



Swiss Forum «Business and Human Rights» 2023

Workshop 1, 11:30 – 12:30

The financial sector and human rights: What are the issues at stake?

Chatham House Rule

The Chatham House Rule helps create a trusted environment to understand and resolve complex problems. Its guiding spirit is: share the information you receive, but do not reveal the identity of who said it.

The Rule reads as follows:

“ When a meeting, or part thereof, is held under the Chatham House Rule, participants are free to use the information received, but neither the identity nor the affiliation of the speaker(s), nor that of any other participant, may be revealed. ”

The financial sector and human rights: What are the issues at stake?

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The financial sector and human rights: What are the issues at stake?

Regulatory overview

October 2023

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Agenda

● Welcome and introduction

- Key regulatory approaches to protecting human rights and the environment
- Overview of global regulatory developments: due diligence regulations
- Updated OECD Guidelines for Multinational Enterprises on Responsible Business Conduct
- EU proposed Corporate Sustainability Due Diligence Directive (CSDDD)
- Main due diligence requirements for financial institutions (FIs) in Switzerland
- Monitoring financial institutions' policies

Speaker



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Key regulatory approaches to protecting human rights and the environment



Modern slavery acts

- Reporting requirements
- Limited to forced labor and child labor
- Growing trend to require companies to disclose due diligence processes



Customs (import/export) requirements

- No direct due diligence requirements for companies
- If products come from specific countries, customs restrictions focus on the risks of forced labor and child labor
- If goods are retained by border officers, companies must prove how they manage forced/child labor risks

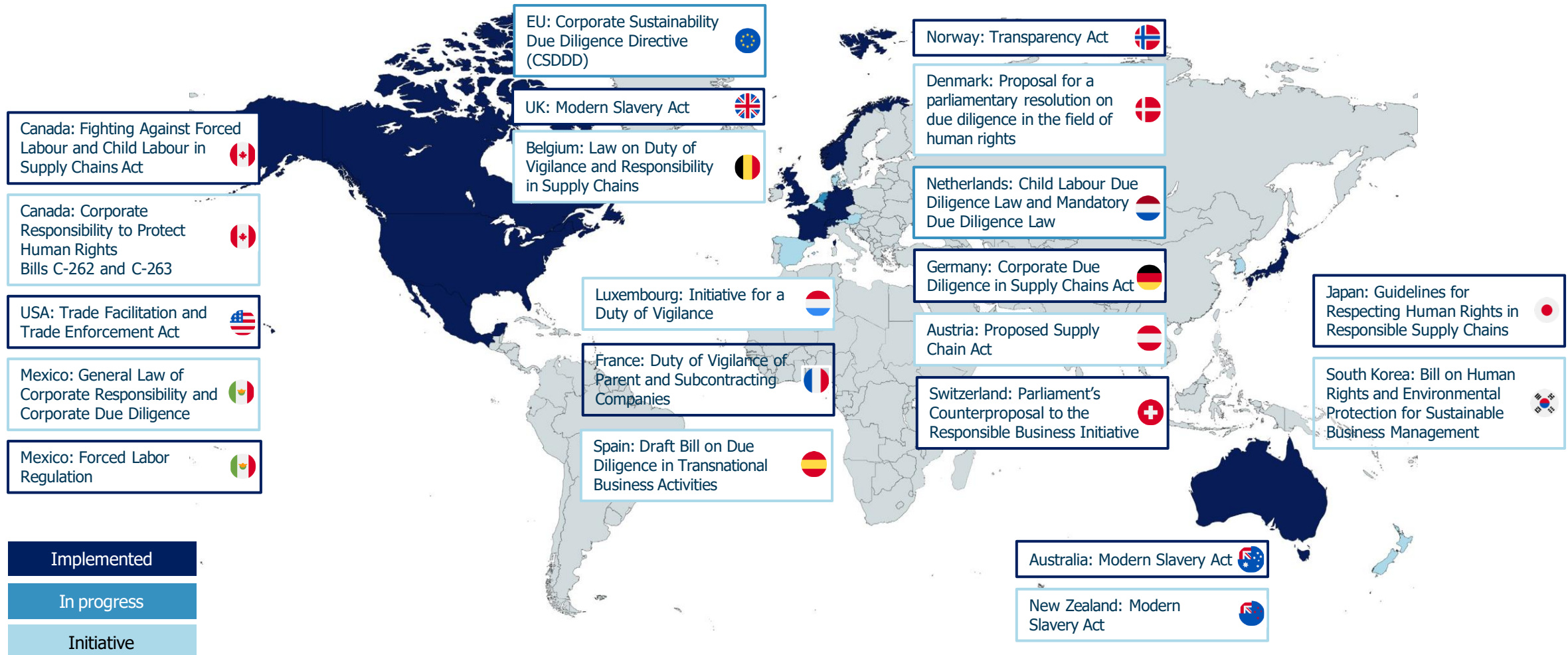


Due diligence regulations

- Require companies to implement due diligence processes
- Reporting is one of the required processes



Overview of global regulatory developments concerning due diligence regulations



Updated OECD Guidelines for Multinational Enterprises on Responsible Business Conduct



Climate change

Enterprises to align with internationally agreed goals on climate change and biodiversity.



Technology

Introduction of due diligence expectations on technology, including gathering and using data.



Use of products and services

How enterprises are expected to conduct due diligence on impacts and business relationships related to the use of their products and services.



Protection for at-risk persons

Better protection for at-risk persons and groups, including those who raise concerns regarding the conduct of businesses.



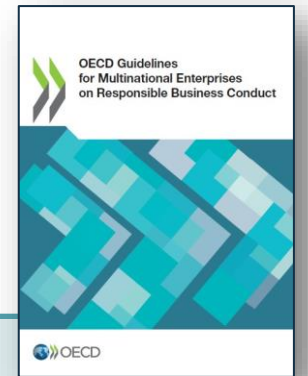
Updated disclosure recommendations

Updated recommendations on disclosing information about a company's responsible business conduct.



National Contact Points

Strengthened procedures to ensure National Contact Points more effectively handle grievances related to business conduct.



New definition of "business relationship"

- The scope of "business relationship" in the *OECD Guidelines for MNEs* has been expanded and now includes "investee companies."
- Holding a company's securities, including a minority shareholding, constitutes a business relationship between the investor and the investee.

What are the challenges of including value chains in due diligence processes for financial institutions?

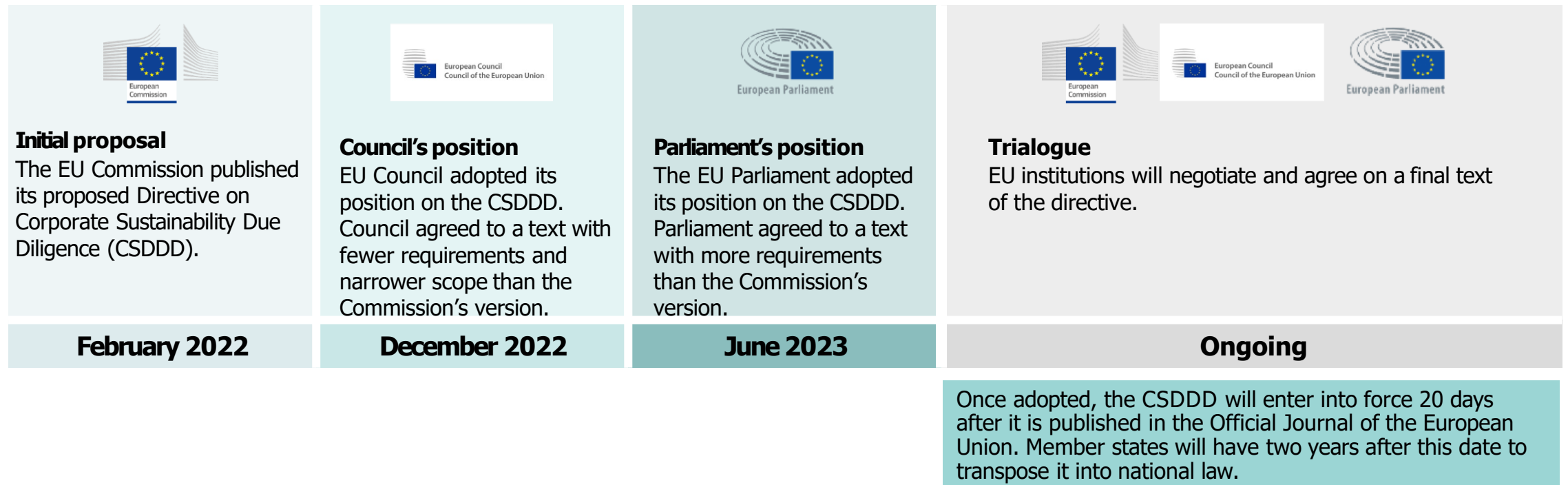


Activities	The main environmental and human rights risks for a bank come from their customers' activities rather than their suppliers' activities. Including the value chain in the scope of due diligence leads to more extensive assessment of risk.
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Investees	<u>If investees are included in a regulation's definition of business relationship:</u> before any investment decision, financial institutions are expected to undertake risk-based due diligence on the investee company.
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EU proposed Corporate Sustainability Due Diligence Directive (CSDDD)





Alignment between “soft law” and the EU CSDDD

	Covers financial sector	Climate change is part of due diligence	Development of climate transition plan	Full upstream and downstream value chain	Stakeholder involvement	Remediation of harm
OECD Guidelines for MNEs on Responsible Business Conduct	Covered	Covered	Covered	Covered	Covered	Covered
UN Guiding Principles on Business and Human Rights	Covered	Partially covered Note on climate change issued	Not covered	Covered	Covered	Covered
CSDDD EU Commission version	With exemptions Covered	Not covered	Development of a separate plan to address climate change Partially covered	Limited to “established business relationships” Covered	For identified risks Partially covered	Mentioned but not very detailed Covered
CSDDD EU Parliament version	With exemptions Covered	Covered	Covered	Only up to the point of sale Covered	Covered	More detailed Covered
CSDDD EU Council version	Not covered	Not covered	Development of a separate plan to address climate change Partially covered	Not covered	For identified risks Partially covered	Mentioned but not very detailed Covered

■ Covered
■ Partially covered
■ Not covered

Main due diligence requirements for financial institutions (FIs) in Switzerland



Due diligence for FIs -> physical gold: Companies that import minerals or metals containing tin, tantalum, tungsten, or gold in raw form into Switzerland or that process them in Switzerland, and companies that import products containing such minerals or metals as components must comply with due-diligence obligations.



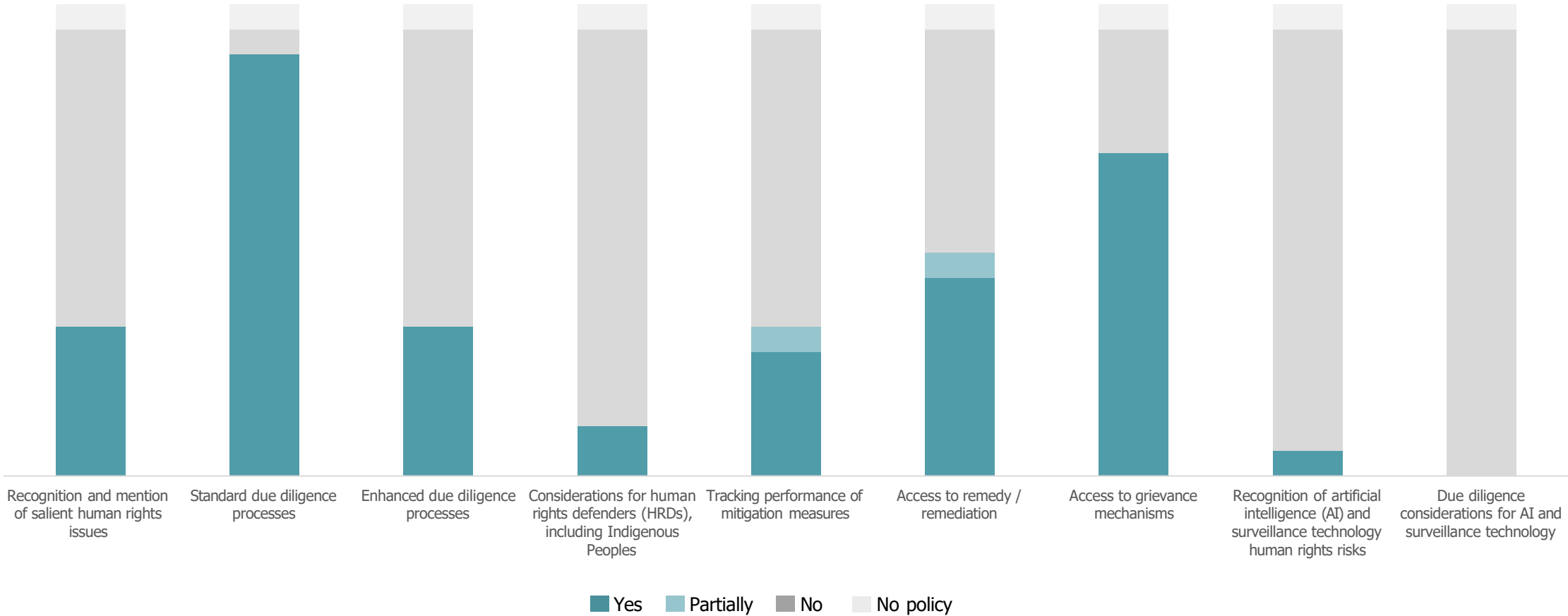
Checks recommended: To avoid any risk in buying gold from another Swiss bank, FIs should verify the refiner of the gold and not automatically assume the importing bank conducted adequate due diligence. In this circumstance, to be safe, confirm the origin of the gold by (1) checking if the gold is on the LBMA Good Delivery List or (2) asking the seller for due-diligence documentation.



Implementation guidance: The OECD has published a few guides on metals and minerals due diligence processes:
(1) OECD Due Diligence Guidance for Responsible Supply Chains of Minerals from Conflict and High-Risk Areas
(2) Handbook on Environmental Due Diligence in Mineral Supply Chains



Monitoring financial institutions' policies



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An aerial photograph of a city skyline at dusk or dawn. The sky is a clear, light blue. The city below is densely packed with buildings, many of which are illuminated with warm yellow and orange lights. The text "ECO:FACT" is overlaid in the center of the image in a white, sans-serif font.

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Thank you!