



Trends in Business and Human Rights Law in the Group of Seven (G7)

A Resource for Business and Human Rights

August 2020

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Report version: v1.0

ABSTRACT

This report is designed to act as a reference guide for businesses wanting to understand the scope of their legal obligations with respect to human rights when operating in the international arena. This report presents an overview of key business and human rights trends and laws and, in particular, focuses on 1) slavery and forced labor; 2) anti-corruption and bribery; and 3) conflict minerals. This analysis is based on a review of the legal regimes and guidelines set forth by the Group of Seven (G7) countries and Australia, as those countries are notable global actors on these issues. The Appendix to this report provides a reference table, organized by country and topic, with more information on the business and human rights laws that may be applicable to companies operating in those jurisdictions. This report and its Appendix are meant to serve as a reference guide and not meant to provide any legal advice. Businesses should retain and rely on legal counsel in those countries in which they operate in order to fully understand how specific laws may apply to them.

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TREND ANALYSIS

There has been a recent rise in reporting and due diligence requirements that are premised on the idea of providing consumers and investors with information about a company's business and human rights practices. The idea animating such laws is that transparency about corporate business and human rights practices and policies will allow investors and consumers to make informed choices, and that those choices will, in turn, push businesses towards making human rights-centric decisions. The proliferation of these requirements compliments laws and regulations in more established areas that fall under the business and human rights umbrella, such as anti-corruption and human trafficking.

As part of the growth in reporting and due diligence requirements, different jurisdictions are passing laws that are broadly similar to each other but with small variations. For example, the California Transparency in Supply Chains Act requires certain retailers and manufacturers doing

business in California to disclose certain information about their efforts to eradicate human trafficking and slavery in their supply chains.¹ The UK Modern Slavery Act requires certain companies to prepare an annual slavery and human trafficking statement that identifies the steps the company has taken to ensure slavery and human trafficking are not present in its supply chain or in the company itself.² Likewise, Australia requires certain companies to publish an annual report explaining what the company is doing to assess and address modern slavery risks in its global and domestic operations and supply chains.³

In addition, businesses should expect to see an increasing number of countries make disclosure requirements more robust. For example, there is a movement in the European Union (EU) towards making environmental and human rights due diligence mandatory. The EU's Commissioner for Justice announced in April 2020 that the EU would introduce rules for mandatory environmental and human rights

¹ CIV § 1714.43 and RTC § 19547.5.

² Modern Slavery Act 2015, United Kingdom, available at <http://www.legislation.gov.uk/ukpga/2015/30/contents>; see also "Transparency in Supply Chains, Etc. A Practical Guide," Government of the United Kingdom, at 7 (Oct. 29, 2015), available at <https://www.gov.uk/government/publications/transparency-in-supply-chains-a-practical-guide>.

³ See e.g., Australia Modern Slavery Act 2018, No. 153, 2018, Section 16, available at <https://www.legislation.gov.au/Details/C2018A00153>; see also, New South Wales Modern Slavery Act 2018, No 30, at 10-11, available at <https://www.legislation.nsw.gov.au/~/pdf/view/act/2018/30/whole>.

due diligence in 2021.⁴ This announcement was made against the backdrop of a number of national initiatives in European countries to make due diligence laws mandatory.⁵ These actions also follow the passage of France’s Duty of Vigilance Law of 2017, which creates a binding obligation on certain French companies to establish mechanisms to address human rights violations and environmental impacts, and to report those mechanisms as part of a vigilance plan. A European Parliament report noted that the law should form the basis of a pan-European framework.⁶ However, the outcome of any scholarship evaluating the effectiveness of these reporting and disclosure laws could affect the extent to which they continue to proliferate.

The number of new laws being passed is possible, in part, because the current business and human rights legal landscape is patchwork and nascent. But, the trend towards increasing regulation of companies’ business and human rights obligations does not appear to be slowing. As such, in coming years, companies should anticipate the passage of additional business and human rights laws and regulations, as well as increasing reporting and due diligence obligations.

LEGAL FOCUS AREAS

This report focuses primarily on three areas of business and human rights law—forced labor, anti-corruption, and conflict minerals—discussed further below.⁷ This report does not focus on environmental laws and regulations or sustainability goals, though we recognize that businesses and stakeholders at times treat the issues as synonymous or closely intertwined with other business and human rights issues.

The most well-developed areas are laws addressing forced labor and anti-corruption. Every country examined has legally prohibited corruption or bribery, though the scope and enforceability of those prohibitions varies significantly among jurisdictions. For instance, the United Kingdom’s Bribery Act 2010 establishes corporate liability for bribery as to companies that do business in the United Kingdom, whether committed domestically or abroad.⁸ In contrast, the criminal prohibition on bribery in Germany applies to natural persons, which gives this law a more limited ability to influence corporate actions. As mentioned previously, many of the countries analyzed have also implemented or are developing legislation addressing human trafficking and forced labor. These laws increasingly include supply chain due

⁴ “Important Step Towards Greater Corporate Accountability As European Commission Commits to New EU Rules to Regulate Supply Chains” Global Witness (April 29, 2020), available at <https://www.globalwitness.org/en/press-releases/important-step-towards-greater-corporate-accountability-european-commission-commits-new-eu-rules-regulate-supply-chains/>.

⁵ “Study on due diligence requirements through the supply chain,” European Commission, at 41 (January 2020), available at <https://op.europa.eu/en/publication-detail/-/publication/8ba0a8fd-4c83-11ea-b8b7-01aa75ed71a1/language-en>.

⁶ *Id.*

⁷ We also examined developments in the area of forced relocations but, as of this writing, there have been very few legal developments in this area, leaving it largely unaddressed.

⁸ “Good Business – Implementing the UN Guiding Principles on Business and Human Rights – Updated May 2016,” Gov’t of United Kingdom, at 7 (May 2016), available at https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/522805/Good_Business_Implementing_the_UN_Guiding_Principles_on_Business_and_Human_Rights_updated_May_2016.pdf; see also “Anti-Corruption Regulation Survey of 42 Countries,” One Firm Worldwide, Jones Day, at 113 (2019), available at <https://www.jonesday.com/en/insights/2019/11/anticorruption-regulation-survey-2019>.

diligence and reporting requirements, though enforcement and penalties for non-compliance vary widely across countries.

Laws addressing conflict minerals are less established. While the United States has relatively mature reporting and disclosure requirements which were implemented in 2012, the European Union has new conflict mineral diligence and reporting requirements that are anticipated to become effective January 1, 2021.⁹ Other countries, such as Australia, provide conflict minerals-related guidelines.¹⁰ Notably, there has been significant movement on a global scale against conflict diamonds, which is evidenced by the Kimberley Process, discussed further below.

IMPLEMENTATION AND ENFORCEMENT

Increased use of due diligence and reporting requirements are among the key steps that states have taken to implement the UN Guiding Principles on Business and Human Rights (UNGPs), with mixed results.

For example, in Italy, companies are strongly incentivized to implement compliance programs called “models of organization, management and control,” or “231 Models,” with the aim of identifying, preventing, and mitigating the risk of committing crimes relating to business activities.¹¹ In Australia, a domestic or foreign company carrying on business in Australia must publish an annual report explaining what the company is doing to assess and address modern slavery risks in its global and domestic operations and supply chains.¹² In France, companies have had difficulty understanding the Duty of Vigilance Law’s reporting requirements, which has led French companies to take disparate reporting approaches.¹³ In Germany, there is also “great uncertainty” as to how companies must handle the requirements set forth under the German CSR Directive Implementation Act, which requires disclosure of information on non-financial matters (including, *inter alia*, respect for human rights, and anti-corruption and bribery matters).¹⁴

⁹ “Regulation (EU) 2017/821 of the European Parliament and of the Council of 17 May 2017 laying down supply chain due diligence obligations for Union importers of tin, tantalum and tungsten, their ores, and gold originating from conflict-affected and high-risk areas,” available at https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=uriserv:OJ.L_.2017.130.01.0001.01.ENG&toc=OJ:L:2017:130:TOC.

¹⁰ “Due diligence guidelines for the responsible supply chain of minerals from red flag locations to mitigate the risk of providing direct or indirect support for conflict in the eastern part of the Democratic Republic of the Congo,” Government of Australia, Department of Foreign Affairs and Trade, available at <https://www.dfat.gov.au/international-relations/security/sanctions/sanctions-regimes/congo/Pages/due-diligence-guidelines-for-the-responsible-supply-chain-of-minerals-from-red-flag-locations-to-mitigate-the-risk-of-provi>.

¹¹ “Italian Legislative Decree No. 231/2001: A model for Mandatory Human Rights Due Diligence Legislation?” FIDH, HRIC, ECCJ, at 5 (Nov. 2019), available at https://www.business-humanrights.org/sites/default/files/documents/report%20231_2001_ENG.pdf.

¹² Modern Slavery Act 2018, No. 153, 2018, Section 16, available at <https://www.legislation.gov.au/Details/C2018A00153>.

¹³ Shift, “Human Rights Reporting in France,” at 10 (Dec. 2019), available at https://shiftproject.org/wp-content/uploads/2019/11/Shift_HumanRightsReportinginFrance_Nov27.pdf.

¹⁴ Global Compact Network Germany and econsense, “New Momentum For Reporting on Sustainability? Study on Implementation of the German CSR Directive Implementation Act,” at 5, 27, available at https://www.globalcompact.de/wAssets/docs/Reporting/NFE_Studie_Online_englisch_181015.pdf.

Enforcement of relevant legislation also varies significantly. For instance, there is little penalty associated with non-compliance with Australia's federal forced labor legislation.¹⁵ Efforts to implement a stronger New South Wales law that includes penalties have been met with resistance.¹⁶ Early reporting suggests that Germany's goal of 50 percent voluntary due diligence reporting will not be achieved.¹⁷ The United Kingdom anti-slavery law has been criticized for a lack of enforcement.¹⁸ Litigation under France's due diligence legislation has, thus far (as the *Total* case exemplifies) been largely unsuccessful.¹⁹

However, other legislation has been more aggressively enforced, particularly within the anti-corruption space. For instance, the UK Serious Fraud Office has brought and resolved several cases under the UK Bribery

Case Study: **Total Litigation**²⁰

Environmental organizations brought the first legal action under the Duty of Vigilance Law in 2019. They alleged, among other things, that French energy company, Total, engaged in human rights abuses in connection with its Ugandan operations, including the forced relocation of several Ugandan farmers. The lawsuit, however, was dismissed in January 2020 on jurisdictional grounds.

Act 2010.²¹ In Australia, a 2017 suit was brought under the laws against bribery of foreign public officials and three individuals pled guilty to paying bribes to secure a multi-million dollar construction contract in Iraq.²² In a high-profile case, the United

¹⁵ See e.g., Australia Modern Slavery Act 2018 Section 16A, available at <https://www.legislation.gov.au/Details/C2018A00153> (providing that non-compliant companies may be publicly named).

¹⁶ See e.g., New South Wales Modern Slavery Act 2018, No 30, available at <https://www.legislation.nsw.gov.au/~pdf/view/act/2018/30/whole> (providing for penalties for noncompliance or false reporting; but, while enacted, this law has not been permitted to go into effect); see also "NSW anti-slavery act could be abandoned despite being voted into law," The Guardian (Nov. 8, 2019), available at <https://www.theguardian.com/australia-news/2019/nov/08/nsw-anti-slavery-act-could-be-abandoned-despite-being-voted-into-law>.

¹⁷ "Monitoring the National Action Plan for Business and Human Rights (NAP)," (Apr. 23, 2020), available at <https://www.auswaertiges-amt.de/en/aussenpolitik/themen/aussenwirtschaft/wirtschaft-und-menschenrechte/monitoring-nap/2131054> ("The key findings is that between 17 and 19 percent of businesses were able to document that they are adequately meeting the NAP requirements on human rights due diligence ('compliers')."); see also "Monitoring of the status of implementation of the human rights due diligence of enterprises set out in the National Action Plan for Business and Human Rights 2016-2020. Interim Report Survey phase 2019 Summary," German Federal Foreign Office (Feb. 24, 2020), available at <https://www.auswaertiges-amt.de/blob/2333700/d15fc19d05e831966bccb305ad7622ca/nap-monitoring--summary-of-the-interim-report-2019-final-data.pdf> ("[I]n 2019, less than 50 percent of enterprises based in Germany and employing over 500 staff have integrated the core elements of human rights due diligence described in the NAP into their business processes by 2020.").

¹⁸ Millar, "Five years on, is the UK's landmark anti-slavery law fit for purpose," Reuters (Oct. 17, 2019), available at <https://www.reuters.com/article/us-britain-slavery-expertviews-trfn/five-years-on-is-the-uks-landmark-anti-slavery-law-fit-for-purpose-idUSKBN1WX02J>; see also "The UK Modern Slavery Act – Recent Developments," Clifford Chance (Dec. 17, 2019), available at <https://www.cliffordchance.com/insights/resources/blogs/business-and-human-rights-insights/the-uk-modern-slavery-act-recent-developments.html> ("[T]he MSA [Modern Slavery Act], which promised greater protection of modern slavery victims and increased detection of modern slavery crimes, has faced criticism from those who consider that enforcement remains low and that the Reporting Requirement lacks teeth.").

¹⁹ Rosman, "French judges tilt in favour of Total in landmark ruling," Al Jazeera (Jan. 30, 2020), available at <https://www.aljazeera.com/ajimpact/french-judges-tilt-favour-total-landmark-ruling-200130223500626.html>.

²⁰ *Id.*; see also "Total lawsuit (re failure to respect French duty of vigilance law in operations in Uganda)," Business & Human Rights Resource Centre (Jan. 30, 2020), available at <https://www.business-humanrights.org/en/node/205719>.

²¹ "Anti-Corruption Regulation Survey of 42 Countries," One Firm Worldwide, Jones Day, at 114-16 (2019), available at <https://www.jonesday.com/en/insights/2019/11/anticorruption-regulation-survey-2019>.

²² *Id.* at 19.

States, United Kingdom, and France brought bribery charges against Airbus leading to a settlement with significant penalties.²³ The *Airbus* case is discussed in further detail in the next section of this report.

Many countries have also adopted or are developing National Action Plans (“NAPs”) to serve as roadmaps in an effort to implement the UNGPs. The UNGPs set forth guidelines outlining the state’s duty to protect human rights, the responsibility of corporations to respect human rights, and the need for access to remedies for human rights abuses committed in business operations.²⁴ The NAPs developed by individual states vary widely in scope. For instance, Australia enacted an NAP specific to human trafficking issues.²⁵ Germany’s NAP outlines the core elements of due diligence in the field of human rights; it calls for, *inter alia*, voluntary reporting in which

enterprises should communicate “that they are aware of the actual and potential impact of their corporate activity on human rights and are taking appropriate steps to address the situation.”²⁶

The NAPs developed by the United States and the United Kingdom have structural approaches, as they focus on the role of both the state and businesses (or other stakeholders) in promoting responsible action with respect to human rights in the private sector.²⁷ The United States plan is particularly wide-ranging, as it focuses on “issues including but not limited to: human rights, the rights of indigenous peoples, labor rights, land tenure and property rights, anti-corruption, and transparency.”²⁸ Japan is currently working to finalize its NAP, but already has developed one in connection with educating its population about human rights.²⁹

²³ “Airbus Agrees to Pay over \$3.9 Billion in Global Penalties to Resolve Foreign Bribery and ITAR Case,” U.S. Department of Justice (Jan. 31, 2020), available at <https://www.justice.gov/opa/pr/airbus-agrees-pay-over-39-billion-global-penalties-resolve-foreign-bribery-and-itar-case>. Information about additional enforcement actions is available at <https://www.justice.gov/criminal-fraud/related-enforcement-actions>.

²⁴ “Guiding Principles on Business and Human Rights: Implementing the United Nations ‘Protect, Respect and Remedy’ Framework,” United Nations Human Rights Office of the High Commissioner, available at https://www.ohchr.org/Documents/Publications/GuidingPrinciplesBusinessHR_EN.pdf; see also “UN Guiding Principles,” Business and Human Rights Resource Center, available at <https://www.business-humanrights.org/en/un-guiding-principles>.

²⁵ “National Action Plan to Combat Human Trafficking and Slavery 2015-19” (Dec. 1, 2014), available at <https://www.homeaffairs.gov.au/criminal-justice/files/trafficking-national-action-plan-combat-human-trafficking-slavery-2015-19.pdf>.

²⁶ “National Action Plan Implementation of the UN Guiding Principles on Business and Human Rights 2016-2020,” German Federal Foreign Office, at 9 (Sept. 2017), available at <https://www.auswaertiges-amt.de/blob/610714/fb740510e8c2fa83dc507afad0b2d7ad/nap-wirtschaft-menschenrechte-engl-data.pdf>.

²⁷ “Good Business – Implementing the UN Guiding Principles on Business and Human Rights – Updated May 2016,” Gov’t of United Kingdom (May 2016), available at https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/522805/Good_Business_Implementing_the_UN_Guiding_Principles_on_Business_and_Human_Rights_updated_May_2016.pdf; see also “Responsible Business Conduct: First National Action Plan of the United States of America,” U.S. Department of State (Dec. 16, 2016), available at <https://2009-2017.state.gov/e/eb/eppd/csr/naprbc/265706.htm>.

²⁸ “Responsible Business Conduct: First National Action Plan of the United States of America,” U.S. Department of State, at 5 (Dec. 16, 2016), available at <https://2009-2017.state.gov/e/eb/eppd/csr/naprbc/265706.htm>.

²⁹ “Japan,” Action Platforms, Business & Human Rights Resource Centre, available at <https://www.business-humanrights.org/en/japan-0> (last visited July 4, 2020); see also “Business and Human Rights,” Ministry of Foreign Affairs of Japan, available at https://www.mofa.go.jp/fp/hr_ha/page23e_000551.html (last visited July 5, 2020) (“The Government of Japan is working to formulate the NAP with the recognition that its development will contribute to promoting and protecting human rights for the entire society, including international community and to enhancing company values, while aiming at issuing the finalized plan in the middle of 2020.”).

TOPICAL ANALYSIS

FORCED LABOR AND HUMAN TRAFFICKING

Forced labor is prohibited to some extent in each country analyzed. While some of these prohibitions are relatively limited, many nations are increasingly expanding the scope of businesses' obligations to prevent forced labor and human trafficking. This includes relatively new laws that require businesses to account not only for domestic labor practices, but also for labor practices in their international supply chains.

For example, forced labor is a crime in Canada,³⁰ Germany,³¹ and Italy.³² And while laws in these countries may address the conduct of natural persons occurring within the nation's borders, there is significant variation in the extent to which these different laws apply to corporations and address conduct occurring outside the nation's borders, particularly with respect to multinational organizations. For instance, Italian law³³ clearly establishes corporate liability for violating, among other things, human trafficking laws; whereas other

³⁰ The Canadian Criminal Code includes specific offenses to address human trafficking: Section 279.01 (Trafficking in persons), Section 279.011 (Trafficking of a person under the age of eighteen years), Section 279.02 (Material benefit), and Section 279.03 (Withholding or destroying documents). Immigration and Refugee Protection Act Section 118 also prohibits the bringing into Canada of persons by means of abduction, fraud, deception or use of threat of force or coercion, and carries a maximum penalty of a fine of up to \$1 million and/or up to life imprisonment.

³¹ German Criminal Code §§ 232, 233, available at http://www.gesetze-im-internet.de/englisch_stgb/englisch_stgb.html#p2065.

³² Art. 25-quinquies, Leg. Decree No. 231 (June 8, 2001), available at

https://sherloc.unodc.org/cld/document/ita/2001/legislative_decree_8_june_2001_no_231_english.html; see also Italian Criminal Code Art. 600 (Riduzione o mantenimento in schiavitù o in servitù'), available at

https://www.gazzettaufficiale.it/dettaglio/codici/codicePenale/600_1_1; see also Italian Criminal Code, Art. 601 (Tratta di persone), available at https://www.gazzettaufficiale.it/dettaglio/codici/codicePenale/601_1_1. See also Cucchiara, Maria Francesca, "The Italian legal framework against labour exploitation. A legal assessment, specifically targeting undocumented migrants," ASGI and HRIC, available at https://www.business-humanrights.org/sites/default/files/documents/ASGI_HRIC_BHRRRC_May2017_REV%2019.7.pdf; see also "Corporate Liability in Italy," Global Compliance News – Baker Mackenzie Italy, <https://globalcompliancenews.com/white-collar-crime/corporate-liability-in-italy/>; see also Italian Criminal Code, Art. 603-bis (Intermediazione illecita e sfruttamento del lavoro), available at https://www.gazzettaufficiale.it/dettaglio/codici/codicePenale/600_1_1.

³³ "Italian Legislative Decree No. 231/2001: A model for Mandatory Human Rights Due Diligence Legislation?" FIDH, HRIC, ECCJ, at 5 (Nov. 2019), available at https://www.business-humanrights.org/sites/default/files/documents/report%20231_2001_ENG.pdf ("L.D. No. 231/2001 established, for the first time in Italy, corporate responsibility for crimes perpetrated in the interest or to the advantage of a legal entity. . . . Despite not being specifically directed at protecting human rights, the scope of the law has been extended over the years and currently includes specific human rights violations, such as slavery, human trafficking, forced labor, juvenile prostitution and pornography, female genital mutilation, and environmental crimes.").

jurisdictions, such as Germany, have stopped short of doing so.

Australia,³⁴ France,³⁵ and California³⁶ have implemented relatively new due diligence and reporting laws, which require companies to generally assess, report, and mitigate forced labor risks in their corporate supply chains. The degree to which this legislation is and can be enforced, however, varies. The United Kingdom has similarly established forced labor supply chain reporting requirements.³⁷ Australia implemented national diligence and reporting requirements, but the primary consequence for non-compliance is public naming; and, parallel legislation enacted by the Australian state of New South Wales that would impose penalties for non-compliance has, as of this writing, not been allowed to go into effect.

States' approaches to human trafficking and forced labor are also continuing to evolve.

Japan, for instance, has yet to enact legislation specifically addressing forced labor and human trafficking, but covers these issues in other areas of law and it is currently in the process of formulating its National Action Plan on business and human rights.³⁸ Australia, too, is currently undertaking a new International Strategy on Human Trafficking and Modern Slavery.³⁹ Thus, companies doing international business should expect the legal landscape addressing forced labor and human trafficking to continue to evolve and should be prepared for the passage of additional corporate due diligence and liability legislation, as well as potentially enhanced enforcement efforts.

ANTI-CORRUPTION

Each country analyzed has, in some form, prohibited corruption or bribery. Bribery or corruption is a criminal offense in

³⁴ See e.g., Australia Modern Slavery Act 2018, No. 153, 2018, Section 16, available at <https://www.legislation.gov.au/Details/C2018A00153>.

³⁵ See e.g., French Commercial Code Article R. 225-105-1.-I; see also "Law n° 2017-399 of March 27, 2017 relating to the duty of vigilance of parent companies and ordering companies," Article 1, available at <https://www.legifrance.gouv.fr/affichTexte.do?cidTexte=JORFTEXT000034290626&fastPos=1&fastReqId=2064245787&categorieLien=id&oldAction=rechTexte>.

³⁶ CIV § 1714.43 and RTC § 19547.5; see also "The California Transparency in Supply Chains Act: A Resource Guide," State of California Department of Justice (2015), available at <https://oag.ca.gov/sites/all/files/agweb/pdfs/sb657/resource-guide.pdf>.

³⁷ Modern Slavery Act 2015, United Kingdom, available at <http://www.legislation.gov.uk/ukpga/2015/30/contents>.

³⁸ "Corporate Liability for Forced Labour and Human Trafficking," Institute for Human Rights and Business, at 32 (Oct. 2016), available at

https://www.ihrb.org/uploads/reports/IHRB%2C_Corporate_Liability_for_Forced_Labour_and_Human_Trafficking%2C_Oct._2016.pdf

("Japan does not have specific laws dealing exclusively with human trafficking or forced labour. Instead, these issues are provided for in various provisions of different laws"); see also "2019 Trafficking in Persons Report – Japan," U.S. Department of State, available at <https://www.state.gov/reports/2019-trafficking-in-persons-report-2/japan/> ("Japan did not have a comprehensive anti-trafficking statute that included definitions in line with international standards. However, it criminalized sex trafficking and labor trafficking offenses through disparate laws pertaining to prostitution of adults and children, child welfare, immigration, and employment standards."); see also "Business and Human Rights," Ministry of Foreign Affairs of Japan (May 1, 2020), available at https://www.mofa.go.jp/fp/hr_ha/page23e_000551.html (stating Japan aims to issue a finalized NAP by mid-2020).

³⁹ "Consultation Paper – International Strategy on Human Trafficking and Modern Slavery" (2020), available at <https://www.dfat.gov.au/publications/international-relations-consultation-paper-international-strategy-human-trafficking-and-modern-slavery>.

Australia,⁴⁰ Canada,⁴¹ EU,⁴² Germany,⁴³ Italy,⁴⁴ Japan,⁴⁵ the United Kingdom⁴⁶ and the United States,⁴⁷ and certain large French companies must have procedures in place to prevent bribery and corruption within France or abroad.⁴⁸ However, there is significant variation in the robustness of enforcement regimes. For example, the Foreign Corrupt Practices Act (“FCPA”) in the United States is a well-established and actively enforced law. In 2019, there were fifty-four enforcement actions, seventy-three total cases, including ancillary actions, and \$2.6 billion in corporate fines levied.⁴⁹ In contrast, in 2019, the Organisation for Economic Co-operation and Development (OECD) found that, despite some positive developments, Japan needed to strengthen its anti-corruption laws and increase enforcement. Since 1999, Japan had only prosecuted five foreign bribery cases and sanctioned twelve individuals and two companies.⁵⁰

In recent years many countries have passed or expanded anti-bribery laws.⁵¹ For instance, in 2019, Italy enacted an expanded anti-corruption law that increased sanctions for bribery and corruption related crimes, and broadened the definition of what constitutes a corruption crime.⁵² In 2016, France passed its Sapin II law, which created a French anti-corruption agency, required corporations to implement procedures to detect corruption, provided extraterritorial reach, and made France’s anti-corruption laws and institutions more like those in the United States and the United Kingdom. Thus, companies operating internationally may face investigations and enforcement actions from multiple countries for the same behavior, whether those investigations are cooperative between countries or duplicative and uncoordinated. It also means that when designing anti-corruption policies, international businesses need to understand the anti-corruption legal regime

⁴⁰ Criminal Code Act 1995, Gov’t of Australia, available at <https://www.legislation.gov.au/Details/C2020C00120>.

⁴¹ Corruption of Foreign Public Officials Act (S.C. 1998, c. 34), available at <https://laws-lois.justice.gc.ca/eng/acts/c-45.2/index.html>.

⁴² “Combating corruption in the private sector. Summary of: Framework Decision 2003/568/JHA on combating corruption in the private sector,” available at <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=LEGISSUM%3A133308>; see also “Directive 2014/95/EU of the European Parliament and of the Council of 22 October 2014 amending Directive 2013/34/EU as regards disclosure of non-financial and diversity information by certain large undertakings and groups,” available at <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A32014L0095>.

⁴³ German Criminal Code §§ 331-37, available at http://www.gesetze-im-internet.de/englisch_stgb/englisch_stgb.html#p3174.

⁴⁴ Art. 25, Leg. Decree No. 231 (June 8, 2001), available at <https://sherloc.unodc.org/cld/document/ita/2001/legislative-decree-8-june-2001-no.-231-english.html>.

⁴⁵ “Japan must urgently address long-standing concerns over foreign bribery enforcement,” OECD (Mar. 7, 2019), available at <https://www.oecd.org/corruption/japan-must-urgently-address-long-standing-concerns-over-foreign-bribery-enforcement.htm>.

⁴⁶ Bribery Act 2010, United Kingdom, §§ 1-2, 6, <http://www.legislation.gov.uk/ukpga/2010/23/contents>.

⁴⁷ 15 U.S.C. §§ 78dd-1, et seq.

⁴⁸ “Law n° 2016-1691 of 9 December 2016 relating to transparency, the fight against corruption and the modernization of economic life,” Article 17, available at <https://www.legifrance.gouv.fr/affichTexte.do?cidTexte=JORFTEXT000033558528&categorieLien=id>.

⁴⁹ “2019 Year-End FCPA Update,” Gibson Gunn (January 6, 2020), available at <https://www.gibsondunn.com/2019-year-end-fcpa-update/>.

⁵⁰ “Japan must urgently address long-standing concerns over foreign bribery enforcement,” OECD (Mar. 7, 2019), available at <https://www.oecd.org/corruption/japan-must-urgently-address-long-standing-concerns-over-foreign-bribery-enforcement.htm>.

⁵¹ “A Resource Guide to the U.S. Foreign Corrupt Practices Act,” Criminal Division of the U.S. Department of Justice and Enforcement Divisions of the Securities and Exchange Commission, at 71 (July 3, 2020), available at <https://www.justice.gov/criminal-fraud/fcpa-resource-guide>.

⁵² “Anti-Corruption Regulation Survey of 42 Countries,” One Firm Worldwide, Jones Day, at 97 (2019), available at <https://www.jonesday.com/en/insights/2019/11/anticorruption-regulation-survey-2019>; see also “Anti-Corruption Trends and Developments in 2019,” Dentons (December 16, 2019), available at <https://www.dentons.com/en/insights/alerts/2019/december/16/anti-corruption-trends-and-developments-in-2019>.

Case Study: **Airbus**

A good illustration of several of the trends in international anti-corruption efforts is Airbus S.E.'s ("Airbus") January 2020 resolution of foreign bribery charges with the United States, the United Kingdom, and French authorities. From approximately 2008 to 2015, Airbus allegedly used third party agents to offer and pay bribes to foreign officials in order to obtain and retain business, including contracts to sell aircraft.⁵³ The US Department of Justice, UK Serious Fraud Office, and French Parquet National Financier resolved the investigations through a joint resolution signed on the same day. In total, Airbus agreed to pay \$4 billion, which is the largest foreign bribery resolution to date.⁵⁴

The large penalty paid by Airbus reinforces the importance of an effective compliance program and the substantial consequences companies can face for failing to prevent corruption. It also shows the continued commitment by the United States and the United Kingdom to combat international anti-corruption, as well as the more prominent role France may play going forward.⁵⁵ Finally, it shows that there is an increased possibility of cooperation among prosecuting authorities, something that the US DOJ and SEC recently highlighted in their 2020 FCPA resource guide.⁵⁶ This is positive news for companies, as it presents the potential for a global resolution rather than duplicative investigations in multiple jurisdictions on varying timelines.⁵⁷

in each country in which they do business, and how those regimes interact and relate to each other.

CONFLICT MINERALS

The United States requires, and soon the EU will require, many companies to report on conflict minerals in their supply chains. Per

US SEC reporting requirements, companies are subject to certain conflict mineral reporting requirements,⁵⁸ and, beginning in 2021, the EU will require importers of tin, tantalum, tungsten, and gold to follow a five-step framework to: (1) establish strong company management systems; 2) identify and assess risk in the supply chain; 3) design and implement a strategy to respond to

⁵³ "Airbus Agrees to Pay over \$3.9 Billion in Global Penalties to Resolve Foreign Bribery and ITAR Case," U.S. Department of Justice (Jan. 31, 2020), available at <https://www.justice.gov/opa/pr/airbus-agrees-pay-over-39-billion-global-penalties-resolve-foreign-bribery-and-itar-case>.

⁵⁴ *Id.*

⁵⁵ For example, in July 2020 France's National Bar Counsel released comprehensive internal investigations guidance that was prompted by the passage of Sapin II and the enhanced enforcement tools it provided. See "French bar adopts internal investigations guidelines," Global Investigations Review (July 7, 2020), available at <https://globalinvestigationsreview.com/article/1228599/french-bar-adopts-internal-investigations-guidelines>.

⁵⁶ "A Resource Guide to the U.S. Foreign Corrupt Practices Act," Criminal Division of the U.S. Department of Justice, and Enforcement Divisions of the Securities and Exchange Commission at 71 (July 3, 2020), available at <https://www.justice.gov/criminal-fraud/fcpa-resource-guide>.

⁵⁷ Tokar and Broughton, "Airbus Settlement Signals Greater Collaboration on International Bribery Cases," The Wall Street Journal (February 3, 2020), available at <https://www.wsj.com/articles/airbus-settlement-signals-greater-collaboration-on-international-bribery-cases-11580774507>.

⁵⁸ 17 C.F.R. § 240.13p-1.

identified risks; 4) carry out an independent third-party audit of supply chain due diligence; and 5) report annually on supply chain due diligence.⁵⁹ Australia also has issued substantially similar due diligence guidelines.⁶⁰ These steps represent a focus across countries on enhanced corporate awareness of the relevant risks within supply chains in connection with conflict minerals, as well as the company's responsibility to identify and address those risks.

Many countries across the world have also coalesced around the movement against conflict diamonds in particular. The Kimberley Process ("KP") represents a globalized effort among countries—including the G7 and Australia—to commit to removing conflict diamonds from the global supply chain. The KP is an international certification scheme that regulates trade in rough diamonds and aims

to prevent the flow of conflict diamonds while helping to protect legitimate trade in rough diamonds.⁶¹ The KP Certification Scheme ("KPCS") outlines the rules that govern this trade and sets minimum requirements that each participant must meet and implement through national legislation.⁶² The KP has 56 participants, representing 82 countries and accounting for 99.8% of global production of rough diamonds.⁶³ The KPCS requires member countries to certify shipments of rough diamonds as "conflict-free" and prevent conflict diamonds from entering the legitimate trade.⁶⁴ The United Kingdom, for example, provides specific guidance regarding KP certificate requirements and clearly instructs: "You can only export rough diamonds within the EU and to countries in the KPCS or your goods may be seized. You must get a KP certificate to export rough diamond shipment outside the EU."⁶⁵

⁵⁹ "Regulation (EU) 2017/821 of the European Parliament and of the Council of 17 May 2017 laying down supply chain due diligence obligations for Union importers of tin, tantalum and tungsten, their ores, and gold originating from conflict-affected and high-risk areas," available at https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=uriserv:OJ.L_.2017.130.01.0001.01.ENG&toc=OJ:L:2017:130:TOC.

⁶⁰ "Due diligence guidelines for the responsible supply chain of minerals from red flag locations to mitigate the risk of providing direct or indirect support for conflict in the eastern part of the Democratic Republic of the Congo," Australia Government, Department of Foreign Affairs and Trade, available at <https://www.dfat.gov.au/international-relations/security/sanctions/sanctions-regimes/congo/Pages/due-diligence-guidelines-for-the-responsible-supply-chain-of-minerals-from-red-flag-locations-to-mitigate-the-risk-of-provi>.

⁶¹ "FAQ: Find answers to the big challenges we face," Kimberley Process, available at <https://www.kimberleyprocess.com/en/faq>.

⁶² *Id.*

⁶³ "Participants: Working together to stem the tide of conflict diamonds worldwide," Kimberley Process, available at <https://www.kimberleyprocess.com/en/participants>.

⁶⁴ "About" Kimberley Process, available at <https://www.kimberleyprocess.com/en/about>.

⁶⁵ "Export rough diamonds: special rules," Government of the United Kingdom (last updated Mar. 24, 2020), available at <https://www.gov.uk/guidance/export-diamonds-special-rules>.

APPENDIX: REFERENCE GUIDES

In this section, we provide reference guides for each country assessed for this report. The guides are not meant to provide any legal advice and businesses should retain

and rely on legal counsel in those countries in which they operate in order to fully understand how specific laws may apply to them.

AUSTRALIA

Forced Labor / Human Trafficking – Modern Slavery Act 2018

Key Facts	Description
<ul style="list-style-type: none"> • Applies to companies with at least AUD\$100 million in annual revenue and that: (i) are an Australian company, or (ii) are a foreign company carrying on business in Australia. • Focus on Due Diligence and Reporting/ Compliance. • Currently effective. 	<ul style="list-style-type: none"> • A company with at least AUD\$100 million in annual revenue and that is either an Australian company or a foreign company carrying on business in Australia must publish an annual report explaining what the company is doing to assess and address modern slavery risks in its global and domestic operations and supply chains. • The report must describe, among other things, risks of modern slavery practices in the company’s operations and supply chains; actions taken to assess and address those risks; including due diligence and remediation processes; and how the company assesses the effectiveness of such actions.⁶⁶ Companies that fail to comply can be publicly identified by the Minister as non-compliant.⁶⁷ • The Australian government is also undertaking a new International Strategy on Human Trafficking and Modern Slavery.⁶⁸

Forced Labor / Human Trafficking – New South Wales Modern Slavery Act

Key Facts	Description
<ul style="list-style-type: none"> • Applies to companies with at least AUD \$50 million in annual revenue and that: (i) are an Australian company, or (ii) are a foreign company carrying on business in New South Wales. 	<ul style="list-style-type: none"> • The Australian state of New South Wales also passed a Modern Slavery Act 2018 (“NSW Law”), which would require due diligence, risk assessment and annual reporting regarding modern slavery in the company and its supply chains.⁶⁹ • The NSW Law differs from the Australian national Modern Slavery Act in that, for instance, the NSW Law would apply to companies with an annual turnover of at least AUD \$50 million, and unlike the national Modern

⁶⁶ Modern Slavery Act 2018, No. 153, 2018, Section 16, available at <https://www.legislation.gov.au/Details/C2018A00153>.

⁶⁷ Modern Slavery Act 2018 Section 16A.

⁶⁸ Consultation Paper – International Strategy on Human Trafficking and Modern Slavery, (2002), <https://www.dfat.gov.au/publications/international-relations/consultation-paper-international-strategy-human-trafficking-and-modern-slavery>.

⁶⁹ Modern Slavery Act 2018, No 30, Section 24, available at https://www.legislation.nsw.gov.au/~/_pdf/view/act/2018/30/whole.

Key Facts	Description
<ul style="list-style-type: none"> • Focus on Due Diligence and Reporting/Compliance. • Not yet effective; expected effective date is unknown. 	<p>Slavery Act, noncompliance with or false reporting under the NSW Law could result in penalties.⁷⁰</p> <ul style="list-style-type: none"> • The NSW Law has not gone into effect, and certain amendments have been recommended before allowing the NSW Law to go into effect.⁷¹ • After going into effect, this law would apply to companies with employees in New South Wales that have an annual turnover of at least AUD\$50 million.

Forced Labor / Human Trafficking – National Plan

Key Facts	Description
<ul style="list-style-type: none"> • Focus on Policy Commitment and Remedy. • Currently effective. 	<ul style="list-style-type: none"> • Australia published a National Action Plan to Combat Human Trafficking and Slavery.⁷² Australia is currently developing the next five-year National Action Plan to Combat Modern Slavery 2020-24.⁷³ • In addition to other actions and initiatives described therein, current law prohibits human trafficking and slavery, including forced marriage and harboring a victim, within the country.⁷⁴ Violation can result in criminal prosecution and imprisonment. • The Department of Social Services also administers the Support for Trafficked People Program, which provides assistance to victims of human trafficking, slavery and slavery-like practices, including forced marriage and forced labor.⁷⁵

⁷⁰ *Id.*

⁷¹ "Modern Slavery Act 2018 and associated matters," New South Wales, Parliament, Legislative Council, Standing Committee on Social Issues (Mar. 2020), available at <https://www.parliament.nsw.gov.au/lcdocs/inquiries/2546/Final%20Report%20No.56%20-%20Modern%20Slavery%20Act%202018%20and%20associated%20matters%20-%2025%20March%202020.pdf>.

⁷² "National Action Plan to Combat Human Trafficking and Slavery 2015-19" (Dec. 1, 2014), available at <https://www.homeaffairs.gov.au/criminal-justice/files/trafficking-national-action-plan-combat-human-trafficking-slavery-2015-19.pdf>.

⁷³ See generally National Action Plan to Combat Modern Slavery 2020-24, available at <https://www.homeaffairs.gov.au/reports-and-publications/submissions-and-discussion-papers/combating-modern-slavery-2020-24> (inviting written submissions, through January 2020, on a public consultation paper).

⁷⁴ "National Action Plan to Combat Human Trafficking and Slavery 2015-19," at 8-10 (Dec. 1, 2014) (citing Criminal Code, Divisions 270, 271; Crimes Act 1914; Migration Act 1958; Fair Work Act 2009; and Proceeds Crime Act 2002), available at <https://www.homeaffairs.gov.au/criminal-justice/files/trafficking-national-action-plan-combat-human-trafficking-slavery-2015-19.pdf>.

⁷⁵ *Id.* at 52-60, see also "Support for Trafficked People Program" (April 9, 2020), available at <https://www.dss.gov.au/women/programs-services/reducing-violence/anti-people-trafficking-strategy/support-for-trafficked-people-program>.

Anti-Corruption – Anti-Bribery & Anti-Money Laundering

Key Facts	Description
<ul style="list-style-type: none"> • Corporate Liability. • Guidance for Compliance Programs, Policies, Processes. 	<ul style="list-style-type: none"> • Bribery is prohibited under the Australian Criminal Code Act 1995 (Commonwealth), see Division 70 (Bribery of foreign public officials) and Divisions 140-142 (Bribery and related offences).⁷⁶ While the Federal Criminal Code covers bribery of foreign and domestic officials, commercial bribery is regulated primarily by state and territory law; there is no federal legislation specifically regulating bribery in the corporate context and, instead, the fraud provisions of the Criminal Code are sufficiently broad to capture most cases of commercial bribery.⁷⁷ • Australian anti-bribery laws apply to Australian citizens, residents, and corporations, even when they are offshore.⁷⁸ • Section 141 and 142 prohibit bribery of domestic public officials of federal entities.⁷⁹ Penalties for bribery of a Commonwealth public official may be levied against both the individual and the corporate body.⁸⁰ • Section 70.2 prohibits bribery of a foreign official.⁸¹ Penalties may be levied against both the individual and the corporate body.⁸² Bribery of a foreign official is a serious crime under Australian law, which is punishable by fines and imprisonment.⁸³ • Section 70.4 provides a defense if the accused can show the benefit was minor, was a facilitation payment, and was appropriately recorded.⁸⁴

⁷⁶ Criminal Code Act 1995, Gov't of Australia, available at <https://www.legislation.gov.au/Details/C2020C00120>.

⁷⁷ Anti-Corruption Regulation Survey of 42 Countries, One Firm Worldwide, Jones Day (2019), at 17-18, available at <https://www.jonesday.com/en/insights/2019/11/anticorruption-regulation-survey-2019> (noting also that provisions of the Corporations Act 2001 (Cth) may be relevant if a person giving or receiving a bribe is a director of an Australian corporation).

⁷⁸ "Anti-Bribery & Corruption ("ABC") – A guide for Australians doing business offshore," Gov't of Australia, Australian Trade Commission, at 10, available at <https://www.austrade.gov.au/ArticleDocuments/1358/Anti-Bribery-Corruption-%20A-guide-for-Australians-doing-business-offshore.pdf.aspx>.

⁷⁹ Criminal Code Act 1995, Gov't of Australia, at Sec. 141-42, available at <https://www.legislation.gov.au/Details/C2020C00120>; see also Anti-Corruption Regulation Survey of 42 Countries, One Firm Worldwide, Jones Day, at 17 (2019), available at <https://www.jonesday.com/en/insights/2019/11/anticorruption-regulation-survey-2019>.

⁸⁰ Criminal Code Act 1995, Gov't of Australia, at Sec. 141.1(5)-(6), available at <https://www.legislation.gov.au/Details/C2020C00120>.

⁸¹ Criminal Code Act 1995, Gov't of Australia, at Sec. 70.2(1), available at <https://www.legislation.gov.au/Details/C2020C00120>.

⁸² *Id.* at Sec. 70.2(4)-(5).

⁸³ *Id.* at 70.2(4)(1); see also "Anti-Bribery & Corruption ("ABC") – A guide for Australians doing business offshore," Gov't of Australia, Australian Trade Commission, at 1, available at <https://www.austrade.gov.au/ArticleDocuments/1358/Anti-Bribery-Corruption-%20A-guide-for-Australians-doing-business-offshore.pdf.aspx>.

⁸⁴ Anti-Corruption Regulation Survey of 42 Countries, One Firm Worldwide, Jones Day, at 17 (2019), available at <https://www.jonesday.com/en/insights/2019/11/anticorruption-regulation-survey-2019>.

Key Facts	Description
	<ul style="list-style-type: none"> • April 2017: The Attorney General published a Public Consultation Paper proposing amendments to the foreign bribery offence to, in relevant part, introduce a new corporate offence of failing to prevent foreign bribery. Under this proposed law, a company would be automatically liable for bribery committed by its employees, contractors or agents (including those operating overseas), except where the company can show the implementation of a proper system of internal controls and compliance to prevent bribery from occurring.⁸⁵ • December 2019: The Crimes Legislation Amendment (Combatting Corporate Crime) Bill 2019 creates a new offence for the failure of a body corporate to prevent foreign bribery by an associate under proposed Section 70.5A. An exception to liability would apply if the body corporate could prove that it had in place adequate procedures designed to prevent the commission of a bribery offence by any associate. The bill’s second reading was moved on December 2, 2019.⁸⁶ • The Australian Trade Commission has set forth compliance guidance for companies operating business activities offshore: “Anti-Bribery & Corruption (ABC)—A guide for Australians doing business offshore”.⁸⁷
	<ul style="list-style-type: none"> • Money-laundering is illegal under Australian law, pursuant to an anti-money laundering regime set forth in the following legislation: (1) Anti-Money Laundering and Counter Terrorism Financing Act 2006 (Commonwealth); (2) Anti-Money Laundering and Counter Terrorism Financing Rules 2007 (Commonwealth); (3) Financial Transaction Reports Act 1988 (Commonwealth); and (4) Financial Transaction Reports Regulations 1990.⁸⁸

⁸⁵ “Anti-Bribery & Corruption (“ABC”) – A guide for Australians doing business offshore,” Gov’t of Australia, Australian Trade Commission, at 11, available at <https://www.austrade.gov.au/ArticleDocuments/1358/Anti-Bribery-Corruption-%20A-guide-for-Australians-doing-business-offshore.pdf.aspx>.

⁸⁶ “Crimes Legislation Amendment (Combatting Corporate Crime) Bill 2019,” Government of Australia (Dec. 2, 2019) available at https://www.aph.gov.au/Parliamentary_Business/Bills_Legislation/Bills_Search_Results/Result?bld=s1246.

⁸⁷ “Anti-Bribery & Corruption (“ABC”) – A guide for Australians doing business offshore,” Government of Australia, Australian Trade Commission, available at <https://www.austrade.gov.au/ArticleDocuments/1358/Anti-Bribery-Corruption-%20A-guide-for-Australians-doing-business-offshore.pdf.aspx>.

⁸⁸ *Id.*

Key Facts	Description
	<ul style="list-style-type: none"> • Corporations face criminal and civil liability under the Anti-Money Laundering and Counter-Terrorism Financing Act 2007 (version registered January 7, 2019).⁸⁹ • Finally, a number of other laws and codes—at both the federal and state level—are employed by authorities to legally counter corruption and bribery.⁹⁰ • <i>Litigation Example:</i> In 2017⁹¹, three individuals pled guilty to the bribery of foreign public officials in Iraq in which the individuals paid bribes in order to secure a construction contract in Iraq worth USD 8.5 million. All three individuals were sentenced to imprisonment and fines.

Conflict Minerals – Due Diligence Guidance

Key Facts	Description
<ul style="list-style-type: none"> • Due Diligence Guidelines. 	<ul style="list-style-type: none"> • The Australian Government Department of Foreign Affairs and Trade has issued “Due diligence guidelines for the responsible supply chain of minerals from red flag locations to mitigate the risk of providing direct or indirect support for conflict in the eastern part of the Democratic Republic of the Congo”.⁹² • The guidelines set forth detailed recommendations that align with the following steps: <ul style="list-style-type: none"> ○ Step 1: Strengthening company management systems; ○ Step 2: Identifying and assessing risks in the supply chain; ○ Step 3: Designing and implementing a strategy to respond to identified risks;

⁸⁹ “Anti-Money Laundering and Counter Terrorism Financing Act 2007,” Government of Australia (Jan. 7, 2019), available at <https://www.legislation.gov.au/Details/C2019C00011>.

⁹⁰ Anti-Corruption Regulation Survey of 42 Countries, One Firm Worldwide, Jones Day, at 17-18 (2019), available at <https://www.jonesday.com/en/insights/2019/11/anticorruption-regulation-survey-2019>.

⁹¹ *Id.* at 19.

⁹² “Due diligence guidelines for the responsible supply chain of minerals from red flag locations to mitigate the risk of providing direct or indirect support for conflict in the eastern part of the Democratic Republic of the Congo,” Government of Australia, Department of Foreign Affairs and Trade, available at <https://www.dfat.gov.au/international-relations/security/sanctions/sanctions-regimes/congo/Pages/due-diligence-guidelines-for-the-responsible-supply-chain-of-minerals-from-red-flag-locations-to-mitigate-the-risk-of-provi>.

Key Facts	Description
	<ul style="list-style-type: none">○ Step 4: Ensuring independent third-party audits; and○ Step 5: Publicly disclosing supply chain due diligence and findings.

CANADA

Forced Labor / Human Trafficking – National Action Plan to Combat Human Trafficking

Key Facts	Description
<ul style="list-style-type: none"> • Focus on Policy Commitment and Remedy. • Currently effective. 	<ul style="list-style-type: none"> • Canada’s 2012 National Action Plan to Combat Human Trafficking makes clear that human trafficking is a crime and also notes the need for public awareness and victim assistance.⁹³ • The Canadian Criminal Code includes specific offenses to address human trafficking: Section 279.01 (Trafficking in persons), Section 279.011 (Trafficking of a person under the age of eighteen years), Section 279.02 (Material benefit), and Section 279.03 (Withholding or destroying documents).⁹⁴ Immigration and Refugee Protection Act Section 118 also prohibits the bringing into Canada of persons by means of abduction, fraud, deception or use of threat of force or coercion, and carries a maximum penalty of a fine of up to \$1 million and/or up to life imprisonment.⁹⁵ • Canada established a National Human Trafficking Hotline focusing on victim support.⁹⁶ • Canada commissioned a consultant study, published in 2018, finding that “national strategy should address the root causes of human trafficking and take into account the realities of vulnerable groups such as Indigenous women and girls and foreign workers with precarious status in Canada.”⁹⁷

⁹³ “National Action Plan To Combat Human Trafficking,” Government of Canada (2012), available at <https://www.publicsafety.gc.ca/cnt/rsrscs/pblctns/ntnl-ctn-pln-cmbt/ntnl-ctn-pln-cmbt-eng.pdf>

⁹⁴ *Id.* at 7.

⁹⁵ *Id.* at 8.

⁹⁶ “Canadian Human Trafficking Hotline,” available at <https://www.canadianhumantraffickinghotline.ca/>; see also “Human Trafficking Consultation Report,” Public Safety Canada (2018), available at <https://www.publicsafety.gc.ca/cnt/rsrscs/pblctns/2018-hmn-trffckng-cnsltns-rprt/index-en.aspx>.

⁹⁷ *Id.* at 1.1.

Canadian Ombudsperson for Responsible Enterprise

Key Facts	Description
<ul style="list-style-type: none"> • Focus on Remedy. • Currently effective. 	<ul style="list-style-type: none"> • Canada is a signatory to the International Covenant on Civil and Political Rights, which among other things, prohibits slavery, servitude or forced labor (Article 8). Canada is also a signatory to the International Covenant on Economic, Social and Cultural Rights, which among other things ensures certain working conditions like fair wages and decent living conditions (Article 7). • The Canadian Ombudsperson for Responsible Enterprise can receive and review claims of alleged human rights abuses arising from the operations of Canadian companies abroad in the mining, oil and gas, and garment sectors, including alleged violations of the International Covenant on Civil and Political Rights or International Covenant on Economic, Social and Cultural Rights.⁹⁸ • The Ombudsperson can make recommendations to the Minister for International Trade consequences such as withdrawal of trade advocacy support or refusal of certain other government departments to support the company.⁹⁹

Anti-Corruption – Canadian Corruption of Foreign Public Officials Act

Key Facts	Description
<ul style="list-style-type: none"> • Applies to Canadian businesses and citizens. • Focus on Policy Commitment and Remedy. • Currently effective. 	<ul style="list-style-type: none"> • The Canadian Corruption of Foreign Public Officials Act makes it a criminal offence to bribe a foreign public official—whether committed inside or outside of Canada—in the course of business.¹⁰⁰

⁹⁸ “Office of the Canadian Ombudsperson for Responsible Enterprise,” Government of Canada, available at https://core-ombuds.canada.ca/core_ombuds-ocre_ombuds/index.aspx?lang=eng.

⁹⁹ Order in Council P.C. 2019-1323 of Sept. 6, 2019, Section 10, available at <https://orders-in-council.canada.ca/attachment.php?attach=38652&lang=en>.

¹⁰⁰ Corruption of Foreign Public Officials Act (S.C. 1998, c. 34), available at <https://laws-lois.justice.gc.ca/eng/acts/c-45.2/index.html>.

EUROPEAN UNION

*Anti-Corruption – Combatting Corruption in the Private Sector*¹⁰¹

Key Facts	Description
<ul style="list-style-type: none"> • Applies to EU member states. • Focus on Due Diligence. • Currently effective.¹⁰² 	<ul style="list-style-type: none"> • The Combating Corruption in the Private Sector Council Framework Decision 2003/568/JHA of 22 July 2003 makes active and passive corruption a criminal offense in all EU Member States. Member States are required to penalize corrupt acts intentionally carried out as part of business activities. Natural and Legal persons can be held liable. Specifically: <ul style="list-style-type: none"> ○ Corrupting a person: by promising, offering or giving directly or through an intermediary to a person who in any capacity directs or works for a private sector entity, an undue advantage of any kind, for that person or for a third party in order that that person should perform or refrain from performing any act in breach of that person's duties; and ○ Demanding an undue advantage: a person requests or receives, directly or through an intermediary, an undue advantage of any kind, or accepts the promise of such an advantage, for him or herself or for a third party, while in any capacity directing or working for a private sector entity, in order to perform or refrain from performing any act in breach of one's duties.

*Conflict Minerals – EU Conflict Minerals Regulation*¹⁰³

Key Facts	Description
<ul style="list-style-type: none"> • Applies to EU importers of tin, tantalum, tungsten, and gold. 	<ul style="list-style-type: none"> • Regulation 2017/821 of the European Parliament and the Council of the European Union requires EU importers of tin, tantalum, tungsten, and gold to follow a five step framework.

¹⁰¹ "Framework Decision 2003/568/JHA on combating corruption in the private sector," available at <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=LEGISSUM%3A133308>.

¹⁰² EU countries had to take measures to comply with the rules of the decision by July 22, 2005.

¹⁰³ "Regulation (EU) 2017/821 of the European Parliament and of the Council of 17 May 2017 laying down supply chain due diligence obligations for Union importers of tin, tantalum and tungsten, their ores, and gold originating from conflict-affected and high-risk areas," available at https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=uriserv:OJ.L_.2017.130.01.0001.01.ENG&toc=OJ.L:2017:130:TOC.

Key Facts	Description
<ul style="list-style-type: none"> • Focus on Due Diligence, Policy Commitment, and Reporting. • Effective as of January 1, 2021. 	<ul style="list-style-type: none"> • The framework requires them to: 1) establish strong company management systems; 2) identify and assess risk in the supply chain; 3) design and implement a strategy to respond to identified risks; 4) carry out an independent third-party audit of supply chain due diligence; and 5) report annually on supply chain due diligence.

Forced Labor / Human Trafficking – Directive 2011/36/EU

Key Facts	Description
<ul style="list-style-type: none"> • Applies to EU Countries. • Focus on Due Diligence. • Currently effective.¹⁰⁴ 	<ul style="list-style-type: none"> • Directive 2011/36/EU on Combating and Preventing Trafficking in Human Beings and Protecting its Victims is the foundation of the EU’s legal framework for combatting human trafficking. • It provides the minimum common rules for determining offenses involving trafficking in human beings, and defines as punishable the recruitment, transportation, transfer, or harboring or reception of individuals by force.¹⁰⁵

Anti-Corruption – Non-Financial Reporting Directive (NFRD)¹⁰⁶

Key Facts	Description
<ul style="list-style-type: none"> • Applies to “large undertakings” with more than 500 employees. • Focus on Policy Commitment, Due Diligence, and Reporting. • Currently effective.¹⁰⁷ 	<ul style="list-style-type: none"> • Directive 2014/95/EU of the European Parliament and of the Council of 22 October 2014 requires companies with more than 500 employees to include in their management reports a non-financial statement containing information sufficient to understand the business’s development, performance, position and impact of its activity, relating to, as a minimum,

¹⁰⁴ The directive has been in force since April 15, 2011. It had to become law in EU countries by April 6, 2013. See “Preventing and combating trafficking in human beings,” EUR-Lex, (July 25, 2018), available at <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=LEGISSUM%3Aj0058>.

¹⁰⁵ *Id.*

¹⁰⁶ “Directive 2014/95/EU of the European Parliament and of the Council of 22 October 2014 amending Directive 2013/34/EU as regards disclosure of non-financial and diversity information by certain large undertakings and groups,” available at <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A32014L0095>.

¹⁰⁷ The deadline for EU member states to transpose the directive into national legislation was December 16, 2016. Companies are expected to comply with the national laws by 2018. See “Member State Implementation of Directive 2014/95/EU: A comprehensive

Key Facts	Description
	<p>environmental, social and employee matters, respect for human rights, and anti-corruption and bribery matters.</p> <ul style="list-style-type: none"> • The statement should contain a description of the company’s business model, its policies related to those matters, including due diligence processes it has implemented, the outcome of those policies, risks related to those matters, and non-financial key performance indicators. <hr/> <ul style="list-style-type: none"> • The Alliance for Corporate Transparency evaluated the EU Non-financial Reporting Directive and the one overarching conclusion was that the, “vast majority of companies acknowledge in their reports the importance of environmental and social issues for their business. • However, in only 50% of cases for environmental matters and less than 40% for social and anti-corruption matters, this information is clear in terms of concrete issues, targets and principal risks.” • They found that most of the information that companies provide does not allow readers to understand the company’s impact on the factors and how they put their commitment to the factors into practice. They also found that the directive’s requirements did not adequately detail what information companies need to disclose.¹⁰⁸

EU Action Plan on Human Rights and Democracy¹⁰⁹

Key Facts	Description
<ul style="list-style-type: none"> • Applies to EU Member States. 	<ul style="list-style-type: none"> • The EU does not have a National Action Plan. However, in the EU Action Plan on Human Rights and Democracy of December 2015, the EU committed to promoting the adoption of National Action Plans by Member States and to proactively engage with business, civil society, and

overview of how Member States are implementing the EU Directive on Non-financial and Diversity Information,” GRI, CSR Europe, and Accountability Europe (2017) at 5, *available at*

https://www.globalreporting.org/resource/library/NFRpublication%20online_version.pdf.

¹⁰⁸ “2018 Research Report: The state of corporate sustainability disclosure under the EU Non-Financial Reporting Directive,” Alliance for Corporate Transparency (2019), at 6-8, *available at*

https://www.allianceforcorporatetransparency.org/assets/2018_Research_Report_Alliance_Corporate_Transparency-66d0af6a05f153119e7cffe6df2f11b094affe9aaf4b13ae14db04e395c54a84.pdf.

¹⁰⁹ “EU Action Plan on Human Rights and Democracy,” Council of the European Union (2015) at 29, *available at* https://eeas.europa.eu/sites/eeas/files/eu_action_plan_on_human_rights_and_democracy_en_2.pdf.

Key Facts	Description
	National Human Rights Institutions on issues related to business and human rights.

FRANCE

Duty of Vigilance Law of 2017

Key Facts	Description
<ul style="list-style-type: none"> • Applies to French companies that employ, directly or through subsidiaries, at least 5,000 employees in France or at least 10,000 employees worldwide. • Focus on Due Diligence and Reporting. • Currently effective. 	<ul style="list-style-type: none"> • French companies that employ, directly or through subsidiaries, at least 5,000 employees in France or at least 10,000 employees worldwide must publish and implement a “vigilance plan.”¹¹⁰ • The plan must include reasonable vigilance measure for risk identification of prevention of severe violations of human rights and fundamental freedoms, serious bodily injury, environmental damage, or health risks resulting directly or indirectly from the company’s operations, including certain subcontractors and suppliers.¹¹¹ • Companies that fail to comply with these obligations get three months’ notice and, if still noncompliant, can be subject to liability.¹¹² <hr/> <ul style="list-style-type: none"> • <u>Compliance assessment</u>. Shift assessed human rights reporting of France’s 20 largest companies since the Duty of Vigilance Law became effective and found that, while reporting remains “relatively immature,” there have been overall improvements. For example, “The average company went from reporting mainly about its commitment to respect human rights and processes to manage health and safety risks and diversity, to reporting some level of action to identify broader human rights impacts and mitigate them.”¹¹³ • Performance tracking and remediation remain poorly reported areas.¹¹⁴ • Shift recommends more guidance in several areas, including what criteria to use in the risk mapping and how to link risk mapping with mitigation actions and monitoring.¹¹⁵

¹¹⁰ LAW n ° 2017-399 of March 27, 2017 relating to the duty of vigilance of parent companies and ordering companies,” Article 1, available at

<https://www.legifrance.gouv.fr/affichTexte.do?cidTexte=JORFTEXT000034290626&fastPos=1&fastReqId=2064245787&categorieLien=id&oldAction=rechTexte>

¹¹¹ *Id.*

¹¹² *Id.* Articles 1 and 2.

¹¹³ Shift, “Human Rights Reporting in France,” at 5 (Dec. 2019), available at https://www.shiftproject.org/media/resources/docs/Shift_HumanRightsReportingInFrance_Part2_vNov25.pdf.

¹¹⁴ *Id.* at 8

¹¹⁵ *Id.* at 10-12

Key Facts	Description
	<ul style="list-style-type: none"> • <i>Litigation example.</i> Several organizations brought suit against Total under the Duty of Vigilance Law in connection with operations in Uganda alleging, according to media reporting, that it “intimidated local farmers into signing compensation agreements and forced them off their land before they received any money.”¹¹⁶ Reporting indicates the complaint was dismissed on a jurisdictional issue and has been appealed.¹¹⁷

Forced Labor / Human Trafficking – Law no. 2014-790 of 10 July 2014

Key Facts	Description
<ul style="list-style-type: none"> • Applies to companies employing workers posted in France from another country. • Focus on Policy Commitment. • Currently effective. 	<ul style="list-style-type: none"> • This law formalizes Directive 2014/67/EU into French national law and requires workers posted from another country in France to, among other things, be paid a minimum wage.¹¹⁸ • It also imposes certain diligence requirements on contractors.¹¹⁹ • Companies that fail to comply can be subject to fines.¹²⁰

Forced Labor / Human Trafficking – Grenelle II Act, Article 225

Key Facts	Description
<ul style="list-style-type: none"> • Applies to companies with over 500 employees and a balance sheet or net 	<ul style="list-style-type: none"> • Companies with over 500 employees and a balance sheet or net turnover exceeding €100 million must submit annual reports on certain social, environmental and sustainable development topics.¹²¹

¹¹⁶ “French judges tilt in favour of Total in landmark ruling,” Al Jazeera (Jan. 30, 2020), available at <https://www.aljazeera.com/ajimpact/french-judges-tilt-favour-total-landmark-ruling-200130223500626.html>

¹¹⁷ “Total lawsuit (re failure to respect French duty of vigilance law in operations in Uganda),” Business & Human Rights Resource Centre, available at <https://www.business-humanrights.org/en/node/205719>

¹¹⁸ “France: New legislation on cross-border posting of workers,” Eurofound (Dec. 17, 2014), available at <https://www.eurofound.europa.eu/publications/article/2014/france-new-legislation-on-cross-border-posting-of-workers>; Labor Code Article L1262-4

¹¹⁹ Labor Code Article L1262-4-1.

¹²⁰ Labor Code Article L1264-3.

¹²¹ “The French legislation on extra-financial reporting: built on consensus,” Ministère des Affaires Etrangères – France, Office of the Ambassador at large for Corporate Social Responsibility (Dec. 2012), available at https://www.diplomatie.gouv.fr/IMG/pdf/Mandatory_reporting_built_on_consensus_in_France.pdf; Commercial Code Article R.225-104, available at: <https://www.legifrance.gouv.fr/affichCodeArticle.do?cidTexte=LEGITEXT000005634379&idArticle=LEGIARTI000006261183&dateTexte=&categorieLien=cid>

Key Facts	Description
<p>turnover exceeding €100 million.</p> <ul style="list-style-type: none"> • Focus on Reporting. • Currently effective. 	<ul style="list-style-type: none"> • In addition, listed companies must include other specified information, such as information as to elimination of force labor and child labor.¹²² • The report is subject to independent verification and accreditation requirements.¹²³

Anti-Corruption – Sapin II

Key Facts	Description
<ul style="list-style-type: none"> • Applies to French-incorporated companies with at least 500 employees and with turnover above €100 million. • Focus on Policy Commitment and Due Diligence. • Currently effective. 	<ul style="list-style-type: none"> • French-incorporated companies with at least 500 employees and with turnover above €100 million must have procedures in place to prevent bribery and corruption within France or abroad.¹²⁴ • The legislation established the French Anti-Corruption Agency, to monitor compliance and recommend actions.¹²⁵ • The legislation also requires new whistle-blower protections and provides for potential criminal prosecution of anyone trying to prevent whistle-blower reports.¹²⁶

The National Plan for the Implementation of the United Nations Guiding Principles on Business and Human Rights

Key Facts	Description
<ul style="list-style-type: none"> • Focus on Policy Commitment. • Currently effective. 	<ul style="list-style-type: none"> • France’s National Plan addresses legislation to fight illegal labor, noting that the Act of 10 July 2014 adopts into national law the European Directive on the posting of workers, which seeks to fight illegal labor practices and fraud, and Article 45 of Ordinance 2015-899, which states that public contracts may not be awarded to economic operators that have been found guilty of fraud,

¹²² Commercial Code Article R. 225-105-1.-I.

¹²³ *Id.*

¹²⁴ “Law n° 2016-1691 of 9 December 2016 relating to transparency, the fight against corruption and the modernization of economic life,” Article 17, available at <https://www.legifrance.gouv.fr/affichTexte.do?cidTexte=JORFTEXT000033558528&categorieLien=id>.

¹²⁵ *Id.*, Chapter I.

¹²⁶ *Id.*, Chapter II.

Key Facts	Description
	<p>corruption or the trafficking or exploitation of human beings.¹²⁷</p> <ul style="list-style-type: none"> • It also states that France helps monitor and finance the implementation of the OECD Due Diligence Guidance for Responsible Supply Chains of Minerals from Conflict-Affected and High-Risk Areas.¹²⁸

Conflict Minerals

See discussion of EU Regulation 2017/821 in European Union section.¹²⁹

¹²⁷ "National Plan for the Implementation of the United Nations Guiding Principles on Business and Human Rights," at 24-26, available at <https://www.diplomatie.gouv.fr/en/french-foreign-policy/human-rights/business-and-human-rights/article/the-national-plan-for-the-implementation-of-the-united-nations-guiding>.

¹²⁸ *Id.* at 34.

¹²⁹ "Regulation (EU) 2017/821 of the European Parliament and of the Council of 17 May 2017 laying down supply chain due diligence obligations for Union importers of tin, tantalum and tungsten, their ores, and gold originating from conflict-affected and high-risk areas," available at <https://eur-lex.europa.eu/legal-content/EN/TXT/HTML/?uri=OJ:L:2017:130:FULL&from=EN>.

GERMANY

Criminal Law

Key Facts	Description
<ul style="list-style-type: none"> • Focus on Policy Commitment. • Currently effective. 	<ul style="list-style-type: none"> • Matters such as corruption and forced labor are addressed in Germany primarily under criminal laws, which generally apply to individuals and have been observed by the German Ministry of Justice to be an imperfect tool for addressing corporate conduct due to, among other things, monetary penalty caps and difficulties establishing jurisdiction.¹³⁰ • Germany is considering enacting new law that would provide for direct corporate criminal liability and increase potential monetary penalties.¹³¹ • Bribery, including that of foreign and international officials, is a crime under German law.¹³² • Human trafficking and forced labor is a crime in Germany.¹³³

CSR Directive Implementation Act

Key Facts	Description
<ul style="list-style-type: none"> • Applies to German capital market oriented companies, banks and insurance companies with more than 500 employees, and (i) turnover over €40 million, or (ii) a balance sheet total of over €20 million. • Focus on Reporting. • Currently effective. 	<ul style="list-style-type: none"> • Companies with more than 500 employees and exceeding certain financial thresholds must make annual disclosures, audited by the supervisory board, on environmental, labor and social affairs, the upholding of human rights and the prevention of corruption and bribery.¹³⁴ • This law implements Directive 2014/95/EU with certain changes.
	<ul style="list-style-type: none"> • <i>Reporting study</i>. This law became effective in 2017 and the first round of reporting was studied by Global

¹³⁰ "Law to strengthen the integrity of the economy," German Federal Ministry of Justice, at 54 (Apr. 22, 2020), available at https://www.bmjv.de/SharedDocs/Gesetzgebungsverfahren/DE/Staerkung_Integritaet_Wirtschaft.html.

¹³¹ See generally *id.*

¹³² German Criminal Code §§ 331-37, http://www.gesetze-im-internet.de/englisch_stgb/englisch_stgb.html#p3174.

¹³³ German Criminal Code §§ 232, 233, http://www.gesetze-im-internet.de/englisch_stgb/englisch_stgb.html#p2065.

¹³⁴ Global Compact Network Germany and econsense – Forum for Sustainable Development of German Business, "New Momentum For Reporting on Sustainability Study on Implementation of the German CSR Directive Implementation Act," at 5, citing Article 289c German Commercial Code, available at https://www.globalcompact.de/wAssets/docs/Reporting/NFE_Studie_Online_englisch_181015.pdf.

Key Facts	Description
	<p>Compact Network Germany and econsense—Forum for Sustainable Development of German Business, which found that the topic of respect for human rights an infrequent management concept only a third of the companies surveyed provided concrete figures for this matter.¹³⁵</p> <ul style="list-style-type: none"> • It also found that inclusion of the supply chain was perceived to be the biggest challenge for the aspect of respect for human rights.¹³⁶

National Action Plan

Key Facts	Description
<ul style="list-style-type: none"> • Applies to German-based companies with at least 500 employees. • Focus on Policy Commitment and Due Diligence. • Currently effective. 	<ul style="list-style-type: none"> • The National Action Plan sets out elements of corporate due diligence procedures and the expectation that companies will implement those procedures “in a manner commensurate with their size, the sector in which they operate and their position in supply and value chains.”¹³⁷ • The goal is that half of large companies (500+ employees) based in Germany will voluntarily implement these due diligence policies by 2020—those that do not should be able to explain why—and based on compliance results, Germany may consider legislative action.¹³⁸ • Germany currently has no mandatory human rights due diligence requirement. • Final monitoring results based on interim reporting and interviews have not yet been published, but the initial summary and related commentary suggest the 50% goal has not been achieved.¹³⁹

¹³⁵ *Id.* at 15.

¹³⁶ *Id.* at 18.

¹³⁷ “National Action Plan Implementation of the UN Guiding Principles on Business and Human Rights 2016-2020,” German Federal Foreign Office, at 7-10 (Sept. 2017), available at <https://www.auswaertiges-amt.de/blob/610714/fb740510e8c2fa83dc507afad0b2d7ad/nap-wirtschaft-menschenrechte-engl-data.pdf>.

¹³⁸ *Id.* at 10, 28.

¹³⁹ “Monitoring the National Action Plan for Business and Human Rights (NAP),” (Apr. 23, 2020), available at <https://www.auswaertiges-amt.de/en/aussenpolitik/themen/aussenwirtschaft/wirtschaft-und-menschenrechte/monitoring-nap/2131054>; “Monitoring of the status of implementation of the human rights due diligence of enterprises set out in the National Action Plan for Business and Human Rights 2016-2020. Interim Report Survey phase 2019 Summary,” German Federal Foreign Office (Feb. 24, 2020), available at <https://www.auswaertiges-amt.de/blob/2333700/d15fc19d05e831966bccb305ad7622ca/nap-monitoring--summary-of-the-interim-report-2019-final-data.pdf>.

Conflict Minerals

See discussion of EU Regulation 2017/821 in European Union section.¹⁴⁰

¹⁴⁰ "Regulation (EU) 2017/821 of the European Parliament and of the Council of 17 May 2017 laying down supply chain due diligence obligations for Union importers of tin, tantalum and tungsten, their ores, and gold originating from conflict-affected and high-risk areas," available at <https://eur-lex.europa.eu/legal-content/EN/TXT/HTML/?uri=OJ:L:2017:130:FULL&from=EN>.

ITALY

National Action Plan (2016-2021)

Key Facts	Description
<ul style="list-style-type: none"> • Focus on Promoting Due Diligence Processes, particularly for SMEs. • Currently in effect. 	<ul style="list-style-type: none"> • Italy’s National Action Plan (2016-2021) (NAP) is designed to address the adverse impact that business may have on human rights and to identify specific commitments with the aim of effectively integrating the United Nations Guiding Principles on Business and Human Rights.¹⁴¹ • Italy’s NAP targets six priorities¹⁴² representing business and human rights areas, including: <ul style="list-style-type: none"> ○ Promoting human rights due diligence processes aimed at identifying, preventing and mitigating the potential risks with particular focus on small to medium enterprises; ○ Tackling forms of exploitation, forced labor, child labor, slavery and irregular work, with particular focus on migrants and victims of trafficking; ○ Promoting labor rights in the internationalization process of enterprises with particular regard to global productive processes; ○ Strengthening the role of Italy in human rights-based international development cooperation; ○ Tackling discrimination and inequality and promoting equal opportunities; and ○ Promoting environmental protection and sustainability.

Italian Legislative Decree 30, No. 254

Key Facts	Description
<ul style="list-style-type: none"> • Reporting Requirement. 	<ul style="list-style-type: none"> • The European Union’s “Directive on the disclosure of non-financial and diversity information” (Directive 2014/95/EU) allows Member States to impose specific

¹⁴¹ “Italian National Action Plan on Business and Human Rights 2016-2021,” Inter-ministerial Committee for Human Rights, at 6, available at https://cidu.esteri.it/ComitatoDirittiUmani/resource/doc/2018/11/all_2_-_nap_bhr_eng_2018_def_.pdf.

¹⁴² *Id.*

Key Facts	Description
	<p>requirements on companies.¹⁴³ To implement the EU Directive, Italy passed Legislative Decree 30, No. 254 (30 December 2016).¹⁴⁴ Companies covered by Italy’s Legislative Decree are subject to a reporting requirement.¹⁴⁵</p> <ul style="list-style-type: none"> <li data-bbox="620 472 1432 619">• The report will touch on: (a) environmental performance, (b) social and employee matters, (c) human rights performance, and (d) corruption and anti-bribery matters.¹⁴⁶ <li data-bbox="620 630 1432 863">• The report will describe the undertaking’s business model, the company’s policies relating to non-financial matters and the outcomes of those policies, principle risks related to non-financial matters and business activities, and any non-financial key performance indicators.¹⁴⁷

Italian Legislative Decree No. 231/2001

Key Facts	Description
<ul style="list-style-type: none"> <li data-bbox="191 1102 620 1136">• Corporate Liability. <li data-bbox="191 1144 620 1213">• Due Diligence Process Strongly Incentivized. 	<ul style="list-style-type: none"> <li data-bbox="620 1102 1432 1375">• Legislative Decree No. 231/2001 (8 June 2001), “Regulation on administrative responsibility of legal entities, companies and associations, including those not having legal personality, according to art. 11, Law 29 Sept. 2000, no. 300” (hereinafter “L.D. 231”),¹⁴⁸ introduced a due diligence process for human rights violations, including slavery, human trafficking, forced labor, etc.¹⁴⁹ <li data-bbox="620 1375 1432 1457">• Notably, L.D. 231 established corporate responsibility for crimes perpetuated in the interest, or to the advantage,

¹⁴³ “Member State Implementation of Directive 2014/95/EU – A comprehensive overview of how Member States are implementing the EU Directive on Non-financial and Diversity Information,” GRI, CSR Europe, Accountancy Europe (2017), at 7, available at https://www.globalreporting.org/resource/library/NFRpublication%20online_version.pdf.

¹⁴⁴ *Id.* at 23.

¹⁴⁵ *Id.*

¹⁴⁶ *Id.*

¹⁴⁷ *Id.*

¹⁴⁸ Leg. Decree No. 231 (June 8, 2001), https://sherloc.unodc.org/cld/document/ita/2001/legislative_decree_8_june_2001_no.231_english.html; “Italian Legislative Decree No. 231/2001: A model for Mandatory Human Rights Due Diligence Legislation?” FIDH, HRIC, ECCJ (Nov. 2019), at 4, available at https://www.business-humanrights.org/sites/default/files/documents/report%20231_2001_ENG.pdf (see note 6).

¹⁴⁹ “Italian Legislative Decree No. 231/2001: A model for Mandatory Human Rights Due Diligence Legislation?” FIDH, HRIC, ECCJ (Nov. 2019), at 4-5, available at https://www.business-humanrights.org/sites/default/files/documents/report%20231_2001_ENG.pdf.

Key Facts	Description
	<p>of a legal entity.¹⁵⁰ Liability extends to offences committed in the interest of the corporation or for the benefit of certain individuals having a specific relationship with the corporation (i.e., corporate officer or employee subject to an officer’s direction or supervision).¹⁵¹</p> <ul style="list-style-type: none"> • To avoid incurring liability under L.D. 231, companies must demonstrate that they have effectively adopted compliance programs called “models of organization, management and control,” or “231 Models,” with the aim of identifying, preventing and mitigating the risk of commission of crimes relating to business activities.¹⁵² • Although mandatory due diligence process is not required by L.D. 231, “it creates a strong incentive to the adoption of the so-called ‘231 Models’ considering that the implementation of an adequate compliance program can exonerate a company from administrative liability.”¹⁵³ • Corporate liability under L.D. 231 is predicated by, <i>inter alia</i>, human rights violations, such as:¹⁵⁴ <ul style="list-style-type: none"> ○ Slavery—Art. 600 (Reducing or holding in slavery or servitude), Italian Criminal Code;¹⁵⁵ ○ Human Trafficking—Art. 601 (Trafficking in people), Italian Criminal Code;¹⁵⁶

¹⁵⁰ *Id.* at 5.

¹⁵¹ “The Italian legal framework against labour exploitation. A legal assessment, specifically targeting undocumented migrants,” ASGI and HRIC, at 2, available at https://www.business-humanrights.org/sites/default/files/documents/ASGI_HRIC_BHRRRC_May2017_REV%2019.7.pdf.

¹⁵² “Italian Legislative Decree No. 231/2001: A model for Mandatory Human Rights Due Diligence Legislation?” FIDH, HRIC, ECCJ (Nov. 2019), at 5, available at https://www.business-humanrights.org/sites/default/files/documents/report%20231_2001_ENG.pdf.

¹⁵³ *Id.*; see also “Italian Law no. 231/2001: avoiding liability for crimes committed by a company’s representatives,” Lexology (Apr. 27, 2009), available at <https://www.lexology.com/library/detail.aspx?g=7bdb939a-11a5-48bb-9c87-ebf2fff7fc50> (“The implementation of an Organisational Model is not mandatory by law, but it is the only way for a company to avoid its liability under Lgs. Decree no. 231/2001.”).

¹⁵⁴ Cucchiara, Maria Francesca, “The Italian legal framework against labour exploitation. A legal assessment, specifically targeting undocumented migrants,” ASGI and HRIC, available at https://www.business-humanrights.org/sites/default/files/documents/ASGI_HRIC_BHRRRC_May2017_REV%2019.7.pdf.

¹⁵⁵ Art. 25-*quiquies*, Leg. Decree No. 231 (June 8, 2001), https://sherloc.unodc.org/cld/document/ita/2001/legislative_decree_8_june_2001_no_231_english.html; see also Italian Criminal Code Art. 600 (Riduzione o mantenimento in schiavitù o in servitù), available at https://www.gazzettaufficiale.it/dettaglio/codici/codicePenale/600_1_1.

¹⁵⁶ Art. 25-*quiquies*, Leg. Decree No. 231 (June 8, 2001), https://sherloc.unodc.org/cld/document/ita/2001/legislative_decree_8_june_2001_no_231_english.html; see also Italian Criminal Code, Art. 601 (Tratta di persone), available at https://www.gazzettaufficiale.it/dettaglio/codici/codicePenale/601_1_1.

Key Facts	Description
	<ul style="list-style-type: none"> ○ Forced Labor—Art. 603-<i>bis</i> (Illicit Intermediation and Work Exploitation) (“Caporalato” Provision), Italian Criminal Code;¹⁵⁷ ○ Criminal Extortion and Bribery—e.g., Arts. 317 (Extortion), 318 (Corruption), 319 (Bribery for an act contrary to official duties), 320 (Bribery by a person in charge of a public service), 322 (Incitement to corruption), Italian Criminal Code;¹⁵⁸ and ○ Civil Bribery—e.g., Art. 2635 (Corruption between private individuals).¹⁵⁹

Anti-Corruption Laws Regime

Key Facts	Description
<ul style="list-style-type: none"> • Whistleblower protections. • Increased sanctions. • Benefits for cooperation. 	<ul style="list-style-type: none"> • In addition to Legislative Decree No. 231/2001 (described above), which provides for direct administrative liability of a company where any corporate officers commit bribery offences in the interest, or for the benefit, of such company, Italy has implemented a number of additional anti-corruption rules, including Law No. 190 of November 6, 2012 (“First Anti-Corruption Law”), Law No. 69 of May 27, 2015 (“Second Anti-Corruption Law”), and Law No. 3

¹⁵⁷ Cucchiara, Maria Francesca, “The Italian legal framework against labour exploitation. A legal assessment, specifically targeting undocumented migrants,” ASGI and HRIC, available at https://www.business-humanrights.org/sites/default/files/documents/ASGI_HRIC_BHRRRC_May2017_REV%2019.7.pdf; see also “Corporate Liability in Italy,” Global Compliance News – Baker Mackenzie Italy, <https://globalcompliancenews.com/white-collar-crime/corporate-liability-in-italy/>; see also Italian Criminal Code, Art. 603-*bis* (Intermediazione illecita e sfruttamento del lavoro), available at https://www.gazzettaufficiale.it/dettaglio/codici/codicePenale/600_1_1.

¹⁵⁸ Art. 25, Leg. Decree No. 231 (June 8, 2001), <https://sherloc.unodc.org/cld/document/ita/2001/legislative-decree-8-june-2001-no.-231-english.html>; see also “Corporate Liability in Italy,” Global Compliance News – Baker Mackenzie Italy, available at <https://globalcompliancenews.com/white-collar-crime/corporate-liability-in-italy/>.

¹⁵⁹ Art. 25-*ter*, Leg. Decree No. 231 (June 8, 2001), <https://sherloc.unodc.org/cld/document/ita/2001/legislative-decree-8-june-2001-no.-231-english.html>; see also “Corporate Liability in Italy,” Global Compliance News – Baker Mackenzie Italy, available at <https://globalcompliancenews.com/white-collar-crime/corporate-liability-in-italy/>. Per Article 2635 of the modified Italian Criminal Code, individuals who pay bribes, corporate officers, and employees exercising supervisory functions are subject to criminal punishment, if the relevant company suffers damages as a consequence of specified conduct. “Anti-Corruption Regulation Survey of 42 Countries, One Firm Worldwide, Jones Day, at 100 (2019), available at <https://www.jonesday.com/en/insights/2019/11/anticorruption-regulation-survey-2019>.

Key Facts	Description
	<p>of January 9, 2019 (“Third Anti-Corruption Law”).¹⁶⁰ Several key points for companies include.</p> <ul style="list-style-type: none"> • First Anti-Corruption Law provides specific protection for public officers who report corrupt behavior, and Law No. 179 of November 30, 2017 extends “whistleblower protection” to private employees.¹⁶¹ • The Third Anti-Corruption Law (Law No. 3/2019) provides, <i>inter alia</i>: <ul style="list-style-type: none"> ○ Increases the duration of restraining measures applicable to companies for certain crimes against the public administration (e.g., suspension of a company’s business, prohibition from dealing with the public administration, suspension of licenses, permits and authorizations which have been instrumental in committing the crime, etc.).¹⁶² ○ Introduces a leniency program for companies that attempt to effectively reduce the negative consequences resulting from the commission of these crimes¹⁶³ and promotes active cooperation by individuals and companies.¹⁶⁴ ○ Increases sanctions/penalties and broadens the definition of corruption-related crimes.¹⁶⁵

Conflict Minerals – EU Regulation 2017/821

See discussion of EU Regulation 2017/821 in European Union section.¹⁶⁶

¹⁶⁰ Anti-Corruption Regulation Survey of 42 Countries, One Firm Worldwide, Jones Day, at 97 (2019), available at <https://www.jonesday.com/en/insights/2019/11/anticorruption-regulation-survey-2019>.

¹⁶¹ Anti-Corruption Regulation Survey of 42 Countries, One Firm Worldwide, Jones Day, at 99 (2019), available at <https://www.jonesday.com/en/insights/2019/11/anticorruption-regulation-survey-2019>.

¹⁶² “Corporate Liability in Italy,” Global Compliance News – Baker Mackenzie Italy (Mar. 15, 2019), available at <https://globalcompliancenews.com/white-collar-crime/corporate-liability-in-italy/>.

¹⁶³ “Italy’s New Anti-corruption Law,” Global Compliance News – Baker Mackenzie Italy (Mar. 15, 2019), available at <https://globalcompliancenews.com/italys-new-anti-corruption-law-20190228/>.

¹⁶⁴ “Anti-Corruption Trends and Developments in 2019.” Dentons (Dec. 16, 2019), available at <https://www.dentons.com/en/insights/alerts/2019/december/16/anti-corruption-trends-and-developments-in-2019>; see also “The So-Called ‘Bribe Destroyer’ Law on Corruption Adopted in Italy,” Paul-Hastings (Jan. 25, 2019), available at https://www.paulhastings.com/publications-items/details/?id=62755e6c-2334-6428-811c-ff00004cbded#_edn1.

¹⁶⁵ Anti-Corruption Regulation Survey of 42 Countries, One Firm Worldwide, Jones Day, at 97 (2019), available at <https://www.jonesday.com/en/insights/2019/11/anticorruption-regulation-survey-2019>; see also “Corporate Liability in Italy,” Global Compliance News – Baker Mackenzie Italy (Mar. 15, 2019), available at <https://globalcompliancenews.com/white-collar-crime/corporate-liability-in-italy/>.

¹⁶⁶ “Regulation (EU) 2017/821 of the European Parliament and of the Council of 17 May 2017 laying down supply chain due diligence obligations for Union importers of tin, tantalum and tungsten, their ores, and gold originating from conflict-affected and high-risk areas,” available at <https://eur-lex.europa.eu/legal-content/EN/TXT/HTML/?uri=OJ:L:2017:130:FULL&from=EN>.

JAPAN

National Action Plan (Forthcoming)

Key Facts	Description
<ul style="list-style-type: none"> • Focus on Awareness and Understanding, Systems to Promote Corporate Respect, and Remedial Mechanisms. • Not yet finalized. 	<ul style="list-style-type: none"> • Japan has a National Action Plan (“NAP”) on human rights education and enlightenment,¹⁶⁷ and intends to formulate an NAP on business and human rights.¹⁶⁸ • In July 2019, the Government of Japan identified five general priority areas of the NAP and fourteen points of views to particularly consider in the process of formulating the NAP.¹⁶⁹ <ul style="list-style-type: none"> ○ The general priority areas involve raising awareness and promoting understanding, organizing systems to promote corporate respect for human rights in supply chains, and organizing and improving remedial mechanisms.¹⁷⁰ ○ Some points of view to consider in the process of formulating the NAP touch on corporate responsibility to respect human rights and include: initiatives in domestic and global supply chains, promotion of human rights due diligence based on the United Nations Guiding Principles, and government support for small and medium-sized enterprises’ efforts regarding business and human rights.¹⁷¹ • A draft NAP was issued in February 2020 and the Government of Japan invited public comments on the NAP through an official web portal.¹⁷²

¹⁶⁷ “Japan,” Action Platforms, Business and Human Rights Resource Center, available at <https://www.business-humanrights.org/en/japan-0>.

¹⁶⁸ “Business and Human Rights,” Ministry of Foreign Affairs of Japan (May 1, 2020), available at https://www.mofa.go.jp/fp/hr_ha/page23e_000551.html.

¹⁶⁹ *Id.*

¹⁷⁰ “Towards formulating the National Action Plan (NAP) on Business and Human Rights (Provision Translation),” The Inter-Ministerial Committee on Japan’s NAP on Business and Human Rights, Gov’t of Japan (July 2019), available at <https://www.mofa.go.jp/files/000515902.pdf>.

¹⁷¹ *Id.*

¹⁷² “Business and Human Rights,” Ministry of Foreign Affairs of Japan (May 1, 2020), available at https://www.mofa.go.jp/fp/hr_ha/page23e_000551.html.

Forced Labor / Human Trafficking

Key Facts	Description
<ul style="list-style-type: none"> • Corporate liability embedded in various laws, but no legislative provisions addressing corporate responsibilities. 	<ul style="list-style-type: none"> • Japan does not have specific laws that deal exclusively with human trafficking or forced labor and, instead, these issues are provided for in various provisions of different laws.¹⁷³ There do not appear to be legislative provisions directly addressing the responsibilities of corporations regarding human trafficking or forced labor in supply chains.¹⁷⁴ • The Penal Code does not expressly provide for any obligations to detect, prevent, or report on any of the human trafficking crimes under the Code that occur within the company or supply chains.¹⁷⁵ Further, the Penal Code applies only to individuals so it does not impose liability on corporations per se.¹⁷⁶ • The Labour Standards Act contains prohibitions and requirements for employers in connection with wages, working conditions, employment agreements, etc.¹⁷⁷ “If a violation of the Act is committed by an agent, worker, or other such employee of a company on behalf of the company, the company may be fined as well, unless the company had taken necessary measures to prevent the violation. The company will also be punishable as the violator if, for example, it knew that the violation was planned and did not take the necessary measures to stop it, or knew of the violation and did not take the necessary measures to correct it.”¹⁷⁸ • The Employment Security Act contains a reporting requirement under which the government may, when it

¹⁷³ “Corporate Liability for Forced Labour and Human Trafficking,” Institute for Human Rights and Business (Oct. 2016), at 32, available at [https://www.ihrb.org/uploads/reports/IHRB%2C Corporate Liability for Forced Labour and Human Trafficking%2C Oct. 2016.pdf](https://www.ihrb.org/uploads/reports/IHRB%2C%20Corporate%20Liability%20for%20Forced%20Labour%20and%20Human%20Trafficking%2C%20Oct.%202016.pdf); see also “2019 Trafficking in Persons Report – Japan,” U.S. Department of State, available at <https://www.state.gov/reports/2019-trafficking-in-persons-report-2/japan/> (“Japan did not have a comprehensive anti-trafficking statute that included definitions in line with international standards. However, it criminalized sex trafficking and labor trafficking offenses through disparate laws pertaining to prostitution of adults and children, child welfare, immigration, and employment standards.”).

¹⁷⁴ “Corporate Liability for Forced Labour and Human Trafficking,” Institute for Human Rights and Business (Oct. 2016), at 36, available at [https://www.ihrb.org/uploads/reports/IHRB%2C Corporate Liability for Forced Labour and Human Trafficking%2C Oct. 2016.pdf](https://www.ihrb.org/uploads/reports/IHRB%2C%20Corporate%20Liability%20for%20Forced%20Labour%20and%20Human%20Trafficking%2C%20Oct.%202016.pdf) (clarifying that prefectures in Japan issue ordinances that aim to eliminate ties to and the influence of organized crime groups, and which set forth requirements for business operators).

¹⁷⁵ *Id.* at 35.

¹⁷⁶ *Id.* at 36.

¹⁷⁷ *Id.* at 35.

¹⁷⁸ *Id.* at 36-37.

Key Facts	Description
	<p>considers necessary, cause a company to submit a report on the situation relating to the hiring and separation of workers, their wages, and other working conditions.¹⁷⁹ “If the crime is committed by a representative, agent, worker, or other such employee of a company in connection with the operation of the company, the company may be fined as well.”¹⁸⁰</p>

Anti-Corruption

Key Facts	Description
<ul style="list-style-type: none"> • Law and policy shifts toward anti-corruption accountability. • Corporate liability in connection with bribery of foreign public officials. • Guidelines for corporate internal systems to prevent bribery of foreign public officials. • Commercial bribery punishable by imprisonment or fine. 	<ul style="list-style-type: none"> • In 2017, Japan amended its Act on Punishment of Organised Crimes and Control of Crime Proceeds (AOCL) and introduced the possibility to confiscate the proceeds of foreign bribery and criminalized the laundering of proceeds of foreign bribery.¹⁸¹ • In 2018, Japan introduced a new Agreement Procedure, which could enable Japan to more effectively investigate and conclude foreign bribery cases.¹⁸² • Japan’s ODA (Official Development Agency) (JICA) has developed and enforced a rigorous debarment policy for companies implicated in foreign bribery offences. The policy constitutes a potentially powerful tool in the sanctioning of the foreign bribery offence.¹⁸³ • Bribery of domestic officials is covered by provisions in the Japanese Penal Code and the Act on Punishment of Public Officials’ Profiting by Exerting Influence (“APPOPEI”).¹⁸⁴ Bribery of foreign officials is covered by legislation amending the Unfair Competition Prevention Law (“UCPL”).¹⁸⁵ • “Corporate liability is covered only in the UCPL (bribery of foreign public officials).”¹⁸⁶ Where a representative, agent,

¹⁷⁹ *Id.* at 35.
¹⁸⁰ *Id.* at 36-37.
¹⁸¹ “Japan must urgently address long-standing concerns over foreign bribery enforcement,” OECD (Mar. 7, 2019), available at <https://www.oecd.org/corruption/japan-must-urgently-address-long-standing-concerns-over-foreign-bribery-enforcement.htm>.
¹⁸² *Id.*
¹⁸³ *Id.*
¹⁸⁴ Anti-Corruption Regulation Survey of 42 Countries, One Firm Worldwide, Jones Day, at 37 (2019), available at <https://www.jonesday.com/en/insights/2019/11/anticorruption-regulation-survey-2019>.
¹⁸⁵ *Id.* at 37-38.
¹⁸⁶ *Id.* at 38.

Key Facts	Description
	<p>employee or any other staff, etc., of a legal entity has committed a violation of Article 18 of the UCPL in connection with the operation of the legal entity, a fine can be imposed on the legal entity and punishment enacted against the offender.¹⁸⁷</p> <ul style="list-style-type: none"> • Guidelines to Prevent Bribery of Foreign Public Officials were revised in 2015 to clarify what constitutes bribery of foreign public officials under the UCPL and describe a recommended internal control system for companies to prevent such bribery.¹⁸⁸ • Commercial bribery is prohibited by the Companies Act and it assigns: <ul style="list-style-type: none"> ○ Imprisonment or fine to company persons who accept, solicit or promise to accept property benefits in connection with such person’s duties in response a wrongful request, as well as the person who gave, offered or promised to give such benefits.¹⁸⁹ ○ Imprisonment or fine to persons who accept, solicit or promise to accept property benefits in relation to a statement of opinions or the exercise of a voting right at a shareholders’ meeting, the exercise of a right of a shareholder or creditor, the filing of legal action under the Companies Act, or the intervention as a shareholder in a lawsuit, among others, as well as the person who gave, offered or promised to give such benefits.¹⁹⁰ <p>• <i>Litigation Example:</i>¹⁹¹ In March 2019, two former executives of a major Japanese energy company were found guilty of bribing public officials in Thailand in connection with unloading materials for power plant construction. The company escaped prosecution by providing information about illegal activities while the individuals involved were criminally charged and received suspended prison sentences.</p>

¹⁸⁷ *Id.*

¹⁸⁸ *Id.* at 40.

¹⁸⁹ *Id.* at 38.

¹⁹⁰ *Id.*

¹⁹¹ *Id.* at 40.

UNITED KINGDOM

National Action Plan

Key Facts	Description
<ul style="list-style-type: none"> Focus on State Duty, Corporate Responsibility, and Remedy. Currently effective. 	<ul style="list-style-type: none"> In 2013, the United Kingdom was the first country to produce a National Action Plan (“NAP”) to implement the United Nations Guiding Principles on Business and Human Rights (“UNGPs”),¹⁹² and the first country to produce an updated version in 2016.¹⁹³ The NAP is designed to follow the structure of the UNGPs which are based around three pillars: (1) the State duty to protect human rights, (2) the corporate responsibility to respect human rights, and (3) access to remedy.

Companies Act 2006

Key Facts	Description
<ul style="list-style-type: none"> Quoted companies must include information about social, community and human rights issues in their strategic reports. Currently effective. 	<ul style="list-style-type: none"> S.172 of the Companies Act 2006 requires directors to act in the way they consider most likely to promote the success of the company and, in doing so, to take certain matters into consideration, including the interests of employees and the impact on the community of the company’s operations.¹⁹⁴ The Act was revised in October 2013 to ensure that directors of quoted companies consider, <i>inter alia</i>, social, community and human rights issues when making their annual strategic reports.¹⁹⁵ The Companies, Partnerships and Groups (Accounts and Non-financial Reporting) Regulation No. 1245 (Dec. 19, 2016) amended the Companies Act 2006 so as to

¹⁹² “Good Business – Implementing the UN Guiding Principles on Business and Human Rights,” Gov’t of United Kingdom (Sept. 2013), available at <https://www.business-humanrights.org/sites/default/files/media/documents/uk-national-action-plan-sep-2013.pdf>.

¹⁹³ “Good Business – Implementing the UN Guiding Principles on Business and Human Rights – Updated May 2016,” Gov’t of United Kingdom (May 2016), available at

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/522805/Good_Business_Implementing_the_UN_Guiding_Principles_on_Business_and_Human_Rights_updated_May_2016.pdf.

¹⁹⁴ *Id.* at 7.

¹⁹⁵ *Id.*; see also Companies Act 2006, Ch. 4A, Sec. 414C(7), United Kingdom, <http://www.legislation.gov.uk/ukpga/2006/46/section/414C>.

Key Facts	Description
	<p>implement the EU “Directive on the disclosure of non-financial and diversity information” (2014/95/EU), which allows Member States to impose reporting requirements on companies.¹⁹⁶ In particular, Reg. No. 1245 requires a non-financial information statement which must contain information relating to:</p> <ul style="list-style-type: none"> ○ Environmental matters (incl. the impact of the company’s business on the environment); ○ The company’s employees; ○ Social matters; ○ Respect for human rights; and ○ Anti-corruption and anti-bribery matters.¹⁹⁷

Forced Labor/Human Trafficking – Modern Slavery Act 2015

Key Facts	Description
<ul style="list-style-type: none"> • Reporting Requirement. • Currently effective. 	<ul style="list-style-type: none"> • The UK’s Modern Slavery Act 2015¹⁹⁸ • Criminal Liability: The Act establishes offences covering slavery, servitude, forced or compulsory labor, and human trafficking—including aiding, abetting, counseling or procuring such an offence. • Reporting Requirement for Transparency in Supply Chains: Companies must prepare a slavery and human trafficking statement for each financial year of the organization if the company supplies goods or services and meets the total turnover threshold (£36 million, per promulgated regulations). The statement will identify the steps taken (or not taken) by the company to ensure slavery/human trafficking is not present in its supply chain or in the company itself. • An organization in any part of a group structure is required to comply and produce a statement if the organization:

¹⁹⁶ “Member State Implementation of Directive 2014/95/EU – A comprehensive overview of how Member States are implementing the EU Directive on Non-financial and Diversity Information,” GRI, CSR Europe, Accountancy Europe (2017), at 7, 30, available at <https://www.globalreporting.org/resourcelibrary/NFRpublication%20online%20version.pdf>.

¹⁹⁷ Companies, Partnerships and Groups (Accounts and Non-financial Reporting) Reg. No. 1245 (Dec. 19, 2016), http://www.legislation.gov.uk/uksi/2016/1245/pdfs/uksi_20161245_en.pdf.

¹⁹⁸ Modern Slavery Act 2015, United Kingdom, available at <http://www.legislation.gov.uk/ukpga/2015/30/contents>.

Key Facts	Description
	<ul style="list-style-type: none"> ○ Is a corporate body or a partnership, wherever incorporated; ○ Carries on a business, or a part of a business, in the UK; ○ Supplies goods or services; and ○ Has an annual turnover of £36 million or more.¹⁹⁹

Anti-Corruption – Bribery Act 2010

Key Facts	Description
<ul style="list-style-type: none"> • Corporate Liability and Defense. • Guidance for Corporate Compliance. • Currently effective. 	<ul style="list-style-type: none"> • The UK’s Bribery Act 2010 establishes offences for offering and accepting bribes and extends the offence to bribing foreign public officials.²⁰⁰ The Act covers bribery of domestic officials, foreign officials and commercial bribery (i.e., private commercial dealings between individuals and businesses).²⁰¹ • Corporate Liability: The Act also establishes the offence of a company failing to prevent bribery by persons associated with the company—while also allowing a defense where a company can show adequate procedures are in place to prevent bribery by associated persons.²⁰² Essentially, the Act creates a “strict liability corporate offense”.²⁰³ • Corporate Compliance: Pursuant to Section 9 of the Bribery Act 2010, the UK Ministry of Justice has issued guidance on the procedures that relevant commercial organizations can put into place to prevent persons associated with them from bribing.²⁰⁴ <ul style="list-style-type: none"> ○ Procedures put in place by commercial organizations should be informed by six principles, including (1)

¹⁹⁹ “Transparency in Supply Chains, Etc. A Practical Guide,” Government of the United Kingdom (Oct. 29, 2015), at 6-7, available at <https://www.gov.uk/government/publications/transparency-in-supply-chains-a-practical-guide> (noting also that where a company fails to comply with the reporting requirement, the Secretary of State may seek an injunction through the High Court).

²⁰⁰ Bribery Act 2010, United Kingdom, §§ 1-2, 6, <http://www.legislation.gov.uk/ukpga/2010/23/contents>.

²⁰¹ Anti-Corruption Regulation Survey of 42 Countries, One Firm Worldwide, Jones Day, at 113-14 (2019), available at <https://www.jonesday.com/en/insights/2019/11/anticorruption-regulation-survey-2019>.

²⁰² Bribery Act 2010, United Kingdom, §§ 7-9 (“Failure of commercial organisations to prevent bribery”).

²⁰³ Anti-Corruption Regulation Survey of 42 Countries, One Firm Worldwide, Jones Day, at 113 (2019), available at <https://www.jonesday.com/en/insights/2019/11/anticorruption-regulation-survey-2019>.

²⁰⁴ Guidance, Gov’t of the United Kingdom (Feb. 11, 2012), available at https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/832011/bribery-act-2010-guidance.pdf.

Key Facts	Description
	<p>proportionate procedures, (2) top-level commitment, (3) risk assessment, (4) due diligence, (5) communication, including training, and (6) monitoring and review.</p> <ul style="list-style-type: none"> ○ The principles are not prescriptive and are intended to be flexible and outcome focused, which allows for the variety of circumstances facing commercial organizations. ● UK companies are liable in the UK for acts of bribery committed anywhere in the world.²⁰⁵ Any business that does part of its business in the UK is subject to the “strict liability corporate offense”, no matter where it happens in the world.²⁰⁶ ● If a company is found guilty of an offense, the Act provides that senior officers and directors may also be prosecuted for the same offense in their personal capacities.²⁰⁷ <hr/> <ul style="list-style-type: none"> ● <i>Litigation Example:</i>²⁰⁸ In 2016, the UK Serious Fraud Office secured its first conviction under the UK Bribery Act 2010 Corporate Offence (Section 7). The company was convicted of the offence of failing to prevent its subsidiary from paying bribes on its behalf. ● <i>Litigation Example:</i>²⁰⁹ In 2018, a UK-based company was found guilty of the Corporate Offence (Section 7), i.e., of failing to prevent bribery by a person associated with the company (the former managing director). The company did not have a separate, specific bribery policy in place, but argued that it had adequate procedures to prevent bribery in the context of the size and complexity of its business. The prosecution argued there were not contemporaneous records showing efforts to introduce a zero-tolerance culture regarding anti-bribery, there was a lack of monitoring and updating of policies, procedures

²⁰⁵ “Good Business – Implementing the UN Guiding Principles on Business and Human Rights – Updated May 2016,” Gov’t of United Kingdom (May 2016) , at 7, available at

[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/522805/Good Business Implementing the UN Guiding Principles on Business and Human Rights updated May 2016.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/522805/Good_Business_Implementing_the_UN_Guiding_Principles_on_Business_and_Human_Rights_updated_May_2016.pdf).

²⁰⁶ Anti-Corruption Regulation Survey of 42 Countries, One Firm Worldwide, Jones Day, at 113 (2019), available at <https://www.jonesday.com/en/insights/2019/11/anticorruption-regulation-survey-2019>.

²⁰⁷ *Id.*

²⁰⁸ *Id.* at 114.

²⁰⁹ *Id.* at 114-15.

Key Facts	Description
	<p>and staff training, and no compliance officer had been appointed. The jury found the company’s policies/ procedures deficient, but the trial judge imposed an absolute discharge resulting in no penalty and no criminal record. Notably, the authorities learned of the issues only because the company proactively reported the matter and cooperated with the authorities. The authorities prosecuted the case to send a clear message to UK businesses that they must put specific anti-bribery procedures in place.</p> <ul style="list-style-type: none"> • <i>Litigation Example:</i>²¹⁰ In 2019, the Serious Fraud Office resolved several cases relating to a seismic measurement device manufacturer. The company entered into a Deferred Prosecution Agreement (“DPA”)²¹¹ on charges of conspiracy to make corrupt payments and failure to prevent bribery. To resolve the charges, the company agreed to disgorge a specified sum in illicit profits and report to the SFO on the status of its compliance program over the five-year period of the DPA. In approving the resolution, the SFO Director commended the company’s voluntary disclosure. The recipient of the bribes in this case was prosecuted on money laundering charges following the company’s disclosure.

Conflict Minerals – OECD Guidance

Key Facts	Description
<ul style="list-style-type: none"> • UK Government Supports Implementation of OECD Guidance. 	<ul style="list-style-type: none"> • The NAP promotes the implementation of the OECD Due Diligence Guidance for Responsible Supply Chains of Minerals from Conflict-Affected and High-Risk Areas.²¹² • The OECD Due Diligence Guidance provides recommendations to help companies respect human

²¹⁰ “2019 Year-End FCPA Update.” Gibson Dunn (Jan. 6, 2020), available at <https://www.gibsondunn.com/2019-year-end-fcpa-update/>.

²¹¹ “Under a DPA, a prosecutor charges a company with a criminal offense but proceedings are automatically suspended. The company agrees to a number of conditions, which if they are not met will result in the reactivation of the prosecution.” Anti-Corruption Regulation Survey of 42 Countries, One Firm Worldwide, Jones Day, at 115 (2019), available at <https://www.jonesday.com/en/insights/2019/11/anticorruption-regulation-survey-2019>.

²¹² “Good Business – Implementing the UN Guiding Principles on Business and Human Rights – Updated May 2016,” Gov’t of United Kingdom (May 2016) , at 8, available at https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/522805/Good_Business_Implementing_the_UN_Guiding_Principles_on_Business_and_Human_Rights_updated_May_2016.pdf.

Key Facts	Description
	<p>rights and avoid contributing to conflict through mineral purchasing decisions and practices. This Guidance, which is global in scope and applies to all mineral supply chains, is designed for use by any company potentially sourcing minerals or metals from conflict-affected and high-risk areas.²¹³</p> <ul style="list-style-type: none"> <li data-bbox="620 514 1432 619">• The NAP also supports the implementation of the OECD Risk Awareness Tool for Multinational Enterprises in Weak Governance Zones.²¹⁴ <li data-bbox="620 630 1432 863">• The OECD Risk Awareness Tool is designed to help companies that invest in countries where governments are unwilling or unable to assume their responsibilities. It poses a range of questions addressing risks and ethical dilemmas that companies are likely to face in weak governance zones.²¹⁵

Land Acquisition/Exploitation – Analytical Framework for Responsible Land-Based Agricultural Investments

Key Facts	Description
<ul style="list-style-type: none"> <li data-bbox="191 1102 620 1176">• Voluntary Guidelines and Framework. 	<ul style="list-style-type: none"> <li data-bbox="620 1102 1432 1499">• The UK Government supports the Voluntary Guidelines on the Responsible Governance of Tenure of Land, Fisheries and Forests in the Context of National Food Security (“VGGT”), issued by the Food and Agriculture Organization of the United Nation. The UK, jointly with other parties, has developed a land investment due diligence framework based on the VGGT and other international standards to guide private sector investments under the New Alliance for Food Security and Nutrition.²¹⁶

²¹³ “OECD Due Diligence Guidance for Responsible Supply Chains of Minerals from Conflict-Affected and High-Risk Areas,” available at <https://www.oecd.org/daf/inv/mne/mining.htm>.

²¹⁴ “Good Business – Implementing the UN Guiding Principles on Business and Human Rights – Updated May 2016,” Gov’t of United Kingdom (May 2016) , at 8, available at https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/522805/Good_Business_Implementing_the_UN_Guiding_Principles_on_Business_and_Human_Rights_updated_May_2016.pdf.

²¹⁵ “Weak Governance Zones - Risk Awareness Tool for Multinational Enterprises – OECD”, available at <https://www.oecd.org/daf/inv/mne/weakgovernancezones-riskawarenesstoolformultinationalenterprises-oecd.htm>.

²¹⁶ “Good Business – Implementing the UN Guiding Principles on Business and Human Rights – Updated May 2016,” Gov’t of United Kingdom (May 2016) , at 13, available at https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/522805/Good_Business_Implementing_the_UN_Guiding_Principles_on_Business_and_Human_Rights_updated_May_2016.pdf.

Key Facts	Description
	<ul style="list-style-type: none"> <li data-bbox="620 279 1432 737">• Analytical Framework for Responsible Land-Based Agricultural Investments²¹⁷: The framework is designed to assist investors in aligning their policies and actions with global and continental guidelines on responsible land-based investments, most notably the VGGT and the Guiding Principles on Large Scale Land Based Investments in Africa (“LSLBI”). The framework offers investors a due diligence and risk management resource to apply to their land-based agricultural investments. It is an effort to provide advice and highlight best practices related to structuring investments in the most responsible way possible. <li data-bbox="620 743 1432 1018">• The framework includes red lines that indicate in which situations investment projects should be cancelled if no benign alternatives can be found. The Framework also clearly rejects the transfer of land rights to investors involving tracts of land that exceed the amount reasonably required for the true purpose of immediately using the land for agricultural activities.

²¹⁷ “New Alliance: Framework for Responsible Land-Based Agricultural Investments,” landportal.org, *available at* <https://landportal.org/news/2015/08/new-alliance-framework-responsible-land-based-agricultural-investments>.

UNITED STATES

*Anti-Corruption – Foreign Corrupt Practices Act*²¹⁸

Key Facts	Description
<ul style="list-style-type: none"> • Applies to: 1) companies listed on U.S. securities exchange or who are required to file reports with the SEC, as well as their officers, directors, employees, agents, and shareholders; 2) “domestic concerns, i.e. any U.S. citizen, national, or resident and any company registered in the U.S.; and 3) any person conducting business while in U.S. territory. • Focus on Due Diligence and Compliance. • Currently effective.²¹⁹ 	<ul style="list-style-type: none"> • The FCPA prohibits offering to pay, paying, promising to pay, or authorizing the payment of anything of value to a foreign official in order to influence any act or decision of the foreign official in his or her official capacity or to secure any other improper advantage in order to obtain or retain business.²²⁰ • The Department of Justice and Securities and Exchange Commission enforce the FCPA. • The FCPA has two components: 1) anti-bribery provisions, and 2) accounting provisions. • Violations of the FCPA can lead to civil and criminal penalties, sanctions, and remedies, including fines, disgorgement, and imprisonment. <hr/> <ul style="list-style-type: none"> • <i>Enforcement Example:</i> In January 2020, Airbus SE (“Airbus”) paid a combined \$3.9 million dollars to U.S., U.K., and French authorities, the largest global bribery resolution to date. From at least 2008 until at least 2015, Airbus used its business partners to pay bribes to governmental officials and non-governmental airlines executives. The company paid a total of \$294.5 million to settle the FCPA charges.²²¹

²¹⁸ 15 U.S.C. §§ 78dd-1, et seq.

²¹⁹ Effective as of December 19, 1977.

²²⁰ “A Resource Guide to the U.S. Foreign Corrupt Practices Act,” Criminal Division of the U.S. Department of Justice and Enforcement Division of the U.S. Securities and Exchange Commission, at 10 (Nov. 14, 2012), available at <https://www.justice.gov/sites/default/files/criminal-fraud/legacy/2015/01/16/guide.pdf>.

²²¹ “Airbus Agrees to Pay over \$3.9 Billion in Global Penalties to Resolve Foreign Bribery and ITAR Case,” U.S. Department of Justice (Jan. 31, 2020), available at <https://www.justice.gov/opa/pr/airbus-agrees-pay-over-39-billion-global-penalties-resolve-foreign-bribery-and-itar-case>. Information about additional enforcement actions is available at <https://www.justice.gov/criminal-fraud/related-enforcement-actions>.

Conflict Minerals – Section 1502 of the Dodd-Frank Act²²²

Key Facts	Description
<ul style="list-style-type: none"> Applies to companies that file reports with the SEC under the Securities and Exchange Act of 1934, and that manufacture or produce products that use tin, tungsten, tantalum, or gold. Focus on Reporting and Due Diligence. Currently effective.²²³ 	<ul style="list-style-type: none"> Companies that file reports with the SEC under the Securities and Exchange Act of 1934 must conduct a country of origin inquiry to determine if tin, tungsten, tantalum, or gold that is used in their products originated or are scrap from the DRC or a country sharing a border with the DRC (Rwanda, Burundi, Uganda, South Sudan, CAR, Republic of Congo, Angola, Zambia). The company must describe their findings on a form SD filed with the SEC. If the company uses minerals from those sources, then they must perform a due diligence review of their supply chains to determine if the purchase of the raw materials financed or benefited an armed group, and must file a Conflict Minerals Report with their form SD describing their findings.²²⁴
	<ul style="list-style-type: none"> <i>Effectiveness Assessment:</i> The Business and Human Rights Resource Centre has compiled a list of commentary and guidance regarding the Dodd-Frank Rule on Conflict Minerals, available here: https://www.business-humanrights.org/en/conflict-peace/conflict-minerals/implementation-of-us-dodd-frank-act-rule-on-conflict-minerals-commentaries-guidance-company-actions.

Forced Labor / Human Trafficking – California Transparency in Supply Chains Act²²⁵

Key Facts	Description
<ul style="list-style-type: none"> Applies to retail sellers or manufacturers doing business in California with annual worldwide gross 	<ul style="list-style-type: none"> The California Transparency in Supply Chains Act requires retailers and manufacturers doing business in California with worldwide receipts in excess of \$100,000,000 to disclose certain information regarding their efforts to

²²² 17 C.F.R. 240.13p-1.

²²³ Securities and Exchange Commission, 17 CFR Parts 240 and 249b (Aug. 22, 2012), available at <https://www.sec.gov/rules/final/2012/34-67716.pdf>.

²²⁴ "Fact Sheet: Disclosing the Use of Conflict Materials," U.S. Securities and Exchange Commission (March 14, 2017), available at <https://www.sec.gov/opa/Article/2012-2012-163htm---related-materials.html>.

²²⁵ California Civil Code section 1714.43 and California Revenue & Taxation Code section 19547.5. See also "The California Transparency in Supply Chains Act: A Resource Guide," State of California Department of Justice (2015), available at <https://oag.ca.gov/sites/all/files/agweb/pdfs/sb657/resource-guide.pdf>.

Key Facts	Description
<p>receipts in excess of \$100,000,000.²²⁶</p> <ul style="list-style-type: none"> • Focus on Reporting. • Currently effective.²²⁷ 	<p>eradicate human trafficking and slavery in their supply chains. Companies must make disclosures in five areas:</p> <ol style="list-style-type: none"> 1. Verification of product supply chains to evaluate and address risk of human trafficking and slavery; 2. Audit suppliers to evaluate compliance with company standards for trafficking and slavery in supply chains; 3. Require direct suppliers to certify that materials in their product comply with slavery and human trafficking laws in the countries in which they are doing business; 4. Maintain internal accountability standards and procedures for employees and contractors who fail to meet company standards regarding slavery and trafficking; and 5. Provide training on mitigating risk in supply chains related to human trafficking and slavery.

Forced Labor / Human Trafficking – Trafficking Victims Protection Reauthorization Act of 2013²²⁸

Key Facts	Description
<ul style="list-style-type: none"> • Applies to private entities, including foundations, universities, corporations, community-based organizations, and other nongovernmental organizations. • Focus on Policy Commitment. • Currently effective.²²⁹ 	<ul style="list-style-type: none"> • The Trafficking Victims Protection Act (“TVPA”) was the first comprehensive federal law to address human trafficking, and set-up the framework for the U.S. government’s efforts to combat human trafficking. The TVPA was reauthorized four times, in 2003, 2005, 2008, and 2013. • The 2013 reauthorization is the most pertinent for Business and Human Rights concerns, as it focuses in part on the elimination of human trafficking from the supply chain of goods. Specifically, it requires U.S. governmental officials to build partnerships between the U.S. government and private entities to ensure that corporations’ supply chains are free of materials produced with the labor of trafficking victims, and to

²²⁶ “The California Transparency in Supply Chains Act,” State of California Department of Justice, *available at* <https://oag.ca.gov/SB657>.

²²⁷ The California Transparency in Supply Chains Act became effective in January 1, 2012.

²²⁸ Pub. L. No. 113-4.

²²⁹ Effective as of March 7, 2013.

Key Facts	Description
	ensure that businesses do not contribute to trafficking in persons involving sexual exploitation. ²³⁰

Forced Labor / Human Trafficking – U.S. Trade Facilitation and Trade Enforcement Act²³¹

Key Facts	Description
<ul style="list-style-type: none"> • Applies to all companies that import goods into the U.S. • Focus on Due Diligence. • Currently effective.²³² 	<ul style="list-style-type: none"> • The Trade Facilitation and Trade Enforcement Act prohibits all products made by forced labor, including child labor, from being imported into the United States.²³³ • All companies that import goods into the U.S. must conduct due diligence to prove to U.S. Customs and Border Enforcement that their products were not made using convict labor, forced labor, or indentured labor under penal conditions.²³⁴

Forced Labor / Human Trafficking – Executive Order 13627

Key Facts	Description
<ul style="list-style-type: none"> • Applies to U.S. federal contractors and subcontractors. • Focus on Due Diligence and Policy Commitment. • Currently effective.²³⁵ 	<ul style="list-style-type: none"> • Executive Order 13627 creates new prohibitions meant to limit trafficking on federal contractors who supply federal supply chains and strengthens the U.S. government’s zero-tolerance policy regarding trafficking in persons by Federal contractors and subcontractors. • Specifically, it prohibits U.S. federal contracts, subcontractors, and their employees from: 1) engaging in fraudulent recruiting practices; 2) charging employees recruitment fees; 3) destroying, concealing, confiscating, or otherwise denying access to an employee’s ID documents; 4) and failing to pay for return transportation costs at the end of employment. In addition, for U.S. federal contracts and subcontracts for non-off-the-shelf

²³⁰ 22 U.S.C.A. § 7103a

²³¹ Pub. L. No. 114-125; 19 U.S.C.A. § 1307

²³² Effective as of March 10, 2016.

²³³ “CBP and the Trade Facilitation and Trade Enforcement Act of 2015 (TFTEA),” U.S. Customs and Border Protection (April 9, 2020), available at <https://www.cbp.gov/trade/trade-enforcement/tftea>.

²³⁴ *Id.* See also “What Is the U.S. Trade Facilitation & Trade Enforcement Act?,” Assent Regulatory Resource Center, available at <https://www.assentcompliance.com/assentu/resources/article/u-s-trade-facilitation-and-trade-enforcement-act/>.

²³⁵ Effective as of September 25, 2012.

Key Facts	Description
	<p>products where more than \$500,000 of work is performed outside the U.S., companies must create an awareness program and monitor, detect, and terminate any subcontractors who engage in trafficking activity.</p> <ul style="list-style-type: none"> Federal contractors and subcontractors must also include contractual clauses allowing the contracting agencies or enforcement agencies to conduct audits and investigations to determine compliance with trafficking laws.

*National Action Plan*²³⁶

Key Facts	Description
<ul style="list-style-type: none"> Applies to U.S. Companies. Focus on Due Diligence and Policy Commitment. Currently effective.²³⁷ 	<ul style="list-style-type: none"> The U.S. National Action Plan is “designed to reinforce and strengthen the U.S. government’s role in advancing RBC through effective intra-governmental coordination and policymaking, promoting high standards globally, facilitating current and future RBC efforts through enhanced collaboration, and highlighting and supporting U.S. industry leadership.” It is organized into five “Categories of Action,” which constitute both new and actions and ongoing commitments: <ol style="list-style-type: none"> Leading by Example Collaborating with Stakeholders Facilitating RBC by Companies Recognizing Positive Performance Providing Access to Remedy The International Corporate Accountability Roundtable, European Coalition for Corporate Justice, and The Center for the Study of Law, Justice, and Society issued a 2017 report evaluating the 17 National Action Plans that had been published. The report highlighted as positive that the U.S. NAP 1) identified the government entity tasked with drafting it; 2) involved various groups in the government through an inter-governmental working group; and 3) regional

²³⁶ “Responsible Business Conduct: First National Action Plan of the United States of America,” U.S. Department of State (Dec. 16, 2016), available at <https://2009-2017.state.gov/e/eb/eppd/csr/naprbc/265706.htm>.

²³⁷ Published December 16, 2016.

Key Facts	Description
	<p>dialogues were held with stakeholders. However, it faulted the lack of a baseline assessment, had vague action points, lacked new regulatory measures, and did little to address remedy.²³⁸</p>

²³⁸ "Assessment of Existing National Action Plans (NAPS) on Business and Human Rights," The International Corporate Accountability Roundtable, European Coalition for Corporate Justice, and The Center for the Study of Law, Justice, and Society (August 2017 update), available at <https://static1.squarespace.com/static/583f3fca725e25fcd45aa446/t/599c543ae9bdf40b5b6f055/1503417406364/NAP+Assessment+Aug+2017+FINAL.pdf>.

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