APPLICATION OF THE LAW ON THE CORPORATE DUTY OF VIGILANCE

ANALYSIS OF THE FIRST PUBLISHED PLANS

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FRENCH LAW ON THE CORPORATE DUTY OF VIGILANCE FOR PARENT AND INSTRUCTING COMPANIES (Summary)

The French law on the corporate duty of vigilance for parent and instructing companies was adopted on 27 March 2017. Pursuant to this law, leading French companies are required to establish and implement a vigilance plan designed to identify and prevent severe impacts on human rights, the health and safety of persons and the environment. The activities covered by the plan are those of the company, the subsidiaries that it controls and the subcontractors and suppliers with whom there is an established commercial relationship. This vigilance plan must include (i) risk mapping (cartographie de risques) intended for the identification, analysis and prioritisation of risks; (ii) processes for regularly assessing the situation of the subsidiaries, subcontractors and suppliers affected by the plan; (iii) tailored actions to mitigate risks and prevent severe impacts; (iv) an alert mechanism (mécanismes d’alerte et de recueil des signalements); and (v) a system for monitoring implementation measures and evaluating their effectiveness. The plan should be developed together with the company’s stakeholders.

The plan must be made public in companies’ annual management reports, starting with the report covering the financial year underway at the time of publication of the law (in most cases, this will be the report covering 2017, published in 2018). In subsequent years, an annual summary describing implementation of the plan must also be published.


PURPOSE OF THE STUDY

The purpose of this study is to highlight the initial trends showing how businesses apply the French law on the corporate duty of vigilance and to identify any challenges they may face, in order to assist them as they develop their approaches.

The study is based on an analysis of the initial plans published in companies’ registration documents* and on the experience and feedback of the authors: EDH (Entreprises pour les droits de l’homme - Businesses for human rights), an association that helps French businesses formalise and implement the human rights component of their vigilance approach, and B&L Evolution, a consulting firm specialised in assisting companies with their CSR approach. B&L Evolution contributed to the environmental section of this study. From a methodological point of view, the authors only examined the registration document chapters explicitly identified as addressing the French law. They did not analyse information published elsewhere in the registration document, even when it was substantively linked to the vigilance plans.

The authors stress the fact that this is a new practice for the companies and that they were given only a short time within which to draft their vigilance plans. They also draw attention to the fact that this year’s publication of the plan concerns only the plan itself and does not yet address its operational implementation.

*Analysis of registration documents filed with the French financial markets regulator (Autorité des Marchés Financiers – AMF) as of 13 April 2018, i.e., 64 registration documents (the list of companies is provided as an appendix hereto). In these 64 registration documents, 55 companies have included a chapter specifically identified as addressing the French law. The study concerns these 55 chapters. It will be updated as necessary after the publication of other vigilance plans (estimated to be from 150 to 200 companies in total).
Companies are aware of the new regulatory requirements and have incorporated them into their registration documents (stand-alone chapters identified as being in response to the law and structured in line with the various steps of the law).

Most of the vigilance plans are the fruit of a collaborative approach within the companies, which is more often than not coordinated by CSR or sustainable development departments. Certain companies have already had the plan validated at the highest levels of the company and have presented it to stakeholders.

The adoption of the law has resulted in the development of new practices in addition to existing approaches already in place. The law in fact provided an opportunity for businesses to examine and consolidate their existing practices. In 2017, companies identified and defined the measures to include in the vigilance plan and began taking action. In 2018 they will be able to enhance certain aspects of the vigilance approach while defining and rolling out operational measures.

The initial actions by companies concern approaches to managing supplier relations. Most companies state that they are already proficient in human rights and environmental approaches.

As companies make progress in developing their approaches, the most detailed measures of the vigilance plan are the risk mappings (first stages of the vigilance process) and the overall risk management responses, often reflected in existing approaches. Some companies provide information about their operational responses to identified challenges as well as measurement and monitoring systems.

In most cases, the alert mechanisms are based on existing ethics alert procedures, which may or may not have been revised. More than half the companies identified the question of whether to open up these mechanisms to external individuals as a challenge.

Concerning approaches related to managing supplier relations, the vast majority of companies have performed or initiated new efforts to identify at-risk suppliers (reviewing existing procedures or establishing a new mapping procedure) as part of applying the law on the corporate duty of vigilance. The main criteria used to identify at-risk suppliers involve geographic location and the suppliers’ business activity. For most of the companies, the risk mappings are currently being drawn up. For the time being, companies’ risk management responses still fall within the scope of existing responsible procurement approaches.

Concerning approaches related to human rights and the environment, companies rely more extensively on existing procedures to identify challenges, and on global policies already in place. The challenges they mention are often general and so far only a few companies have provided information on risk identification methods and the specific results of these analyses.

For human rights, the main issues companies mention are the fundamental rights of employees (prohibition of forced and child labour, trade union freedom and non-discrimination) and to a lesser degree the impacts on local communities. The risk management responses often involve global, group-wide policies (HR, ethics, CSR, etc.), which are part of overall risk identification or internal control processes. Some companies have developed targeted, operational responses and have already integrated human rights into their internal processes (new project assessment, for example).
In order to interpret and apply the law on the corporate duty of vigilance, companies may refer to international CSR standards (UN, OECD) and the related application guides, which in many cases they have already undertaken to comply with. The French law is a legal transposition of the principles contained in these standards, which were referred to repeatedly during the preparatory and parliamentary work on the law. They are also used by stakeholders such as extra-financial rating agencies to assess companies’ CSR practices.

**Formalising and overseeing the approach:**

- Coordinating the various divisions/subsidiaries impacted by the measures included in the vigilance plan in order to ensure the broadest possible implementation.
- Involving the operating divisions and functions in defining and rolling out the operational measures of the vigilance plan, both internally and throughout the value chain.
- Sending a strong signal of support for the approach at the highest levels of the company.
- Identifying the relevant stakeholders as regards the company’s areas of vigilance (at the corporate and operational levels) and involving them in the vigilance approach.
- Incorporating the vigilance plan into the company’s overall corporate responsibility approach.
- Defining the mechanisms for assessing and monitoring the vigilance plan, to ensure that it is correctly rolled out internally, and reporting on its progress.

**Identified Challenges and Recommendations**

For the environment, the main risks mapped across all sectors are soil, air and water pollution, threats to biodiversity and waste management. Half of all companies reviewed are developing global CSR responses to these risks (internal audits, responsible procurement clauses, etc.) with the primary objective being to monitor supplier and subcontractor practices. Around 20 companies have already implemented precise and specific mitigation actions to limit environmental impact.
Identifying and managing risks (internal activities and value chain):

- Identifying the risk of adverse impacts on individuals and the environment as opposed to risks for the company or only the challenges identified by stakeholders (materiality analysis).
- Ensuring that risk identification processes are as precise as possible in order to prioritise and define risk management actions and justify choices.
- Deploying risk mapping as close to the ground as possible to ensure that the issues, which are by nature operational, are fully taken into account.
- Providing specific solutions in line with the identified challenges, and at the appropriate level.
- Identifying the risks and assessing them on a regular basis as regards the company’s existing business activities/incorporating risk analysis for new business activities as early as possible.
- Taking a targeted approach to training and awareness building among employees and even business partners.

Alert mechanisms:

- Outlining the various regulatory requirements related to the duty of vigilance and the French Sapin II Law.
- Communicating to potential users in an appropriate manner and giving them confidence in the alert mechanism.
- Ensuring that the alert mechanism is easy for all company stakeholders to use and if necessary adding other mechanisms to complete it.

Public reporting:

- Articulating the various disclosure requirements affecting French companies.
- Providing evidence of the vigilance plan’s credibility to external stakeholders by listing the measures included in the plan, the challenges faced by the company and the choices it has made; setting goals and developing indicators in order to report on progress.
Summary:

Most of the companies impacted by the law have chosen to respond with a stand-alone chapter in the registration document, identified as such and structured in line with the required steps of the vigilance plan.

In almost all cases, the vigilance plan is outlined in the chapters regarding social and environmental information and, to a lesser extent, in the sections regarding risk factors for the businesses.

Comments:

This new regulatory requirement has been effectively taken into account by companies and included in the registration documents. In view of the topics that are covered and based on existing approaches, most companies included the plan in the CSR section.

Starting next year, these same companies will be required to produce an extra-financial performance statement containing a description of their vigilance approach, which may refer to the vigilance plan*.

Challenge concerning how the various disclosure requirements are developed, especially since there is no overlap in the information required by the texts.

*article L 225-102-1, III of the Commercial Code: "the declaration of extra-financial performance may refer, if applicable, to the information mentioned in the vigilance plan (…)". 
II. DRAFTING THE VIGILANCE PLAN

OVERSIGHT AND GOVERNANCE OF THE VIGILANCE PLAN

Summary:

- When specifically mentioned by the companies, the CSR or Sustainable Development departments are usually in charge of overseeing the approach within companies.
- Around half of the companies refer to the creation of an inter-department working group or committee to develop or monitor the vigilance plan.

Departments involved in working groups

- These working groups are largely comprised of departments having ownership of the areas of vigilance covered by the plan, the procurement, legal or compliance departments and the risk, audit or internal control departments.
- One in seven companies refers to the involvement of business lines or operational divisions in the composition of these working groups.

Comments:

- In view of the challenges addressed by the vigilance plan (human rights, health and safety of persons and the environment), its ambit (internal activities and supplier and subcontractor practices) and the processes required (risk, control, etc.), numerous departments may potentially be involved in defining and implementing the plan.

In-house challenge to coordinate the various functions to ensure they have a common understanding of the plan’s objectives and the resources for its implementation and to foster a global, coordinated and cross-functional approach within the company.
OVERSIGHT AND GOVERNANCE OF THE VIGILANCE PLAN

Although the plan must by definition be driven by the parent company, which has legal responsibility for it, the risks that the company seeks to identify and control are necessarily operational in nature. The vigilance plan and the processes it sets out must therefore be rolled out at the relevant operational level within the company.

Challenge for the parent company to involve the operating divisions, business lines and subsidiaries (or at least those considered to “own” the risks) as early as possible in defining operational implementation measures within the approach.

Involvement of governance and senior management

Summary:

One in five companies refers explicitly to the plan’s approval and/or monitoring its implementation at the highest levels of the company.

Comments:

Having the approach validated at the highest levels of the parent company sends a strong signal to the employees responsible for enforcing the vigilance plan and makes it easier to roll it out at all levels of the company. It may also reinforce the credibility of the approach among the company’s external stakeholders. This is specifically recommended by international standards, which are useful guides for companies when it comes to interpreting and applying the law.

Challenge regarding validation at the highest levels of the company, to send a strong signal of support for the approach to internal and external stakeholders.
II. DRAFTING THE VIGILANCE PLAN

ENGAGING WITH STAKEHOLDERS

Summary:

In 2017, very few companies stated that they have presented their plan to stakeholders. Where this has been done, it has been to employee representative bodies or external stakeholder committees that have already been established by the companies. Engaging with stakeholders in 2018 is explicitly mentioned by one in five companies.

Comments:

Although the law is not mandatory on this point, once their approaches have been completely formalised, companies are aware of the importance of involving stakeholders in this process.

Challenge to identify relevant stakeholders at two levels: at the corporate level to draft and generally monitor the vigilance plan, and at the operational level to manage identified challenges and risks.
III. CONTENTS OF THE VIGILANCE PLAN

FORMALISING THE VIGILANCE PLAN

Summary:

Companies have defined their vigilance plans on the strength of existing approaches, policies and commitments in the areas of CSR, health and safety, ethics, etc. The law is often presented as an opportunity to update and enhance these actions, in particular as regards approaches related to managing supplier relations.

In most cases the vigilance plan is presented as a response to the law. It seems to remain close to the legal framework (repeating the exact wording of the law, such as “established commercial relationships”, “severe impacts”, etc.).

More than a third of companies have stated that they started formalising and defining vigilance plan measures in 2017 and are continuing to define and improve them in 2018.

In practice, this often means more detailed descriptions of risk mapping and more global responses. There is still very little explicit information about operational responses to address identified challenges or about measurement and monitoring mechanisms.

* More in-depth analyses of the risk mappings and the management of these risks are outlined in the sections on approaches to managing supplier relations and human rights and environmental approaches.

Comments:

The large companies impacted by the law naturally already had ethics or social responsibility approaches in place to identify and manage the risks posed by their business activities to individuals and the environment. They have logically included the vigilance plans – which share the same objectives – as part of such approaches. Some companies choose not to refer to the vigilance plan as being part of their overall approach; other companies present it separately and consider it to be a more restricted part of these approaches.

In the interests of legal protection, it may understandably appear preferable to implement a robust process within a more limited scope of application. But the definition of the plan and its implementation may be used as leverage to improve the overall corporate responsibility approach in the long-term. Vigilance approaches in large companies take time. They are implemented gradually as part of a continuous improvement process. The vigilance plan may be the first step in building an overall approach in line with a medium- to long-term vision.

Furthermore, strict compliance with the French law does not allow the company to address the requirements of international standards and the expectations of stakeholders (including investors and customers) or to manage all of the risks related to its human rights and environmental challenges.

Challenge: Ensure that the vigilance plan is part of broader corporate responsibility approaches.
FOCUS ON ALERT MECHANISMS

Summary:

- In over half of companies, the alert mechanisms are linked to existing ethics alert procedures. One third of companies intend to set up a new mechanism or revisit the existing one. One quarter of companies make explicit reference to how their alert mechanism addresses the requirements of the Sapin II Law.

- Almost half of the companies mention that the mechanism is available to individuals outside the company or that they plan to make it available in 2018.

- A small minority of companies explain in their vigilance plan how the mechanism works and how information is communicated to potential users.

Comments:

- The alert mechanisms presented are often based on ethics procedures already existing within the companies, which have been updated or are in the process of being revised (in particular to take into account the new requirements of the Sapin II Law).

  **Challenge: Articulating the various regulatory requirements related (from collection to treatment).**

- Some companies raise the question of opening the mechanism up to individuals outside the company. The law does not make specific reference to eligible individuals. However, as the aim of the vigilance plan is to prevent severe impacts on people and the environment, it makes sense that the alert mechanism should be available to individuals both inside and outside the company. This interpretation also complies with international CSR standards.

- Very often companies mention that the mechanism exists, but do not give any details on how it works or how they communicate about it. In order to be effective, the mechanism must be appropriately communicated to the individuals who are likely to use it and provide the necessary guarantees for users to have confidence in and use it. In some cases, it may also be necessary to provide additional procedures at the operational level so that challenges relating to a specific project, site or partner can be taken into account.

  **Challenge: Communicating to potential users in an appropriate manner and giving them confidence in the alert mechanism.**

  **Challenge: Ensuring that the alert mechanism is easy for all company stakeholders to use and if necessary adding other mechanisms to complete it.**
Summary:

- Aside from reporting procedures that make it possible for a company to monitor implementation of the approach, there is very little reference to the formalisation of systems to monitor and assess the overall performance of the plan.

- Some companies explain the systems they are considering, such as:
  - future definition of indicators and plan deployment objectives,
  - inclusion in internal control procedures,
  - inclusion in audit programmes,
  - monitoring the plan by means of existing global framework agreements.

Comments:

- Apart from existing procedures specific to each risk management response provided, establishing a system to monitor and control implementation of the plan makes it possible for the parent company to direct the approach internally and track progress, as well as to report externally on the operational implementation of the plan.

- In addition, defining long-term objectives and action plans may lend greater credibility to a company’s approach and justify its choice of priority actions.

Challenge: Defining the mechanisms for assessing and monitoring the vigilance plan, to ensure that it is correctly rolled out internally, and reporting on its progress.
RISK MAPPING

Qualification and prioritization criteria of at-risk suppliers

- Intrinsic risks (purchasing categories, products etc.) - 49%
- Risks linked to the country of supplier’s activity - 38%
- Elements related to the company/supplier relationship (turnover, volume, supplier dependency...) - 13%

Summary:
- A vast majority of companies carried out new risk mapping or reviewed procedures for identifying existing at-risk suppliers within the scope of applying the law on the corporate duty of vigilance.
- The main criteria used to identify at-risk suppliers have to do with the suppliers’ geographic location and business activity.
- Some companies provide the detailed methodologies of these risk mapping exercises and their results (see examples below).
Summary:

- For the most part, the responses fall within the scope of existing responsible procurement approaches, in particular:
  - Asking suppliers to comply with the company’s own commitments by signing a CSR charter or code of conduct;
  - Supplier assessments, often performed by specialised independent contractors;
  - Auditing suppliers considered to pose the greatest risk.
- Some responses to specific supply challenges are provided (see examples below).
- The actions described are very often carried out at Group level. Some companies refer to the identification and management of at-risk suppliers at subsidiary level.

Comments:

- Companies have systematised their approaches for identifying and managing supplier-related risk within the scope of application of the law. Some of them are still in the process of finalising the risk mapping.

**Challenge related to scope: identifying and analysing risks stemming from:**

- Procurement at Group level, but also purchases made by the entities, which are not necessarily subject to Group processes;
- New suppliers and existing co-contractors.

- The methods employed and the use of risk criteria “inherent” to the suppliers, such as geographic location and business activity, reflect a sound understanding of the vigilance process and a willingness to classify risks in terms of their potential impact on persons as opposed to risks for the company itself.
The large companies impacted by the law have tens of thousands of suppliers. They must, by means of rigorous risk mapping, identify specific and salient risks (relating to business activity, geographic location, products/services, etc.) in order to define and prioritise appropriate risk management actions (see examples below).

Support and dialogue with suppliers should also be developed so that responses are not given with the sole aim of “transferring the legal responsibility” of the instructing company to the suppliers, without any real improvement to the practices of the suppliers themselves. In this regard, sector-wide initiatives may make it possible for instructing companies and suppliers to act collectively.

- **Challenge:** Ensuring that risk identification processes are as precise as possible in order to prioritise and define risk management actions and justify choices.
- **Challenge:** Providing specific solutions in line with the identified challenges, and at the appropriate level.
EXAMPLES OF BUSINESS PRACTICES
RESULTS OF THE MAPPING PROCESS

L’ORÉAL

- Mapping risks of non-compliance with Group rules, drawing on international standards for the protection of human rights based on the country’s vulnerability (Maplecroft index) and the suppliers’ business sector.
- The results of the risk mapping are used to prepare an audit trigger template, which is set out in the registration document.

CAPGEMINI

- Country-based risk assessment (external indicators).
- Identification of high-risk supply categories.
- Prioritisation of high-risk and strong value categories in terms of recorded expenditure.
- Results: three countries (China, Guatemala and India) and three purchase categories (travel, subcontracting, site leasing) identified as high risk.

KERING

Risk mapping methodology

- Mapping risks inherent to the distribution chain:
  - Gathering data and information regarding the procurement of all raw materials required for the manufacture of luxury items (including agricultural, mining and other extraction methods);
  - Assessing the potential risks for each raw material, with consideration given to each processing stage within the supply chain;
  - Awarding a numeric value to each inherent risk identified.
- Rating risk reduction tools according to their effectiveness (negative rating).
- Mapping residual risks (combining ratings related to inherent risks and risk reduction tools): identifying significant material residual risks in order to prioritise actions.
EXAMPLES OF BUSINESS PRACTICES
RESULTS OF THE MAPPING PROCESS

ERAMET

Risk mapping methodology

- Rating CSR risk for each category of supplier and subcontractor activity.
- Assessing the significance of procurement categories for Eramet.
- Identifying seven key procurement categories for the Group that present CSR risks:
  - Manufacture of non-metallic mineral products;
  - Coking and production of refined petroleum products;
  - Metalwork and first-stage processing of precious metals and non-ferrous metals;
  - Recovery of materials (treatment of waste consisting of secondary raw materials, recovery by sorting of materials from non-toxic waste);
  - Wholesale trade of solid, liquid and gaseous fuels and by-products;
  - Wholesale trade of metals and minerals;
  - Coal and lignite mining.

LAGARDÈRE

Risk mapping methodology

- Listing and centralising key data for each major procurement family or category (aggregate expenditure and number of suppliers).
- Rating CSR risk for each procurement category.
- Weighting CSR risk against an internal risk related to the strategic characteristics of certain purchases for the company.
- Identifying seven procurement families: (i) printing operations and related services; (ii) pulp manufacturing; (iii) wholesale trade of accessories and household goods; (iv) own-brand products sold in stores; (v) disposable items for the restaurant trade; (vi) energy supply (electricity, gas, steam, air conditioning); (vii) production of plastic products.
- Prioritising actions based on country risk.
Casino

Risk mapping methodology

- Weighting the following criteria (in descending order) related to the type of compounds in the products:
  - Number of compounds present in the products purchased from the supplier and risk level for each compound (with respect to 12 CSR criteria);
  - Country of supply and its risk level as regards the product and any compounds it may contain;
  - Volume of product purchased (increasing the likelihood of risk);
  - Number of suppliers per product category (complexity of upstream supply chain controls due to the number and size of suppliers).
- Identifying the following product categories as being the most at-risk: products containing palm oil, products related to cattle breeding in Brazil, textile products.
- Mapping presented to a specialised external organisation/employee representative bodies in 2018.

Examples of Business Practices

Responses to specific supply issues

In addition to the overall approach for managing supplier-related risk, some companies provided in-depth information about their responses on certain supply issues:

- Michelin: raw materials, including conflict minerals and natural rubber;
- EDF: uranium, coal;
- ERAMET: tungsten procurement;
- Casino: palm oil, cattle breeding, fishing.
V. HUMAN RIGHTS APPROACHES

RISK MAPPING

NB: Below we analyse approaches to identify and manage human rights risks (excluding health and safety) in connection with the activities of the company and its subsidiaries.

New human rights risk-mapping

- 69% New mapping / review of existing
- 31% Challenges already identified
- 57% Non mentioned
- 43% Mentionned

Mention of human rights challenges

- 69% Non-discrimination
- 43% Forced labor / human trafficking
- 57% Safety
- 31% Children rights
- 24% Right to strike
- 12% Recruitment and workforce migration
- 18% Non violence / non harassment
- 12% Freedom of association and collective bargaining
- 10% Decent working conditions (including wages, workings hours, etc.)
- 8% Impacts on local communities
- 6% Privacy / personal data
- 6% Child labor

Human rights challenges explicitly mentioned
RISK MAPPING

Summary:

- Approximately one third of companies say that they reviewed processes for identifying human rights challenges connected with their internal activities in 2017 or have implemented a new process.
- More than half of companies describe the main human rights challenges they have identified. The primary challenges are the fundamental rights of employees (prohibition of forced and child labour, trade union freedom and non-discrimination) and to a lesser degree the impacts on local communities.
- Not many companies describe the method used to identify their priority human rights challenges. Where they do, the methods are based primarily on analyses of the country and the company’s various activities/sites (see examples below).

Comments:

- There are very few references to new actions to identify human rights-related risks. The main human rights-related challenges are not always mentioned and when they are, they remain quite general – such as reference to a specific right without any details about the activities, sites or countries most concerned by this challenge.
- Even in areas in which the company is considered proficient, processes for identifying challenges should be reviewed regularly because human rights challenges change over time. Furthermore, given their extremely operational nature, the challenges should be identified and assessed as close to the ground as possible. The company must define the human rights challenges that are most salient for its business, as precisely as possible, in order to prioritise them and implement tailored risk management actions.
The risk management solutions developed by companies are often global, group-wide policies (HR, ethics, CSR, etc.), which are included in the overall risk identification or internal control processes.

Some companies describe specific responses on the topic of human rights: dedicated governance, assessing subsidiaries and projects through the prism of human rights, due diligence for partners or customers (banking sector), tailored actions with respect to a particular issue (forced labour in particular) (see example below).

For responses to be effective, they must be aligned with the major challenges outlined in the company’s risk mapping. The way different companies address the same human rights challenge may vary depending on factors such as geographic location, sites and so on. In the plan’s roll-out phase, it may be helpful to conduct the overall mapping process within the subsidiaries in order to manage challenges at the operational level.

Training and raising employee awareness about human rights challenges also allows the company to identify any situations posing a human rights risk in order to provide an appropriate response.
Risk Management

Comments:

- Risk identification and analysis should involve all of the company’s activities so that the company can focus its actions on the activities involving risk. Integrating human rights-related analysis criteria into the new activities as early as possible (at the project study stage, for example) means that specific risks connected to the activity in question can be identified and prevention measures taken from the outset.

- Challenge: Ensuring that risk identification processes are as precise as possible in order to prioritise and define risk management actions and justify choices.

- Challenge: Deploying risk mapping as close to the ground as possible to ensure that the issues, which are by nature operational, are fully taken into account.

- Challenge: Providing specific solutions in line with the identified challenges, and at the appropriate level.

- Challenge: Identifying the risks and assessing them on a regular basis as regards the company’s existing business activities/incorporating risk analysis for new business activities as early as possible.
EXAMPLES OF BUSINESS PRACTICES
RISK MAPPING
METHODS AND RESULTS

SOCIÉTÉ GÉNÉRALE
Mapping exercise in two distinct stages (same method for activities and procurement):
- Mapping theoretical risks:
  - Identifying procurement sectors or categories involving human rights risks
  - Ranking risk according to its potential “severity” (seriousness, scope, likelihood of occurrence*)
  - Country filter
- Mapping inherent risks linked to the Group’s specific activities (geographic location, products or services purchased or sold).

* Method for assessing severity in compliance with international standards.

L’ORÉAL
- Mapping risks of non-compliance with Group rules, based on international standards for the protection of human rights according to the type of activity (administrative, manufacturing, storage, etc.) and, subsequently, the type of site (administrative offices, factories, plants, research centres, etc.).
- Audits triggered for sites considered at risk regardless of the country: factories and dispatching centres.

SAINT GOBAIN
- Mapping risks according to the type of risks related to the Group’s activities and the countries in which the Group is located (Danish Institute methods).
- Details in the registration document of countries/regions at risk and therefore the relevant general delegates.
- Risk assessment questionnaire sent to these general delegates to identify residual risks and establish an action plan.
EXAMPLES OF BUSINESS PRACTICES

RISK MAPPING

METHODS AND RESULTS

BIC

- Identifying types of risks using a combination of approaches, i.e., geographic (country-related risks according to external data), operational (risks inherent to the factories) and sector-based (risks specific to the sector):
  - Group factories: geographic and operational approaches;
  - Group offices: geographic approach;
  - Subcontractors: geographic and operational approaches;
  - Raw materials suppliers: geographic and operational approaches;
  - Transport providers: geographic and sector-based approaches;
  - Other service providers: geographic approach.

EXAMPLES OF BUSINESS PRACTICES

TARGETED RESPONSES (CHALLENGE OR PROCESS)

SANOFI

- Internal policies specific to the fundamental rights of workers, which provide for the roll-out of vigilance approaches at the operational level by the entities. The Group’s internal control mechanism covers monitoring of the approaches.

VINCI

- Developing tailored identification, prioritisation and risk management measures in accordance with the activities and geographic locations (mapping of country risk, thematic in-house working groups, operational responses at the level of certain countries, participation in sector-based initiatives).

MICHELIN

- Specific local human rights assessments (based on the Danish Institute questionnaire)/choice of countries using the Maplecroft tool.

- Human rights impact studies for the new industrial construction project.
EXAMPLES OF BUSINESS PRACTICES
TARGETED RESPONSES (CHALLENGE OR PROCESS)

SCHNEIDER ELECTRIC

- In 2018, specific programme for the prevention of forced labour, which will be based on participation in international working groups focusing on the challenge (within the context of the Responsible Business Alliance) and sharing of tools and joint actions (training, review of employment agencies, etc.).

- Reasonable vigilance measures to come, tailored to the Group’s client project activities.

TOTAL

- Assessing the specific human rights impacts of entities with respect to oil and gas exploration and production activities in sensitive contexts (conducted by the Danish Institute).

- Self-assessment of subsidiaries (Danish Institute tool).

- Prior impact assessments for industrial projects, share acquisition or equity investment transactions that could impact stakeholders.

ENGIE

- Implementing regular risk identification and management processes at operational level, specifically as regards human rights (existing activities and new projects).

- Local grievance mechanisms.

- Due diligences for business partners.

- Yearly monitoring of the roll-out of operational processes through the annual compliance report.
VI. ENVIRONMENTAL APPROACHES

RISK MAPPING

NB: Below we analyse approaches to identify and manage environmental risks in connection with the activities of the company and its subsidiaries.

Environmental risks

- 55 companies (out of 64 reviewed) carried out or initiated a risk mapping.
- Two thirds of these specifically incorporate the environmental dimension into their risk analysis.

![Graph showing level of detail of environmental risks by sector](image)

**Level of detail of environmental risks by sector**
(by number of companies)
The level of detail about risk provided by the companies varies:

- Companies in the energy/water/raw materials sector describe environmental risks in connection to their activity and appear to have understood the scope of the challenges. Management of resources, soil and air pollution, etc. are in effect key issues in this sector.

In its report, Total refers to: “risks for the environment resulting from a major industrial incident”; “risks relating to oil or gas fields”; “risks relating the life cycle of manufactured products as well as to substances and raw materials used”; etc.

- The maturity of the approaches is linked to sector-based challenges, although disparities may be found. Six out of 15 companies in the manufacturing industry do not mention environmental risks in their vigilance plans.

- Similarly, companies in the transport sector do not specify the environmental risks inherent to their activity in their vigilance plan.

- Certain tertiary sector companies mention environmental risks in their mapping but also add that they consider such risks generated by their activities to be limited. Among companies in the banking, media and services sectors: five out of 15 companies do not mention their risks, four mention them without providing details and six provide specific details.
An analysis of identified environmental risks was performed by 23 companies (out of 55), which provided specific details about these risks as part of their mapping process.

Across all sectors, the 5 main environmental risks mapped are:

- Soil, air and water pollution;
- Threats to biodiversity;
- Waste management.

These risks are often reported in aggregate.

It should be noted that even though most companies have made a commitment to preserve the climate, it does not appear at the top of their list of risks. Many businesses consider it to be a more remote, general risk. By contrast, biodiversity is mentioned several times in the risk assessments, although it is nearly always missing from the action plans.

Some companies report on their risks in a much more targeted and precise fashion, focusing on the specific characteristics of their sector or value chain:

- Animal welfare: food and healthcare sector;
- Industrial accidents: energy/water/raw materials and manufacturing sectors;
- Ecological footprint in the building industry;
- Deforestation.
**VI. ENVIRONMENTAL APPROACHES**

**MITIGATION MEASURES IDENTIFIED**

Description of existing mitigation measures

- 47% undisclosed measures
- 6% general CSR measures
- 47% specified environmental measures

Analysis of the accuracy of mitigation measures, carried out among 36 companies that referred to environmental risks in their mapping.

Among the companies that refer to mitigation measures, half of them outline general CSR measures. The other half of companies provide specific information on these general CSR measures through actions to manage very specific environmental risks.

**EXAMPLES OF MITIGATION MEASURES**

**General CSR measures:**

- "Responsible procurement charter" (Groupe La Poste, Unibel).
- "In-house commitments: Ethics Charter, Sustainable Development Charter for Suppliers, Code of Conduct". (EDF)

**Specific environmental measures:**

- "Zero-deforestation palm oil" policy, “the Group joined the Roundtable on Sustainable Palm Oil (RSPO) in 2011”, “signature of the Palm Oil National Agreement in 2017”. (Casino)
- “A dedicated environmental information system (EraGreen) is rolled out to all industrial and mining sites, enabling the collection and consolidation of environmental performance indicators”. (Eramet)
- “Ecodesign projects for its various wine brands (...) the size of the labels has been reduced to print as efficiently as possible and reduce paper waste”. (Pernod Ricard)
VI. ENVIRONMENTAL APPROACHES

MITIGATION MEASURES IDENTIFIED

typologies of mitigation measures

The most commonly reported CSR measures concern internal audits, codes of ethics, and responsible procurement charters and clauses. The chief purpose of these measures is to monitor the practices of suppliers and subcontractors.

Very few companies refer to measures concerning subsidiaries or changing one of the Groups’ activities. Eco-design, changing resources or processes, and discontinuing a specific activity are rarely chosen as solutions.

Details of measures by sector
MITIGATION MEASURES IDENTIFIED

A sector-based analysis of business lines highlights several trends:

- Environmental Management Systems (EMS) and ISO 14001 certifications receive broad support from companies in the manufacturing industry.
- General CSR measures covering all sectors: internal code of conduct, internal audit and sustainable procurement charter.
- The divestment of certain assets or suppliers is mainly used by companies in the retail, banking and financial services sectors.

CONSISTENCY RISK ANALYSIS AND MEASURES

Level of details of measures

- 59% of companies that do not mention environmental risk in their mapping nonetheless report on general CSR measures in their report.
- 62% of companies that mention environmental risks in their mappings do not provide details propose general CSR measures.
- 52% of companies that describe their environmental risks also provide a list of specific environmental measures.
An analysis of consistency between the inclusion of environmental risks and the level of accuracy of existing mitigation measures reveals:

- An apparent correlation between the level of accuracy of risks and the detail given about mitigation measures in the reports. Thus, 12 out of 53 companies describe in detail both their environmental risks and their measures, which demonstrates a consistent strategy.

- Overly succinct approaches result in unclear information (eight out of 53 companies mention their environmental risks without specifying them and describe general CSR measures for risk mitigation).

- Clarity of information can be improved (two companies do not mention their environmental risks, and yet they develop specific measures on the environment).

- The vigilance plan does not always make it possible to determine actual practices in terms of risk identification and corresponding measures. Developing precise vigilance plans is important for companies if they are to identify risks and communicate effectively about their risks and approaches.

**PERFORMANCE MONITORING**

Only 14% of companies under review say they have incorporated environmental indicators into their performance monitoring system for the vigilance plan.

**Examples of specific indicators:**

- Michelin: Development of a specific environmental performance indicator, "the Michelin Environmental Footprint (MEF), which is based on six criteria: energy consumption, water consumption, VOC emissions, CO2 emissions, and quantities of waste produced and waste landfilled".

- Casino: "Use of Yale and Columbia Universities’ Environmental Performance Index (EPI)".

- Groupe BPCE: "Assessment of the vigilance plan using an indicator of the number of consultations incorporating CSR assessment of suppliers/total number of targeted consultations".

To assess their vigilance plan, most companies used impact measures: both general CSR and existing measures.

Following this initial exercise, companies do not appear to have developed a specific method for assessing the vigilance plan.
### LIST OF COMPANIES THAT PUBLISHED THEIR REGISTRATION DOCUMENTS ON 13 APRIL 2018

(classified by date of deposit of documents at the AMF)

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EDH PRESENTATION

Entreprises pour les droits de l’Homme (Businesses for human rights) provides a forum for discussion, initiatives and proposals by international businesses to promote improved integration of human rights into business policies and practices. EDH currently brings together 17 major French companies, representing more than 2.5 million employees in around 100 countries.

The goal of EDH is to improve the way in which businesses understand and take into account the human rights challenges faced by member companies in their business activities, in particular by implementing the recommendations of the United Nations Guiding Principles on Business and Human Rights.

Today the association is focused on helping its members to implement their human rights vigilance approach through continuous progress and improving practices: sharing experiences and good practices, developing tools and training in particular.

EDH is the only French trade association specialising in human rights. It is an alternate member of the CSR platform and plays an active role in debates in France and abroad on companies’ responsibility to respect human rights.

THE AUTHORS OF THE STUDY

This study was written by Charlotte Michon for EDH and Sophie Berne and Sylvain Boucherand for B&L Evolution.

B&L ÉVOLUTION PRESENTATION

For more than six years now, both large and small companies have been turning to us for support in their quest for sustainable, long-term growth. Our consulting firm works hand-in-hand with these companies to develop innovation and value creation strategies, and Corporate Social Responsibility, Energy and Biodiversity approaches using our tailor-made methods.

In particular we help business leaders, general management and sustainable development departments to:

- Identify economic, social and environmental challenges (CSR diagnostic review, materiality analysis, duty of vigilance) and instigate mapping and dialogue with stakeholders;
- Build their CSR strategy and reporting and create a products/services innovation approach as we move towards new sustainable economic models;
- Define, roll out and coordinate action plans (carbon footprint, energy audit, life cycle analysis, service economy, biodiversity approach, on-the-ground involvement, circular economy, training, etc.);
- Ensure community involvement and contribution to reaching the Sustainable Development Goals (SDGs);
- Produce studies, benchmarks and sector-based analyses.
edh

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