

# Discussion Paper #1

## July 2020



**For a Coherent and Integrated  
EU Approach to Due Diligence**

# An Invitation for Dialogue

The European Commissioner for Justice, Didier Reynders, committed to a legislative initiative on mandatory human rights and environmental due diligence for companies in early 2021.

CSR Europe – within its programme [“Beyond Due Diligence”](#) – wants to promote an in-depth conversation on the topic of due diligence over the Summer of 2020. This is a **first draft text** and we invite all members, and partner companies, National Partner Organisations, supply chain sector initiatives and stakeholders to [share with us their feedback and comments](#). In the coming months a [series of webinars are being organized to have a further discussion](#).

## IS COVID-19 SETTING THE NEXT FRONTIER FOR SUSTAINABLE SUPPLY CHAIN LAW?

Within an estimated population of 450 million people working in global supply chains, **the number and the vulnerability of those facing reduced income or job loss are dramatically increasing as a result of the COVID-19 pandemic**. This unprecedented situation is only adding to the already growing expectations faced by policymakers and industry around the world concerning the creation of mandatory laws requiring companies to undertake environment and human rights due diligence: new legal steps that are seen by many to make the **UN Guiding Principles on Business and Human Rights** more actionable.

It is in this context and following the examples of the [French Duty of Vigilance Law](#) and the [Child Labour Due Diligence](#) in the Netherlands, that on 29 April 2020, the European Commissioner for Justice, Didier Reynders, announced that the

**Commission commits to introducing rules for mandatory corporate environmental and human rights due diligence.**

CSR Europe’s initial reaction is that it welcomes the European Commission’s announcement as long as any future supply chain law will be **coherent with other forthcoming EU policies AND coupled with equally ambitious supportive incentives and capacity building measures within one EU Integrated approach**.

From our experience on the ground, **we strongly believe that a wider smart policy mix of national and European measures is needed** (including bilateral agreements, aligned public procurement practices, changes in the competition law). Indeed, the full recovery from the effects of the pandemic will require a deeper change, towards a value chain that safeguards the environment, human rights and local inclusive communities. To achieve this, it is important to create a level playing field AND foster impact-oriented actions.



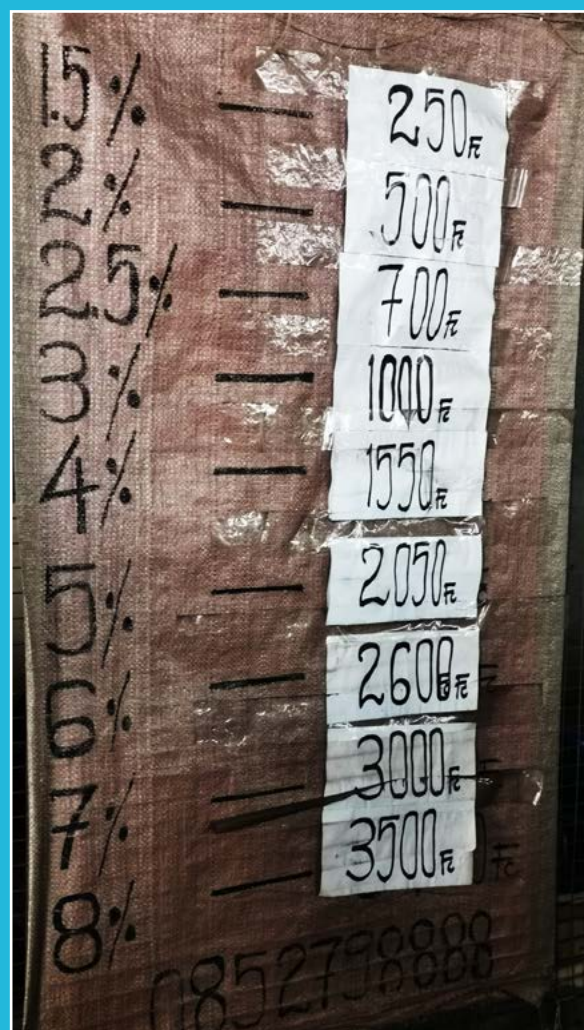
# To Achieve Impact we have a Duty to Collaborate

[In an extensive evaluation report by the Dutch government](#), it is stated that: “reporting requirements are relatively easy to enforce, but whether they lead to actual changes in company behaviour and impact in global value chains remains to be seen”.

To achieve impact at the local level, CSR Europe, together with other action driven Networks on Sustainable Supply Chains and Responsible Sourcing, believe that **the time has come for a new generation of European Sector Dialogues & Alliances**.

Sector Dialogues & Alliances that can **facilitate the dialogue, develop sector guidelines and organise peer learnings** within one or across various sectors. Sector Dialogues & Alliances whose final purpose is to **encourage far more enterprises to collaborate** in places where change can only happen through collective coordinated and sustainable solutions, reaching the expectations of national, European and International principles and norms. In other words, a **new generation of Sector Dialogues & Alliances fortifying a “duty to collaborate” to help enterprises, government and civil society to implement better their respective “duty of care”**.

To look into how supply chain initiatives, developed over the past years by different actors (e.g. industry federations, stakeholder groups, governments), contribute to the delivery of better social and environmental outcomes, we notice that **the overall principles and the compliance mechanisms are established but that the focus on change and impact (in companies, supply chains and local communities) is much more challenging**.



**A mandatory due diligence law will increase awareness** and the reach of principles and assurance mechanisms, **but alone it will not directly improve the actual supply chain conditions**. There is a lack of multi-stakeholder practical collaboration, and any further compliance mechanisms need to be elaborated within a more **holistic eco-system approach** that includes a dynamic for change, involving local governance institutions, investment mechanisms and adapted trade policies.

# For a Coherent and Integrated EU Approach

**The new upcoming policy developments will substantially change how multinational companies address the impact of their value chain and its transparency.** For the new legislative proposal of the EC to achieve a wider level playing field, more is needed. A regulatory framework on its own, focused on individual company behavior, risks to overestimate the level of factual influence and leverage by a company and might lead to **disengagement instead of proactive engagement** along the supply chain. That is the last outcome we need in times of recovery with **urgent and continuous support to start-ups, SMEs and suppliers.**

This is why we consider that a future mandatory due diligence legislation, in order to achieve a strong level playing field for change, must be embedded in an **ambitious, coherent and integrated EU approach that includes various accompanying measures and incentives** to be implemented by the EU, its Member States, public and private investors.

**An EU approach which, at the side of the OECD and ILO, will give greater trust and power to national and European collaborative partnership initiatives** led or co-led by private, public and civil society organisations with proven methodologies and expertise. Together, with EU support, they have massive potential to contribute to the bottom up standardization of best practice in line with ILO, EU and OECD due diligence principles, guidelines and norms.

**A.** On a coherent policy approach, there is growing uncertainty among enterprises, even among the most pro-active ones, questioning **how the EU institutions will build**

**consistency** among the following EU policies and forthcoming initiatives:

1. The supply chain law proposal led by DG Justice, the revision of the EUDNFI, the initiative on Sustainable Corporate Governance, the delegated acts of the EU Taxonomy.
2. The policies on Trade, Development and International Partnerships, and Public Procurement.
3. The mandate provided to all Commissioners to integrate the SDGs in all EU Policies.

**B.** On an EU Integrated approach, we would like to explore as soon as possible with the EU institutions and the EU Presidencies the feasibility of the following accompanying measures:

1. The creation of European Sector Dialogues & Alliances. The success of future EU initiatives will depend to a large extent on the buy-in of the EU private sector, in particular of Industry sectors representing enterprises with extensive and strategic supply chains. They need an EU that stands ready to give them due consideration and support for building Sector Dialogues & Alliances on Environment and HRDD able to:

- ▶ Supplement a future horizontal legislation with sector guidelines, building on the examples of the EU published Guides in 2013 on implementing the UN Guiding

# Let's Work Together, Now.

Considering the urgency to act, we suggest to the European Commission and all stakeholders to explore more in depth:

1. The best options for a potential new law AND accompanying measures
2. How to consolidate an action oriented Coalition of European Stakeholders on Corporate Due Diligence
3. The kick-off of a few pilots Sector Dialogues
4. The acceleration of a strong and coherent EU raw materials diplomacy, integrating some of the above accompanying measures in the forthcoming European Alliance on Raw Materials.

Principles on Business and Human Rights in three business sectors, including the ICT and the oil and gas sector.

- ▶ Provide systematic monitoring of the current risks and the Environment and HRDD performance by companies and stakeholders.
  - ▶ Offer the platform for genuine solution -and collaboration- oriented dialogue and analysis, to address challenges like the loss of local livelihoods in settings where alternative employment opportunities are scarce or breaking the link between resource extraction and conflict.
  - ▶ Explore and advise on policy (coherence) improvements to increase environment, human rights, decent work, and other related sustainability impacts.
2. The development and expansion of collaborative platforms that engage companies and stakeholders to boost local capacity building and explore new financial incentives for measurable solutions.
  3. Platforms with a comprehensive approach that addresses the root causes of the problem: conflict, weak governance, lack of education, skills and development, or companies pursuing a no-risk strategy. Platforms that have a special attention to the role of civil society and that contribute to the empowerment of local communities.
  3. The access -through for instance a European one stop shop- to existing and new mechanisms to use public and private funding to scale up collaborative efforts in the supply chain, with a specific focus on raw material sources and conflict minerals.
  4. Campaigns to provide visibility to the efforts of companies and sector and cross-sector initiatives with proven records on their investments and collaboration on sustainable supply chains.
  5. A state of play on the implementation of the accompanying measures decided by the European Parliament and European Commission on the Conflict Minerals.

# Responsible Business, Better Future.

## OUR CONTINUOUS WORK TO ENHANCE SUSTAINABLE SUPPLY CHAINS

For many years now, CSR Europe is spearheading innovative responses in many different sectors, from automotive to tyre and logistics. In 2020, we kicked off the dialogue between a wide array of supply chain sector initiatives to explore common challenges and seek opportunities to leverage each other strengths and approaches.

To achieve real impact, we engaged companies in collaborative platforms, where they are working together with their sectors, value chain peers and other relevant stakeholders. Examples of our ongoing collaborative platforms are: [Drive Sustainability](#) and [Responsible Trucking](#). In the tyre industry we supported the creation of the [Global Platform for Sustainable Natural Rubber](#). CSR Europe is also involved in **cobalt and platinum mining sustainability efforts**, and started to roll out the [“Extractives and Development” project](#) in June 2020, with the support of the German development agency GIZ.

We further developed the [Grievance Management Assessment \(GMA\)](#), a benchmark tool to assess companies’ grievance mechanisms in line with the UN Guiding Principles on Business and Human Rights and OECD Guidance for Responsible Business Conduct.

We also collaborate with the European Commission and the German EU Presidency in their efforts to push for a thoughtful and integrated European policy on Human Rights Due Diligence.

## FOR MORE INFORMATION:

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*CSR Europe is the leading European business network for Corporate Sustainability and Responsibility. With 40+ corporate members and National CSR organisations, we unite, inspire & support over 10,000 enterprises at local, European and global level. We serve businesses & industry sectors in their transformation and collaboration towards practical solutions and sustainable growth. We enable systemic change and follow the SDGs, we want to co-build with the European leaders and stakeholders an overarching strategy for a Sustainable Europe 2030.*

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