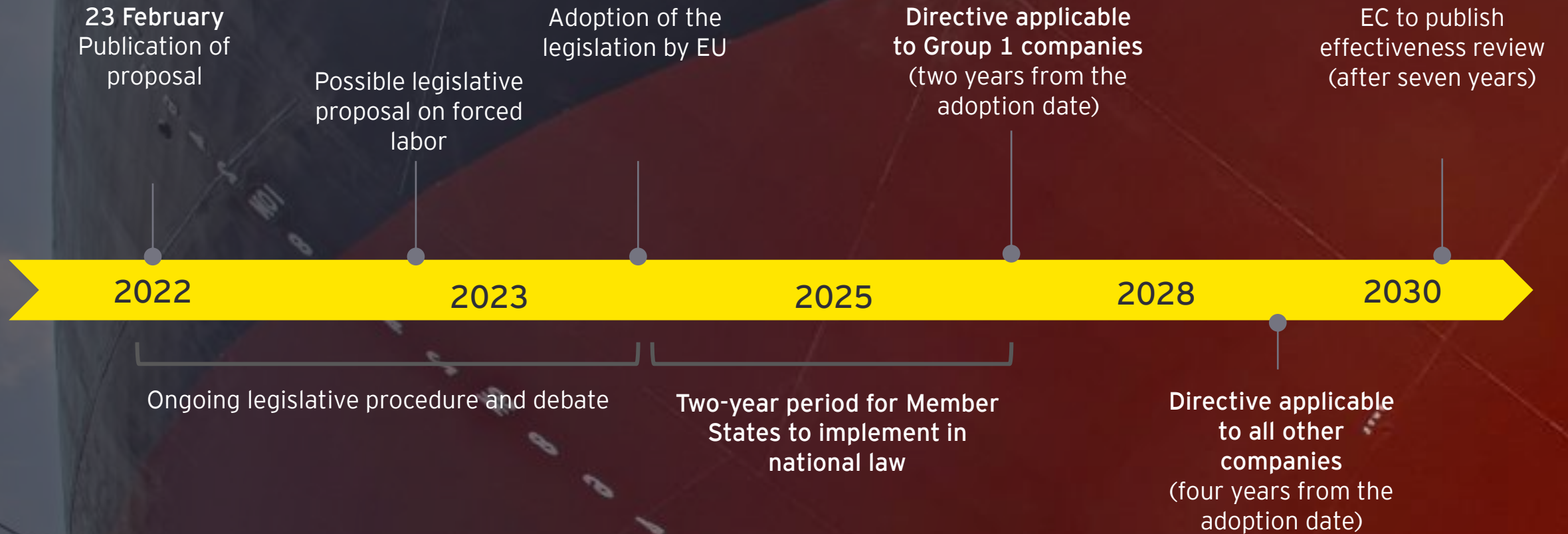


European Commission's objectives for the Directive



- 1 **Improve corporate governance practices** to better integrate sustainability risk management into corporate strategies
- 2 **Avoid fragmentation of due diligence requirements** in the single market and create legal certainty for businesses and stakeholders
- 3 **Increase corporate accountability** for adverse impacts and ensure coherence for companies across existing and proposed EU initiatives on responsible business conduct
- 4 **Improve access to remedies** for those harmed
- 5 **Complement other specific sustainability measures**

Corporate sustainability due diligence directive Timeline





Responsibilities of companies and their directors

New or reinforced duties for companies and their directors



- 1 **Adjust business model and strategy** to be compatible with sustainability transition and the 1.5°C target in the Paris Agreement
- 2 **Set out emission reduction objectives** where climate change is a principal risk
- 3 Where **variable remuneration** is linked to strategy and sustainability, ensure its setting takes into account obligations 1 and 2 above
- 4 **When making decisions, take into account the impact** for sustainability matters, including human rights, climate change and environmental consequences
- 5 **Put in place and oversee** due diligence policy and its execution, taking input from civil society organizations and other stakeholders
- 6 **Adapt company strategy in light of actual or potential impacts identified**



Due diligence requirements

Who is in scope?

EU companies

Group 1

Companies and other undertakings with more than 500 employees on average and a net annual turnover of €150 million

SMEs and micro companies are not directly included

Financial undertakings providing loans, credit or other financial services are subject to the Directive.

Group 2

Companies and other undertakings with more than 250 employees on average and a net annual turnover of €40 million, provided that at least 50% of it was generated in one or more of the following sectors:

- ▶ Manufacture of textiles, footwear or the wholesale trade of textiles, clothing and footwear
- ▶ Agriculture, forestry, fisheries; manufacture of food products; or wholesale trade of agricultural raw materials, live animals, wood, food and beverages
- ▶ Extraction, manufacture or wholesale of mineral resources

Non-EU companies

Those that have a direct link to the EU market and meet the same turnover thresholds within the EU market as the EU companies covered, except for the employee criterion.

About 13,000 EU companies and 4,000 non-EU companies covered

What are the due diligence obligations?

1

Adopt and integrate a policy for supply chain due diligence

2

Identify and assess actual or potential adverse human rights and environmental impacts

3

Prevent, mitigate or cease actual or potential adverse impacts

4

Establish and maintain a complaints procedure

5

Monitor effectiveness of policy

6

Publicly report

Noteworthy aspects

Duties for companies and their boards

Companies to adjust business model and strategy to incorporate environmental and social objectives, including 1.5°C reduction, i.e., going beyond disclosures

Definitions

Value chain to comprise operations of the company, its subsidiaries and entities with which the company has an “established business relationship” both upstream and downstream

Independent verification

Companies to seek contractual commitments in established business relationships about policy compliance and corrective action. Compliance with such commitments to be subject to independent verification

Financial services

Identification of adverse impacts upstream to be carried out before providing financial services
Directive consistent with Sustainable Finance Disclosure Regulation (SFDR)

Nominated representatives for non-EU companies

Must be appointed in the Member State where company has branch or generates most of EU turnover

Reporting

The directive to complement and clarify what will need to be reported under the Corporate Sustainability Reporting Directive (CSRD). If not covered by CSRD, the reporting will be defined in Delegated Act.

Links to supporting legislation and EU initiatives

See appendix for details

Supervision, enforcement and liability

Supervision

- ▶ Independent supervisory authorities to be appointed at Member State level
- ▶ Authorities to carry out investigations based on own initiative or substantiated complaints
- ▶ Competent authority in Member State where:
 - i) Company registered (EU company)
- Or
- ii) Company has a branch or where it generated most of its revenue (non-EU company)
- ▶ Network of authorities throughout EU to be established

Sanction

- ▶ Sanctions for noncompliance to be monetary, dissuasive and based on turnover

Liability

- ▶ Companies to be sued if they do not prevent potential impacts or bring actual impacts to an end
- ▶ Anyone reporting breaches to be protected by Whistleblower Directive

Both sanctions and civil liability provisions will fall under the responsibility of Member States.



Our reflections and questions for organizations

EY reflections on the proposal

Greater clarity needed in the proposals:

- ▶ Definitions
- ▶ Adverse impacts
- ▶ Responsibilities of companies and directors
- ▶ Liability of directors
- ▶ Sanctions calculation

Risk of inconsistent application and complexity across EU

Downstream aspects could give some industries challenges

Companies will require effective risk management and internal controls to fulfil the requirements efficiently

Likely to require enhanced compliance budgets

Looking at both the existing French and German models as examples, it is likely that changes to legislation will be needed across all Member States

Benefits for business from implementing the Directive

Improve supply chain resilience and supplier relationship management

Improve compliance with existing requirements

Protect corporate reputation by de-risking value chain

Improve value chain performance

Confidence in alignment with corporate commitments, e.g., SDGs

Opportunity to better capture social and environmental value to support equity story

Encourages the removal of silos in risk management (integrated approach required)

Improved cost control

Improve access to finance

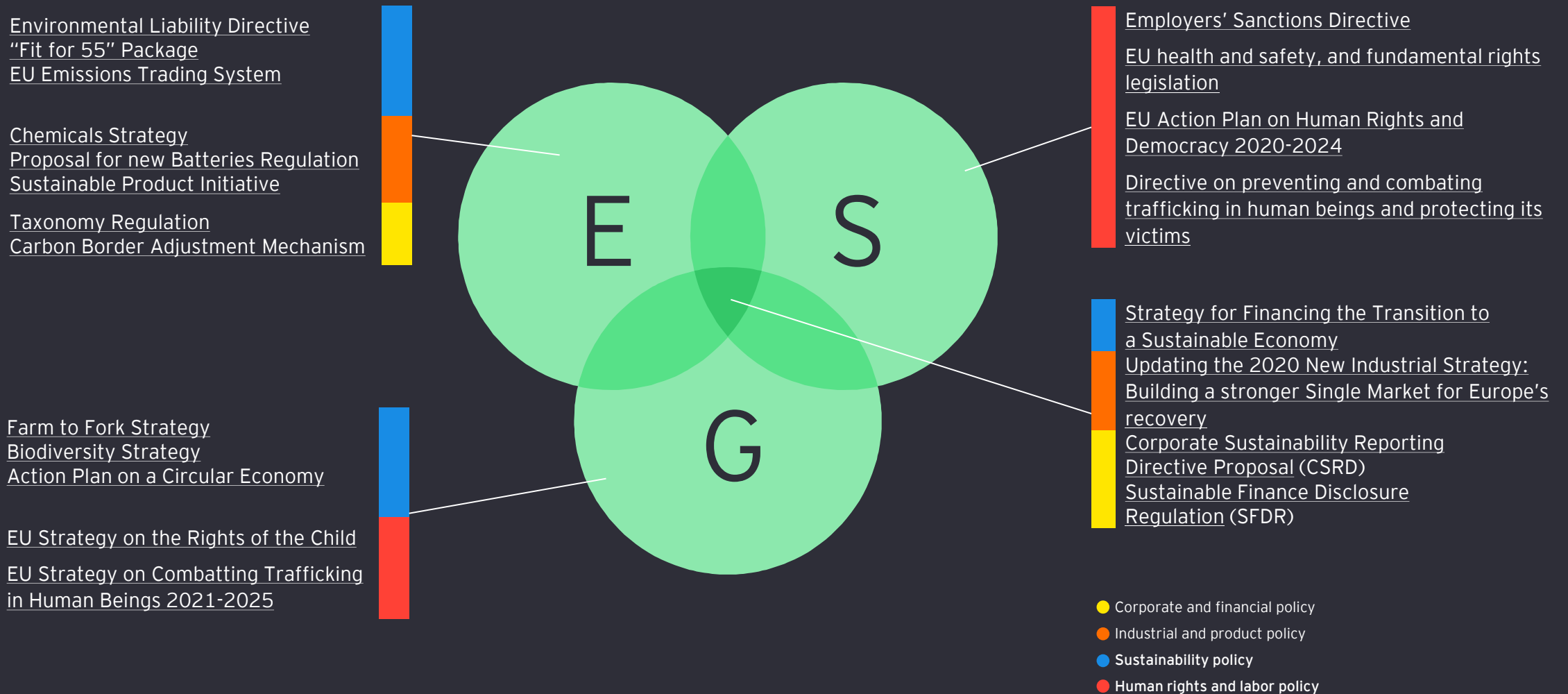
Questions for organizations

- 1 Do you fall within the scope?
- 2 How do your current supply chain due diligence policies compare with the potential requirements?
- 3 Where there is a gap, what will it take to close it?
- 4 How do you intend to de-risk your value chain? What challenges do you see? What options are available to you?
- 5 Who in your organization will be accountable for the policy versus be involved in its execution and monitoring?
- 6 Where can you leverage additional support (e.g., industry associations or technologies and databases (e.g., EcoVadis)?
- 7 Where do you see potential benefits?



Appendix

Due diligence-related EU policy provisions and initiatives



EY | Building a better working world

EY exists to build a better working world, helping to create long-term value for clients, people and society and build trust in the capital markets.

Enabled by data and technology, diverse EY teams in over 150 countries provide trust through assurance and help clients grow, transform and operate.

Working across assurance, consulting, law, strategy, tax and transactions, EY teams ask better questions to find new answers for the complex issues facing our world today.

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ey.com





Corporate
Sustainability
Reporting
Directive

July 2022



Overview of the European Union (EU) new Corporate Sustainability Reporting Directive (CSRD)

The EU is set to adopt the CSRD in October 2022, which amends the previously applicable Non-Financial Reporting Directive (NFRD).

Context

The CSRD supports the European Green Deal, a set of policy measures intended to combat the climate crisis by transforming the EU into a modern, resource-efficient and competitive economy, with no net emissions of greenhouse gases by 2050.

Furthermore, the directive is part of the bigger Sustainable Finance package, which enables the Green Deal by helping to channel private investment behind the transition to a climate-neutral economy. The Sustainable Finance package includes the EU Taxonomy regulation (with the Climate Delegated Act), which provides clarification around

the economic activities that most contribute to meeting the EU's environmental objectives. In addition, the package features six amending Delegated Acts on fiduciary duties, investment and insurance advice, which aim to ensure that financial firms include sustainability in their procedures and investment advice to clients.

Who will be covered by the directive?

The scope of the directive is considerably extended to apply to more entities.

EU companies

First, the directive will apply to all companies listed on the EU regulated markets, except for listed micro companies.¹ Listed small and medium-sized enterprises (SMEs) have until 1 January 2026 to comply with the reporting requirements, even though there's an opt-out clause until 2028.

Second, it will apply to a "large undertaking" that is either a EU company or a EU subsidiary of a non-EU company.

A "large undertaking" is a defined term in the Accounting Directive² and means an entity that exceeds at least two of the following criteria:

- ▶ A net turnover of €40 million
- ▶ A balance sheet total of €20 million
- ▶ 250 employees on average over the financial year

As a third category, the CSRD will apply to insurance undertakings and credit institutions regardless of their legal form.

There are also exemptions to the application of the CSRD. Most notably, a subsidiary will be exempt if the parent company

includes the subsidiary in its report that complies with the CSRD. As mentioned previously, listed micro companies and non-listed SMEs fall outside of the scope, but can apply the provisions on a voluntary basis.

To respect the principle of proportionality, the European Commission will adopt mandatory sustainability reporting standards for large companies and separate, proportionate standards for SMEs. While SMEs listed on regulated markets will be required to use the proportionate standards from 1 January 2026, non-listed SMEs may still choose to use them on a voluntary basis.

Third-country companies

Non-EU companies with substantial activity in the EU market (net turnover of more than €150 million in the EU at consolidated level) and which have at least one subsidiary (large or listed) or branch (net turnover of more than €40 million) in the EU, are required to draft a sustainability report at the consolidated level of the ultimate third-country undertaking.

The EU subsidiary or EU branch are responsible for publishing the sustainability report of the third-country undertaking.

The sustainability reports of the third-country undertaking should be prepared according to separate EU reporting standards (i.e., standards different to the ones applying to EU companies). The undertaking can also report according to the standards applying to EU companies, or according to standards which are deemed equivalent according to a Commission's decision.

In order to ensure the quality and reliability of the reporting, the sustainability reports of third-country undertakings

should be published alongside an assurance opinion by a person or firm authorized to give an opinion on the assurance of sustainability reporting, either under national law of the third country undertaking, or of a Member State.

¹ In order to qualify as a micro enterprise, a company shall remain below at least two of the following: (a) have fewer than 10 employees over the financial year on average; (b) a net turnover of €700.000; and (c) a balance sheet of €350.000.

² Accounting Directive (Directive 2013/34/EU).

Timescales

The 27 EU Member States are expected to transpose the new directive into national law 18 months after its entry into force. Companies that are already subject to the NFRD will need to comply with the amended rules for fiscal years beginning on or after 1 January 2024 (reporting in 2025 on 2024 data).

Other large companies not subject to the NFRD must start reporting from 1 January 2025 onward (reporting in 2026 on 2025 data).

Affected SMEs will not need to start reporting until 1 January 2026 (reporting in 2027 on 2026 data) to minimize the reporting burden. SMEs also have an opt-out option until 2028 to report.

For third-country companies, the new requirements apply from 1 January 2028 (reporting in 2029 on 2028 data).

Context

The CSRD aims to ensure that companies publicly disclose adequate information about the risks, opportunities and impacts of their activities on people and the environment (i.e., principle of double materiality).

Reported information should be consistent with EU regulations, including the EU taxonomy, an EU-wide classification system that

establishes a list of environmentally sustainable economic activities. According to the directive, it should also be “comparable, reliable and easy for users to find and make use of with digital technologies.”

The directive aims to reduce any unnecessary costs associated with sustainability reporting. Its goal is to enable companies to meet the growing demand for sustainability

reporting in a cost-efficient manner. The revised directive amends four existing pieces of legislation:

- ▶ The Accounting Directive
- ▶ The Transparency Directive
- ▶ The Audit Directive
- ▶ The Audit Regulation



EU sustainability reporting standards

When companies report under the new directive, they will need to use a set of new European Sustainability Reporting Standards (ESRS) being developed by the European Financial Reporting Advisory Group (EFRAG). In March 2021, EFRAG published a detailed roadmap for developing the new sustainability standards, as well as proposals for mutually reinforcing cooperation between the global and EU standard-setting initiatives. In 2022, EFRAG set the new Sustainability reporting pillar with the creation of the EFRAG Sustainability Reporting Board (SRB) and the EFRAG Sustainability Reporting Technical Expert Group (SR TEG). A consultation on a first batch of draft ESRS was launched in April 2022 and the public consultation process is open until 8 August 2022.

The sustainability reporting standards aim to meet the requirements of an inclusive range of stakeholders. They adhere to

the principle of double materiality, with both impact materiality and financial materiality perspectives being applied in their own right and without ignoring the interactions between them.

The European Securities and Markets Authority (ESMA), the European Banking Authority (EBA) and the European Insurance and Occupational Pensions Authority (EIOPA) will need to provide an opinion on the technical advice provided by EFRAG before the standards are adopted.

The Commission aims to adopt a first set of sustainability reporting standards, developed by EFRAG, by 30 June 2023. This set will specify the information that companies should disclose with regard to all sustainability topics, as well as any additional disclosure obligations for financial market participants.

Furthermore, the Commission aims to adopt a second set of reporting standards by 30 June 2024,

with sector-specific standards, standards for listed SMEs, standards for non-EU companies and other complementary information that companies should report on.

The sustainability reporting standards shall ensure the quality and relevance of reported information, by requiring that it is understandable, relevant, verifiable, comparable and is represented in a faithful manner. The standards shall also avoid disproportionate administrative burden on companies, including by taking account to the greatest extent possible the work of global standard-setting initiatives for sustainability reporting, developed by the International Sustainability Standards Board (ISSB).

The Commission will review the standards every three years after the directive has been applied, to take into account new developments such as international standards.





What does the directive mean for companies?

The CSRD marks a major step change in corporate reporting. It has far-reaching implications for businesses on an individual basis, as well as for the future of sustainability reporting, both in Europe and globally.

Companies, regulators, standard-setters and assurance providers will all need to devote significant time and resources to prepare for implementation of the directive – within a short timeframe.

Businesses will be required to disclose more sustainability-related information than ever before, including information about their business models, strategy and supply chains. In addition, this information will either be assured by an external party for the first time, or more rigorously assured than it was before. The directive therefore plays an important role

in helping to raise the bar globally when it comes to sustainability reporting.

The EY organization supports the long-term development of a comprehensive global framework for corporate reporting including a more robust set of reporting standards on sustainability matters. Developing a common European framework including a set of robust sustainability reporting standards is the only way to meet the market and social demands. Further steps toward greater levels of independent assurance are also important as sustainability information is increasingly used by all stakeholders in decision-making. Furthermore, the introduction of EU-wide standards gives businesses less flexibility about what information they disclose, and how they disclose it. Instead, the information they provide will be comparable with the information provided by their peers. Since investors will inevitably use this comparability to inform their decision-making, companies

should increasingly expect capital to flow toward companies that can authentically demonstrate a strong sustainability performance.

In the long-term, the directive could stimulate changes in tax policy as governments use sustainability information reported by companies as the basis for developing incentives. The directive could also transform the way in which businesses approach their own decision-making processes and how they share their stories with their stakeholders.

Preparation

Given the significance of the directive – and the remaining time to get ready for it – companies should start preparing for its implementation now. It is important that in scope companies familiarize themselves with the directive and to consider what its requirements mean for their business on a practical level.

It is the responsibility of the board to ensure that the management team sufficiently prepares the

company for the implementation of the new directive, with planning beginning straightaway. While the board will provide general oversight of the company's preparations, the audit committee also has an important role to play. It should oversee any new measuring and reporting processes that are established and monitor the effectiveness of systems and controls set up to help ensure the robustness of the information produced.

.....
CFOs, their finance teams, and other colleagues across their businesses, have a lot of work to do to prepare for the implementation of the new directive. They need to understand what it means for their processes and controls, and assess whether any additional training is required.
.....

Effectively, the directive will require companies to embark on a major change management exercise internally and shift the mindsets of key personnel to attribute as much importance to the sustainability reporting as they currently do to the reporting of financial information. Companies will need to consider how they identify and gather sustainability-related information, manage environmental, social and governance (ESG) risks, draw up

policies, and set targets and KPIs. This may even be an opportunity to reassess whether those targets and KPIs are still relevant or in need of revision. Additional due diligence on companies' supply chains and a review of the effectiveness of their internal quality control and risk management systems may also be performed.

Risk management is another key consideration. To meet their obligations under the new sustainability reporting standards, companies will need to establish efficient procedures, adapt internal controls and ensure appropriate governance and monitoring is in place.

Furthermore, companies should review their arrangements regarding the external assurance of their sustainability information. Since the sustainability reporting standards are still in progress, companies will need to embark on their preparations without having certainty around what they are actually preparing for.

For this reason, companies should remain abreast of any updates, interpretation and communications from EFRAG during the standard-setting process so that they can get early visibility of how the standards are likely to look.

Costs

It is expected that 49,000 EU companies will be required to report sustainability information in the future, compared with 11,600

companies at present³. While the directive aims to "reduce the unnecessary costs of sustainability reporting for companies", it is estimated that preparers will incur significant one-off costs as well as recurring annual costs to comply with the directive. Nevertheless, the directive highlights that companies already faced a growing bill to provide sustainability information due to stakeholder demand. As a result, companies could effectively save by using the standards, depending on their size, on the basis the standards remove the need for additional information requests. The costs and savings will differ from company to company and will depend on the size and complexity of the business they are operating in.

SMEs

Listed SMEs will only be expected to provide sustainability reporting that is proportionate to their size and resources. As a result, the sustainability reporting standards will set out the information they need to disclose and how they should disclose it. Embarking on sustainability reporting will inevitably be a big step for SMEs that have never done it before. They may find it useful to seek professional expertise from external partners, to support them with the transition.

³ Data extracted from the Impact Assessment issued by the European Commission on 21 April 2021 with specific reference to Annex 17: Cost Analysis performed by the Centre for European Policy Studies (CEPS) Non-financial reporting by large companies (updated rules) (europa.eu)



What will companies need to do in practice?

Companies that fall within the scope of the CSRD will need to make some significant changes to how they prepare and disclose sustainability information.

Management will need to:

1. Provide additional disclosures

Companies will be required to disclose:

- ▶ Information about their business strategy – and the resilience of their business model and strategy in the face of sustainability-related risks
- ▶ Any plans they may have, including implementing actions and related financial and investment plans, to ensure their business model and strategy are compatible with the transition to a sustainable and climate-neutral economy
- ▶ Whether and how their business model and strategy take account of the interests of stakeholders
- ▶ Any opportunities arising from sustainability that the company may be able to seize
- ▶ How implementation of the business strategy is likely to affect, or be affected by, sustainability matters
- ▶ A description of the time-bound targets related to sustainability matters that they have set themselves, including where appropriate absolute greenhouse gas emission reduction targets at least for 2030 and 2050, as well as their progress toward achieving these targets and a specification of whether their targets are based on conclusive scientific evidence
- ▶ A description of their sustainability policies
- ▶ The role of the board and management in relation to sustainability matters and their expertise and skills to fulfill this role or access to such expertise and skills
- ▶ Information about the existence of incentive schemes offered to the board and management which are linked to sustainability matters
- ▶ Detailed information about their due diligence process in line with EU requirements

- ▶ The principal actual and potential adverse impacts associated with the company's operations and with its value chain, including its products and services, business relationships and supply chain, actions taken to identify and track these impacts, and other adverse impacts which the undertaking is required to identify according to EU requirements on due diligence process
- ▶ Any actions taken, and the result of such actions, to prevent, mitigate or remediate or bring an end to actual or potential adverse impacts associated with the company's value chain
- ▶ A description of the principal risks that the company faces in relation to sustainability matters, including its principal dependencies and how it manages those risks
- ▶ The process carried out to identify the reported information
- ▶ KPIs relating to the above disclosures

All sustainability information disclosed should apply a forward-looking and retrospective view, and should be qualitative and quantitative. It should also take into account short-, medium- and long-term horizons, and consider the company's whole value chain, including its operations, products and services, business relationships and supply chain.

2. Report in accordance with new sustainability reporting standards

Companies will use the new sustainability reporting standards to disclose a set of information as part of their management report, thereby giving users an integrated view of their impact and performance, according to the following non-exhaustive factors:

- ▶ **Environmental** – climate change mitigation, greenhouse gas emissions, climate change adaptation, water and marine resources, resource use and circular economy, pollution, biodiversity and ecosystems
- ▶ **Social and human rights** – gender equality and equal pay, training and skills development, employment and inclusion of people with disabilities, and measures against violence and harassment in the workplace, working conditions, social dialogue, freedom of association, work-life balance and health and safety, respect for the human rights
- ▶ **Governance** – role of the board and management, internal control and risk management systems, business ethics and corporate culture, anti-corruption and anti-bribery, protection of whistle-blowers and animal welfare, management and quality of relationships with customers, suppliers and communities

As the standards are currently being developed, more details will be made available in the coming months.

3. Use digital tagging

Technology plays an important role in measurement, standardization and management of sustainability matters and data should be considered from the start. The digitalization of sustainability matters rationalizes the analysis of data provided by all the stakeholders and avoids the proliferation of different formats. Companies will need to rapidly enhance the systems of internal control over sustainability matters, and a digital-first approach should be used to streamline and automate sustainability processes, while providing greater levels of auditability and traceability.

To make their sustainability information easier for users to search via the upcoming European Single Access Point (ESAP) and machines to read, companies will be required to prepare both their financial statements and their management report in a single XHTML format and mark up sustainability information. The information reported will need to be tagged in accordance with a digital taxonomy.

Audit committees will have enhanced responsibilities under the new directive. They will need to:

- ▶ Monitor the company's sustainability reporting process, including the digital reporting process, and the process that the company followed to identify the information reported in line with the sustainability reporting standards
- ▶ Submit recommendations or proposals to ensure the integrity of the sustainability information provided by the company
- ▶ Monitor the effectiveness of the company's internal quality control and risk management systems and, where applicable, its internal audit function, with regard to the reporting of sustainability information, including digital reporting
- ▶ Monitor the assurance of annual and consolidated sustainability reporting
- ▶ Inform the company's administrative or supervisory body of the outcome of the assurance of sustainability reporting
- ▶ Explain to the administrative or supervisory body how it contributed to the integrity of sustainability reporting and what role it played in that process
- ▶ Review and monitor the independence of the assurance providers

Role of assurance providers

Under the existing NFRD, there is no systematic requirement for companies⁴ to provide external assurance around their sustainability information. This is in stark contrast to their financial information, which is assured by their statutory auditor.

In its preamble, the Directive states that the "objective is to have a similar level of assurance for financial and sustainability reporting." Nevertheless, at present, the absence of a commonly agreed standard for the assurance of sustainability reporting raises the risk of misunderstandings and differing expectations around how sustainability information could reasonably be assured.

As a result, the EU adopted a "progressive approach" to enhancing the level of assurance

required for sustainability information. Under the CSRD, there's a requirement for the company's statutory auditor, another auditor (Member State option) or an independent assurance services provider (IASP) (Member State option), to provide limited assurance around a company's reported sustainability information. There's the option of moving toward reasonable assurance – the standard of assurance provided for financial information – at a later stage.

For limited assurance, the opinion of the statutory auditor, or independent assurance services provider, should cover the following:

- ▶ Whether the company has complied with the EU sustainability reporting standards

- ▶ The process that the company followed to identify the information that it disclosed under the standards
- ▶ Whether the company complied with the requirement to mark up its sustainability reporting
- ▶ Whether the company's reporting complied with the requirements of Article 8 of the Taxonomy Regulation⁵

Member States should set out equivalent requirements for IASPs around quality, independence and oversight in line with the Audit Directive.

⁴ Mandatory assurance is requested in France, Italy and Spain

⁵ Sustainable finance taxonomy – Regulation (EU) 2020/852

Oversight and enforcement

EU Member States are required to extend their current frameworks for providing public oversight of statutory auditors and audit firms to cover assurance of sustainability reporting. The directive also requires that Member States establish a system of quality assurance review for assurance of

sustainability reporting, as well as an investigations and sanctions regime for assurance providers that provide this service.

The individuals within the company who are responsible for the annual report will be required to confirm, to the best of their knowledge, that

the management report is prepared in accordance with the sustainability reporting standards. The directive also calls for Member States to apply sanctions and other measures where sustainability reporting requirements have been infringed.

In brief

Companies only have a limited period of time to prepare for the implementation of the directive. As a result, it is essential they start taking action now to understand the impact of the directive on their sustainability strategy, as well as its impact on their corporate reporting, internal controls and other key business processes.

EY multidisciplinary teams are able to help companies and their stakeholders – including investors, policymakers and regulators – understand the directive and prepare for the huge changes it requires. These skilled teams incorporate a wide range

of experience, from audit and assurance, corporate reporting, corporate governance, internal audit and tax, through to climate change and sustainability, digital transformation and people advisory services. They can help companies to identify their core sustainability issues, along with the associated risks and opportunities, and develop strategies that create long-term value for their own businesses, as well as society at large.

EY teams have considerable experience of helping companies to implement large-scale corporate reporting transformation in the past, having previously helped

clients to adopt the NFRD. In addition, the EY organization has already undertaken limited assurance on information reported under the NFRD in France, Italy and Spain, since these countries required it. EY teams are committed to innovation and improving the disclosure practices of businesses to provide more reliable and accurate information in relation to sustainability matters. EY digital audit platforms also provide market-leading solutions for the automation and assurance of sustainability information.



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How trade unions in the garment sector use grievance mechanisms

Bart Slob & CNV Internationaal

20 December 2022

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Method

- This research project took place from January to September 2022. We combined desk research with semi-structured interviews. Interviewees were sent an introduction email or letter. Upon acceptance, we sent them a detailed set of questions. The questions we asked unions in production countries were slightly different from the ones we asked NGOs and unions in Europe. Some respondents chose to send us their answers or comments by email.

Complaints and grievance mechanisms

- Responsibilities of companies
- Examples of complaints and solutions
- Types of mechanisms
- Effectiveness



Routes to a solution

- Complaints are submitted through different channels.
- Turnaround can take several years, depending on the complaint's complexity, and the receiver's capacity and efficiency.
- Many grievances will never become a formal complaint – it is simply not worth the effort!



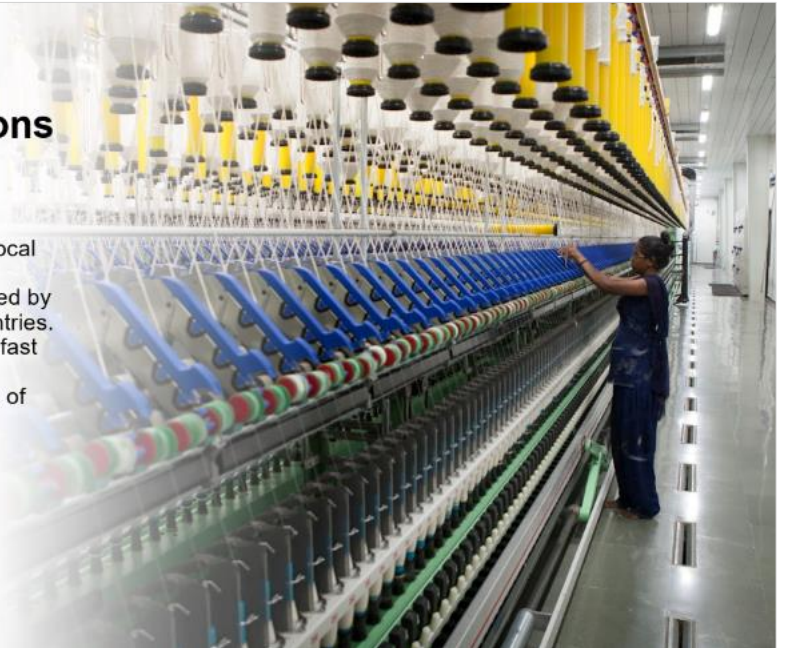
What do trade unions in production countries need?

- Basic knowledge on ways (routes) to submit complaints
- Organisational support to set up new unions
- Capacity building



Recommendations

- Focus on strengthening local mechanisms.
- Track complaints submitted by unions in production countries.
- Demand and help create fast routes to early remedy.
- Promote alternative ways of structuring complaints mechanisms.
- Take the issue of retaliation into account.
- Social dialogue is still essential.



Complaints and grievance mechanisms

- Responsibilities of companies
- Examples of complaints and solutions
- Types of mechanisms
- Effectiveness



Responsibilities

- Access to remedy is a core element of the *UN Guiding Principles on Business and Human Rights* (UNGPs).
- According to the Guiding Principles, companies have a different degree of responsibility for providing remedy, depending on the extent to which they are involved in an adverse human rights or environmental impact.
- Where a business enterprise has caused or contributed to an adverse human rights impact, it should be actively engaged in its remediation, by itself or in cooperation with others.



Pillars of the UN Guiding Principles

Protect

- **State** duty to protect human rights

Respect

- **Corporate** responsibility to respect human rights

Remedy

- **Victims'** access to effective remedy

Examples of complaints

Employees

- Working hours
- Delays in payment of wages
- Intimidation and bullying
- Discrimination
- But also: poor quality of the food in the factory's restaurant or canteen

Community

- Access to a road on the factory's premises
- Use of chemicals, waste
- Water pollution
- Traffic accidents caused by employees of the factory
- Sexual harassment or assault by an employee



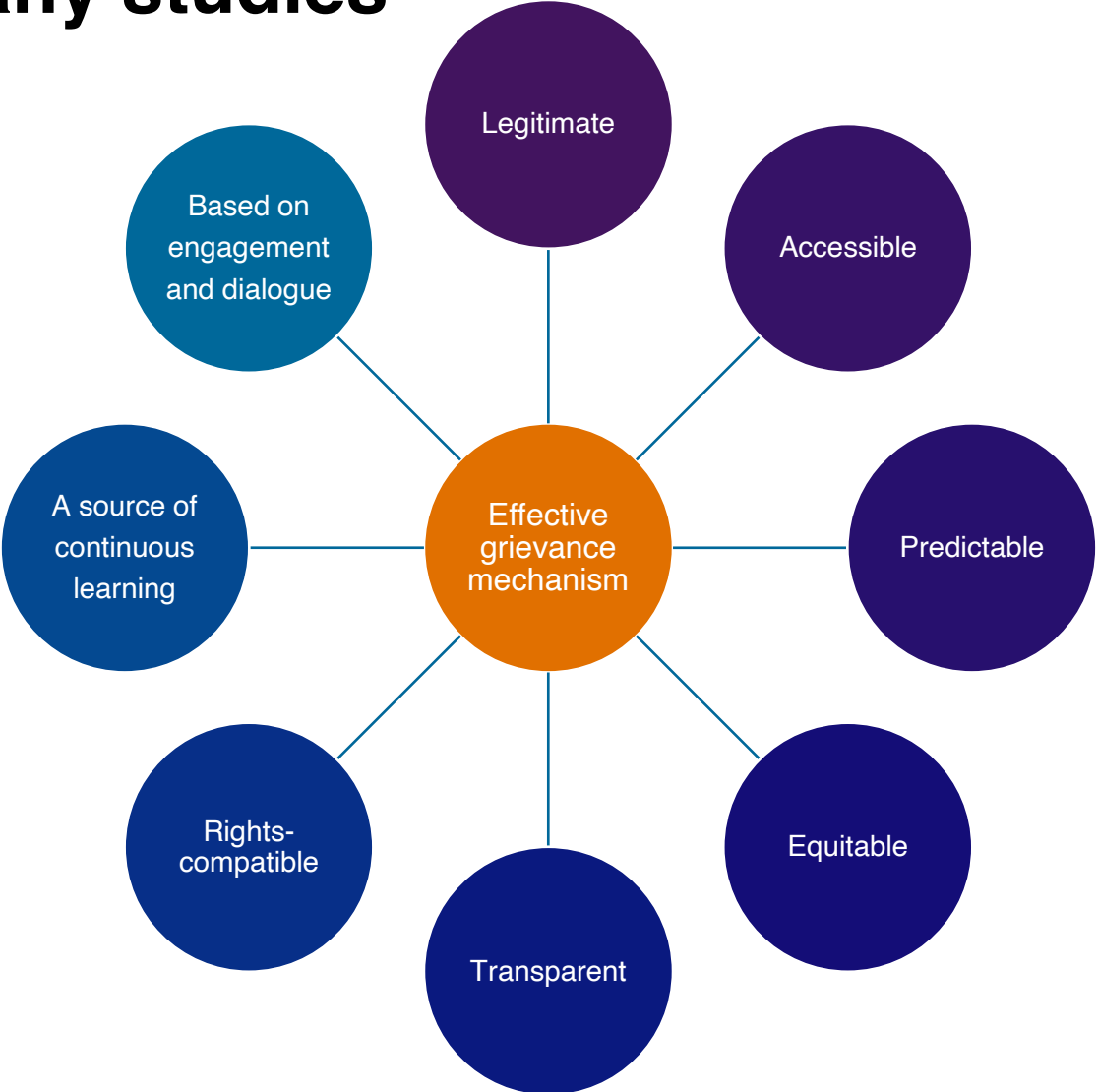
Examples of solutions

- **Apologies:** an apology for the poor treatment of workers or communities by the company.
- **Restitution:** cleaning up waste from a chemical spill and restoring land to previous condition, reinstating workers that have been unfairly dismissed.
- **Rehabilitation:** Provision (or payment for) of care, therapy or support for affected workers or communities.
- **Financial compensation:** compensation for loss of earnings or reimbursing a community for damages suffered.
- **Punitive sanctions:** fines for those responsible for causing the harm.
- **Measures to prevent future harm:** guarantees of non-repetition and new effective measures to prevent re-occurrence of the situation which has led to the negative impact.

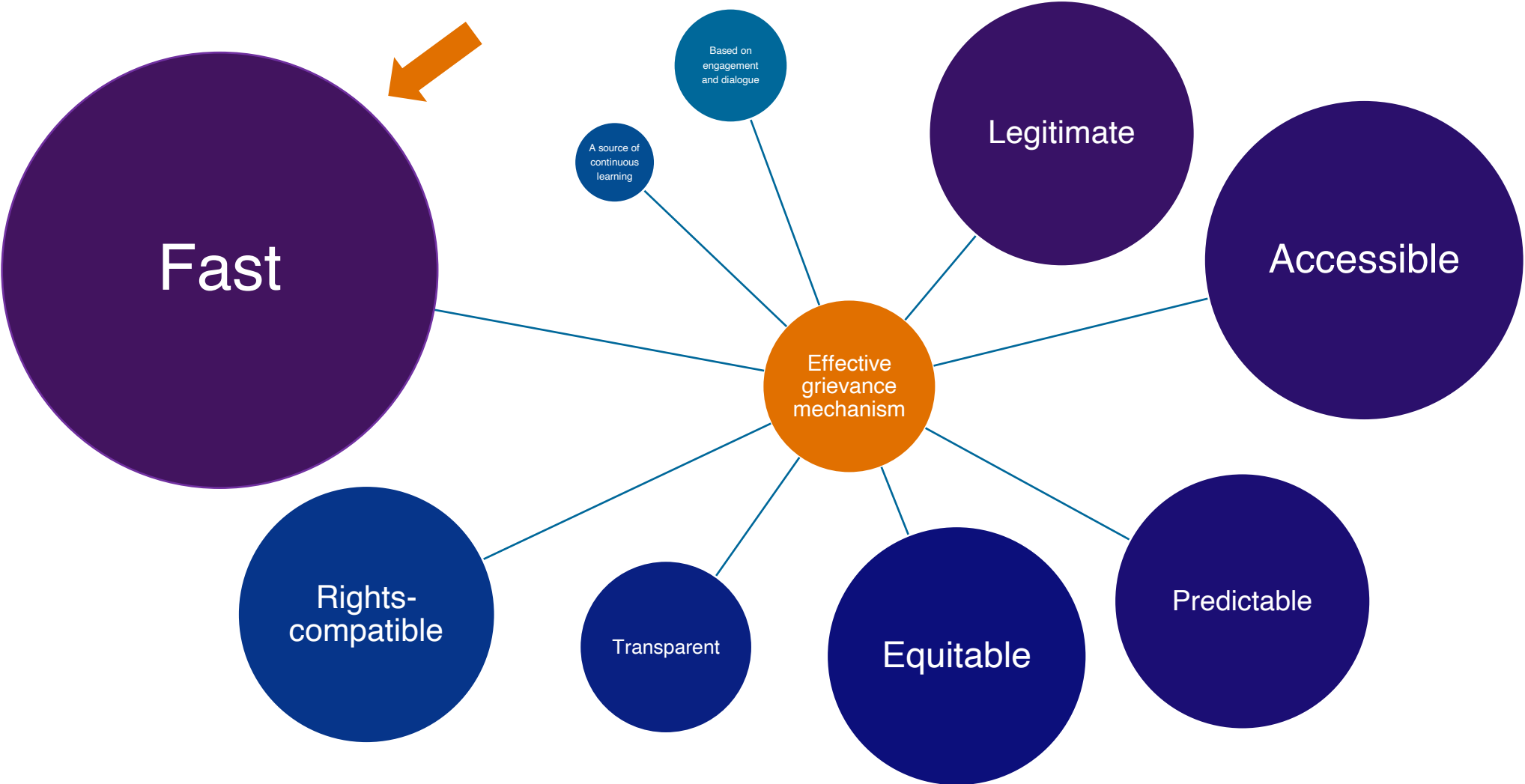
Types of mechanisms

- Governmental mechanisms: labour inspection, Ministry of Labour / Employment, court for small claims, civil court, criminal court in production countries.
- Company grievance mechanisms:
 - Direct workplace mechanisms: mechanisms operated by suppliers;
 - Supply chain mechanisms: operated, for instance, by a buyer / brand.
- Mechanisms operated by multi-stakeholder initiatives (MSIs) or sectoral initiatives.

Criteria for effectiveness, according to the UN Guiding Principles and many studies



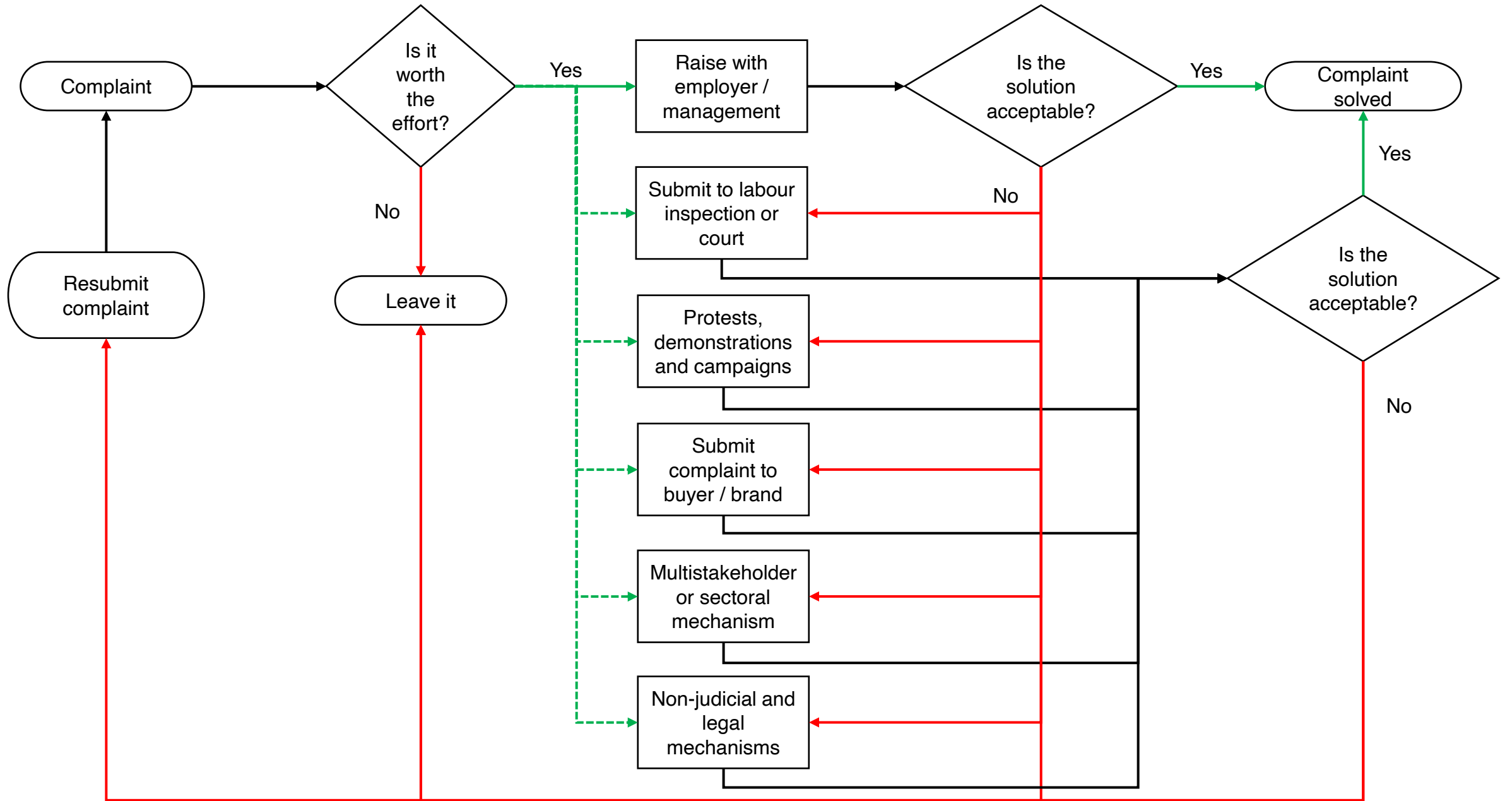
What effectiveness looks like for local union representatives



Routes to a solution

- Complaints are submitted through different channels.
- Turnaround can take several years, depending on the complaint's complexity, and the receiver's capacity and efficiency.
- Many grievances will never become a formal complaint – it is simply not worth the effort!





Raise with employer / management

- This is the most common route.
- In many cases, social dialogue (negotiations between employer and a representation of employees) is the best and most efficient way to achieve positive outcomes for workers.
- In many garment producing countries, unions are not welcome in factories or restricted by the government. Social dialogue is therefore practically impossible.

Submit complaint to labour inspection or court

- In several production countries, filing a complaint with a (lower or district) court, labour inspectorate or government mediation office can be an efficient way of achieving positive outcomes.
- In other countries, this route does not lead to outcomes fast enough, as employers tend to lodge appeals. In India and the Philippines, appeals against the decisions of lower courts can lead to cases that take many years.

Protests, strikes and campaigns

- In many cases, campaigning is an effective way to stress the importance of a grievance.
- Protests, strikes and campaigns are often used to reinforce a complaint that has been submitted via another route.
- In many production countries, protests or strikes can have major consequences for employees. They can be fired, arrested and / or prosecuted.
- Campaigning usually disrupts the relationship between employees and employers. If both parties are already engaged in a mediation procedure, protests, strikes and campaigns can be counterproductive.

Submit complaint to buyer / brand

- Although brands are not required to have their own complaints mechanisms, it is recommended.
- The threshold for this route is often high: the complainant must read and write English, and coordinate with an international union or NGO.
- The complaint mechanisms of brands are not always designed to deal with cases at supplier level. If a brand is a member of a particular multi-stakeholder or sectoral initiative, the mechanism of that initiative (for instance Fair Wear, Better Work / Better Factories) can be used.

Multistakeholder and sectoral mechanisms

- In the garment sector, this type of mechanism is used frequently after one or several other routes have been tried.
- Well-known mechanisms are:
 - Fair Wear Complaints Procedure
 - Clean Clothes Campaign's Urgent Appeal System
 - International Accord's Safety and Health Complaints Mechanism
 - Fair Labor Association's Third Party Complaint Procedure
 - Mechanisms of Global Framework Agreements (for instance IndustriALL with Inditex)
 - Social Accountability International's complaints procedure
 - Ethical Trade Initiative's Code Violation Procedure
 - Worker Complaints mechanisms of the Worker's Rights Consortium

International non-judicial mechanisms and legal mechanisms in buyer countries

- In some cases, complaints are submitted to mechanisms operated by international governmental organisations, such as the OECD, ILO, IMF and World Bank, or are submitted to courts in buyer countries.
- There is an evolving landscape of international mechanisms with legal / binding characteristics. Still, these are mostly perceived as soft-law because in general they lack the muscle to apply sentences and sanctions.
- There are no specific international courts for complaints against companies (yet). Some countries have adopted laws to regulate human rights and environmental due diligence. These laws are relevant to unions in production countries, as they apply to the supply chain of garment brands.

What do trade unions in production countries need?

- Basic knowledge on ways (routes) to submit complaints
- Organisational support to set up new unions
- Capacity building



Basic knowledge on ways to submit complaints

- Workers and union representatives in production countries know relatively little about the different routes to a positive outcome.
- Basic knowledge about human rights and local (national) labour laws is also often lacking.
- In a country like India, many new trade unions organisations are emerging. These unions are often not affiliated with international confederations, but they also need knowledge and know-how on how to file complaints.

Organisational support to set up new unions

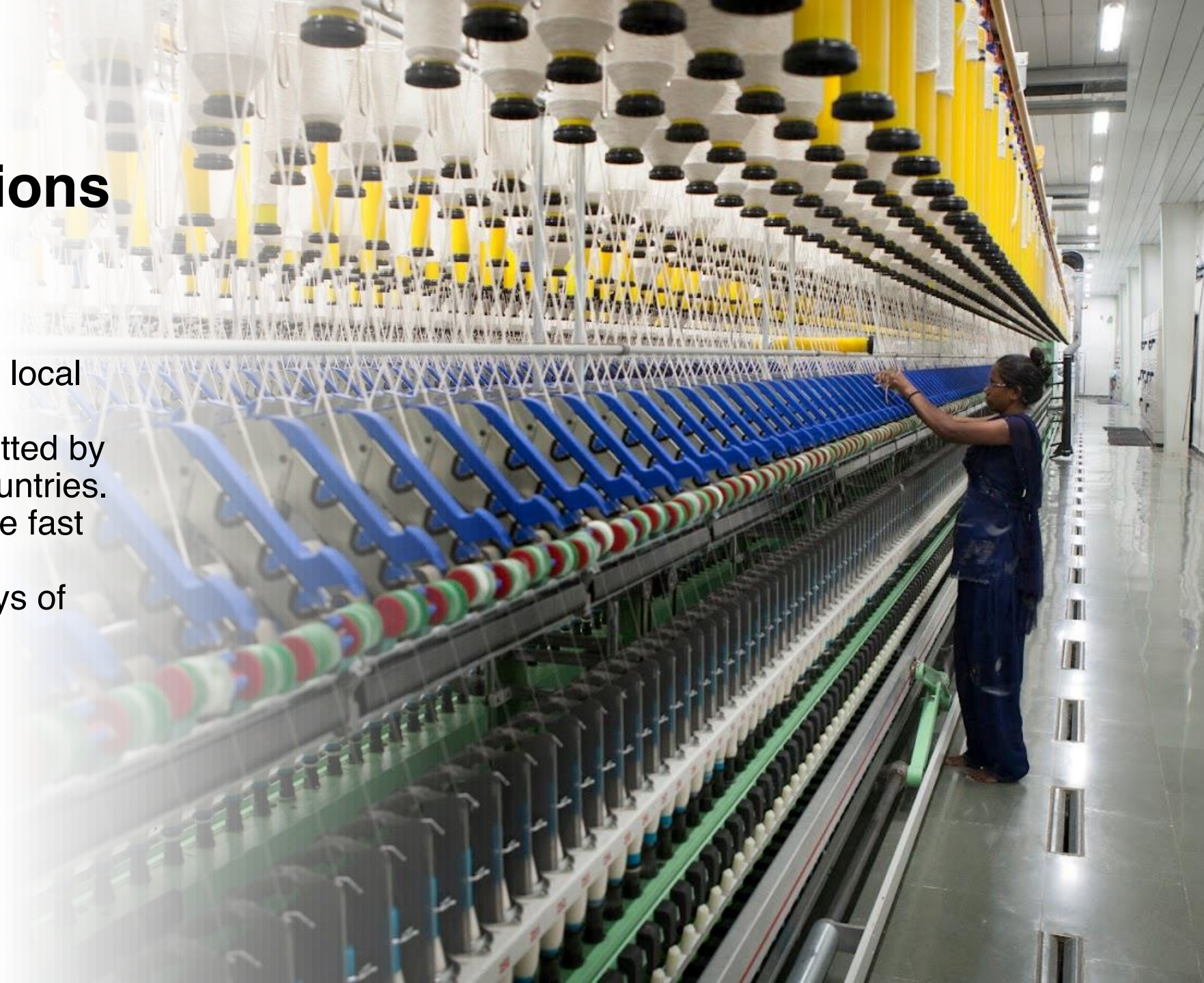
- In many production countries it is difficult to set up a trade union or other type of workers' representation in garment factories. Workers who want to organise are often opposed by managers or owners.
- In some countries, such as India, many new, smaller unions are emerged. These unions are seldom affiliated with international confederations and lack contact with international NGOs, but need knowledge and knowhow on how to build their organisations and ways to address grievances.
- International unions, such as CNV International and Mondiaal FNV, can help employees in production countries to choose the right organisational structure and to shape their unions, works councils or worker committees.

Capacity building

- When workers organise and set up a union, they will receive grievances from other workers at some point. Unions need information and knowhow on the practicalities of submitting complaints and seeking access to remedy via different routes:
 - Which routes are available to us?
 - What does it take to submit a complaint via a particular route?
 - What are the risks?
 - Who should we involve?
 - What will it cost?
 - Who will bear the expense?
 - How long does it take to achieve an acceptable or positive outcome?

Recommendations

- Focus on strengthening local mechanisms.
- Track complaints submitted by unions in production countries.
- Demand and help create fast routes to early remedy.
- Promote alternative ways of structuring complaints mechanisms.
- Take the issue of retaliation into account.
- Social dialogue is still essential.



Focus on strengthening local mechanisms

- In collaboration with local unions, international unions **should help build better local mechanisms** so that these meet the UNGP effectiveness criteria + the additional criterion of speed.
- Unions can **strengthen local mechanisms by providing blueprints or formats, best practices, training, and by using them**: if mechanisms are not used and tested frequently, governments are unlikely to fund and staff them properly.
- Unions and civil society in production countries **should have a say in how local mechanisms function**.
- Unions in buyer countries **should ensure unions in production countries do not work in silos** and coordinate with relevant NGOs.

Track complaints submitted by unions in production countries

- International unions and unions in buyer countries can **use their leverage with brands to follow complaints** submitted by unions in production countries. Complaints are more likely to succeed if there is continuous interest and attention.
- It is important to **ensure the mechanisms' processes and decisions are transparent**. Often this is not the case. By keeping track of cases, doing research and publishing information about complaints, unions can promote transparency.
- To ensure the complaint mechanisms are implemented effectively there should be an **independent monitoring system**. The monitoring could be done by a third party or by the trade unions.

Demand and help create fast routes to early remedy

- Most routes do not lead to acceptable solutions quickly enough. Complainants often have to wait many months or even years before their complaint are solved. In relatively straightforward cases, for instance when a worker has not received severance pay, mechanisms should **use the principle of “balance of probabilities” early on**. If the complainant presents the most probable version of the truth, the handler of the complaint should take a decision that favours the complainant without having to go through an extensive investigative process.
- Mechanisms should offer a timely solution to the complainant. If a complaint is deemed admissible and likely to be truthful, **early or provisional remedy should be provided**. In practice, this would mean that a worker would be compensated or rehabilitated even before the handler has found conclusive evidence.
- **Multistakeholder, sectoral and international initiatives with complaint mechanisms should set up common funds**, for instance with contributions of brand members, to finance early or provisional remedy for workers and other complainants.

Promote alternative ways of structuring complaints mechanisms

- In many cases, **complaints can be handled by independent volunteers, mediators, brokers, magistrates and / or consultants**, who may work on a paid or pro bono basis, instead of a committee or team of several (legal) experts. This is likely to reduce the handling cost and speed up the process.
- Not all complaints are equal. For some complaints, a **simpler, shorter procedure** is needed. Unions should work with existing mechanisms to explore fast-tracking for (1) straightforward complaints and (2) complaints about very urgent and potentially fatal matters (for instance issues around fire safety). Some mechanisms already do this, such as the Accord's grievance mechanism.
- Local workers and trade unions find it difficult to file complaints through the international complaint mechanisms due to the **language barrier**. Therefore, these mechanisms should be fully available in local languages.
- In many multistakeholder and sectoral mechanisms, **unions and civil society organisations from production countries should be represented better**. All too often, they are not part of decision-making processes.

Complaint mechanisms and social dialogue

- Social dialogue can prevent some of the issues (that are addressed by complaints) from happening in the first place.
- Many complaints can also be resolved through social dialogue.
- Complaint mechanisms do not replace social dialogue and we should not rely too much on complaint mechanisms only.
- Social dialogue is essential.

More information

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Using Human Rights Data for Investment: An Introduction to HRMI

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**Center for the
Study of Global Issues**
School of Public & International Affairs
UNIVERSITY OF GEORGIA



THE GLOBAL SITUATION

The financial sector can help
build a more equitable and
sustainable world

THE GLOBAL SITUATION

Better, human-centred,
data are needed to harness the
power of capital flows

Introduction to HRMI

- HRMI tracks country performance on human rights
- Award-winning and well-accepted methodologies
- Rights Tracker: first dataset published 2018
- Funders include OSF and the Ford Foundation
- Our goal is to be useful and transformative



Intro to Rights Tracker: Investor

What we have and where we're going



Rights Tracker

- Free product, designed for civil society use: rightstracker.org



Rights Tracker: Investor

- Enhanced product designed to meet the needs of investors
- Simpler and more complete

New data product – Rights Tracker: Investor

Uses a Bayesian latent variable model to provide three complete sets of country scores for around 190 countries.



Quality of Life



Safety from the
State



Empowerment





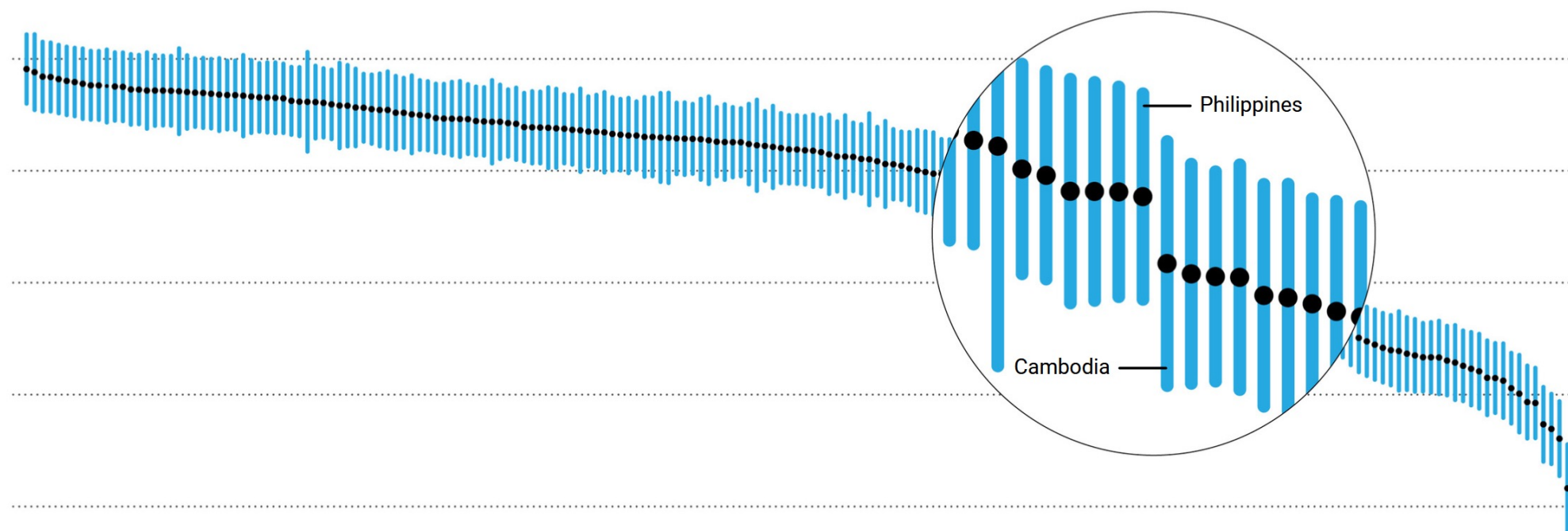
Quality of Life

- Measures country performance on five economic and social rights (ESRs)
- Uses internationally comparable indicators (e.g. from FAO, UNICEF, World Bank, etc)
- Uses award-winning methodology to overcome the 'income bias' problem
- Identifies countries with good governance
- Provides a sophisticated solution to the 'missing data' problem

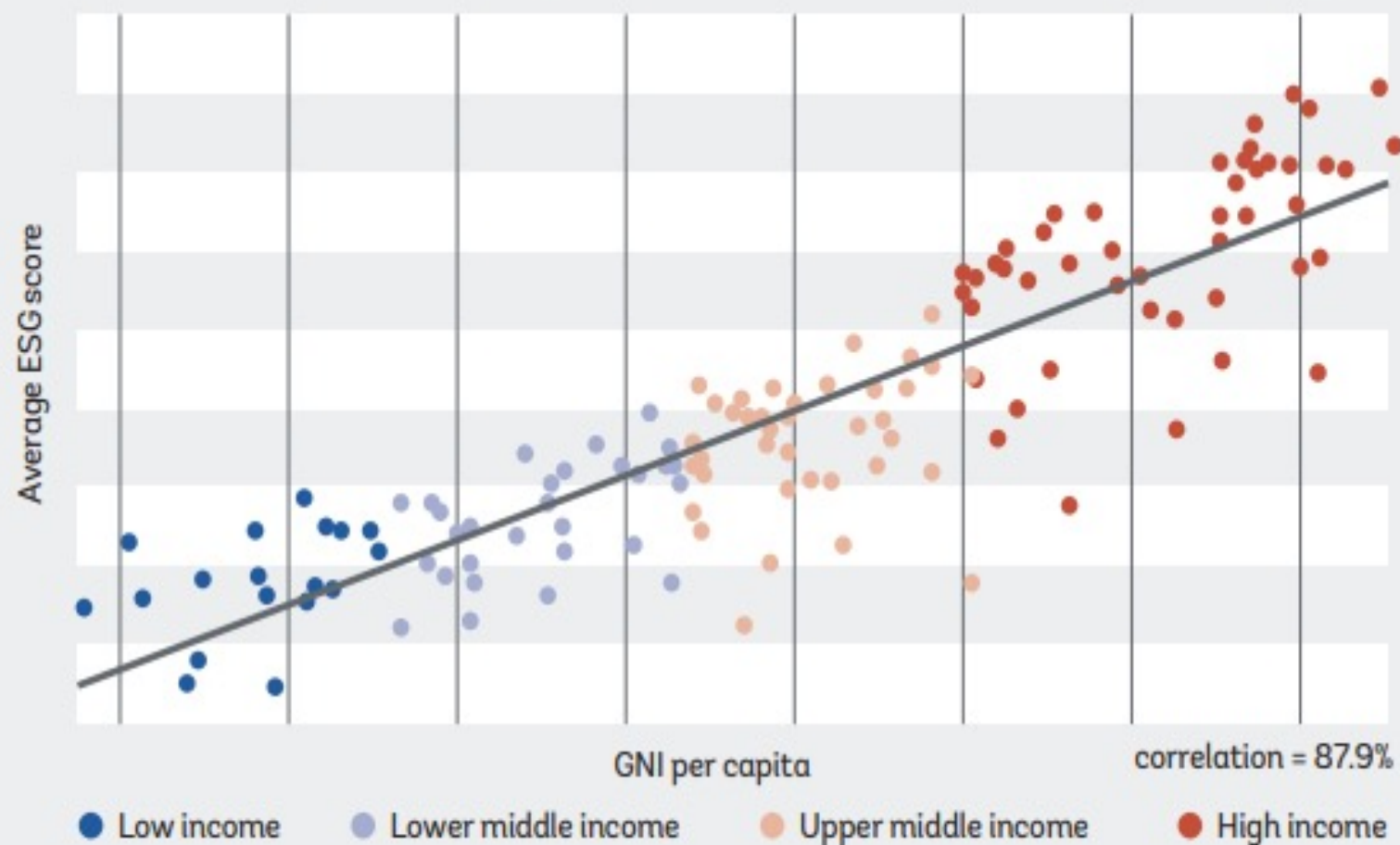


Quality of life: Data example from Rights Tracker Investor

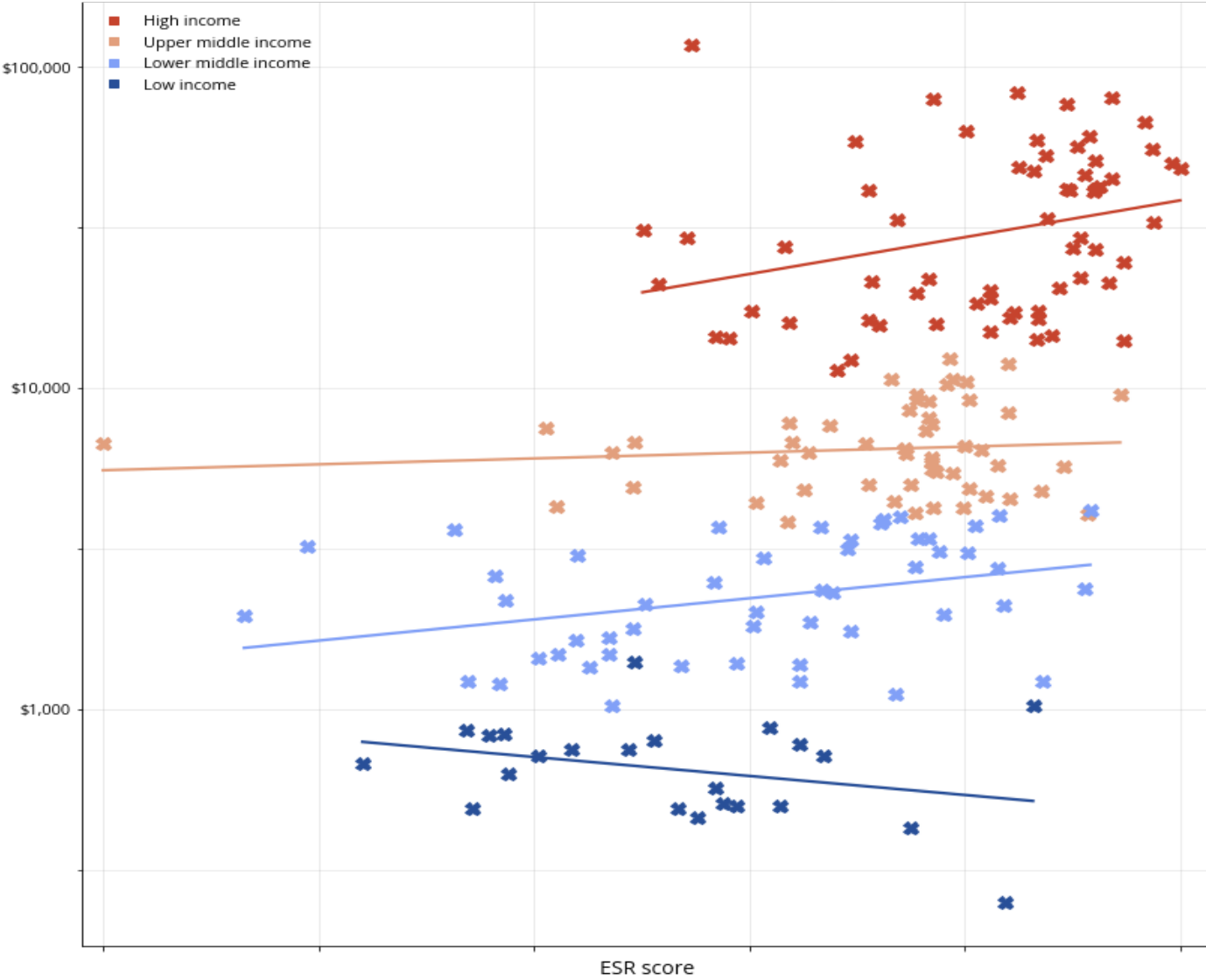
Each country's score displayed within an 80% certainty band



Average ESG scores across seven ESG providers are highly correlated with GNI per capita across 133 countries. The regression line exhibits a significantly positive slope.



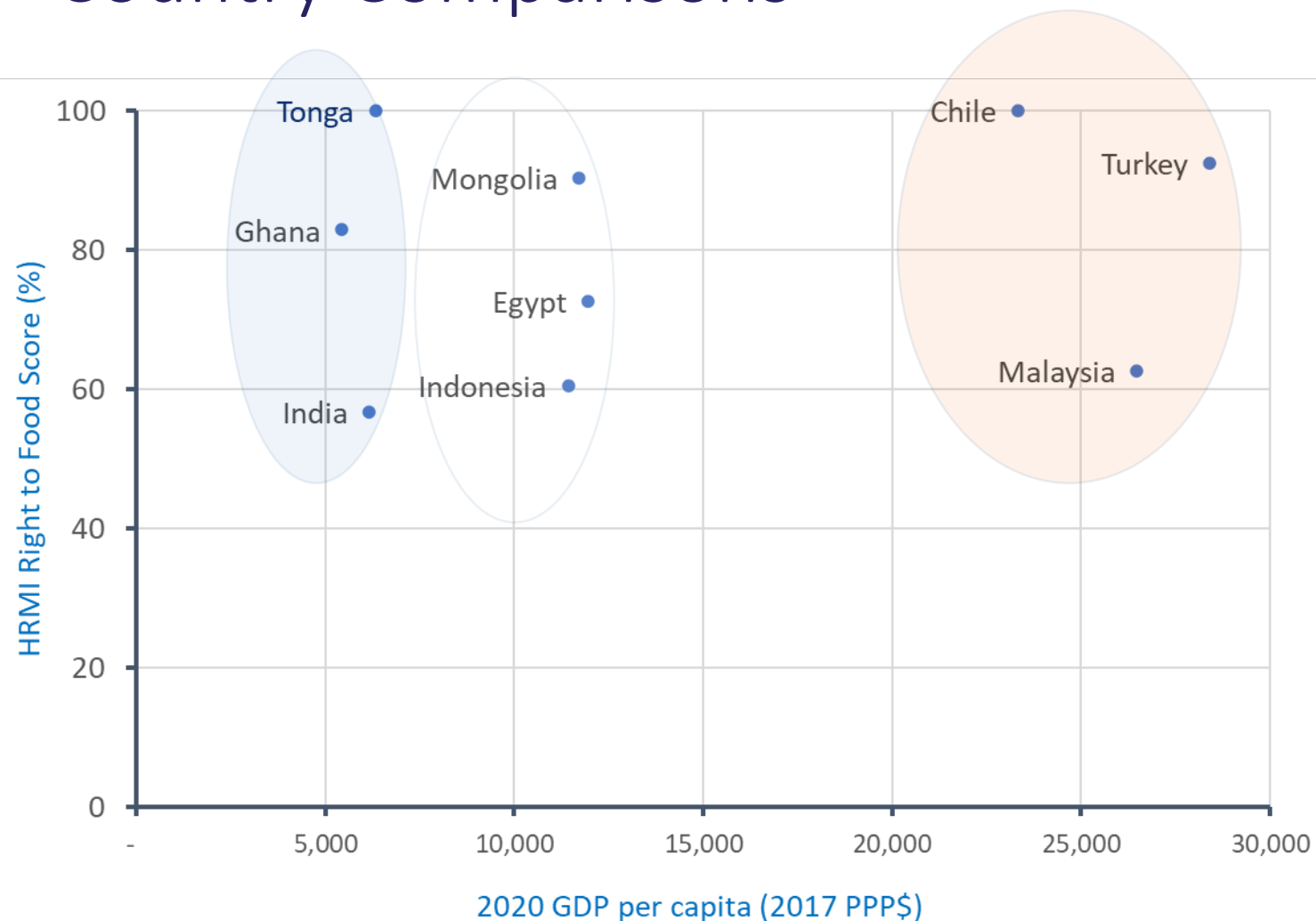
Per-capita income and ESR (by income group)



Some specific
country examples...



Country Comparisons



What policies drive good Economic and Social Rights (ESR) scores?

- Broad-based policies creating an enabling environment
- Gender equality
- Low income inequality
- Strong government accountability mechanisms

Important research finding

- Countries that prioritise ESRs more likely to end up in virtuous high growth cycle





Safety from the
State

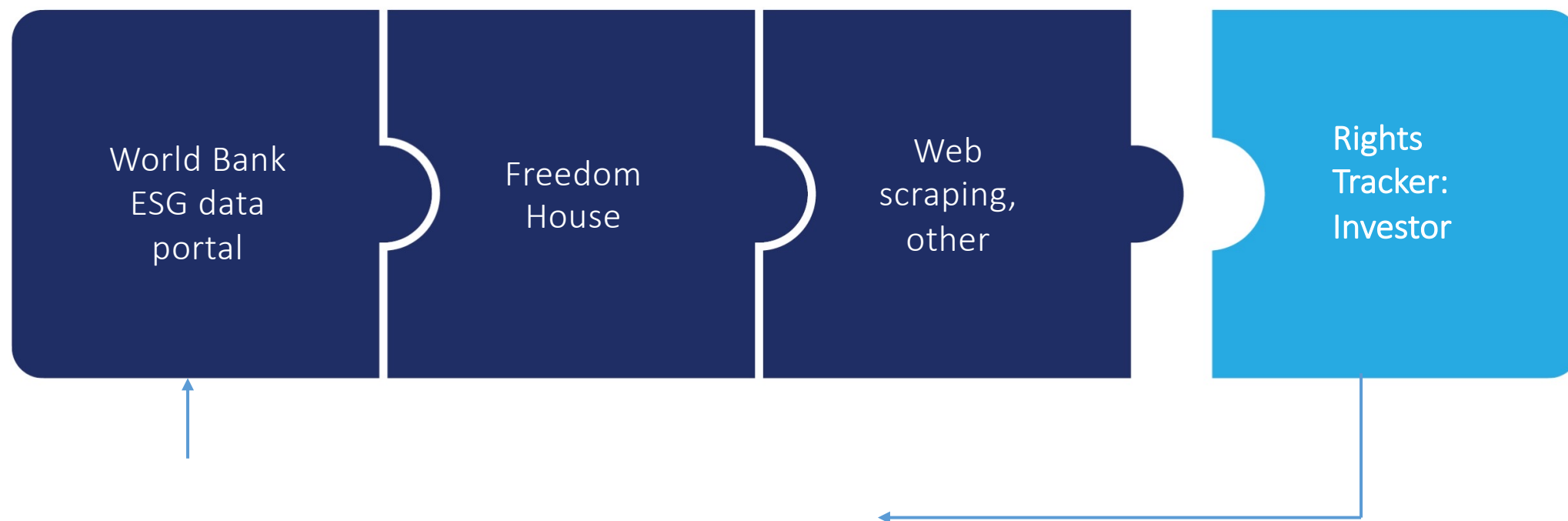


Empowerment

- Uses detailed HRMI Rights Tracker country data, sourced from local human rights experts
- Incorporates other publicly-available civil and political rights data

This combination gives you the best investment-oriented civil and political rights data in the world

RIGHTS TRACKER INVESTOR: Filling a gap



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- Free trial – in return for agreeing to provide us with detailed feedback, so that we can make it better
- Contact anne-marie.brook@hrmi.ngo





 **HRMI**

Human Rights Measurement Initiative

humanrightsmeasurement.org

Closure

Angélique Laskewitz
(director VBDO)





Thank you

Thank you for attending HUMAN 2022. Please expect a recording of this event made available on our website in due time.

Enjoy your drinks, and see you next year!