



# *Identifying, weighting and prioritizing risks*

---

Guidance on conducting a risk analysis as required by the German Supply Chain Due Diligence Act 'Lieferkettensorgfaltspflichten-gesetz' or 'LkSG'



Federal Office  
for Economic Affairs  
and Export Control



# Contents

---

1. Introduction	3
2. Risk analysis as the basis for an appropriate, effective risk management	4
3. Basic risk analysis requirements	6
3.1 What is the objective of the risk analysis?	6
3.2 When and in relation to which part of the supply chain does a risk analysis need to be conducted?	6
3.3 Which issues must be covered in the risk analysis?	8
4. Conducting risk analyses	10
4.1 How does a company prepare for a risk analysis?	10
4.2 What steps are included in the risk analysis and what results should it achieve?	11
4.3 From prioritized risks to effective prevention	17
Annex I – Overview of the appropriateness criteria outlined in Section 3(2)	18
Annex II – Overview of selected implementation tools available to identify human rights and environment-related risks	19

# ***Introduction***

---

*The following guidance outlines the provisions regarding the preparation and performance of risk analyses in the German Supply Chain Due Diligence Act ‘Lieferkettensorgfaltspflichten-gesetz’ or ‘LkSG’, in an effort to assist companies in implementing the Act. After a detailed explanation of the law’s provisions, the guidance demonstrates the role of risk analysis in the due diligence process and offers assistance and practical tips for implementation.*

# ***Risk analysis as the basis for an appropriate, effective risk management***

---

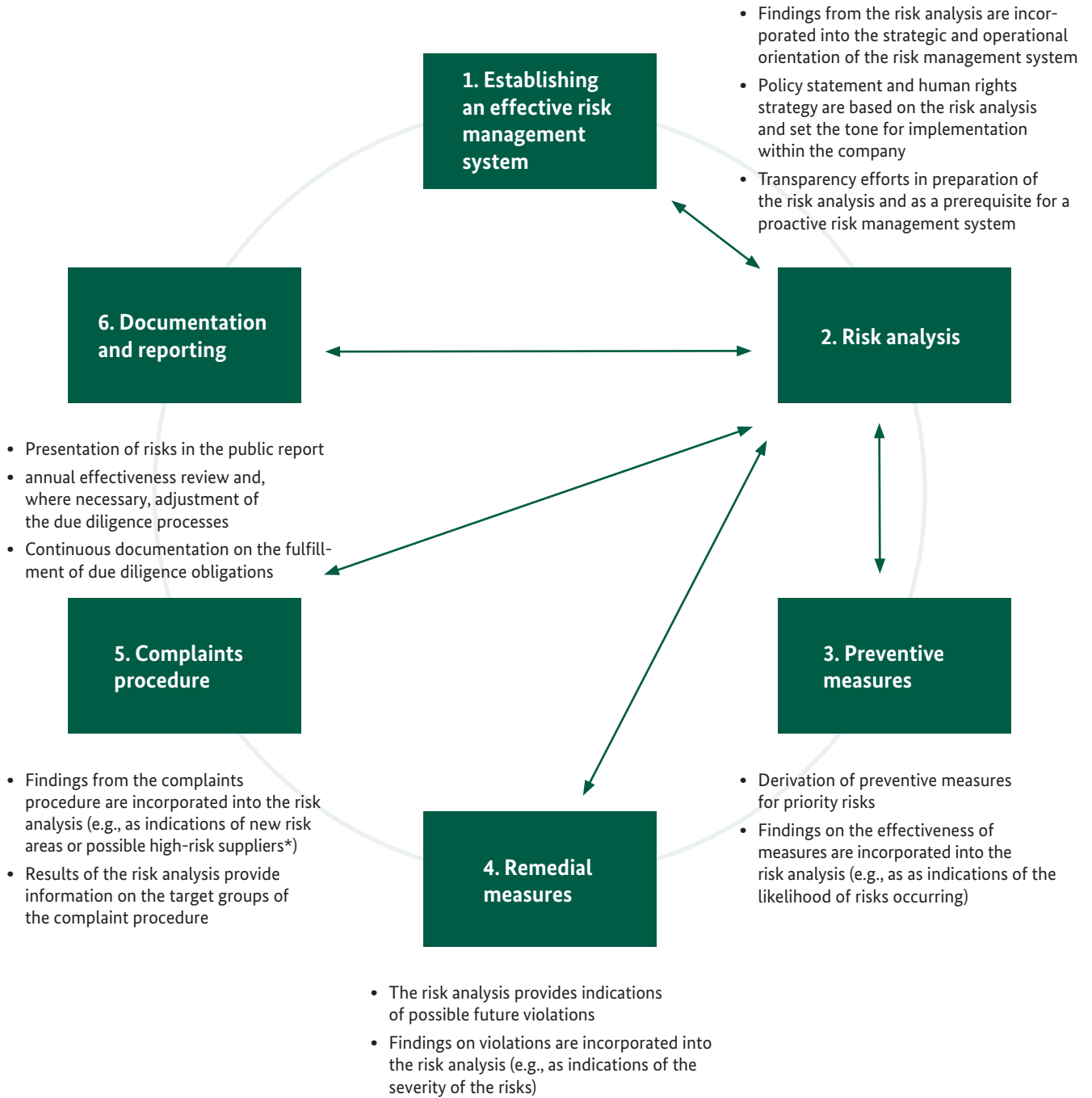
- According to Section 4 of the 'LkSG', companies shall establish an appropriate and effective risk management system<sup>1</sup> in order to identify, prevent, mitigate and eliminate human rights or environment-related risks and violations.<sup>2</sup> Companies shall follow a risk-based approach, i.e., they shall allocate resources in a targeted way and address the most important and urgent issues first.
- According to Section 5 (4), the risk analysis must be conducted once a year and on an ad hoc basis.
- The analysis plays a fundamental role in the company's own risk management and helps them allocate their resources in the most responsible manner possible.
- The due diligence processes and measures outlined in the law's provisions regarding risk management build on and reinforce each other in their effect. In terms of risk analysis, this means that, on the one hand, findings from other areas should be incorporated into the implementation. This includes insights gained while implementing preventative and remedial measures, for example. However, the analysis should also take into account information on risks and actual violations revealed in the whistleblowing or complaints process.
- On the other hand, the results of the risk analysis play a central role in the overarching strategic and operational orientation as well as the practical implementation of both the risk management system and individual due diligence processes. The findings help companies gain an understanding of their own risk exposure, i.e., whether and to what degree there is a risk of human rights and environment-related violations in their own business area and in the supply chain. This is the initial basis for risk management-related decisions regarding the resources and expertise companies need, how they allocate authority and to what extent risk management is a part of their core business.

---

<sup>1</sup> See Section 4(1) 'LkSG'. All of the subsequent citations of Sections in this guidance refer to the 'LkSG'.

<sup>2</sup> For a list of the issues relating to human rights and the environment that are covered by the law, see Section 2(2) and (3) 'LkSG'.

- The following graphic provides a summary of these and other correlations between the risk analysis and additional elements of the due diligence process:



**Figure 1: Correlation between risk analysis and other elements of the due diligence process**

\* High-risk suppliers are suppliers where the company has prioritized risks or identified violations of human rights or environmental obligations. The latter can be identified, for example, through risk-based controls or other preventive measures.

# Basic risk analysis requirements

---

## 3.1 What is the objective of the risk analysis?

According to the 'LkSG', the objective of a risk analysis is to gain an understanding of human rights and environmental risks in a company's own business area and within its supply chain, and to prioritize these risks for further processing. Companies must perform the risk analysis in an appropriate manner. On the one hand, this means they must establish systematic and transparent processes for the identification, weighting and prioritization of risks. Companies are entitled to a certain degree of discretion in the way they design and select their methods. On the other hand, the concrete design and choice of method is subject to the condition of reasonableness.

## 3.2 When and in relation to which part of the supply chain does a risk analysis need to be conducted?

- Companies must comply with due diligence obligations in their own business area and in the supply chain as a whole.<sup>3</sup> When it comes to the supply chain, the law distinguishes between suppliers with whom they have a contractual

relationship (direct suppliers) and indirect suppliers in the extended supply chain.<sup>4</sup>

- The law pertains to two kinds of risk analysis: regular and ad hoc risk analyses. They differ both in their occasion (when or how often a company must conduct them) and in the areas of the supply chain they have to cover.
- Appropriate prevention measures build on the results of both types. In the graphic below, you can find a summary of the scope of and the correlation between the annual risk analysis and the ad hoc risk analysis:

---

<sup>3</sup> For the definition of the supply chain, please see BAFA Q&A, Nr. II

<sup>4</sup> The parent company of a Group must conduct due diligence for its own business area and for the supply chain as a whole. This also applies to all operations and supply chains of the Group's affiliated companies, provided they are legally and economically dependent of the parent company (see also Section 2(6) sentence 3 'LkSG').

Objective: An appropriate and effective risk management along the entire supply chain

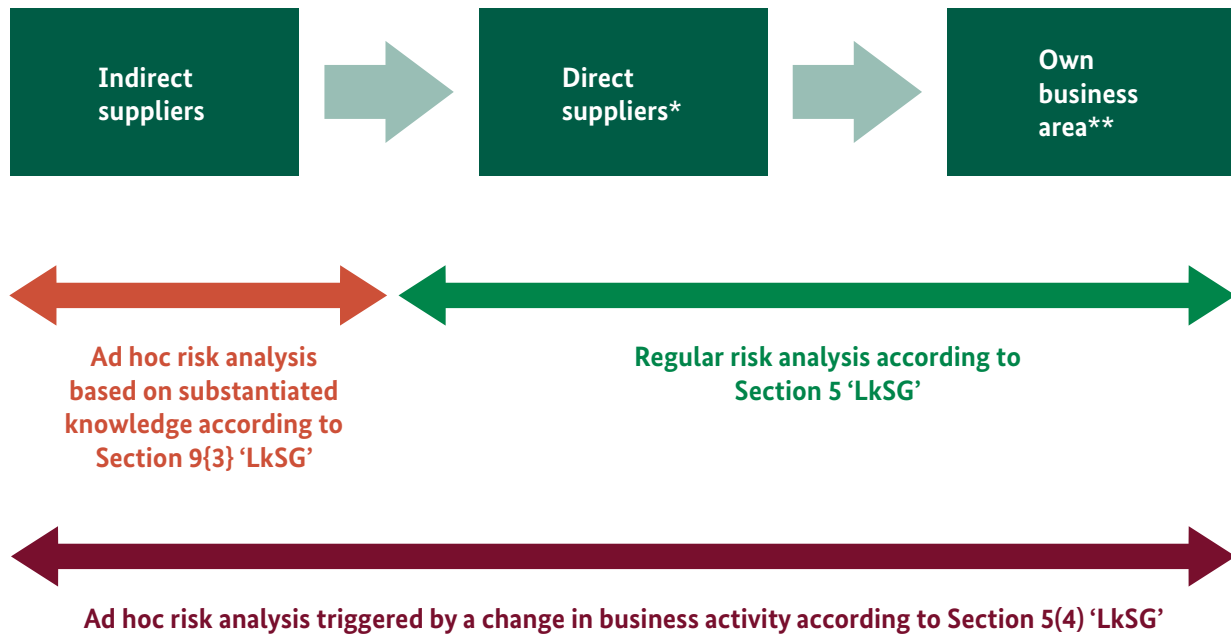


Figure 2: Scope of the regular and ad hoc risk analysis

\*including delivery to end customers<sup>5</sup>

\*\*including Group companies subject to controlling influence of the parent company

**Example:**

Chocolate manufacturer X has been aware of the risks in the extended cocoa supply chain for many years. In its annual risk analysis, the company looks at direct suppliers and links this to information on risks at the indirect supplier level in the cocoa supply chain. The company takes a holistic approach to its preventative measures: As a member of the “Better Cocoa Initiative”, the company works to improve structural conditions for cocoa farming in key source countries to address priority risks such as child labor. At the same time, the company works with direct suppliers for the specific purpose of mitigating priority risks related to the lack of an adequate/living wage by adapting its purchasing processes accordingly.

<sup>5</sup> Delivery to end customers is covered by the 'LkSG'. Where a company subcontracts delivery to a third-party service provider, this supplier is considered part of the supply chain pursuant to Section 2(5) 'LkSG'. Where a company subject to the 'LkSG' assumes responsibility for the distribution and/or delivery to end customers, then it is considered part of its own operations. See BAFA Q&A, no. IV.11. For more information on the definition of decisive influence and on affiliated companies, see BAFA Q&A.

Companies must conduct a regular risk analysis once per year, taking into account all risks in its own business area and at all direct suppliers. The law provides two triggers for the ad hoc risk analysis:

(1) An ad hoc risk analysis based on substantiated knowledge is focused on possible human rights or environment-related violations at one or more indirect suppliers. Substantiated knowledge means that a company has factual indications that a violation of a human rights-related or environmental obligation at indirect suppliers appears possible. This knowledge may come from, for example, a complaints channel, media reports or reports from non-governmental organizations. It may also come up in discussions of various cases or issues in existing industry initiatives.

(2) The subject of the ad hoc risk analysis in the event of a change in business activities are the risks that the company must expect to occur in the entire supply chain and in the company's own business area as a result of a specific material change or addition. This may stem from internal decisions, e.g., relating to important investments or to the acquisition of a new sourcing country, or from external events, e.g., when a conflict breaks out or a natural disaster occurs in a country where the company operates. In both cases, companies are obliged to make an ad hoc analysis of the risks along their supply chain. This applies to the entire supply chain; in other words, it must analyze those risks within the supply chain that are obvious to the company when a significant change or addition to its business activities is imminent.

In view of the purpose of the 'LkSG' and the requirements of the relevant international frameworks, such as the UN Guiding Principles on Business and Human Rights, it is recommended

that companies take a proactive approach. If companies are already aware of potentially high risks related to human rights or environment-related violations in their extended supply chain or in individual raw or other material supply chains, they should include these sections of the supply chain in their regular annual risk analyses. In short, companies that consider the risks in the extended supply chain from the very beginning will not have to bear the high costs of ad hoc risk analyses or modify their preventative measures as a result.

### ***3.3 Which issues must be covered in the risk analysis?***

- As a matter of principle, it is important to note that it is irrelevant for the risk analysis according to the 'LkSG' whether human rights or environmental risks have an adverse impact on a company's business success, i.e., whether the risks result in financial loss or reputational damage for the company. The objective of the 'LkSG' is rather to motivate companies to change their perspective. The focus should be on the interests of their own employees, the employees within the supply chain and any other persons whose lives may be impacted by the business activities of the company or a company within its supply chain.<sup>6</sup> The aim is therefore to identify whether and to what extent these people (groups of people) or the environment may be harmed by the company's own business activity and/or through its business relationships with suppliers.

---

<sup>6</sup> Section 4(4)



- The 'LkSG' covers the following human rights and environmental risks:

Risk of human rights violations pursuant to Section 2(2)	Risk of environment-related violations pursuant to Section 2(3)
Child labor (no 1 and 2)	Provisions of the Minamata convention (nos. 1–3)
Forced labor and all forms of slavery (no. 3 and no. 4)	Production and/or use of persistent organic pollutants (POPs) within the scope of the Stockholm Convention as well as the non-environmentally sound handling of waste (nos. 4 and 5)
Occupational safety and work-related health hazards (no. 5)	Import and export of hazardous waste as defined by the Basel Convention (nos. 6–8)
Freedom of association and the right to collective bargaining (no. 6)	
Equality in employment (no. 7)	
Fair wages (no. 8)	
Destruction of vital natural resources through environmental pollution (no. 9)	
Land rights (no. 10)	
Hiring or use of private/public security forces without an adequate command structure or proper oversight to prevent harm (no. 11)	
Any other behavior, by action or omission, in breach of a duty to act, which is directly interferes with a protected legal position (= other human rights) in a particularly serious manner and which is obviously illegal in a reasonable assessment of the circumstances (no. 12)	

# Conducting risk analyses

---

## 4.1 How does a company prepare for a risk analysis?

- In preparation for an appropriate risk analysis, one key requirement for companies is a fully transparent view of the nature and scope of its own business area and business relationships within the supply chain. Having this information in advance enables the company to determine the areas covered by the risk analysis (e.g., identifying own business area to analyze). In the same vein, a cursory review of the information available in the public domain
- about a particular supply chain can help companies make decisions in support of a proactive risk management (see also Section 3.2).
- With reference to the specific requirements of the LkSG, companies are encouraged to gather basic information about their corporate structure, purchasing organizations as well as supply chains and business relationships in an effort to gradually increase transparency within the supply chain. This information should include:

Corporate structure	<ul style="list-style-type: none"> <li>• Name and sector of all affiliated companies over which a significant influence is exercised</li> <li>• For each of the Group companies:               <ul style="list-style-type: none"> <li>• Contact person (name and email address)</li> <li>• Company facilities/sites (by country<sup>7</sup>)</li> <li>• Types of products/services</li> <li>• Relevant production lines/activities (aggregated)</li> <li>• Sales volume</li> <li>• Number of employees</li> </ul> </li> </ul>
Purchasing policies	<ul style="list-style-type: none"> <li>• Purchasing categories (products, raw materials, services)</li> <li>• Definition of the types of products/services purchased by category</li> <li>• Sourcing countries for each category</li> <li>• Number of direct suppliers for each purchasing category and country</li> <li>• Order volume for each purchasing category in the previous fiscal year (percentage of overall volume)</li> </ul>
Based on the above: nature and scope of the business activity	<ul style="list-style-type: none"> <li>• An overview of the most significant products or services the company manufactures, sells or markets in terms of revenue</li> <li>• An aggregated visualization of the associated supply chain(s) and the most important business relationships (by purchasing or order volume)</li> <li>• An overview of the countries in which the company currently operates or sources materials</li> </ul>

<sup>7</sup> For reference, see the country list of the UN Statistics Division (<https://unstats.un.org/unsd/methodology/m49/>)

As part of their efforts to establish an appropriate, effective company-wide risk management system, companies should always strive to increase transparency within their supply chains – and they should do so using a risk-based approach. Where companies are already aware of direct or indirect “high-risk suppliers” due to findings

from complaints procedures, risk-based oversight activities or prior risk analyses, these suppliers should – at least initially – be the main focus in terms of data collection. Companies should compile the following information on these suppliers:

Increasing supply chain transparency for high-risk suppliers

- Name
- Contact person (name and e-mail address)
- Parent company, if applicable
- Type of product/service
- For direct suppliers: order volume in the previous fiscal year
- Operating or manufacturing sites<sup>8</sup>
- Number of employees
- Information on employee representation or lack thereof

The more complex the supply chains and the more suppliers a company has, the more time and human resources a company will have to allocate to the risk analysis process. In many cases, the information required for the risk analysis will not (at least initially) be available at the head office. Companies will first have to obtain the relevant information from various business units and/or affiliated companies that are legally and economically dependent of the parent company.

Accordingly, a lead time should also be planned for gathering the information.

#### **4.2 What steps are included in the risk analysis and what results should it achieve?**

- The following tables provide guidance on the individual steps and findings of the regular and ad hoc risk analysis.

#### **Example:**

Manufacturer Y has developed its own risk monitoring policy. The risks within its own business area are covered by the compliance management system. Using external sources and data, the company conducts an initial risk assessment. The second step involves gathering risk self-assessment questionnaires from all company-owned sites detailing the current situation at the site as well as the current risk management procedures, which are subject to a plausibility check. Within the supply chain, the company has a similar but separate approach. Using external sources, the company assesses its risks in terms of sourcing countries, purchasing categories and the raw materials in use. This is cross-checked with internal data, for example from social and environmental audits, the suppliers’ self-assessments or complaints channels in order to identify individual high-risk countries, suppliers and raw materials.

<sup>8</sup> BAFA Q&A VIII.4.

## I. Guidance for regular risk analysis of a company's own business area<sup>9</sup>

Risk analysis steps	Procedure	Sample results
<p><b>1. Abstract assessment of risks, in particular</b></p> <ul style="list-style-type: none"> <li>• <i>sector-specific<sup>10</sup> risks and</i></li> <li>• <i>country-specific risks</i></li> </ul> <p>to identify companies/ branches/ sites with increased risk exposure</p> <p>Identification of persons potentially impacted by the risks, including especially vulnerable groups</p>	<p><b>Focus: What human rights or environmental risks exist in the company's own business area?</b></p> <p>Companies should cross-check information and sources on human rights and environment-related risks as defined in Section 2(2) and (3) with data on the company's own sector as well as additional sectors and countries of operation. Initial abstract assessment of risks (= abstract risk assessment).</p> <p>See Annex II for an overview of selected information and sources that may be useful in Step 1 to identify human rights and environment-related risks. A risk assessment based solely on this abstract basis is not sufficient. Companies must conduct a plausibility check of these risks in their own specific context in the next step.</p>	<p>The company knows which human rights and environment-related risks exist in individual countries of operation and which groups may potentially be affected.</p> <p>The company knows which risks are typical for this sector in relation to each purchasing category (aggregating several categories where necessary).</p> <p>The company knows where there is a risk of human rights or environment-related violations in which affiliated companies (that are legally and economically dependent of the parent company), branches or sites. Using this information as a basis, the company identified those affiliates/branches/sites to include in more in-depth further analyses.</p> <p>The company knows which of the previously identified risks are potentially still acute.</p>
<p><b>2. Concrete identification, weighting and prioritization of risks the criteria outlined in Section 3(2)<sup>11</sup>:</b></p> <ul style="list-style-type: none"> <li>• <i>Nature and scope of all business activities</i></li> <li>• <i>Likelihood of the risk</i></li> <li>• <i>Severity of the violation by degree, number of people impacted and irreversibility</i></li> <li>• <i>Ability to influence</i></li> <li>• <i>Contribution to or partial responsibility<sup>12</sup> for individual risks or risk categories</i></li> </ul>	<p><b>Focus: Which specific risks exist at the sites and affiliates? Which risks should the company prioritize?</b></p> <p>Plausibility check of the findings from the preceding abstract risk assessment.</p> <p>Individual identification, weighting and prioritization of specific risks of human rights and environment-related violations in a specific context at those affiliates/ branches/ sites that have increased risk exposure (= <b>concrete risk assessment</b>).</p> <p>Identification, weighting and prioritization of risks<sup>13</sup> in a transparent and traceable way using a systematic, consistent approach. It is important to assess the likelihood and the severity of each violation separately,<sup>14,15,16</sup> e.g., using a ranking or "a heatmap".</p> <p>Systematic documentation of the risks identified by means of the concrete risk assessment, e.g., in a risk inventory, which typically includes at least the following information: description of the risk, person(s) responsible, weighting, preventative and remedial measures.</p>	<p>Building on Step 1 and the data on the nature and scope of the business activities collected in preparation for the analysis, the company knows its risk of concrete human rights and environment-related violations at the country, company and site level.</p> <p>The company knows its high-risk sites/branch offices/ companies and the specific priority risks that exist in each.</p> <p>The company has allocated responsibility for each priority risk or aggregated risk category to a specific person/unit.</p> <p>Where additional information is required to identify appropriate measures, the company conducts a more detailed review of individual priority risks or risk categories.</p>

<sup>9</sup> The following footnotes apply to Table I-IV.

<sup>10</sup> The OECD Due Diligence Guidance for responsible Business Conduct defines sector risks as follows: "Sector risks are risks that are prevalent within a sector globally as a result of the characteristics of the sector, its activities, its products and production processes," p. 62.

<sup>11</sup> The nature and scope of the business activities should be considered in its entirety and with a view to preparing the risk analysis, not as a specific criterion for prioritization.

<sup>12</sup> As defined here, contribution to or partial responsibility for a risk implies that the actions of a third party caused the adverse impact in question. The company "contributes" to the impact if it, by action or even omission, in any way permits, facilitates or incentivizes the violation of a concrete obligation. The following factors may help to determine whether a company has contributed in this way (particularly in the supply chain context):

1. The extent to which a company may encourage or incentivize a violation by a third party, i.e., to what degree its actions increased the risk of the violation.
2. The extent to which the company could have, or should have, known about the violation, i.e., to what degree the violation was foreseeable.
3. The extent to which the company's actions would have prevented, mitigated or stopped the violation, i.e., to what degree it failed to act appropriately. Overall, we should not consider "contribution or partial responsibility" as a static concept. Companies may initially only be "indirectly linked" to a violation. However, if they fail to act, they may ultimately be found to have "contributed". See also the OECD Due Diligence Guidance for responsible Business Conduct, p. 70.

<sup>13</sup> When it comes to prioritizing risks, companies should consider the credibility, believability and relevance of the evaluated information.

<sup>14</sup> See OECD Guidelines for Multinational Enterprises, 2011 Edition, under Section 1 II. 21. (= page 25): "Severity and probability of adverse impacts"

<sup>15</sup> See IDW Auditing Standard: Principles of Proper Auditing of Compliance Management Systems (IDW PS 980), under subs. 23 (= page 55): "The identified risks are to be analyzed in terms of its likelihood and potential impact."

<sup>16</sup> See IDW Auditing Standard: Principles of Proper Auditing of Risk Management Systems (IDW PS 981), under subs. 31 (= page 6): "Risks are assessed [...] in terms of likelihood and potential impact."

Risk analysis steps	Procedure	Sample results
<p>3. Gradual roll-out of concrete risk assessment (Step 2) to all companies/branch offices/sites in the company's own business area*</p>	<p><b>Focus: What are the specific risks in the company's own business area?</b></p> <p>Companies must gradually roll out the procedure for identifying, weighting and prioritizing risks outlined in Step 2 to all companies/branch offices/sites, not only those with increased risk exposure.</p>	<p>The company is aware of the specific human rights and environment-related risks throughout its own business area.</p>

- In principle, companies are allowed to perform the abstract risk assessment described in Step 1 as part of the regular risk analysis of their own business area. This only applies, however, to companies subject to the 'LkSG' that have so many subsidiaries/branch offices/sites that an individual assessment of all subsidiaries/units does not (at least initially) appear to be reasonable or that can provide a plausible justification for its risk-based approach. The abstract risk assessment is designed to identify which of the company's own subsidiaries/branch offices/sites have increased risk exposure and should be subject to the concrete risk assessment as outlined in Step 2.
- As is the case with direct suppliers, this prioritized approach does not mean that the 'LkSG' provisions on risk management no longer apply to these subsidiaries/branch offices/sites. Rather, in accordance with their duties to establish an effective risk management system (Section 4(1) 'LkSG'), reporting companies must ensure that the relevant staff in all subsidiaries/branch offices/sites is aware of the legal positions protected by the 'LkSG' and has the resources to identify risks and report them to

the responsible parties within the group. The relevant staff must have the skills to identify human rights and/or environment-related risks, for example through training, e-learning, workshops, one-to-one meetings and guidelines. In addition, the company must establish company-wide or group-wide policies that ensure staff report identified risks to the appropriate units in a reliable and timely manner. The same applies to the implementation of an effective complaints mechanism and, if necessary, preventive measures so that these can also be applied in a meaningful way in the companies/branches/sites that have not been prioritized (such as guidelines).

- Those companies that initially rely on an abstract risk assessment and only conduct concrete risk assessments for high-priority subsidiaries/branch offices/sites must gradually improve the information gathering process within their own business area and work towards expanding the risk analysis system to include concrete risk assessments for all of their subsidiaries/branch offices/sites.

II. Guidance for regular risk analysis of direct suppliers

Risk analysis steps	Procedure	Sample results
<p><b>1. Abstract assessment of risks, in particular</b></p> <ul style="list-style-type: none"> <li>• <i>sector-specific risks and</i></li> <li>• <i>country-specific risks</i></li> </ul> <p>to identify high-risk suppliers</p> <p>Identification of persons potentially impacted by the risks, including especially vulnerable groups</p>	<p><b>Focus: Which human rights or environment-related risks exist in relation to the suppliers' business activities?</b></p> <p>Companies should cross-check information and sources on human rights and environment-related risks within the meaning of Section 2(2) and (3) with data on the sourcing countries and/or purchasing categories. Initial abstract assessment of risks (= <b>abstract risk assessment</b>).</p> <p>See Annex II for an overview of selected information and sources that may be useful in Step 1 to identify human rights and environment-related risks. A risk assessment based solely on this abstract basis is not sufficient. Companies must conduct a plausibility check of these risks in their own specific context in the next step.</p>	<p>The company knows which human rights and environment-related risks exist in individual sourcing countries and which groups may potentially be affected.</p> <p>The company knows which risks are typical for this sector in relation to each purchasing category (aggregating several categories where necessary).</p> <p>The company knows where there are abstract human rights or environment-related risks exist in individual sourcing countries or in relation to particular purchasing categories. Using this information as a basis, the company identified those countries, purchasing categories or suppliers to include in more in-depth further analyses.</p> <p>The company knows which of the previously identified risks are potentially still acute.</p>
<p><b>2. Concrete identification, weighting and prioritization of risks using the criteria outlined in Section 3(2):</b></p> <ul style="list-style-type: none"> <li>• <i>Nature and scope of the business activities</i></li> <li>• <i>Likelihood of the risk</i></li> <li>• <i>Severity of the violation by degree, number of people impacted and irreversibility</i></li> </ul>	<p><b>Focus: Which risks are relevant to which specific high-risk suppliers? Which risks should the company address as a priority and where?</b></p> <p>Plausibility check of the findings from the preceding abstract risk assessment. Identification, weighting and prioritization of existing human rights and environment-related risks in a specific context, e.g., in terms of certain countries, facilities and/or suppliers among the high-risk suppliers (= <b>concrete risk assessment</b>).</p> <p>Identification, weighting and prioritization of risks in a transparent and traceable way using a systematic, consistent approach. It is important to assess the likelihood and the severity of each violation individually, e.g., using a ranking system or a "heatmap". Where data is lacking, the company must document and justify any gaps in the information and provide evidence of its efforts to obtain this data.</p> <p>Systematic documentation of the risks identified in the concrete risk assessment, e.g., in a risk inventory, which typically includes at least the following information: description of the risk, person(s) responsible, weighting, preventative and remedial measures.</p>	<p>Building on Step 1 and the information on the nature and scope of the business activity collected in preparation for the analysis, the company knows its concrete human rights and environment-related risks at the supplier level.</p> <p>The company knows its high-risk suppliers<sup>17</sup> or countries/regions<sup>18</sup> and the priority risks that exist in each context.</p> <p>The company has allocated responsibility for each priority risk or aggregated risk category to a specific person/unit.</p> <p>Where additional information is required to identify appropriate measures, the company conducts a more detailed review of individual priority risks or risk categories.</p>

<sup>17</sup> High-risk suppliers are those suppliers with risks that the company has deemed high-priority or where there is evidence of a human rights or environment-related violation.

<sup>18</sup> High-risk countries are those countries with risks that the company has deemed high-priority or where there is evidence of a human rights or environment-related violation (in the company's own business area or) within the supply chain.

### III. Guidelines for ad hoc risk analysis (substantiated knowledge, focus on indirect suppliers)

Risk analysis steps or investigation of violations	Procedure	Sample results
<p><b>1. Abstract assessment of risks, in particular</b></p> <ul style="list-style-type: none"> <li>• <i>sector-specific risks and country-specific risks</i> for the purpose of initial verification of actual evidence of a human rights or environment-related violation</li> </ul> <p>Identification of persons potentially impacted by the risks, including especially vulnerable groups</p>	<p><b>Focus: Which human rights or environment-related risks exist at one or more of a company's indirect suppliers?</b></p> <p>Companies should cross-check different information and sources on human rights and environment-related risks related to one or more indirect suppliers (e.g., one or more indirect suppliers in a specific sourcing country, at a specific level of the supply chain, within the supply chain for a specific raw material).</p> <p>See Annex II for an overview on selected information and sources that can be used in Step 1 to identify human rights and environment-related risks. A risk assessment based solely on this abstract basis is not sufficient. Companies must conduct a plausibility check of these risks in their own specific context in the next step.</p>	<p>The company knows which human rights and environment-related risks typically exist at one or more of its indirect suppliers and which groups may potentially be affected.</p>
<p><b>2. Concrete identification, weighting and prioritization of risks by verifying the findings of regular risk analyses using the criteria outlined in Section 3(2):</b></p> <ul style="list-style-type: none"> <li>• <i>Nature and scope of the business activities</i></li> <li>• <i>Likelihood of the risk</i></li> <li>• <i>Severity of the violation by degree, number of people impacted and irreversibility</i></li> <li>• <i>Ability to influence</i></li> <li>• <i>Contribution to or partial responsibility for the individual risks or risk categories</i></li> </ul>	<p><b>Focus: Which risks exist at the indirect supplier level? How does this change a company's prioritized risks?</b></p> <p>A plausibility check of the findings of the preceding abstract risk assessment. Individual assessment of concrete human rights and environment-related risks in the specific context of one or more indirect suppliers.</p> <p>Identification, weighting and prioritization of risks in a transparent and traceable way using a systematic, consistent approach. It is important to assess the likelihood and the severity of each violation separately, e.g., using a ranking or a "heatmap". Where data is lacking, the company must document and justify any gaps in the information and provide evidence of its efforts to obtain the data.</p> <p>Cross-check with the results of the regular risk analysis to decide whether the current priority risks need changing.</p>	<p>The company knows whether there are new additions or changes to the priority risks at the indirect supplier level.</p> <p>The company knows whether any additions or changes to the preventative measures are needed to deal with these risks.</p> <p>The company has allocated responsibility for each priority risk or aggregated risk category to a specific person/unit.</p>
<p>Alternatively: investigation of a specific human rights or environment-related violation at one or more indirect suppliers</p>	<p><b>Focus: Has there been or are there currently any human rights or environment-related violations at one or more indirect suppliers? Which violations are involved and who is impacted? To what extent has the company contributed to this adverse impact?</b></p> <p>Investigation of the violation should involve persons potentially impacted or their representatives, e.g., interviews.</p>	<p>The company knows whether and which human rights or environment-related violations have occurred at the indirect supplier level.</p> <p>The company is aware of the extent to which it contributed to the violation, which will help in the planning and implementation of remedial measures to mitigate or stop the violation.</p> <p>The company has allocated responsibility for each priority risk or aggregated risk category to a specific person/unit.</p>

IV. Guidance for ad hoc risk analyses (significant changes to or expansion of risk exposure, focus on the supply chain as a whole)

Risk analysis steps	Procedure	Sample results
<p><b>1. Abstract assessment of risks, in particular</b></p> <ul style="list-style-type: none"> <li>• <i>sector-specific risks and</i></li> <li>• <i>country-specific risks</i></li> </ul> <p>to verify changed or newly added risks</p> <p>Identification of persons potentially impacted by the risks, including especially vulnerable groups</p>	<p><b>Focus: Which new or changed human rights or environment-related risks exist due to the event that triggered the ad hoc risk analysis?</b></p> <p>Companies should cross-check information and sources on human rights and environment-related risks at in relation to the event that triggered the risk analysis (e.g., country-specific risks in conjunction with a new sourcing country, material or raw material-related risks in conjunction with the launch/development of a new product).</p> <p>See Annex II for an overview on selected information and sources that can be used in Step 1 to identify human rights and environment-related risks. A risk assessment based solely on this abstract basis is not sufficient. Companies must conduct a plausibility check of these risks in their own specific context in the next step.</p>	<p>The company knows which potentially new or changed human rights or environment-related risks typically arise when events like those that triggered the risk analysis occur and which groups may potentially be affected.</p>
<p><b>2. Concrete identification and weighting of risks, identification of persons potentially impacted by these risks and prioritization as part of a cross-check with the results of the regular risk analysis using the criteria outlined in Section 3(2):</b></p> <ul style="list-style-type: none"> <li>• <i>Nature and scope of the business activities</i></li> <li>• <i>Likelihood of the risk</i></li> <li>• <i>Severity of the violation by degree, number of people impacted and irreversibility</i></li> <li>• <i>Ability to influence</i></li> <li>• <i>Contribution to or partial responsibility for the individual risks or risk categories</i></li> </ul>	<p><b>Focus: Which risks arose as a result of the event that triggered the ad hoc risk analysis? How does this change the company's prioritized risks?</b></p> <p>Companies should conduct a concrete risk assessment and prioritize the results of the risk analysis with respect to the event that triggered the risk analysis in a transparent and traceable way using a systematic, consistent approach.</p> <p>Cross-check with the results of the regular risk analysis.</p>	<p>The company knows its specific risks in relation to the event that triggered the ad hoc risk analysis (e.g., due to a potential joint venture partner in a high-risk country).</p> <p>The company knows whether the upcoming decision or the external event will change the company's priority risks and can determine whether any additions or changes to the preventative measures are needed.</p> <p>The company has allocated responsibility for each priority risk or aggregated risk category to a specific person/unit.</p>



### 4.3 From prioritized risks to effective prevention

- Companies should observe and carefully consider the appropriateness criteria outlined in Section 3(2) of the 'LkSG' (see Annex I) as part of the process of prioritizing risks. When it comes to preventive measures, companies are only obliged to introduce measures that address those human rights and environment-related risks within the supply chain for which they are responsible, or to which they have contributed.<sup>19</sup> If a company comes to the conclusion that no causal contribution to one or more risks is apparent, this must be documented.
- When developing preventive measures, companies should build on the results of the regular and ad hoc risk analysis and relate them to each other.

(1) **Example:** A company used the findings of regular and ad hoc risk analyses to identify priority risks within the raw material supply chain (in relation to both direct and indirect suppliers). The company carefully considered the findings and introduced a mix of preventive measures. The company investigates the contribution of its own purchasing and sourcing practices and adjusts them, develops training for direct high-risk suppliers that addresses, among other things, information on risks in the suppliers' extended supply chain, and decides to use available certifications for the extended supply chain that cover the priority risk topics. In selected high-risk countries, the company works with partners or a multi-stakeholder initiative to increase its influence within the extended supply chain and create more transparency on the local supply chain structures.

(2) **Example:** As part of an important investment decision, a company conducts an ad hoc risk analysis and identifies several priority risks. The company introduces individual measures designed to address the priority risks that relate to its forthcoming decision as well as adding binding clauses to contracts with project or joint venture partners in high-risk countries or sectors. These clauses permit the company to conduct on-site investigations where they uncover evidence of wrongdoing and to terminate or suspend business relationships where there is concrete evidence of human rights or environment-related violations.

The due diligence process comes with a steep learning curve for many companies, and it is recommended that they engage with other players in multi-stakeholder or industry-led initiatives to create synergies and share insights.

---

<sup>19</sup> See footnote 12 and Annex I for the definition of "contribution".

# Annex I – Overview of the appropriateness criteria outlined in Section 3(2)

---

Appropriateness criteria Section 3(2) 'LkSG'	Guidance criteria based on initial government draft BT-Drs. 19/28649, pg. 42 ff
1. Nature and scope of the business activities of the company	<p><b>Qualitative:</b></p> <ul style="list-style-type: none"> <li><input type="radio"/> Degree of complexity of a product or service</li> <li><input type="radio"/> Variety of services and business relationships</li> <li><input type="radio"/> Country-wide or international scope</li> </ul> <p><b>Quantitative:</b></p> <ul style="list-style-type: none"> <li><input type="radio"/> Company size (number of staff and their roles, revenue, fixed and working capital, production capacity)</li> <li><input type="radio"/> Vulnerability (frequency of risks specific to a country, sector or a category of goods)</li> </ul>
2. A company's ability to influence the entity directly responsible for a risk or violation	<ul style="list-style-type: none"> <li><input type="radio"/> Company size (relative to its competitors (market dominance) and to the entity directly responsible)</li> <li><input type="radio"/> Order volume (relative to the revenue of the entity directly responsible)</li> <li><input type="radio"/> Proximity to the risk (i.e., where the risk exists and who is responsible: at the company itself, at a direct supplier or at an indirect suppliers)?</li> </ul>
3. The typically expected severity and likelihood of a violation of this nature	<p><b>Severity:</b></p> <ul style="list-style-type: none"> <li><input type="radio"/> Degree (i.e., intensity/depth) of harm;</li> <li><input type="radio"/> Number of people impacted</li> <li><input type="radio"/> No possibility of correcting the adverse impact (irreversibility)</li> </ul> <p><b>Likelihood:</b></p> <ul style="list-style-type: none"> <li><input type="radio"/> Whether and when a violation occurs (e.g., if there is already evidence of a supplier's poor performance (greater likelihood) or effective preventative measures in place (less likelihood))</li> </ul>
4. The nature of the company's contribution to the risk or the violation	<ul style="list-style-type: none"> <li><input type="radio"/> The company has made a major contribution to the risk or is directly (solely) responsible</li> <li><input type="radio"/> As defined here, contribution to or partial responsibility for implies that the actions of a third party caused the adverse impact. The company "contributes" to the impact if it, by action or even omission, in any way permits, facilitates or incentivizes a specific violation.</li> </ul>

## ***Annex II – Overview of selected implementation tools available to identify human rights and environment-related risks***

---

- CSR Risk Check: sector, product or country-specific risks
- Business and Human Rights Resource Centre: Option to filter reports by country, sector and topic
- Human Rights and Business Country Guide: risks by country
- Country reports from multi-stakeholder initiatives like the Fair Wear Foundation
- US State Department: country reports on human rights
- Indexes and rankings (Human Development Index, Global Rights Index, ILAB Child Labor & Forced Labor, Modern Slavery Index, etc.)
- Websites and reports from non-governmental and governmental organizations (e.g., ILO Helpdesk for Business, WHO, UNICEF, Amnesty International, Human Rights Watch, IndustriAll, local unions)
- UN Global Compact Netzwerk Deutschland (UN GCD), Helpdesk on Business & Human Rights and Verisk Maplecroft: Praxislotse Wirtschaft & Menschenrechte (only in German), detailed background information on various human rights risks
- UN GCD: Human Rights Due Diligence Info Portal (only in German) with a focus on the automotive, apparel and textile, ICT and technology sectors
- WWF Water Risk Filters: information on water scarcity risks
- Environmental Justice Atlas: information on environmental pollution, violations of environmental rights
- Adelphi and Systain Study: Atlas on Environmental Impacts: Supply Chains, sponsored by the German Federal Ministry for the Environment, Nature Conservation, Building and Nuclear Safety
- German Federal Ministry of Labor and Social Affairs (2020): Respecting human rights along global value chains. Risks and opportunities for sectors of the German economy. Sector study on human rights risks
- Partnership for Sustainable Textiles: Reports on various topics in the textile and clothing sector
- Drive Sustainability: Raw Material Outlook with background information on risks specific to raw materials
- UN Guiding Principles Reporting Framework

### ***OECD Sectoral Guidance***

- OECD (2018): OECD Due Diligence Guidance for Responsible Business Conduct
- OECD (2012): OECD-Guidance for Responsible supply Chains of Minerals from Conflict-Affected and High-Risk Areas
- OECD/FAO (2016), OECD-FAO Guidance for Responsible Agricultural Supply Chains

- OECD (2017): OECD-Due Diligence Guidance for Meaningful Stakeholder Engagement in the Extractive Sector
- OECD (2018): OECD Due Diligence Guidance for Responsible Supply Chains in the Garment and Footwear Sector
- OECD (2018): Responsible Business Conduct for Institutional Investors: Key considerations for due diligence
- OECD (2019): Due Diligence for Responsible Corporate Lending and Securities Underwriting: Key considerations for banks implementing the OECD Guidelines for Multinational Enterprises.

## **Imprint**

### **Issuer**

Federal Office for Economic Affairs and Export Control (BAFA)  
Frankfurter Straße 29-35  
65760 Eschborn  
Germany  
Phone: +49 6196 908-0  
Fax: +49 6196 908-1800

### **Status**

1. edition / August 2022

### **Used pictures**

© TheVisualsYouNeed – stock.adobe.com, Titel

This publication is issued by the Federal Office of Economics and Export Control as part of its public relations work. the Publication is provided free of charge and is not intended for sale. It may not come from parties or from campaigners or used by election workers during an election campaign for the purpose of election advertising. This applies to Bundestag, Landtag and local elections and for elections to the European Parliament.





[www.bafa.de/en](http://www.bafa.de/en)



[twitter.com/BAFA\\_Bund](https://twitter.com/BAFA_Bund)



[youtube.com/BundesamtfürWirtschaftundAusfuhrkontrolle](https://youtube.com/BundesamtfürWirtschaftundAusfuhrkontrolle)



[linkedin.com/company/bafa-bund](https://linkedin.com/company/bafa-bund)