

Human Rights Are Investors' Obligations

A Proposal for a Social Taxonomy for Sustainable Investment



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Glossary

CSR:	Corporate Social Responsibility
DAC countries:	Countries receiving Official Development Assistance
FPIC:	Free, Prior and Informed Consent. According to the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP), indigenous peoples have the right to give or withhold consent to a project that may affect their lives
DNSH:	Do No Significant Harm criteria. Minimum environmental requirements of the EU taxonomy
Green Bonds:	Bonds issued by governments, development banks, companies or banks, the proceeds of which are specifically earmarked to finance environmental projects
ICMA:	International Capital Market Association. An international association of capital market participants such as asset managers and banks, under the auspices of which the »Green Bonds Principles« and »Social Bonds Principles« were mapped out
IFC:	International Finance Corporation (IFC), World Bank subsidiary for private sector investment
OECD: Paris Agreement:	Organisation for Economic Co-operation and Development At the 2015 United Nations Climate Change Conference (COP21) in December 2015, 195 countries unanimously adopted the world's first comprehensive, legally binding, global climate change agreement
SDG:	Sustainable Development Goals of the United Nations
SFB:	The Sustainable Finance Committee of the German Federal Government
Social Bonds:	Bonds issued by governments, development banks and companies or banks, the proceeds of which are specifically earmarked to finance social projects
UNGP:	UN Guiding Principles on Business and Human Rights
TEG:	Technical expert group on sustainable finance. A commission of experts set up by the European Commission to assist it in developing the EU taxonomy

Executive Summary

The 2030 Agenda and UN Sustainable Development Goals (SDGs) are only achievable if, in the remaining decade, significant investment is channelled into the restructuring of the economy in an environmentally and socially sustainable manner. To steer the necessary volume of capital towards sustainable economic activities, all financial market actors require guidance and direction. To be able to redirect financial flows towards sustainable investment, sufficient clarity is needed over what activities can be considered socially and environmentally sustainable and under what circumstances. The EU taxonomy for environmentally sustainable activities (also known as the green taxonomy) provides this very guidance. The green taxonomy will enter into effect in 2021 and will apply to all investment funds in the EU that are classified as sustainable. The share of a given fund's assets that is, according to the taxonomy definition, »sustainably invested« must then be publicly disclosed.

The green taxonomy also takes social aspects into account. Thus, to comply with the taxonomy, activities must not violate human rights or permit corruption. However, unlike the environmental risks, these social risks are not spelt out for the individual sectors, meaning there is much still to clarify. One fundamental problem is that the green taxonomy relates to economic activities. Social injustices, however, occur in economic entities such as businesses or subsidiaries. The focus on economic activities also fails to give due consideration to the fact that severe human rights abuses can often be found in supply chains. These are not systematically included in the taxonomy criteria, however.

To provide a clearer picture here, existing human rights risks (as defined in the UN Guiding Principles on Business and Human Rights, UNGP) pertaining to the economic activities included in the green taxonomy are listed at the end of the first section of this study.

The first part of the study thus serves as more of a review of the EU taxonomy from a human rights perspective. Part two of the study lays down a proposal for a social taxonomy which in terms of structure is very similar to the green taxonomy, including both social risk sectors and those sectors that contribute to satisfying basic needs. The goals of this social taxonomy are geared towards the UN Sustainable Development Goals (SDGs). Respect for human rights plays a central role in the implementation of these goals, not least in respect to high-risk sectors where human rights are systematically violated. In these sectors, measures such as the payment of a living wage and living income, the establishment of grievance mechanisms and respect for trade union rights would improve the lives of billions of people as envisaged in the SDGs. Investments in companies which make successful efforts to implement these can be considered socially sustainable.

Moreover, a social taxonomy also classifies products and services that have a positive social impacts, such as drinking water supply, healthcare, education or public transport, although these activities can only be considered »social« if they are also accessible. Socially sustainable investment in these areas must therefore also involve providing, significantly improving or ensuring permanent access to those products and services for geographically marginalised or socially disadvantaged groups.

Finally, peacebuilding measures through peaceful conflict management should also be considered a social sector.

Activities can be characterised as being socially sustainable either on account of broad respect for human rights in sectors where human rights abuses are widespread or on account of the fact that they improve or maintain access to social products and services or promote peacebuilding by means of peaceful conflict management.

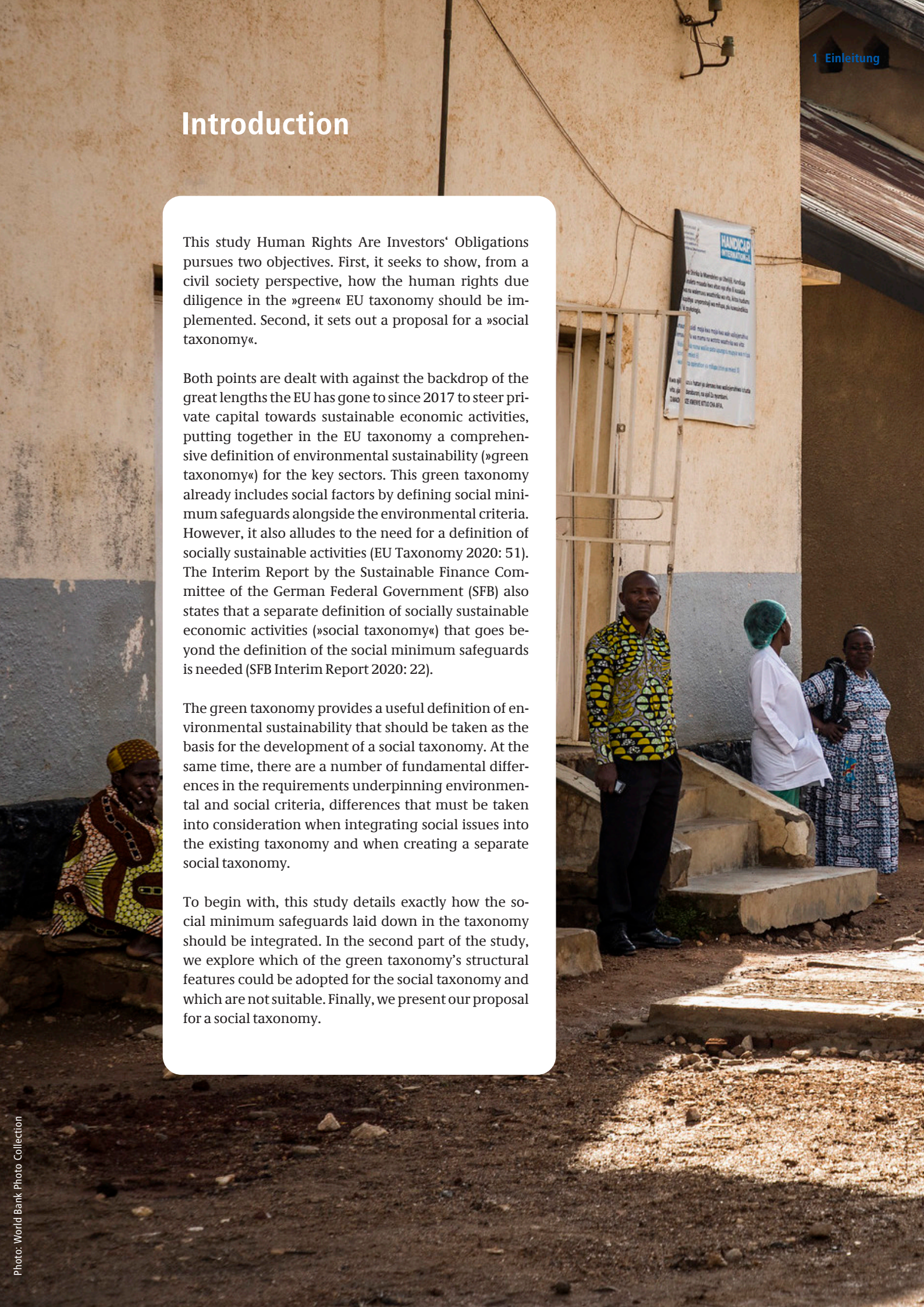
Introduction

This study Human Rights Are Investors' Obligations pursues two objectives. First, it seeks to show, from a civil society perspective, how the human rights due diligence in the »green« EU taxonomy should be implemented. Second, it sets out a proposal for a »social taxonomy«.

Both points are dealt with against the backdrop of the great lengths the EU has gone to since 2017 to steer private capital towards sustainable economic activities, putting together in the EU taxonomy a comprehensive definition of environmental sustainability (»green taxonomy«) for the key sectors. This green taxonomy already includes social factors by defining social minimum safeguards alongside the environmental criteria. However, it also alludes to the need for a definition of socially sustainable activities (EU Taxonomy 2020: 51). The Interim Report by the Sustainable Finance Committee of the German Federal Government (SFB) also states that a separate definition of socially sustainable economic activities (»social taxonomy«) that goes beyond the definition of the social minimum safeguards is needed (SFB Interim Report 2020: 22).

The green taxonomy provides a useful definition of environmental sustainability that should be taken as the basis for the development of a social taxonomy. At the same time, there are a number of fundamental differences in the requirements underpinning environmental and social criteria, differences that must be taken into consideration when integrating social issues into the existing taxonomy and when creating a separate social taxonomy.

To begin with, this study details exactly how the social minimum safeguards laid down in the taxonomy should be integrated. In the second part of the study, we explore which of the green taxonomy's structural features could be adopted for the social taxonomy and which are not suitable. Finally, we present our proposal for a social taxonomy.



1. A Human Rights Dimension of the Green Taxonomy



In the Final Report presented in March 2020 by the EU Technical Expert Group mandated to develop a green taxonomy to define what »environmentally sustainable« means, compliance with the UN Guiding Principles on Business and Human Rights (UNGP) and the OECD Guidelines for Multinational Enterprises are set down as minimum safeguards (EU Taxonomy 2020: 2). While the environmental Do No Significant Harm (DNSH) criteria in the taxonomy provide detailed information for each economic activity on the conditions under which an activity is considered environmentally sustainable, the same level of detail is not furnished for the social minimum safeguards. Apart from a general description of the requirements of the UN Guiding Principles and the OECD Guidelines and some examples of how these are applied, the report contains no specific information on how the minimum safeguards relate to the individual economic activities defined in the green taxonomy. The integration of social criteria into a set of environmental criteria, however, is not self-explanatory. The activities listed each have their own specific social risks, which have to be tackled with dedicated measures.

A question that remains unresolved is what role social risks play in the supply chains of green activities. The taxonomy is also ambiguous with regard to what exactly the social minimum safeguards apply to: On the one hand, the taxonomy emphasises that these risks, too, relate to economic activity (EU Taxonomy 2020: 17). Yet, all the examples of how they are employed in practice refer to entire businesses (EU Taxonomy 2020: 32f). This study devises answers to these questions and recommends defining implementation of the social minimum safeguards more precisely.

With this in mind, in sections 1.1-1.3, we will begin by briefly outlining the three relevant systems: the EU taxonomy, the UN Guiding Principles on Business and Human Rights, and the OECD Guidelines for Multinational Enterprises. We will go on to discuss the incorporation of human rights issues in the EU taxonomy. The study concludes with a list of all the sectors included in the green taxonomy along with details of their respective significant human rights risks.

1.1 The EU Taxonomy as Part of the Regulation of EU Capital Markets

For more than a decade now, climate change mitigation and the financing of the measures required for this have been inextricably linked. As part of the Kyoto Protocol that came into force in 2005, the EU developed a »European climate strategy«. This provides for a 30 per cent reduction in CO₂ emissions by 2030 over 1990 (EU Commission 2007: 2). The European Investment Bank (EIB) plays a key role in financing projects intended to help meet this target. In particular, the EIB has developed instruments such as the new »Green Bonds« (issuing the world's first Green Bond in 2007), whose proceeds are used exclusively to finance climate projects such as the construction of wind farms and solar parks. As a consequence of the 2008 global financial crisis, a reform of Europe's capital markets became necessary, the aim of which was also to stimulate investment activity. The strategy proposed in 2016 for »accelerating reform« makes explicit reference to climate finance and includes plans for a sustainable investment initiative that seeks to make more capital available for sustainable economic activity (EU Commission 2016: 5). This strategy document also announces the intention to establish an expert group for sustainable investment. This High-Level Expert Group (HLEG) began work in

December 2016 and published its Final Report in January 2018. The vast majority of the recommendations from the report were adopted in the EU Action Plan for Financing Sustainable Growth.

The Action Plan has three objectives: redirecting capital flows towards sustainable economic activities, mainstreaming sustainability in the risk management of financial market actors, and fostering investment transparency and long-termism. With regard to the first objective, reorienting capital flows, the question is what exactly constitutes these sustainable economic activities into which more investment is to be channelled in future. When it comes to sustainable investment, this question is particularly relevant, given the multitude of definitions of sustainability found in different sets of criteria. This prevents capital flows from being channelled effectively. The green taxonomy presented by another Technical Expert Group (TEG) in March 2020 seeks to answer this question by creating a definition of environmentally sustainable economic activities. Mainstreaming sustainability in the finance sector is thus an essential element of the EU's plan. The green taxonomy is based on the following structure:

1. Risk sectors and Enabling sectors

- a. The taxonomy lists technologies that substantially contribute to climate change mitigation by enabling »green« economic activity—for example technologies for the production of electricity from wind and solar power (»enabling sectors«).
- b. Similarly, the taxonomy covers economic activities that substantially contribute to greenhouse gas emissions and are therefore required to undertake significant efforts to reduce these emissions. These include, for example, agriculture, steel manufacture, transportation and the construction industry. For these climate-relevant economic activities, the EU taxonomy sets thresholds for CO₂ emission intensity (EU Taxonomy 2020: Annex).

2. Minimum safeguards

- a. The green taxonomy also defines Do No Significant Harm (DNSH) criteria for the following areas: climate change adaptation; water and marine resources; air pollution, groundwater and soil contamination; circular economy and biodiversity. These minimum requirements are in place to prevent activities defined as green from causing harm to these areas (EU Taxonomy 2020: 25).
- b. In addition, these activities must comply with the UN Guiding Principles on Business and Human Rights and, albeit with some limitations, the OECD Guidelines for Multinational Enterprises. These two instruments comprise the social minimum safeguards of the taxonomy (EU Taxonomy 2020: 10).

This approach applies both to climate change mitigation activities and climate change adaptation activities, for which separate performance criteria are defined. Where possible and feasible, for the DNSH criteria, the EU taxonomy draws on existing guidelines from EU climate directives or—in the global context—on the standards of the International Finance Corporation (IFC), the World Bank subsidiary for private economy financing.

Based on the screening criteria mentioned in point 1 above, the taxonomy focuses on eight sectors in detail:

1. Forestry
2. Agriculture
3. Industrial production of steel, aluminium, certain chemicals, cement, hydrogen and plastics
4. Production of electricity: gas, steam and air conditioning supply
5. Water supply, wastewater treatment, separate waste collection and waste management, carbon capture

6. Transport
7. Information and communications technologies (software)
8. Construction and real estate

The selected sectors cover are responsible for 93 per cent of greenhouse gas emissions in the EU (EU Taxonomy 2020: 13).

Besides the text outlining structure and use, the taxonomy also comprises an Annex which lists the economic activities by sector along with the corresponding criteria. These criteria are very detailed and specific, as illustrated in the following example of the requirements in the manufacture of iron and steel:

The production of steel from pig iron and of alloy steels is considered taxonomy-aligned if the CO₂ emissions per tonne of product produced do not exceed the EU limit for free emission allowances. These emissions are free if the production process ranked among the top 10 per cent of the most efficient (in terms of CO₂ intensity) in Europe in 2007-2008. Steel production is also considered taxonomy-aligned if steel scrap is used in a minimum of 90 per cent of production.

At the same time, it must also be ensured that emissions of hazardous substances to water and air do not exceed the relevant European limits and that environmental impact assessments are duly conducted. For steel produced outside the EU, a biodiversity management plan must be in place which is compliant with IFC Performance Standard 1 »Assessment and Management of Environmental and Social Risks and Impacts« and 6 »Biodiversity Conservation and Sustainable Management of Living Natural Resources«. In addition, in steel production human rights must be respected in accordance with the UN Guiding Principles and the OECD Guiding Principles. For upstream supply chains, however, as a general rule, neither environmental or social criteria are defined. Accordingly, no criteria exist for metal ore mining. (EU Taxonomy Annex 2020: 176-179).

1.2 UN Guiding Principles on Business and Human Rights

In 2011, the United Nations Human Rights Council established the UN Guiding Principles on Business and Human Rights. These principles were based on the Universal Declaration of Human Rights, UN documents on the protection of civil, political, economic, social and cultural human rights as well as the eight core conventions of the International Labour Organization (ILO). The Guiding Principles set out human rights responsibilities for business enterprises and, on the basis of the three pillars of the UN framework »protect, respect and remedy«, define the role of states and the private economy as follows:

While states have the duty to protect against human rights abuse, business enterprises must respect human rights and are responsible for ensuring that these rights are not violated within their sphere of influence. States and business enterprises both have a duty to ensure that those adversely impacted by human rights abuses have access to effective judicial and non-judicial grievance mechanisms with which it is possible to prevent and remedy human rights violations.

The 31 UN Guiding Principles clarify the relationship between the responsibility of the state and that of the private sector, as well as specifying the duties of business enterprises. While it is the responsibility of states to provide a structure which allows and facilitates respect for human rights in business activities, business enterprises themselves must take independent measures to exercise adequate human rights due diligence in all business areas. Specifically, this means that they must avoid committing or contributing to human rights abuses. Here, impacts related to the company's business activities, products or services must also be factored in. The extent of their duties varies depending on the probability and severity of potential human rights violations, the situation in the country in question, the type of products and services, and the size and position of the business in the supply chain. In addition, the company should endeavour to prevent human rights abuses committed by business partners along the value chain.

A business is deemed to be directly responsible for causing human rights abuses if these are committed within its own business operations, for instance if one of its subsidiaries prevents the work of trade unions. A business is seen as having contributed to a human rights violation if it neglects to take into consideration an identifiable risk, within its business relationships, of one or more of its business partners committing human rights abuses.

This risk must be prevented, for instance through the structure and content of contracts and pricing policies. In these cases, the company's responsibility is to prohibit human rights violations and where appropriate also provide for reparation. For instance, if a business enterprise categorically enters into supply contracts solely with suppliers that are not unionised, this is classified as contributing to a human rights violation. A company is considered to be merely associated with a human rights abuse if one of their business partners is responsible for the violation but the company itself has no direct leverage to prevent it. Even though, in cases like this, the company does not bear direct responsibility, it should try to leverage its business partner and endeavour to prevent the human rights violation. This would be the case, for example, if a business explicitly advocates and supports trade union organisation in a supplier company, but nevertheless the repression of trade unionists continues to occur (see UN Human Rights 2012: 16).

The UN Guiding Principles also specify instruments that a business enterprise should establish as part of the implementation process to ensure that they exercise human rights due diligence. For example, every company should draw up and publish a statement of policy concerning respect for human rights. It should continuously scrutinise, in consultation with the relevant civil society organisations, the human rights risks and impacts of its business operations and in the supply chain as a whole; it should take effective countermeasures to remedy abuses or provide for reparation; it should establish functioning and transparent grievance mechanisms that are accessible to those affected; and finally, it should establish a transparent communication structure that enables external actors to evaluate the effectiveness of the countermeasures taken.

The human rights due diligence process should be underpinned by internal and external expertise. For due diligence to be exercised, the parties responsible in each case must be given access to the relevant information on human rights risks and must be in a position to take action to prevent these human rights abuses. The grievance mechanism is instrumental in the performance of human rights due diligence and should enable those affected to draw attention to human rights violations. The mechanism must have the trust of those affected, it should be accessible and transparent, and should also serve as a source of continuous learning about how to address and prevent human rights violations (UN Guiding Principles 2015 I: 38-39). Finally, in the case of an adverse impact that has already occurred, the business

should ensure that those affected have access to effective remedy. This can be through a judicial or non-judicial process (UN Guiding Principles 2015 I: 18).

In light of the manifold risks facing large businesses in particular, these should prioritise actions to prevent severe human rights abuses so that they are addressed quickly, postponing the prevention of other abuses to a later stage (UN Guiding Principles 2015 II: 49).

The UN Guiding Principles have a high level of international authority and have been adopted into key reporting and regulatory systems including the ISO 26000 standard, the reporting framework of the Global Reporting Initiative (GRI) and the OECD Guidelines (Deutsches Global Compact Netzwerk 2012: 19).

1.3 OECD Guidelines for Multinational Enterprises

In 2000, the Organisation for Economic Co-operation and Development (OECD) published the Guidelines for Multinational Enterprises. These Guidelines express the expectations of the 36 member countries towards the multinational enterprises located or operating in their territories. The Guidelines apply expressly to all operations of these businesses in any country (OECD Guidelines 2011: 19). In 2011, the OECD published an updated edition, which was incorporated into the UN Guiding Principles on Business and Human Rights. The Guidelines are based on the principle of voluntariness. The National Contact Point established in each member country will address any conflicts that arise and should encourage adherence to the Guidelines. (OECD Guidelines 2011: 21)

With the OECD Guidelines now part of the EU taxonomy as minimum safeguards, economic activities have to meet other social requirements alongside UNGP compliance to be considered sustainable. The nine OECD Guidelines name the following additional aspects that are not already covered by the green taxonomy or the UN Guiding Principles:

- **Corruption:** Enterprises should not bribe public officials or the employees of business partners, they should publish adequate guidelines against bribery, establish control measures and due diligence processes, and promote employee awareness and conduct training on the issue (OECD Guidelines 2011: 55-56).
- **Consumer interests:** Business enterprises should provide consumers with fair information and refrain from making unfair and misleading representations or from engaging in deceptive marketing practices (OECD Guidelines 2011: 60).
- **Science and technology:** Businesses should, where practicable, contribute to the rapid transfer of new knowledge and technologies. Development divi-

sions should also be established in host countries and should be encouraged to collaborate with local universities (OECD Guidelines 2011: 65).

- **Competition:** Businesses should avoid entering into anti-competitive agreements on prices, production quotas or regional division of markets (OECD Guidelines 2011: 67).
- **Taxation:** Businesses should comply with the letter and spirit of tax laws. Compliance with this principle is the responsibility of the company's supervisory board. The issue of transfer pricing is covered in detail. In multinational enterprises, different entities »sell« different goods and services in different jurisdictions within one enterprise. Here, the corporate group derives benefits if, through internal pricing, the highest added value is achieved in those jurisdictions with very low taxes. This practice is prohibited according to the OECD Guidelines. Instead, businesses should set their internal pricing according to the arm's length principle. Internal prices should thus be calculated as though the goods were being bought from an external provider (OECD Guidelines 2011: 71-72).

That said, the final report of the Technical Expert Group makes it clear that the OECD Guidelines on consumer protection, science and technology, competition and taxation should not be prioritised when it comes to verifying compliance with the taxonomy because these issues are difficult to trace back to a specific economic activity (EU Taxonomy 2020: 17). The taxonomy therefore prioritises four of the nine OECD Guidelines as minimum safeguards in the green taxonomy. What remains entirely unclear, however, is whether the remaining five do not apply at all or are simply considered to be of lesser importance.

1.4 The EU Taxonomy: Guidance on the Implementation of Social Minimum Safeguards

The taxonomy provides, for each of the economic activities identified, a very detailed and precise definition of sustainability for the climate criteria and the DNSH criteria in the five aforementioned, additional environmental areas (climate change adaptation, water, circular economy, environmental pollution and ecosystems). However, there is no such clarity with regard to the social minimum safeguards.

The current taxonomy states only the following: As with all the other criteria in the taxonomy, the minimum safeguards apply to the individual economic activities and not to the business as a whole. However, it is accepted that if a business as a whole recognises and implements the UNGP, this shall also apply to all of its activities (EU Taxonomy 2020: 17). That said, it is expressly beyond the scope of the taxonomy to extend the requirements of the UN Guiding Principles and the OECD Guidelines to encompass every activity conducted by a business enterprise in which there is one sustainability-oriented activity (EU Taxonomy 2020: 17). This is not without good reason. For the sustainability of one activity should not be called into question because another activity in a different business division of the same company exhibits unaddressed human rights risks: The production of wind power units, provided human rights are respected along the entire supply chain, is no less sustainable simply because another division of the company manufactures medical implants that have resulted in permanent physical disability, for instance. It is therefore entirely plausible that there are situations where a distinction at the level of business areas or subsidiaries is expedient.

In its current form, however, the taxonomy does not apply to business divisions, but to economic activities only.

Another issue that is yet to be completely resolved is the extent to which the EU taxonomy factors the supply chain of an activity into the equation. In terms of the environmental aspects, the supply chain is categorically excluded (EU Taxonomy Annex: 36). In some sectors, such as livestock production (EU Taxonomy Annex: 144) and construction (EU Taxonomy Annex: 376), however, the value chain is explicitly included in the DNSH criteria, presumably because this was deemed strictly necessary in these areas. In terms of compliance with the social minimum safeguards, there is no clear indication of the significance of the value chain, although here, too, it is also highly relevant. Crop production for biofuels or bauxite and iron ore mining, for example, both involve significant environmental and human rights risks.

This relevance is also acknowledged in those sections of the taxonomy that describe the social minimum safeguards (EU Taxonomy 2020: 33, 34). Even so, when it comes to minimum safeguards, the taxonomy lacks the necessary guidance on which sectors should include the supply chain and how.

According to the UN Guiding Principles, the company purchasing the raw materials or primary product bears this responsibility. This company should prioritise severe human rights abuses and avoid sources of supply with high human rights risks. In addition, purchasing practices should enable the supplier to comply with basic labour rights and health and safety regulations as well as to pay a minimum wage. Channels through which grievances can be reported should ensure that those grievances also reach the purchasers. The UN guiding principles which are the social minimum safeguards of the EU taxonomy thus encompass all aspects of the value chain.

1.5 Social Aspects Integrated in the Green Taxonomy

Besides the aforementioned missing guidance on how to implement the minimum safeguards, the green taxonomy already includes specific criteria for social performance alongside the purely environmental criteria: For three of the eight sectors, IFC Performance Standard 1 is regarded as the DNSH criteria outside Europe. This provides for the identification and management of social and environmental risks and impacts.

This standard calls for the existence of an environmental and social management system, the identification of social and environmental risks and impacts, involvement of stakeholders, including disadvantaged and vulnerable groups, as well as an appropriate reporting system.

Interestingly, IFC Standard 1 is not included in the DNSH criteria for forest management, growing non-perennial and perennial crops, transportation, communication and construction, despite the fact that the agricultural and construction sectors in particular present risks, suggesting that the application of IFC Standard 1 would in fact be beneficial. This leads to inconsistencies: For the production of palm oil and sugarcane, for instance, violations of land rights are mentioned if the raw materials are used to produce biofuel. This is not the case, however, if they are used to produce foodstuffs.

On the other hand, in many sectors, the existing DNSH criteria help mitigate the social risks. This applies in particular to the forestry and agriculture sectors, where forms of cultivation that allow for trees or crops that absorb large quantities of CO₂ (land of high carbon stock) to be replaced with those that absorb significantly lower quantities are not permissible (EU Taxonomy 2020: Annex 45, 103). This rules out forms of forestry and agriculture that transform primary forest into plantations.

If an activity implies the use of wood, as is the case in the construction sector, this has to be certified. The FSC is the proposed certification framework which at least takes basic social criteria into account. All IFC social standards apply to the hydroelectric power generation. Where the DNSH criteria limit the use of pesticides, as in the forestry, agriculture and biofuel sectors, there is a lower risk of endangering the health and safety of employees.

Thus, the existing criteria already help reduce the displacement of local populations and adverse impacts on their living standards. Health risks for forest and agricultural workers have been similarly mitigated. However, what has not yet been taken into account is the basic labour rights in the ILO's core labour standards: No child labour, no forced labour, no discrimination, freedom of association and the right to collective bargaining.

1.6 Environmental Criteria and Social Criteria: Fundamental Differences

The inconsistencies outlined above regarding the incorporation of social minimum safeguards in the green taxonomy are largely rooted in a number of fundamental differences between the social and environmental requirements for business conduct.

Firstly, the practice of offsetting was established in the context of the fight against climate change but has also been used to try to stop the loss of biodiversity. Companies with high CO₂ emissions can offset them by purchasing certificates that enable the reduction of CO₂ emissions elsewhere. Similarly, damage to the environment in one place can be compensated for through environmental conservation in other areas. This practice is also referred to in the DNSH criteria of the green taxonomy. Compensatory practices such as these, however, are not feasible for human rights. For human rights are universal and apply to each and every one of us equally. A violation of human rights in a factory, for instance, cannot be compensated for by respecting human rights in another factory (UN Human Rights 2012: 15).

Secondly, the green taxonomy pertains, with good reason, to individual economic activities. Capital should not be redirected towards entire companies or pro-

duction sites but should strengthen specific environmentally sustainable activities. Plausible though this approach may be from a climate change mitigation perspective, it is incredibly problematic when it comes to exercising human rights due diligence.

There are key aspects of the UN Guiding Principles that cannot be applied to economic activities but have to be considered at the site or company level. On the whole, respect for human and labour rights tends to be linked less to specific economic activities and more to an economic entity, site or factory, where regulations governing the prohibition of child and forced labour, non-discrimination, respect for trade union rights or protection of the health of employees either do or do not apply, irrespective of what the company produces. Unlike the green taxonomy where it is entirely plausible for part of a production site to be manufacturing taxonomy-aligned products and another part not, the majority of human rights affect all of a company's employees, regardless of what they produce. It is therefore recommended that the assessment of compliance with minimum safeguards in practice be tied not to economic activity but to sites, business areas or subsidiaries.

Problems Inherent in the Quantification of Social Criteria

While, when it comes to climate risks, there are clear measures for greenhouse gas emissions, for instance, no such indicator exists for the key aspects of human rights. Some aspects such as the number of industrial accidents and figures on living wages can be described in quantitative terms. For important areas such as risk analysis, trade union rights, grievance mechanisms or remedies as well as measures for monitoring effectiveness, however, this is extremely difficult or outright impossible to do. Criteria for social sustainability should therefore not be completely based on quantifiable indicators, as this harbours the danger that important human rights risks will be overlooked. Instead, the analysis of human rights risks should include a wide range of qualitative criteria.

The UN Guiding Principles therefore prioritise the systematic identification of severe and systematic human rights abuses in any human rights due diligence processes above any form of quantification. The principle of proportionality applies here, i.e. businesses must take appropriate measures depending on their size and the severity of the human rights risk or risk of environmental damage. This process should entail identifying those groups that are affected most by the adverse impacts of severe human rights abuses on the part of the company or its business partners. The severity of the vio-

lation is measured by the number of individuals affected and the possibility of remediation. Here, torture, forced labour and child labour, in other words human rights abuses which cause lifelong damage, are named as examples of a particularly high level of severity (UN Guiding Principles 2015 II: 23-24). It is especially important to prioritise these cases because these abuses are often the most evasive and conventional grievance mechanisms, for example, often do not reach the persons affected. The companies responsible for such violations have a duty to take remedial measures, provide reparation and assess the effectiveness of their measures.

One example of how premature quantification can result in distortions is the quantitative assessment of positive or negative feedback from stakeholders that have not been assigned to the more vulnerable groups (see EU Taxonomy 2020: 35). A textile trader, for instance, could conduct a survey among employees with children at their headquarters about their satisfaction with in-company childcare and might easily receive a high number of positive responses, while the situation of thousands of seamstresses working for this company's suppliers and not receiving a living wage are completely disregarded.

1.7 Human Rights Risks in the Green EU Taxonomy: An Overview

The following list outlines the risks of human rights abuses or corruption associated with the economic activities covered by the green taxonomy. Here, it is assumed that the responsibility for exercising human rights due diligence lies with the individual business division or subsidiary and not at the level of the economic activity and that the supply chain and subcontractors are also included. The list focuses on severe human rights abuses and risks of corruption, referring to countries where such human rights violations are reported to occur. This information is based on reports from the period 2015-2020.¹

The table clearly shows that the majority of these risks occur in the supply chains and predominantly in the countries of the Global South. That said, severe human rights abuses are also committed in the North and par-

ticularly in Europe, on the one hand in the food production sector, which features prominently in the green taxonomy with production of perennial and non-perennial crops as well as livestock. Steering capital towards the businesses in these sectors that adhere not only to the environmental criteria of the taxonomy but also to the social minimum safeguards could therefore bring about social improvements, including in Europe. On the other hand, the infrastructure sector, including that in Europe, also suffers from social injustices related to basic labour rights as well as corruption and money laundering.

Based on the distinction drawn in the UN Guiding Principles, the list also indicates whether a business enterprise is directly responsible for causing a human rights abuse (red point), in other words the human rights

¹ Country-specific human rights risks can be found on: <https://www.amfori.org/news/country-risk-classification-2020-now-available>

violation is in the direct field of responsibility of the business, or whether the business contributes to that violation, i.e. it bears indirect responsibility for or is associated with the violation (yellow point), in other words has no direct responsibility but has a direct obligation to rectify the abuses (see UN Human Rights 2012: 16). The latter two categories (contribution and association) are listed together because this distinction depends on the relevant economic relationships, the structure of which varies from case to case. The list also notes the

cases where the risk of human rights violations has already been reduced through the DNSH criteria in the green taxonomy.

The table thus comprises an overview of the human rights risks in the various economic activities of the green taxonomy. It provides investors with specific reference points regarding the issues to which they should pay particular attention for compliance with social minimum safeguards.

Icons for Human Rights Risks and their Meaning








































 Forced Labour	 Gender Discrimination	 Human Trafficking
 Child Labour	 Sexual Violence	 Corruption
 Lack of Occupational Health and Safety	 Threat to Food Safety	 Money Laundering
 Health Risks for Communities	 Impairment of traditional lifestyles	 Violation of Labour Rights like no contract, excessive working hours, denial or obstruction of the right to organise a trade union, no living wage
 Land Conflicts	 Facilitating Conflict	
 Personal Rights	 Violating Indigenous Rights	



















Responsibility

- Human rights violations are a direct responsibility of the business
- No direct responsibility, but an indirect obligation to thwart human rights violations


















AGRICULTURE



Economic activity/ Product	Geographic focus of risk	Type of risk	Responsibility
Growing of non-perennial crops			
Sugarcane	Brazil, India, Thailand, Cambodia, Central America	  declining   particularly Central America: chronic kidney disease   no living wages and incomes	●

Soya	Latin America							
Cotton	China, India, Pakistan, Turkmenistan, Uzbekistan	  declining		 reduced risk as use of pesticides already addressed in DNSH criteria	 no living wages and incomes, unsuitable accommodation			
Vegetable seed	India		 unsuitable accommodation, no living wages and incomes					
Bananas	Central America, Colombia, Ecuador	 reduced risk as use of pesticides already addressed in DNSH criteria						
Growing of perennial crops								
Cocoa	West Africa			 no living wages and incomes				
Coffee	Brazil, Vietnam, Colombia, Indonesia, Honduras, Ethiopia				 no living wages and incomes, unsuitable accommodation			
Palm oil	Malaysia, Indonesia	  reduced risk as use of pesticides already addressed in DNSH criteria			  no living wages			
Hazelnuts, cherries, apricots	Turkey		 unsuitable accommodation, no living wage					
Grapes	South Africa, EU		 no living wages, unsuitable accommodation	 reduced risk as use of pesticides already addressed in DNSH criteria				
















Citrus fruit	Brazil	  	<p>no employment contract, no living wages and incomes</p> <p>reduced risk as use of pesticides already addressed in DNSH criteria</p>	●
Diverse fruit and vegetables	EU	  	<p>unsuitable accommodation, excessive working hours, no living wages, no working contract, retention of identity</p> <p>reduced risk as use of pesticides already addressed in DNSH criteria</p>	●
Rubber	Indonesia, Thailand, Vietnam	  	<p>no living wages</p>	●
Livestock and fisheries				
Livestock	BrBrazil, Argentina			●
Fisheries	Bangladesh, Philippines, Thailand, West Africa	     	<p>no living wages and incomes, retention of identity, excessive working hours</p> <p>coastal West Africa</p>	●
Fish farming	Chile, Thailand			●
Forestry				
Afforestation	Uganda, Turkey		<p>reduced risk owing to the establishment and operation of plantations not being permitted under the DNSH criteria</p>	●
Rehabilitation, reforestation			no known social sustainability risks	
Reforestation			no known social sustainability risks	
Existing forest management			no known social sustainability risks	
Conservation forestry			no known social sustainability risks	



MANUFACTURING

Economic activity/ Product	Geographic focus of risk	Type of risk	Responsibility
Upstream value chain Manufacturing of low-carbon technologies	Congo	Cobalt: see production of electricity from wind power	●
Manufacture of cement	Myanmar, Tunisia, Laos	 reduced risk as emissions and contamination already addressed in DNSH criteria	●
Manufacture of aluminium			
Upstream supply chain Bauxite mining	Brazil, Guinea, Guyana, India	   restricted access to clean drinking water	●
Smelting		 air pollution, reduced risk as emissions already addressed in DNSH criteria	●
Manufacture of iron and steel			
Upstream supply chain Ore mining	Bangladesh, Brazil, India, Mexico, Myanmar, Philippines, South Africa, Sierra Leone, Liberia	  Mexico  restricted access to clean drinking water, health risks due to air pollution, groundwater and soil contamination	●
Steel scrap from deep-sea vessels	India, Bangladesh	  no living wages	●
Chromium	Philippines, Pakistan, Brazil		●
Manufacture of hydrogen			
Upstream supply chain Extraction of crude oil/natural gas	Angola, Azerbaijan, Iran, Kazakhstan, Congo, Myanmar, Nigeria, Peru, Russia, Southern Sudan	   	●
Manufacture of other inorganic basic chemicals	Global South	  reduced risk as already addressed in DNSH criteria	●
Upstream supply chain Crude Oil		see hydrogen production	●

Manufacture of fertilisers and nitrogen compounds		 	reduced risk as already addressed in DNSH criteria	
Manufacture of plastics in primary form				
Upstream supply chain				
Palm oil		see growing of perennial crops/palm oil		●
Sugar cane		see non-perennial fruits/sugarcane		●
Crude oil		see hydrogen		●

ELECTRICITY, GAS, STEAM AND AIR CONDITIONING SUPPLY
















Economic activity/ Product	Geographic focus of risk	Type of risk	Responsibility
Production of electricity from solar PV and concentrated solar power			
Production of electricity from solar PV and concentrated solar power			
Aluminium		see manufacture of aluminium	●
Copper	Peru, Chile, Columbia	    	● Columbia
Production of electricity from wind power			
Construction of wind parks	India, Mexico		●
Upstream supply chain: Construction of wind parks			
Iron, steel, chromium		see steel production	●
Cobalt, zinc	Congo		●
Nickel	Philippines, Papua New Guinea	    	●
Production of electricity from ocean energy/hydropower			
Construction of hydroelectric power plants	Egypt, Angola, Brazil, China, Guatemala, Honduras, Cambodia, Malaysia, Myanmar, Panama, Peru, Sudan, Vietnam, Serbia, Albania, Macedonia, Bulgaria, Romania, Montenegro, Turkey	  	no living wages (Brazil) ●
		DNSH criteria include EU Water Framework Directive and IFS Standards. Both include social criteria to mitigate human rights risks	

Production of electricity from geothermal	Kenya	 not systematic with this technology	●
Production of electricity from geothermal		Upstream value chains gas extraction: see hydrogen production	●
Production of electricity from geothermal		Upstream supply chain: see production of electricity from biomass, biogas and biofuels	●
Transmission and distribution of electricity		Upstream supply chain: steel, copper: see manufacture of steel and production of solar power	●
Storage of electricity (thermal energy, hydropower)		Upstream value chain copper: see solar power	●
Manufacture of biomass, biogas or biofuels	Through the DNSH criteria (EU sustainability standards for biofuels) human rights risks are reduced but not eliminated completely. The EU Biofuels Directive refers to competition with food cultivation and respect for land rights, but not to the rights of workers involved in growing the crops. The risk of inadequate workplace health and safety due to pesticide use is reduced through the DNSH criteria for the agricultural sector		
Upstream value chain Palm oil	Malaysia, Indonesia	see cultivation of perennial crops/ palm oil	● ●
Upstream value chain Sugar cane	Brazil, India, Thailand, Cambodia, Central America	see annual crops/ sugar cane	● ●
Ethanol	Angola		● ●
Retrofit of gas transmission and distribution networks (operating for a minimum of 5 years)		No known risks of human rights violations	
Cogeneration of heat/cool from renewable sources		Upstream supply chain: steel, copper Steel: see manufacture of iron and steel Copper: see solar power	●
District heating		No known risks of human rights violations	
Electric heat pumps		Upstream supply chain: steel, copper Steel: see manufacture of iron and steel Copper: see solar power	●
Cogeneration (CHP, different sources)		No known risks of human rights violations	
Production of heat/cool and electricity (different sources)		No known risks of human rights violations	












WATER, SEWERAGE, WASTE AND REMEDIATION

Economic activity/ Product	Geographic focus of risk	Type of risk	Responsibility
Water collection, treatment and supply including centralised wastewater treatment	Brazil, Argentina, Chile, Philippines	The DNSH criteria ensure the quality of drinking water and monitoring for leaks as well as observance of human rights in plant construction. Residual risks poor and marginalised groups excluded from access to water supply.	●
Anaerobic digestion of waste and sewage sludge		No known risks of human rights violations	
Separate collection and transport of non-hazardous waste	Global South	waste management largely informal, human rights risks due to informal systems of waste storage and recycling: health and safety of local populations and informal workers on landfill sites	●
Anaerobic fermentation of organic waste		No known risks of human rights violations	
Composting of bio-waste		No known risks of human rights violations	
Material recovery from non-hazardous waste		No known risks of human rights violations	
Landfill gas capture and utilisation		No known risks of human rights violations	
Direct air capture of CO ₂		No known risks of human rights violations	
Capture of anthropogenic emissions		No known risks of human rights violations	
Transport of CO ₂ t		No known risks of human rights violations	
Permanent sequestration of captured CO ₂		No known risks of human rights violations	


TRANSPORTATION

Economic activity/ Product	Geographic focus of risk	Type of risk	Responsibility
Passenger rail transport (interurban)		See biofuels risks	●
Freight rail transport		See biofuels risks	●
Public transport	Global South especially public bus transport	 driver fatigue results in increased risk of accidents  excessive working hours, no regular income	●
Infrastructure for low carbon transport		No known risks of human rights violations	
Passenger cars and commercial vehicles			
Upstream supply chain: steel		see manufacture of steel	●
Copper		see solar power	●
Aluminium		see aluminium production	●
Rubber	Indonesia, Thailand, Vietnam	 no living wages  	●
Cobalt, zinc	Congo		●
Nickel	Philippines, Papua New Guinea	    	●
Lithium	Chile, Bolivia	 adverse impacts on lives through water usage	●
Freight transport services by road		   excessive working hours	
Interurban scheduled road transport		see also biofuels risks	●
No known risks of human rights violations		No known risks of human rights violations	
Inland freight shipping		See biofuels risks	●
Infrastructure for low carbon water transport		No known risks of human rights violations	

CONSTRUCTION AND REAL ESTATE ACTIVITIES

Economic activity/ Product	Geographic focus of risk	Type of risk	Responsibility
Construction of new buildings			
Planning, preparation, construction phase, operating phase (large-scale construction projects and megaprojects: ports, airports, tourism, industrial plants)	Global South		●
Construction phase	Global South	 retention of identity documents, unsuitable accommodation, excessive working hours   	● ●
Upstream supply chain: Cement		see manufacture of cement	●
Metals		see steel and copper	●
Natural stone	China, India	   	●
Wood		The DNSH criteria for wood used (80 per cent certified wood) reduce human rights risks	
Public construction projects			●
Building renovation	Global South	Building renovation as an adaptation measure can increase the risk of conflict over ownership and rights of use, e.g. in slum areas	●
Individual renovation measures		No known risks of human rights violations	
Acquisition and ownership of buildings		 estate agents, banks, mortgage banks	●

INFORMATION AND COMMUNICATION

Economic activity/ Product	Geographic focus of risk	Type of risk	Responsibility
Information and communication	Especially high risk in states which are unfree according to "Freedom House"	 Violation of right to privacy due to unauthorised surveillance (risk particularly high in countries rated »not free« by Freedom House)	● ○
Data-driven solutions for GHG emission reductions		No known risks of human rights violations	

2. Proposal for a Social Taxonomy



Sustainability always has both an environmental and a social dimension. The EU taxonomy, which focuses exclusively on environmental criteria, therefore requires a second, social element. The taxonomy also provides for this: »The TEG [Technical Expert Group] considers that a fully realised Taxonomy should incorporate the following additional dimension (i.e. in addition to the aspects already developed in detail): social objectives, in addition to environmental objectives, to identify substantial contributions in addition to minimum safeguards...« (EU Taxonomy 2020: 51).

However, the EU has yet to provide any detail as to what form this social dimension will take.

Indeed, before this social dimension can be developed, the various fundamental questions mentioned earlier will have to be addressed. First, there is the question of the relationship between the social dimension and the environmental dimension. Should the final product be one single taxonomy where social and environmental criteria are given equal consideration, or should there be two separate taxonomies, a social one and an environmental one? In essence, the answer to this question depends on whether activities that are specifically »social« in nature are defined and these factor in fundamental environmental criteria as minimum safeguards criteria, while the environmentally sustainable activities have to observe fundamental social criteria. Or,

alternatively, whether sustainable activities essentially have to meet criteria for an outstanding commitment to both social and environmental sustainability. It is impossible to give a definitive response to this question here. The important thing, however, is that, whatever the decision both environmental and social enabling activities and environmental and social risk sectors should be incorporated in both dimensions. For the purposes of this study, we assume that there will be two different taxonomies, one for the social and one for the environmental dimension. The relationship between these two taxonomies could be structured along the same lines as »Green Bond Principles« and the »Social Bond Principles« of the International Capital Market Association (ICMA) (ICMA n.d.).

This would mean a green taxonomy defines green investment. A separate, social taxonomy would outline the criteria for social investment. Investments that incorporate both aspects would be considered sustainable investments. The prerequisite for this approach is that there are minimum standards for each of the dimensions which prevent green investments being accompanied by child or forced labour or social investments accepting high CO₂ emissions and damage to the environment. The social minimum safeguards previously established in the green taxonomy must therefore be reflected in the social taxonomy in the form of green minimum safeguards.

2.1 Comparable Problems, Similar Objectives: Commonalities between a Green and a Social Taxonomy

Establishing an interrelationship between social and environmental concerns in separate taxonomies, similar to the approach taken with the »green« and »social« bonds, underlines the commonalities between the two areas. What both social and environmental activities continue to have in common is a lack of capital: not enough is invested in satisfying the basic needs of all people or in achieving a dignified and peaceful coexistence. In a similar vein, substantial funds for climate and environmental protection measures as well as for the conservation of natural resources and ecosystems have failed to materialise. For now, the vast majority of investment in fact tends to foster global social inequality and accelerates climate change and environmental degradation.

A change in approach and direction is thus sorely needed in both dimensions.

Environmental objectives, particularly climate goals, are stipulated and laid out in concrete terms in international agreements such as the Paris Agreement.

Similarly, the 2030 Agenda and the UN Sustainable Development Goals (SDG) comprise internationally established sustainable development objectives that are outlined in more specific terms with sub-objectives and indicators.

The 2030 Agenda was prepared over many years in a process involving the UN Member States with a high level of civil society participation. The Agenda incorporates 17 SDGs that lay the foundations for ensuring that global economic progress is in line with social justice and within the environmental limits of the earth (German Federal Ministry of Economic Cooperation and Development, BMZ 2017). The Agenda and the individual SDGs have a high level of international authority and are thus well suited to serve as a basis for establishing the themes and criteria of a social taxonomy. There are numerous areas where the content overlaps with the green taxonomy, for instance in goals 13 (Climate action), 14 (Life below water) and 15 (Life on land). The EU taxonomy has also fleshed out the goals by providing the corresponding limits and DNSH criteria.

● Especially suited SDG For the definition of social objectives

● Especially suited SDG For the definition of ecological objectives

The SDGs as Social Taxonomy Goals



Source: <https://www.bundesregierung.de/breg-de/themen/nachhaltigkeitspolitik/die-un-nachhaltigkeitsziele-1553514>

Much like the implementation of the Paris climate goals, the achievement of the SDGs requires the involvement of both state and private actors as well as public and private capital. For both the climate goals and the SDGs, however, there is a significant gap between what has been invested to date and what is actually needed: »The annual investment gap in major SDG sectors in developing countries alone has been estimated at around US\$2.5 trillion per year. At the current level of private sector participation, there will be a funding shortfall of US\$1.6 trillion to be covered by the public sector including the official development assistance (ODA).« (ECOSOC Chamber 2018: 1).

In both areas political will and a government framework are essential prerequisites for successful reorientation of investment funds towards sustainable sectors. The internalisation of environmental and social costs and risks, embedded in a suitable regulatory framework, plays a key role here.

Adverse environmental impacts can be mitigated through internalisation. For example, businesses can compensate for their CO₂ emissions through taxes or by paying for the purification of their wastewater themselves. The same concept can be applied to social risks: these can be internalised through human rights due diligence, for instance when businesses are made liable for the health impacts of a particular occupation. The Federal Republic of Germany has a similar system with its trade associations, although far from all social risks have been internalised to date.

Social costs and potential human rights violations have not been sufficiently internalised in the supply chains of many different products. The prices of many raw materials and consumer goods, for example, do not reflect the adverse impacts on workers or the population as a whole in the producing countries. It is frequently societies in developing and emerging countries that are saddled with the consequences of work-related diseases and accidents in mines and export factories. Wages are often not enough to ensure a basic standard of living, and extremely low prices for many agricultural products result in extreme poverty among farmers. Along similar lines to carbon pricing, accountability for human and labour rights violations along the supply chain would be the first step towards internalised social costs.

Many countries have already incorporated the UN Guiding Principles into national action plans or are in the process of creating dedicated action plans and laws. In 2016, in its National Action Plan for Business and Human Rights (NAP), the German government urged all businesses to exercise human rights due diligence in their activities and business relationships in accordance with the UN standards. Failure to meet this requirement by fewer than half of all large enterprises (with more than 500 employees) by the end of 2020 will probably result in the legislative action announced by the German government and a motion for an additional mandatory regulation at EU level.

2.2 Human Rights Due Diligence as an Instrument for Implementing the SDGs

At first glance, the best way to steer investment towards satisfying basic human needs (SDGs 1-4) might seem to be to invest in businesses that produce food, run sewage treatment plants, hospitals and schools or build housing.

However, there is abundant evidence that simply redirecting capital flows towards these sectors without applying additional conditions is not enough to achieve social goals. Food crop planting and construction work, for example, often take place under conditions that actually hamper the implementation of SDGs 1-4. As much as 60 per cent of child labour can be found in the agricultural sector (FAO, UNICEF 2019: IX). Millions of smallholder farmers live in abject poverty. The construction sector is high-risk and, particularly in developing and emerging countries, construction companies are often responsible for the displacement of local populations, for not paying a living wage and for inadequate workplace health and safety, resulting in accidents and diseases.

The conditions under which these and other economic activities are carried out are therefore instrumental in determining whether they contribute to the achievement of social goals or not. The UN Guiding Principles on Business and Human Rights serve as an internationally recognised regulatory system for defining these conditions. Investment in the abovementioned sectors must therefore be tied to adherence to these conditions. Studies on the impacts of human rights due diligence go a step further, however: The Danish Institute for Human Rights, believes that 90 per cent of international and regional human rights standards contribute to the SDGs.

»[R]obust human rights due diligence enables and contributes to sustainable development. For businesses, the most powerful contribution to sustainable development goals is to embed respect for human rights in their activities and across their value chains, addressing harm done to people and focusing on the potential and actual impacts. [...] Ending business-related human rights abuses is a necessary step for people to live in dignity, and for the sustainable development goals for decent work, access to education, health care and food to be reached.« (The Danish Institute for Human Rights, 2019: 10).

»Shift«, an organisation that works towards the implementation of the UN Guiding Principles, outlines how the implementation of the four human rights of non-discrimination, respect for land rights, payment of a living wage and forced labour, would impact the SDGs. If businesses were to strictly comply with these human rights, the sustainability goals would be met for millions of people (Shift, n.d.: OOP)

Strict and persistent adherence to human rights in the private sector can have such a huge impact because human rights abuses remain widespread in areas that are within the scope of its responsibility and exercising the due diligence called for in the UNGP would bring positive changes for millions of people. The reality is far removed from this, however:

»The world is still a long way from realising human rights of all and achieving sustainable development. Between 21 and 48 million people are estimated to work in forms of modern slavery; around 85 million of the estimated 168 million child labourers are in hazardous forms of work; and more than 2.3 million people die annually as a result of occupational accidents or work-related diseases.« (Danish Institute for Human Rights, 2019: 9).

A large proportion of human rights abuses occur in high-risk sectors. Consequently, business enterprises from these sectors in particular have huge potential to contribute to the implementation of the SDGs by strictly adhering to human rights, including along their supply chains.

The starting point for defining the activities that make a contribution to social sustainability thus consists in identifying high-risk sectors and establishing human rights standards for those sectors. Investment in businesses operating in these sectors would then be considered socially sustainable if, in their business activities and value chains, they consistently implement human rights in accordance with the UN Guiding Principles.

The second approach involves identifying sectors that have the potential to have positive social impacts. Here, too, a clear definition of the corresponding criteria needed to ensure the selected sectors can help facilitate implementation of the SDGs is of the essence.

This is very much in keeping with the green taxonomy approach. The green taxonomy identifies high-risk sectors that make a substantial contribution to climate protection if they significantly reduce their CO₂ emissions. Along similar lines, in the social taxonomy, high-risk sectors are selected that can be classified as socially sustainable provided they exercise a high level of human rights due diligence. Likewise, where the green taxonomy includes sectors that enable climate protection, a social taxonomy includes sectors from the areas of social goods and services.

More specifically, the green taxonomy includes, for instance, both solar power and the manufacture of steel. Similarly, a social taxonomy would incorporate the running healthcare facilities but also mining—a sector with a high risk of human rights and labour rights abuses. Just as progress in protecting the environment can only be made if sectors with high CO₂ emissions significantly reduce those emissions, social progress is only attainable if decent working conditions are ensured across all sectors of the economy and throughout the world.

2.3 Selection of High-Risk Sectors

While there is a whole string of sectors that have been associated with widespread, severe human rights violations for decades, there are others that remain only marginally affected or untouched altogether. In addition, there is a difference between sectors where businesses tend to be directly involved in human rights abuses and others where this association is probably due to widespread human rights violations in their supply chains. For this part of the social taxonomy, sectors will be identified where there is a higher level of human rights risks, as will be other branches which, because of their market power, have a significant influence over these sectors, for instance because they trade in or process goods from these high-risk sectors.

The selection of sectors was based on publications that identify sectors with a high level of human rights risks as defined in the UN Guiding Principles (CHRB 2019, UN 2017, KPMG 2014, IPIS 2014).²

These publications consistently refer to the following high-risk sectors

1. Agriculture
2. Textile manufacture and trade
3. Mining
4. Infrastructure

Some publications also include the following sectors, which are closely connected to the abovementioned four through supply relationships:

5. Manufacture of information and communications technology (ICT) devices
6. Automotive manufacture
7. Food retail

In the first part of the definition of socially sustainable sectors proposed here, we develop specific social requirements for these seven sectors which have to be met for a business to be considered socially sustainable. The aim of this part of the social taxonomy is to redirect capital to the businesses within these sectors which implement human rights standards in key, but often overlooked areas, thus making a contribution to the SDGs.

Consequently, this means that, in practice, a dedicated social taxonomy emphasises certain aspects of human rights due diligence. This is a consequence of the current situation. To date, we only have a green taxonomy, which has only developed green DNSH criteria and only includes sectors that are high-risk from an environmental not from a social perspective. As mentioned earlier, the implementation of the social minimum safeguards in the taxonomy raises a number of questions. If the aim is also to enable sustainable investment in sectors that are high risk from a social perspective, more specific human rights criteria that potentially go beyond the minimum standards of the green taxonomy are a must. Future developments will reveal the relationship between these differences in practice, and show whether they can be condensed into one standard.

² KPMG Advisory N.V. (2014): CSR Sector Risk Assessment. Considerations for dialogue. URL: <https://www.imvoconvenanten.nl/-/media/imvo/files/mvo-sector-risk-assessment.pdf?la=en&hash=E04F2533DE30CFF10A2C2D3C2E2D1327> (last accessed: 11.03.2020)
 The Corporate Human Rights Benchmark / World Benchmark Alliance (2019): 2019 Key Findings. Across sectors: Agricultural Products, Apparel, Extractives & ICT Manufacturing. URL: <https://www.corporatebenchmark.org/sites/default/files/2019-11/CHRB2019KeyFindingsReport.pdf>
 IPIS: The Adverse Human Rights Risks and Impacts of European Companies: Getting a glimpse of the picture, 2014
 UN: Accountability and Remedy Project Part II: State-based non-judicial mechanisms How State-based NJMs respond to sectors with high risks of adverse human rights impacts: Sector Study – Part 1 2017

The suggestion is here is that the minimum safeguards of the green taxonomy have a bearing on severe human rights abuses and the widespread processes for preventing these violations. High social standards, by way of contrast, go beyond the customary level of human rights due diligence in a given sector.

2.3.1 Social Standards in High-Risk Sectors

Political, civil, social, cultural and economic human rights and the ILO's core labour standards were adopted at the UN level more than 50 years ago now. Yet still these rights are violated the world over on a daily basis. The UNGP was developed for the purpose of defining the responsibility borne by the private sector in respecting these rights, in doing so contributing to implementation via the private economy. Many businesses in the high-risk sectors mentioned above are already endeavouring on a voluntary basis to prevent human right abuses in their direct field of responsibility and in their supply chains. They acknowledge their commitment to sustainable principles and have taken measures to ensure adherence to the UN Guiding Principles in their production and in their supply chain. To this end, there are numerous industry-specific sustainability associations that have made this their goal. The guiding principles of these industry associations can be seen as being quintessential of these endeavours in a given sector. They indicate which compromises this sector has been able to agree on, given the different goals and varying levels of ambition of the individual enterprises. As such, they depict the status quo of a sector in terms of its efforts to exercise human rights due diligence.

If we compare this status quo with the UNGP requirements, however, discrepancies will be found to exist. Here, an especially high level of commitment to human rights is defined as a business in a high-risk sector making dedicated efforts in those areas neglected by the industry sustainability association guidelines.

The threshold for social sustainability proposed here thus involves a business from a high-risk sector taking human rights due diligence measures in areas that are key for the UNGP and that go beyond the sector average. These measures differ from sector to sector and are

outlined in detail in the list below. There are, however, two key social injustices, in particular, which cut across sectors and which are not included in any of these industry initiatives.

2.3.2 Living Wages, Grievance Mechanisms and Trade Union Rights as Criteria for Outstanding Commitment to Social Sustainability

A review of the industry-specific guiding principles of the high-risk sectors reveals, in virtually all sectors, two gaps in the implementation of human rights due diligence:

The guiding principles of the industry-specific sustainability initiatives completely neglect to make any mention of the issues of »grievance mechanisms and remedies« or the payment of a living wage.³

This finding is supported by the assessments by the World Benchmarking Alliance as seen in their Corporate Human Rights Benchmarks (CHRB). Since 2016, the CHRB has conducted regular assessments of the largest publicly traded companies from the high-risk sectors mentioned here based on their strategies for the implementation of human rights due diligence. In all the assessments carried out so far, the companies on average scored lowest on the following areas: »Remedy and Grievance Mechanisms« and »Enabling Factors and Business Processes«, with the latter area including the issues of trade union rights and living wages (CHRB World Benchmarking Alliance 2019: 11).

In the context of the establishment of a social taxonomy that seeks to implement the SDGs this is an important point, especially in light of the role played by the issue of living wages in the implementation of the SDGs. In fact, living wages and living incomes are linked to 11 of the 17 SDGs. It can therefore be assumed that commitment to this area will have a significant positive impact on the sustainability goals as a whole.

If businesses were to adhere rigidly to the right to a living wage in their own business area as well as in their supply chain, this would constitute an important step towards the implementation of the SDGs. According

³ Our analysis included the guiding principles of the following industry-specific sustainability associations: amfori BSCI 2300 whose members are from the trade and consumer goods areas, particularly textiles: no living wage, no grievance mechanism, principles: <https://www.amfori.org/sites/default/files/amfori-2020-03-05-amfori-BSCI-code-of-conduct.pdf> op; SAI Practices (agriculture and the food industry): no living wage, no grievance mechanism, no FIPC, no prevention of displacement, <https://saiplatform.org/wp-content/uploads/2010/02/ppls-arable-vegetable-crops-2009.pdf>; ICMM (mining and metals): no living wage, grievance mechanism only stipulated for workers and not for local populations, FIPC not mandatory, <https://www.icmm.com/mining-principles>; Responsible Business (electronics industry): no living wage, no grievance mechanism, http://www.responsiblebusiness.org/media/docs/RBACodeofConduct6.0_English.pdf; Automotive Industry Guiding Principles to Enhance Sustainability Performance in the Supply Chain: no living wage, no grievance mechanism, <https://go.aiag.org/globalguidingprinciples>.

Living Wages and Living Incomes and the SDGs

Living wages and living incomes are linked to the following SDGs:



Graphic courtesy of Shift Project, Ltd. Learn more at www.shiftproject.org/sdgs

to calculations by the organisation »Shift«, this would improve the lives of 340-450 million people; and if we also factor in their families, as many as some two billion people would benefit. In other words, a living wage could improve the lives of around 25 per cent of the world population as envisaged in the SDGs (Source: Shift homepage n.d., n.p.). In light of this huge potential, payment of a living wage is a key criterion of the social taxonomy proposed here.

As well as paying a living wage, the establishment of a grievance mechanism as part of the CSR systems of businesses in high-risk sectors is instrumental for compliance with the UNGP. This is something that the ma-

jority of these businesses lack, however. A grievance mechanism should enable those affected to draw attention to violations of their rights. For this to happen, those affected must have trust in the process and it must be accessible and transparent. On the one hand, it can serve as an effective instrument for remediation. On the other hand, it serves as a source of learning about how to tackle and prevent human rights abuses. The establishment of a grievance mechanism which meets these UNGP criteria is therefore a second social sustainability criterion for businesses in high-risk sectors.

The freedom of association and the right to collective wage bargaining is added here as these play an im-

portant role in securing living wages and addressing shortcomings. They are essential for the long-term prevention of human rights abuses such as in the area of workplace health and safety. Even if this right is incorporated into the guiding principles of the given sector, in reality, it is often violated. In 107 countries of the world, workers are prevented from forming or joining a trade union (ITCU 2019: 6). Businesses that put substantial efforts into ensuring these labour rights are protected are therefore also rated as demonstrating a particularly high level of commitment to social sustainability.

Given that very few businesses to date have successfully managed to implement the three aforementioned elements of the UNGP in their own field of responsibility,

including the supply chain, despite the positive social impacts that this would have for millions of people, the three elements, as listed below, are proposed as indicators for a particularly high level of social responsibility:

- Living wages; living incomes
- Grievance mechanisms which meet UNGP requirements
- Respect for and commitment to freedom of assembly

Investments in business enterprises in the high-risk sectors identified which demonstrate particular commitment to these three areas can be considered social investments.

Minimum Wage, Living Wage and Living Income

When drawing a distinction between adherence to the social minimum safeguards in the green taxonomy and the particularly high social standards of the social taxonomy, the difference between a legal minimum wage and a living wage is particularly important. The majority of countries in the world set a statutory minimum wage, which is the lowest remuneration that employers can legally pay their workers. The minimum wage serves to protect workers against unduly low pay. Worldwide, there are systems for setting minimum wages for entire countries, for a particular region, for specific sectors of the economy or for certain activities. In practice, minimum wages help to ensure that the remuneration of workers does not drop below a certain level. In some countries, it is not only public authorities that are involved in fixing the minimum wage but also the parties to wage agreements. The existence of a minimum wage does not affect the autonomy of collective bargaining.

In many countries, however, the minimum wage is below a living wage. According to the International Labour Organization (ILO), a living wage is defined as the remuneration a worker receives for a standard working week/month (not including overtime) sufficient to afford a decent standard of living for the worker and their family. In more recent debates, the Global Living Wage Coalition has elaborated on what exactly this requires: Elements of a decent standard of living include food, water, housing, education, healthcare, transportation, clothing, and other essential needs including provision for unexpected events. According to this definition, millions of workers around the world are paid wages

that cannot be considered »living«. Various attempts, for instance by textile enterprises, to tackle the problem single-handedly in their own supply chains have failed (CCC 2019: op). Some businesses therefore focus on ensuring that they pay the minimum wage, despite the fact that this is not a living wage.

Another problem is the situation of millions of self-employed smallholder farmers, for instance in the production of coffee, cocoa or rubber. The purchase prices paid here are frequently not enough to ensure a decent standard of living for the families of those farmers. Ongoing attempts to resolve the problem through price stabilisation, particularly during phases of declining agricultural commodity prices have not been very successful either, or at least they have not led to significant positive impacts for the majority of those affected. In addition to this, these smallholders depend on seasonal workers who they do not (or cannot) pay a living wage either.

Sources:

<https://www.ilo.org/global/topics/wages/minimum-wages/definition/lang--en/index.htm>

<https://www.globallivingwage.org/about/what-is-a-living-wage/>
Here too, the smallholders, themselves victims of low commodity prices, often end up violating workers' and human rights.

<https://www.shiftproject.org/sdgs/living-wages/>

2.4 Socially Sustainable Activities

Besides ensuring a high level of social safeguards are in place in high-risk sectors, additional investments are needed in social products, services and infrastructure if the SDGs are to be met.

SDGs 2-4, 6 and 7 specify economic activities that can help satisfy basic needs—sustainable food production, investments in the health, water and wastewater industries, and power generation. Other products and services related to the SDG are provision of adequate housing (11), public transport (11) as well as access to financial services and communication technologies (9) all of which the SDGs refer to in detail. It is also important to include peaceful conflict management here, given its significance as a social activity that contributes to the achievement of SDG 16.

An interesting observation here is that both the food production and social infrastructure sectors serve a dual function in that they both have substantial potential for positive social impact, while being high-risk sectors at the same time.

SDGs 1 (No poverty), 5 (Gender equality) and 10 (Reduced inequalities) in particular, however, show clearly that the fulfilment of these goals goes beyond goods, services and infrastructure. In fact, this must also involve facilitating access to these goods for disadvantaged groups through affirmative actions. It is important not to overlook this aspect in connection with socially sustainable investments, not least in light of the correlation between peace and lack of equality in access to basic goods and services.

To have some kind of orientation as to where to steer social investments, however, it is not enough to simply list social sectors. Social sustainability in itself does not come from the act of, for example, investing in the building of hospitals and wastewater treatment plants. Such undertakings become social acts only if and when they help guarantee or facilitate sustainable universal access to health services and clean water.

In some places, hospitals are not accessible to certain sections of the population, and people live in inadequate housing or in confined conditions, despite brisk construction activity in their countries. Once accessibility has been achieved, a steady flow of investments is needed to maintain that access. This applies as much to developing and emerging countries as to the Global North where social infrastructure is, to a degree, be-

coming less accessible, because upkeep and repairs are not guaranteed. When defining criteria for social investments, therefore, it is important to steer investments towards ensuring not only better access to basic social services, but also securing permanent access to those services:

»2.4 billion people lack basic sanitation, 2 billion people are unbanked, 1.2 billion people lack reliable electricity, 700 million lack access to water services, 400 million people lack essential healthcare and 121 million children are not in school.« (IFC 2019, n.p.).

Europe's social infrastructure, too, is far from universally accessible.

»Investment in social infrastructure, both private and public, is far from reaching the level needed to cater for the EU's current population, nor is the investment always appropriate in view of the changing needs and expectations over the coming decades. The current investment in social infrastructure in the EU has been estimated at approximately EUR 170 bn per annum (p.a.). The minimum financing gap in social infrastructure investment is estimated at EUR 100-150 bn p.a. and represents a total gap of over EUR 1.5 tn in 2018-2030. Since the global economic and financial crisis, the EU has been suffering from low levels of investment. In Europe, infrastructure investments in 2016 were 20% below the level experienced in 2007. Moreover, investment in social infrastructure has lagged even more behind traditional infrastructure investment. Nonetheless, the gap differs widely across regions.« (European Commission 2018: VI).

The quote from the report by the European Commission illustrates how urgent investment in social infrastructure is and it shows that this is about aligning standards of living across Europe. The differences in how the healthcare systems in EU member states coped with the COVID-19 crisis likewise show the urgent need for massive investment in the health sector.

2.4.1 Availability and Accessibility: An Important Difference for a Social Taxonomy

When distinguishing between the terms »availability« and »accessibility« in relation to social products and services, a clear distinction must be made between environmentally and socially sustainable activities. A so-

cial activity can only be deemed as such if it is available to those who are most in need. This condition does not apply to environmental activities. The production and supply of solar energy is environmentally sustainable the world over, irrespective of who has access to this power.

In order to better explain the conflicts that arise at this point, it is important to differentiate between the availability of social services and access thereto. The construction and day to day running of schools and hospitals, pharmaceutical manufacturing, wastewater treatment and power distribution, for example, make certain products and services available in that they are there for use by a given group of people. Who these products and services are ultimately accessible to, however, depends on a country's political, economic, geographical and social circumstances. There are a variety of reasons as to why access may be limited. There may be restricted access for certain population groups, or perhaps there are economic or geographical obstacles. For a social taxonomy, an important prerequisite is therefore not only to make social products and services available, but to provide improved access to the given product or service. Only if this condition is fulfilled can an economic activity to be classified as social.

2.4.2 Criteria for Social Products and Services

In light of what has been said above, the definition of socially sustainable economic activities always has two components, the first being to select the products and services, the second being to improve their accessibility.

The definition of social sustainability given here will therefore comprise two lists. The first list contains the sectors themselves, while the second list contains aspects relating to accessibility that must be factored into investments in the social products mentioned.

Provided the conditions for access outlined in 2.4.1 are met, products and services from the following overarching sectors can be considered socially sustainable,

1. Health Products and Services
2. Technical Infrastructure (only in DAC Countries)
3. Social Infrastructure
 - a) Water supply and wastewater treatment
 - b) Housing construction
 - c) Waste disposal
 - d) Energy supply (from sources that fall under the green taxonomy)
 - e) Public transport (local and long-distance)
 - f) Information and communications technology (ICT) infrastructure

4. Education (products and services)
5. SME and Micro Financing and insurance services
6. Peaceful conflict management

These sectors are only socially sustainable, however, if they are tied to a guarantee of improved, permanent access, where improved access can relate to geographical regions or sections of the population.

- Accessibility by geographic region
 - > Structurally weak regions
 - > Conflict-affected regions
- Accessibility by population group
 - > Economically disadvantaged
 - > Young people
 - > Women
 - > Elderly
 - > People with disabilities
 - > Indigenous population
 - > Ethnic, religious minorities

Access; be it newly created, improved or long-established, must be verified in corresponding impact assessments.

Here, the issue of peace is significant for two reasons. Firstly, peaceful conflict management is a social service. On the other hand, improved access to basic services is vital if existing conflicts are to be resolved and new conflicts prevented.

2.4.3 The Role of Peace in Social Investments

This proposed list of socially responsible investments incorporates the idea of peace as an important factor in violence prevention and peaceful conflict management. This comes from a conviction that peaceful co-existence, whether in the national, regional or international context, is not a given and that peaceful conflict management measures play an important role when it comes to preventing violence or defusing the potential for violence, facilitating a transformation towards positive peace. A social taxonomy that does not factor in violence prevention and conflict resolution would be incomplete.

Efforts to resolve conflicts peacefully are incorporated in SDG 16: Peace, justice and strong institutions. Peaceful conflict management employs non-military means and techniques to prevent and resolve conflicts and provide post-conflict support without the use of violence and seeks to promote the development of positive peace. In this process, the conflict parties are actively

involved in the search for a long-term viable solution. The normative foundations of peaceful conflict management also include the UN Charter, associated international conventions and, in particular, civil and human rights.

Effective approaches to peaceful conflict management exist in Germany, for example conflict counselling for municipalities and, operating on an international level, the Civil Peace Service (CPS). International organisations such as the »African Centre for the Constructive Resolution of Disputes« and »Nonviolent Peaceforce« also do their part in promoting peaceful conflict management. These two examples are nonprofit organisations that receive government backing to some degree or other. The aforementioned German organisations – the German Civil Peace Service and the Local Conflict Counselling service – are funded primarily by the German government and the EU. Investing in peaceful conflict management, in other words in peacebuilding, means investing in public goods such as clean water, universal healthcare provision and school education.

One reason why peaceful conflict management is not part of the discourse about social investment is the fact that, due to the long impact chains, returns on individual investments are difficult to quantify. Given the focus on incidents of violence, the success of violence prevention measures and constructive conflict management as well as the resultant avoidance of economic and social costs are not easy to articulate. Naturally, the social and economic costs of violent conflict are both real and significant, ranging from loss of life and the destruction of infrastructure, including social infrastructure, to treatment of trauma and the clearance of land mines and explosives, even decades after the conflict has ended. To date, however, it has not been possible to gauge what interventions might help prevent or indeed have prevented such horrific occurrences.

What we can do, however, provided the means for this are available, is look at changes in conflict structures with regard to their potential to contribute to peacebuilding. Research carried out within the World Bank Group has made considerable progress in attaching a figure to the costs that have been avoided through peaceful conflict management measures, illustrating that the costs of a violent conflict are usually disproportionately higher than those of peaceful conflict management measures that could have prevented the conflict in the first place.

According to findings from the Institute for Economics & Peace (IEP), one dollar invested in the promotion of peace saves 16 dollars in conflict-related costs.

What is important is to understand that there is a fundamental difference between peaceful conflict management and the military form of conflict mitigation that is not included in the catalogue of social investments here.

2.4.4 Social DNSH Criteria

In order to support the achievement of social equality, binding guiding principles are needed. It is important to ensure that investments are not made in business enterprises that, while operating in sectors that are oriented towards social sustainability, pursue economic practices that prevent the social objectives from being met and thus go directly against the common good. Examples of such practices are active tax evasion or tax avoidance, the formation of monopolies and other anti-competitive agreements, money laundering and the use of corruption.

Such practices result in unequal distribution of power and distort the competition on the markets, ultimately meaning that market participants oriented towards sustainable activities are systematically disadvantaged and obstructed. This is not commensurate with the aim to provide access nor is it compatible with the social taxonomy outlined here.

In addition, a social taxonomy requires green minimum safeguards. This goes beyond the scope of this study, however.

2.4.5 Proposal for a Social Taxonomy: Sectors and Criteria

List of Sectors for a Social Taxonomy at a Glance

1. Agriculture: Perennial crops plus processing
2. Agriculture: Non-perennial crops plus processing
3. Fisheries
4. Textiles incl. leather
5. Food trade
6. Metal ore mining and mineral mining
7. Automotive manufacture
8. Information and communications technology (ICT) devices
9. Research and production of medication, medical devices, products and healthcare services
10. Technical infrastructure in developing countries
11. Social infrastructure
12. Education products and services, in particular vocational training
13. Microfinancing/SME financing
14. Peaceful conflict management

Damage prevention criteria (damage in the sense of greater social inequality resulting from illegitimate practices)

1. No tax evasion
2. No monopoly formation
3. No corruption

High-risk sectors

1. Agriculture: Perennial crops plus processing
2. Agriculture: Non-perennial crops plus processing
3. Fisheries
4. Textiles incl. leather
5. Food trade
6. Metal ore mining and mineral mining
7. Automotive manufacture
8. Information and communications technology (ICT) devices

Preliminary note on High-Risk Sectors

In a social taxonomy, high-risk sectors comprise those actors, which are directly responsible, e.g. mining and food production. With these sectors being at the start of supply chains, however, other actors along the value chain share the responsibility for the production conditions. For this reason, the social taxonomy includes processing entities and retailers such as textile traders and food retailers. These entities often have higher profit margins and are more strongly oriented towards end users and their requirements. In addition, owing to the influence they have on pricing, shipment volumes and supply contract terms, these entities also have the capacity to facilitate or impede producer compliance with human rights. In light of this, the social sustainability criteria for producers, processing entities and retailers differ depending on their respective responsibilities in the high-risk sectors.

Sector 1

Agriculture: Growing of Perennial Crops

Sub-sectorsand related sectors:

Producers of perennial crops, especially tropical crops such as pineapple, coffee, cocoa, natural rubber, palm oil, tea, also stone fruit, vegetables, hazelnuts, grapes and the entities involved in processing these crops including large sections of the food industry, in particular confectionary manufacturers, manufacturers of cooking fat, biofuel and palm oil-based plastics, soap and washing powder, tea, wine, tyres, and also coffee roasteries.

Category:

Human rights compliance in high-risk sectors

Social risks

Producers

Work-related risks: child labour, forced labour, no employment contract, retention of identity documents, inadequate workplace health and safety, in particular due to the use of pesticides, inadequate protection against pesticides, excessive working hours, no living wages, violation of labour rights, in particular, trade union rights, sexual and ethnic discrimination, unfit, unsafe and cramped living conditions for (migrant/seasonal) workers, disproportionate costs of employment services, no paid leave or paid sick days, ineffective grievance mechanisms.

Particularly high risks in the purchase of products produced largely by smallholders (e.g. coffee, cocoa, natural rubber, palm oil): purchase price is not enough to enable payment a living wage.

Communities

Risks for local population residing close to large agricultural operations (esp. for palm oil, rubber): violation of traditional land rights and displacement of indigenous populations without free, prior and informed consent (FIPC), inadequate, low standard of living after resettlement, violence and intimidation towards local population and human rights activists by government or private security services, adverse impacts on livelihood and quality of life of local population, e.g. due to large-scale land cultivation using agricultural chemicals, air pollution, groundwater and soil contamination, use of scarce water resources to the detriment of local farming businesses.

Processors

Exert extreme price and time pressure, short-term supply contracts only, increasing pressure on suppliers, who pass this on to producers and workers, indirectly resulting in various labour rights and human rights violations in supply chains.

Social sustainability criteria

Producers

Guaranteed minimum wage for statutory working hours, monitoring of discrepancy between minimum wage and living wage, where applicable dedicated plan to raise wages to living wage level.

Establishment of grievance mechanism that is freely accessible to employees and in line with the effectiveness criteria of the UN Guiding Principles. Mechanisms are established that facilitate access to remedy for harm caused by human rights abuses.

Measures to achieve these goals

Compliance with the core conventions of the International Labour Organization (ILO), all workers have employment contracts with regulated working hours that do not exceed statutory limits, workplace health and safety guaranteed through dedicated training, the provision of personal protective equipment, and proper monitoring of safety meas-

ures, the provision of suitable accommodation for seasonal workers; childcare provided where needed. Provision of proper information on non-discrimination and trade union rights. Participation in industry initiatives that are committed to implementing these measures.

Standards concerning local population

Analysis of the social and environmental impacts of the construction of a new or expansion of an existing plantations, creating opportunities for participation and supporting the use thereof, especially for marginalised groups, compliance with the right to free, prior and informed consent (FIPC) for indigenous populations. Existence of a grievance mechanism that is in line with the effectiveness criteria of the UN Guiding Principles. Mechanisms in place that facilitate access to effective remedy for harm caused by human rights abuses.

Processors

Verify whether purchase prices enable payment of living wages or incomes; adjust prices paid to suppliers to enable them to pay a living wage or income.

Establishment of grievance mechanism that is freely accessible to employees of suppliers and smallholders and that is in line with the effectiveness criteria of the UN Guiding Principles. Facilitate access to effective remedy for human rights abuses.

Measures to achieve these goals

Supply chain monitoring (audits, contracts) ensures compliance with the aforementioned criteria for producers. This includes external audits covering all of these areas.

Additional criteria for purchasers of goods produced largely by smallholders

Prevention of child labour through appropriately trained employees on site, long-term supply contracts, price stabilisation measures to facilitate a living income in the event of a sharp drop in global market prices. The effectiveness of these measures is assessed regularly. The measures themselves and the results of effectiveness checks are publicly disclosed. For the companies involved, including food and confectionary manufacturers, coffee roasteries and tyre manufacturers, supply contracts must contain corresponding conditions and compliance with these conditions is verified.

Rationale

The working and living conditions in agriculture, in particular but not only in the cultivation of tropical crops, violate the human rights of millions of smallholders and agricultural workers around the world. According to FAO, 60 per cent of child labour is found in the agricultural sector (<http://www.fao.org/rural-employment/toolbox/module-4-child-labour/en/>). More than 50 per cent of the population of Southern Asia and Sub-Saharan Africa work in agriculture. Sickness and disease caused by the use of pesticides without appropriate protective equipment as well as poverty and hunger are widespread. Precarious employment relationships with no formal written contract and even forced labour and unfit accommodation for workers can particularly be found anywhere seasonal harvest workers are used, even in European agriculture. Tying investments in the agricultural sector (and in businesses involved in the processing of the goods listed here) to the aforementioned measures could potentially improve the lives of millions of workers, farmers and their families.

These measures are vital for the implementation of the following UN sustainability goals: No poverty (SDG 1), Zero hunger (SDG 2), Good health and well-being (SDG 3) and Decent work and economic growth (SDG 8).

Sector 2

Agriculture: Growing of Non-Perennial Crops

Sub-sectors and related sectors:

Production of bananas, cotton, corn, soybeans and sugarcane
Producers of food, including confectionary and soft drinks, ethanol biofuel and corn (44 per cent of corn production), Textile production: see Textiles

Category:

Human rights compliance in high-risk sectors

Social risks**Producers**

Work-related risks in the production of bananas, cotton (in particular in Pakistan, India, Uzbekistan and Turkmenistan) and sugarcane: child labour, forced labour, inadequate workplace health and safety due to the use of pesticides without appropriate protective equipment, no written contracts, excessive working hours, no living wage, e.g. due to very low piece rates, violation of trade union rights, ineffective grievance mechanisms.

Additional risks for sugarcane: cuts, snakebites, respiratory diseases and chronic kidney disease caused by heat stress (suspected).

Risks for local population in the establishment of new or the expansion of existing production sites for: bananas, cotton, corn, soybeans or sugarcane.

Communities

Violation of land rights and displacement of indigenous populations without free, prior and informed consent (FIPC), inadequate, low standard of living after resettlement, violence and intimidation towards local population and human rights activists by government or private security services, adverse impacts on livelihood and quality of life of local population, e.g. due to large-scale land cultivation using agricultural chemicals, air pollution, groundwater and soil contamination, use of scarce water resources to the detriment of local farming businesses.

Processors

Exert extreme price and time pressure, short-term supply contracts only, increasing pressure on suppliers, who pass this on to producers and workers, indirectly resulting in various labour rights and human rights violations in supply chains.

Social sustainability criteria**Producers**

Payment of living wages, establishment of a grievance mechanism that is freely accessible to employees and in line with the effectiveness criteria of the UN Guiding Principles. Facilitate access to effective remedy for human rights abuses.

*Measures to achieve these goals***Bananas, cotton and sugarcane**

Compliance with the core conventions of the International Labour Organization (ILO), all workers have written employment contracts for working hours that do not exceed statutory limits, training to ensure safe use of pesticides, the provision of personal protective equipment, and proper monitoring of protection measures, adequate supply of drinking water, guaranteed legal minimum wage for statutory working hours, even for piecework, monitoring of difference between minimum wage and living wage, where applicable dedicated plan to raise wages to living wage level. Suitable accommodation for seasonal workers. Proper information on non-discrimination and trade union rights,

business enterprises have a grievance mechanism in place which is freely accessible to employees and in line with the effectiveness criteria of the UN Guiding Principles. Mechanisms to facilitate access to remedy for human rights abuses. Participation in industry initiatives that are committed to implementing these measures.

Standards for local population (also applies to corn and soybeans)

Analysis of social and environmental impacts of the construction of a new or expansion of an existing plantation, creating participation opportunities and supporting the use thereof, especially for marginalised groups. Compliance with the right to free, prior and informed consent (FIPC) for the indigenous population. Effective grievance mechanisms and access to remedy for human rights abuses.

Processors

Verify whether purchase prices enable payment of living wages or incomes; adjust prices paid to suppliers to enable them to pay a living wage or income.

Establishment of grievance mechanism that is freely accessible to employees of suppliers and smallholders and in line with the effectiveness criteria of the UN Guiding Principles. Facilitate access to effective remedy for human rights abuses.

Measures to achieve these goals

Supply chain monitoring (audits, contracts) ensures compliance with the aforementioned criteria for producers. This includes external audits covering all of these points. Participation in sustainable industry initiatives that seek to achieve a guaranteed living wage. Participation in industry initiatives that are committed to implementing these measures.

Rationale

In many countries, sugarcane (three million workers in Brazil and Mexico, source: scielo, geomexico) and cotton (300 million workers worldwide, Fair Trade) are harvested by hand. The working conditions of harvest hands often violate fundamental human rights. There are reports of child labour and forced labour in India, Pakistan, Uzbekistan and Turkmenistan, although in some countries the problem is receding as a result of growing public attention. Labour rights violations such as the glaring health risks in sugarcane harvesting and wholly inadequate piece(wages) are the norm. Tying investments in manufacturers operating in the confectionary and soft drinks industry as well as the textile industry to the aforementioned measures could potentially rectify the injustices suffered by millions of workers and their families.

Soybeans and corn are harvested using agricultural machinery and equipment, meaning there are fewer violations of basic labour rights. In connection with large-scale cultivation of soybeans and sugarcane in Latin America and Asia, however, there are frequent reports of violations of land rights and adverse impacts on both smallholders and indigenous populations. Tying investments in businesses (and their customers) operating in the sugarcane and corn biofuel industry to the aforementioned criteria can help prevent displacement and harm suffered by smallholders and indigenous communities and reduce the probability of biofuel being produced at the expense of food security.

These measures are vital for the implementation of the following UN sustainability goals: No poverty (SDG 1), Zero hunger (SDG 2), Good health and well-being (SDG 3), and Decent work and economic growth (SDG 8).

Sector 3

Food Production

Sub-sectors:	Fishing and fish farming
Category:	Human rights compliance in high-risk sectors

Risks

Risks for local population

Overfishing especially commercial fishing in coastal waters, putting the livelihoods of self-employed fishermen and aquacultures in Chile at risk: decline in fish and shellfish stocks in free bodies of water and increased growth of algae, threatening traditional ways of life of indigenous populations.

Work-related risks**Fishing (esp. in the Pacific, Indian Ocean)**

Violations of labour rights, in particular the risk of forced labour owing to high recruitment costs, excessively long working hours, retention of wages, physical violence in the workplace, deliberate retention of food and water as a means of exerting pressure, workplace dangers, especially due to lack of life jackets and fatigue, no written employment contracts, unfit, unhygienic and cramped accommodation for workers on ships, intentional failure to rescue, aggravated by the fact that it is difficult to monitor working conditions on the high seas and outside national waters, repression of trade unions, discrimination.

Aquacultures

Divers: fatal work accidents, working in high humidity and at low temperatures.

Social sustainability criteria

Fisheries

Securing sustainable fishing in coastal waters that also takes the basic needs of coastal populations into consideration. Payment of minimum wage for statutory working hours, monitoring of difference between minimum wage and living wage, and where applicable dedicated plan to raise wages to living wage level.

A grievance mechanism is in place that is freely and fully accessible to workers and in line with the effectiveness criteria of the UN Guiding Principles. Mechanisms are established that facilitate access to remedy for harm caused by human rights abuses.

Measures to achieve these goals

Compliance with the core conventions of the International Labour Organization (ILO), all workers have employment contracts for working hours that do not exceed statutory limits, prohibition of excessively high recruitment fees.

Pre-departure registration of crews and ships, safety guarantee, e.g. through staff training, safety precautions on board, basic medical care and life vests on board.

Education and information on labour rights, support for trade union creation and activities, suitable accommodation, access to sufficient supply of clean water and food, participation in industry initiatives that are committed to implementing these measures.

Aquacultures

Respect for traditional laws, comprehensive information and culturally sensitive dialogue with local population, with particular responsibility to engage with vulnerable groups, observance of the right to free, prior and informed consent (FPIC) for the indigenous population.

Rationale

The livelihood of 10-12 per cent of the global population is dependent on fishing and aquacultures (DIH, 2019: 1). Some 58 million people work in the fishing industry. The main human rights risks are due to local fisheries being at risk of losing their livelihood, e.g. from overfishing in coastal waters. At the same time, basic human rights are being violated through, for example, forced labour. Up till now it has not been possible to effectively resolve injustices on the high seas (due to a lack of statutory monitoring). The criteria listed here could help implement the right to food security as well as basic labour rights in a sector that is vital for more than ten per cent of the global population.

These measures are vital for the implementation of the following UN sustainability goals: No poverty (SDG 1), Zero hunger (SDG 2), Good health and well-being (SDG 3), Decent work and economic growth (SDG 8), and Provide access for small-scale artisanal fishers to marine resources and markets (SDG 14. B).

Sector 4

Textiles

Sub-sectors and related sectors

Textile trade and upstream supply chain: manufacture of ready-to-wear clothing, spinning, weaving and knitting, leather production, shoemaking

Category:

Human rights compliance in high-risk sectors

Social risks

Textile trade, shoe trade

Exert extreme price and time pressure, short-term supply contracts only, increasing pressure on suppliers, who pass this on to producers and workers, indirectly resulting in various labour rights and human rights violations in supply chains.

Manufacture of ready-to-wear clothing

Payment below living wage and minimum wage level. Payment according to piece wage system with no overtime pay, excessive mandatory overtime, restricted trade union rights and restricted right to collective bargaining, gender-specific discrimination (lower wages for women, sexual harassment), no effective grievance mechanisms, often no written contracts, wage cuts in the event of sickness.

Inadequate workplace health and security measures (noise, dust, chemicals, emergency exits blocked).

Unsuitable accommodation with no access to electricity or running water.

Risk of forced labour and child labour in cotton (spinning and weaving) mills and in cotton production.

Leather production and shoemaking

specific health and security risks for workers from the use of chromium in tanneries: skin diseases or respiratory problems caused (in many cases) by inadequate protection.

Risk of groundwater depletion due to high water consumption in tannery operations; health risks if chromium ends up in the groundwater and soil as well as risk of water scarcity for local population.

Homeworkers in the shoemaking industry: payment below the legal minimum wage due to piece wage system, no workers' organisations, risk of child labour, no written employment contracts.

Social sustainability criteria

Textile trade

Verify whether purchase prices enable payment of living wages or incomes; adjust prices paid to suppliers to enable them to pay a living wage or income.

Establishment of grievance mechanism that is freely accessible to employees of suppliers and smallholders and that is in line with the effectiveness criteria of the UN Guiding Principles. Facilitate access to effective remedy for human rights abuses.

Measures to achieve these goals: appropriate supply times, measures to facilitate better order planning, adjustment of volume to supplier capacity to avoid sub-contracting, bonus payments to purchasing staff for contracts with socially sustainable suppliers, participation in industry initiatives that aim to achieve greater sustainability by incorporating specific human rights criteria into contracts, factoring human rights into negotiations and by monitoring compliance, regular on-site checks of workplace health and safety, on-site support for trade union rights. Participation in industry initiatives that are committed to implementing these measures.

Manufacture of ready-to-wear clothing

Payment of living wages, establishment of grievance mechanism that is freely accessible to employees of suppliers and smallholders and is in line with the effectiveness criteria of the UN Guiding Principles. Facilitate access to effective remedy for human rights abuses.

Measures to achieve these goals

Compliance with the core conventions of the International Labour Organization (ILO), all workers have employment contracts with regular working hours that do not exceed statutory limits, no wage cuts in the event of sickness, the right to take leave and breaks, limiting (number of) temporary work contracts, guaranteed legal minimum wage for statutory working hours, even for piecework, monitoring of difference btw. minimum wage and living wage, where applicable dedicated plan to raise wages to living wage level. Implementation of workplace health and safety measures (respiratory protection), suitable accommodation available. Proper information on non-discrimination and trade union rights.

Tracking and control of human rights compliance at other stages along the supply chain: cotton production, spinning mills, weaving mills, participation in industry initiatives that are committed to implementing these measures.

Additional measures for shoes and leather

Specific health and safety measures in tanneries (chromium tanning) are implemented. Compensation in the event of injury, use of water resources is not to the detriment of local population. Water treatment to prevent adverse impacts on water resources. Grievance mechanisms for the local population and access to remedy for human rights abuses, participation in industry initiatives that are committed to implementing these measures.

Rationale

A total of 60-70 million people worldwide, primarily women, work in the textile industry alone (Stotz, Lina; Kane, Gillian: 1). Very often they earn too little to afford a decent standard of living. For these workers and their families, an improvement in their income situation would mean a better quality of life with decent food and nutrition. Similarly, the systematic introduction of the much-needed workplace health and safety measures would significantly improve their health. Both can be facilitated by allowing unions to operate freely. Investments in businesses that support these three aspects and make notable improvements can help achieve social improvements (as defined in the UN Sustainable Development Goals) that foster decent work and economic growth, and gender equality.

These measures are vital for the implementation of the following UN sustainability goals: No poverty (SDG 1), Zero hunger (SDG 2), Good health and well-being (SDG 3), Gender equality (SDG 5) and Decent work and economic growth (SDG 8).

Sector 5

Wholesale and Retail

Sub-sectors and related sectors

Food retail

Category:

Human rights compliance in high-risk sectors

Social risks

Exert extreme price and time pressure, short-term supply contracts only, increasing pressure on suppliers, who pass this on to producers and workers, indirectly resulting in various labour rights and human rights violations in supply chains.

Social sustainability criteria

Verify whether purchase prices enable payment of living wages or incomes; adjust prices paid to suppliers to enable them to pay a living wage or income.

Establishment of grievance mechanism that is freely accessible to employees of suppliers and smallholders and that is in line with the effectiveness criteria of the UN Guiding Principles. Facilitate access to effective remedy for human rights abuses.

Measures to achieve these goals

Appropriate supply times, measures to facilitate better order planning, adjustment of volume to supplier capacity to avoid sub-contracting, bonus payments to purchasing departments for contracts with socially sustainable suppliers, incorporating specific human rights criteria into contracts and monitoring compliance, on-site support for trade union rights.

Assess the impact of the supply side or demand on local producers and retailers, participation in industry initiatives that are committed to implementing these measures.

Rationale

The food retail industry bears a lot of the responsibility for the implementation of human rights and labour rights in the agricultural sector. Compliance with human rights and labour rights is very much dependent on the structure and content of contracts, supply relationships and prices. Implementing these criteria can help put an end to poverty and precarious working conditions in the agricultural sector.

These measures are vital for the implementation of the following UN sustainability goals: No poverty (SDG 1), Zero hunger (SDG 2), Good health and well-being (SDG 3), and Decent work and economic growth (SDG 8).

Sector 6

Mining

Sub-sectors: Mining in developing and emerging countries: iron ore, bauxite, copper, tin, cobalt, coltan, lead, zinc, nickel, platinum, lithium, micaceous, palladium, rare earths, tantalum and tungsten

Category: Human rights compliance in high-risk sectors

Social risks

Indirect support of armed conflicts which are financed through mining and trading in metals as raw materials.

Licensing fees too low or not applied in the affected regions, corruption, tax payments reduced to the detriment of the country, e.g. very low intra-company transfer prices.

Displacement of local (indigenous) population due to large-scale land clearance, violation of traditional land rights without free, prior and informed consent (FIPC), inadequate, low standard of living after resettlement, violence and intimidation practices towards local population and human rights activists by government or private security services, adverse effects on livelihood and quality of life of local population, e.g. long-term air pollution, groundwater and soil contamination from chemicals used (e.g. mercury, cyanide) and mining waste containing heavy metals or which are highly acidic (mine drainage water, detrital rock, retention basins).

Forced labour, child labour (artisanal mining).

Violation of labour rights

No living wage, excessive working hours, inadequate adherence to safety standards, high accident risk (15,000 fatalities every year), workers have inadequate protective equipment to protect them from dust, chemicals and noise, unsuitable accommodation, denial of trade union rights

Social sustainability criteria

Measures to achieve these goals

Guarantee that mining does not support military groups, Disclose all payments to government bodies in the country where the mining operations are taking place to demonstrate that local, regional and national level has an appropriate share of profits. This is especially important for the local population affected.

Country-based tax reporting.

Compliance with the standards of the World Bank, e.g. consultations are held with the affected population and the findings published, those impacted are properly compensated, free, prior and informed consent (FIPC) for the local population affected, use of local workforce, implementation of measures to improve the lives of the local population especially in artisanal mining, protection for human rights activists.

Guaranteed minimum wage for statutory working hours; if the legal minimum wage is not equal to a living wage: development and implementation of a plan of action to achieve payment of a living wage.

Establishment of a grievance mechanism that is freely accessible to employees and in line with the effectiveness criteria of the UN Guiding Principles. Facilitate access to effective remedy for human rights abuses.

Additional requirements:

Compliance with the core conventions of the International Labour Organization (ILO), all workers have employment contracts with regular working hours that do not exceed statutory limits, workers are provided with personal protec-

tive equipment, dedicated training and protection measures are duly monitored, workers are provided with suitable accommodation. Proper information on the right to non-discrimination and trade union rights.

Participation in industry initiatives that are committed to implementing these measures.

Rationale

Metal ore mining in developing and emerging countries is associated with significant of human rights risks. At the same time, this industry has the potential to make a significant contribution to the development of these countries. A total of one per cent of the global workforce works in the mining industry (<https://www.bbc.com/news/world-latin-america-11533349>) and numerous people living in the vicinity of mineral mines are impacted by this. Taking the legitimate interests of the local population and workers into account could help improve millions of people's lives.

These measures are vital for the implementation of the following UN sustainability goals: No poverty (SDG 1), Zero hunger (SDG 2), Good health and well-being (SDG 3), and Decent work and economic growth (SDG 8).

Sector 7

Automotive Industry

Category: Human rights compliance in high-risk sectors

Social risks

(See Mining) Responsibility in particular in relation to the raw material: steel, aluminium, copper, natural rubber, lead, palladium, rhodium, platinum, chromium, cobalt, leather molybdenum, niobium, antimony, magnesium.

See Agriculture: natural rubber.

See Textiles: Leather.

Social sustainability criteria

Measures to achieve these goals

Purchasing practices enable suppliers to comply with the UN Guiding Principles, in particular facilitating payment of a living wage at every stage of the supply chain (prices, supply times, order deadlines, contract terms). Grievance mechanism is in place.

Supply chain is monitored for potential human rights risks, origin of raw materials is known, risk of human rights violations is reduced, e.g. by checking the source of suppliers' raw materials.

Transparent, public reporting on supply chains, presentation of in-house risk analyses, audits, findings and measures.

Participation in industry initiatives that are committed to implementing these measures.

Rationale

Significant human rights risks in the supply chains for the automotive sector, especially in connection with metal ore mining. Given the high consumption of these raw materials in automotive manufacturing, this industry has a lot of influence and can use this to promote the protection of human rights. Alongside manufacturers of ICT devices as well as plant and equipment manufacturing and the construction industry, the automotive industry bears the primary responsibility for putting a stop to displacement and adverse impacts on the lives of those residing in mining regions, mitigating conflicts that are financed through trade in raw materials and violations of the core conventions of the International Labour Organization (ILO) in the mining industry, and ensuring fair treatment of those who make a living from artisanal mining. The automotive industry has an equally significant influence on the production of rubber for vehicle tyres.

These measures are vital for the implementation of the following UN sustainability goals: No poverty (SDG 1), Zero hunger (SDG 2), Good health and well-being (SDG 3), and Decent work and economic growth (SDG 8).

Sector 8

Information and Communications Technology (ICT) Devices

Sub-sectors: Production and trade in ICT devices

Category: Human rights compliance in high-risk sectors

Social risks

(See Mining) Responsibility in particular in relation to the raw materials: tantalum, tin, indium, rare earths, ruthenium, silver, cobalt, zinc, nickel, copper, gallium, germanium, bismuth, antimony ions, palladium, magnesium, beryllium, lithium.

In manufacturing on the supplier side (especially suppliers from Asia): inadequate health and security in the workplace (risks from chemicals, psychological and physical stress), mandatory, excessive overtime, no living wages, ineffective grievance mechanism, no freedom of association, no collective bargaining, excessively high recruitment fees, risk of forced labour in the form of (mandatory) work placements for students (China) and excessively high recruitment fees (Thailand), failure to comply with health-related restrictions on the employment of young people, illegal forms of temporary employment with no social security safety net, discrimination of women, e.g. mandatory pregnancy tests and lower wages.

Social sustainability criteria

Production

Origin of raw materials is known. Supply chains are organised such that they factor in the risk of human rights violations and reduce these significantly, e.g. by monitoring supplier sources.

Retail

Monitor origin of raw materials, disclose in-company risk analyses, audits, findings and measures.

Verify whether purchase prices enable payment of a living wage; check whether a living wage is being paid in supplier factories and, if it is not, develop a plan of action to rectify this.

Establishment of a grievance mechanism that is freely accessible to employees and in line with the effectiveness criteria of the UN Guiding Principles. Facilitate access to effective remedy for human rights abuses.

Individual measures to help achieve this might include: appropriate supply times, measures to facilitate better order planning, adjustment of volume to supplier capacity to avoid sub-contracting, bonus payments to purchasing staff for contracts with socially sustainable suppliers, participation in sustainable industry initiatives whose goal it is to ensure payment of a living wage, incorporating specific human rights criteria into contracts and negotiations and monitoring compliance, regular on-site checks on health and safety in the workplace, on-site support for trade union rights.

Participation in industry initiatives that are committed to implementing these measures.

Rationale

Owing to long and diverse supply chains in the ICT industry, this sector bears significant responsibility for preventing human rights violations in connection with raw materials mining and ensuring compliance with human rights and labour rights in the production of ICT devices. With the role this sector plays in the procurement of these raw materials and the purchase of these devices, it has substantial influence and can use this to ensure that human rights are being respected. In addition to the automotive industry, the ICT industry has the primary responsibility for putting a stop to displacement, preventing adverse impacts on the lives of those residing in mining regions, preventing conflicts that are financed through trade in raw materials and violations of the core conventions of the International Labour Organization (ILO) in the mining industry, and ensuring fair treatment of those who make a living from artisanal mining. The ICT industry also has extensive responsibility for employees in the IT sector, many of whom do not earn a living wage and have no access to effective grievance mechanisms.

These measures are vital for the implementation of the following UN sustainability goals: No poverty (SDG 1), Zero hunger (SDG 2), Good health and well-being (SDG 3), and Decent work and economic growth (SDG 8).

Preliminary Note on Social Products and Services

Social products and services are broken down into the following six sectors:

1. Health (products and services)
2. Technical infrastructure
3. Social infrastructure
4. Education
5. Financial services
6. Peaceful conflict management

Social risks that must be ruled out for an investment to be considered socially sustainable are also listed for the aforementioned areas. With the exception of peaceful conflict management, another criterion that applies to social sustainability is accessibility (see 2.4.1). Measures in these sectors are only considered socially sustaina-

ble if they facilitate access or secure this access once it has been created. By way of example, the construction of a wastewater treatment plant in a region where no such plant has existed hitherto would be considered socially sustainable. Covering the costs of maintaining this plant, however, is also considered a social activity. Activities in these sectors that restrict or hinder access would not be considered socially sustainable. For instance, a wastewater treatment plant that only treats wastewater from a select, privileged section of the population, because no other area is connected to the sewerage system, is not deemed to be socially sustainable.

Sector 9

Health: Products and Services

Businesses operating in the field of:

- Research, manufacture and sale of pharmaceutical products
- Research, production and sale of medical implants
- Research, production and sale of medical equipment and devices
- Production and sale of medical products (e.g. protective clothing)
- Running hospitals, care homes, doctors' surgeries and health centres
- Health insurance

Category:

Sectors with significant potential for positive social impact and risks.

Social risks**Pharmaceutical products**

Gap in access: high-price medication (due to the patent system) blocks access to essential healthcare for the poor; plus: the monopolization the supply of certain medications is exploited.

Gap in research: inadequate research into often neglected, poverty-related diseases.

Relocation of drug trials to low-wage countries, exploitation of the financial hardship of people in these countries.

Participants in drug trials are not properly informed prior to test begin.

Medical implants

Implants: Defective, harmful or ineffective implants.

Limited access to implants.

Gap in research: inadequate research into implants for small population groups.

Medical equipment and devices

Surgical instruments: child labour, excessive working hours, no living wage.

Human rights violations in upstream supply chains, especially in the context of metal ore mining (see Mining and ICT).

Medical products

Medical protective equipment: excessively high recruitment fees, excessive working hours, no living wage.

Social sustainability criteria**Pharmaceuticals**

For new drugs being tested on people, the principle of free, prior and informed consent (FIPC) is observed.

Access to medication is improved in relation to rare diseases and pricing. This is evaluated using the criteria set down in the Access to Medicine Index:

1. Universal access to medicine management
2. Market influence and compliance
3. Research & development on rare/poverty-related diseases
4. Pricing, manufacturing & distribution
5. Patents and licensing , e.g. to enable generic supply
6. Capacity building: support for the development of healthcare systems and research activities in low and middle-income countries
7. Product donations

Implants

Access to implants is improved with regard to rare diseases and pricing. This is evaluated using the following criteria:

1. Research & development on rare/poverty-related diseases
2. Pricing and distribution
3. Capacity building: support for the development of healthcare systems and research activities in low and middle-income countries
4. Product donations

Medical equipment and devices

Human rights and labour rights violations in production are not permissible. Access to medical equipment and devices is improved through pricing and product donations.

Medical products

Human rights and labour rights violations in production are not permissible. Access to medical equipment and devices is improved through pricing and product donations.

Running of hospitals, doctors' surgeries and health centres

Access to medical services is improved or maintained. This can be achieved, for example, by improving geographical spread, or economic access or by maintaining an existing high level of economic and geographical accessibility.

Health insurance

Health insurance that facilitates access to medical products and services for disadvantaged groups of the population, e.g. poorer strata of the population, the elderly, the chronically ill.

Rationale

Medical products and services and health insurance have a high social value. In the production and testing of medical products, however, serious human rights violations can occur. This must be prohibited if this activity is to be considered socially sustainable. Similarly, simply making medical products available does not make this a socially sustainable activity. Social sustainability in the health sector can be defined as improvement to access to socially sustainable products and services or, in situations where widespread access already exists, a guarantee of permanent access through corresponding research and training programmes, maintenance and renovation.

These measures are vital for the implementation of the following UN sustainability goals: No poverty (SDG 1), Good health and well-being (SDG 3), Decent work and economic growth (SDG 8), and Reduced inequalities (SDG 10).

Note on the Infrastructure Sector

The Infrastructure sector was divided into technical infrastructure projects such as the construction of roads, ports, hotels and sports venues and social infrastructure projects such as water infrastructure, public transport and education. In both of these areas, the risk of human rights violations is especially high in developing and emerging countries. At the same time, such projects are often very beneficial from a social perspective because they help boost economic inclusion for sections of the population. This kind of impact is not as pronounced in richer countries. Investments in technical infrastructure are only socially sustainable if and when they are

implemented in a country that receives Official Development Assistance (DAC country). Social infrastructure projects, on the other hand, i.e. relating to drinking water supply and treatment, public transport, healthcare and education, or energy generation, can be the object of social investments in any country, provided the relevant social criteria are met. The main criterion here is that the measures improve accessibility of basic products and services.

Sector 10

Construction and Infrastructure I: Technical Infrastructure

Sub-sectors and related sectors:

- Technical infrastructure with no direct positive social impact: ports, airports, hotels, sports arenas, industrial facilities, roads, bridges
- Engineering and construction work involved in the planning, implementation and monitoring of such infrastructure projects as well as dedicated investment vehicles for infrastructure projects and related insurance services
- Dedicated investment vehicles for infrastructure projects that meet these criteria

Category:

High-risk sectors in DAC countries with potential for social impact.

Risks**Local level**

Violation of land rights and displacement of indigenous populations without free, prior and informed consent (FPIC), inadequate, low standard of living after resettlement, violence and intimidation practices towards local population and human rights activists, adverse effects on livelihood and quality of life of local population due to air pollution, groundwater and soil contamination and large influxes of temporary workers.

Child labour/forced labour, inadequate workplace health and safety, no written contracts, excessive working hours, no living wage, violation of trade union rights, ineffective grievance mechanisms.

Regional level: corruption, construction project benefits mainly businesses and privileged sections of the population, not the disadvantaged.

National level

Corruption, disproportionate distribution of tax burdens and income between the public and private sector, e.g. through tax relief schemes and investment agreements that do not offer the state favourable conditions. Investment agreements limit possibilities for participation and hinder human rights compliance and transparency with respect to the population.

Social sustainability criteria

Construction project is implemented in a country that receives Official Development Assistance (DAC country).

The project meets the eight IFC Performance Standards: management of risks and impacts, labour and working conditions, resource efficiency, community health and safety, resettlement, biodiversity, indigenous peoples, and cultural heritage.

Transparency for contracts with and cash flows to state institutions, transparent public tenders to prevent corruption.

An impact assessment has been carried out and the results show clear positive impacts for disadvantaged and marginalised sections of the population, especially in areas located in the vicinity of the construction project site. This can be seen in the number of decent jobs created as well as in growth in local (private) income.

See as well: German Institute of Human Rights 2018

Rationale

Technical infrastructural measures with limited social impact are associated with considerable human rights risks. They also, however, offer opportunities for disadvantaged sections of the population. Both the risks and the benefits are particularly prevalent in DAC countries. This is why investments in this category can only be considered socially sustainable if they are made in these countries and provided the criteria above have been met. The criteria aim to ensure that risks are mitigated, and investments focus on such projects that can verifiably bring about positive social impacts for disadvantaged sections of the population.

These measures are vital for the implementation of the following UN sustainability goals: No poverty (SDG 1), Decent work and economic growth (SDG 8), Industry, innovation and infrastructure (SDG 9), and Sustainable cities and communities (SDG 11).

Sector 11

Construction and Infrastructure II – Social Infrastructure

Sub-sectors and related sectors

Engineering and construction services related to the planning, implementation and monitoring of large-scale infrastructure projects as well as specific investment vehicles for infrastructure projects with a social impact that meet these criteria, related insurance (all countries)

Technical infrastructure with social impact:

- Wastewater treatment and drinking water supply
- Waste disposal
- Power generation from sources in the green EU taxonomy
- Public transport (local and long-distance)
- Cycle paths
- Social infrastructure (construction of educational institutions and hospitals)
- Social housing construction
- ICT infrastructure

Category:

Sector with human rights risks and positive social impact.

Risks

Local level

Especially in developing and emerging countries: violation of land rights and displacement of indigenous populations without free, prior and informed consent (FPIC), inadequate, low standard of living after resettlement, violence and intimidation practices towards local population and human rights activists, adverse effects on livelihood and quality of life of local population due to air pollution, groundwater and soil contamination, and large influxes of temporary workers, corruption.

Breaches of the core conventions of the International Labour Organization (ILO), unsuitable accommodation, inadequate workplace health and safety for workers.

Regional level: corruption, construction project benefits mainly businesses and privileged sections of the population, not the disadvantaged.

Regional level

corruption, construction project benefits mainly businesses and privileged sections of the population, not the disadvantaged.

National level

Corruption, inappropriate distribution of tax burdens and income between the public and private sector, e.g. through tax relief schemes and investment agreements that do not offer the state favourable conditions. Investment agreements mean limited participation options and limited transparency for the population and make human rights compliance hard to achieve.

Social sustainability criteria

Local level

The project meets the eight IFC performance standards: management of risks and impacts, labour and working conditions, resource efficiency, community health and safety, resettlement, biodiversity, indigenous peoples, and cultural heritage.

Regional and national level

Transparency over contracts with and cash flows to state institutions, transparent public tenders to prevent corruption,

all of the businesses involved publish reports on the country-specific tax payments.

The construction project facilitates access to clean water, clean electricity, public transport, waste disposal, educational institutions and hospitals, suitable accommodation and ICT services and/or the construction project ensures that universal access to these goods/services is maintained permanently.

See as well: German Institute of Human Rights 2018

Rationale

Infrastructure measures that have a significant social impact go hand in hand with human rights risks. They also offer opportunities, however—for example with regard to implementing the right to clean water, access to clean energy and education. The criteria aim to ensure that risks are mitigated, and investments focus on such projects that can verifiably bring about positive social impacts for disadvantaged sections of the population.

Projects in this category are considered socially sustainable in every country because, unlike technical infrastructure with no social impact, they always have social value.

These measures are vital for the implementation of the following UN sustainability goals: No poverty (SDG 1), Good health and well-being (SDG 3), Quality education (SDG 4), Clean water and sanitation (SDG 6), Affordable and clean energy (SDG 7), Decent work and economic growth (SDG 8), Industry, innovation and infrastructure (SDG 9), Sustainable cities and communities (SDG 11), Responsible consumption and production (SDG 12), and Climate action (SDG 13).

Sector 12

Education: Products and Services

Businesses operating in the field of:

- Establishment and running of primary and secondary schools and universities
- Vocational educational opportunities
- Dedicated educational opportunities that facilitate access to the labour market
- Production and sale of educational materials
- Development and production of digital educational resources
- Adult education
- Teacher training
- Education loans

Category: Sectors with significant potential for positive social impact.

Risks

Limited access to education, due to high fees or poor-quality education.

Criteria

The measure seeks to improve and maintain access to all forms of education.

The measures are geared towards specific educational goals.

Rationale

Social sustainability means providing opportunities for high-quality primary, secondary and tertiary education. Sustainable investments should improve and/or maintain access to all forms of education. Especially important here is the provision of vocational educational opportunities that facilitate access to the job market. The quality of education is measured on the basis of the specific educational goals.

These measures are vital for the implementation of the following UN sustainability goals: No poverty (SDG 1), inclusive and equitable quality education (SDG 4), Decent work and economic growth (SDG 8), and Industry, innovation and infrastructure (SDG 9).

Sector 13

Financial Services

Sub-sectors

- Microloans, micro-savings, micro-insurance
- SME financing
- Financial services and financing in rural areas
- Financing decentralised regional administrative bodies
- Migrant remittances

Category:

Sector with social impact and human rights risks

Risks

Over-indebtedness on the part of microloan customers leads to greater poverty, excessively high loan interest rates, inadequate information and advice for microloan customers, hidden costs, excessively high fees, microloans granted for consumer purposes, loans granted with no knowledge of customer debt situation, high fees for migrant remittances.

Social sustainability criteria**Microloans**

Adhering to Client Protection Principles, no investments in markets that have large flows of microfinance funds (e.g. acc. to the Mimoso Index).

SME financing

Financing small and medium-sized enterprises.

Compilation and publishing of impact (assessment) reports, e.g. on job creation or development in rural areas.

Affordable secure system for migrant remittances.

Rationale

Microloans, micro-savings and micro-insurance are seen as effective ways of reducing poverty in the world today. Recurrent crisis-afflicted developments in Africa, Asia and Latin America, however, show that this approach is not without its risks. For microfinancing to be considered socially sustainable, the risks inherent in microfinancing have to be largely eliminated. Other criteria are dedicated financial services for rural areas and SMEs as well as financing options for decentralised regional administrative bodies. The total sum of remittances made by migrant workers to their families is greater than flows of funds from development assistance. Migrant remittances thus play a major role in the reduction of poverty. Existing systems, however, tend to be expensive, thus diminishing the positive impact of those remittances.

Urban development

These measures are vital for the implementation of the following UN sustainability goals: No poverty (SDG 1), Decent work and economic growth (SDG 8).

Sector 14

Peaceful Conflict Management

Category: Social activity

Risks

Do No Significant Harm (DNSH) principles must be integrated.

Criteria

Measures to strengthen relations and communication paths between conflicting parties, strengthen the capacity to manage conflicts and the necessary institutional framework. Orientation towards principles based on the logic of peace: violence reduction through prevention, conflict transformation, dialogue-oriented approaches, orientation towards international standards, openness towards learning processes.

Rationale

Maintaining peace both between and within countries is one of the most important social goods and requires all of our efforts. The number of people in the world who suffer a violent death is on the rise (“Hideg, Gergely, 2019: 4”). At the same time, the number of weapons is increasing worldwide. What is profitable to many businesses, is a loss for mankind. At the same time, attempts to mitigate conflicts without the use of arms, defuse potential violent conflicts and put an end to existing violent conflicts, including providing the necessary social and psychological post-conflict support, are systematically underfunded.

»Rather than responding to the political symptoms of political conflicts, current approaches factor in not only quiet diplomacy, but also the structural and systemic dimension that tries to get to the grassroots of conflict, whether socio-economic, cultural, environmental, institutional or other causes.« (see: Annan June 2001: 36).

Against this background, a social taxonomy must encompass investments in peaceful conflict management, especially in human resources, education, institutions, dialogue and meeting spaces as part of long-term financing for programmes that take preventative action in high-risk areas and situations with a view to de-escalation and conflict transformation.

These measures are vital for the implementation of the following UN sustainability goals: Partnerships (SDG 17) (in combination with SDG 16; Peace, justice and strong institutions).

2.4.6 Outlook

The establishment of a green taxonomy is an important milestone along the path towards sustainable investment. Given the complexity and urgency of action, the decision to initially focus solely on environmental issues is the right one under the current circumstances. This focus must not be misconstrued as a decision to put social aspects on the back burner. On the contrary, a green taxonomy opens up all sorts of possibilities for addressing all manner of social issues. The next step—amidst a coronavirus-induced social crisis—will be about putting the same dedication, ambition and expertise into the establishment of a social taxonomy.

Naturally, there are many different ways to achieve a universally accepted social taxonomy, just as there are different, thoroughly practicable ways of linking social and green taxonomies. The present study is but one proposal. And others will follow—proposals that may well be more strongly oriented towards existing systems used to measure social sustainability.

Sustainability rating agencies, for instance, have achieved considerable success in implementing the widespread use of social indicators in businesses. There are also various methods where company activities and

investment are measured against the UN Sustainable Development Goals.

The basis of this study, however, is the green EU taxonomy, which, transcending existing classification systems and criteriology, is rooted in the need for environmental turnaround. This study also attempts to arrange the most pressing social issues into a system that is similar to the EU taxonomy in order to provide some type of guidance as to how to steer capital flows towards a sustainable future.

In the social taxonomy proposed here, this means the exercise of human rights due diligence, honing in on those aspects of human rights due diligence that impact so many people's lives yet are especially hard to implement.

These issues are the payment of a living wage/income, grievance mechanisms and the right to form and join a trade union. Another key approach to achieving social progress is the promotion of targeted investment in securing access to social products and services. The study shows how this could be achieved in 14 key sectors.

The sectors themselves were selected on the basis of two criteria: risks and the importance of the goods from this sector. It would be entirely feasible to add further sectors such as tourism (incl. the hotel business) or the toy industry where human rights violations are widespread. In terms of positive social impact, areas such as telemedicine could also be included.

Further research is needed to investigate the interplay between green and social taxonomies. The proposal to create two separate taxonomies, each providing definitions of social and environmental sustainability and setting minimum safeguards for the other, is but an initial approach that cannot provide answers to all the questions relating to the interplay between environmental and social issues. More precise demarcations are needed, especially in those sectors which feature in both taxonomies, e.g. drinking water supply, power supply or wastewater treatment. Particular attention must also be paid to sectors such as the construction industry where high social and environmental risks and opportunities coincide. Another important area which needs to be examined in more depth is the distinction between social minimum safeguards found in the green taxonomy and the stringent human rights requirements in a social taxonomy. Last but not least, environmental minimum safeguards still need to be defined for this social taxonomy.

All we can hope is that the European Commission dedicates itself to finding answers to these questions and that, sometime in the not too distant future, we will see a widely accepted taxonomy for sustainable economic activities that places equal importance on social and environmental sustainability.

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Access the bibliography by following link or by scanning the QR-code below:
<https://www.suedwind-institut.de/files/Suedwind/Publikationen/2020/Bibliography%20Human%20Rights%20Are%20Investors%E2%80%99%20Obligations.pdf>



Human Rights Are Investors' Obligations

A Proposal for a Social Taxonomy for Sustainable Investment

In June 2020, the EU Parliament adopted the EU taxonomy for „Sustainable Finance“. All sustainable investment funds offered in the EU will have to report how closely they comply with this classification for sustainable economic activities. While the draft deals extensively with ecological sustainability, social issues have not been given sufficient consideration. Starting from this gap, SÜDWIND has developed a „social taxonomy“ for sustainable investment. Especially in times of the Corona Pandemic, it becomes clear that capital must be invested where it is making a difference, ecologically and socially. The UN's Sustainable Development Goals (SDG) as well as the UN Guidelines on Business and Human Rights provide orientation for the location of social sustainability.

Reference:
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