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Sewing the pieces together:
TOWARDS AN EU STRATEGY FOR FAIR AND SUSTAINABLE TEXTILES

By Nadia Ashraf and Jeske van Seters

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Workers' rights violations in the textiles industry have received more attention since the catastrophic fall of the Rana Plaza in Bangladesh. More recently, there is also growing recognition of the serious environmental impacts associated with textile value chains. The EU has put in place policies to address these sustainability challenges, but these policies are limited, scattered, and varying in relevance to textile value chains. This report presents insights for an integrated EU strategy in support of sustainable textile supply chains, and it can inform specific policy processes.

The report assesses various policy measures, and explores how the EU can enhance synergies between different policy areas. This for instance includes an analysis of EU-wide human rights and environmental due diligence legislation, policy measures related to market access to the EU, an ecodesign-style approach for textiles, and an EU-level multi-stakeholder initiative for sustainable textiles.

Stepping up EU efforts to contribute to sustainable textiles is timely and can be part and parcel of the European Green Deal. More broadly, it can support the EU's contribution to achieving the Sustainable Development Goals by 2030, in particular Goal 12 of ensuring sustainable consumption and production patterns.

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Acronyms

3TG	Tin, tantalum, tungsten and gold
ACCTS	Agreement on Climate Change, Trade and Sustainability
AGT	Dutch Agreement on Sustainable Garments and Textile
APEC	Asia-Pacific Economic Cooperation
BHRRC	Business and Human Rights Resource Centre
CCC	Clean Clothes Campaign
CN	Combined Nomenclature
CSO	Civil Society Organisation
DAG	Domestic advisory group
DCI	Development Cooperation Instrument
DG	Directorate General
EBA	Everything but Arms
EC	European Commission
ECDPM	European Centre for Development Policy Management
EDF	European Development Fund
EEB	European Environmental Bureau
EFI	European Forest Institute
EFSD+	European Funds for Sustainable Development Plus
EGA	Environmental Goods Agreement
ELAC	European Lobby & Advocacy Committee
EP	European Parliament
EPP	Environmentally preferable product
EPR	Extended Producer Responsibility
EPRM	European Partnership for Responsible Minerals
EU	European Union
EUTR	EU Timber Regulation

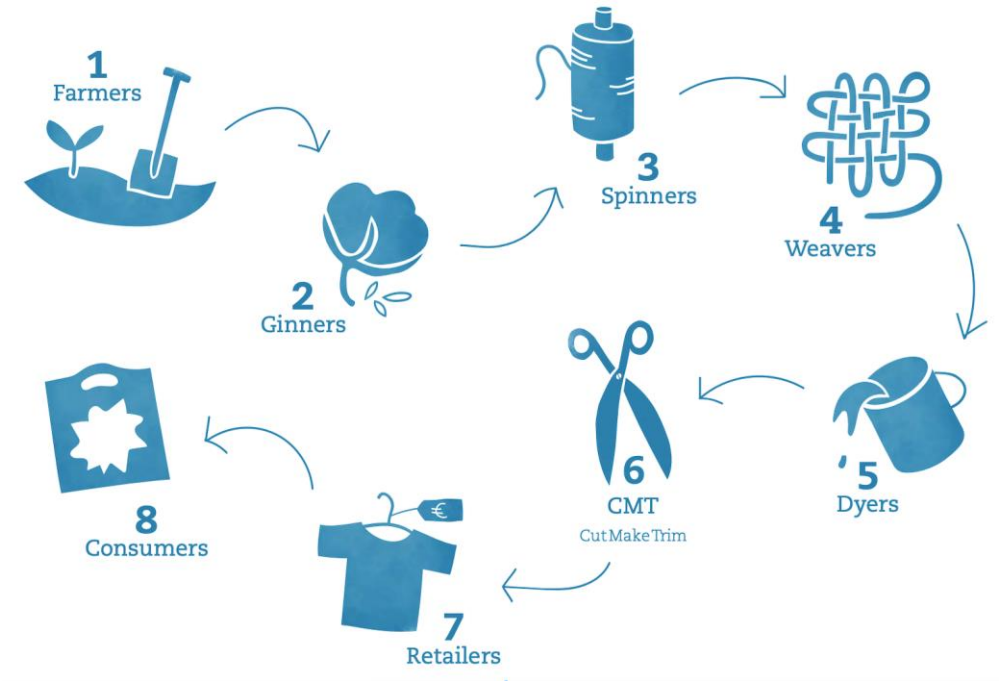
FLEGT	Forest Law Enforcement, Governance and Trade
FTA	Free trade agreement
FTAO	Fair Trade Advocacy Office
GPP	Green Public Procurement
GSP	Generalised System of Preferences
HR	Harmonised system
ILO	International Labour Organisation
IRBC	International Responsible Business Conduct
ITC	International Trade Centre
MEAT	Most Economically Advantageous Tender
MFF	Multiannual financial framework
MFN	Most favoured nation
MSI	Multi-stakeholder initiative
NGO	Non-governmental organisation
OECD	Organisation for Economic Co-operation and Development
OMdm	Oxfam-Magasins du monde
PEF	Product Environmental Footprint
PRO	Producer Responsibility Organisation
R&D	Research and development
TFEU	Treaty on the Functioning of the European Union
TSD	Trade and Sustainable Development
UK	United Kingdom
UN	United Nations
UNECE	United Nations Economic Commission for Europe
UNGP	UN Guiding Principles
VAT	Value Added Tax
VPA	Voluntary Partnership Agreement
VVSG	Association of Flemish Cities and Municipalities
VSS	Voluntary sustainability scheme
WFTO-Europe	World Fair Trade Organization-Europe
WTO	World Trade Organization

1. Introduction

The textile industry, which employs millions of people worldwide, is typically characterised by poor working conditions and workers' rights violations. In low-income production countries, workers, a large part of whom are women, suffer from low wages, long working hours, and limitations to freedom of association and collective bargaining. One of the alleged root causes is the marked power asymmetries between suppliers and global buyers. The textile supply chain has become more buyer driven over the years, which has contributed to low prices, short delivery times and poor payment terms (Richero and Ferrigno, 2016). Such purchasing practices exacerbate the risk of labour rights abuses in textile producing factories. The fact that the textile and clothing value chain is characterised by geographically dispersed production, multiple actors and lack of transparency makes tackling such challenges even more complex.

In parallel, there is a growing concern about the environmental impacts associated with textile production and consumption. This includes the use of hazardous chemicals, unsustainable use of resources and poor waste management. It is estimated that 20% of freshwater pollution globally can be linked to textile processing and dyeing (Veillard, 2018). Recently concerns have been raised about the release of plastic microfibers into water supply during textile washing and its contribution to water pollution. In addition to this, the greenhouse gas emissions caused during textiles production are considered to surpass that of international transport. Moreover, from a circular economy perspective, the textiles industry is considered to be wasteful and polluting. With less than 1% of textile fibres being recycled, the global textiles and clothing industry is presently responsible for 92 million tons of waste (Eder-Hansen et al, 2017). This can to a large extent be attributed to low prices and rapidly growing demand for textiles in the “fast fashion” environment. The consumption of garments is expected to more than double by 2030 (Eder-Hansen et al, 2017).

Figure 1: Value chain for textiles



Source: Fair Trade Advocacy Office, 2016

At the European level, there is an increasing recognition of the responsibility of importers, brands, retailers and even customers to be aware of, and to address the social and environmental issues associated with

textiles. Over the years a number of national and transnational initiatives have emerged in different forms. This includes national regulatory measures, such as the French law on the duty of vigilance, the UK Modern Slavery Act and the most recent Child Labour Due Diligence law in the Netherlands, as well as multi-stakeholder agreements including the Dutch Agreement on Sustainable Garments and Textile, and the German Partnership for Sustainable Textiles. At the EU level, particularly to address environmental challenges, various measures have been introduced. These range from non-textile specific regulations, such as the directives on waste, packaging waste and landfill under the circular economy package, to voluntary measures, including EU Ecolabel and Green Public Procurement. Furthermore, a sustainable garment value chain development cooperation package has been presented by the European Commission (from here on called 'Commission').

However, measures at the EU level are currently limited, scattered, and varying in relevance and specificity to textile value chains. There is scope to exploit synergies between different policy areas, scale up national approaches and explore new policy instruments to create a smart mix of targeted policies in support of sustainable textile value chains. In essence, a coherent and ambitious commission-wide approach is still lacking. Europe is a major destination for global textiles due to the size of its market and high per capita consumption rates. For example, approximately 60% of all the garments produced in Bangladesh are imported into the EU (Commission, 2017). This market power can be leveraged to encourage sustainable production practices through coherent EU wide approaches and instruments. There is also potential to influence consumption patterns across Europe by employing broader policy instruments. In the same vein, a harmonised approach across member states may contribute towards levelling the playing field for companies.

This report aims to draw insights for an integrated, ambitious and coherent EU strategy to support fair and sustainable textile value chains. It assesses the benefits and disadvantages of various policy areas, while also looking into the ways in which different instruments can complement each other and work coherently. These measures are not mutually exclusive and opportunities exist to strengthen complementarities and synergies between approaches.

The report could inform efforts of EU institutions and EU Member States, as well as other stakeholders to work towards such a strategy, while also feeding specific policy processes with evidence-based and actionable recommendations. These efforts could be part and parcel of the European Green Deal announced by the new European Commission led by von der Leyen, while encompassing both environmental and social dimensions.[1] It also fits the call of Environment Ministers of EU member States in October 2019 for the Commission to develop an ambitious long-term strategic framework to promote circularity in key sectors including textiles (Council of the EU, 2019). More broadly, such a strategy could support the commitment taken by the Union and the Member States to contribute to the achievement of the Sustainable Development Goals by 2030, in particular Goal 12 of ensuring sustainable consumption and production patterns.

This paper will discuss a select number of policy options, without comprehensively covering the entire spectrum of possible instruments and initiatives. In particular, the focus is on new policy measures and sector specific instruments, especially those relevant for the textiles value chain. Policies that have potential for strong leverage, political buy-in, scalability and synergies with other instruments are particularly considered. The paper looks at both regulatory and voluntary instruments. For the purpose of this paper, "textiles" refers to all forms of textiles. This includes apparel, home textiles, automotive and technical textiles (Tobler-Rohr, 2011). Information has been collected through a desk review, as well as 19 semi-structured interviews,

[1] Going in this direction, as an example, individual Members of the European Parliament have called on the incoming Commission to advance mandatory due diligence legislation as part of the Green Deal, which would cover textiles among other sectors. See article: https://www.theparliamentmagazine.eu/articles/opinion/clean-green-deal

particularly with relevant policymakers, researchers from academia and non-governmental organisations (NGOs) experts. The section following this introduction presents an exploration of policy measures related to market access of textile products in the EU market. Section 3 discusses the potential role of mandatory and voluntary product labelling measures. Section 4 reviews different instruments that can provide incentives for sustainable practices. Section 5 explores possible EU-level multi-stakeholder initiatives, after which Section 6 discusses the contours of a mandatory EU wide due diligence legislation. Section 7 presents a reflection on possible approaches for development cooperation in support of sustainable textile value chains, followed by the conclusion.

2. Market access

This section will focus on policy instruments that relate to market access of textile products in the EU market It will assess existing policies and their possible application to textiles, including Ecodesign Directive, which is currently applicable to energy-related products, and the Forest Law Enforcement, Governance and Trade (FLEGT) license related to the EU Timber Regulation. The section will further explore the potential of a new policy measure related to the provision of preferential tariffs for sustainable textiles entering the EU market.

2.1 Ecodesign-style policy

There is a growing need and political focus on improving resource efficiency in the EU. In this regard, product design is of crucial importance as it impacts the environmental performance of a product throughout its entire life cycle, particularly in terms of making it more durable, easier to repair, reuse or recycle (Commission, 2016). The Ecodesign Directive addresses this issue by setting requirements that energy-related products must fulfil in order to be placed on the EU market, with particular focus so far on energy efficiency. According to the Ecodesign working plan (2016-2019), the Ecodesign Directive together with the Energy Labelling Directive (to be discussed later in this report) have been among the most effective policy instruments to promote energy efficiency, contributing to nearly half of the energy savings target for 2020. The working plan further calls for measures implemented under the directive to systematically take account of the wider concept of eco-design by also including 'material efficiency' measures, aimed at making products more durable, repairable and recyclable. The first batch of implementing measures that incorporates this has been adopted in October 2019.[2]

While the scope of Ecodesign Directive is currently limited to energy-related products, the scope could be expanded to other product categories or a new instrument could be developed that allows for taking measures for other products. The European Parliament resolution on the implementation of the Ecodesign Directive (2018) already recommends the Commission to continue including other product categories to the directive based on their ecodesign potential, in terms of both material and energy efficiency, as well as other environmental aspects (EP, 2018). Even more recently, Environment Ministers of EU Member States, in their council conclusions on circular economy, specifically highlighted the potential for developing eco-design criteria for textiles (Council of the EU, 2019). This is particularly relevant in the context of the Circular Economy Package which emphasises the need to include circular aspects in future product requirements under the Ecodesign Directive (Commission, 2019 a). It also identifies textiles as a key priority area, given its circular economy potential, and acknowledges that no instrument currently exists for setting design and durability criteria for textiles.

The success of an Ecodesign style approach for textiles would, to a large extent, depend on the adequacy of the criteria developed. A large part of the lifecycle environmental impacts of a product are determined at

[2] For more see https://ec.europa.eu/commission/presscorner/detail/en/ip_19_5895

the design stage. In the case of textiles, this may include material efficiency requirements in terms of durability, recyclability, repairability and reusability, as well as restriction of some chemicals contents. Such requirements can potentially extend the lifetime of products and indirectly offset new production, encourage the use of recycled materials in production and possibly alter laundering habits of people (Bauer et al, 2018). Additionally, as suggested by the European Parliament, a provision on microplastics could also be included in ecodesign requirements, which is a particularly critical issue for the textiles value chain (EP, 2018).[3] Ecodesign type policy can also stipulate the type of information to be released when a product is placed on the market. Inspiration for ecodesign criteria can also be sought from sustainability schemes and labels, which will be covered in a later section of the report. **Whatever criteria is ultimately chosen, care may have to be taken in terms of the stringency of requirements.** While the regulation should eliminate the worst performing products from the market, the criteria could still develop over time to increase the bar iteratively.

It should also be noted here that ecodesign aims to address the impact of product design on the environmental footprint of a product during its lifetime. In principle a full life-cycle assessment should take into account the environmental impact of the product during all its stages including for instance water use during cotton production. However, it can be difficult to verify compliance with such requirements based on physical characteristics of a product. The Product Environmental Footprint (PEF) methodology developed by the European Commission, may provide some guidance here.[4] For instance, If we know how much water cotton requires per kilo, it may be possible to say something about the environmental impact of garments containing cotton.

One of the main obstacles to realising the potential of the Ecodesign Directive relates to insufficient market surveillance and enforcement. In general, market surveillance concerning the Ecodesign Directive is considered to be low in most EU member states, with variations across different countries (ADEME, 2014). Lack of resources, both in terms of staff and laboratories, complexity of the regulation and administrative burden are some of the commonly cited difficulties associated with market surveillance. Additionally, verification processes are costly for businesses as well, which may lead to high prices passed on to the consumer (Ten Wolde and Korneeva, 2019). This is likely to remain a significant issue in case the policy is applied to textiles. In this regard, the EU can play a role in facilitating enhanced cooperation between member states on market surveillance, particularly in harmonising measurement methods. The recently adopted regulation on market surveillance and compliance of products is a step in the right direction as it seeks to improve cooperation among national surveillance authorities and clarify procedures for mutual assistance (European Union, 2019). In addition, the recent database on Energy Labelled products represents a sound precedent to enhance market surveillance by requiring suppliers (manufacturers, importers or authorised representatives) to make available some data and technical documentation to surveillance authorities.[5] The EU could also provide support to firms in their traceability efforts by promoting tracking solutions, for example through blockchain technology, that enable greater access to different tiers of the supply chain.

Finally, determining ecodesign criteria and the minimum thresholds of the various requirements can be a challenging process, not least politically. The process requires intensive consultations with various market actors to decide on the contours and strictness of the requirements in light of different priorities (Bauer et al,

[3] The European Parliament has suggested for a requirement to be included for a microplastics filter in Ecodesign measures for washing machines, which could be done under the current legal framework. In case of eco-design measures for textiles, this would mean requirements that aim to reduce microplastics emissions from textiles, looking at fibre composition etc. There is currently no legal basis for that.

[4] The PEF approach is still in its testing phase. For more information see: https://ec.europa.eu/environment/eussd/smgp/ef_pilots.htm

[5] For more information, see https://ec.europa.eu/info/energy-climate-change-environment/standards-tools-and-labels/products-labelling-rules-and-requirements/energy-label-and-ecodesign/european-product-database-energy-labelling_en

2018). This can be especially challenging given the lack of a common definition of what it means to be sustainable, fair, ethical or circular in the textile industry. At the same time, it should not be considered impossible as under the current ecodesign directive measures have been implemented containing criteria for more than 20 energy-related products.

2.2. FLEGT and VPA

The EU Timber Regulation and Voluntary Partnership Agreements (VPAs) are part of the EU's FLEGT Action Plan. The EU Timber Regulation prohibits illegally harvested timber and timber products to be placed on the EU market. VPAs are bilateral agreements that the EU signs with countries that export timber and timber products to the EU (EFI, 2019). A country that has signed a VPA can issue FLEGT licenses for legally produced timber, which automatically comply with the EU Timber Regulation. So companies first placing FLEGT-licensed products on the EU market do not need to carry out additional due diligence checks. Legality is therefore defined on the basis of laws in producer countries.

The purpose of VPAs is to ensure that timber products exported to the EU originate from legal sources, while also supporting timber exporting countries to improve regulation and governance in the forest sector. A VPA is centered around the establishment of a legality assurance system which defines and verifies whether timber products are in compliance with the national law. The process requires active coordination and input from different actors engaged in multi-stakeholder bodies at various levels. These stakeholders identify and develop governance reforms that are needed to ensure the credibility of the process. A VPA, therefore, supports improvement and enforcement of producer country's laws through local decision-making processes, rather than imposing standards and rules from outside (Brack, 2019). With regards to the textile value chains, many of the human rights violations and environmental impacts occurring in producing countries can be accrued to weak laws and/or lack of enforcement of existing laws. For instance, insufficient compliance with labour law is often cited as one of the reasons for poverty wages in low-income countries. (Merk et al, 2017).

However, such deliberative learning processes that require ongoing stakeholder engagement are complicated, resource intensive and time-consuming endeavours. This is evidenced by the fact that after more than a decade of implementation of the FLEGT Action Plan, only one country, Indonesia, has managed to set up a fully functioning licensing system (Brack, 2019). Therefore, a VPA-type of approach is not an obvious fit for sectors in which the EU imports from many countries. It is more straightforward to envisage extending it to sectors where the EU sources from a limited number of countries, for instance in the case of cocoa where more than half of EU imports come from the two countries that are already in the process of signing timber VPAs (Brack, 2019). Furthermore, in the textile sector, brands can switch suppliers much more easily between countries, as opposed to sectors with less mobile commodities, such as timber. In other words, **considering the nature of the textile value chain, both in terms of the number of textile producing countries and the ease of switching suppliers, engaging in protracted VPA-type processes as in the case of timber would not fit the textile sector.**

Nevertheless, **it could be explored whether the approach could be adapted in such a way that it would suit textile value chains.** For example, the timber experience may provide lessons that allow to design a **more efficient and agile process** leading to functioning licensing systems in textile producing countries in shorter time frames. It could also be considered to aim for **a single VPA with multiple textile** producing **countries**. Relatedly, from the European side market surveillance may have to be strengthened. Given the difficulty of proving the illegal origin of products, there are significant delays and uneven enforcement among member states in terms of monitoring and sanctioning. To improve effectiveness of timber licensing, and in case of similar approaches in textiles or other sectors, it will be important to close loopholes for companies that allow them to choose the path of least resistance to evade compliance.

When considering a VPA-type approach, it should be kept in mind that it may lead to social and environmental improvements that some would consider still far from 'sustainable'. There may be a difference between legality and sustainability. While compliance to national laws may ameliorate certain sustainability issues, national legislation in developing countries often lacks essential requirements to ensure sustainable value chains (Brack, 2019). For instance, it is true that governments in textile producing countries often fail to implement and enforce their wage policies. At the same time, in countries where minimum wages exist and are enforced, the wage levels do not always correspond to the cost of living. In key garment producing countries minimum wages only cover a fraction of what is expected to be a living wage (Merk et al, 2017). This may be because minimum wages in lower income countries are often based on criteria other than living standards, such as international competitiveness and the capacity to attract foreign investment. In the case of textiles, **a VPA may only substantially lift the standard of laws and regulations if it manages to significantly alter incentives in textiles producing countries, by providing sufficient market access advantages.**

2.3 Preferential tariffs for sustainable textiles

The EU can use trade instruments to support the market for sustainable textiles through a number of different ways.

Bilateral trade agreements that the EU concludes have had human rights clauses since 1995. Since 2008, the EU, together with its trading partners, has started to include Trade and Sustainable Development (TSD) chapters in such agreements. Those chapters contain commitments to respect multilateral labour and environmental agreements and to ensure that labour and environment standards are not lowered in order to attract trade. In most trade agreements, a domestic advisory group (DAG) is formally set up in the EU and in the partner country or countries to advice on the implementation of the TSD chapters in EU trade agreements. The EU could further strengthen the TSD chapters and their enforcement, including when it concerns trade agreements with textile-producing countries. For this purpose, it could make more systematic use of *ex ante* and *ex post* trade sustainability impact assessments that can inform trade agreement negotiation processes and enable tangible action to be taken in response to possible infringements of TSD clauses. Furthermore, such impact assessments may inform possible accompanying development cooperation measures to prevent or mitigate negative impacts and seize opportunities for positive impacts.

As part of its unilateral tariff preferences, the EU offers Generalized Scheme of Preferences (GSP) to goods originating from vulnerable developing countries. The scheme consists of three arrangements that distinguish between countries on the basis of their development status, needs and commitments towards sustainability, while all three arrangements having certain social and environmental conditions. The standard GSP allows reduced custom duties on 66% of tariff lines. The GSP+ is a special incentive arrangement for sustainable development and good governance. This instrument grants full removal of tariffs on around 66% of EU tariff lines for vulnerable low and lower-middle income countries that implement 27 international conventions related to human rights, labour rights, protection of the environment and good governance. The third category, known as Everything but Arms (EBA) is a special arrangement for least developed countries, providing them with duty-free and quota-free access for all products except arms and ammunition. While the GSP+ requires the ratification of 27 conventions, the standard GSP and the EBA preferential tariffs can be temporarily withdrawn in case of serious and systematic violations of principles laid down in 15 conventions.

The mid-term evaluation of the GSP regulation (Commission, 2018) analysed its economic, social, human rights and environmental impact. It provided indications that the scheme has had an overall positive impact on social development and human rights, but also found various instances of violations of labour and human

rights, pointing to a compliance gap. The Commission can remove a country from the list of GSP beneficiaries in any of the three arrangements, in case of non-compliance. To date, investigations for failure to implement international conventions have been rare, and actual withdrawal of preferences even more so. The EU monitors compliance through reports of international organisations such as the ILO and engagement with GSP beneficiary country governments and other stakeholders. Civil society organisations and experts have called on the Commission to strengthen monitoring and enforcement mechanisms and enhance their transparency. For example, they have recommended to create roadmaps for GSP beneficiary countries which set out specific and time-bound human and labour rights benchmarks, customised to address specific country issues (GSP Platform, 2019). A precedent for such roadmaps could be the Bangladesh Sustainability Compact, which is further discussed in section 7.

The remaining part of this subsection will focus on a possible new tariff measure that is gaining some momentum in policy discussions, i.e. preferential tariffs for sustainable products. At the global level, the ongoing negotiations on the Environmental Goods Agreement (EGA) at the WTO aim for specific tariff reductions for environmental goods which can apply to both bilateral agreements and unilateral action. The WTO negotiations have been inspired by the Asia-Pacific Economic Cooperation (APEC) list of 54 green goods recognised for preferential tariffs within that trading block. Countries endorsed the list in 2012, and have since also published details on their implementation of the tariff cuts (APEC, 2016). The negotiations at the WTO however have reached a stalemate (de Melo and Solleder, 2019). Bypassing this stalemate, five countries have recently announced that early 2020 they will launch negotiations on an Agreement on Climate Change, Trade and Sustainability (ACCTS), which should include preferential tariffs for environmental goods as well as services. These countries are Costa Rica, Fiji, Iceland, New Zealand and Norway (Steenblik and Droege, 2019). At the EU level, European Parliament's report on the EU Flagship initiative in the garment sector argues for the introduction of preferential tariffs for sustainably produced textiles as part of the revision of the GSP Regulation (EP, 2017a).

One way to give preferential tariffs for sustainable products is indeed to offer additional preferences as compared to less-sustainable products (referred to as 'option one' hereafter). Both 'sustainable' and less sustainable products would be allowed to enter the EU under a Free Trade Agreement (FTA) or GSP scheme, but sustainable products would get a lower tariff rate (Marx, 2018). This would require to add well-defined sustainable product subcategories to the EU Combined Nomenclature, including for textile products. Such modifications to the EU CN can potentially be done through the related annual European Commission implementing regulations adopted in July every year, although WTO compatibility may be an issue. In the case of FTAs, partner countries would have to agree on the tariff differentiation between sustainable and less sustainable products.

Another possible issue with this approach is whether there will be sufficient scope to lower tariffs for sustainable products compared to their less sustainable alternatives. The scope for further lowering tariffs is limited under the standard GSP, even lower for FTAs and the GSP+, and would not exist under EBA. For instance, Bangladesh, a top textile exporter to the EU, enjoys access to zero tariffs under the EBA instrument. In the case of FTAs and the GSP+, many textile products also enter the EU tariff free. Technically, it could be possible to re-introduce or raise tariffs for non-sustainable products under the different schemes, but this will be politically very sensitive (Marx, 2018). Another opportunity would be under the Most Favored Nation (MFN) tariffs, which would require the EU to modify its bound tariffs schedule at the WTO to introduce a WTO-agreed sustainability criteria, based on a modification of the Harmonized System (HS) system, another politically very sensitive (and unlikely) move.

An alternative approach is to make a preferential tariff scheme - be it through a bilateral trade agreement or the unilateral EU GSP system - conditional on being sustainable (referred to as 'option

two' hereafter). This would mean allowing goods preferential access to the European market conditional on being sustainable. Products will require proof of origin together with proof of sustainability to receive the preferential tariffs in a GSP scheme or FTA. A benefit of integrating sustainability with rules of origin is the potential improvement in compliance with the sustainability criteria laid down in GSP instruments and FTAs. It has repeatedly been observed that there is a difference between the formal ratification of international conventions by governments and their implementation. For instance, while GSP schemes have contributed to some improvement in sustainable development and environmental protection in developing countries, the impact is often limited and difficult to measure (Marx, 2018). In principle, a targeted approach towards individual firms may foster greater compliance, as the sustainability criteria laid down in the conventions would be directly implemented and operationalised at the level of the economic operators. These firms may in turn also put pressure on their governments to improve the policy and regulatory environment to support their efforts towards sustainability. Finally, the approach may be considered as a softer measure as compared to full suspension of a GSP scheme or FTA, which would penalise all products, including ones that are sustainable.

At the same time, shifting greater burden to the private sector can change the nature of these preferential trade instruments. There is an argument that requiring companies to comply with sustainability criteria may lower the responsibility of the state, as the burden will now be split between two actors (Marx, 2018). Sustainability clauses in free trade agreements and GSP are designed to build state capacities to promote sustainable development across economic, social and environmental dimensions. If the focus is more at the level of firms rather than the state, the capacity of the state to deal with the international conventions and sustainability issues may not be strengthened. While there may be a push towards policy reform from the private sector, the ability of the EU to hold governments accountable may weaken. Governments could shift the burden of responsibility to private firms, preventing long-term structural change. It may thus be more important to view preferential market access as a complementary measure to existing state-to-state dialogue towards sustainable development.

An important challenge to implementing both option one and two is defining what is 'sustainable'. Negotiations on the Environmental Goods Agreement may provide some lessons and inspiration. Two broad categories of environmental goods have been featured in the discussions at the WTO. The first category includes traditional environmental goods which aim to remedy an environmental problem, such as LED bulbs and air filters. The other category relates to environmentally preferable products (EPPs) which generally refer to products that generate less environmental impact during their lifecycle (production, use and disposal) as compared to their conventional counterparts or "like products", for instance, chemical free cotton or organic coffee (Monkelbaan, 2011). As such, the EPP implies consideration of processes and production methods which may not affect the characteristics of the final product on the market. This notion can be further expanded to include social sustainability dimensions when applied to "preferred" textiles. In the context of the EGA, it has been complicated to ascertain EPP status of a product since it is difficult to demonstrate "undisputed scientific proof of a product's environmental friendliness" as compared to its substitute product (Monkelbaan, 2011). Perhaps even more importantly, as the EPP negotiations also show, defining the sustainability character of products to be eligible for preferential market access can be a highly political process. How certain preferential tariffs may affect the comparative advantage of countries is often uncertain as the distribution of economic and social/environmental benefits is complicated to establish (Cosbey, 2014).

In both options, **voluntary sustainability schemes (VSS), including ethical certification schemes, may potentially play a role in helping to identify sustainable products**. The use of VSS could to some extent potentially "outsource" compliance to organisations that may be able to better monitor compliance to sustainability criteria beyond EU borders. VSS can offer complementary support to public policy in terms of monitoring, and enforcing sustainability criteria. This has been for example proposed by the European

Parliament, which called in its resolution on the flagship initiative, for textile goods to be submitted on a voluntary basis for certification of sustainability, and this proof then to be produced upon import into the EU (EP, 2017b). Voluntary schemes that would be used should, inter alia, be comparable and use sustainability requirements based on international conventions, such as ILO's core labour standards. The use of VSS has been on the rise around the world. According to a recent report on sustainable markets, approximately 10% of the world's cotton area is certified by at least one standard (Lernoud et al, 2018).

The effect of trade preferences for fair and sustainable textiles and other products may depend to a large extent on the level of standards and eligibility criteria that needs to be met to obtain reduced tariffs. Standards and the need to comply with them can become substantial non-tariff barriers to trade, especially for small businesses in low-income countries. Sustainability standards will need to be transparent without discriminating or restricting trade unnecessarily (WTO, 2018). If the cost and effort to produce sustainably is more than the commensurate advantage from reduced tariffs, suppliers from developing countries may not find it worth their while to utilise the preferential access offered (Lernoud et al, 2018). This may be particularly relevant for the textiles sector, given that suppliers in producing countries are already vulnerable to unfair purchasing practices, they may be unwilling to increase their costs without a more guaranteed return.

In the case of option two, i.e. integrating sustainability requirements with rules of origin, such uptake issues may have an adverse impact on the utilisation rate of GSP and FTA tariffs. Utilisation rate refers to the percentage of goods that are actually imported under a preferential bilateral or unilateral instrument out of all imports that are in principle eligible for preferential access (Nilsson and Preillon, 2018). The additional sustainability requirements would then defeat the purpose of the preferential instrument. The effect may be more for instruments where the utilisation rate is already low and decreasing, such as for the standard GSP. It is argued that low utilisation rates are mainly due to the already complex rules of origin (Monkelbaan, 2011). In free trade agreements, there is an additional challenge that partner governments may not agree to such requirements and consider them as significant non-tariff barriers for local producers.

To address this issue of lacking capacity to take advantage of preferential tariffs for sustainable products (in the case of both options) the EU can potentially provide support through its development cooperation programmes. It can support the private sector in moving toward sustainable practices to take advantage of preferential tariffs. The ILO better work programme in Cambodia serves as a good example of linking market access to development cooperation, by awarding export licenses to the USA to textile producers who participate in the programme (Veillard, 2018). Development cooperation is covered in more detail later in the paper.

3. Product labelling

Product labels and private sustainability standards can play a role in defining sustainability criteria as well as ensuring compliance to regulation. This section will briefly discuss the potential of government backed mandatory and voluntary labels in promoting sustainable production and consumption of textiles in the EU. This includes an exploration of expanding mandatory requirements for textiles labelling and possible inspiration from EU Energy Labelling Directive, and a brief review of the EU Ecolabel.

3.1 Mandatory labelling

There exists a broad array of EU legislation pertaining to labelling and packaging of products. At present, mandatory labelling for textiles is only limited to fibre name and composition, which is aligned in all member states through the Textiles Regulation (Richero and Ferrigno, 2016). There may be scope to investigate

whether other labelling requirements can be included in EU legislation in order to influence buying behaviours and use of products. These could include for example information on country of origin, chemical substance, wash/care instructions and environmental performance. The information could possibly be provided through a QR code.

While a full analysis of all possible labelling requirements is beyond the scope of this paper, the example of country of origin can be used to draw some insights into considerations when assessing the effectiveness of additional mandatory labelling. In principle, mandatory inclusion of country of origin labelling may accrue benefits for producers and consumers. As many countries outside the EU already require country of origin marking, such labelling requirements could establish a level playing field for companies. From the consumer perspective, it provides greater transparency. **However, the potential of product labelling to effectively influence consumer behaviour depends on the relevance of the information it provides and how it is perceived by consumers**. At the moment, it is not certain whether an average consumer would be concerned about a country of origin marking when making a purchasing decision (Rytz et al, 2010). It will also be difficult for consumers to make a justifiable link between the country of origin and the way in which a product is produced. Furthermore, given the global nature of the textiles value chain, determining what constitutes a country of origin can be problematic. A proposal of the European Commission suggested that the label should present the country in which the product is last substantially altered, but then this would not be informative to consumers who wish to know the origins of the fabric for instance (Rytz et al, 2010).

The EU Energy Labelling Directive may also provide some inspiration for mandatory textiles labelling. The regulation establishes labelling requirements for energy-related products placed on the EU market, ranging on a comparative scale from A (most efficient) to G (least efficient). These labels are reportedly recognised by 85% of consumers, and have been a key driver in helping consumers choose more energy efficient products (Commission, n.d.). For this reason, manufacturers are keen to see their products in the highest category which encourages innovation towards more energy efficient technologies. The drive towards sustainable product design is complemented by the mandatory minimum requirements set in measures taken under Ecodesign Directive. It may be possible to extend such mandatory labels to textiles by including information on, for instance, recyclable content and durability, ranging on a comparative scale. It should be noted, however, that choosing energy efficient products can have a direct benefit for the consumer, for instance in terms of lowering electricity bills, whereas sustainable textiles tend to be more expensive, and so the labels may not drive buying behaviour in the same way. While it is uncertain whether such labels would be effective in the textiles sector, the complementarity between a mandatory minimum requirements regulation and labelling is important to stimulate both sustainable supply and demand. This points to the need for aligning the criteria for both regulations.

In the end, a decision to enforce mandatory labelling would involve a trade-off between its potential benefits and the resources required to manage the system. In general, industry prefers voluntary sustainability schemes and labels, partly due to the costs that it would have to incur in a mandatory system (Rytz et al, 2010). In support of this, the WTO case law requires that no “unreasonable burdens” should derive from sustainability schemes (Richero and Ferrigno, 2016). For EU member states mandatory labelling systems may also increase costs in terms of market surveillance.

3.2 Voluntary labelling

A plethora of voluntary labels and sustainability schemes exists in the textiles sector. This section will only focus on the EU Ecolabel, which is an EU backed voluntary scheme covering a range of products and services including textiles. The label considers the entire life cycle of a product from design to use to recycle/disposal and particularly focuses on the stages where the product accrues the highest environmental

impact. The ambitious criteria of the EU Ecolabel help identify products and services that tend to be among the 10-20% of the most environmentally friendly in their product/service category on the European market (Commission, 2019 b). As such, only those products that go the extra mile and do more than just abiding by the law can sport the label. In its application to textiles, the EU Ecolabel can offer value in a number of ways. For one, the criteria for textiles is considered to be one of the best as it addresses all the major environmental impacts caused by a product, including during its use phase (EEB/BEUC/ANEC, 2017). In particular its restrictions on hazardous substances and durability are some of the strictest. The criteria can also provide inspiration for an ecodesign style regulation, although care may be exercised in not setting the bar too high in terms of minimum requirements.

The success of a voluntary label depends, to a large extent, on consumer interest and uptake. As compared to numerous labels in the market, EU Ecolabel is considered to be reliable as it is verified by a national authority. Its current form of communication is simple which makes it easy for consumers to recognise it and choose green products (EEB/BEUC/ANEC, 2017). However, despite these factors, the EU Ecolabel is not well known among consumers as compared to many other labels in the market, that it competes with for attention of the consumer (Rytz et al, 2010). Market penetration is currently low, albeit growing. A reason for its low uptake by producers may be the complex and strict product specific requirements. In the case of textiles, this may be especially problematic given high volume of rapidly changing designs and products. If producers are not rewarded for their efforts through consumer demand, there is little incentive for them to sport sustainability labels. In this regard, **greater efforts by the EU in raising awareness around the EU Ecolabel as well as monitoring its uptake would be beneficial, as already suggested in the Circular Economy Action Plan.** Synergies between the EU Ecolabel and Green Public Procurement (GPP) can also be further exploited to generate demand for Ecolabel products.

Finally, it is worth noting that market penetration of the EU Ecolabel varies across EU member states. In some countries national labels may be preferred over the EU Ecolabel due to lack of communication of the latter, or greater trust on nationally developed standards. For instance, according to a consumer survey, 9 out of 10 Nordic consumers are aware of and look for the Nordic Swan Ecolabel, which is the official ecolabel of the Nordic countries (Nordic Ecolabelling, 2017). In addition, since the EU Ecolabel primarily focuses on environmental aspects (even if social and ethical criteria are added for specific relevant product groups, such as textiles), national governments may instead prefer a more holistic label covering social issues more in depth. For instance, the newly launched German Green Button encompasses a broad range of social and environmental issues including requirements regarding production processes.[6]

4. Incentives for good practice[7]

4.1 Public procurement

Public procurement has the potential to drive markets towards innovation and sustainability, by providing governments the opportunity to lead by example. Sustainable procurement can allow governments significant leverage over the supply chain to improve social and environmental conditions, while also signalling market demand for sustainable products. **The procurement of textiles is one category where there is significant**

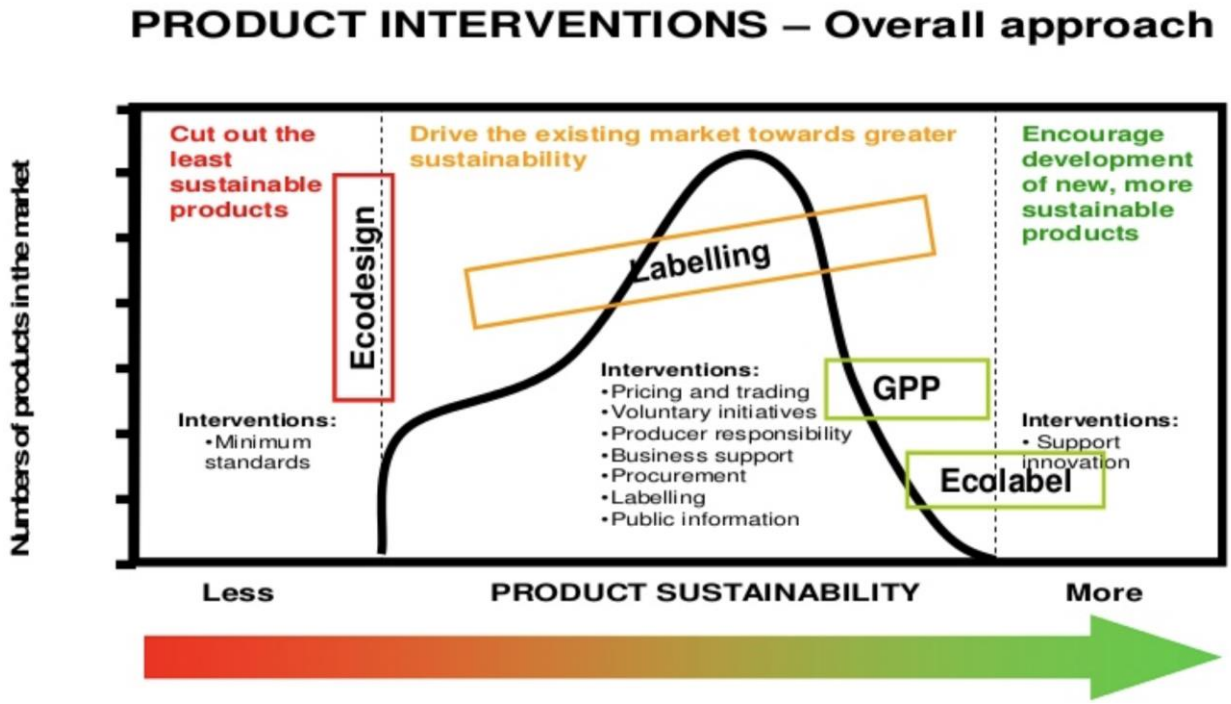
[6] See https://www.gruener-knopf.de/index.html

[7] This chapter does not cover possible preferential VAT rates for sustainable textiles. It has not been prioritised for this paper, as the EU has only limited competences in the area of taxation. The possible introduction of preferential VAT rates for sustainable products would pertain primarily to EU Member States level. Nevertheless, the ongoing revision of the EU VAT Directive may give more flexibility to Member States on VAT matters. This may have a neutral or positive influence on the space for Member States to introduce reduced VAT for certain categories of products.

untapped potential. European public sectors are important consumers of textile products and have considerable purchasing power in the market. It is estimated that €8.6 billion was spent on public sector textile and workwear procurement across Europe in 2015 (ECAP, 2017). The legal basis for public procurement in the EU is provided by the revised Directives on public procurement which allow for the inclusion of sustainable requirements, for instance at the award stage, through the Most Economically Advantageous Tender (MEAT) principle which may include environmental and social aspects (Overeem and Ten Kate, 2014). Additionally, the European Commission has developed Green Public Procurement (GPP) criteria for various product categories, including textiles. The GPP is a voluntary instrument that focuses on having clear and verifiable environmental criteria for products and services in public procurement processes. There also exists a "Buying Green guide", published by the EC in 2016 and a "Buying Social Guide", published by the EC in 2011 and currently being updated. The latter details social considerations in public procurement including decent work, compliance with social and labour rights, ethical trade and respect for human rights.

The following graph presents the approach to product interventions at the EU level, mapping policies based on sustainability requirements and the number of products on the market that follow them, including public procurement. As such, it visualises how different policy measures discussed in this paper relate. It shows how the Ecodesign Directive establishes minimum requirements that all products have to fulfil, while other instruments have greater sustainability requirements and varying number of products associated with them.

Figure 2: EU product policies



Source: D'Cunha, European Commission, 2015

The uptake of procurement of sustainable textiles, including the use of GPP, varies across EU member states and can be significantly improved. According to a review of the GPP implementation in EU member states, sustainable textile procurement was below 20% and lagged behind other product groups (Renda et al, 2012). The report also highlighted that while Sweden, Spain and Germany were the best performers in terms of inclusion of all EU core criteria, the highest uptake was still only 22%. It is further contended that bigger institutional actors, including the European Commission and the Parliament lag behind in sustainable

procurement as well. Nevertheless, there is growing interest in using sustainability criteria for public procurement and a number of best practices have emerged across member states. The following box illustrates a few of these cases.

Box 1: Examples of activities around sustainable procurement in EU member states

Germany
The German federal government set a target of 50% of its public procurement of garments to be sustainable by 2020.

Netherlands
The Dutch government requires contractual suppliers to make certain efforts towards improved labour conditions. A supplier can fulfil these requirements in different ways. Joining or being part of a recognised supply chain initiative is one way. A supply chain initiative is a collaborative effort bringing together companies, traders, environmental, human rights organisations and/or trade unions. If a supply chain initiative is recognised or approved, the contracting authority can refrain from making additional social requirements towards the contractual supplier. Suppliers that participate in these supply chain initiatives automatically live up to the social conditions set by the government (Overeem and Ten Kate, 2014).

The Ministry of Defence received a reward for having bought towels, washcloths and overalls with at least 10% recycled material. The recycled textile was partly derived from military clothing, which was sorted by people with a distance to the labour market.[8]

Belgium
The Association of Flemish Cities and Municipalities (VVSG) and the City of Ghent took the lead and launched the pilot project 'socially responsible workwear'. VVSG and the City of Ghent first identified the suppliers who are already working in a socially responsible manner. After all, they know the pitfalls and the threshold and know what prevents their peers from taking that step as well. They talked with purchasers to find solutions that have a real impact on the chain (Vos et al, 2018).

There is considerable scope to enhance sustainable public procurement in the EU, particularly by addressing some of the key challenges faced by national and local institutions. In this regard, lessons can be drawn from the progress in implementation of the GPP. According to a European Commission survey, **a key challenge identified by many public sector organisations is the difficulty in changing behaviour within purchasing departments** (Bouwer et al, 2006). In particular, the use of purchase price alone to decide between offers instead of a full life-cycle approach has contributed to the perception that green products cost more. Moreover, many purchasers in public departments lack legal expertise in applying environmental or social criteria and in some cases struggle to define what an "environmentally and/or socially preferable" product or service is. Relatedly, 25% of the respondents of the survey cited lack of access to practical tools and information to support them in this task. To this extent, the Commission and the Member States can play an important role in training the procurers on the legal and technical aspects of sustainable procurement, especially on the concept of life-cycle costing. As mentioned earlier, the Product Environmental Footprint (PEF) methodology can potentially provide support in this area. Training schemes for public procurers together with the recent revision of the EU GPP training toolkits[9], are considered to be highly beneficial.

Furthermore, sustainability schemes can play a role in aiding the implementation of sustainable public procurement. While the Commission has published GPP criteria for textiles, in practice public purchasers may have to rely on certification schemes to verify products (Brack, 2019). Public buyers face difficulty in accurately assessing and verifying information submitted by tenders in response to environmental criteria, and they cannot be expected to research the background of all products on offer. While the EU procurement

[8] For more information see (in Dutch): https://www.defensie.nl/actueel/nieuws/2017/10/18/defensie-wint-prijs-voor-duurzame-textielaankoop

[9] For more information see: https://ec.europa.eu/environment/gpp/toolkit_en.htm

rules do not allow procurement policies to specify particular certification schemes and have to instead provide their own criteria, the rules do allow policies to identify which certification schemes meet their criteria (Brack, 2019). In this regard, other policy instruments can provide opportunities for support. For instance, GPP already draws inspiration from the EU Ecolabel, but the synergies can be further exploited by making a systematic use of the EU Ecolabel requirements in criteria for awarding tenders. In addition, due diligence requirements, possibly through legislation, could serve as a prerequisite for meeting the sustainability criteria in public procurement.

Finally, a dedicated effort to enhance coordination between public institutions and member states more broadly, can greatly advance the implementation of sustainable procurement. There is limited progress in terms of systematic implementation of sustainable and green procurement across Europe, and majority of public institutions are acting through their own initiatives. There is a lack of coordinated exchange of best practices and networking between public authorities (Bouwer et al, 2006). To this extent, **the EU could support the creation of a textiles specific procurement network of procurement authorities across the EU.** Through the network, procurers could share information, develop a common approach to procurement and potentially pool demand and form coalitions for collective tendering. A risk of large tenders though is that it could prevent SMEs to bid. Cross-border procurement, could be facilitated by the creation of a common registry of suppliers engaged in sustainable practices in different member states.

Additionally, a group of public institutions could also work together towards a target level of sustainable procurement. For instance, the MVO Nederland and several other public and private organisations have signed the Green Deal Circular Procurement. The deal has already led to over 100 million commitment of circular investments from companies, municipalities and government to pilot circular procurement (Ten Wolde and Korneeva, 2019). These organisations then actively report on their progress as well. The EU can potentially support coordination among member states to scale up of such initiatives at the European level.

4.2 Extended Producer Responsibility (EPR) policies

The European Commission adopted an ambitious Circular Economy Package, which includes revised legislative proposals, as part of the so-called waste package, to stimulate Europe's transition towards a circular economy (Commission, 2019 c). The revised legislative proposals, which have been adopted in 2018, set clear targets for reduction of waste and establishes an ambitious and credible long-term path for waste management and recycling. The revised directive on waste also mandates separate collection of textiles by January 2025. To ensure effective implementation, the waste reduction targets in the new proposal are accompanied by concrete measures to address obstacles on the ground and the different situations across EU Member States. As one of the ways to achieve these targets member states must set up Extended Producer Responsibility schemes (EPR) for certain product categories. While textiles is not one of these categories, member states are allowed to extend EPR policy to other waste streams. So far only France has set up an EPR scheme for end-of-use clothing, linen and shoes (Bukhari et al, 2018). In essence, **all companies placing textile products on the French market are liable to contribute towards the recycling and treatment of textile waste.** This section will draw insights from the French EPR model and its possible application in other member states.

A key objective of the EPR scheme is to raise resources for the collection, transport and treatment at the end of life of the product. In France, textile companies are free to create their own take back system of recycling or contribute to a participatory scheme managed by a Producer Responsibility Organisation (PRO). Eco TLC is the accredited PRO in France, which represents 95% of the industry (WRAP, 2018). Members of the Eco TLC contribute a fee based on the quantities they place on the market. Most resources raised through contributions by members are used to provide financial support to sorting operations in the country. The

funds are also used to support local authorities to carry out awareness raising activities designed to encourage citizens to recycle used textiles, which is a key component of the success of such schemes. Additionally, Eco TLC also uses member contributions to finance Research and Development (R&D) projects to explore innovative solutions in design, manufacture and recycle of textile products. Overall the EPR system in France has contributed to an increase in used textiles diverted from landfills. Between 2009 and 2017 the collection rate for reuse and recycling doubled from 18% to 36% (WRAP, 2018).

Another benefit of the EPR policy is that it incentivizes producers to develop sustainable production systems and circular product designs. Companies are incentivised to produce more sustainably through the introduction of modulated fees which allow discounts based on recyclability, reusability and durability of products. It is worth noting that, unlike taxation, EPR in France is a private scheme, run by a private non-profit company (Eco TLC), and controlled by the government. This aspect of self-regulation by the industry is important to design tailored schemes and foster innovation (Ten Wolde and Korneeva, 2019). However, this model existing in France would not necessarily be the same in all member states. Depending on how the system is set up, companies may not be free to choose whether or not to participate in the collective scheme and the PRO does not necessarily have to be a private organisation.

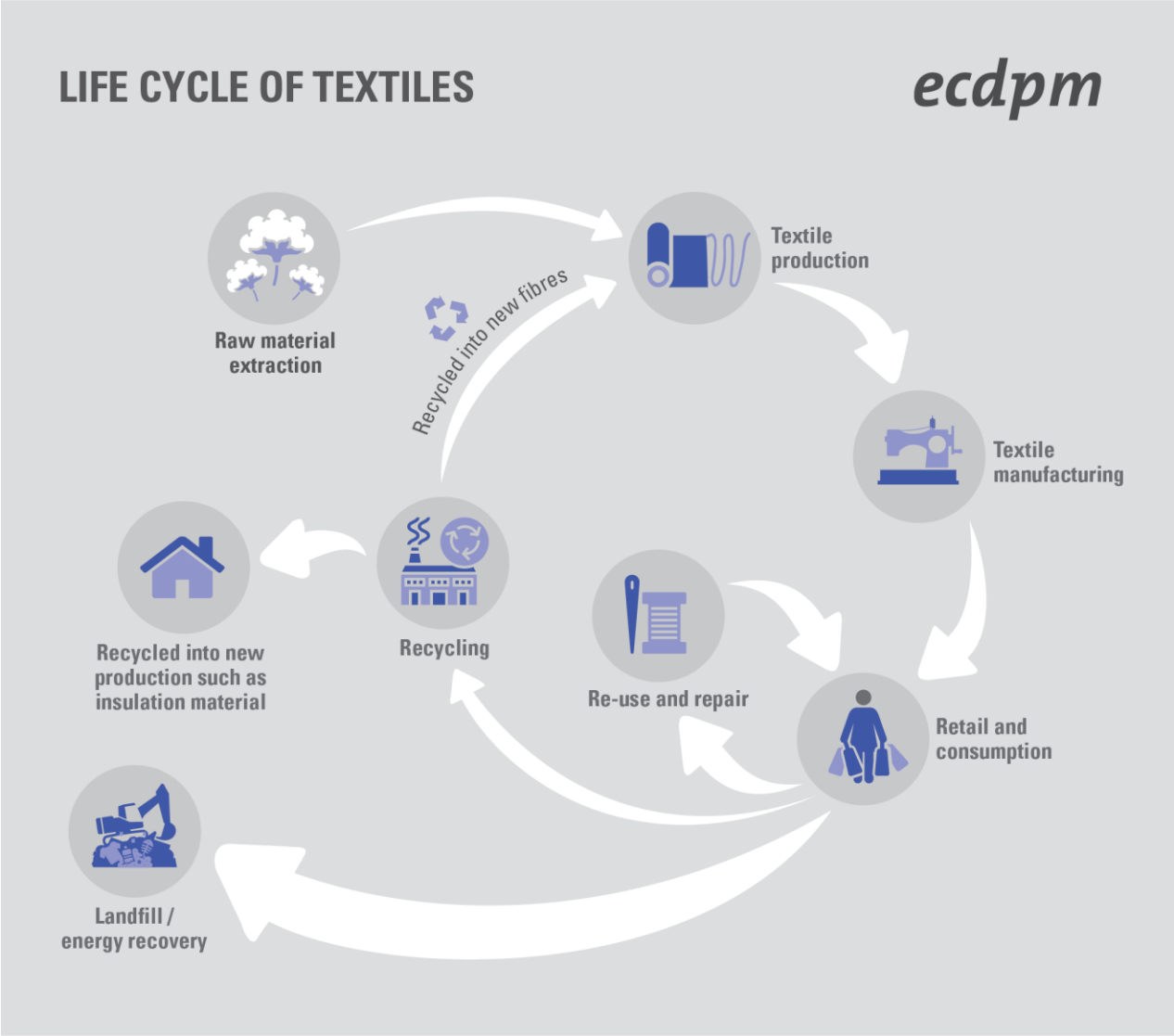
However, the French EPR system is facing certain challenges, particularly in incentivising companies to produce sustainably. **So far the uptake for the discounted fees is slow, which may be because the incentive provided is too small as compared to the cost of declaring and certifying the recycled and durability content of products** (WRAP, 2018). Companies feel that they are paying several times for everything, and would like to see positive incentives to reward their investments (Ten Wolde and Korneeva, 2019). In essence, EPR scheme in France has not significantly altered incentives for companies to incorporate sustainability in product design, which is necessary for long term circularity of the textiles industry.

Relatedly, it is uncertain what these fees would look like in other member states. For instance, the UK has a different starting position as considerable textile collection already takes place without an EPR scheme, and so the fee structure would look different there. From the experience of EPR in other sectors, fee structures vary from one country to another (Ten Wolde and Korneeva, 2019). In this regard, the EU can support research in calculating the optimal levels of fees that would make the discount attractive for companies. The waste framework directive does set minimum requirements, including that EPR systems should aim to cover the necessary costs of waste management of the products involved. It has been suggested that the EU should promote harmonised criteria to be applied consistently across member states, but this would need to be predicated on research that determines the feasibility of such an approach.

Furthermore, the market for reused textiles is shrinking, which may soon become a cause for concern. Textiles collected through the EPR scheme are either reused as second-hand products, recycled into insulation materials and clothing rags, or end up in the incinerator or landfill (Bukhari et al, 2018). As such, recycling results in products which provide less resource benefits than reused textiles. The “reuse” stream, the most preferred option for textiles recovery, is approximately 65% of the overall collected textiles (Bukhari et al, 2018). In the last few years, the quality of new clothing is in decline and it is becoming increasingly difficult to export reused textile products. African markets, to which most of the reused textiles are exported, are demanding better quality, and various African countries are also (considering to) increasing taxes on used textiles or banning the import of used textiles to support local industries.[10] It may soon become critical to find new markets for reused textiles within and outside Europe.

[10] Rwanda is an example of a country that has banned imports of second-hand clothes. See: https://www.dw.com/en/rwanda-bans-import-of-used-clothing/av-50350131

Figure 3: Life cycle of textiles



5. Multi-stakeholder initiatives

The sustainability challenges of textile value chains cannot be tackled by one single actor alone. In this spirit, the German and Dutch governments have set up national multi-stakeholder initiatives on textiles. The German Partnership for Sustainable Textiles (from here on "Textiles Partnership")[11] was created in 2014 and the Dutch Agreement on Sustainable Garments and Textile (AGT)[12] saw the light in 2016.

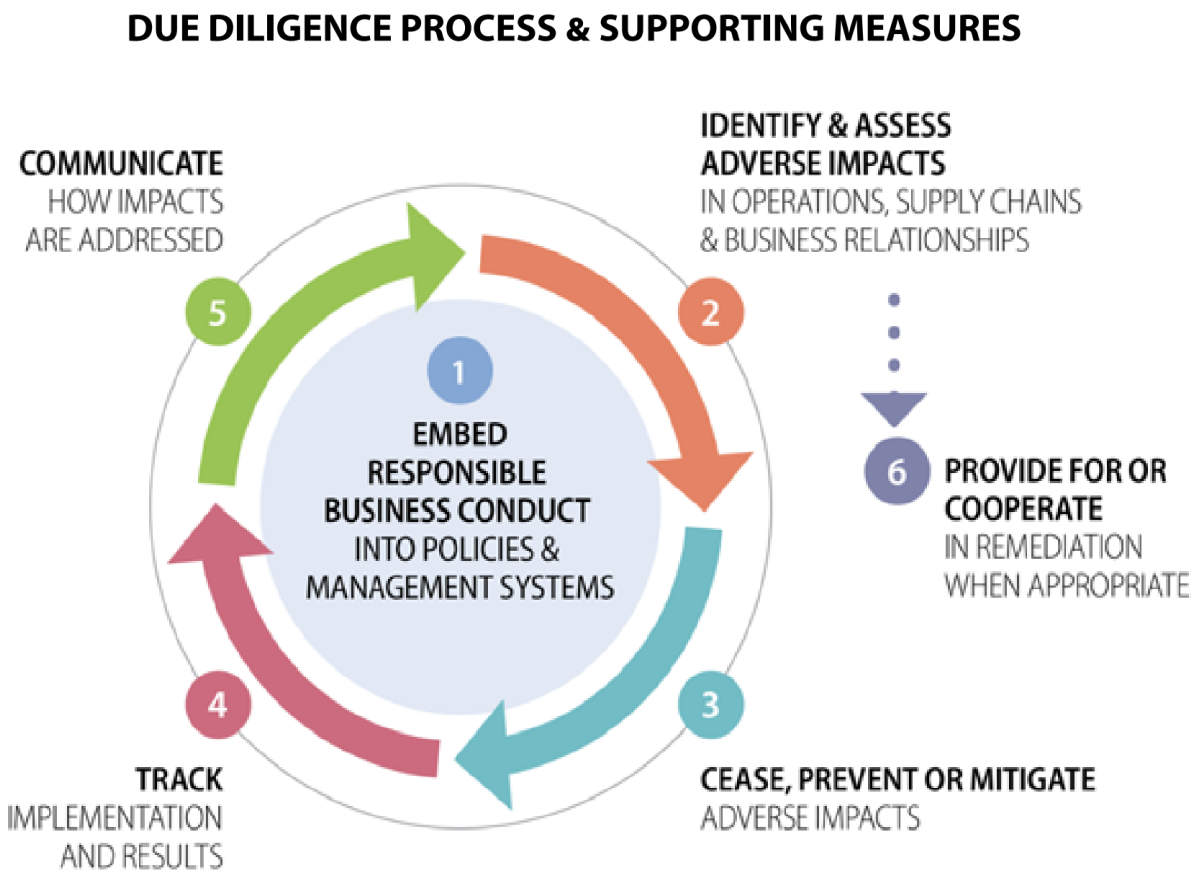
These partnerships bring together companies, business associations, trade unions, civil society organisations (CSOs), the German and Dutch governments respectively and, in the case of Germany, standards organisations. Each stakeholder group has distinct roles to play, with companies having to ensure proper due diligence; trade unions and CSOs to hold them accountable and work with them; and the government to play a brokering role, providing resources and help contribute to an enabling policy environment (van Seters, 2018).

[11] https://en.textilbuendnis.com/en/
[12] https://www.imvoconvenanten.nl/garments-textile?sc_lang=en

In both countries, more multi-stakeholder initiatives (MSIs) addressing sustainability issues in a specific value chain exist. In Germany, this includes the Sustainable Cocoa Forum, the Roundtable Human Rights in Tourism, the Forum for Sustainable Palm Oil and the Action Alliance for Sustainable Bananas. In the Netherlands, AGT was the first 'Agreements on International Responsible Business Conduct (IRBC) to be signed, after which other sectors followed, namely banking, gold, natural stone, food, insurance, pension funds and the metal sector.[13]

Human rights and environmental due diligence is at the heart of these agreements. It refers to measures that companies can take to identify, prevent, mitigate, and account for the negative human rights and environmental impacts of their activities or those linked to their business relationships along their supply chain. The United Nations Guiding Principles on Business and Human Rights adopted in 2011 state that companies have a responsibility to carry out human rights due diligence (UN, 2011). Sectoral guidance, including for the garment and footwear sector (OECD, 2018a), has been developed in recent years, complemented by sector transcending due diligence guidance for responsible business conduct (OECD, 2019). The infographic below shows the due diligence process, as provided by the OECD guidance.

Figure 4: Due diligence process explained



Source: OECD, 2018b

[13] Information on all IRBC Agreements can be found on https://www.imvoconvenanten.nl/

This section will explore the feasibility of an EU-level MSI on textiles, drawing from the experiences of the German Textiles Partnership and the AGT, while also looking at the role competition law can play in relation to collective efforts towards more sustainable supply chains.[14]

5.1 The Textiles Partnership and the AGT

Company members of the Textiles Partnership and the AGT are expected to conduct a due diligence process, a part of which is to annually prepare a "roadmap and progress report" (Textiles partnership) or an "action plan" (AGT). In Germany, the first reports covering 2017 were not published, but as of 2018 they are. In the Netherlands, the action plans are only to be seen - and reviewed - by the AGT Secretariat. The review of the roadmaps/action plans is conducted by independent external experts in the German case, while this task is performed by the AGT Secretariat, in the Dutch case. AGT companies have recently started to individually publish information on the greatest risks in their chain and how they deal with those risks. AGT company members also share their suppliers list with the AGT Secretariat, which makes the aggregate overview publicly available via the Open Apparel Registry[15]. Whereas the Textiles Partnership involves no commitment on supplier list transparency. The Textiles Partnership and AGT both provide due diligence-related training, workshops and tools for members. Joining these two MSIs is voluntary, but once a member, the due diligence process is mandatory and non-compliant companies can be expelled (van Seters, 2018).

In the case of the AGT, an independent complaints and dispute mechanism has been established. The AGT Secretariat and members may submit a dispute among them. Disadvantaged parties may submit a complaint themselves, such as workers at production sites, or this can be done on their behalf by another party. The German Textiles Partnerships has no such mechanism in place, but does indicate that it offers members assistance and lessons sharing on complaint mechanisms for affected people (Partnership for Sustainable Textiles, 2019).

Members also engage in collective projects. The Textiles Partnership has ongoing initiatives on working conditions in southern India, advancing chemical and environmental management in several Asian countries and on living wages in textile production countries (Partnership for Sustainable Textiles, 2019). The AGT has three ongoing projects on (i) combating child labour in India and Bangladesh, (ii) living wage, social dialogue and sustainable purchasing practices; and (iii) sustainability of Chinese dye houses (Dutch Agreement on Sustainable Garment and Textiles, 2019).

While the two MSIs are still a relatively recent phenomenon, initial reflections can be made, based on the recent mid-term evaluation of AGT and other existing documentation and interviews.[16]

Many stakeholders consider these initiatives as valuable settings to sensitize, enhance understanding, dialogue and collaboration on key sustainability challenges in textile supply chains (Huyse & Verbrugge, 2018; interviews). They seem to be particularly useful for companies not at the forefront of the sustainability agenda. In other words, companies that may have done little on due diligence a few years back, are now making steps forward, helped by the MSIs. Views differ on the extent to which this progress is satisfactory (van Seters, 2018). According to the mid-term evaluation of the AGT, progress is mostly related to the first steps of the due diligence process: setting up policies and adjusting internal systems and carrying out risk assessment (Rutten and Oudendijk, 2019). It seems increasingly likely that the initiatives

[14] There are many more multi-stakeholders' initiatives on garment, at different levels, some of which collaborate with the Textiles Partnership and/or AGT, such as the Fair Wear Foundation and the Fair Labor Association.

[15] In the Open Apparel Registry, the list of production locations where at least one member of the AGT sources from can be found. No information is available on sourcing of individual AGT members. See https://openapparel.org

[16] Furthermore, the OECD is looking at the extent to which the Dutch Agreement and the German Partnership contribute to the OECD guidelines. Both reports are expected to be published in 2020.

may not fully live up to their ambitious targets in the time frame set. This does not have to lead automatically to the conclusion that they were not worth the effort. It could also mean that the lofty ambitions need to be scaled down, or a more realistic time frame set (Rutten and Oudendijk, 2019).

Criticism on the AGT relates for example to the goals not being SMART enough, lack of transparency on companies' action plans even within the steering committee, the production list being aggregated instead of one-on-one transparency; and the need to strengthen the engagement with stakeholders in sourcing countries. NGOs and trade unions also do not know what specific issues individual AGT companies are working on in their value chains and what problems they want to address (Rutten and Oudendijk, 2019). Furthermore, companies and other actors have expressed the desire for the AGT Secretariat to facilitate more match making (Rutten and Oudendijk, 2019). As regards the Textiles Partnership, criticism heard from CSOs relates for example to the absence of a list of Textiles Partnership members' production locations - even if some individual members do publish their production locations. Companies complain about overly complicated reporting requirements of the Textiles Partnership, creating too high an administrative burden. Learning tools would not provide sufficient in-depth learning for advanced companies, which illustrates the challenging task of serving a very divergent group of companies. Some feel that negotiations between parties, even within the divergent group of companies, take a lot of time and effort, while they had hoped for faster collective strides towards real progress in sourcing countries. A lack of trust has been mentioned as a core contributing factor, which has led to quite formalised and long procedures (van Seters, 2018; interviews).

The AGT so far seems to have moved somewhat quicker. The Textiles Partnership seems to have gone for a more formalised approach, taking more time to agree on targets, principles and procedures, while the AGT opted for a more flexible, more iterative, approach, partly facilitated by the trust built through cooperation between stakeholders that preceded the AGT (van Seters, 2018). At the same time, there is room for improvement, especially in defining roles and responsibilities. There is some ambiguity in how NGOs and trade unions perceive their role in the AGT partnership, which may be partly because NGOs and trade unions do not know what specific issues companies are facing to offer support (Rutten and Oudendijk, 2019).

By the end of 2018 the Textiles Partnership had 81 company members (Partnership for Sustainable Textiles, 2019) and the AGT counted 71 companies, representing 92 clothing labels (Rutten and Oudendijk, 2019). These members cover about half of the German and Dutch textile markets respectively. As such, the AGT had approximately reached its 2018 target of 50%, while the Textiles Partnership was about 25% short of its more ambitious 75% market share target that same year. Reaching the AGT 2020 target of 80% is likely to be challenging. One of the key reasons for other companies not to join is reportedly that they operate in different EU Member States, and may even be headquartered outside of the Netherlands and/or Germany. They are reluctant to join initiatives limited to one EU Member State only (Dutch Agreement on Sustainable Garment and Textiles, 2019; Rutten and Oudendijk, 2019; interviews).

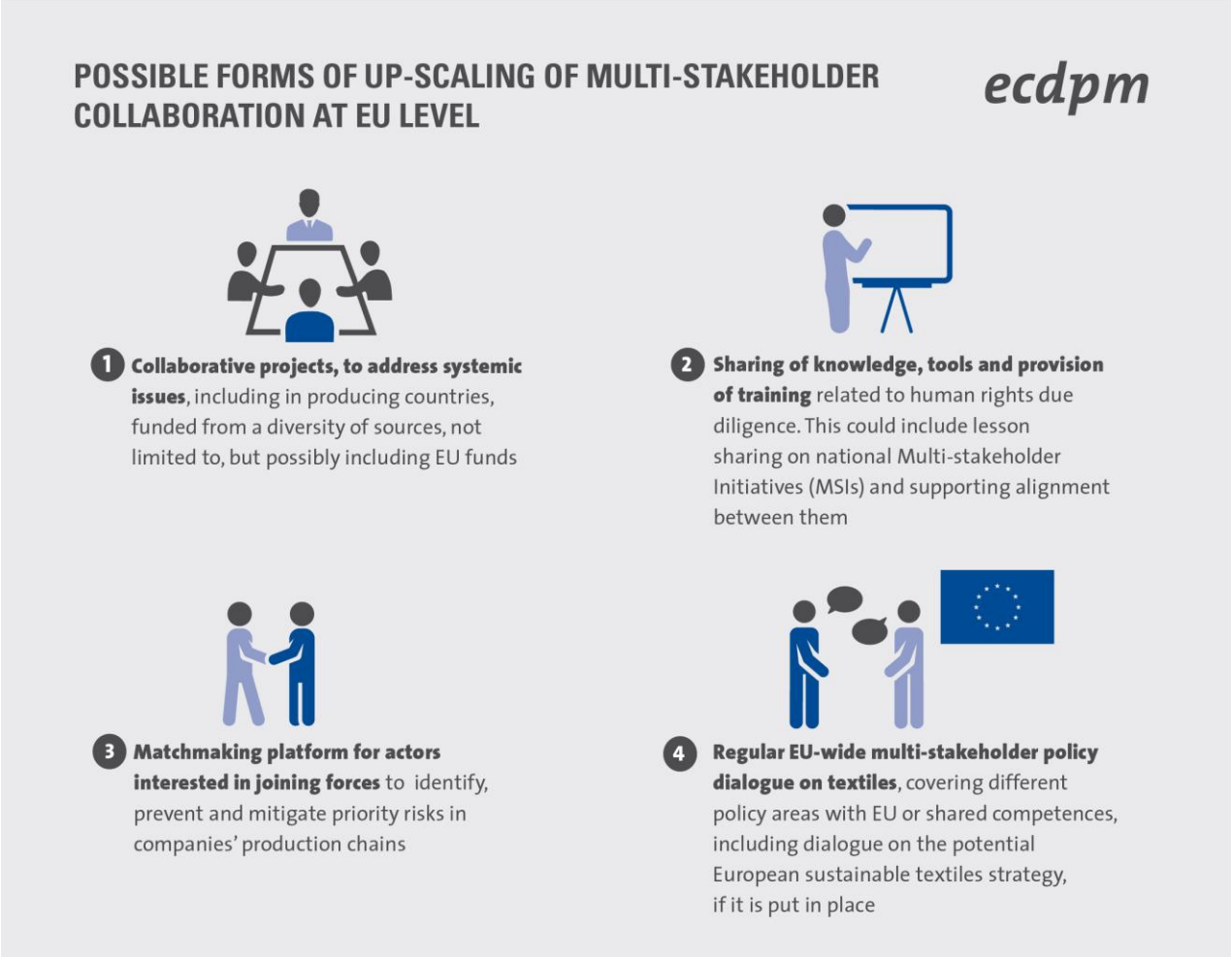
This has been one of the reasons for the Textiles Partnership and the AGT to join forces. They have signed a cooperation agreement early 2018. Companies that have signed up to the German Partnership can join the Dutch Agreement as associate members under straightforward conditions, and vice versa. Two companies only had made use of this by the end of 2018 (Partnership for Sustainable Textiles, 2019). Furthermore, the two partnerships seek to align their approaches.

The German Partnership and Dutch Agreement consider this to be a step towards enhancing cooperation in the EU. For this purpose, they have embarked on an 'EU roadshow' and organised joint events in Brussels, Paris and Milan in 2018 (Partnership for Sustainable Textiles, 2019). Both consider broader cooperation in the EU critical. Beyond the argument that it facilitates engagement of companies operating in different EU Member States, an important reason is that it creates a more extensive level playing field avoiding a

comparative advantage for companies not adhering to the international social and environmental standards as promoted by the Textiles Partnership and the AGT. Furthermore, Europe-wide approaches have the potential to allow over 500 million customers in the EU to gain easier access to products stemming from better working conditions and less environmental damage. Finally, **joining forces at EU-level can provide more leverage to influence suppliers to improve production practices, and encourage and support governments from sourcing countries to put in place an enabling policy environment** (van Seters, 2017). It can also allow stronger and EU targeted lobbying from a larger group of companies.

Cooperation at the EU level can take different forms and shapes. Copy-pasting core elements of the German and Dutch approach to the EU-level of setting a joint multi-annual agenda with targets and indicators, coupled with annual due diligence reporting and monitoring, risks being less effective than it is at national level. It may lead to downward convergence, to a lower common denominator. The risk of endless talking shops with little results to show for seems high. The political feasibility can also be questioned, given the limited interest of a majority of EU Member States and their constituencies so far, where social dialogue and multi-stakeholder consensus building is less embedded than in Germany and the Netherlands. However, still based on the German and Dutch experience, other types of collaboration in an EU-level textiles MSI seem more promising, as presented in the figure below.

Figure 5: Types of EU collaboration



Such collaboration may bear even more fruit in case EU due diligence legislation is put in place. It could then serve as an 'accompanying measure' supporting the implementation of the legislation. The

provisions of the legislation would give a strong sense of direction and can incentivise companies that have to abide by it to engage and get the most out of the partnership. An example for inspiration could be the multi-stakeholder European Partnership for Responsible Minerals (EPRM), that has been set up as an accompanying measure of the Conflict Minerals Regulation (van Seters and Ashraf, 2019). The paper discusses due diligence legislation in detail in the next section.

5.2 EU competition law

EU competition law may affect multi-stakeholder as well as industry-initiatives to promote sustainable value chains. The Treaty on the Functioning of the European Union **(TFEU)** prohibits agreements between companies that prevent, restrict or distort competition and abuse of dominant market positions. Multi-stakeholder sustainability initiatives may, and have been, considered to be anti-competitive (van Seters, 2019).

An example is the 'Chicken of Tomorrow' case in the Netherlands in 2015. It was an industry-wide, government-brokered agreement intended to ban chicken meat produced in a certain manner from supermarkets and on minimum standards providing chickens with a better life. The competition authority in the Netherlands (ACM, 2014) considered the agreement to be anti-competitive. It argued that the benefits in terms of animal welfare did not outweigh the adverse effect on competition leading to a price increase. Competition law may also affect potential agreements between competing companies operating in global value chains on the payment of higher wages/prices and better working conditions in sourcing countries (van Seters, 2018). Research has indicated that competition law has had a chilling effect on the willingness of companies in the cocoa sector to engage in such agreements to tackle low farm-gate cocoa prices, as they fear persecution (Fairtrade Foundation, 2019).

Price effects play an important role in competition law assessments, as a key measure of consumer welfare. There is unclarity – and divergence among national competition authorities – as to how non-economic interests, such as social and environmental sustainability, should be taken into account when assessing multi-stakeholder and industry agreements, as well as mergers and acquisitions (Piscitelli & Gerbrandy, 2019). This relates to the application of Article 101 and Article 102 of the Treaty on the Functioning of the European Union.

Civil society organisations and academics have argued for another interpretation of consumer welfare than what is currently dominant (e.g. Fair Trade Advocacy Office, 2019). They make the point that sustainability should not be reduced to monetary standards, as has been done in the Chicken of Tomorrow case, or calculated in a different way than consumers' willingness to pay for sustainability. They also call for space for possible sector exceptions, which could apply to textiles. It is argued that this would enhance coherence with the EU goals and values reflected in the EU Treaties[17] and, recently, the Political Guidelines of the new Commission.

Cases of industry-wide or multi-stakeholder initiatives could be brought before national competition authorities, and ultimately the European Courts, with well-substantiated argumentation in this direction. The **European Commission could also issue guidance to enhance clarity as to how non-economic**

[17] This includes for example Article 3(5) of the Treaty on the EU that states that: "In its relations with the wider world, the Union shall uphold and promote its values and interests and contribute to the protection of its citizens. It shall contribute to peace, security, the sustainable development of the Earth, solidarity and mutual respect among peoples, free and fair trade, eradication of poverty and the protection of human rights, in particular the rights of the child, as well as to the strict observance and the development of international law, including respect for the principles of the United Nations Charter."

interests, such as social and environmental sustainability, should be taken into account when assessing multi-stakeholder and industry agreements, as well as mergers and acquisitions. The EU multi-stakeholder SDG platform has recommended the Commission to do so (EU, 2018), as have other actors. This could be reflected in the ongoing review of the Guidelines on the applicability of Article 101 of the Treaty of the Functioning of the EU to horizontal cooperation agreements or "horizontal guidelines". The Commission could also provide tailored guidance to companies approaching its responsible services with plans to join forces for sustainability purposes, as it has invited companies to do.

When moving in the direction of enhanced space for industry and multi-stakeholder sustainability initiatives under EU competition law, care should continuously be taken to prevent abuse by companies collaborating primarily for profit reasons.

6. Due diligence legislation

6.1 Context

In recent years, several EU Member States, have adopted or are considering legislation that embeds elements of human rights and environmental due diligence into law. These countries consider voluntary initiatives to be insufficient. The scope and requirements differ considerably across jurisdictions. The **United Kingdom** adopted the Modern Slavery Act in 2015, which includes a clause in transparency in supply chains that requires companies to issue statements on the risks of modern slavery and human trafficking in their supply chains and their actions to address those risks. **France** adopted the Duty of Vigilance Act ("Devoir de Vigilance") in 2017, which imposes the publication and implementation of a due diligence plan. Most recently, in May 2019, a Child Labour Due Diligence Act was adopted in the **Netherlands** that requires companies to submit a statement on their identification of child labour-related risks throughout their supply chain and - in case child labour is presumed to take place - the company has to draw up an action plan.[18] While these legislations do not specifically focus on textile supply chains, they do cover companies operating in textile supply chains. The UK Modern Slavery Act and the Dutch Child Labour Due Diligence Act cover specific social issues, while the Duty of Vigilance Act in France encompasses both social and environmental concerns.

Other EU Member States are considering due diligence-related legislation. In 2018, the **German government** expressed its intention to regulate if less than 50% of companies in Germany with more than 500 employees have human rights and environmental due diligence approaches in place by 2020, and in 2019 a draft act leaked to the press.[19] In **Finland** the new government that took office in 2019 has committed in its government's programme to introduce legislation on human rights due diligence.[20] According to European Commission, 11 Member States have either developed due diligence legislation or are planning/considering to do something.

Certain mandatory requirements related to due diligence have also been put in place at the EU level. The **EU Non-Financial Reporting** Directive adopted in 2014 requires large public interest companies to report on non-financial matters, including its principal risks and due diligence processes. This is transposed into national legislation which requires companies to report on this annually since 2018. The **EU Timber**

[18] Beyond the EU, examples of due diligence legislation are the Australian Modern Slavery Act (adopted in 2018) and the California Transparency in Supply Chains Act (adopted in 2010 and in force as of 2012).

[19] https://www.business-humanrights.org/en/german-development-ministry-drafts-law-on-mandatory-human-rights-due-diligence-for-german-companies

[20] http://corporatejustice.org/news/15476-finnish-government-commits-to-hrdd-legislation

Regulation (EUTR) that entered into force in 2013 requires timber operators first placing timber products on the EU market to have in place a due diligence mechanism to minimize the risk of handling illegal timber. The **EU Conflict Minerals Regulation** adopted in 2017 determines that enterprises importing tin, tantalum, tungsten and gold (3TG) into the EU from conflict-affected and high-risk areas will be required as of 2021 to exercise due diligence in their supply chains.

Increasingly, there are calls on the EU to put in place due diligence legislation that goes beyond reporting and beyond timber and minerals, covering other high-risk sectors, not in the least textiles. Given the patchwork of national due diligence legislation that is emerging, a need is felt to harmonise at EU level, to level the playing field across Europe and rationalise requirements for companies operating in two or more EU Member States.[21] The **European Parliament** has repeatedly called for legislative measures. In 2017, the European Parliament adopted a resolution that calls on the Commission to propose binding legislation on due diligence obligations for supply chains in the garment sector (EP, 2017b) and in March 2019, the European Parliament's informal working group on Responsible Business Conduct launched a Shadow EU Action Plan on Responsible Business Conduct, which included the adoption of mandatory due diligence legislation (EP, 2019). Several **civil society organisations** are vocal on the need for EU human rights and environmental due diligence, such as the European Coalition for Corporate Justice, which brings together European campaigns and national platforms of NGOs, trade unions, consumer organisations and academics (ECCJ, 2018). Companies are also increasingly calling for binding law at EU level.

The following subsections will provide reflections that can feed into thinking on what EU-wide mandatory human rights and environmental due diligence legislation covering companies in textile supply chains could look like. Firstly, we will discuss horizontal versus textile-specific legislation. This will be followed by reflections on specific characteristics of possible due diligence legislation at EU level, be it horizontal or textile-specific, by drawing from existing due diligence-related legislation. We will look into company scope, due diligence requirements, monitoring and enforcement, and synergies with other policy areas.

6.2 Horizontal versus sector specific due diligence legislation

Some existing due diligence legislation focus on specific sectors, such as the EU Conflict Minerals Regulation and the EU Timber Regulation, while others apply across sectors, such as the UK Modern Slavery Act. What considerations should be taken into account when choosing between an EU approach that would apply to companies across sectors and a textile-specific approach, and in what direction do these considerations point?

Horizontal due diligence legislation has the advantage of applying to more companies and it avoids fragmentation, which can be an issue for companies working cross-sectorally. On the other hand, sector specific legislation would allow to be better tailored to sector specificities. But is the textile sector so specific that it requires particular provisions to be effective? A lot of risks are the same across high-risk sectors such as indecent wages, child labour and water pollution, and elements to exercise due diligence are the same for the different sectors. However, different characteristics and specific risks may require different approaches. For instance, buyers have more power in sectors where commodities and product processes are more movable. Such differences cannot be addressed through horizontal legislation, as it must contain requirements that are general enough to be meaningful to all companies across all sectors. This means that issues specific to the textile industry cannot be targeted and therefore at risk of being overlooked by the

[21] There are also ongoing efforts at the international level to regulate businesses' responsibility to respect human rights, such as the discussions at the United Nations to establish an international binding instrument. Those discussions go beyond the scope of this section, as it focuses on EU measures.

requirements (Dziedzic et al, 2017). There is a concern that this will lead to laws that end up being tick-box exercises (Huyse & Verbrugge, 2018).

Therefore, a hybrid model of a general economy wide legislation with specific sector provisions, may be most suitable**. Along with horizontal legislation, sector specific requirements or guidance could be provided to supplement the general legislative framework**. It would then need to be determined if these sector specifications are binding or non-binding.

Not only technical aspects come into play. The choice for sector versus horizontal due diligence legislation can and is also related to political will. Actors may want to shift gears according to political opportunity. To some extent, the political window of opportunity of one versus the other will depend partly on the priorities of the new European College of Commissioners and their individual members, where the leadership is likely to come from.

6.3 Company scope

Company scope differs between due diligence related legislations. What should be the scope of EU level horizontal or textile specific legislation, and what considerations should the decision be based on? Table 1 provides an overview of the scope of EU and EU Member States due diligence related legislation, which shows considerable diversity across policies.

Table 1: Company scope of due diligence legislation in the EU

Legislation	**Company scope**
Modern Slavery Act, UK	Companies that carry out all or part of their business in the UK and have an annual turnover of or exceeding £36 million
Duty of Vigilance Act, France	Companies incorporated under French law with more than 5.000 employees in France or 10.000 world-wide
Child Labour Due Diligence Act, The Netherlands	Companies, whether domiciled in the Netherlands or abroad, that deliver products and services to the Dutch end- users twice or more a year
EU Timber Regulation	Companies first placing timber products on the EU market
EU Conflict Minerals Regulation	Companies importing gold, tin, tantalum and tungsten, whether in the form of mineral ores, concentrates or metals, above a set threshold of volume of imports, specified in the Regulation and different for each mineral and metal
EU Non-Financial Reporting Directive	Public interest entities with more than 500 employees[22]

[22] Not all EU Member States have transposed the EU Directive in the same way, as the Directive leaves it to Member States to determine what a 'public interest entity' entails.

Size-based

Size thresholds - whether measured by number of employees, turnover or volume of sales - range from highly restrictive to absent. For example, the Duty of Vigilance law is often criticised for its considerably narrow scope, only covering very large companies, which are an estimated 150 to 200 in number (Karkare and van Seters, 2019). The UK Modern Slavery Act sets the bar lower and affects an estimated 9.000 to 11.000 companies. On this, the independent review of the act (2019) notes that there are "not [...] many calls for the turnover threshold to be changed at present". The Child Labour Due Diligence Act in the Netherlands applies to all companies regardless of their size.

A strong argument in favour of covering all companies regardless of size is that the UN Guiding Principles (UNGP) on Business and Human Rights give all companies the responsibility to carry out thorough due diligence, not just large companies. Furthermore, some argue that SMEs tend to have smaller suppliers and relatively shorter supply chains, and thus do not necessarily have less leverage as compared to larger companies (Clean Clothes Campaign, 2016). Others argue, however, that small companies should not be burdened with a disproportionate administrative burden.

A decision on the company scope can be usefully informed by data that indicates the number of companies and their market share at different threshold levels. This was taken into account when setting the threshold of volume of imports affected by the EU Conflict Minerals Regulation, which aims to cover roughly the top 80% of imports.[23] While such data gathering goes beyond the scope of this paper, it can be assumed that setting the threshold high would make little sense for textiles, as many EU companies in this sector are SMEs. It is worth noting, that thresholds can also be lowered over time, as considered in Modern Slavery Act Review. Less onerous requirements for smaller enterprises (Brack, 2019) or specific support mechanisms could also be considered (Government of the UK, 2019).

Activity-based

Some legislations, such as the EU Timber Regulation and the EU Conflict Mineral Regulation narrow the company scope based on the activities performed by a company in the supply chain. The Conflict Minerals Regulation will apply to importers of 3TG in the form of mineral ores, concentrates or processed metals, while those operating beyond the metal stage do not have obligations under the regulation. In the case of the EU Timber Regulation, it applies to companies, however small, first placing a product on the EU market. Companies further down the supply chain processing or trading timber products within the EU are only required to keep records from whom they bought timber and to whom they sold it.

Basing applicability primarily on a company's size rather than on performed activities is logical for horizontal legislation, given that supply chains differ enormously across sectors (Dziedzic et al, 2017). Activity-based selection criteria are technically feasible for textile-specific due diligence legislation and would allow targeting certain supply chain actors. However, limiting the scope to companies first placing textile products on the EU market, as the Timber and Conflict Minerals Regulations do, could seriously restrict the impact potential of the legislation. Brands and retailers are important choke points and power houses in textile supply chains, but some of them outsource importing to third companies, and others could follow suit, which would keep them out of the remit of the legislation. **Any legislation would do well in seeking to ensure that brands and retailers are covered.**

Should it only apply to companies established in the EU? From a competitive point of view, it can be argued that the regulation should apply to all companies operating in the EU, whether established in the EU or not, such as is the case for the EU sectoral regulations, the UK Modern Slavery Act and the Dutch Child Labour

[23] https://ec.europa.eu/trade/policy/in-focus/conflict-minerals-regulation/regulation-explained/

Due Diligence Act. However, legislation that applies to companies outside of the EU, i.e. extraterritorial legislation, can be more difficult to enforce.

In the end, the selection criteria will be a result of a balancing act of trade-offs (e.g. breadth of coverage versus specificity of requirements) and political considerations. Whatever the outcome, **clarity of who falls within the scope will be important for companies and other stakeholders seeking to follow progress**. Indeed, in the case of the Modern Slavery Act, the lack of a specific definition for "carrying on a business" has resulted in ambiguity over which companies are covered by the legislation. This makes it difficult for CSOs and other stakeholders to identify which companies are expected to comply by the legislation (Government of the UK, 2019). In this light, a group of CSOs has insisted that publication of the list of businesses in the scope of the Modern Slavery Act is vital to drive and to enable effective monitoring of compliance (CORE joint letter input review UK Modern Slavery Act).

6.4 Due diligence requirements

In addition to determining which companies the legislation will apply to, it also has to be determined which human rights and environmental due diligence requirements these companies will need to fulfil.

Reporting

Some of the legislations have reporting requirements only (e.g. UK Modern Slavery Act, EU Non-Financial Reporting Directive), others have it as part of a broader package of due diligence requirements (e.g. Duty of Vigilance Act France). Indeed, reporting on human rights and environmental due diligence merits to be part and parcel of due diligence legislation. The UN Guiding Principles on Business and Human Rights and the related OECD Due Diligence Guidance (both the generic and garment and footwear-specific versions) require companies to not only identify and mitigate risks, but also to track implementation and communicate externally on it.

It can usefully include requirement for reporting to be signed off by senior management, to reflect the UN guiding principles and OECD guidelines' call to assign responsibilities to companies' senior management and board. This is, for example, exercised in UK Modern Slavery Act, which requires the statements to be signed by the director and approved by the board. Compliance with these requirements has improved but remains patchy, with 72% of the latest statements signed by the director or equivalent and 40% mentioning approval by the board explicitly. These figures are somewhat higher for the group of textile, apparel and luxury goods companies, with 78% statements signed by the director or equivalent, and 52% mentioning approval by the board.[24]

Requirements for the content of the due diligence plans and annual reporting on progress as stipulated in the Duty of Vigilance Act can provide inspiration for EU-level due diligence reporting requirements. This includes the identification of risks, procedures for regular assessments of subsidiaries, sub-contractors and suppliers, actions to mitigate risks or prevent serious harm, and mechanisms for alerts and monitoring (Brack, 2019). Similar areas can be found in the UK Modern Slavery Act. However, a key weakness of the UK Modern Slavery Act, that has been identified by many CSOs (e.g. CORE letter) and is also recognised in the official UK Modern Slavery Act Review (2019), is that the six reporting areas suggested are not obligatory. This is thought to have contributed to a poor quality of many of the statements and a lack of uniformity and consistency between companies' statements. **Making reporting criteria mandatory, as proposed in the UK Modern Slavery Act Review, is therefore advisable**. In the case of the Non-Financial Reporting Directive, the reporting criteria lack specificity, which is provided in complementary non-binding guidelines

[24] https://www.modernslaveryregistry.org/ , 28 September 2019.

(Commission, 2017). In the same spirit, some call on the EU to make the guidance binding.[25] At the same time, while some reporting requirements deserve to be defined, mandatory reporting criteria should not be overly prescriptive, as it must be feasible for companies and allow for flexibility as companies differ.

While it may not be politically feasible at this point in time, some argue that human rights and environmental legislation applying to the textile sector needs to include disclosure of the supplier list and production sites, as well as audit reports per supplier (CCC, 2016). The European Parliament in its resolution on the EU flagship initiative has also asked for the collection of information on individual production locations (EP, 2017). Factory level disclosure of production locations is considered to be incredibly powerful, especially for its potential in allowing workers and trade unions to follow remediation cases. Increasingly, enterprises are choosing to voluntarily disclose a list of their (mostly direct but in some cases also other tier) suppliers and the assessment findings for their suppliers, which shows that such reporting is possible.

Information should be easily accessible to the public for accountability purposes (CCC, 2016) and for that **a central repository that brings together the reports can be valuable**. The UK Modern Slavery Act requires companies to publish the statement on their company websites. Two NGOs have set up repositories, but UK Modern Slavery Review (2019) notes that stakeholders find two different repositories confusing and recommends a government-run repository to which companies are required to upload their statements. Such a repository is already foreseen in the case of the Dutch Child Labour Act, as the statements will be published on the website of the competent authority in the Netherlands. In case running a central repository is not feasible for the government, officially outsourcing the administration of the database to a non-state actor could be an option.

There is value in periodical reporting, given that due diligence is a continuous process as noted in the UN Guiding Principles. OECD Guidance for due diligence in garment and footwear sector states that enterprises should publicly communicate information annually at the minimum. Periodicity of most due diligence reporting requirements is indeed annual. The Dutch Child Labour law is an exception, as it requires a one-off statement. Some argue that setting a single reporting deadline for businesses to publish their report is important for accountability.

Due diligence systems, identification and mitigation of risks

Core elements of due diligence as specified by the OECD Guidance are embedding responsible business conduct into policies and management systems, identifying and assessing risks and then designing and implementing a mitigation strategy, followed by tracking and reporting. These elements can be found in all due diligence legislations that go beyond reporting, and would also belong in an EU-wide due diligence legislation.

In the case of the Duty of Vigilance Act, as noted earlier, companies are expected to develop, implement and publish a 'vigilance plan', as well as annual implementation reports. The Act specifies that companies must monitor measures that they have implemented and assess their effectiveness, so they cannot discharge their obligations by merely adopting measures. In the case of the Child Labour Due Diligence Act in the Netherlands, companies are obliged to submit a one-off statement and only if there is a reasonable presumption of child labour are companies required to submit an action plan. The Dutch model of requiring a plan only when a risk has been identified may be appropriate for one-risk legislation, as the particular risk may not be of relevance to certain companies' supply chains. The French model - i.e. due diligence plan being mandatory - seems more appropriate for an all-risk horizontal or textile specific EU regulation.

[25] See for example https://www.cdp.net/en/articles/governments/the-new-eu-guidelines-on-non-financial-reporting

The regulations, in the spirit of the UNGP, are meant to be risk-based. A company is expected to take on a continuous basis appropriate measures to identify, prevent, mitigate and account for adverse human rights impacts, but is not automatically held responsible for human rights violations in its supply chain. While the focus is on prevention of risks, the importance of mitigation should not be overlooked. In case of textiles sector, as in other high-risk sectors, there is a need to address obstacles faced by those seeking remediation. It is argued that in practice mitigation also requires engaging in remediation, which means that the establishment of grievance mechanisms for victims of human rights abuses is important (CCC, 2016).

In terms of how far the company must go in its due diligence obligations, the UNGP and OECD due diligence guidance specify that companies are expected to conduct due diligence on its own activities and on its suppliers across its supply chain. **This responsibility across the supply chain, going thus well beyond direct suppliers, merits to be reflected in due diligence legislation.** Whereas, the Duty of Vigilance Act has defined the supply chain scope as 'own activities of the company or companies under their control, or from the activities of their subcontractors and suppliers with whom they have an established business relationship'. And established business relationships have been characterised by the French Court in the past by its regularity, its stability and the volume of business involved (Bright, 2018). CSOs have expressed the view that due diligence legislation should go further, with for example the Clean Clothes Campaign arguing to go beyond contractual business links to include semi-formal and informal working schemes as well as unofficial subcontracting and home-based work (CCC, 2016).

Sector-specific due diligence regulation, or a hybrid model, can by definition include sector specific due diligence requirements. For example, in the case of the Conflict Minerals Regulation, as part of their internal management system, importers of minerals should indicate which country the minerals come from, and if minerals originate from conflict- affected and high-risk areas, importers must provide extra information on the mine the minerals came from, where the minerals were consolidated, traded and processed, and the taxes, fees and royalties paid.[26] For textiles, inspiration can be sought from the OECD garment and footwear due diligence guidance, in particular its sector risks modules. [27]

One key area for textiles, and other high-risk sectors, is purchasing practices. Unfair purchasing practices are considered by many as root causes of human rights violations. Low purchase prices and short time frames for manufacturing products for example may undercut factories' ability to ensure decent working conditions, and increase the risk of human rights violations (Human Rights Watch, 2019). While no existing due diligence legislation within the EU addresses purchasing practices explicitly, it may be worth exploring if and how this issue could be covered in new EU due diligence legislation, possibly by drawing from the EU Directive on Unfair Trading Practices in the Agricultural and Food Supply Chain.

[26] https://ec.europa.eu/trade/policy/in-focus/conflict-minerals-regulation/regulation-explained/

[27] These are (1) child labour, (2) sexual harassment and sexual and gender-based violence in the workplace, (3) forced labour, (4) working time, (5) occupational health and safety, (6) trade unions and collective bargaining, (7) wages, (8) hazardous chemicals, (9) water, (10) greenhouse gas emissions, (11) bribery and corruption and (12) responsible sourcing from homeworkers.

6.5 Monitoring and enforcement

Appropriate enforcement mechanisms need to be in place to ensure compliance to due diligence legislation. What can we learn from existing due diligence legislation as regards to monitoring responsibility, penalties for non-compliance and liability?

The Non-Financial Reporting Directive, the Timber Regulation and the Conflict Minerals Regulation all delegate responsibility for monitoring to 'competent authorities' at national level, nominated by the Member States. The EU can be expected to have a similar model in case of horizontal or textile-specific due diligence legislation (Dziedzic et al, 2017). In the case of Timber Regulation competent authorities carry out checks to ensure operators comply with Article 4 and 6 of the regulation, which may include an assessment of the operator's due diligence system, examination of documentation or spot checks such as field audits. The EU Conflict Minerals stipulates that competent authorities must check whether EU importers comply with the regulation, by examining documents and audit reports among others, as well as on-the-spot inspections of an importer's premises if needed. It also requires an independent third-party audit of the due diligence system.

On the other hand, non-state actors are in many cases expected to play a strong role in monitoring as compared to public authorities, while specificities differ between legislations. The UK so far relies fully on non-state actors. Although the Modern Slavery Act stipulates that the Secretary of State can seek an injunction against non-compliant companies, the government was clear that it would be for consumers, investors and Non-Governmental Organisations (NGOs) to monitor compliance and apply pressure on businesses (Government of the United Kingdom, 2019). In fact, the independent review of the act identified this as a key issue hindering the act's effectiveness, and recommends for the Independent Anti-Slavery Commissioner to actually monitor compliance and report annually. Under the Child Labour Due Diligence Act in the Netherlands, non-state actors will be able to file a complaint to the competent authority with concrete evidence of non-compliance with the due diligence requirements of the act, after first having approached the companies and not having received an adequate response. As in the UK and the Netherlands, in France there is no active enforcement by the state. There, the civil liability mechanism can be pursued by non-state actors, as explained in more detail below.

Prospect of penalties for non-compliant companies is a key tool to promote compliance. For example, the Child Labour Due Diligence Act in the Netherlands allows for administrative fines for non-compliance with the duty to file a declaration and conduct due diligence. It is widely recognised that the absence of financial penalties in the UK Modern Slavery Act represents a significant legislative weakness and the Review of the Modern Slavery Act (2019) therefore recommends to install a gradual system of penalties, going from initial warnings, to fines (as a percentage of turnover), court summons and directors' disqualification. The EU Non-Financial Reporting Directive, Timber Regulation and Conflict Minerals Regulation leave it to Member States to determine the nature of penalties. FSC (2015) has noted that a more harmonised approach across Member States is valuable for fair competition between companies active in different Member States, as well as clarity for companies on what they can expect, irrespective of which EU Member State they operate in.

The Duty of Vigilance Act initially included a set of sanctions in case of non-compliance, but this was declared unconstitutional by the French Constitutional Council. However, the final version does provide that non-compliant companies can face **civil liability**. This implies that non-state actors can take companies to court, leaving it to the discretion of a judge to decide and impose a punishment in case of non-compliance. Judges may apply fines of up to € 10 million when companies fail to publish plans, and up to € 30 million if this failure results in damages that would otherwise have been preventable. (Huyse & Verbrugge, 2018). Civil liability is

a powerful tool (BHRRC, 2018), that other due diligence legislations lack, and some CSOs are explicitly asking for a similar civil liability mechanism in case of EU legislation (ECCJ, 2018). [28]

Providing further incentives by creating synergies with other policy areas discussed in this paper may complement a system of penalties. For example, the review of the Modern Slavery Act recommended government to make compliance a prerequisite for being eligible for public contracts. It could possibly also be considered to reward companies for extra due diligence efforts by giving them for example preference in public procurement or VAT reduction.

To sum up, drawing from these different models, horizontal or textile specific EU due diligence legislation could assign a strong role to non-state actors to flag substantiated concerns of non-compliance, while ensuring some form of pro-active public monitoring, and a sufficiently incentivising system of penalties and possible rewards. A balance has to be struck between meaningful monitoring and manageability of costs.

The following infographic summarises the key considerations in developing a human rights and environmental due diligence legislation at the EU level, discussed in this section.

[28] The Child Labour Due Diligence Act in the Netherlands establishes criminal liability for officers of companies that are repeat offenders. If a company is fined by the administration twice within five years, the next violation can lead to imprisonment of up to 2 years of the responsible director and fines of €750,000 or 10% of the company's annual turnover. Source: https://www.mvoplatform.nl/en/frequently-asked-questions-about-the-new-dutch-child-labour-due-diligence-law/

KEY CONSIDERATIONS FOR MANDATORY HUMAN RIGHTS AND ENVIRONMENTAL DUE DILIGENCE LEGISLATION

ecdpm

1 SHOULD THE LEGISLATION APPLY TO COMPANIES ACROSS ALL SECTORS OR BE SECTOR SPECIFIC?

Horizontal due diligence has the benefit that it applies to all companies across sectors

Sector specific legislation can be better tailored to sector specificities

Suggestions: A hybrid model of a general economy wide legislation with mandatory or voluntary sector specific provisions/ guidelines may be most suitable

2 WHAT TYPE OF COMPANIES WILL THE LEGISLATION APPLY TO?

WHAT IS THE SIZE THRESHOLD FOR COMPANIES TO BE COVERED BY THE LEGISLATION?

- The UN Guiding Principles on Business and Human Rights give all companies regardless of size the responsibility to conduct due diligence
- But small companies should not face a disproportionate administrative burden

Suggestions: Set size thresholds at a level that covers a large market share. It can also be considered to lower thresholds over time and/or have less onerous requirements, or specific guidelines/support for SMEs

THE LEGISLATION WILL APPLY TO COMPANIES AT WHICH STAGE(S) OF THE SUPPLY CHAIN?

- Basing company scope on supply chain stage(s) is logical for sector-specific, not horizontal legislation, as supply chain stages differ widely between sectors
- In case of textile-specific legislation, it would be important to ensure that brands & retailers are covered as they are important power houses in the textiles supply chain

Suggestions: Clarity of who falls within the scope will be important for companies and other stakeholders seeking to follow progress

3 WHAT DUE DILIGENCE REQUIREMENTS WILL THE COMPANIES HAVE TO FULFILL?

WHAT DUE DILIGENCE REQUIREMENTS NEED TO BE INCLUDED?

Suggestions:

- Core elements include embedding of responsible business conduct into policies & management systems; identifying and assessing risk; designing and implementing a mitigation strategy; and tracking and reporting
- Companies can be expected to identify, prevent & mitigate human rights violations, but may not automatically be held responsible for any human rights violation in their supply chain
- Companies may be asked to conduct due diligence across their supply chains beyond direct suppliers

WHAT WILL THE REPORTING REQUIREMENTS FOR COMPANIES BE?

Suggestions:

- Requirement for reports to be signed off by senior management
- Clear mandatory reporting criteria, while not being overly specific
- Easily accessible central repository that brings together the reports
- Periodical reporting, given that due diligence is a continuous process

4 HOW CAN EFFECTIVE MONITORING AND ENFORCEMENT BE ENSURED?

Competent authorities at national level may be delegated the responsibility to ensure compliance

Prospect of penalties for non-compliant companies is a key tool to promote compliance

Non-state actors can play a key role in monitoring. Civil liability mechanism may be included

Synergies with other policies: compliance with the due diligence legislation can possibly become a prerequisite for eligibility for public contracts

7. Development cooperation

Sustainable value chain development has gained prominence in EU development cooperation in recent years. In the European Consensus on Development signed in May 2017, the EU and its Member States have committed to further increase cooperation with the private sector, and to support responsible business practices and responsible management of supply chains, while also helping to create a more business-friendly environment that respects international human rights standards. This includes support to the social and solidarity economy sector and other mission-led enterprises. The role of aid is changing, with great focus on leveraging the private sector – in all its diversity - for decent job creation, greener and more resource efficient production.

More specifically, the European Commission has adopted a development cooperation package for sustainable garment value chains in 2017. **Engagement on textiles and garment was not new, but in this staff working document the Commission showed its commitment to step up development cooperation in this area and set directions.** Thematic priorities are (i) women's economic empowerment; (ii) decent work and living wages; and (iii) transparency and traceability in the value chain. The main interventions areas are (i) providing financial support; (ii) promoting social and environmental best practices; and (iii) reaching out to consumers and awareness raising.

In this spirit, the EU has been actively seeking to support fair, transparent and sustainable textile supply chains through development cooperation at bilateral, regional and global level. It uses different financial instruments for this purpose, including the European Development Fund (EDF), the Development Cooperation Instrument (DCI) and the Partnership Instrument. To illustrate, here are some examples of ongoing development cooperation projects funded by the EU:

- Contribution to the ILO/IFC **Better Work Program** that aims to improve working conditions and respect of labour rights for workers, and boost the competitiveness of apparel businesses, for example by providing training and advice to factories and support governments to improve labour laws.
- Work with the United Nations Economic Commission for Europe (UNECE) to **enhance transparency and traceability along garment value chains**. The project aims at setting up a multi-stakeholder platform, and developing policy recommendations, traceability standards and implementation guidelines.
- Contribution to the **G7 Vision Zero Fund on occupational health and safety** that aims to enhance prevention, protection and compensation of work-related injuries, diseases and deaths in industries operating in global supply chains, including in the garment sector.
- European Commission – International Trade Centre (ITC) partnership to **strengthen fashion value chains and boost job creation in Burkina Faso and Mali,** with the aim of building responsible fashion industries in those countries.
- **SMART Myanmar**, which is part of the regional SWITCH-Asia programme. It promotes and supports the sustainable production of garments 'Made in Myanmar' to increase the international competitiveness of SMEs in this sector while reducing the environmental impact of their production processes.

An interesting approach going beyond a project-logic is the **Bangladesh Sustainability Compact**. It brings together the Government of Bangladesh, the European Commission, as well as the governments of The United States and Canada, and the ILO. The Compact contains short and long-term commitments related to respect for labour rights; structural integrity of buildings and occupational safety and health; and responsible business conduct. The government of Bangladesh is responsible for the implementation of certain commitments, while the EU and others provide support in certain areas, partly through the ILO. Progress

under the compact is monitored, reported and discussed on a regular basis. Delivery on the commitments is conditional for the country's trade preferences under the EU's Generalised System of Preferences (GSP). One of the pillars of the compact relates to responsible business conduct and specifically focuses on the Accord on Factory and Building Safety in Bangladesh and the Better Work Bangladesh Alliance for Bangladesh Worker Safety. These initiatives have gathered more than 250 brands and bring together brands and retailers from over 20 countries and have made a major contribution to workplace safety. The Bangladesh Sustainability Compact has been widely lauded, including by the European Parliament (2017), and it could be worth exploring the potential for replicating such compacts with other textile producer countries.

However, this approach is resource intensive, so it may be most appropriate in countries and value chains with high priority and urgency – such as ready-made garment sector in Bangladesh after the Rana Plaza collapse. Moreover, lack of progress on the Sustainability Compact commitments has led the European Commission to repeatedly warn the government of Bangladesh, but this has not resulted in a GSP investigation. Some have severely criticised the Sustainability Compact for that reason and argue that the EU must be bolder in following through on such warnings to remain credible (see for example Clean Clothes Campaign, 2017). In this vein, it could be considered to further specify commitments, including timelines, to provide full clarity to all parties on conditions for continued benefit of the applicable preferential trade regime. In addition to the 'stick' of trade sanctions, it could be explored if governments of textile producing countries could be further incentivised by using compact commitments as roadmaps for GSP+, when their Everything But Arms-status expires.

More broadly, policy and political dialogue with producer country governments deserves to be an important component of EU development cooperation towards fair, transparent and sustainable textile value chains. For example, as mentioned in various interviews, in some countries the space for NGOs and trade unions to advocate for decent working conditions in garment factories is shrinking. This issue needs to be raised strongly and repeatedly by the EU in its dialogue with the government. Relatedly, in the case of budget support to textile producing countries, the budget support framework could potentially include sustainable textile-specific targets and indicators. This could for example include targets and indicators related to monitoring and enforcement of compliance with labour laws.

Furthermore, capacity in the EU Delegations and at headquarters could be strengthened to design and implement effective support for sustainable value chain development, including related to textiles. Staff need to be further capacitated to deliver on this agenda. This would include skills and incentives to go beyond technical procedures of project design and implementation, to think and work more politically, including with the private sector, taking into account diverging interests and power relations of stakeholders and the reality of local institutions. This helps to identify feasible entry points towards reform, but also mitigation strategies to avoid blockages. The effectiveness of the EU's approach could also benefit from seeking more synergies between sections in EU delegations and between DEVCO units at headquarters, as well as with other Directorate Generals (DGs).

The negotiations of the EU's multiannual financial framework (MFF) 2021 – 2027 are well under way. Given the remaining sustainability challenges, EU development cooperation for sustainable textiles merits to be kept high on the agenda in the upcoming budgetary period. This could include leveraging the proposed European Funds for Sustainable Development Plus (EFSD+) for the textile sector (San Bilal, 2019).

8. Conclusion

The EU has put in place different policy measures that address social and environmental challenges and contribute to seizing opportunities offered by textile supply chains, including in production stages that take place outside of the EU. There are opportunities - and a need - for the EU to step up efforts in different policy areas in a coherent way. It could scale up national initiatives, expand to the textile sector policies that are currently targeting other sectors, make existing measures 'green' and more socially sustainable, and it could strengthen synergies between policy areas. In particular, this paper discussed possible policy measures related to market access, product labelling, public procurement, extended producer responsibility, voluntary multi-stakeholder initiatives, due diligence legislation and development cooperation.

The **market access** section looked into the potential of introducing eco-design requirements for textiles, linking market access to governance reform in sourcing countries through Voluntary Partnership Agreements (VPA), and preferential tariffs for sustainable textiles. The Eco-design Directive is considered to be an effective policy to promote energy efficiency: it sets product design requirements for energy-related products to fulfill to be placed on the EU market is. The scope of that approach could be extended to cover other products, including textiles. Ecodesign criteria for textiles could include requirements for material efficiency, in terms of durability, recyclability, repairability and reusability, as well as restriction of some chemicals contents and fibres. One of the main obstacles to realising the potential of the Eco-design Directive relates to insufficient market surveillance and enforcement. To help address this, the EU can facilitate cooperation between member states on market surveillance, particularly to harmonise measurement methods.

The paper also looked into the application of timber VPAs and Forest Law Enforcement, Governance and Trade (FLEGT) licenses to textiles, which links market access to the EU with governance reforms in sourcing countries. Contrary to timber, the EU imports textile-related products from a large number of countries and European companies can switch suppliers easily. Therefore, the resource-intensive and long process to set up a licencing system as it has been the case for timber, seems unsuitable for textiles. Nevertheless, the timber experience may provide lessons that allow to design a more efficient and agile process leading to functioning licencing systems in textile producing countries in shorter time frames. The EU could also consider a single VPA with multiple textile producing countries.

Finally, with regards to market access, there is growing momentum in policy discussions about the possibility of preferential tariffs for sustainable products. A possible approach to be further explored is offering additional preferences to sustainable products, as opposed to their non-sustainable counterparts. An issue with this approach is the space to further lower tariffs for sustainable products, as this space is limited in Free Trade Agreements (FTAs) and the EU Generalised System of Preferences (GSP). Another option is to make preferential tariff schemes - be it FTAs or EU GSP schemes - conditional on certain sustainability criteria. Products would then require proof of origin together with proof of sustainability. In both cases, a key challenge is defining what is sustainable, which can be both technically complicated and politically difficult.

In defining sustainability, **product labelling** and sustainability schemes can provide some support, while also influencing consumption behaviour. Discussions in the paper are limited to government backed labels. With regards to mandatory labelling, there may be scope to increase labelling requirements for textiles. For instance, the mandatory Energy Labelling Directive and its success so far can be used for inspiration. A decision to enforce mandatory labelling would involve a trade-off between its potential benefits and the resources required to manage the system. With respect to voluntary labels, the uptake of the voluntary EU Ecolabel is low, and more can be done to raise awareness about the label and incentivise its use.

The paper further considered the potential of **sustainable public procurement** and **Extended Producer Responsibility** (EPR) policies to incentivise sustainable production and consumption practices. Public procurement has significant untapped potential to signal market demand for sustainable textiles. The European Commission can further contribute to efforts to strengthen sustainable buying capacities of procurers across the EU and potentially setting up a textiles-specific procurement network of procurement authorities across the EU. EU institutions can also lead by example, by enhancing the social and environmental sustainability of their own buying practices. The EU could make more systematic use of EU Ecolabel requirements and criteria for awarding tenders. EPR schemes exhibit the potential of addressing the critical issue of textile waste. Currently, member states don't have to, but can set up an EPR scheme for textile-related products, which France has done. Lessons from the French EPR illustrate some of the obstacles in implementing the policy. Setting optimal fee structures across member states to incentivise sustainable product design, and finding new markets for reused textiles are some of the key challenges that may need to be addressed in case the policy is scaled to other member states.

The section on **multi-stakeholder initiatives** (MSIs) explored the feasibility of an EU-level MSI on textiles, drawing from the experiences of the German and Dutch partnerships. Such an MSI could support different types of collaboration. This could entail collaborative projects to address systemic issues in textile value chains; sharing of knowledge, tools and training on due diligence; facilitate matchmaking of actors interested in joining forces to address risks in companies' supply chains; and regular EU policy dialogue on textiles. Such collaboration may bear even more fruit in case EU due diligence legislation is put in place, which provides a sense of direction and greater impetus for collaboration between stakeholders. The EU MSI could then serve as an 'accompanying measure' supporting the implementation of the legislation. The section also considers the role competition law can play in relation to collective efforts towards more sustainable supply chains.

The following section provided reflections on EU-wide mandatory **due diligence legislation** for companies in textile supply chains. To address the patchwork of national due diligence legislation that is emerging, there is increased support for EU legislation, to level the playing field across Europe and rationalise requirements for companies operating in two or more EU Member States. The paper discussed the potential of horizontal versus textile-specific legislation, and concludes in favour of a hybrid model. Along with an economy wide legislation, sector specific requirements or guidance could supplement the general legislative framework. It could cover both social and environmental challenges, as the Duty of Vigilance Act in France does. In terms of company scope, a strong argument in favour of setting the size threshold at a level that a considerable market share is covered, is that the UNGP give all companies the responsibility to carry out thorough due diligence. Less onerous requirements for smaller enterprises or specific support mechanisms could be considered. The section further looks into specific due diligence requirements, covering different steps of the due diligence process. In terms of monitoring, the prospect of sufficiently incentivising penalties for non-compliant companies is a key tool to promote compliance. Civil society actors can play an important role in monitoring compliance and possible taking companies to court through civil liability, while some form of pro-active public monitoring is also ensured. Finally, it is worth exploring synergies with other policies such as requiring compliance to due diligence legislation as a prerequisite for public tenders.

The last section looks at the role of **development cooperation** in supporting sustainable textiles. It described the promising increased emphasis in EU development cooperation on sustainable value chain development in general, and textile value chains in particular. It highlighted the potential of long-term engagement with textile producing countries through initiatives such as the Bangladesh Sustainability Compact. This could be replicated in other countries could be considered, especially in countries with urgent sustainability challenges. Monitoring and dialogue on progress on countries' reform commitments and related tariff preference conditionality can be part and parcel of the approach. More broadly, the section stressed that

meaningful policy and political dialogue with governments of textile producing countries deserves to be an important component of EU development cooperation. Opportunities should be seized to continue and further strengthen EU development cooperation for sustainable textile value chains under the next EU financial framework 2021-2027.

The reflections in this paper could inform an integrated EU strategy in support of sustainable textile value chains, while also feeding specific policy processes. This could be part of the EU Green Deal. The paper provides practical insights to inform a truly 'smart mix', instead of simply calling for this fashionable but often only generically used term. A mix covers different policy areas, voluntary and legislative measures, textile-specific and broader policies, and addresses both social and environmental dimensions. EU institutions, including different Directorate-Generals of the European Commission, together with other stakeholders, have a key role to play in actually delivering on a smart mix.

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Annex 1: List of interviewees

No	Name, Title	Organisation
1	Fiona Gooch, Senior Policy Advisor	Traidcraft
2	Suhasini Singh,Country Representative- India Jesse Bloemendaal, Brand liaison / External relations	Fair Wear Foundation
3	Rossitza Krueger, Textiles Manager	Fairtrade International
4	Patrizia Heidegger, Director of Global Policies and Sustainability Emily Macintosh, Communications Officer for Nature and Agriculture Jean-Luc Wieto, Senior Policy Officer for Industrial Emissions	European Environmental Bureau
5	Ebba Aurell, Policy Officer	DG DEVCO
6	Mauro Scalia, Director Sustainable Businesses Linda Hornakova, Intern	EURATEX
7	Peter Möhringer, Project Coordinator Mariska Przyklenk, Deputy Director Marketing & Key Account Management	Fairtrade Germany
8	Ben Vanpeperstraete, Lobby and Advocacy Coordinator	Clean Clothes Campaign
9	Claire Bright, Max Weber Research Fellow	European University Institute
10	Marija Simic, Policy officer – Corporate governance	DG Justice and Consumers
11	Laurent Zibell, Policy Advisor	IndusriALL
12	Huib Huyse, Head of research group	KU Leuven
13	Lorenz Berzau, Managing Director	Cocomply BVBA SPRL
14	Dante Pesce, member, Executive Director (member of the UN Working Group on the issue of human rights and transnational corporations and other business enterprises)	VINCULAR Center for Social Responsibility and Sustainable Development at the Catholic University of Valparaíso
15	Jef Winterrmans, Coordinator	Netherlands Agreement Garments and Textiles
16	Félix Romero Cañizares, Value Chain Development Manager	FSC International
17	Sarah Ditty, Policy Director	Fashion Revolution
18	Sarah Gondy, Policy Officer, Unit D1 - Trade and Sustainable Development	DG Trade
19	Nayla Ajaltouni, Coordinator	Ethique sur l'étiquette's

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HEAD OFFICE
SIÈGE
Onze Lieve Vrouweplein 21
6211 HE Maastricht
The Netherlands *Pays Bas*
Tel +31 (0)43 350 29 00
Fax +31 (0)43 350 29 02

BRUSSELS OFFICE
BUREAU DE BRUXELLES
Rue Archimède 5
1000 Brussels *Bruxelles*
Belgium *Belgique*
Tel +32 (0)2 237 43 10
Fax +32 (0)2 237 43 19

info@ecdpm.org
www.ecdpm.org
KvK 41077447