



Directive on Corporate Sustainability Due Diligence



PRESENTATION OF THE PROPOSAL: WHY, WHO, WHAT, HOW



WHY- POLITICAL & POLICY CONTEXT



Corporate Sustainability Due Diligence Directive

Corporate Sustainability Reporting Directive

Regulation on Deforestation-free Products

Regulation on Batteries

Regulation on Forced labour ban

CURRENT SITUATION: International voluntary framework



OECD Guidelines for Multinational Enterprises

- Government-backed recommendations on what constitutes **responsible business conduct** (RBC)
- Define **risk-based due diligence** as main tool to identify, prevent or mitigate risk
- Cover all areas of business responsibility (social, environmental and governance aspects)
- **OECD Due Diligence Guidance for RBC**, and sector-specific due diligence guidance provide practical support to companies



UN Guiding Principles on Business and Human Rights

- 31 principles developed by Prof. John Ruggie; endorsed by HR Council in 2011
- Affirm (1) the **state duty to protect** against HR abuses;
 - (2) the **corporate responsibility to respect** human rights; and
 - (3) the need for **access to remedy** for victims of HR abuses linked to business activity
- Clarify that a core component of the corporate responsibility to respect is the concept of **on-going HR due diligence**



ILO Tripartite Declaration of Principles concerning MNEs and Social Policy

- Only global instrument developed, adopted and supported by governments, employers' and workers' organizations
- Provides guidance of how companies can contribute to **decent work agenda**
- Based on **ILO Declaration on Fundamental Principles and Rights at Work** which addresses forced labour, child labour, non-discrimination and freedom of association and collective bargaining

Key considerations when designing the scheme

CULTURE OF NO HARM

Step up corporate due diligence culture of “do no harm”, make it norm worldwide and foster engagement with third country suppliers, avoid disengagement

DEFRAGMENTATION IN THE SINGLE

Limit patchwork of rules, avoid administrative cost and burden

CONSISTENCY

With existing rules on due diligence and sustainability reporting

LEGAL CERTAINTY

Provide legal certainty and predictability as regards measures to be taken to prevent adverse impacts including in the value chain and as regards its consequences; ensure access to remedy

TRANSPARENCY

Help companies reply to investors and consumers pressure

PROPORTIONALITY

Ensure proportionality and feasibility by companies; help SMEs to face indirect impacts

COLLABORATION

Foster industry collaboration, build leverage

Benefits

CITIZENS



- Better protection of human rights, including labour rights
- Healthier environment for present and future generations
- Increased trust in businesses
- More transparency enabling better informed choices
- Better access to justice for victims

COMPANIES



- Harmonised legal framework in the EU, creating legal certainty and level playing field
- Better medium to long-term financial performance, cost reductions
- More innovation, first mover advantages in global markets, more competitiveness
- Attracting talent, customer loyalty
- Better access to finance

PARTNER COUNTRIES



- Better protection of human rights and the environment
- More awareness about sustainability issues
- Sustainable investment
- Improved living conditions for people

PERSONAL SCOPE: WHO

		LARGE EU LLCs + REGULATED FINANCIAL COMPANIES	NON-EU COMPANIES	SMALL AND MEDIUM ENTERPRISES
GROUP 1	<i>500+ employees and more than net €150 million of turnover*</i>	+/- 9,400 companies	+/- 2,600 companies	Micro companies and small and medium enterprises (SMEs) are not directly concerned by the proposed rules.
GROUP 2	<i>250+ employees and more than net €40 million of turnover*, operating in defined high impact sectors.</i> <i>The rules will apply to this group 2 years later than to group 1.</i>	+/- 3,400 companies	+/- 1,400 companies	

* **Worldwide turnover for EU companies and EU wide turnover for non EU companies**

PERSONAL SCOPE: High impact sectors for Group 2 companies

GARMENT & FOOTWEAR

- Manufacture of textiles, leather and related products including footwear and the wholesale trade of textiles, clothing and footwear

AGRICULTURE

- Agriculture, forestry, fisheries including aquaculture, manufacture of food products and the wholesale trade of agricultural raw materials, live animals, wood, food and beverages

MINERALS

- Extraction of mineral resources, manufacture of basic metal products, other non-metallic mineral products and fabricated metal products and the wholesale trade of mineral products and fabricated metal products, the wholesale trade of mineral resources

WHAT: MATERIAL SCOPE

Human rights impacts

- **All human rights covered** (Annex Part I)
- Section 2: wide list of conventions, including Convention on the Rights of the Child, the United Nations Declaration on the Rights of Indigenous Peoples, etc.

Environmental impacts

- **12 violations of internationally recognized objectives and prohibitions included in environmental conventions** listed in the Annex, Part II

What obligations?

CORPORATE DUE DILIGENCE DUTY

Human rights and environmental adverse impacts

Identifying, preventing, bringing to an end, and accounting for negative human rights and environmental impacts in company's **own operations, subsidiaries and value chains ('established business relationships')**.

Toolbox of appropriate measures

SPECIAL: CLIMATE CHANGE

Group 1 companies: adopt a plan to ensure that their business strategy is compatible with limiting global warming to 1.5 °C in line with the Paris Agreement. In case climate change is identified principal risk for company's operations, include emission reduction objectives.

Directors **variable remuneration** linked to their contribution to long-term sustainability.

DUTIES FOR DIRECTORS

Due diligence: setting up and overseeing the due diligence processes and integrating due diligence into the corporate strategy. Report to the board.

Duty of care: when fulfilling their duty to act in the best interest of the company, take into account the human rights, climate change and environmental consequences.

What are the obligations for companies and their directors in different Groups?

GROUP 1

- Full due diligence obligation
- All sectors
- Plan to ensure that their business strategy is compatible with limiting global warming to 1.5 °C in line with the Paris Agreement
- CSRD reporting*
- Directors` duty on due diligence*
- Directors` duty of care *

** Not applicable for non EU companies*

GROUP 2- Phase-in 2 years

- Due diligence only for severe adverse impacts
- High impact sectors
- CSRD reporting*
- Directors` duty on due diligence*
- Directors` duty of care*

HOW: implementation & public enforcement of due diligence



Internal complaint proceedings

- Complaint mechanism to be set up by company
- Affected persons, trade unions, CSOs



Administrative supervision

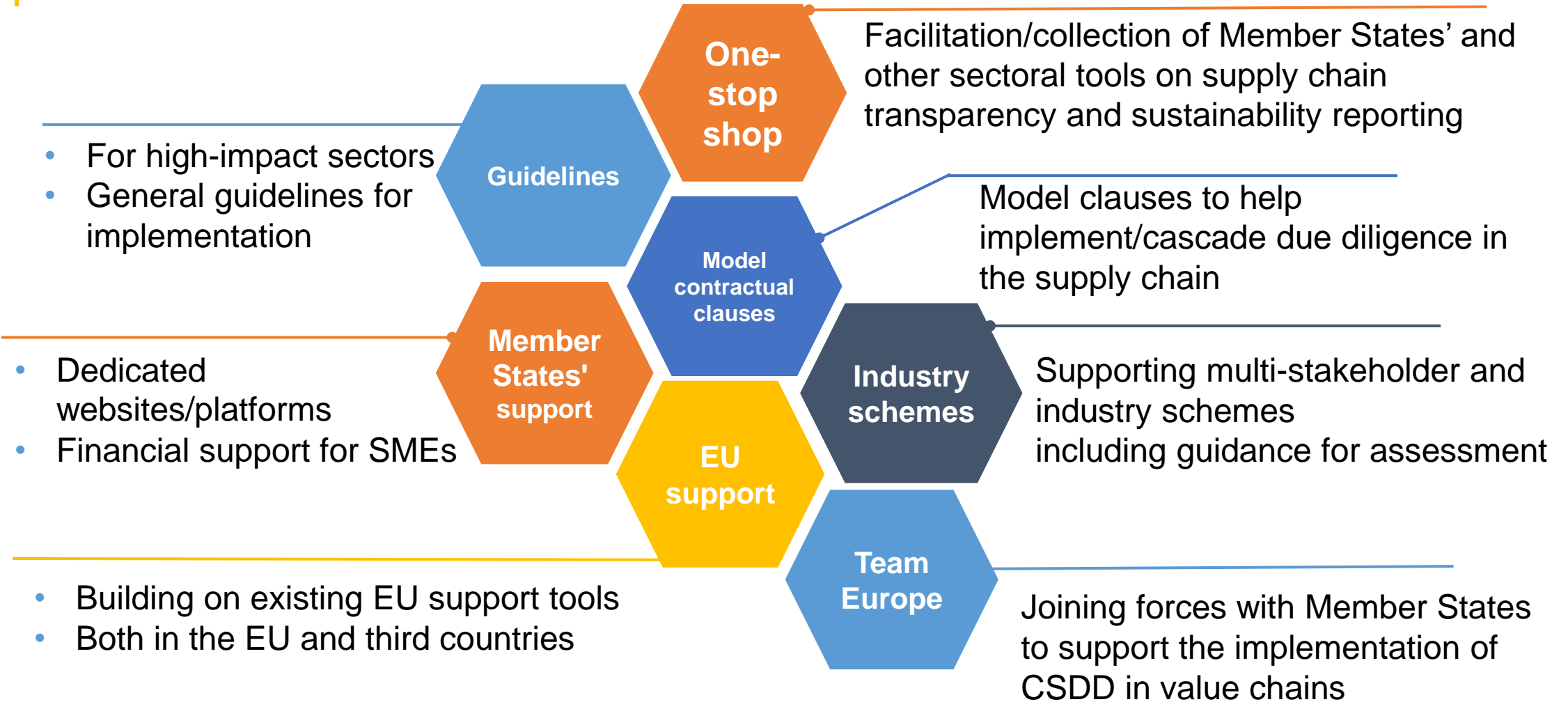
- MS supervisory authorities
- Complaint mechanism “substantiated concerns”
- Sanctions
- European Network of Supervisory Authorities
- Applies also to climate change article



Civil liability

- Obligation of means
- Own operations, subsidiaries and established business relations
- ‘safeguard’ for liability in value chains beyond Tier 1
- Burden of proof on claimant
- Overriding provisions

CSDD Support toolbox



What are the next steps?

Public consultation
(8 weeks)

European Parliament and
the Council

Member States
transposition into national
law (2 years)

Application and
monitoring

Thank you



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