



UNITED NATIONS
INDUSTRIAL DEVELOPMENT ORGANIZATION

A close-up photograph of a person's hands weaving a basket from natural fibers. The person is wearing a white long-sleeved shirt with a red cuff and a patterned shawl. The basket is made of light-colored, woven fibers. The background is slightly blurred, showing wooden chairs.

Due diligence legislation for sustainability standards adoption

Implications for SMEs in developing countries

WTO PUBLIC FORUM 2022 - SESSION 45

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UNIDO and Fair Trade

As the sole United Nations specialized agency with a mandate to promote inclusive and sustainable industrial development, and cognizant of its motto Progress by innovation, UNIDO has long been integrally involved in the strengthening of value chains; building capacity for Small and Medium Enterprises (SMEs) globally; and has placed sustainability at the core of its activities, in both the environmental and social dimensions of that term.





“ Globalization creates opportunities, but the global market and trade require binding social and ecological rules to protect human rights and the natural resources of the planet.

Peaceful coexistence in this world requires a just world order, fair trade and a fair balance of interests between industrialized, emerging and developing countries.

Gerd Müller, UNIDO Director General

Voluntary sustainability initiatives, such as corporate social responsibility, have been a key element of this drive. The United Nations Industrial Development Organization (UNIDO) was the fifth United Nations entity to join the United Nations Global Compact in 2003, and has forged a dense web of partnerships with international organizations and private partners working to the same ends. Similarly, it has been deeply involved in promoting best practices, particularly related to the international architecture on responsible business conduct, such as the International Labour Organization (ILO) Multinational Enterprise (MNE) Declaration; the United Nations Guiding Principles Business and Human Rights; Organization for Economic Cooperation and Development (OECD) Due Diligence Guidance for Responsible Business Conduct, etc. Since it was first established in 1986, the UNIDO Investment and Technology Promotion network has been to the fore in facilitating associated capacity-building initiatives in developing countries.

However, in recent years there has also been a significant evolution in the international discussion surrounding fair trade, with a corresponding shift away from exclusively voluntary, non-binding measures to a more diverse, “smart mix” of voluntary and binding regulations, establishing clear and delineated responsibility for the enforcement of human rights, wellbeing and sustainability standards

within international value chains. This shift in perspective has given rise to action in several countries and trading blocs in the Global North, with supply chain due diligence laws having been enacted in Germany, France and Norway; while a draft Directive has also been published by the European Commission, proposing to enact a similar European Union (EU) law. This type of legislation establishes clear responsibility for actors at the apex of global value chains (particularly large multinational enterprises) to ensure the highest ethical business conduct throughout the value chain, and typically sanctions penalties for associated breaches.

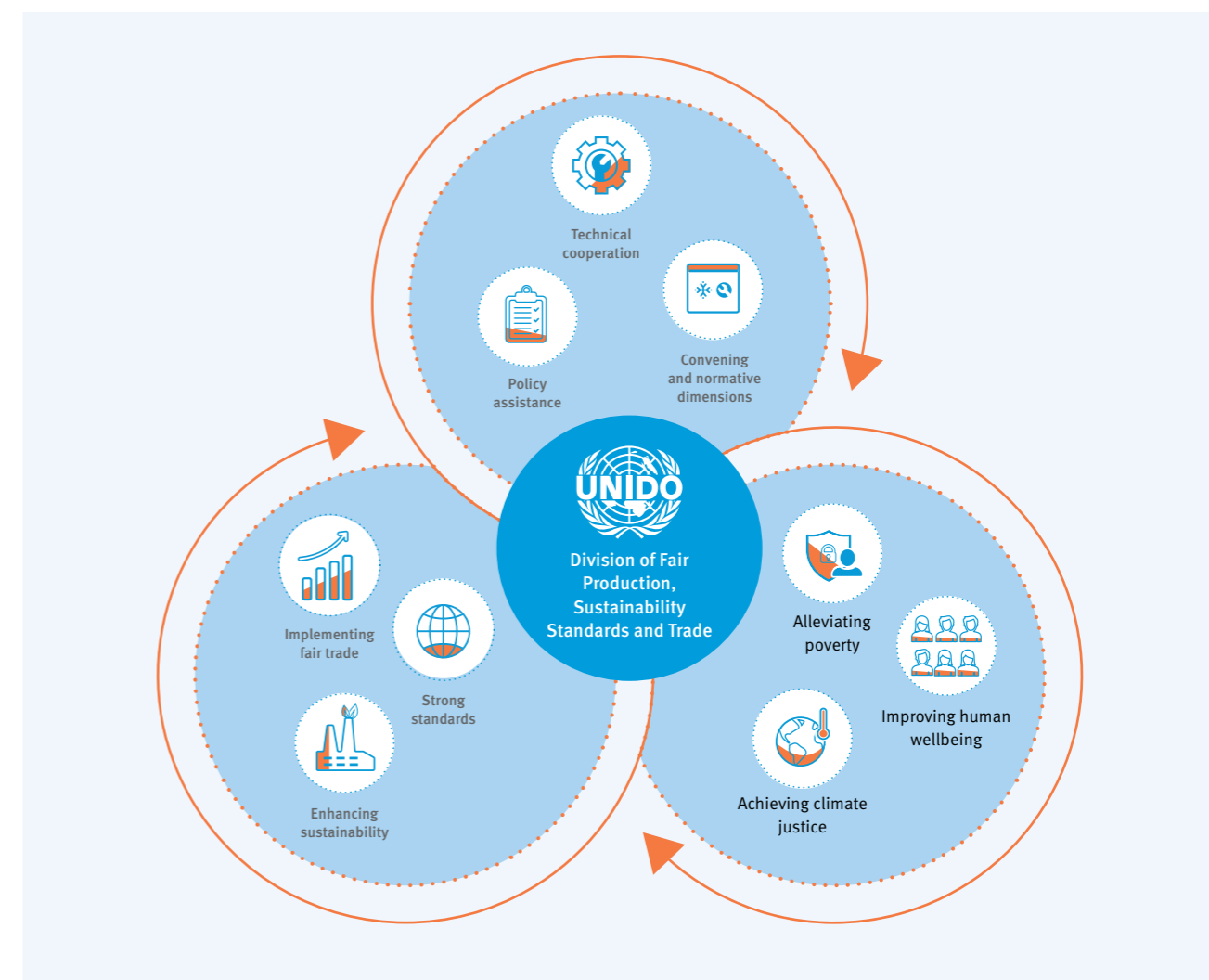
To this end, it behoves international development actors to reflect upon what the implications of this transition will be, especially for small firms in developing countries, which have typically faced several challenges to maintaining competitiveness and gaining market access to higher value added market in the Global North, even prior to the passing of the aforementioned legislation. In order to successfully navigate such hurdles, SMEs and small operators may require a variety of assistance measures from international organizations, government, lead firms and representative bodies, if they are to be enabled to thrive and if we desire to achieve Sustainable Development Goal (SDG) 9, promoting inclusive and sustainable industrialization.

UNIDO places a strong institutional priority on implementing fair trade, strong standards and enhancing sustainability, across the technical cooperation, policy assistance, convening and normative dimensions, as a means of alleviating poverty, improving human wellbeing and achieving climate justice. To this end, UNIDO leverages partnerships with relevant actors at national, regional and global levels to enhance social and environmental sustainability, most notably through its Division of Fair Production, Sustainability Standards and Trade.

Said Division will develop and implement innovative technical cooperation service packages - intervening at policy, institutional and firm-level - in order to propel the uptake and dissemination of sustainability standards

within international global value chains. The Division has a strong SME-centric focus, avoiding and bridging existing inequalities that persist within our current trading systems.

A key objective will therefore be to bring the requisite skills sets and responsible investments to these SMEs, to assist their journey towards compliance with sustainable standards regulations, due diligence and human rights imperatives, thereby enabling them to become responsible actors contributing to economic, social and environmental development in their communities and countries.



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Plenary Session

The session “*From Free Trade to Fair Trade: Implications for SMEs in developing countries*” was jointly organized by the Permanent Mission of the Republic of Ghana to the United Nations Agencies and Specialized Offices in Geneva and UNIDO on 28 September 2022.



THE PANEL

The session “From Free Trade to Fair Trade: Implications for SMEs in developing countries” was jointly organized by the Permanent Mission of the Republic of Ghana to the United Nations Agencies and Specialized Offices in Geneva and UNIDO on 28 September 2022. It was moderated by Mr. Frank van Rompaey, UNIDO

Representative, Geneva and assembled a cross-disciplinary discussion panel, aiming to address both demand and supply side challenges and potential gains, with respect to supply chain due diligence. The panel included the following high level representatives:



DR. AFUA ASARE
Chief Executive Officer, Ghana Export Promotion Authority

Dr. Asare was included to give a perspective on how due diligence requirements are likely to affect SMEs.



MR. GUGGI LARYEA
Senior Manager, Stakeholder Engagement and Partnerships, AMFORI

Mr. Laryea was included to provide a perspective on the role of lead companies and on the potential for cooperation with supplies.



MS. RITA BROBEY
Operations Manager and Co-owner, Hendy Farms

Ms Brobey was asked to provide insights on what it takes for suppliers to reach the quality and sustainability standards demanded by lead firms.



MR. JACK STEIJN
Co-founder, Equipoise

Mr. Steijn reflected on what it takes to ensure greater responsibility in this key value chain.

KEY ISSUES DISCUSSED

Mr. van Rompaey outlined two key issues for the panel:

- 1 The challenges that SMEs and developing countries are facing as a result of emerging due diligence requirements;
- 2 Support measures that should be taken to make sure that the opportunities can be maximized and that threats can be overcome.

Ms. Rita Brobey, Operations Manager and co-owner, Hendy Farms outlined the extensive challenges currently facing small holder farmers and SMEs in developing countries in complying with voluntary sustainability standards:

“The investment needed to meet the required standards is quite high and the financial rewards are low. There are no incentives given or support from leading companies; limited access to information and technical expertise makes it even harder for us to comply.

In light of this, she expressed the need for capacity building for preparing businesses to comply with the emerging mandatory due diligence requirements.

These concerns were echoed by Dr. Afua Asare, Chief Executive Officer, Ghana Export Promotion Authority, noting that:

“Some SMEs are genuinely under resourced and unable to comply with the new regulations due to the multiple technical barriers and high cost of the tedious processes involved and therefore risk to go out of business. Lack of knowledge of these new directives among SMEs is another threat and requires to be addressed at institutional level through capacity building.

At the same time, Mr. Jack Steijn, Co-founder, Equipoise, and Mr. Guggi Laryea, Senior Manager, Stakeholder Engagement and Partnerships, Amfori, agreed that there are many reasons for optimism if parallel measures are taken to reinforce regulatory environment and support ecosystems, when referring to the opportunities that mandatory sustainability legislation might present. In the Cocoa sector, for instance, cooperatives with improved

internal management systems and risk assessment tools provide more added value to their members- by the same token, countries that cannot compete on the world market on volume have the opportunity to produce added value cocoa for niche markets. Both also agreed that close collaboration between lead firms and their direct and indirect suppliers will be pre-conditions for unhindered market access of SMEs in developing countries.

Mr. Laryea proposed more collective action as a critical component of successful fair trade, particularly as mandatory actions facilitate harmonization, to a greater extent than voluntary actions:

“Mandatory due diligence will force that harmonization more, because you’re actually talking about meeting one kind of legislation... and the [Directive] that’s coming out at EU level means that across the EU, you have the same legislation that you have to meet. So I think it’s going to be very helpful.

The main conclusion of the session is that SMEs cannot be left alone on their respective journeys to converge towards future due diligence regulations and that a concerted, multi-stakeholder approach is needed. UNIDO is ready to bring to bear its broad-based expertise, networks and technical cooperation capacity to mitigate any harmful effects on SMEs in order to guarantee market access also under a new paradigm of fair and just globalization.



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Conclusions

Due diligence standards bring both opportunities and challenges to the functioning of global value chains. Leveraging the related advantages is only possible through systematic support from government, non-governmental organizations (NGOs) and external stakeholders, such as international organizations, financial institutions and development finance institutions (DFI).

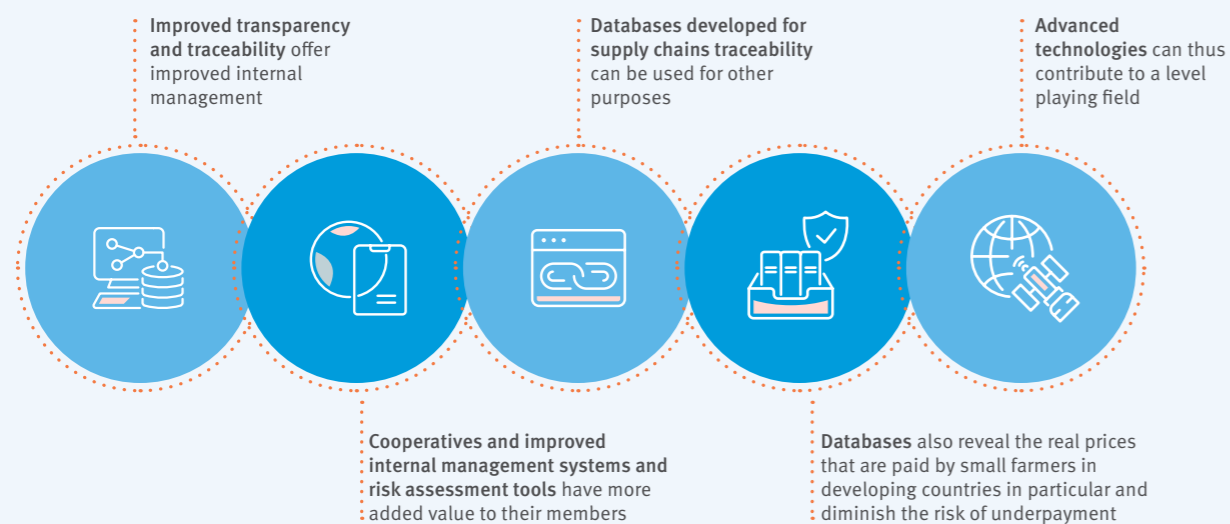


OPPORTUNITIES AND CHALLENGES

SMEs in developing countries often lack the capacity to participate in voluntary or sustainable standards and are therefore excluded from sustainable value chains. As a consequence, the demands and benefits of sustainable standards and regulation have not been fairly spread between industrialised economies and developing countries. The implications of emerging due diligence laws can thus be significant for developing countries engaged in cross-border trade, and could even present a barrier, especially for SMEs. Moreover, the potential duplication and fragmentation of national sustainability-

related requirements calls for global partnership to align national requirements with international standards for regulatory coherence and take-up of international best practices. The emerging due diligence frameworks could also envisage technical and financial assistance to developing countries like for Sanitary and Phytosanitary measures (SPS) and Technical Barriers to Trade (TBT) trade agreements. This would allow for targeted initiatives to address fair trade standard compliance challenges of developing countries and build capacities among the public and the private sector.

- The session examined the challenges and opportunities of the mandatory due diligence standards on SMEs, especially in Africa. With respect to **opportunities**, a few factors were identified, namely:



- The picture seems positive, however, a positive outcome is only possible when information is disseminated to the SMEs impacted, along with adequate support to build capacity. Some of the **challenges** also include:



MEASURES FOR THE FUTURE

The panelists also discussed certain measures for the future. It was agreed by consensus that building in-country capacity is important. In addition, providing training, involving civil society actors into the dialogue, harmonizing standards across various countries, investing in companies involved in raw material, was considered integral. Value addition was another point of discussion. It was agreed that NGOs should provide longer-lasting support to allow SMEs to build confidence and relations with external markets.

In conclusion, due diligence standards bring both opportunities and challenges to the functioning of global value chains. Leveraging the related advantages is only possible through systematic support from government,

NGOs and external stakeholders, such as international organizations, financial institutions and DFIs.

UNIDO has acquired decades of experience in assisting developing countries and their private sector firms in raising their capacities to comply with global industry and trade-related requirements. It will mobilize its resources, aptitudes and networks to improve the competitiveness of SMEs and small holders in its Member States, cooperating with all relevant actors to leverage synergies to this end. The recent establishment of the Division of Fair Production, Sustainability Standards and Trade demonstrates the institutional priority placed on addressing all related challenges and opportunities.





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