Ref. Ares(2022)1360093 - 23/02/2022

Ref. Ares(2021)4501034 - 12/07/2021

Meeting 3 June – with the European Issuers Association

Participants:
From the **Italian association (Assonime)** : [redacted]

From the **French association** (AFEP): [redacted]
From **German association:** [redacted]
From **European Issuers** [redacted]

DG GROW: [redacted]

Main messages:

- Support for SCG if goals clearly identified and addressed
- Opportunity to foster growth if economic elements can be combined with human rights and environment elements
- Welcomed involvement of GROW to take into account the business perspective

General principles to consider in order to address the issues in the appropriate way:

A. **Competitiveness of EU companies**
B. **Proportionality**
C. **Not to discourage access to regulated capital markets –** important for recapitalisation of companies post-COVID

The main issues presented and discussed during the meeting were the following:

Due diligence
- not overly prescriptive framework - aligned with OECD and UN Guiding Principles.
- There should be a **proportionate and risk based approach, focus on most severe risks,** strict obligation concerning only Tier 1 suppliers
- **Obligation of means**: focus on process to establish DD system
- **Scope of due diligence:** human rights are straightforward, whereas **climate change is more complex**: it should be addressed in a separate framework

Liability
- Member States to decide how to implement it, not to be part of the EU proposal.
- avoid FR paradox of very vague legal provisions and very high risks for companies due to liability regime.

- **obligation of means or obligation of results:** interlinked with civil liability, in second case very wide, for big ones endless liability; if obligation of results, you can ensure it for Tier 1.

Due Diligence in Supply chain: SME to be excluded from direct obligation, supplier SMEs indirectly affected, but focus on large companies

Director's duties - interest of companies
-General criticism of the study underpinning the Impact Assessment presented by DG JUST.
- Added value of new legislation is questionable.
- No need for EU legislation – rather open on a recommendation to align the existing voluntary Corporate Governance codes on sustainability

Ref. Ares(2021)4501541 - 12/07/2021

Minutes – Sustainable Corporate Governance (SCG) initiative. Date: 25/06/2021
German Chemicals - [redacted]
DG GROW – Unit G2: [redacted]

This organization explained the overall situation, describing the main challenges that industries in this sector may face:

- Limited financial capacity to do CSR and implement HR and Labor rights and environmental standards.
- Try to oblige suppliers to comply with certain topics (Child and forced labor, working hours, wages etc.)
- No possibility to control at the first tier, even less further down. No power or leverage to oblige big suppliers, especially in China.
- Single sourcing - no other supplier, less options to purchase. Companies might sell in more lucrative markets (US, China)

<u>**Position on Due Diligence (DD):**</u>

- DD in full supply chain is not possible for small or middle-sized company.
- Having different jurisdictions could be solved by: i) having industry standards in the law, ii) implementing ratings about countries or product.
- All regulations on large companies, they pass it on to SMEs. German law limits the scope for larger companies. Mechanisms that shield SMEs from excessive requests needed.
- Liability should not be there, only contractual liability
- Have the scope on suppliers outside EU, and not the ones inside.
- There is sufficient regulation on environment, so focus on Human Rights. Environment is related to third countries and the impact there.

Ref. Ares(2021)4230801 - 29/06/2021

Minutes - SGC initiative
Date: 25/06/2021
BDA - Confederation of the German Employers
DG GROW – Unit G2: [redacted]

BDA addressed the following key issues related to the due diligence (DD)process: personal and material scope of the proposal, obligations of the companies, civil liability, indirect effects on SMEs. BDA does not consider necessary to regulate duty of directors.

1) Personal scope: It should be limited to tier one suppliers, SMEs should be specially taken into account since it may be difficult for them to implement obligations. It was suggested to follow the French law threshold (companies with 5000+ employees).

2) Material scope: It should cover only Human Rights, taking as reference the ILO core conventions. The OECD guidelines and UNGP include them, they offer practical solutions to perform DD process. Additionally, it was suggested to create two lists of countries: A green list, which initially should include EU Members States and could be extended to other countries/regions (i.e. EFTA/EEA, USA, UK), including those with which the EU has free trade agreements; and a red list, which builds on inputs of MS and EU delegations on human rights violations in third countries, as a warning system to EU companies.

3) Obligations: It should be clearly indicated what it is expected from companies, including a risk-based approach, not based in results but on the process. Companies cannot be expected to fulfil States' obligations in HR.

4) Civil Liability: not to include civil liability (follow the German law approach). It should not be expected from EU companies to be responsible for third countries actions or not directly linked and consider how this propose may affect competitiveness in external markets.

5) Effects on SMEs: The trickle down effects on SMEs should be regulated in contractual agreements, not imposed by law.

Ref. Ares(2021)4501823 - 12/07/2021

Minutes - Sustainable Corporate Governance (SCG) initiative. Date of meeting: 28/06/2021
Federation of German Consumer Organisations - [redacted]
DG GROW – Unit G2. [redacted]

This a consumer advice center, an umbrella organization member of BEUC that covers 100 regional offices. In general, consumers demand for sustainable product is increasing and sustainable consumption starts at the end of the value chain. Sustainability covers issues like child labour, human rights violation and environmental issues. Labels are not trusted, standards and enforcement are weak. About the SCG initiative, the following key point were addressed:

1) Having both Corporate Governance and Due Diligence in the same initiative could be a risk.
2) **Due Diligence (DD)** process is very clear in Human Rights and labour conditions because there are existing international standards. There is not an international framework related to environment, a legal ground has to be provided.
3) DD should have **a risk-based approach**, sector specific according to the regions. A strong reporting mechanism is important.
4) **DD and the Sustainable product initiative and (SPI):** The SPI does not cover the process in the production of a product, DD does and this cannot be visible in the final product.
5) **Enforcement:** It must be link to the civil liability, transparency is the key. Companies should be responsible for not doing the DD process not for the possible violations.
6) **Companies in scope**: all, or large number of companies 250+.
7) **Duties of Directors**: those linked to DD, oversee the process, have appropriate experience in this area, stakeholders within supply chain engagement, adopt targets for mitigation of sustainability risks.

Document 7

Ref. Ares(2021)4502137 - 12/07/2021

Minutes - Sustainable Corporate Governance (SCG) initiative. Date: 29/06/2021
AMFORI - [redacted]
DG GROW – Unit G2: [redacted]
Unit A1: [redacted]

AMFORI is an organization member of the responsible business group of the EP. More than 65% of its members are SMEs. Regarding the SCG initiative, it has not taken position about the Corporate Governance element, although recognizing the value of stakeholder engagement by the board of companies. AMFORI has a long standing position about Due Diligence (DD):

Personal scope: Horizontal legislation applicable to companies regardless of sectors, cross-sectorial legislation covering companies operating in the EU. Proportionality is key, according to the size of the company, the position in the supply chain, and the leverage that the company might have. DD process for the whole supply chain, following the logic of the UNGPs and the OECD guidelines (companies should be conducting a risk assessment, and based on where the risk sits, regardless of the tier).

SMEs: Most SMEs decide to prioritize sustainability as an element for consumer's preferences. Other SMEs are in the supply chain of larger companies under considerable pressure from their customers, there is a cascade effect within supply chain form larger companies complaining with OECD guidelines. Some SMEs are better equipped somehow because they have established a strong relationship with their suppliers, which is one important component but the factor that is common to all SMEs is limitation on financial and human resources. When it comes to carrying out due diligence duties, there is different maturity level and different circumstances. Regarding the trickle-down effect and unfair practices, SMEs members have not raised any issue so far.

Material scope: Follow the international standards, UNGP and OECD. It should cover both human rights and environmental due diligence. However, it is necessary to clarify exactly what is meant by environmental impacts and what is expected of companies. Companies may have different priorities: deforestation, climate change, biodiversity, etc.

Liability: A monitoring and enforcement mechanism is necessary. It also important to have proportionality when it comes to liability. Look at other measures, for example incentives. See DD as a tool to bring improvement on the ground through dialogue and engagement with stakeholders, providing remedy trainings. Disengaging (Cutting business relationships) may not make a difference; it is going to happen again, but with another with another business.

Voluntary schemes or initiatives by companies: There should be acknowledgement of current schemes; companies have already invested time and efforts. SMEs could benefit from those initiatives. It could be also useful if the future legislation come with the accompanying measures to support businesses into implementation. There is also importance on of collective leverage, especially when facing the systemic challenges in sourcing countries where some issues are really endemic in nature, it's really difficult as a business to influence a whole system.

Transition: Set transitional period (as in the conflict minerals regulation). Thus, companies can understand the requirements, get prepared, it should be avoid that companies rush into compliance unprepared.

Complementary policies: Consider the role for other instruments, notably the trade and investment policy but also public procurement.

Ref. Ares(2021)4502277 - 12/07/2021

Minutes - Sustainable Corporate Governance (SCG) initiative. Date: 29/06/2021
DER MITTELSTANDSVERBUND: [redacted]

DG GROW – Unit G2: [redacted]
Unit F3 (Retail) [redacted]

The organization represents a group of independent retailers and wholesalers service providers. The system is based on contractual alignments of independent retailers, wholesalers, etc

The meeting addressed the following points:

The German Act on Due Diligence: The effects of the implementation of this legislation are going to be costly, as details are not clear. No civil liability, but companies can be held accountable for their wrongdoings in their professional contexts. Too early to have a clear conclusion on what the consequences of this new German act would be.

Trickle down effect on SMEs:

This effect will exist, having an indirect effect on SMEs. They are preparing companies to do some sort of risk assessment. It would be helpful that a retail group could report and provide the proof for due diligence from the **group central to all members**. The group central is capable and has the manpower and the resources to actually implement due diligence process for all its retailers. However, it was emphasized that there is the possibility that the group central would report for retailers, but then it is the retailer who implements the due diligence process, which should be considered as being properly done.

SMEs

They should be out of the scope, however some kind of standard or lighter regime could be established for those who want to do it. It should cover only Tier one.

Liability

There is a contractual obligation included in all contracts where the supplier has to declare that certain product are in line with some legislations. However, referring to a possible civil liability, it should be according to the scope of the obligations.

Supporting measures

There should be a sectorial approach, considering the structure and the sourcing and the contractual partners and the supply chain itself. It could also include templates for self-assessment.

Ref. Ares(2021)4502390 - 12/07/2021

Minutes - Sustainable Corporate Governance (SCG) initiative. Date: 01/07/2021

IPC - [redacted]

DG GROW – Unit G2: [redacted]

IPC mostly represents small and mid-sized companies, but also larger companies who are involved in the value chain of electronics manufacturing. They addressed the following points:

Scope: Legislation should build on international frameworks, a mandatory set of rules at European level. It should aim for harmonization to avoid fragmentation of the internal market. It should cover human rights risks. Environmental risks should be regulated in parallel through a guidance. Horizontal legislation but with guidelines for specific sectors.

Competitiveness: There should not be competitive disadvantage for European companies. They are worried about the disruption of supply chains because of the regulations that cannot be fulfilled by small companies; currently the supply chains are in very bad shape due pandemic.

Due Diligence process: It's all about identifying risks in your supply or value chains and then taking the step to address those risks to mitigate them, and then start to communicate and disclose about those risks.

Supporting measures: Legislation with strong guidance, giving space to collaborative partnerships and recognizing industry schemes (like in the Responsible Minerals Initiative). SMEs can benefit from these schemes.

Duties of Directors: They asked to consider this element separately; it is a topic of company law.

Ref. Ares(2021)4502555 - 12/07/2021

Minutes - Sustainable Corporate Governance (SCG) initiative. Date: 07/07/2021
Ceemet (European employers' organisation representing the interests of the Metal, Engineering & Technology-based industries.)
DG GROW – Unit G2:

This employer organization expressed its concerns about having another proposal, which puts administrative burden on companies. Thus, the needs of the companies must be taken into account in any legal framework that comes out. In this context, they addressed the following points:

General remarks:

This new legislation has to be workable, proportionate, and effective.

It should also avoid creating many red tape for companies and the fragmentation of legislation within EU. It should have a risk-based approach, giving clear indications and simply exempt regions.

On Due diligence (DD):

DD process for the entire value chain is unworkable; it could create an enormous competitive disadvantage in comparison to third country companies (not subject to these very high administrative burdens). The focus should be on the area where there is a direct impact (companies' own corporations and tier one suppliers).

Scope: It should be based on already existing international principles, it should apply to large companies (companies with over 5000 employees). SMEs should be excluded.

Liability: Companies can only be held liable for damages which they directly cause, or at least they can directly control or influence in some way. DD should remain an obligation of means, reasonable efforts made by companies will still be taken into account. Rules on international private law should remain the reference to avoid litigation on the companies.

Trickle-down effect: It is considered a normal but complicated effect, it is important to take into account the fact that in some countries the legislation is not as developed as Europe.

Document 12

Ref. Ares(2021)4747729 - 23/07/2021

Minutes - Sustainable Corporate Governance (SCG) initiative. Date: 08/07/2021
German insurers:
DG GROW – Unit G2:

On Corporate Governance:

Sustainable governance is not a new challenge for insurers, there is insurance regulation in place. There are concerns that numerous legislative initiatives going on are addressing the same subject, and they may have conflicting elements. The aim is to have some coherence.

In reference to the relevant stakeholders that need to be consulted or involved to define a sustainability strategy, risks are already taken into account when defining business strategy, there are some concerns about the advisory committees proposed by the EP that could initiate audits proceedings.
There is also a possible conflict of interests; the main group of stakeholders for insurers are the policyholders, the main objective is the protection of policyholders. The question is how the main goals of policy protection, financial stability and sustainability interact with each other.
The nature of insolvency, as one of the main risk assessed by the Board, may cover some science based targets, for example, MunichRE has looked on Climate for 30 years to have a solid scientific basis. Insurance companies area aware of science in order to quantify risks, also to protect their reputation (and avoid possible risks).

On due diligence:

Follow the German approach, although recognizing some problems in complying with it. Due Diligence requirement and concrete risks come from value chain.

Distinction among Supply Chain and Value Chain: The questions is if the value chain is much broader than supply chain, and if customers, supplier and investees are included. There is a lot of regulation trying to cover relations with investees, it is not necessary to regulate it again in the SCG initiative.

Liability: It is necessary to define the scope of liability. The suggestions the EP resolution create big concerns, it is too wide and might be controversial from a legal perspective. MSs already have established proceedings related to liability. Civil liability follows international private law, there are already rules but the EP seems to aim establishing a separate liability regime. In the German law, some NGOs can also follow proceedings, but that does not enable new rights for claimants, only for following established mechanisms.

Document 13

Ref. Ares(2021)4747559 - 23/07/2021

Minutes - Sustainable Corporate Governance (SCG) initiative. Date: 12/07/2021

AIM [redacted]
DG GROW – Unit G2: [redacted]

AIM does not have a position on Corporate Governance, only on Due Diligence (DD). However, it considers that DD obligations on Human Rights could cover director's duties of including sustainability in the company strategy, since they would have to implement it. Other consideration is having a harmonized approach to avoid fragmentation, including a set of guidelines and the corresponding interpretation on how to implement these new measures.

Scope: It should cover Human Rights; not against environment being integrated, but have concerns about implementing ISOs standards for management. A Regulation would be a the proper instrument to cover the DD process on Human Rights.

It should apply to all companies regardless their size; SMEs are quite exposed to risks. However, it should be considered that SMEs do not have the means to do comprehensive due diligence, thus, proportionality is key in order to help them do it. AIM suggests including capacity building and guidance.

Civil Liability: This is a national competence of MSs, if it is included, it should be as part of the legislation to set general principles. A Directive is not an appropriate instrument. It is important to differentiate between liability and responsibility. The latter, as defined in the UNGPs, implies to look the whole supply chain. For liability, it should only cover activities that companies control. Relations with suppliers, through contracts, give companies leverage not control. Sanctions should be established if there is a failure or intentional misleading in the DD process.

Legal standing: There is big concern about who could be entitled to bring cases against companies and the legal basis to do so.

Ref. Ares(2021)4747603 - 23/07/2021

Minutes – meeting related to the Sustainable Corporate Governance (SCG) initiative.
Date: 15/07/2021.
European Cocoa Association: [redacted]
DG GROW – Unit G2: [redacted]

European Cocoa Association (ECA) views

Scope: ECA aims for a mandatory due diligence (DD) process that works for all companies through value chain, with a smart mix of measures. There must be a clear understanding of requirements of DD. It should be specific requirements and measures to prevent disengagement in high-risk areas. In terms of reporting, it could be done for the companies under control.

Liability: DD should be an obligation of means and not results.

Legal instrument: Expressed concerns about having risks of fragmentation if a directive is adopted because of the potentially diverging transposition of legislation at national level.

Supporting measures: It considers necessary to enable a national legal framework in country of origins, there is not a proper level of legislation. Engage in bilateral discussions with third country governments.

Companies are already taking many initiatives, i.e.: related deforestation there are voluntary initiatives. Take into account the International Cooperation and Trade Agreements tools.

Ref. Ares(2021)4747687 - 23/07/2021

Minutes – Meeting on the Sustainable Corporate Governance (SCG) initiative. Date: 15/07/2021

The Responsible Business Alliance (RBA) [redacted]
DG GROW: Unit G2: [redacted]

RBA focuses on companies' efficiency while promoting social, ethical, and environmental responsibility in the global supply chain.

In this regard, RBA's key expectations about the SCG initiative are the following:

1. An EU-level legal framework that harmonizes expectations.
2. Alignment of future EU legal framework with existing international standards (OECD guidelines and UNGPs).
3. Ensure policy coherence with other EU initiatives on due diligence.
4. Harmonization of the Due Diligence at EU-level.
5. Recognize existing industry due diligence schemes.
6. Liability provisions: If sanctions regime is included - provide clear limitation to civil liability according to UNGPs, if conducted reasonable DD in relation to the specific impact.

Ref. Ares(2021)4747237 - 23/07/2021

Minutes - Sustainable Corporate Governance (SCG) initiative. Date: 20/07/2021

ZDH (Associations of skilled crafts in Germany) [redacted]

DG GROW: Unit A2: [redacted] Unit G2: [redacted]

ZDH | Zentralverband des Deutschen Handwerks – Skilled crafts in Germany

ZDH supports the shifting towards sustainable value chain, but there are companies that would be affected disproportionately either directly or indirectly. There is therefore a risk for collateral damage that will come with this proposal.

ZDH therefore asks:

- To recognize existing industry schemes, in order to valorize the investments done by companies.
- In terms of scope, to only apply substantial verification obligations to direct importers; for the supply chain further down inside EU it should be possible (and sufficient) to obtain the assurance/certificate from the importer.
- Neither civil nor administrative liability. In any case, only limited to tier-1.
- For high risk sectors: Realistic and target oriented (maybe to have a % limit of market share and include only direct importers)

ZDH considers that sometimes it has to be weighted whether exempting SMEs is going to be in the end more costly than including them with proportionate obligations. Of course, their inclusion does not ensure that supply chain trickle-down effect will not come on top.

ZDH supports in principle the approach taken in CSRD (voluntary standard for SMEs).
Finally, according to its experience, supply chain requirements can change markets completely (example of the changes in music industry due to tropical timber ban).

Ref. Ares(2021)5738255 - 20/09/2021

EUROPEAN COMMISSION
DIRECTORATE-GENERAL FOR INTERNAL MARKET, INDUSTRY, ENTREPRENEURSHIP AND SMES
Ecosystems II: Tourism & Proximity
G2. Proximity, Social Economy, Creative Industries

Meeting with H&M on sustainable corporate governance

Date: 30/08/2021

Participants: H&M[redacted]

This meeting was a follow up of the one in June to discuss the other part of the SCG initiative- directors`duties.

HM considers the research (Commission study) on this subject not reflecting reality and not showing the situation in various MS and raised the question of subsidiarity principle.

In SE the corporate governance is embedded in companies `operation.

On possible science based targets, the focus should be on setting objectives and targets and leave freedom to companies how they reach it.

Given the broad definition of sustainability, it should made clear what aspects the directors should focus on.

[redacted]DG GROW)

Ref. Ares(2021)5783743 - 22/09/2021

<u>Short report meeting GROW and EUROMETAUX</u>

Date: 2/9 2021

Participants DG GROW[redacted]

EUROMETAUX:[redacted]d members:[redacted] (Umicore), [redacted]FMI).

Subject: Sustainable Corporate Governance- progress, implications and position papers for Eurometaux members.

Eurometaux shared their position paper on due diligence (Feb 2021) and written follow-up of meetings with DG JUST, TRADE and EP (May 2021).

Based on their experience on Conflict minerals, they have outlined 10 recommendations for the design and implementation of the future EU due diligence legislation. Among those are:

- Proportionate minimum requirements covering all sectors
- Provide incentives
- Recognition of industry schemes
- Ensure level playing field by covering all actors within value chain and by including also trading companies with EU
- High risk SMEs should be in the scope

Discussion:
Industry schemes: Stakeholders mentioned that in the context of CMR, the recognition of industry efforts/schemes is very slow. EM refers to its involvement in the OECD process on Due Diligence Guidance for Responsible Supply Chains of Minerals from Conflict-Affected and High-Risk Areas, and lists a number of responsible supply chain initiatives and auditing program schemes in their position paper.
The recognition of schemes/initiatives under SCG is being considered.

Scope: Stakeholders drew attention to that the Batteries regulation, in terms of its proposals relating to due diligence, paves the way for a level playing field. The activity and risk profile of the SME in question is relevant, not the size of the company. This could be a model to follow also for the SCG. GROW asked for concrete examples from EM on upstream/downstream responsibilities that could be relevant for the SCG. The choice of policy instrument (directive, regulation) is still unclear, Eurometaux would prefer Regulation on due diligence part also to ensure harmonized enforcement.

Document 20

Ref. Ares(2021)5770220 - 21/09/2021

Meeting with Swedish Trade Federation on Sustainable corporate governance

Date: 8/9/2021

Participants: Swedish Trade Federation:
[redacted] Brussels office (Sustainability, internal market)
Stockholm) working on sustainability and social issues
ussels Office (import - trade policy)

GROW: [redacted] (G2),

The Swedish Trade Federation (STF) represents about 9000 companies active in retail an wholesale with 22000 workplaces employing approximately 250000 people

On due diligence:

STF presented their survey on the impact of the Due diligence requirements of the EU Timber regulation on Swedish retail companies.

- It showed that ensuring compliance is more costly for timber than for other products. Initial adaptation has been done, but running costs are also significant
- Impact on trade: 50% stopped or plans to stop import from certain countries (China, Vietnam, etc....)
- Difference in enforcement by competent national authorities - no guidelines to specify what companies need to do
- Need to define what is sufficient risk assessment
- Certifications are not enough (eg. FSC) - difference in MS approaches
- Less ambitious companies can import through less strict countries

STF position on due diligence:

- General agreement with the purpose
- Too burdensome Due Diligence legislation may cause companies to leave or refrain from entering complex markets
- Maximum harmonisation needed
- Focus on process, not on outcome
- Mainly focus on social aspects
- No overlap with other EU legislation
- Tier one responsibility only
- Earlier responsibility built on certifications and labelling
- Build on international standards and agreements
- Limit or no obligations for SMEs
- Ensure that national labour market rules are not affected
- Effective and equal enforcement — EU and national

Ref. Ares(2021)5770297 - 21/09/2021

Meeting with Business Europe on Sustainable corporate governance (SCG)

Date: 9/9/2021

Participants: **Business Europe:** [redacted] Business Europe)

DG GROW: [redacted] (G2)

Four departments are following the sustainable corporate governance in Business Europe - strong internal coordination needed

On due diligence:

Since a year: evolution among members, becoming less defensive.

Business Europe will not be against the SCG initiative, companies could benefit from an European inititative: level playing filed, sharing the burden, legal certainty.
Agreeing with supply chain due diligence but not for value chain (as it would include also checking their consumers).

Direct suppliers are feasible but beyond it might be feasible only for multinationals but not others, need to involve also local governments.

However due diligence should follow certain conditions

- take into account that SMEs are always impacted (via contractual relations);
- level playing field: same rules should apply for everyone - internal market access to be factored in
- support for SMEs need to be provide

Separation of due diligence and corporate governance.

The corporate governance should be flexible. If interest of stakeholders is put at same level as the companies interest, this should make the management of company challengeable, company should be free to decide on that. Corporate governance rather as Recommendation, with targeted rules, and not using the EY study as basis for action. Also John Ruggie was against mixing this 2 aspects in article published last year.

Burden/impacts on SMEs at different levels: reporting; monitoring (not same leverage as big companies) difficulties to obtain info in certain regions, sanctions (proportionate not obligation of results but means), civil liability should follow the concept on cause contribution.

Ref. Ares(2021)5770447 - 21/09/2021

Meeting European Federation of Jewellery (EFJ) on Sustainable corporate governance

Date: 16/9/2021

Participants [redacted] Antwerp World Diamond Center
[redacted] AliénorEU
GROW [redacted] (G2)

The Jewellery sector is composed of mostly very small SMEs. EFJ covers PT, IT, BE, FR national federations.

The European Federation of Jewellery supports the idea of an EU-wide cross-sectorial legislative framework on due diligence.

On the due diligence proposal they call for:

Personal scope: all companies with proportionate requirements for SMEs and with the exemption of micro-enterprises. Guarantee a level-playing field for EU companies at EU and international level (promote EU framework also in international fora and in FTAs).

Material scope: only the direct suppliers in the company's value chain, and if possible, all parts of the value chain that companies can reasonably control. Ensure legal certainty for companies with clear definitions of the risks and duties

Set up an appropriate **support mechanism** to help companies comply with the legislative framework. EFJ is preparing guidance to preform due diligence for diamonds. Smaller companies would also need financial stimulation to perform due diligence and incentives/rewards should also be used in mostly in the transition period (until the legislation is in place)

Take into account the **existing legislation/certification schemes** in the jewellery and diamond sector to ensure consistency.

Include a transition period of at least 3 years to allow national governments and companies to adapt.

Jewellery sector should not be considered as high risk as it is highly regulated through national and European legislation and they are already very active implementing conflict minerals, Kimberley process and have many industry-driven certification schemes (such as the RJC Code of Practices and the WDC's renewed System of Warranties).

Metals and diamonds have different value chains, in many cases the smaller EU companies purchase form traders only where it is difficult to check the origin.

Document 24

Ref. Ares(2021)6354167 - 18/10/2021

Meeting with American Chamber of Commerce to the EU (AmChamEU) on sustainable corporate governance (SCG) - Minutes
Date: 22/09/2021

Participants:

AmCham EU

[redacted] Intel – chairs task force on SCG
[redacted]
[redacted], Johnson & Johnson.
[redacted] etariat of AmCham in Bxl

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AmCham EU – represents US companies in Europe, they have 150 MNE as members throughout supply chain. Big experience with due diligence and also contributed to the design of Conflict Minerals Regulation. AmCham has a dedicated Task Force for sustainable corporate governance and one for CSRD/taxonomy.

Related to the SCG proposal, Amcham is looking at it as package. They participated in OPC, but would prefer to separate Due Diligence from Duty of Care. In favour of Regulation instead of Directive for Due Diligence to avoid further fragmentation. They agree to use national bodies to enforce. Regulation doing it directly applicable, the same things, Directive gives flexibility at national level giving space for different interpretation. Clear EU rules linked to international standards. Minimum rules for everybody and then sectoral guidance.

They want to see human rights and environmental due diligence, because companies need a coherent approach, and level playing field on the EU market

JAR –joint association roundtable : with Amfori, responsible business alliance, CSR Europe, Business Europe to discuss environmental Due Diligence.
Accompany with public-private partnerships, even if voluntary, can play and important role like. DG TRADE database (voluntary) to show what companies are doing.

Supply vs value chain: how does the industry perceive it, what is the difference in their due diligence practice? Value chain is considered beyond upstream, covering also downstream supply chain (going to consumer). Big emphasis on downstream lately as there are expectation from costumers.

Environmental due diligence: there are less international standards recognised on environmental due diligence, use of science based targets (SBTi) on climate change, less clear how to tackle other issues e.g. impacts on water (now they manage own water use, engage with stakeholders) and on biodiversity (use world life habitat council) - those things are more difficult to regulate. Environmental due diligence needs much more data/information.

Tools you use for capability building among members: within sector they made capability building programs, trainings, communicating standards to their suppliers, how to reach them in practical way.

Document 25

Ref. Ares(2021)6354301 - 18/10/2021

Meeting with EUROPEAN ASSOCIATION OF CO-OPERATIVE BANKS (EACB) on sustainable corporate governance (SCG) - Minutes

Date: 24/09/2021

Participants:

EACB members

[redacted]édit Agricole
[redacted]OeGV
[redacted]Raiffeisen Austria
[redacted]Credit Mutuel

EACB Secretariat

[redacted]

European Commission, DG for Internal Market, Industry, Entrepreneurship and SMEs (DG GROW)

[redacted]Unit G.2
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DG GROW gave a short state of play: Still working on the impact assessment, adoption foreseen in 2021 still.

EACB expressed concerns about duty of care explaining the particularities of the co-operatives. Maximising profit vs maximise social impact.
Many of the co-operative banks are frontrunners in sustainability, with strong stakeholder involvement and broad member base: 18 Million members
Completely different governance, biggest part of profit goes into retained earnings

Cooperative banks are not in the scope in FR law. Long term local and regional interest. Complicated to deal with more red tape.

Regarding liability: not enthousiastic about it, depends on the requirements. Most members have to see what they have to control. Preferably to be be limited to direct partners.

The SCG goes deep in national law, covered by general company law - very concerned if not consistent with the legal regime in member states..

International banks have 1000s of large clients - There is a merit to consider a different approach to the financial sector. Money laundering legislation is already in place - quite similar.
Banks already suffocating under regulatory admin burden.

ESG risks need to be integrated already for Banks

Restrictions on dividends and share buybacks - do not mix-up with the redemption of cooperative shares, this needs to be taken into account. Dividends: cannot be brought forward in the case of cooperative banks.

Ref. Ares(2021)6354419 - 18/10/2021

Meeting with Handelsverband Deutschland - HDE - e.V. on sustainable corporate governance (SCG)
Date: 29/09/2021

Participants :
HDE:
[redacted] HDE European Affairs Bruxelles: sustainability and CSR
[redacted] ALDI sud BXL
[redacted]
[redacted] Schwarz Gruppe
[redacted]ETRO AG
[redacted]erman Retail federeation
[redacted] - German Food Retail Association

GROW [redacted]

Retail sector is very commited to CSR, it is very visible part of supply chains (facing customers) and have higher risk of reputation issues.

Strong plea for coherence among different legislative proposals (CSRD, deforestation, possible forced labour) and for legal clarity.

Regarding the German example, retailers (METRO) find that the law left some legal terms open and now extensive legal analysis is needed e.g. direct/indirect supplier definition. Legal certainty is needed. Concrete guidelines will be needed for the implementation. And they have to be published on time ideally with the legislation.

Retailers would include SMEs and make sure that the information is flowing through the supply chain. they are in favour to include SMEs but with this condition. They should have some proportionate obligations only.

Include a comitology procedure to include in time other sectors/products.

Against an import ban, but the company should prove that it is working to help solving forced labour. Price should be different for products that are sourced from certain countries- country classification (green, yellow, red) based on the risk profile, when sourcing from red region the due diligence requirements would be more detailed. Same approach followed in IUU on fisheries.

Existing schemes should work as a safe harbour. On cocoa and coffee, there are so many projects with NGOs and civil society and it is a pity if this is not recognised. They have to be at least acknowledged, if not as a safe harbour in other ways.

On contractual clauses: METRO has a code of conduct that has to be signed by suppliers. Substantiated information beyond tier1, but a system has to be in place to handle that information. Under timber, a certificate accompanies the product and there are experts to check if it is a fake (external experts).

Codes of Conduct include for instance a certain wage to employees, but there needs to be a structural enforcement on the ground. It cannot be only paper work. There must be incentives attached to that if there is no enforcement. (I understood these incentives are not given by the companies themselves, but they expect the Commission to set them up. This reflects the finding of French smaller companies who do not see their effort recognised through change in prices)

How to avoid passing on the burden on SMEs: they provide training, they have them achieve a certain standard through investments. But a certain part of burden will always be passed on to companies.

Retail should not be responsible for all products it is selling.

Ref. Ares(2021)6061693 - 05/10/2021

Meeting CLEPA on Sustainable corporate governance

5 October 2021

Participants

CLEPA secretariat:

CLEPA CSR expert group chair: [redacted]

Continental: [redacted]

Bosch: [redacted]
DG GROW G2: [redacted]

CLEPA is an EU association of automotive suppliers

They are already covered by Battery Regulation and Conflict Minerals.

Automotive suppliers have complex global supply chains, they sometimes experience problems with leverage.

CLEPA called for legal certainty and clarity of the legislative proposal. FR law experience seems very strict but the enforcement is week. Difficult to interpret (no legal certainty) seems to be also the case in DE leaving lots of space for interpretation by courts. If linked with liability it is even more crucial to have clear obligations outlined in the EU proposal. Would be in favour of more specific requirements. They make the example of CSRD (that shows how) and the rest is done in delegated acts and invite to allow sufficient time for companies to implement the new proposal. Another possibility to ensure legal certainty would be to split DD and directors duties, so that the DD could be covered in Regulation.

CLEPA called to take into account the global perspective and wanted to know how to ensure level playing field globally and whether FTA agreements will be considered to enforce sustainability beyond the EU.

They suggested to recognise that certain Human rights issues might need transition like in taxonomy.

Make companies to act on systemic change on the risk rather than on a single supplier e.g. cobalt in batteries.

Ref. Ares(2021)6362242 - 18/10/2021

Meeting with FESI - Federation of the European Sporting Goods Industry on sustainable corporate governance (SCG)

Date: 06/10/2021

Participants :

FESI: [redacted]

DG GROW [redacted]2

Discussed issues:

1. **Supply chain vs value chain**

FESI is focusing on supply chain - identifying risks and where the leverage. Focus on direct suppliers.
Important role of industry initiatives (e.g better cotton initiative)
Legal certainty is important

Adidas explained that in Upstream supply chain, material suppliers are often shared with other buyers. Building leverage - partnering up with other industries (example: agricultural sectors - Automotive, Textile, leather). Collaborative action has much more impact - cross industry.

Adidas - from farm to hanger - totally imposible - costwise significant

2. **Environmental due diligence**

Two different teams very different skillsets needed for human rights and environmental due diligence.
Scope of Environmental due diligence only HR related or more?

Environment is well regulated in some third countries also. In depth auditing skills needed.

It is really common that environment and Human Rights are addressed by different teams, new people and additional cost. Environmental due diligence goes further then compliance with environmental legislation - climate change.

Standards are the main question - HR due diligence is well developed, for Environment not many existing standards, under development.

Most important element is legal certainty and harmonisation at EU level - no forum shopping.

Ref. Ares(2021)6145226 - 08/10/2021

Meeting Japan Business Council in Europe (JBCE)

on Sustainable corporate governance

7 Oct 2021

Participants

JBCE:
DG GROW G2:

JBCE wanted to get update about the timeline of the SCGI and reiterate the need for clear rules for business, coherence and complementarity with other initiatives (Battery Regulation, SPI, CSRD etc.)

They are preparing a joint statement with other business associations that will focus on the harmonised and coherent approach.

For them it is important, that the EU and MS authorities provide business with tools allowing them to know on which risks they have to focus (where in supply chain the risk is present, which country, which sector, which industrial schemes are relevant for this purpose). Beside the existing OECD guidelines in certain sectors, it should be further extended to ITC, retail and maybe recruitment.

Even if SMEs might not be in the scope, they should be made aware of what due diligence means, as they will get requests through the supply chain.

On the environmental due diligence, it will be important to define it very clearly. One way would be to link the environmental harm to human rights.

They were interested to know if third country companies would be in scope.