

Due Diligence: A New Approach to Corporate Supply Chain Management

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Summary

International society is becoming increasingly aware of the important role that corporations play in resolving the world's social and environmental problems. One of the areas of corporate activity that is receiving more attention is that of supply chain management. However, traditional tools of supply chain management such as codes of conducts and procurement policies tend to be limited in scope, since they were largely developed as responses to specific problems regarding the society and environment.

This paper considers traditional tools of supply chain management, identifying some of the limitations that these measures have in tackling with constantly evolving social and environmental issues. The paper then considers more recent measures, which are designed to address a much wider range of social and environmental issues in supply chains, through due diligence processes.

The paper concludes that there is an increased focus on supply chain management as part of CSR, and that the due diligence concept provides a comprehensive and holistic approach to it. The focus on due diligence represents a shift from an issue-specific approach to a procedure specific approach, therefore allowing companies to examine the overall picture with more care before deciding to act on specific issues. Due diligence enables companies to proactively identify risks that might not have been visible otherwise, and to adapt to constantly evolving social and environmental issues.

Key words: supply chain management; due diligence; CSR

1. Introduction

International society is becoming increasingly aware of the important role that corporations play in resolving the world's social and environmental problems⁽¹⁾. One of the areas of corporate activity that is receiving more attention is that of supply chain management. With rapidly decreasing natural resources, and with the global economy affecting people all over the world, companies with global operations or with long and complicated supply chains are taking more initiative to improve their practices for social and environmental reasons. Often, such change is driven by concerned consumers and the civil society in developed countries.

Traditionally, supply chain management by companies has been implemented through individual “codes of conduct”, procurement policies, certification and labelling schemes (e.g. sustainable forestry and fisheries), or international guidelines. However, codes of conduct, in particular, have been partial and limited in scope. Certification schemes were similarly restricted because of their limited consumer market and high cost. The need for the “harmonization” of various guidelines and policies has been expressed for many years, particularly from suppliers who tend to be overwhelmed by an influx of differing standards. Perhaps as a response to such voices, and as part of the overall trend in Corporate Social Responsibility (CSR), several international tools specific to supply chain management have recently been developed. Compared to codes of conduct, for instance, these tools are designed to help companies manage their supply chains in a more comprehensive and holistic manner. They are designed to address a much wider range of issues in their supply chains, which anticipate social and environmental risks that may currently be unknown to companies but may be considered important by other stakeholders such as civil society groups. Such measures include the updated Organisation for Economic Cooperation and Development (OECD) Guidelines for Multinational Enterprises, OECD Due Diligence Guidance for Responsible Supply Chains of Minerals from Conflict-Affected and High-Risk Areas, the United Nations Global Compact Guidelines and ISO26000.

At the same time, a series of legislative measures which require companies to manage their supply chains have been created by individual countries. These measures aim to require companies in developed countries to source materials in a socially and environmentally responsible way, and in a harmonized manner. These measures also anticipate unknown social and environmental risks in supply chains of particular resources. One recent example of these initiatives is

the US Dodd-Frank Wall Street Reform and Consumer Protection Act concerning conflict minerals. Other recent examples are the US Lacey Act Amendment and the EU Timber Regulation to eliminate illegal timber from relevant markets.

All of these measures essentially require companies to carry out “due diligence” in order to avoid and minimize social and environmental risks within their supply chains. This key element of due diligence makes these measures fundamentally different from the older measures of supply chain management since it is not specific to one particular issue (e.g. labour). The due diligence requirement serves as a tool for companies to adapt and proactively find risks, not only to themselves, but also to society and the environment.

This paper examines the development of corporate supply chain management, in order to show the difference between the traditional and more recent measures. It then discusses the due diligence concept required under more recent measures, focusing on the fact that the due diligence requirement is intended to serve more as a comprehensive, holistic tool for corporate supply chain management. The paper also attempts to highlight the fact that the issue of supply chain management is increasingly seen as a key factor in CSR practice.

2. Earlier Efforts in Corporate Supply Chain Management

The earlier efforts in supply chain management by companies were more focused on codes of conduct and procurement policies developed in response to the specific problems that arose at the time. They were often the result of external pressure from both NGOs and concerned consumers. Therefore, they tended to be based more on “ad hoc” and “isolated” decisions, according to the World Bank study⁽²⁾.

Traditional corporate supply chain management can be roughly divided into two types, and the following section considers them. One type is codes of conduct developed by companies when they want to ensure certain social and environmental standards. This type of codes of conduct is commonly used to ensure labour standards from the company’s suppliers, and is usually more concerned with the manner in which the suppliers operate rather than with the sustainability of sourcing materials. The World Bank estimated that there were already more than 1,000 codes of conduct on the buyer side in 2003⁽³⁾.

The other common type is represented by procurement policies, many of which focus more on environmental standards. Although the procurement policies are to be followed by the com-

panies themselves, their suppliers are inevitably forced to comply with these policies to supply the responsible materials that their customers request. The above two types of supply chain management, however, are not necessarily mutually exclusive. The following paragraphs examine examples of each type, in order to see how traditional tools of supply chain management tend to be partial and limited, given how they developed through company responses to external pressures concerning specific social and/or environmental issues.

2.1 Codes of Conducts — Nike

Efforts by companies to improve their supply chain management following pressures from the civil society and conscious consumers can be shown by the well-known example of Nike, the shoe and apparel manufacturer. Nike's rapid growth was founded upon its groundbreaking business model of manufacturing its products in lower cost countries, and thereby outperforming its competitors. This naturally meant more complicated, distant supply chains, making the company vulnerable to a variety of risks, particularly social⁽⁴⁾.

Criticisms against Nike existed since the 1980s, but they were further fuelled by a series of media disclosures of Nike's use of child labour in its factories in Pakistan and other lower cost countries. As a founder of the company stated, "the Nike product has become synonymous with slave wages, forced overtime, and arbitrary abuse"⁽⁵⁾. In 1991 Nike developed its own code of conduct in order to ensure basic labour, environmental, health and safety standards for all its workers within its supply chain.

Today, Nike has one of the most developed supplier code of conducts and has an implementation process in place to ensure compliance using its own rating system. The company also issues a detailed set of standards (Nike Code Leadership Standard) explaining how its workers can ensure Nike's Code of Conduct⁽⁶⁾. Currently, non-compliance with the workers' age standard is 1%, according to the company⁽⁷⁾.

Perhaps owing to the media scandals, the apparel industry presently has one of the most developed codes of conduct. However, the apparel industry tends to focus on labour-related issues and is weak on other human rights issues⁽⁸⁾. The industry has been even weaker on environmental issues in general, although this appears to be changing rapidly as illustrated by the example of Greenpeace's "detox campaign", which called for the apparel manufacturers to prevent water pollution from clothing, and secured commitments from high-profile manufacturers including Nike⁽⁹⁾.

2.2 Procurement Policies — B&Q

Similar developments were also seen in procurement policies throughout the 1990s and early 2000s, as part of supply chain management by companies. The development of procurement policies was particularly prominent in the timber trade sector, mostly due to the NGO pressures. In the early 1990s, Friends of the Earth UK initiated a campaign against illegal logging of mahogany⁽¹⁰⁾. This was followed by five high-profile retailers, including B&Q and Sainsbury's Homebase, which agreed to stop selling mahogany by 1994. Similar movements were also seen in the US, and today, most high-profile retailers have some form of timber procurement policy⁽¹¹⁾.

Until recently, when the US and EU introduced legislative measures to eliminate illegal timber from the market, the only mechanisms to regulate timber trade was the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES) and economic initiatives such as export bans on logs by a few producer countries. (CITES prohibits or limits international trade only for endangered species of trees listed in its Appendices.) The regulation of trade in timber with environmental risks has therefore relied on the procurement policies of companies in developed countries for the last few decades, as described in the following paragraphs.

B&Q, a UK-based Do-It-Yourself company, was the first to develop a wood procurement policy in 1991 following severe pressure from environmental NGOs campaigning against trade in tropical hardwood. The loss of Amazon and the violation of human rights were at the centre of NGO attentions particularly between the 1980s and the early 1990s, until the issue of logging in ecologically important forests became the major concern in the 2000s⁽¹²⁾.

The company's constant effort has won a certain level of recognition amongst the NGO community as a laudable example in sustainable wood procurement. Indeed, in 2010, 90% of the wood products purchased by B&Q was reported to be sustainable according to the company's standard⁽¹³⁾. B&Q also have a code of conduct for its suppliers⁽¹⁴⁾.

B&Q's timber procurement policy "B&Q Timber & Paper Policy and Buying Standards" describes its purpose as follows; "To ensure that all our wood and paper products come either from proven, well managed forests or recycled material"⁽¹⁵⁾. As shown in the policy statement above, B&Q, like most other companies, tries to increase the amount of sustainable timber by purchasing timber that has been certified by organisations such as the Forest Stewardship Council (FSC). Although the FSC takes into account social risks associated with timber, "sus-

tainable timber procurement” is largely seen as an environmental, rather than social, initiative.

Still, today, the timber trade sector has more developed supply chain management systems than sectors trading in other resources, such as fisheries. This is most likely because of the private initiatives described above, as well as the governments of developed countries, which have been establishing public procurement policies since the early 2000s. The efforts by both the public and private sectors have eventually led to the creation of legislative measures in the timber market of the EU and US, as is discussed later.

2.3 Certifications

Another type of supply chain management, which is more complete and robust in a sense that it has an external auditing process, is certification schemes. Many of the certification schemes that are being used today were created in the 1990s and early 2000s. There are currently numerous forest products certifications, but the first one was the Forest Stewardship Council (FSC), which was established in 1993. The Programme for the Endorsement of Forest Certification (PEFC), which has proliferated more by endorsing certification programmes established in individual countries, was created in 1999⁽¹⁶⁾. The Marine Stewardship Council (MSC), which certifies sustainable fisheries products, came into existence in 1997⁽¹⁷⁾. The Dutch initiative of certifying fairtrade products developed into Fairtrade Labelling Organisation (FLO) in 1997⁽¹⁸⁾. The Kimberley Process Certification Scheme (KPCS), a certification scheme established in order to eliminate conflict diamond from the global market, was created in 2002⁽¹⁹⁾. The Roundtable for Sustainable Palm Oil (RSPO) was established in 2004 for the procurement of sustainable palm oil⁽²⁰⁾.

Table 1 List of Years for Establishment of Certifications

Year	Certification	Product Type
1993	FSC	Forest products
1997	MSC	Fisheries products
1997	FLO	Fairtrade products
1999	PEFC	Forest products
2000	KPCS	Diamond
2004	RSPO	Palm oil

3. New Developments

This section briefly looks at some of the limitations of corporate supply chain management to date, before examining how the concept of due diligence has entered into tools for the supply chain management, starting with the UN “Protect, Respect and Remedy” Framework for Business and Human Rights. The Framework first brought the concept into the mainstream international discussions. The section then considers examples of some soft and hard measures which contain this concept as a key element, examining how the due diligence processes are provided in these measures. Examples of soft measures include the recently updated OECD Guidelines for Multinational Enterprises (OECD GME), OECD Due Diligence Guidance for Responsible Supply Chains of Minerals from Conflict-Affected and High-Risk Areas, United Nations Global Compact and ISO26000. Examples of hard measures include the Dodd-Frank Act, Lacey Act amendment, and EU Timber Regulation. The following paragraphs will consider the updated OECD GME and the EU Timber Regulation as an example of soft and hard measures, because of space limitations.

3.1 Limitations of Traditional Supply Chain Management Measures

As mentioned earlier, measures like codes of conducts above have been rather sparse and limited in scope, making the overall efforts less comprehensive and holistic compared to the recently developed measures discussed below. A World Bank study in 2003 found that although labour rights received much attention, other areas of human rights issues were virtually ignored, despite the fact that those areas do indeed affect the labour issue itself⁽²⁾. The same study also found that companies were more aware and concerned in the area of labour rather than the environment⁽²⁾.

The limitations described above are also true for procurement policies and certification schemes, in the sense that many of them are also responses to external pressures regarding single issues. They are, however, all still expected to serve as tools in due diligence processes, which are discussed later, rather than being replaced by such processes.

In addition, supply chain management tools in general typically suffer from challenges associated with higher cost and low customer awareness, and this is particularly the case with certifications. Companies are reluctant to spend resources on responsible procurement and cer-

tifications unless the cost can be reflected in their products²³. One of the key elements to successful proliferation of certification schemes appears to be government leadership, as seen in the case of forest products certification purchased through public procurement in the UK and Netherlands²⁴.

3.2 What is Due Diligence?

As a response to limitations that tend to focus only on specific issues, efforts have been made to introduce more comprehensive approaches to supply chain management, and new guidelines and legislation have been created. One of the key elements common to the new, more holistic measures appears to be the concept of “due diligence”. Due diligence can be described as a concept used in risk control methods based on the “principle that an investigative process must be undertaken for the purpose of preventing harm”²⁵. However, there appears to be no consolidated definition, as seen below. The concept of due diligence was formally recognized in the area of environmental law by the well-known *Trail Smelter* case²⁶. Canada was ordered to make reparation for the environmental damage caused by the pollution, as well as to prevent future damage.

3.2.1 Human Rights Issues and Due Diligence — Ruggie Framework

The United Nations began developing a framework to hold businesses responsible for human rights violations in the early 2000s because of growing concern with human rights violations²⁷. Consequently, in 2004, “Draft Norms on the Responsibilities of Transnational Corporations and Other Business Enterprises with Regard to Human Rights” was created. The Norms were designed to legally bind companies to the same international statutory duties regarding human rights as states. This was met with strong opposition from the business world, however, and the matter was delegated through the Secretary General who appointed Professor John Ruggie of Harvard University as Special Representative. What is now commonly called the Ruggie Framework, namely, the UN “Protect, Respect and Remedy” Framework for Business and Human Rights, was created in 2008²⁸. One of the “pillars” of the Ruggie Framework is that the corporate responsibility to respect human rights “means acting with due diligence to avoid infringing on the rights of others, and addressing harms that do occur”²⁹. The Framework states that this should also be applied to “entities in its value chain”, clearly making supply chain management one of the key areas where human rights should be protected through due

diligence procedures.

The Ruggie Framework specifies the following three aspects to consider in carrying out due diligence procedures⁽³⁰⁾: (1) the country contexts in which company activities take place; (2) what human rights impacts the company's own activities may have within that context; and (3) whether they might contribute to abuse through the suppliers and other stakeholders. However, as for the degree of due diligence, the Ruggie report says, "How far or how deep this process must go will depend on circumstances"⁽³¹⁾. This flexible, but ambiguous nature of the due diligence concept raises challenges in implementation.

As for the core procedures companies should take under due diligence processes, "policies", "impact assessments", "integration (throughout company activities)", and "tracking performance" are listed. The same points are found in another tool that followed the Ruggie Framework- ISO26000, with the addition of "actions to address the negative impact"⁽³²⁾. Furthermore, the Ruggie report referred to the Global Compact as a possible platform for the standardization of different metrics.

3.3 From the Ruggie Framework to Legally-Binding Measures of Due Diligence

The creation of the Ruggie Framework was followed by a series of international guidelines, all of which pay specific attention to the concept of due diligence and/or supply chain management. The updated OECD Guidelines for Multinational Enterprises was adopted in May 2011, and introduced the concept of due diligence in supply chain management⁽³³⁾. The following paragraphs consider the Guidelines to a limited extent. Prior to the above update, the OECD Due Diligence Guidance for Responsible Supply Chains of Minerals from Conflict-Affected and High-Risk Areas was also adopted in 2010. As its name clearly indicates, the Guidelines focus on the use of due diligence in supply chain management to exclude the purchase and trade of conflict minerals. The United Nations Global Compact published a guidebook called "Supply Chain Sustainability" also in 2010⁽³⁴⁾. ISO26000 also includes due diligence as one of the key concepts in supply chain management.

Similarly, the concept of due diligence has emerged as a key concept in some of the legally-binding measures developed nationally and regionally. One of the most notable is in the timber sector. The EU Timber Regulation was adopted in 2010 (to be implemented in 2013)⁽³⁵⁾. This Regulation makes it a legal obligation for importers of timber products to carry out due diligence procedures in order to avoid purchasing illegal timber (Article 6), and was referred to as

a “Due Diligence Regulation” before it was adopted. A similar measure had already been adopted by the US in 2008, by amending the existing Lacey Act that prohibits trade in illegal wildlife products. The Lacey Act, however, takes a slightly different approach to what is called “due care”, and it is left to companies to choose to implement due care processes if they wish to avoid penalty⁹⁹. The legally binding measures developed in the timber sector reflect the efforts made by government procurement as well as procurement policies established by major companies, as discussed earlier. Lastly, in 2010 also, the US also introduced Dodd-Frank Wall Street Reform and Consumer Protection Act for conflict minerals⁹⁷. The Act requires companies that utilize tin, tungsten, tantalum, and gold to conduct and disclose due diligence on their supply chains in order to identify whether the minerals originated in the Democratic Republic of Congo or adjoining countries (Section 1502).

3.3.1 OECD Guidelines for Multinational Enterprises (GME) Update

The OECD GME were first developed in 1976 and have most recently been updated in 2011 to include the due diligence element, “drawing on the work of UN Special Representative John Ruggie”, as the US Secretary of State Hilary Clinton stated in her speech commemorating the updated Guidelines⁹⁸. The Guidelines require the application of due diligence in supply chain management, as seen in Table 2 below. The concept of due diligence essentially replaced the “principles of corporate conduct compatible with the Guidelines”, which highlights the shift from partial efforts of supply chain management to the more comprehensive approach of due diligence procedures. It should also be noted that the Guidelines clearly state that companies are responsible for any negative environmental or social impact even when they do not directly contribute to it (Paragraph 12, General Policies).

3.4 Due Diligence Processes

This section attempts to ascertain whether different measures propose the same due diligence processes. It should be noted that human rights due diligence and supply chain management due diligence (although they have an overlap) are not strictly separated in the discussions below.

The OECD GME define the due diligence process as follows: “For the purposes of the Guidelines, due diligence is understood as the process through which enterprises can identify, prevent, mitigate and account for how they address their actual and potential adverse impacts

Table 2 Comparison of the former and current OECD GME General Policies regarding supply chain management and due diligence

Before 2011	Current
10. Encourage, where practicable, business partners, including suppliers and sub-contractors, to apply principles of corporate conduct compatible with the Guidelines	10. Carry out risk-based due diligence , for example by incorporating it into their enterprise risk management systems, to identify, prevent and mitigate actual and potential adverse impacts as described in paragraphs 11 and 12, and account for how these impacts are addressed. The nature and extent of due diligence depend on the circumstances of a particular situation.
	11. Avoid causing or contributing to adverse impacts on matters covered by the Guidelines, through their own activities, and address such impacts when they occur.
	12. Seek to prevent or mitigate an adverse impact where they have not contributed to that impact, <u>when the impact is nevertheless directly linked to their operations, products or services by a business relationship</u> . This is not intended to shift responsibility from the entity causing an adverse impact to the enterprise with which it has a business relationship.

*Emphasis by the author.

as an integral part of business decision-making and risk management systems”⁶⁹. Together with the three aspects in the Ruggie Framework, this means that due diligence processes allow companies to be more flexible to adapt, “identify” and “prevent” risks in a proactive manner rather than responding to specific problems already identified.

Indeed, the introduction of the due diligence concept in supply chain management may reflect growing concern for the all types of social and environmental issues which are sometimes ‘hidden’ in supply chains or have traditionally been viewed as ‘irrelevant’ to companies. Given the history of development in supply chain management as seen earlier, there are two factors that have pushed the due diligence concept into the supply chain management field, as discussed in the following paragraphs.

One is these factors is the complexity of issues. Take timber for instance. Timber from Sarawak, Malaysia, is currently considered legal by the government of Sarawak, however, Malaysian court decisions have acknowledged human rights violations associated with timber production⁽⁴⁰⁾. This could mean that technically timber from Sarawak is illegal, although it has

not been reflected in practice and companies in Japan, which is a major importer, continue to import it as ‘legal’ timber. This is only one example of many. Companies must uncover these complex issues proactively and the due diligence process enables companies to look into each specific case to assess risks.

The other factor is the presence of the civil society and the level of expectations from companies to act responsibly. The due diligence process allows companies to adapt to these increasing expectations and the changing concerns of the civil society groups. The emergence of the due diligence concept as the centre of supply chain management is the result of the multi-stakeholder processes that have created the new guidelines.

Still, it should be noted that in general there are different views of due diligence. A common disagreement is between those who view due diligence as a management process versus those who view it as an assessment approach that should be part of a larger, more robust management system⁽⁴¹⁾. Indeed, the due diligence processes themselves proposed by various organisations appear to be slightly different. Further research is needed to further examine this point. The table below shows due diligence processes required under OECD Supply Chain Guide.

Table 3 Processes of Due Diligence Procedures in OECD Due Diligence Guidelines

	OECD Due Diligence Guidelines
Policy	Establishment of company management systems
Impact assessment	Identification and assessment of risks in supply chain
Integration	Design and implementation of a strategy to respond to identified risks
Tracking performances	Independent third-party audit of supply chain due diligence
Tracking performances	Report on supply chain due diligence

4. Conclusions

The development history of supply chain management tools shows that traditional efforts have been limited in scope and have been reactive to the specific social and environmental issues that were arising. Often, companies were alerted by the civil society and were forced to deal with problems that they did not anticipate or considered relevant. In the global economy and with the extremely complicated supply chains in today’s world, the time has come for com-

panies to accept that their supply chains are risky, and that the priority risks constantly change. Companies must also accept that their social and environmental responsibility has broadened to include what happens within their supply chains. The recent emphasis on the due diligence concept and supply chain management in the context of CSR has given a clearer shape to the ambiguous notion of “corporate social responsibility” and the “sphere of influence”.

The due diligence concept provides a comprehensive and holistic approach to supply chain management. It is a shift from an issue-specific approach to a procedure specific approach, therefore allowing companies to examine the overall picture with more care before deciding to act on specific issues. Due diligence therefore enables companies to proactively identify risks that might not have been visible otherwise, and to adapt to constantly evolving social and environmental issues. In this sense, it provides a great deal of flexibility for companies dealing with supply chain management, whilst making it possible for a much wider scope of issues to be covered at any time.

Still, it is apparent that the concept can only work in practice with traditional measures as complementary tools. As the Ruggie Framework rightly puts it, “How far or how deep [the due diligence] process must go will depend on circumstances”. This can create various challenges in implementation, compliance and enforcement and can sometimes even create confusion, particularly without a set of detailed issue-specific standards. Due to the space limitation, this paper failed to examine this important aspect of the due diligence concept, and this needs to be researched further. The paper also compared various measures without fully accounting for the varying degrees of due diligence rules in each measure, which also requires more examination in future research.

Notes

- (1) Locke, R., et. al. (2006) “Does Monitoring Improve Labor Standards?: Lessons from Nike” MIT Sloan Research Paper No. 4612-06, p. 4 at: <http://dx.doi.org/10.2139/ssrn.916771>
- (2) The World Bank and International Finance Corporation, *Company Codes of Conduct and International Standards: An Analytical Comparison* (October 2003), p. 2.
- (3) The World Bank and International Finance Corporation, *Strengthening Implementation of Corporate Social Responsibility in Global Supply Chains* (October 2003), p. 17.
- (4) For more detailed descriptions, see; Locke, R., et. al. (2006) “Does Monitoring Improve Labor Standards?: Lessons from Nike” MIT Sloan Research Paper No. 4612-06, at: <http://dx.doi.org/10.2139/ssrn.916771>

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- (6) Available at; http://nikego.com/responsibility/documents/code_ldrshp_standards.pdf Code of conduct available at; http://nikego.com/responsibility/documents/Nike_Code_of_Conduct.pdf
- (7) Available at; <http://www.nikeresponsibility.com/report/content/chapter/labor>
- (8) Above note 2.
- (9) For more information, see Greenpeace website at; <http://www.greenpeace.org/international/en/campaigns/toxics/water/detox/>
- (10) Greenpeace, *Ancient Forest Destruction Fact File* (October 2006).
- (11) See: “Kinko’s Johnson and Johnson, Nike, and other Fortune 500 companies to phase-out old-growth forest products”, *San Diego Earth Times*, April 1999.
- (12) Above note 11.
- (13) “B&Q becomes first retailer to buy 100% responsibly sourced wood”, *DIY Week* (February 5, 2011) at; <http://www.diyweek.net/news/news.asp?id=14332&title=B%26Q+is+first+to+buy+100%25+responsibly-sourced+wood>
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- (15) “B&Q Timber & Paper Policy and Buying Standards”, available at; <http://www.diy.com/diy/jsp/corporate/pdfs/timber.pdf>
- (16) See; <http://www.pefc.org/about-pefc/who-we-are/history>
- (17) See; <http://www.people.fas.harvard.edu/~hiscox/Constance.pdf>
- (18) The first Fairtrade label called “Max Havelaar” was created under the initiative of the Dutch development agency. It was replicated in several countries, and these individual schemes were consolidated in 1997 under the Fairtrade Labelling Organizations International (FLO) that certifies fair trade products worldwide. (http://www.fairtrade.org.uk/what_is_fairtrade/history.aspx)
- (19) See; <http://www.kimberleyprocess.com/web/kimberley-process/kp-basics>
- (20) See; <http://www.rspo.org/>
- (21) Above note 3, p.2.
- (22) Ibid.
- (23) Momii, M, “Demand management”, background paper for session 6, the Growth and Control of International Environmental Crime, Chatham House workshop (December 2007) at; <http://www.illegal-logging.info/uploads/Intenvcrime2007backgroundpapers.pdf>
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- 25 Taylor, M. B., et. al. (2009) “Due Diligence for Human Rights: A Risk-Based Approach”, Corporate Social Responsibility Initiative Working Paper No. 53. Cambridge, MA: John F. Kennedy School of Government, Harvard University, p. 2.
- 26 For further details, see; Birnie, P. W., et. al. (2009) *International Law and the Environment*, 3rd ed. (Oxford University Press, Oxford); Bodansky, D., et. al. (2007)
- 27 Some industries have developed the systems from which some of the due diligence procedures modeled themselves. See for instance; European Forest Institute as a lead contractor, “Support study for development of the non-legislative acts provided for in the Regulation of the European Parliament and of the Council laying down the obligations of operators who place timber and timber products on the market” (2011, European Commission).
- 28 “Protect, Respect and Remedy: a Framework for Business and Human Rights: Report of the Special Representative of the Secretary-General on the issue of human rights and transnational corporations and other business enterprises” (April 2008), A/HRC/8/5. Guiding Principles were completed in 2011. The full report is available at; <http://www.reports-and-materials.org/Ruggie-report-7-Apr-2008.pdf>
- 29 Other two pillars are: the state duty to protect against human rights abuses by third parties, including business, through appropriate policies, regulation, and adjudication; and greater access by victims to effective remedy, both judicial and non-judicial.
- 30 Paras 56-59, above note 29.
- 31 Ibid.
- 32 6.3.3.2, ISO26000.
- 33 OECD, *OECD Guidelines for Multinational Enterprises*, 2011 edition,
- 34 Available at: http://www.unglobalcompact.org/docs/issues_doc/supply_chain/SupplyChainRep_spread.pdf A Japanese version available at: http://www.unglobalcompact.org/docs/issues_doc/supply_chain/SupplyChainRep_JP.pdf
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- 37 For more detailed discussions, see; Miyazaki, M. (2012) “Responsible supply chain management: A case on conflict minerals”, *Atomi Women's University Journal*, vol. 13, pp. 55-69 (in Japanese).
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- 39 Para 14, General Policies, OECD Guidelines for Multinational Enterprises.
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