Fair Trade
ADVOCACY OFFICE

Press release: EU Due diligence legislation for a positive impact: How to ensure smallholder farmers, workers and artisans in global supply chains are not left behind

Fair Trade movement's reaction to the publication of the legislative proposal on Sustainable Corporate Due Diligence

23 February 2022, Brussels, Today, the European Commission has presented its legislative proposal on Sustainable Corporate Due Diligence. EU Commissioner for Justice, Didier Reynders and Commissioner of Internal Market, Thierry Breton led the development of this legislative proposal that follows the release of an Own Initiative Legislative Resolution adopted by the European Parliament in March 2021, and is inspired by over a decade of work by different stakeholder groups at international, regional, and national level.

The Fair Trade movement has welcomed that the text released by the European Commission recognises the importance of addressing challenges upstream, which is fundamental given the fact that the risks to human rights and the environment are highest at the beginning of the value chain. However, the Fair Trade movement is concerned that the due diligence obligations beyond tier one are too hazy in the current proposal and will not put enough pressure on EU businesses to address human rights and environmental violations happening upstream. Instead, the proposal encourages 'cascading' of responsibility through contract clauses without adequate obligation to support suppliers in a vulnerable situation.

The current text includes a civil liability regime, expected to ensure enforceability. However, it can effectively remain limited to the first tier of the value chain, leaving a substantial gap in corporate accountability for the most egregious violations. Civil society organisations are worried that the current formulation does nothing to enable victims to file lawsuits. They are consequently calling for a stronger, more inclusive regime, especially when violations occur without direct contractual relationship with the buyer, but in circumstances that could have been prevented or mitigated if a thorough due diligence had been conducted.

While existing Voluntary Sustainability Schemes (VSS) can play a role in the implementation of HREDD and help address the root causes and reduce the risk of violations, Fairtrade international has declared through a position paper that they should not substitute the companies' own due diligence obligation and liability or guarantee, on their own violation-free supply chains.

The current proposal explicitly refers to purchasing decisions, including pricing practices as one of the leading reasons for lack of realisation of human rights. This recognition has been welcomed by the Fair Trade Movement since, according to Sergi Corbalán, executive director of the Fair Trade

Advocacy Office, “abusive purchasing practices, and low prices not allowing farmers, artisans and workers to enjoy living wages and living incomes are among the root causes of many human rights violations”, in this regard he has welcomed that the text recognises the prohibition of withholding an adequate living wage.

The text highlights the specific challenges faced by smallholders and the need for support of upstream economic actors. “Smallholder farmers and workers are groups in the most vulnerable situation in global supply chains'', has stressed Konstantina Geroulakou of the Latin American and Caribbean Network of Fair Trade Small Producers and Workers (CLAC). She has highlighted the importance of preventing EU companies abandoning their suppliers in high-risk regions (the so-called *cut and run* conduct) and added that “the European Union needs to ensure that companies adopt a bottom-up strategy and put rights holders at the centre of the due diligence process”.

The legislative proposal foresees that companies adopt an action plan to ensure that their business model and strategy are compatible with the transition to a sustainable economy and with the limiting of global warming to 1.5 °C in line with the Paris Agreement.’ Nevertheless, stakeholders have argued that there is no enforcement mechanism to ensure accountability.

The Commission’s proposal identifies a number of high-risk sectors in which companies of more than 250 employees (instead of 500 employees) and 400 million euro net turnover (150 million euros) will have to conduct due diligence. According to Eurostat data, SMEs (i.e. less than 250 employees) make up 99.8% of companies in the EU textile sector, which means that in this high-risk sector, even with the reduced threshold very few companies will have to conduct any due diligence.

Mission-led business models, who put their social objective before profit-maximisation have engaged with the EC to offer their expertise as a guidance for this legislative proposal. In reaction to the current proposal Roopa Mehta, President of the World Fair Trade Organisation has invited the EC to “learn more about social enterprises fully practising Fair Trade and how they integrate social and environmental concerns into their core business model. The EC must ensure that mainstream companies take a similar approach so high labour and environmental standards will not become a secondary list of boxes to tick, but will steer corporate decision-making away from profit-maximisation and towards business that is beneficial for people and planet."

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