

**VOTING LIST**

on corporate due diligence and corporate accountability

(2020/2137(INL))

Rapporteur: Lara Wolters

Draft report: Fdr 1212406 - PE 657.191 v01-00

Amendments: (AMs 1 - 200) - Fdr 1215352 - PE 658.901 v01-00

(AMs 201 - 400) - Fdr 1215355 - PE 658.902 v01-00

(AMs 401 - 600) - Fdr 1215358 - PE 658.905 v01-00

(AMs 601 - 818) - Fdr 1215359 - PE 658.906 v01-00

Opinions: AFET AD\1218343

INTA AD\1216739

DEVE AD\1217656

Concerned text	AM	Tabled by	Remarks	Rapp	Vote
Report	All COMP in the annex except COMPs 4, 5, 30, 34, 35, A11, A19, A20, A21, B14 and B34		<b>Roll-call vote</b>	+	
Paragraph 4	COMP A11		<b>Roll-call vote</b>	+	
Paragraph 13	COMP A19		<b>Roll-call vote</b>	+	
Paragraph 14	COMP A20		<b>Roll-call vote</b>	+	
Paragraph 15	COMP A21		<b>Roll-call vote</b>	+	
Annex 1 – recital 13	COMP B14		<b>Roll-call vote</b>	+	
Annex 1 – recital 37	COMP B34		<b>Roll-call vote</b>	+	

Annex 1 – Article 2, paragraphs 1 and 1a (new)	COMP 4		<b>Roll-call vote</b>	+	
Annex 1 – Article 2, paragraph 2	COMP 5		<b>Roll-call vote</b>	+	
Annex 1 – Article 16	COMP 30		<b>Roll-call vote</b>	+	
Article 20	COMP 34		<b>Roll-call vote</b>	+	
Annex 1 – Article 20a	COMP 35		<b>Roll-call vote</b>	+	
Paragraph 1 a (new)	70	Buxadé Villalba		-	
Paragraph 2 d (new)	DEVE 3			+	
Paragraph 2 e (new)	DEVE 4			+	
Paragraph 3 d (new)	AFET 36			+	
Paragraph 3 g (new)	DEVE 11			+	
Paragraph 6 a (new)	112	Wölken, Wolters		+	
Paragraph 6 d (new)	DEVE 7			+	
Paragraph 6 g (new)	DEVE 20			+	
Paragraph 7 d (new)	AFET 40			+	
Paragraph 8 e (new)	DEVE 21			+	
Paragraph 8 g (new)	INTA 16			+	
Paragraph 9	125	Aubry		+	
Paragraph 9 a (new)	126	Buxadé Villalba		-	
Paragraph 10 a (new)	134	Aubry		+	

Paragraph 10 c (new)	137	Aubry	<b>Falls if All COMP in the annex except COMPs 4, 5, 30, 34, 35, A11, A19, A20, A21, B14 and B34 adopted</b>	+	
Paragraph 10 f (new)	INTA 15			+	
Paragraph 11 b (new)	AFET 45			+	
Paragraph 12 a (new)	151	Hautala		+	
Paragraph 12 a (new)	153	Durand, Séjourné, Schreinemacher		+	
Paragraph 12 b (new)	154	Durand, Séjourné, Schreinemacher		+	
Paragraph 12 f (new)	AFET 55			+	
Paragraph 14	160	Voss, Niebler, Zarzalejos, Štefanec, Schwartz, Gahler, Simon, Caspar, Pieper, Ferber, Villalba, Györi, Buda, Szájer, Sagartz	<b>Falls if COMP A20 adopted</b> <i>Deletion</i>	-	
Paragraph 15	167	Voss, Niebler, Zarzalejos, Štefanec, Schwab, Gahler, Simon, Caspary, Györi, Buda, Szájer	<b>Falls if COMP A21 adopted</b> <i>Deletion</i>	-	
Paragraph 15 a (new)	173	Vollath		+	
Paragraph 15 b (new)	175	Vollath		+	
Paragraph 15 c (new)	176	Aubry, Maurel		+	
Paragraph 15 d (new)	177	Aubry		+	
Paragraph 16	179	Buda		-	
Paragraph 16	180	Aubry, Hautala, Arena, Cavazzini, Glucksmann, Scholz, Lalucq, Toussaint, Bricmont		-	
Paragraph 16 c (new)	AFET 53			+	

Paragraph 17	181	Buxadé Villalba		-	
Paragraph 17 a (new)	182	Buxadé Villalba		-	
Annex I – part 1 – recital -1	184	Aubry		+	
Annex I – part 1 – paragraph 9 – point 4 a (new)	198	Aubry, Maurel		+	
Annex I – part 1 – paragraph 9 – point 5	199	Buxadé Villalba		+	
Annex I – part 1 – paragraph 9 – point 7 b (new)	211	Vollath		+	
Annex I – part 1 – paragraph 9 – point 7 d (new)	213	Vollath		+	
Annex I – part 1 – paragraph 9 – point 21 a (new)	293	Chinnici, Roberti, Wolters		+	
Annex I – part 1 – paragraph 9 – point 36	379	Vollath		+	
Annex I – part 1 – paragraph 9 – point 38	382	Voss, Niebler, Zarzalejos, Štefanec, Schwab, Simon, Caspary, Győri, Szájer	<i>Deletion</i>	-	
Article 1 – point 5 a (new)	430	Aubry		+	
Article 2 – point 3	448	Villalba	<b>Falls if COMP 4 adopted</b>	-	
Article 2 – point 3 a (new)	452	Villalba	<b>Falls if COMP 4 adopted</b>	-	
Article 7	611	Buxadé Villalba	<b>Identical</b>	-	
	612	Szájer, Győri			
	613	Buxadé Villalba			
Article 7 – paragraph 1	614	Voss, Niebler, Zarzalejos, Štefanec, Schwab, Simon, Caspary, Győri, Buda, Szájer, Sagartz	<b>Falls if 611 adopted</b>	-	
Article 7 –	615	Wölken, Wolters	<b>Falls if 611 or 614 adopted</b>	+	

paragraph 1					
Article 14 – point 2	698	Buxadé Villalba		-	
Article 14 – point 3	699	Buxadé Villalba		-	
Article 17 – point 1 a (new)	758	Villalba	<b>Falls if COMP 30 adopted</b>	-	
Article 18 – point 2 c (new)	773	Aubry		+	
Article 18 – point 2 c (new)	774	Hautala	<b>Falls if 773 adopted</b>	+	
Article 21 – point 2 a (new)	801	Villalba		-	
Annex I – part 2	803	Voss, Niebler, Zarzalejos, Štefanec, Schwab, Simon, Caspary, Győri, Szájer	<b>Falls if COMP 35 adopted</b>	-	
Annex I – part 3	810	Voss, Niebler, Zarzalejos, Štefanec, Schwab, Simon, Caspary, Győri, Szájer	<b>Falls if COMP 35 adopted</b>	-	
Citation 3	1	Buxadé Villalba		-	
Citation 3 a (new)	2	Aubry		+	
Citation 3 b (new)	3	Aubry		+	
Citation 3 c (new)	4	Aubry		+	
Citation 3 d (new)	5	Aubry		+	
Citation 3 e (new)	6	Aubry		+	
Citation 11 a (new)	7	Wolters		+	
Citation 14	8	Buxadé Villalba		-	
Citation 15	9	Buxadé Villalba		-	
Citation 15 a (new)	10	Wölken, Wolters		+	
Citation 15 b (new)	11	Wölken, Wolters		+	

Citation 15 c (new)	12	Wölken, Wolters		+	
Citation 16	13	Buxadé Villalba		-	
Citation 17	14	Buxadé Villalba		-	
Citation 17 a (new)	15	Aubry		+	
Citation 22	16	Buxadé Villalba		-	
Citation 23	17	Buxadé Villalba		-	
Citation 24	18	Buxadé Villalba		-	
Citation 31 a (new)	19	Hautala		+	
Citation 31 a (new)	20	Chinnici, Roberti, Wolters		+	
Citation 32	21	Buxadé Villalba		-	
Citation 32 a (new)	22	Durand, Séjourné		+	
Citation 34 a (new)	23	Wolters		+	
Citation 34 a (new)	24	Buxadé Villalba	<b>Split vote</b> <b>Part 1</b> <i>Amendment without the words ‘Articles 16, 24, 34 and 48 of’</i>	+	
			<b>Part 2</b> <i>Amendment with ‘Articles 16, 24, 34 and 48 of’</i>	-	
Citation 34 b (new)	25	Wolters		+	
Citation 34 c (new)	26	Wolters		+	
Citation 34 d (new)	27	Wolters		+	
Recital -A (new)	DEVE A			+	
Recital -A a (new)	DEVE B			+	
Recital A b (new)	AFET 25			+	
Recital A c (new)	AFET 26			+	

Recital A d (new)	AFET 27			+	
Recital A e (new)	AFET 52			+	
Recital A f (new)	DEVE C		<b>Split vote</b> <b>Part 1</b> <i>Amendment without the words ‘or undermine’</i>	+	
			<b>Part 2</b> <i>Amendment with the words ‘or undermine’</i>	-	
Recital Bc (new)	AFET 3			+	
Recital B e (new)	AFET 8			+	
Recital B g (new)	AFET 13			+	
Recital C a (new)	AFET 7			+	
Recital D	40	Voss, Niebler, Zarzalejos, Štefanec, Schwab, Simon, Caspary, Győri, Szájer	<i>Deletion</i>	-	
Recital D	41	Buxadé Villalba	<b>Falls if 40 adopted</b>	-	
Recital D	42	Aubry	<b>Falls if 40 adopted</b>	+	
Recital D a (new)	AFET 5			+	
Recital D b (new)	AFET 6			+	
Recital D c (new)	AFET 28			+	
Recital D d (new)	AFET 29			+	
Recital D e (new)	AFET 30			+	
Recital D f (new)	AFET 31			+	
Recital D g (new)	AFET 32			+	
Recital E a (new)	DEVE F			+	

Recital F a (new)	51	Buxadé Villalba	<b>Split vote</b> <b>Part 1</b> <i>Amendment without the words 'and thus more effective'</i>	+	
			<b>Part 2</b> <i>Amendment with the words 'and thus more effective'</i>	-	
Recital G	52	Voss, Niebler, Zarzalejos, Štefanec, Schwab, Simon, Caspary, Győri	<b>Identical</b>	-	
	53	Schreinemacher, Vázquez Lázara			
Recital G a (new)	54	Buda		+	
Recital H a (new)	58	Chinnici, Roberti, Wolters		+	
Recital I a (new)	61	Buda		-	
Recital I b (new)	62	Buda		+	
Recital I d (new)	INTA 7			+	
<b>Final vote – Draft as amended (Roll-call vote)</b>					



**Compromise amendments (COMP)**

**COMP A1**

**AM 28, AM 29, AM 30, AFET 2, AFET 4**

- A. Whereas the globalisation of economic activity has aggravated adverse impacts of business activities on human rights, including social and labour rights, the environment and the good governance of states; whereas human rights violations often occur at primary production level, in particular when sourcing raw material and manufacturing products;

**COMP A2**

**AM 31, AM 32, AM 33, AM 35, AM 36, AFET 1, AFET 9, INTA 5**

- B. Whereas undertakings should respect human rights, including international binding rights and the fundamental rights enshrined in the Charter of Fundamental Rights of the European Union, the environment and good governance and should not cause or contribute to any adverse impacts in this regard; is convinced that due diligence should be based on the ‘do no harm’ principle; Whereas Article 21 of the Treaty on the European Union requires the Union to promote and consolidate the universality and indivisibility of human rights and fundamental freedoms, as protected by the European Convention for the Protection of Human Rights and Fundamental Freedoms (ECHR) and the Charter of Fundamental Rights of the European Union, to ensure sustainable development and consistency between its external action and other policies; whereas the Council of the European Union has recognised that corporate respect for human rights in corporate operations and supply chains is important to achieve the UN Sustainable Development Goals;

**COMP A3**

**AM 37, AM 38, AM 39, INTA 4, INTA 9, AFET 15**

- C. Whereas the Covid-19 crisis has exposed some of the severe drawbacks of global value chains and the ease with which certain undertakings are able to shift, both directly and indirectly, negative impacts of their business activities to other jurisdictions, in particular outside the Union, without being held accountable; whereas the OECD has shown that companies that have taken proactive steps to address the risks related to the COVID-19 crisis in a way that mitigates adverse impacts on workers and supply chains, develop a more long-term value and resilience, improving their viability in the short term and their prospects for recovery in the medium to long term;

**COMP A4**

**AM 44, AM 45, AM 46, AM 47, INTA 2**

- E. Whereas this alarming situation has highlighted the urgency regarding making businesses more responsive to, responsible and accountable for the adverse impacts they cause or contribute or are directly linked to and prompted a debate as to how to do so, while underlining the need for a proportionate and harmonised Union-wide approach to these matters, which is also necessary to be able to achieve the United Nations (UN) Sustainable Development Goals;

## **COMP A5**

**~~AM 48 (deletion)~~, AM 49, AM 50, INTA 8, AFET 10, AFET 11**

- F. Whereas that debate has led, among other things, to the adoption of due diligence frameworks and standards within the UN, the Council of Europe, the OECD and the ILO; whereas these standards are however voluntary and, consequently, their uptake has been limited; whereas Union legislation should progressively and constructively build on these frameworks and standards; whereas the EU and Member States should support and engage in the ongoing negotiations to create a legally binding UN instrument on Transnational Corporations and Other Business Enterprises with respect to human rights and the Council should give a mandate to the Commission to be actively involved in those ongoing negotiations;

## **COMP A6**

**~~AM 55 (deletion)~~, AM 56, AM 57, INTA 1**

- H. Whereas some Member States, such as France, and the Netherlands, have adopted legislation to enhance corporate accountability and have introduced mandatory due diligence frameworks; whereas other Member States are currently considering the adoption of such legislation, including Germany, Austria, Sweden, Finland, Denmark and Luxembourg; whereas the lack of European harmonisation of corporate due diligence legislation jeopardises the level playing field of companies operating in the Union;

## **COMP A7**

**AM 59, AM 60, INTA 5, INTA 6**

- I. Whereas the Union has already adopted due diligence legislation for specific sectors, such as the Conflict Minerals Regulation, the Timber Regulation, the Forest Law Enforcement, Governance and Trade (FLEGT) Regulation and the Anti-Torture Regulation; whereas those pieces of legislation have become a benchmark for targeted binding supply chain due diligence legislation; believes that the future EU regulation should support companies in managing and living up to their corporate responsibilities; and be fully aligned with all existing sectoral due diligence and reporting obligations, such as the non-financial reporting directive (NFRD), and coherent with relevant Member States' legislation, to avoid duplications;

## **COMP A8**

**AM 63, AM 65, AM 66, AM 67, AM 68, AM 69, AM 86, INTA 1, INTA 2, INTA 5, AFET14, AFET 18,**

1. Considers that voluntary due diligence standards have limitations and have not achieved significant progress in preventing human rights and environmental harm and in enabling access to justice; considers that the Union should urgently adopt binding requirements for undertakings to identify, assess, prevent, cease, mitigate, monitor, communicate, account for, address and remediate potential and/or actual adverse impacts on human rights, the environment and good governance in their value chain; believes that this would be beneficial for stakeholders, as well as for businesses in terms of harmonisation, legal certainty, a level playing field and mitigating unfair competitive advantages of third countries that result from lower protection standards as well as social and environmental dumping in international trade; stresses that this would enhance the reputation of Union undertakings and of the Union as a standard setter; stresses the proven benefits for undertakings of having effective responsible business conduct practices in place, which include better risk-management, a lower cost of capital, overall better financial

performance, and enhanced competitiveness; is convinced that due diligence increases certainty and transparency as regards the supply practices of undertakings sourcing from countries outside the European Union and will help protect consumer interests by ensuring the quality and reliability of products, and should lead to more responsible purchasing practices and long-term supplier relationships of undertakings; stresses that the framework should be based on an obligation for companies to take all proportionate and commensurate measures and make efforts within their means;

#### **COMP A9**

**AM 71, AM 72, AM 73, AM 74, AM 75, AM 76, AM 77, INTA 5, AFET 34, AFET 35**

2. Stresses that while it is the duty of undertakings to respect human rights and the environment, it is the responsibility of states and governments to protect human rights and the environment, and this responsibility should not be transferred to private actors; recalls that due diligence is primarily a preventative mechanism and that undertakings should be first and foremost required to take all proportionate and commensurate measures and to make efforts within their means to identify potential or actual adverse impacts and adopt policies and measures to address them;

#### **COMP A10**

**AM 78, AM 79, AM 81, AM 82, AM 83, AM 84, AM 85, AFET 23, INTA 11 AFET 17, AFET 19**

3. Stresses that human rights violations and breaches of social and environmental standards can be the result of a company's own activities or of those of its business relationships under their control and along their value chain; underlines therefore that due diligence should encompass the entire value chain, but should also involve having a prioritisation policy; recalls that all human rights are universal, indivisible, interdependent and interrelated and should be promoted and respected in a fair, equitable and non-discriminatory manner;
- 3a. Calls for supply chain traceability to be strengthened, based on the rules of origin of the EU Customs Code; notes that the Union's human rights policy and future corporate due diligence requirements adopted as a result of a legislative proposal from the Commission should be taken into account in the conduct of Union trade policy, including in relation to the ratification of trade and investment agreements and should cover trade with all trading partners, not just those with whom the EU has concluded an FTA; stresses that EU trade instruments should include strong enforcement mechanisms such as withdrawal from preferential access in the event of non-compliance;

#### **COMP A11**

**AM 88, AM 89, AM 90, AM 91, AM 92, AM 93, Am 94, AM 95, AFET 17, AFET 19, AFET 21, AFET 22, INTA 12**

4. Considers that the scope of any future mandatory Union due diligence framework should be broad and cover all large undertakings governed by the law of a Member State or established in the territory of the Union, including those providing financial products and services, regardless of their sector of activity and of whether they are publicly owned or publicly controlled undertakings, as well as all publicly listed small and medium-sized undertakings and high-risk small and medium-sized undertakings; considers that the framework should also cover undertakings which are established outside the Union, but are active on the internal market;

- 4a. Is convinced that compliance with the due diligence obligations should be a condition for access to the internal market and that operators should be required to establish and provide evidence, through the exercise of due diligence, that the products that they place on the internal market are in conformity with the environmental and human rights criteria set out in the future due diligence legislation; calls for complementary measures such as the prohibition of the importation of products related to severe human rights violations such as forced labour or child labour; stresses the importance of including the objective of combating forced labour and child labour in TSD chapters of EU trade agreements;

#### **COMP A12**

**AM 97, AM 98, AM 99, AM 100, AM 101, AM 103, INTA 2, INTA 3, INTA 4, INTA 9, AFET 10**

5. Considers that some undertakings, and particularly publicly listed small and medium-sized undertakings and high-risk small and medium-sized undertakings may need less extensive and formalised due diligence processes, and that a proportional approach should take into account, amongst other elements, the sector of activity, the size of the undertaking, the severity and likelihood of risks related to the respect of human rights, governance and environmental intrinsic to its operations and to the context of its operations, including geographic, its business model, its position in value chains and the nature of its products and services; calls for specific technical assistance to be provided to Union undertakings, especially to SMEs, so that they can comply with due diligence requirements;

#### **COMP A13**

**AM 104, AM 105, AM 106, AM 107, AM 108, AM 110, AM 111, INTA 8, INTA 9, AFET 12, AFET 16, AFET 38**

6. Underlines that due diligence strategies should be aligned with the Sustainable Development Goals and Union policy objectives in the field of human rights and the environment, including the European Green Deal, and the commitment to reduce greenhouse gas emissions by at least 55% by 2030, and Union international policy, especially the Convention on Biological Diversity and the Paris Agreement on Climate Change and its goals to hold the increase in the global average temperature to well below 2°C above pre-industrial levels and pursue efforts to limit the temperature increase to 1,5°C above pre-industrial levels; asks the Commission to develop with the meaningful participation of relevant Union bodies, offices and agencies, a set of due diligence guidelines, including sector-specific guidelines, on how to comply with existing and future Union and international mandatory legal instruments and be in line with voluntary due diligence frameworks, including coherent methodologies and clear metrics to measure impacts and progress, in the areas of human rights, the environment and good governance, reiterates that these guidelines are especially useful for SMEs;
- 6a. Notes that certified industry schemes offer SMEs opportunities to efficiently pool and share responsibilities; underlines however that relying on certified industry schemes does not exclude the possibility for an undertaking to be in breach of its obligations under this directive, nor to be held liable for it in accordance with national law; notes that certified schemes must be assessed, recognised and overseen by the European Commission;

#### **COMP A14**

**AM 113, AM 114, AM 115, AM 116, AM 117, AM 118, AM 119, AFET 20, AFET 37, INTA 9, INTA 14, AFET 41, AFET 42**

7. Stresses that due diligence obligations should be carefully designed to be an ongoing and

dynamic process instead of a ‘box-ticking exercise’ and that due diligence strategies should be in line with the dynamic nature of adverse impacts; considers that those strategies should cover every actual or potential adverse impact on human rights, the environment or good governance, although the severity and likelihood of the adverse impact should be considered in the context of a prioritisation policy; believes that in line with the principle of proportionality it is important to align existing tools and frameworks as much as possible; emphasises the need for the Commission to carry out a robust, impact assessment in order to identify types of potential or actual adverse impacts, to investigate the consequences on the European and global level playing field, including the administrative burden on businesses and the positive consequences on human rights, the environment and good governance, and to design rules that enhance competitiveness, the protection of stakeholders and of the environment, and are functional and applicable to all actors on the internal market, including high risk and publicly listed SMEs;

- 7a. Highlights that comprehensive transparency requirements are a crucial element of mandatory due diligence legislation; notes that enhanced information and transparency give suppliers and manufacturers better oversight control and understanding of their supply chains and improve stakeholders and consumers monitoring capacity as well as public confidence in production; stresses in this regard that the future due diligence legislation should take into consideration digital solutions to facilitate the public access to information and to minimise bureaucratic burdens;

#### **COMP A15**

**AM 120, AM 122, AM 123, AM 124, INTA 14, AFET 39, AFET 43, INTA 10, INTA 13, AFET 19, AFET 46**

8. Highlights that effective due diligence requires that undertakings carry out in good faith effective, meaningful and informed discussions with relevant stakeholders; stresses that a Union due diligence framework should ensure the involvement of trade unions and workers’ representatives, at national, Union and global levels, in the establishment and implementation of the due diligence strategy; stresses that procedures for stakeholders’ engagement must ensure safety and protection of physical and legal integrity of stakeholders;
- 8a. Emphasises that engagement with trade partners, in a spirit of reciprocity, is important for ensuring due diligence effects change; underlines the importance of accompanying measures and projects to facilitate the implementation of EU Free Trade Agreements (FTAs) and calls for a strong link between such measures and horizontal due diligence legislation; requests therefore that financial instruments, such as Aid for Trade, are used to promote and support the uptake of responsible business conduct in partner countries, including technical support on due diligence training, traceability mechanisms and embedding export-led reforms in partner countries; emphasises in this regard the need to promote good governance;
- 8b. Requests that trade instruments be linked to and EU Delegations be actively involved in the monitoring of the application of the future due diligence regulation by European companies operating outside the EU, including by convening meaningful exchanges of views with and supporting rights holders, local communities, chambers of commerce and national human rights institutions, civil society actors and trade unions; calls on the Commission to cooperate with Member States’ chambers of commerce and national human rights institutions in providing online tools and information to support implementation of the future due diligence legislation;

#### **COMP A16**

**AM 127, AM 128, AM 129, AM 130, AM 131, AM 132, AM 133, AM 135, AM 136, AFET 54**

10. Considers that, to enforce due diligence, Member States should set up or designate national authorities to share best practices, carry out investigations, supervise and impose sanctions, taking into account the severity and repeated nature of the infringements; underlines that such authorities should be provided with sufficient resources and powers to realise their mission; considers that the Commission should set up a European due diligence network to be responsible for, together with the national competent authorities, the coordination and convergence of regulatory, investigative, enforcement and supervisory practices, and the sharing of information and to monitor the performance of national competent authorities; considers that the Member States and the Commission should ensure that undertakings publish their due diligence strategies on a publicly accessible and centralised platform, supervised by the national competent authorities;

#### **COMP A17**

**AM 138, AM 139, AM 140, AM 141, AFET 44, AFET 48, AFET 51**

11. Considers that company-level grievance mechanisms can provide effective early-stage recourse, provided they are legitimate, accessible, predictable, equitable, transparent, human rights-compatible, based on engagement and dialogue, and protect against retaliation; considers that such private mechanisms must be properly articulated with judicial mechanisms in order to guarantee the highest protection of fundamental rights, including the right to a fair trial; stresses that such mechanisms should never undermine the right of a victim to file a complaint before competent authorities or to seek justice before a court;

#### **COMP A18**

**~~AM 143, AM 144~~, AM 145, AM 146, AM 147, AM 149; AM 150, AM 152, AM 78, AFET 47, AFET 49, AFET 50, AFET 56, AFET 34**

12. Welcomes the announcement that the Commission proposal will include a liability regime and considers that in order to enable victims to obtain an effective remedy, undertakings should be held liable in accordance with national law for the harm the undertakings under their control have caused or contributed to by acts or omissions, where the latter have committed violations of human rights or have caused environmental harm, unless the undertaking can prove that it acted with due care in line with its due diligence obligations and took all reasonable measures to prevent such harm; underlines that time limitations, difficulties to access to evidence, as well as gender inequality, vulnerabilities and marginalisation can be major practical and procedural barriers faced by victims of human rights violations in third countries, obstructing their access to effective legal remedy; Stresses the importance of effective access to remedies without fear of retaliation and in a gender-responsive manner, and for persons in situations of vulnerability, as enshrined in Article 13 of the Convention on the Rights of Persons with Disabilities; recalls that Article 47 of the Charter requires the Member States to provide legal aid to those who lack sufficient resources insofar as such aid is necessary to ensure effective access to justice;

#### **COMP A19**

**~~AM 155~~, AM 156, AM 157, AM 158, AM 159**

13. Considers that conducting due diligence should not automatically absolve undertakings from liability for the harm they have caused or have contributed to; further considers, however, that having a robust and effective due diligence process in place can help undertakings to avoid causing harm; further consider that due diligence legislation should apply without prejudice to other applicable subcontracting, posting or supply chain liability frameworks established at national, European and international level, including joint and several liability in subcontracting

chains;

## **COMP A20**

**~~AM 160, AM 161,~~ AM 162, AM 163, AM 164,**

14. Considers that, in line with the UN 'Protect, Respect and Remedy' Framework considerations on the rights of victims to a remedy and the UN Guiding Principles on Business and Human Rights, the jurisdiction of the courts of the Member States should be extended so that claims for compensation for harm caused within their value chain on account of human rights violations or environmental harm can also be brought in Member States where a defendant domiciled in the Union operates; further considers it necessary to introduce into Union law a forum necessitatis to give access to a court to victims who risk being denied justice;

## **COMP A21**

**~~AM 166, AM 167,~~ AM 168, AM 169, AM 170, AM 171**

15. Stresses that victims of business-related adverse impacts are often not sufficiently protected by the law of the country where the harm occurred; considers, in this regard, that victims or stakeholders impacted by harm caused by undertakings operating in the Union should be allowed to choose the law of a legal system with higher human rights standards, which could either be that of the place where the harm occurred (*lex loci damni*), that of the place in which the event giving rise to the harm occurred (*lex loci delicti commissi*) or that of the place where the defendant undertaking has its headquarters;

## **COMP B1**

**AM 183**

- Having regard to the Treaty on the Functioning of the European Union, and in particular Articles 50, 83(2) and 114 thereof,

## **COMP B2**

**AM 185, AM 186, AM 187**

- (1) The awareness of the responsibilities of businesses with regard to the adverse impact of their value chains on human rights became prominent in the 1990s, when new offshoring practices in clothing and footwear production drew attention to the poor labour conditions that many workers in global value chains, including children, faced. At the same time, many oil, gas, mining and food industry undertakings pushed into increasingly remote areas, often displacing indigenous communities without adequate consultation or compensation.

## **COMP B3**

**AM 188, AM 189, AM 190**

- (2) Within a context of mounting evidence of human rights violations and environmental degradation, concern grew about ensuring that businesses respected human rights and about ensuring access to justice for victims, in particular when the value chains of some businesses extended into countries with weak legal systems and law enforcement, and holding them accountable in accordance

with national law for causing or contributing to harm. In this light, the United Nations (UN) Human Rights Council in 2008 unanimously welcomed the “Protect, Respect and Remedy” Framework. This framework rests on three pillars: the State duty to protect against human rights abuses by third parties, including businesses, through appropriate policies, regulation, and adjudication; the corporate responsibility to respect human rights, which means acting with due diligence to avoid infringing on the rights of others and to address adverse impacts that occur, and greater access by victims to effective remedy, both judicial and non-judicial.

#### **COMP B4**

##### **AM 191, AM 192**

(3) This framework was followed by the UN Human Rights Council’s endorsement in 2011 of the “Guiding Principles on Business and Human Rights” (UNGPs). The UNGPs introduced the first global standard for “due diligence” and provided a non-binding framework for companies to put their responsibility to respect human rights into practice. Subsequently, other international organisations developed due diligence standards based on the UNGPs. The 2011 OECD Guidelines for Multinational Enterprises refer extensively to due diligence and the OECD has developed guidance to help enterprises carry out due diligence in specific sectors and supply chains. In 2016, the Committee of Ministers of the Council of Europe adopted a recommendation addressed to Member States on human rights and business calling on its Member States to adopt legislative and other measures to ensure that human rights violations in an undertaking’s value chain give rise to civil, administrative and criminal liability before European courts. In 2018, the OECD adopted general Due Diligence Guidance for Responsible Business Conduct. Similarly, the International Labour Organisation (ILO) adopted in 2017 the ILO Tripartite Declaration of Principles Concerning Multinational Enterprises and Social Policy, which encourages enterprises to put in place due diligence mechanisms to identify, prevent, mitigate and account for the manner in which they address their business’s actual and potential adverse impacts as regards internationally recognized human rights. The 2012 United Nations Global Compact, Save the Children and UNICEF Children’s Rights and Business Principles identify key children’s rights considerations relating to adverse business impact and UNICEF has developed a series of guidance documents supporting business due diligence and children. The 2013 UN Committee on the Rights of the Child General Comment No. 16 identifies a comprehensive range of State obligations regarding the impact of the business sector on children’s rights, including States requiring businesses to undertake child-rights due diligence.

#### **COMP B5**

##### **AM 193, AM 194, AM 195, AM 196, AM 197, AM 210**

(4) Undertakings thus currently have at their disposal an important number of international due diligence instruments that can help them fulfil their responsibility to respect human rights. While it is difficult to overstate the importance of these instruments for undertakings that take their duty to respect human rights seriously, their voluntary nature can hamper their effectiveness and their effect has proved limited, with a restricted number of undertakings voluntarily implementing human rights due diligence in relation to their activities and those of their business relationships. This is exacerbated by many undertakings’ excessive focus on short-term profit maximisation.

#### **COMP B6**

##### **AM 200, AM 201, AM 202, AM 203**

(6) A different, more general and complementary approach based on transparency and sustainability



was taken by the Non-Financial Reporting Directive<sup>5</sup>, which imposes on undertakings with more than 500 employees the obligation to report on the policies they pursue in relation to environmental, social, employee-related, and anti-corruption and bribery matters and respect for human rights, including due diligence.

---

<sup>5</sup> Directive 2014/95/EU of the European Parliament and of the Council of 22 October 2014 amending Directive 2013/34/EU as regards disclosure of non-financial and diversity information by certain large undertakings and groups (OJ L 330, 15.11.2014, p. 1).

## **COMP B7**

### **~~AM 204 (deletion)~~, AM 205, AM 206, AM 207, AM 208, AM 209**

(7) In some Member States the need to make undertakings more responsive to human rights and to environmental and good governance concerns has led to the adoption of national due diligence legislation. In the Netherlands, the Child Labour Due Diligence Act requires undertakings operating in the Dutch market to investigate whether there is a reasonable suspicion that the goods or services supplied have been produced using child labour and, in the event of reasonable suspicion, to adopt and implement an action plan. In France, the Law on a duty of vigilance of parents and ordering undertakings requires from some large undertakings the adoption, publication and implementation of a due diligence plan to identify and prevent human rights, health and safety and environmental risks caused by the undertaking, its subsidiaries, sub-contractors or suppliers. The French law establishes an administrative liability for the failure to abide by its due diligence requirements, and a civil liability for the undertaking to provide remedies for harm caused. In many other Member States, debate is ongoing as to the introduction of mandatory due diligence requirements for undertakings and some Member States are currently considering the adoption of such legislation, including Germany, Sweden, Austria, Finland, Denmark, and Luxembourg;

In 2016 Eight national EU parliaments expressed their support for a ‘Green Card Initiative’ calling on the European Commission to bring forth legislation to ensure corporate accountability for human rights abuses, including the Parliaments of Estonia, Lithuania, Slovakia and Portugal, the UK House of Lords, the House of Representatives in the Netherlands, the Senate of the Republic in Italy, and the National Assembly in France.

## **COMP B8**

**AM 216, AM 217, AM 218, AM 219, AM 220, AM 221, AM 222(8)** In order to ensure a level playing field, the responsibility for undertakings to respect human rights under international standards should be transformed into a legal duty at Union level. By coordinating safeguards for the protection of human rights, the environment and good governance, this Directive will ensure that all Union and non-Union large undertakings and high-risk or publicly listed small and medium-sized undertakings operating in the internal market are subject to harmonised due diligence obligations, which will prevent regulatory fragmentation and improve the functioning of the internal market.

## **COMP B9**

**AM 224 (deletion), AM 225, AM 226, AM 227**

(9) The establishment of mandatory due diligence requirements at Union level would be beneficial to businesses in terms of harmonization, legal certainty and the securing of a level playing field and would give undertakings subject to them a competitive advantage, inasmuch as societies are increasingly demanding from undertakings that they become more ethical and sustainable. This Directive, by setting a Union due diligence standard, could help foster the emergence of a global standard for responsible business conduct.

## **COMP B10**

**AM 212, 214**

(7a) The insufficient harmonisation of laws can have an adverse impact on the freedom of establishment., Further harmonisation is therefore essential to prevent unfair competitive advantages being created. To create a level playing field, it is important that the rules apply to all undertakings – both Union and non-Union – operating in the internal market.

There are significant differences between Member States' legal and administrative provisions on due diligence, including as regards civil liability, that apply to Union undertakings. It is essential to prevent future barriers to trade stemming from the divergent development of such national laws.

## **COMP B11**

**AM 228, AM 229, AM 230, AM 231, AM 232, AM 233, AM 234, AM 235**

(10) This Directive aims at preventing and mitigating potential or actual adverse impacts on human rights, the environment and good governance, in the value chain, as well as at ensuring that undertakings can be held accountable for such impacts, and that anyone who has suffered harm in this regard can effectively exercise the right to a fair trial before a court and the right to obtain remedies in accordance with national law.

## **COMP B12**

**AM 237, AM 238, AM 239, AM 240**

(11) This Directive is not aimed at replacing Union due diligence legislation already in force or precluding further Union sector-specific legislation from being introduced. Consequently, it should apply without prejudice to further due diligence requirements established in Union sector-specific legislation, in particular Regulations (EU) No 995/2010<sup>6</sup> and (EU) 2017/821<sup>7</sup> of the European Parliament and of the Council unless the due diligence requirements in this Directive provide for more thorough due diligence with regard to human rights, the environment or good governance.

<sup>6</sup> Regulation (EU) No 995/2010 of the European Parliament and of the Council of 20 October 2010 laying down the obligations of operators who place timber and timber products on the market Text with EEA relevance (OJ L 295, 12.11.2010, p. 23).

<sup>7</sup> Regulation (EU) 2017/821 of the European Parliament and of the Council of 17 May 2017 laying down supply chain due diligence obligations for Union importers of tin, tantalum and tungsten, their ores, and gold originating from conflict-affected and high-risk areas (OJ L 130, 19.5.2017, p. 1).

## **COMP B13**

### **AM 241, AM 242**

(12) The implementation of this Directive should in no way constitute grounds for justifying a reduction in the general level of protection of human rights or the environment. In particular, it should not affect other applicable subcontracting, posting or supply chain liability frameworks established at national, Union or international level. The fact that an undertaking has carried out its due diligence obligations under this Directive does not exonerate it from or weaken its obligations under other liability frameworks and therefore any legal proceedings brought against it based on other liability frameworks should not be dismissed on account of that circumstance.

## **COMP B14**

**AM 243, AM 244, AM 246, AM 247, AM 248, AM 249, AM 250**(13) This Directive should apply to all large undertakings governed by the law of a Member State, established in the territory of the Union or operating in the internal market, regardless of whether they are private or state-owned and of the economic sector they are active in, including the financial sector. This Directive should also apply to publicly listed and high-risk small and medium-sized undertakings. The Commission should identify high-risk sectors of economic activity with a significant impact on human rights, the environment and good governance in order to include the small and medium-sized undertakings operating in those sectors within the scope of this Directive.

## **COMP B15**

**~~AM 251 (deletion)~~, AM 252, AM 253, AM 254, AM 255, AM 256, AM 257, AM 258,**

(14) Proportionality is built into the due diligence process, as this process is contingent on the severity and likelihood of adverse impacts that an undertaking might cause, contribute to or be directly linked to, its sector of activity, the size of the undertaking, the nature and context of its operations including geographic, its business model, its position in the value chain and the nature of its products and services. A large undertaking whose direct business relationships are all domiciled within the Union or a small or medium-sized undertaking that, after carrying out a risk assessment, concludes that it has not identified any potential or actual adverse impacts in its business relationships, could publish a statement to that effect, including its risk assessment containing the relevant data, information and methodology, which should in any case be reviewed in case of changes to the undertakings' operations, business relationships or operating context.

## **COMP B16**

**~~AM 260 (deletion), AM 261 (deletion), AM 262~~**

15) For undertakings owned or controlled by the State, the fulfilment of their due diligence obligations should require that they procure services from undertakings which have complied with due diligence obligations. Member States are encouraged not to provide state support, including through state aid, public procurement, export credit agencies or government-backed loans, to companies that do not comply with the objectives of this Directive.

## **COMP B17**

**AM 263, AM 264, AM 265, AM 267, AM 268, AM 269**

(16) For the purposes of this Directive, due diligence should be understood as the obligation of an undertaking to take all proportionate and commensurate measures and make efforts within their means to prevent adverse impacts on human rights, the environment or good governance from occurring in their value chains, and to address such impacts when they occur. In practice, due diligence consists in a process put in place by an undertaking in order to identify, assess, prevent, mitigate, cease, monitor, communicate, account for, address and remedy the potential and/or actual adverse impacts on human rights, including social, trade union and labour rights, on the environment, including the contribution to climate change, and on good governance, in its own operations and its business relationships in the value chain.

## **COMP B17a**

**AM 270, 271, 272, 273, 274, 275, AM 287**

(17) Annex xx indicates a list of types of adverse impacts. To the extent that they are relevant for undertakings, the Commission should include in this annex the adverse impacts expressed in the international human rights conventions that are binding upon the Union or the Member States, the International Bill of Human Rights, International Humanitarian Law, the United Nations human rights instruments on the rights of persons belonging to particularly vulnerable groups or communities, and the principles concerning fundamental rights set out in the ILO Declaration on Fundamental Principles and Rights at Work, as well as those recognised in the ILO Convention on freedom of association and the effective recognition of the right to collective bargaining, the ILO Convention on the elimination of all forms of forced or compulsory labour, the ILO Convention on the effective abolition of child labour, and the ILO Convention on the elimination of discrimination in respect of employment and occupation. They further include, but are not restricted to, adverse impacts in relation to other rights recognised in the Tripartite of principles concerning multinational enterprises and social policy (MNE declaration) and a number of ILO Conventions, such as freedom of association, collective bargaining, minimum age, occupational safety and health, and equal remuneration, and the rights recognised in the Convention on the Rights of the Child, the African Charter of Human and Peoples' Rights, the American Convention on Human Rights, the European Convention on Human Rights, the European Social Charter, the Charter of Fundamental Rights of the European Union, and national constitutions and laws recognising or implementing human rights. The Commission should ensure that those types of impacts listed are reasonable and achievable.

## **COMP B18**

## **~~AM 276 (deletion), AM 277, AM 278~~**

(18) Environmental adverse impacts are often closely linked to human rights adverse impacts. The United Nations Special Rapporteur on human rights and the environment has stated that the rights to life, health, food, water and development, as well as the right to a safe, clean, healthy and sustainable environment, are necessary for the full enjoyment of human rights. Furthermore, the United Nations General Assembly has recognised, in Resolution 64/292, the right to safe and clean drinking water and sanitation as a human right. The covid-19 pandemic has underlined not only the importance of safe and healthy working environments, but also that of undertakings ensuring they do not cause or contribute to health risks in their value chains. Consequently, those rights should be covered by this Directive.

## **COMP B19**

### **~~AM 279 (deletion), AM 280, AM 281, AM 282, AM 287~~**

(19) Annex xx indicates a list of types of adverse impacts. They should include any business related adverse impact on the environment, whether temporary or permanent, that are relevant for undertakings. Such impacts should include, but should not be limited to, production of waste, diffuse pollution and greenhouse emissions that lead to a global warming of more than 1,5°C above pre industrial levels, deforestation, and any other impact on the climate, air, soil and water quality, the sustainable use of natural resources, biodiversity and ecosystems. The Commission should ensure that those types of impacts listed are reasonable and achievable. To contribute to the internal coherence of Union legislation and to provide legal certainty, this list is drawn up in line with Regulation (EU) 2020/852 of the European Parliament and of the Council\*.

## **COMP B19a**

### **AM 284, AM 285, AM 286, AM 287**

(20) Annex xx indicates a list of types of adverse impacts that are relevant for undertakings. They should include non-compliance with OECD Guidelines for Multinational Enterprises, Chapter VII on Combatting Bribery, Bribe Solicitation and Extortion and the principles of the OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions and situations of corruption and bribery where an undertaking exercises undue influence on, or channels undue pecuniary advantages to, public officials to obtain privileges or unfair favourable treatment in breach of the law, and including situations in which an undertaking becomes improperly involved in local political activities, makes illegal campaign contributions or fails to comply with the applicable tax legislation. The Commission should ensure that those types of impacts listed are reasonable and achievable.

## **COMP B20**

### **~~AM 288 (deletion), AM 289 (deletion), AM 290, AM 291, AM 292, AM 294, AM 295~~**

(21) Adverse impacts on human rights, the environment and good governance are not gender-neutral. Undertakings are encouraged to integrate the gender perspective into their due diligence processes. They can find guidance in the UN booklet Gender Dimensions of the Guiding Principles on Business

---

\* Regulation (EU) 2020/852 of the European Parliament and of the Council of 18 June 2020 on the establishment of a framework to facilitate sustainable investment, and amending Regulation (EU) 2019/2088 (OJ L 198, 22.6.2020, p. 13).

and Human Rights.

Human rights, environmental and governance potential or actual adverse impacts can be specific and more salient in conflict-affected areas. In this regard, undertakings operating in conflict-affected areas should conduct appropriate human rights, environmental and governance due diligence, respect their international humanitarian law obligations, and refer to existing international standards and guidance including the Geneva Conventions and its additional protocols.

Member States are encouraged to monitor the undertakings under their jurisdictions with operations or business relationships in conflict-affected areas, and accordingly take the necessary actions to protect human rights, the environment and good governance in line with their legal obligations, with due consideration to the specific and salient risks present in those areas.

### **COMP B21**

**~~AM 296 (deletion)~~, AM 299, AM 300, AM 302, AM 303, AM 350**

(22) Adverse impacts or violations of human rights and social, environmental and climate standards by undertakings can be the result of their own activities or of those of their business relationships, in particular suppliers, sub-contractors and investee undertakings. In order to be effective, undertakings' due diligence obligations should encompass the entire value chain, while taking a risk-based approach and setting up a prioritization strategy on the basis of Principle 17 of the UN Guiding Principles. However, tracing all undertakings intervening in the value chain can be difficult. The Commission should evaluate and propose tools in order to help undertakings with the traceability of their value chains. This could include innovative information technologies, such as blockchain, that allow all data to be traced, the development of which should be encouraged in order to minimise administrative costs and avoid redundancies for undertakings performing due diligence.

### **COMP B22**

**AM 304, AM 306, AM 307, AM 309, AM 310**

(23) Due diligence is primarily a preventative mechanism that requires companies to take all proportional and commensurate measures and make efforts within their means to identify and assess potential or actual adverse impacts and to adopt policies and measures to cease, prevent, mitigate, monitor, communicate, address, remediate them, and account for how they address those impacts. Undertakings should be required to produce a document in which they publicly communicate, with due regard for commercial confidentiality their due diligence strategy with reference to each of those stages. This due diligence strategy should be duly integrated into the undertaking's overall business strategy. It should be evaluated annually, and revised whenever this is considered necessary as a result of such evaluation.

### **COMP B23**

**~~AM 311 (deletion)~~, AM 312, AM 313, AM 314, AM 315, AM 316, AM 356** (24) Due diligence should not be a 'box-ticking' exercise but should consist of an ongoing process and assessment of risks and impacts, which are dynamic and may change on account of new business relationships or contextual developments. Undertakings should therefore in an ongoing manner monitor and adapt their due diligence strategies accordingly. Those strategies should strive to cover every actual or potential adverse impact, although the nature and context of their operations, including geographical, the severity and likelihood of the adverse impact should be considered if the establishment of a

prioritisation policy is required. Third-party certification schemes can complement due diligence strategies, provided that they are adequate in terms of scope and meet appropriate levels of transparency, impartiality, accessibility and reliability. However, third-party certification should not constitute grounds for justifying a derogation from the obligations set out in this Directive or affect an undertaking's potential liability in any way.

#### **COMP B24**

**AM 317, AM 318, AM 319, AM 320, AM 321, AM 322**

(25) Undertakings should first try to address and solve a potential or actual impact on human rights, the environment and good governance in discussion with stakeholders. An undertaking which has leverage to prevent or mitigate the adverse impact should exercise it. An undertaking wishing to increase its leverage could, for example, offer capacity-building or other incentives to the related entity, or collaborate with other actors. Where an adverse impact cannot be prevented or mitigated and the leverage cannot be increased, a decision to disengage from a supplier or other business relationship could be a last resort and should be done in a responsible manner.

#### **COMP B25**

**AM 323, AM 324, AM 325, AM 326, AM 327, AM 328, AM 329**

(26) Sound due diligence requires that all relevant stakeholders be consulted effectively and meaningfully, and that trade unions in particular be appropriately involved. The consultation and involvement of stakeholders can help undertakings to identify potential and actual adverse impacts more precisely and to set up a more effective due diligence strategy. This Directive therefore requires the discussion with and involvement of stakeholders in all stages of the due diligence process. Furthermore, such discussion and involvement may give voice to those with a strong interest in the long-term sustainability of an undertakings. Stakeholder participation may help improve the long-term performance and profitability of undertakings, as their increased sustainability would have positive aggregate economic effects.

#### **COMP B26**

**~~AM 330 (deletion)~~, ~~AM 331 (deletion)~~, AM 333, AM 334, AM 335**

(27) The concept of stakeholder means persons whose rights and interests may be affected by the decisions of an undertaking, which includes workers, local communities, children, indigenous peoples, citizens' associations and shareholders, and organisations whose statutory purpose is to ensure that human and social rights, climate, environmental and good governance standards are respected, such as trade unions and civil society organisations.

#### **COMP B27**

**~~AM 336 (deletion)~~, AM 337, AM 338** (28) To avoid the risk of critical stakeholder's voices remaining unheard or marginalised in the due diligence process, this Directive should grant relevant stakeholders the right to safe and meaningful discussions as regards the undertaking's due diligence strategy, and should ensure the appropriate involvement of trade unions or of workers' representatives.

## **COMP B28**

**AM 339, AM 340, AM 341, AM 342**

(29) Procedures to raise concerns should ensure that the anonymity or confidentiality of those concerns, as appropriate in accordance with national law, as well as safety and physical and legal integrity of all complainants, including human right and environmental defenders, is protected. In the event that such procedures concern whistleblowers, those procedures should be in line with Directive (EU) 2019/1937 of the European Parliament and of the Council\*.

## **COMP B29**

**AM 343 (deletion), AM 344, AM 345, AM 346, AM 347, AM 348, AM 349,**

(30) Undertakings should be required to make all proportionate and commensurate efforts within their means to identify their suppliers and subcontractors and make relevant information accessible to the public, with due regard to commercial confidentiality. In order to be fully effective, due diligence should not be limited to the first tier downstream and upstream in the supply chain but should encompass those that, during the due diligence process, might have been identified by the undertaking as posing major risks. This Directive, however, does not lose sight of the fact that not all undertakings have the same resources or capabilities to identify all their suppliers and subcontractors and therefore subjects this obligation to the principle of reasonableness and proportionality, which in no case should be interpreted by undertakings as a pretext not to comply with their obligation to make all necessary efforts in that regard.

## **COMP B30**

**AM 351, AM 352, AM 353, AM 354, AM 355,**

(31) For due diligence to be embedded in the culture and structure of an undertaking, the members of the administrative, management and supervisory bodies of the undertaking should be responsible for the adoption and implementation of its sustainability and due diligence strategies. **COMP B31**

**AM 357, AM 358, AM 359, AM 360**

(32) Coordination of undertakings' due diligence efforts and voluntary collaborative actions at sectoral or cross-sectoral level could enhance the consistency and effectiveness of their due diligence strategies. To this end, Member States could encourage the adoption of due diligence action plans at

---

\* Directive (EU) 2019/1937 of the European Parliament and of the Council of 23 October 2019 on the protection of persons who report breaches of Union law (OJ L 305, 26.11.2019, p. 17).



sectoral or cross-sectoral level. Stakeholders should participate in the definition of those plans. The development of such collective measures should in no way absolve the undertaking of its individual responsibility to perform due diligence or prevent it from being held liable for harm it caused or contributed to in accordance with national law.

### **COMP B32**

**AM 361 (deletion), AM 362, AM 363, AM 364, AM 365, AM 366, AM 367, AM 368**

(33) In order to be effective, a due diligence framework should include grievance mechanisms at the level of the undertaking or at sector level, and, in order to ensure that such mechanisms are effective, undertakings should take decisions informed by the position of stakeholders, when developing grievance mechanisms. Those mechanisms should allow stakeholders to raise reasonable concerns and should function as an early-warning risk-awareness and mediation system. They should be legitimate, accessible, predictable, equitable, transparent, rights-compatible, a source of continuous learning and should be based on engagement and dialogue. Grievance mechanisms should be entitled to make suggestions as to how potential or actual adverse impacts could be addressed by the undertaking. They should also be able to propose an appropriate remedy when it is brought to their attention through mediation that the undertaking has caused or contributed to an adverse impact.

(33a) Grievance mechanisms should not discharge Member States from their primary duty to protect human rights and to provide access to justice and remedies.

### **COMP B33**

**AM 369, AM 370, AM 371, AM 372, AM 373**

(34) Member States should designate one or more national authorities to monitor the correct implementation by undertakings of their due diligence obligations and ensure the proper enforcement of this Directive. These national authorities should be independent and should have the appropriate powers and resources to carry out their tasks. They should be entitled to carry out appropriate checks, on their own initiative or based on substantiated and reasonable concerns raised by stakeholders and third parties, and impose effective proportionate and dissuasive administrative sanctions, taking into account the severity and repetition of infringements, in order to ensure that undertakings comply with the obligations set out in the national law. At the Union level, a European Due Diligence Network of competent authorities should be set up by the Commission to ensure cooperation.

### **COMP B33a**

**AM 375, AM 376, AM 377**

~~(35) Repeated infringement by an undertaking of the national provisions adopted in accordance with this Directive, intentionally or with serious negligence, should constitute a criminal offence.~~

### **COMP B34**

**AM 380 (deletion), AM 381**

37. In line with the UNGPs, conducting due diligence should not absolve undertakings per se from liability for causing or contributing to human rights abuses or environmental damage. However, having a robust and adequate due diligence process in place may help undertakings to prevent harm from occurring.

### **COMP B35**

~~AM 384 (deletion), AM 385 (deletion),~~ AM 386, AM 387, AM 388, AM 389, AM 297, AM 298, AM 378 (39) Member States should use existing liability regimes or, if necessary, introduce further legislation to ensure that undertakings can, in accordance with national law, be held liable for any harm arising out of adverse impacts on human rights, the environment and governance that they, or entities they control, have caused or contributed to by acts or omissions, unless the undertaking can prove it took all due care in line with this Directive to avoid the harm in question, or that the harm would have occurred even if all due care had been taken.

### **COMP B36**

**AM 390, AM 391, AM 392, AM 393, AM 394, AM 395, AM 396**

(40) In order to create clarity and certainty and consistency among the practices of undertakings, the Commission should prepare guidelines in consultation with Member States and the OECD and with the assistance of a number of specialised agencies, in particular the EU Fundamental Rights Agency, the European Environment Agency and the European Agency for Small and Medium Sized Enterprises. A number of guidelines on due diligence produced by international organisations already exist and could be used as a reference for the Commission when developing guidelines under this Directive specifically for Union undertakings. This Directive should aim for full harmonization of standards among Member States. Other than general guidelines which should guide all undertakings and in particular small and medium-sized undertakings in the application of due diligence in their operations, the Commission should envisage producing sector-specific guidelines and provide a regularly updated list of country fact-sheets in order to help undertakings assess the potential and actual adverse impacts of their business operations in a given area. Those fact-sheets should indicate in particular which Conventions and Treaties among those listed in Annexes xx, xxx, and xxxx to this Directive have been ratified by a given country.

### **COMP 1**

#### **Article 1 – paragraph 1**

**[AM 397, AM 398, AM 399, AM 400, AM 402, AM 403, AM 404, ~~AM 405 (deletion)~~, AM 406, AM 408, AM 409, AM 410, AM 411, AM 412, AM 431**

1. This Directive is aimed at ensuring that undertakings under its scope operating in the internal market fulfil their duty to respect human rights, the environment and good governance and do not cause or contribute to potential or actual adverse impacts on human rights, the environment and good governance through their own activities or those directly linked to their operations, products or services by a business relationship or in their value chains, and that they prevent and mitigate those adverse impacts.

This Directive lays down the value chain due diligence obligations of undertakings under its scope, namely to take all proportionate and commensurate measures and make efforts within their means to prevent human rights, environmental and governance adverse impacts from occurring in their value chains, and to properly address such adverse impacts when they occur. The exercise of due diligence requires undertakings to identify, assess, prevent, cease, mitigate, monitor, communicate, account for, address and remediate the potential and/or actual adverse human rights, environmental and good governance impacts that their own activities and those of their value chains and business relationships may pose. By coordinating safeguards for the protection of human rights, the environment and good governance, those due diligence requirements are aimed at improving the functioning of the internal market.

## **COMP 2**

### **Article 1 – paragraph 2**

**[~~AM 413 (deletion)~~, AM 414, AM 415, AM 416, AM 417]**

2. This Directive further aims to ensure that undertakings can be held accountable and liable in accordance with national law for the adverse human rights, environmental and good governance impacts that they cause or contribute to in their value chain and aims to ensure victims' access to legal remedies.

## **COMP 2a**

### **Article 3 - point 10 b (new)**

(10b) 'contribute to': means that an undertaking's activities, in combination with the activities of other entities cause an impact, or if the activities of the enterprise cause, facilitate or incentivise another entity to cause an adverse impact. Contribution must be substantial, meaning that it does not include minor or trivial contributions. The substantial nature of the contribution and understanding when the actions of the enterprise may have caused, facilitated or incentivised another entity to cause an adverse impact may involve the consideration of multiple factors.

The following factors can be taken into account:

- the extent to which an enterprise may encourage or motivate an adverse impact by another entity, i.e. the degree to which the activity increased the risk of the impact occurring.
- the extent to which an enterprise could or should have known about the adverse impact or potential for adverse impact, i.e. the degree of foreseeability.
- the degree to which any of enterprise's activities actually mitigated the adverse impact or decreased the risk of the impact occurring.

The mere existence of a business relationship or activities which create the general conditions in which it is possible for adverse impacts to occur does not in itself represent a relationship of contribution. The

activity in question should substantially increase the risk of adverse impact.

### **COMP 3**

#### **Article 1 - paragraphs 3, 4, 5**

**[AM 422 (deletion), AM 423, AM 424]**

3. This Directive shall apply without prejudice to further due diligence requirements established in Union sector-specific legislation, in particular Regulation (EU) No 995/2010<sup>\*</sup> and Regulation (EU) 2017/821<sup>†</sup>, unless the due diligence requirements according to this Directive provide for a more thorough due diligence with regard to human rights, the environment or good governance.

**AM 425, AM 426**

~~4. This Directive shall not prevent Member States from maintaining or introducing further general or sector-specific due diligence requirements, provided that they do not hamper the effective application of the due diligence requirements as provided for in this Directive.~~

**[AM 427, AM 428, AM 429]**

5. The implementation of this Directive shall in no way constitute grounds for justifying a reduction in the general level of protection of human rights or the environment. In particular, it shall be applied without prejudice to other applicable subcontracting, posting or value chain liability frameworks, established at national, European or international level.

### **COMP 4**

#### **Article 2 – paragraphs 1 and 1a (new) - covers paragraph 3 (exemption of micro-undertakings)**

**[AM 432, AM 433, AM 434, AM 436, AM 437, AM 461, AM 445 (deletion), AM 446, AM 447, AM 448, AM 449, AM 450, AM 452]**

1. This Directive shall apply to large undertakings governed by the law of a Member State or established in the territory of the Union.

1a. This Directive shall also apply to all publicly listed small and medium-sized undertakings, as well as high-risk small and medium-sized undertakings.

#### **Recital:**

High-risk small and medium-sized undertakings should be defined by the Commission in this Directive. The definition should take into account the sector of the undertaking or its type of activities.

### **COMP 5**

#### **Article 2 - paragraph 2**

---

<sup>\*</sup> Regulation (EU) No 995/2010 of the European Parliament and of the Council of 20 October 2010 laying down the obligations of operators who place timber and timber products on the market Text with EEA relevance (OJ L 295, 12.11.2010, p. 23).

<sup>†</sup> Regulation (EU) 2017/821 of the European Parliament and of the Council of 17 May 2017 laying down supply chain due diligence obligations for Union importers of tin, tantalum and tungsten, their ores, and gold originating from conflict-affected and high-risk areas (OJ L 130, 19.5.2017, p. 1).

**[AM 438, AM 439, AM 440, AM 441, AM 442, AM 444]**

It shall also apply to large undertakings within the meaning of paragraph 1a. of this Directive, to listed small and medium-sized undertakings, and to small and medium-sized undertakings operating in high risk sectors, which are governed by the law of a non-Member State and not established in the territory of the Union when they operate in the internal market selling goods or providing services. Those undertakings shall fulfil the due diligence requirements established in this Directive as transposed into the legislation of the Member State in which they operate and be subject to the sanctions and liability regimes established by this Directive as transposed into the legislation of the Member State in which they operate.

## **COMP 6**

### **~~Article 3~~ — point (1)**

**~~[AM 453, AM 454, AM 455, AM 457, AM 458, AM 459]~~**

~~(1)“due diligence” means an obligation for an undertaking to take all reasonable measures and make efforts within its means to prevent adverse impacts on human rights, good governance and the environment from occurring in their value chains, and to properly address such adverse impacts when they occur. The exercise of due diligence requires identifying, assessing, preventing, ceasing, mitigating, monitoring, communicating, accounting for, addressing, and remediating the potential and/or actual adverse impacts on human rights, including social, trade union and labour rights, on the environment, including the contribution to climate change, and on good governance, both by its own operations and by those of its business relationships.~~

## **COMP 7**

### **Article 3 - point 2**

**~~[AM 462 (deletion),~~ AM 464, AM 465, AM 466, AM 467, AM 468, AM 469, AM 470]**

(2)‘stakeholders’ means individuals, and groups of individuals whose rights or interests may be affected by the human rights, environmental and good governance potential or actual adverse impacts posed by an undertaking or its business relationships, as well as organisations whose statutory purpose is the defence of human rights, including social and labour rights, the environment and good governance. These can include workers and their representatives, local communities, children, indigenous peoples, citizens’ associations, trade unions, civil society organisations and the undertakings’ shareholders.

## **COMP 8**

### **Article 3 - point 3**

**~~AM 471 (deletion),~~ AM 472, AM 473, AM 474, AM 475]**

(3)‘business relationships’ means subsidiaries and commercial relationships of an undertaking throughout its value chain, including suppliers and sub-contractors, which are directly linked to the

undertaking's business operations, products or services.

## **COMP 9**

### **Article 3 - point 4**

**[AM 476, AM 477]**

(4) 'supplier' means any undertaking that provides a product, part of a product, or service to another undertaking, either directly or indirectly, in the context of a business relationship.

## **COMP 10**

### **Article 3 – point 5**

**[AM 478]**

(5) 'sub-contractor' means all business relationships that perform a service or an activity that contributes to the completion of an undertaking's operations.

## **COMP 11**

### **Article 3 - point 6**

**[AM 479, AM 480, AM 481, AM 482]**

(6) 'value chain' means all activities, operations, business relationships and investment chains of an undertaking and includes entities with which the undertaking has a direct or indirect business relationship, upstream and downstream, and which either:

- (a) supply products, parts of products or services that contribute to the undertaking's own products or services, or
- (b) receive products or services from the undertaking;

## **COMP 11a**

### **Article 3 - point 7**

**AM 483, AM 484, AM 485, AM 487, AM 488**

~~(7) 'risk' means a potential or actual adverse impact on individuals, groups of individuals and other organisations in relation to human rights, including social and labour rights, the environment, and good governance;~~

## **COMP 12**

### **Article 3 - paragraph 1 - point 8**

**[AM 489, AM 490, AM 491, AM 492, AM 493, AM 494, AM 495, AM 496, AM 510]**

(8) ‘potential or actual adverse impact on human rights’ means any potential or actual adverse impact that may impair the full enjoyment of human rights by individuals or groups of individuals in relation to human rights, including social, worker and trade union rights, as set out in Annex xx to this Directive. That Annex shall be reviewed on a regular basis and be consistent with the Union’s objectives on human rights. The Commission is empowered to adopt delegated acts in accordance with Article 18(a), to amend this list.

### **COMP 13**

#### **Article 3 - paragraph 1 - point 9**

**[~~AM 497 (deletion)~~, AM 498, AM 499, AM 500, AM 501, AM 502, AM 503, AM 510]**

(9) ‘potential or actual adverse impact on the environment’ means any violation of internationally recognized and Union environmental standards, as set out in Annex xxx to this Directive. That Annex shall be reviewed on a regular basis and be consistent with the Union’s objectives on environmental protection and climate change mitigation. The Commission is empowered to adopt delegated acts in accordance with Article 18(a), to amend this list.

### **COMP 14**

#### **Article 3 - paragraph 1 - point 10**

**[~~AM 505 (deletion)~~, ~~AM 506 (deletion)~~, AM 507, AM 508, 509, 510]**

(10) ‘potential or actual adverse impact on good governance’ means any potential or actual adverse impact on the good governance of a country, region or territory, as set in Annex xxxx to this Directive. That Annex shall be reviewed on a regular basis and be consistent with the Union’s objectives on good governance. The Commission is empowered to adopt delegated acts in accordance with Article 18(a), to amend this list.

### **COMP 15**

#### **Article 3 - paragraph 1 - point 10 a (new)**

**[AM 460, AM 511, AM 512]**

(10a) ‘control’ means the possibility for an undertaking to exercise decisive influence on another undertaking, in particular by ownership or the right to use all or part of the assets of the latter, or by rights or contracts or any other means, having regard to all factual considerations, which confer decisive influence on the composition, voting or decisions of the decision making bodies of an undertaking

### **COMP 16**

#### **Article 4**

## **Due diligence strategy**

[AM 513, AM 514, AM 515, AM 516, AM 517, AM 519 // AM 520, AM 521, AM 522, AM 523, AM 524 // ~~AM 527 (deletion)~~, AM 528, AM 529, AM 530 // AM 531, AM 532, AM 533 // AM 534, AM 535, AM 536, AM 537, AM 538, AM 539, AM 540, AM 541, AM 542, AM 543, AM 544, AM 545, AM 546, AM 547, AM 548, AM 549, AM 550 // ~~AM 551 (deletion)~~, AM 552, AM 553 // ~~AM 554 (deletion)~~, ~~AM 555 (deletion)~~ // ~~AM 556 (deletion)~~, AM 557 // ~~AM 558 (deletion)~~, AM 559, AM 560, AM 561, AM 562 // ~~AM 563 (deletion)~~, AM 564, AM 565, AM 566, AM 567, AM // AM 569]

[AM 513, AM 514, AM 515, AM 516, AM 517, AM 519]

1. Member States shall lay down rules to ensure that undertakings carry out effective due diligence with respect to potential or actual adverse impacts on human rights, the environment and good governance in their operations and business relationships.

[AM 520, AM 521, AM 522, AM 523, AM 524]

2. Undertakings shall in an ongoing manner make all efforts within their means to identify and assess, by means of a risk based monitoring methodology that takes into account the likelihood, severity and urgency of potential or actual impacts, the nature and context of their operations, including geographic, and whether their operations and business relationships cause or contribute to or are directly linked to any potential or actual adverse impact on human rights, the environment or good governance.

[~~AM 527 (deletion)~~, AM 528, AM 529, AM 530]

3. If a large undertaking, whose direct business relationships are all domiciled within the Union, or a Small or medium-sized undertaking concludes, in line with paragraph 2, that it does not cause, contribute to, or that it is not directly linked to any potential or actual adverse impact on human rights, the environment or good governance, it shall publish a statement to that effect and shall include its risk assessment containing the relevant data, information and methodology that led to this conclusion. In particular, that undertaking may conclude that it encounters no adverse impacts if its impacts identification and risk assessment analysis determines that all of its direct suppliers perform due diligence in line with this directive. That Statement shall be reviewed in the event that new risks emerge or in the event of that undertaking entering into new business relationships that can pose risks.

### **Recital:**

Undertakings that publish no risk statements are not exempt from possible checks or investigations by Member State competent authorities in order to ensure that they comply with the obligations provided for in this Directive, and they can be held liable in accordance with national law.

[AM 531, AM 532, AM 533]

4. Unless an undertaking concludes, in line with paragraphs 2 and 3, that it does not cause, contribute to or that it is not directly linked to any potential or actual adverse impact on human rights, the environment or good governance, it shall establish and effectively implement a due diligence strategy. As part of their due diligence strategy, undertakings shall:

[AM 534, AM 535, AM 536, AM 537, AM 538, AM 539, AM 540, AM 541, AM 542, AM 543, AM 544, AM 545, AM 546, AM 547, AM 548, AM 549, AM 550]



(i) specify the potential or actual adverse impacts on human rights, the environment and good governance identified and assessed in line with Article 4(2), that are likely to be present in its operations and business relationships, and the level of their severity, likelihood and urgency and the relevant data, information and methodology that led to these conclusions;

(ii) map their value chain and, with due regard for commercial confidentiality, publicly disclose relevant information about the undertaking's value chain, which may include names, locations, types of products and services supplied, and other relevant information concerning subsidiaries, suppliers and business partners in its value chain;

**Recital:** Undertakings should set up an internal value chain mapping process making all proportionate and commensurate efforts in order to identify their business relationships in their value chain.

**Recital:** Commercial confidentiality referred to in this Directive should apply in respect of any information which meets of the requirements to be considered a 'trade secret' as defined in the Trade Secrets Directive, namely information that is secret, in the sense that it is not, as a body or in the precise configuration and assembly of its components, generally known or readily accessible to persons within the circles that normally deal with the kind of information in question, that it has commercial value because it is secret, and that it has been subject to reasonable steps under the circumstances, by the person lawfully in control of the information, to keep it secret.

(iii) adopt and indicate all proportionate and commensurate policies and measures with a view to ceasing, preventing or mitigating potential and/or actual adverse impacts on human rights, the environment or good governance;

(iv) set up a prioritisation strategy on the basis of Principle 17 of the UN Guiding Principles on Business and Human Rights in case the undertaking is not in a position to deal with all the potential or actual adverse impacts at the same time. Undertakings shall consider the level of severity, likelihood and urgency of the different potential or actual adverse impacts on human rights, the environment or good governance, the nature and context of their operations, including geographic, the scope of the risks, their scale and how irremediable they might be, and if necessary, use the prioritisation policy in dealing with them;

**[AM 551 (deletion), AM 552, AM 553]**

~~5. Undertakings shall make all reasonable efforts to identify subcontractors and suppliers in their entire value chain.~~

**~~[AM 554 (deletion), AM 555 (deletion)]~~**

6. Undertakings shall ensure that their business strategy and their policies are in line with their due diligence strategy. Undertakings shall include explanations in their due diligence strategies in that regard.

**[AM 556 (deletion), AM 557]**

7. The subsidiaries of an undertaking shall be deemed in compliance with the obligation to establish a due diligence strategy if their parent undertaking includes them in their due diligence strategy.

**Recital:** In order for a subsidiary to be deemed in compliance with the obligation to establish a due diligence strategy, if the subsidiary is included in the due diligence strategy of its parent undertaking, the subsidiary should clearly state that is the case in its annual reporting. Such a requirement is necessary to ensure that there is transparency for the public to enable national competent authorities to carry out the appropriate investigations. The subsidiary should ensure that the parent undertaking

possesses sufficient, relevant information in order to perform due diligence on its behalf.

**[AM 558 (deletion), AM 559, AM 560, AM 561, AM 562]**

8. Undertakings shall carry out value chain due diligence which is proportionate and commensurate to the likelihood and severity of their potential or actual adverse impacts and their specific circumstances, particularly their sector of activity, the size and length of their value chain, the size of the undertaking, its capacity, resources and leverage.

**[AM 563 (deletion), AM 564, AM 565, AM 566, AM 567]**

9. Undertakings shall ensure that their business relationships put in place and carry out human rights, environmental and good governance policies that are in line with their due diligence strategy, including for instance by means of framework agreements, contractual clauses, the adoption of codes of conduct or by means of certified and independent audits. Undertakings shall ensure that their purchase policies do not cause or contribute to potential or actual adverse impacts on human rights, the environment or good governance.

**[AM 569]**

10. Undertakings shall regularly verify that subcontractors and suppliers comply with their obligations under paragraph 9.

**Recital:**

The appropriate frequency of verification in a given time period implied by the term 'regularly' should be based on/determined in relation to the likelihood and severity of adverse impacts. The more likely and severe the impacts, the more regularly the verification of compliance should be carried out.

**COMP 17**

**Article 5**

**[AM 570, AM 571]**

**Stakeholder engagement**

**[AM 572, AM 573, AM 574, AM 575, AM 576]**

1. Member States shall ensure that undertakings carry out in good faith effective, meaningful and informed discussions with relevant stakeholders when establishing and implementing their due diligence strategy. Member States shall guarantee, in particular, the right for trade unions at the relevant level, including sectoral, national, European and global levels, and for workers' representatives to be involved in the establishment and implementation of the due diligence strategy in good faith with their undertaking. Undertakings may prioritise discussions with the most impacted stakeholders. Undertakings shall conduct discussions and involve trade unions and worker's representatives in a manner that is appropriate to their size and to the nature and context of their operations.

**[AM 577 (deletion), AM 578]**

2. Member States shall ensure that stakeholders are entitled to request from the undertaking that they discuss impacts relevant to them within the terms of paragraph 1.

**[AM 579 (deletion)]**

3. Undertakings shall ensure that affected or potentially affected stakeholders are not put at risk due to participating in the discussions referred to in paragraph 1.

**[AM 581 (deletion), AM 582 (deletion)]**

~~4. Consultations with indigenous peoples *shall* be undertaken in accordance with international human rights standards, including the standard of free, prior and informed consent and respecting indigenous peoples' right to self-determination.~~

### **Recital:**

When carrying out discussions pursuant to Article 5, undertakings shall ensure that when they discuss with indigenous peoples this is done in accordance with international human rights standards, such as the United Nations Declaration on the Rights of Indigenous Peoples\*, including Free, Prior and Informed Consent and indigenous peoples' right to self-determination.

### **COMP 18**

**[AM 583, AM 584, AM 585]**

5. Workers' representatives shall be informed by the undertaking on its due diligence strategy and on its implementation, to which they shall be able contribute, in accordance with Directive 2002/14/EC establishing a general framework for informing and consulting employees in the European Community, Directive 2009/38/EC on the establishment of a European Works Council and Council Directive 2001/86/EC supplementing the Statute for a European undertaking with regard to the involvement of employees. In addition, the right to bargain collectively shall be fully respected, as recognised in particular by ILO Conventions 87 and 98, the Council of Europe European Convention of Human Rights and European Social Charter, as well as the decisions of the ILO Committee on Freedom of Association, the Committee of Experts on Application of Conventions and Recommendations (CEACR) and the Council of Europe European Committee of Social Rights (ECSR).

### **COMP 19**

**[AM 586 (deletion), AM 587 (deletion), AM 588, AM 589]**

~~6. Member States shall ensure that where an undertaking refuses to carry out consultations *discussions* with at least the most impacted stakeholders, or fails to engage in negotiations *involve* trade unions and workers' representatives in good faith and in an effective, meaningful and informed manner, this constitutes a breach of the due diligence obligations provided for in this Directive. Stakeholders, trade unions *and worker's representatives* shall have the right to refer such matters to the competent national authority.~~

---

\* [https://www.un.org/esa/socdev/unpfii/documents/DRIPS\\_en.pdf](https://www.un.org/esa/socdev/unpfii/documents/DRIPS_en.pdf)

## **COMP 20**

### **Article 6**

#### **Publication and communication of the due diligence strategy**

[~~AM 590 (deletion)~~, AM 591, AM 592, AM 593, AM 594, AM 595, AM 596, AM 597, AM 598, AM 599, AM 600, AM 601 // AM 602, AM 603, AM 604, AM 605, AM 606 // AM 607, AM 608, AM 609, AM 610, AM 628]

[~~AM 590 (deletion)~~, AM 591, AM 592, AM 593, AM 594, AM 595, AM 596, AM 597, AM 598, AM 599, AM 600, AM 601]

1. Member States shall ensure, with due regard for commercial confidentiality, that undertakings make their most up to date due diligence strategy, or the statement including the risk assessment, referred to in Article 4(3), publicly available, and accessible free of charge, especially on the undertakings' websites.

[AM 602, AM 603, AM 604, AM 605, AM 606]

2. Undertakings shall communicate their due diligence strategy to their workers' representatives, trade unions, and business relationships and, on request, to one of the national competent authorities designated pursuant to Article 14.

Undertakings shall communicate relevant information concerning their due diligence strategy to potentially affected stakeholders upon request and in a manner appropriate to those stakeholders' context, for example by taking into account the official language of the country of the stakeholders.

#### **Recital:**

Relevant information on the due diligence strategy should be communicated to potentially affected stakeholders upon requests and in a manner appropriate to those stakeholder's context, for instance by taking into account the official language of the country of the stakeholders, their level of literacy and access to the internet. This is however not meant as an obligation for the undertaking to pro-actively disclose their entire due diligence strategy in a manner appropriate to the stakeholder's context, and this requirement should be proportional to the nature, context and size of the undertaking

[AM 607, AM 608, AM 609, AM 610]

3. Member States and the Commission shall ensure that undertakings upload their due diligence strategy or the statement including the risk assessment, referred to in Article 4(3) on a European centralised platform, supervised by the national competent authorities. Such a platform could be the Single European Access Point mentioned by the Commission in its recent Capital Markets Union Action Plan (COM/2020/590). The Commission shall propose a standardised template for the purpose of uploading the due diligence strategies on the European centralised platform.

## **COMP 21**

### **Article 8**

#### **Evaluation and review of the due diligence strategy**

[AM 616, AM 617, AM 618, AM 619]

1. Undertakings shall evaluate the effectiveness and appropriateness of their due diligence strategy and

of its implementation at least once a year, and revise it accordingly whenever revision is considered necessary as a result of the evaluation.

**[AM 620 (deletion), AM 621, AM 622, AM 623, AM 624, AM 625]**

2. The evaluation and revision of the due diligence strategy shall be carried out by discussing with stakeholders and with the involvement of trade unions and workers' representatives in the same manner as when establishing the due diligence strategy pursuant to Article 4.

**[AM 626 (deletion), AM 627 (deletion)]**

~~3. In large companies, the advisory committee referred to in Article 12 shall be consulted in the evaluation and revision of the due diligence strategy.~~

## **COMP 22**

### **Article 9**

#### **Grievance mechanisms**

**[AM 629 (deletion article), AM 630 (deletion article)]**

**[AM 631 (deletion), AM 632, AM 633, AM 634, AM 635, AM 636]**

1. Undertakings shall provide a grievance mechanism, both as an early-warning risk-awareness and as a mediation system, allowing any stakeholder to voice reasonable concerns regarding the existence of a potential or actual adverse human rights, environmental or good governance impact. Member States shall ensure that undertakings are enabled to provide such a mechanism through collaborative arrangements with other undertakings or organisations, by participating in multi-stakeholder grievance mechanisms or joining a Global Framework Agreement.

**[AM 638 (deletion), AM 639, AM 640, AM 641]**

2. Grievance mechanisms shall be legitimate, accessible, predictable, safe, equitable, transparent, rights-compatible and adaptable as set out in the effectiveness criteria for non-judicial grievance mechanisms in Principle 31 of the United Nations Guiding Principles on Business and Human Rights and the United Nations Committee on the Rights of the Child General Comment No 16. Such mechanisms shall provide for the possibility to raise concerns either anonymously or confidentially, as appropriate in accordance with national law.

**[AM 643 (deletion)]**

3. The grievance mechanism shall provide for timely and effective responses to stakeholders, both in instances of warnings and concerns.

**[AM 644 (deletion), AM 645 (deletion), AM 646, AM 647]**

4. Undertakings shall report on reasonable concerns raised via their grievance mechanisms and regularly report on progress made in those instances. All information, shall be published in a manner that does not endanger the stakeholders' safety, including by not disclosing their identity.

**[AM 648 (deletion), AM 649, AM 650, AM 651]**5. Grievance mechanisms shall be entitled to make proposals to the undertaking on how potential or actual adverse impacts may be addressed.

**[AM 652 (deletion), AM 653, AM 654]**

6. Undertakings shall take decisions informed by the position of stakeholders, when developing grievance mechanisms.

**[AM 657, AM 658]**

6 c. Recourse to a grievance mechanism shall not preclude the claimants from having access to judicial mechanisms.

## **COMP 23**

### **Article 10**

#### **Remediation**

**[AM 659 (deletion article), AM 660 (deletion article)]**

**[AM 661, AM 662, AM 663]**

1. Member States shall ensure that when an undertaking identifies that it has caused or contributed to an adverse impact, it provides for or cooperates with the remediation process. When an undertaking identifies that it is directly linked to an adverse impact, it shall cooperate with the remediation process to the best of its abilities.

**[AM 664 (deletion)]**

2. The remedy may be proposed as a result of mediation via the grievance mechanism laid down in Article 9.

**[No amendement]**

3. The remedy shall be determined in consultation with the affected stakeholders and may consist of: financial or non-financial compensation, reinstatement, public apologies, restitution, rehabilitation or contribution to investigation.

**[AM 665 (deletion)]**

4. Undertakings shall prevent additional harm through guarantees of non-repetition.

**[AM 666, AM 667, AM 668, AM 669, AM 670]**

5. Member States shall ensure that the remediation proposal by an undertaking does not prevent affected stakeholders from bringing civil proceedings in accordance with national law. In particular, victims shall not be required to seek extra-judicial remedies before filing a claim before a court, nor shall ongoing proceedings before a grievance mechanism impede victims' access to a court. Decisions issued by a grievance Mechanism shall be duly considered by courts but shall not be binding upon them.

## **COMP 24**

## **Article 11**

### **Responsibility with regard to due diligence process**

~~[AM 671 (deletion article)]~~

~~[AM 672 (deletion)]~~

~~1. Member States shall ensure that the members of the administrative, management and supervisory bodies of an undertaking, acting within the competences assigned to them by national law, have collective responsibility for ensuring that the due diligence process and an the undertaking's business decisions, including remuneration policies, are consistent with this Directive.~~

~~[AM 673 (deletion), AM 674 (deletion) AM 675, AM 676, AM 677]~~

~~2. Member States shall ensure that their laws, regulations and administrative provisions on liability, apply to the members of the administrative, management and supervisory bodies of the undertakings, as regards breach of the duties referred to in paragraph 1~~

## **COMP 25**

## **Article 12**

### **Expertise on due diligence**

~~[AM 678 (deletion article)]~~

~~[AM 679 (deletion), AM 680 (deletion)]~~

~~1. Member States shall ensure that the governing body of the undertaking has the necessary qualifications, knowledge and expertise as regards due diligence.~~

~~[AM 681 (deletion), AM 682, AM 683, AM 684, AM 685, AM 686]~~

~~2. In order to integrate the due diligence process into their governance, large undertakings shall set up an advisory committee tasked with advising the governing body of the undertakings on due diligence matters. The advisory committee may propose due diligence measures. cease, monitor, communicate, address, prevent and mitigate potential and/or actual adverse impacts. The membership of advisory committees shall include stakeholders, including trade unions and workers' representatives, and experts.~~

### **Recital:**

Large undertakings are encouraged to set up advisory committees tasked with advising their governing bodies on due diligence matters, and including stakeholders in their composition.

## **COMP 26**

## **Article 13**

### **Sectoral due diligence action plans**

## **Article 13 – point 1**

**[AM 687, AM 688, AM 689, AM 690, AM 691]**

1. Member States may encourage the adoption of voluntary sectoral or cross-sectoral due diligence action plans at national or Union level aimed at coordinating the due diligence strategies of undertakings.

Undertakings participating in sectoral or cross-sectoral due diligence action plans shall not be exempt from the obligations provided for in this Directive.

## **COMP 27**

### **Article 13 - point 2**

**[~~AM 692 (deletion)~~, AM 693, AM 694, AM 695]**

2. Member States shall ensure that relevant stakeholders, particularly trade unions, workers' representatives, and civil society organisations, have the right to participate in the definition of sectoral due diligence action plans without prejudice to the obligation for each undertaking to comply with the requirements laid down in Article 5.

**[No amendment]**

3. Sectoral due diligence actions plans may provide for a single joint grievance mechanism for the undertakings within its scope. The grievance mechanism shall be in line with Article 9 of this Directive.

**[~~AM 696 (deletion)~~]**

4. The development of sectoral grievance mechanisms shall be informed by the position of stakeholders.

**[~~AM 697 (deletion)~~]**

~~5. Trade unions shall be given the necessary resources to carry out their responsibilities in this area, including in order to establish connections with trade unions and workers in the undertakings with which the main undertaking has business relationships.~~

### **Recital:**

Trade unions should be given the necessary resources to carry out their rights in relation to due diligence, including in order to establish connections with trade unions and workers in the undertakings with which the main undertaking has business relationships

## **COMP 28**

### **Article 15**

#### **Investigation on undertakings**

**[AM 700, AM 701, AM 702, AM 703, AM 704, AM 705, AM 706, AM 707, AM 708, AM 718, AM**



**709, AM 719]**

1. Member State competent authorities referred to in Article 14 shall have the power to carry out investigations to ensure that undertakings comply with the obligations set out in this Directive, including undertakings which have stated that they do not encounter any potential or actual adverse impacts. Those competent authorities shall be authorised to carry out checks on undertakings and interviews with affected or potentially affected stakeholders or their representatives. Such checks may include examination of the undertaking's due diligence strategy, of the functioning of the grievance mechanism, and on-the-spot checks.

Undertakings shall provide all the assistance necessary to facilitate the performance by the competent authorities of their investigations

**[AM 710, AM 711, AM 712, AM 713, AM 714]**

2. Investigations referred to in paragraph 1 shall either be conducted by taking a risk-based approach or in the event a competent authority is in possession of relevant information regarding a suspected breach by an undertaking of the obligations set out in this Directive, including on the basis of substantiated and reasonable concerns raised by any third party.

**[AM 715, AM 716, AM 717]**

3. The Commission and Member States competent authorities referred to in Article 14 shall facilitate the submission by third parties of substantiated and reasonable concerns referred to in paragraph 2 of this Article by measures such as harmonised forms for the submission of concern. The Commission and the competent authorities shall ensure that the complainant has the right to request that his or her concerns remain confidential or anonymous, in accordance with national law. Member States competent authorities referred to in Article 14 shall ensure that that form can also be completed electronically.

**[Paragraph 4 - no amendments tabled]**

4. The competent authority shall inform the complainant of the progress and the outcome of the investigation within a reasonable period, in particular if further investigation or coordination with another supervisory authority is needed.

**[~~AM 720 (deletion)~~, AM 721]**

5. If as a result of the actions taken pursuant to paragraph 1, a competent authority identifies a failure to comply with this Directive, it shall grant the undertaking concerned an appropriate period of time to take remedial action if remedial action is possible.

**[AM 722, AM 723, AM 724]**

6. Member States shall ensure that if the failure to comply with this Directive could directly lead to irreparable harm, the adoption of interim measures by the undertaking concerned, or, in compliance with the principle of proportionality, the temporary suspension of activities may be ordered. In the case of undertakings governed by the law of a non-Member State which operate in the internal market, the

temporary suspension of activities may imply a ban on operating in the internal market.

**[AM 728, AM 729, AM 730]**

7. Member States shall provide for sanctions in accordance with Article 19 for undertakings that do not take remedial action within the period of time granted. Competent national authorities shall be empowered to impose administrative fines.

**[AM 731 (deletion), AM 732, AM 733, AM 734, AM 725, AM 726, AM 727]**

8. Member States shall ensure that the national competent authorities keep records of the investigations referred to in paragraph 1, indicating, in particular, their nature and result, as well as records of any notice of remedial action issued under paragraph 5. Competent authorities shall publish an annual activity report with the most serious cases of non-compliance and their treatment with due regard to commercial confidentiality.

**[AM 735 (deletion), AM 736]**

~~9. Records of the checks referred to in paragraph 1 shall be kept for at least five years.~~

## **COMP 29**

### **Article 16**

#### **Guidelines**

**[AM 737, AM 738, AM 739, AM 740, AM 741, AM 742]**

1. In order to create clarity and certainty for undertakings, as well as ensure consistency among their practices, the Commission, in consultation with Member States and the OECD and with the assistance of the European Union Fundamental Rights Agency, the European Environment Agency and the European Agency for Small and Medium Enterprises, shall publish general non-binding guidelines for undertakings on how best to fulfil the due diligence obligations set out in this Directive. Those guidelines shall provide practical guidance on how proportionality and prioritisation, in terms of impacts, sectors and geographical areas, may be applied to due diligence obligations depending on the size and sector of the undertaking. The guidelines shall be made available no later than 18 months after the date of entry into force of this directive.

**[AM 743, AM 744, AM 745]**

2. The Commission, in consultation with Member States and the OECD, and with the assistance of the Fundamental Rights Agency, the European Environment Agency and the European Agency for Small and Medium Enterprises, may prepare specific non-binding guidelines for undertakings operating in certain sectors.

**[AM 746 (deletion), AM 747, AM 748, AM 749, AM 750, AM 751, AM 752]**

3. In preparing the non-binding guidelines referred to in paragraphs 1 and 2 above, due account shall be taken of the United Nations Guiding Principles on Business and Human Rights, the ILO Tripartite Declaration of Principles concerning Multinational Enterprises and Social Policy, the OECD Due Diligence Guidance for Responsible Business Conduct, the OECD Guidelines for Multinational Enterprises, the OECD Guidance for Responsible Mineral Supply Chains, the OECD Due Diligence Guidance for Responsible Supply Chains in the Garment and Footwear sector, the OECD guidance for Responsible Business Conduct for Institutional Investors, the OECD Due Diligence for Responsible Corporate Lending and Securities Underwriting and the OECD-FAO Guidance for Responsible Agricultural Supply Chains, the United National Committee on the Rights of the Child General Comment 16 on State obligations regarding the impact of the business sector on children's rights and the UNICEF Children's Rights and Business Principles. The Commission shall periodically review the relevance of its guidelines and adapt them to new best practices.

**[AM 769, AM 770, AM 771, AM 772]**

4. Country fact-sheets shall be updated regularly by the European Commission and made publicly available in order to provide up-to-date information on the international Conventions and Treaties ratified by each of the Union's trading partners. The Commission shall collect and publish trade and customs data on origins of raw materials, and intermediate and finished products, and publish information on human rights, environmental and governance potential or actual adverse impacts risks associated with certain countries or regions, sectors and sub-sectors, and products.

### **COMP 30**

#### **Article 17**

##### **Specific measures for small, medium-sized and micro undertakings**

**[AM 753 (deletion article), AM 754 (deletion article)]**

**[AM 755, AM 756, AM 757, AM 758]**

1. Member States shall ensure that a specific portal for small, medium-sized and micro undertakings is available where they may seek guidance and obtain further support and information about how best fulfil their due diligence obligations.

**[AM 759 (deletion), AM 760]**

2. Small, medium-sized and micro undertakings shall be eligible for financial support to perform their due diligence obligations under the Union's programmes to support small, medium sized and micro enterprises.

### **COMP 31**

#### **Article 18**

##### **Cooperation at EU level**

**[AM 761 (deletion), AM 762, AM 763, AM 764, AM 766 (deletion), AM 767, AM 768]**

1. The Commission shall set up a European Due Diligence Network of competent authorities to ensure, together with the national competent authorities referred to in Article 14, the coordination and convergence of regulatory, investigative and supervisory practices, the sharing of information, and monitor the performance of national competent authorities.

National competent authorities shall cooperate to enforce the obligations provided for in this Directive.

2. The Commission, assisted by the European Union Agency for Fundamental Rights, the European Environmental Agency, and the European Agency for Small and Medium Enterprises shall publish, based on the information shared by national competent authorities and in cooperation with other public sector experts and stakeholders, an annual due diligence score-board.

## **COMP 32**

[AM 775]

### ***Article 18 a***

#### ***Exercise of delegation***

1. The power to adopt delegated acts is conferred on the Commission subject to the conditions laid down in this Article.

2. The power to adopt delegated acts referred to in Article 2 and Article 3 shall be conferred on the Commission for a period of 5 years from (date of entry into force of this Regulation).

3. The delegation of power referred to in Article 2 and Article 3 may be revoked at any time by the European Parliament or by the Council. A decision to revoke shall put an end to the delegation of the power specified in that decision. It shall take effect the day following the publication of the decision in the Official Journal of the European Union or a later date specified therein. It shall not affect the validity of any delegated act already in force.

4. Before adopting a delegated act, the Commission shall consult experts designated by each Member State in accordance with the principles laid down in the Interinstitutional Agreement of 13 April 2016 on Better Law Making.

5. As soon as it adopts a delegated act, the Commission shall notify it simultaneously to the European Parliament and to the Council.

6. A delegated act adopted pursuant to Article 2 and Article 3 shall enter into force only if no objection has been expressed either by the European Parliament or the Council within a period of three months of notification of that act to the European Parliament and the Council or, if, before the expiry of that period, the European Parliament and the Council have both informed the Commission that they will not object. That period shall be extended by three months at the initiative of the European Parliament or of the Council.

## **COMP 33**

### **Article 19**

#### **Sanctions**

[AM 777, AM 778, AM 779, AM 780, ~~AM 781 (deletion)~~, ~~AM 782 (deletion)~~, ~~AM 783 (deletion)~~, AM 784, AM 785]

1. Member States shall provide for proportionate sanctions applicable to infringements of the national provisions adopted in accordance with this Directive and shall take all the measures necessary to

ensure that those sanctions are enforced. The sanctions provided for shall be effective, proportionate and dissuasive and shall take into account the severity of the infringements committed and whether or not the infringement has taken place repeatedly.

2. The competent national authorities may in particular impose proportionate fines on an undertaking's turnover, temporarily or indefinitely exclude undertakings from public procurement, from state aid, from public support schemes including schemes relying on Export Credit Agencies and loans, resort to the seizure of commodities and other appropriate administrative sanctions.

### **Recital:**

The Commission and the Member States are encouraged to provide for administrative fines comparable in magnitude to fines currently provided for in competition law and data protection law.

~~3. Member States shall ensure that a repeated or grave infringement by an undertaking of the national provisions adopted in accordance with this Directive constitutes a criminal offence, when committed intentionally or as a result of serious negligence. Member States shall take the necessary measures to ensure that such offences are punishable by effective, proportionate and dissuasive criminal penalties.~~

### **COMP 34**

#### **Article 20**

#### **Civil liability**

**[AM 786 (deletion), AM 789]**

1. The fact that an undertaking respects its due diligence obligations shall not absolve the undertaking of any liability which it may incur pursuant to national law.

**[AM 787, AM 790, AM 793, AM 798, AM 799]**

2. Member States shall ensure that they have a liability regime in place under which undertakings can, in accordance with national law, be held liable and provide remediation for any harm arising out of potential or actual adverse impacts on human rights, the environmental or good governance that they, or undertakings under their control, have caused or contributed to by acts or omissions.

**[AM 787, AM 790, AM 793, AM 794, AM 798, AM 799]**

3. Member States shall ensure that their liability regime as referred to in paragraph 2 is such that undertakings that prove that they took all due care in line with this Directive to avoid the harm in question, or that the harm would have occurred even if all due care had been taken, are not held liable for that harm.

### **Recital:**

When introducing a liability regime, Member States should ensure a rebuttable presumption requiring a certain level of evidence. The burden of proof would be shifted from a victim to a company to prove that a company did not have control over a business entity involved in the human rights abuse.

**[AM 787, AM 790, AM 792, AM 795, AM 796, AM 797]**

4. Member States shall ensure that the limitation period for bringing civil liability claims concerning harm arising out of adverse impacts on human rights and the environment is reasonable.

**Recital:**

Limitation periods should be deemed reasonable and appropriate if they do not restrict victims' right to access justice, with due consideration to the practical challenges faced by potential claimants. Sufficient time should be given for victims of human rights, environmental and governance adverse impact to bring judicial claims, taking into account their geographical location, their means and the overall difficulty to raise admissible claims before EU courts.

**COMP 35**

**Article 20a**

**Private international law**

**[AM 800, AM 809, AM 810, AM 811, AM 812, AM 813, AM 814, AM 815, AM 816, AM 817, AM 818, AM 802, AM 803, AM 804, AM 805, AM 806, AM 807, AM 808]**

Member States shall ensure that relevant provisions of this Directive are considered overriding mandatory provisions in line with Article 16 of Regulation (EC) No 864/2007 of the European Parliament and of the Council of 11 July 2007 on the law applicable to non-contractual obligations (Rome II).

Annex 1 - part 2: deleted

Annex 1 - part 3: deleted.