

To: [redacted] 5.1.2e [redacted] @minbuza.nl; [redacted] 5.1.2e [redacted] @minbuza.nl]
Cc: [redacted] 5.1.2e [redacted] @minbuza.nl; [redacted] 5.1.2e [redacted] @minbuza.nl; [redacted] 5.1.2e
From: [redacted] 5.1.2e [redacted] 5.1.2e [redacted] @minbuza.nl
Sent: Thur 12/9/2021 4:14:06 PM
Subject: IMVO punten nav gesprek R- [redacted] 5.1.2e
Received: Thur 12/9/2021 4:14:07 PM

Ha [redacted] 5.1.2e

Nog wat losse eindjes die voor jullie beiden nuttig kunnen zijn nav gesprek van zojuist over IMVO-wetgeving;

- [redacted] 5.1.2i

- [redacted] buiten verzoek.

- De scrutiny board heeft nog vrij gedetailleerde vragen aan CIE over het wetsvoorstel die eerst moeten worden geadresseerd, bijv: het wordt niet duidelijk gemaakt waarom ook directors' duties in het voorstel zitten (dit is het andere deel van het voorstel dat niet over due diligence gaat); keuzes voor de handhavingsopties zijn onvoldoende onderbouwd; waarom zou MKB onder de wet moeten vallen; hoe zit het met beleidscoherentie;, onderbouwing van toepasbaarheid op niet-EU bedrijven. Kortom werk aan de winkel voor CIE. [redacted] buiten verzoek.
[redacted] buiten verzoek.

- [redacted] 5.1.2e buiten verzoek.

[redacted] buiten verzoek.



[redacted] 5.1.2e

Trade Policy and International Economic Governance Department

Ministerie van Buitenlandse Zaken
Rijnstraat 8 | 2515 XP
Den Haag | Nederland

[redacted] 5.1.2e @minbuza.nl | 070 348 [redacted] 5.1.2e | 06 [redacted] 5.1.2e

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buiten verzoek.

WHICH COMPANIES WILL THE NEW EU RULES APPLY TO?

		LARGE EU LIMITED LIABILITY COMPANIES	NON-EU COMPANIES	SMALL AND MEDIUM ENTERPRISES
GROUP 1	<i>500+ employees and more than €150 million of turnover*</i>	+/- 9,400 companies	+/- 2,600 companies	Micro companies and small and medium enterprises (SMEs) are not directly concerned by the proposed rules.
GROUP 2	<i>250+ employees and more than €40 million of turnover*, operating in defined high impact sectors such as textiles, agriculture, extraction of minerals. The rules will apply to this group 2 years later than to group 1.</i>	+/- 3,400 companies	+/- 1,400 companies	However, the proposal provides supporting measures for SMEs, which could be indirectly affected.

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

To: [redacted] 5.1.2e [redacted]@minbuza.nl]; [redacted] 5.1.2e - BD/DWJZ/PR [redacted] 5.1.2e @minjenv.nl]
Cc: [redacted] 5.1.2e - BD/DWJZ/PR [redacted] 5.1.2e @minjenv.nl]
From: [redacted] 5.1.2e
Sent: Tue 5/25/2021 10:58:53 AM
Subject: RE:
Received: Tue 5/25/2021 10:58:00 AM

buiten verzoek.

From: [redacted] 5.1.2e @minbuza.nl>
Sent: dinsdag 25 mei 2021 11:30
To: [redacted] 5.1.2e @minjenv.nl>; [redacted] 5.1.2e @minbuza.nl>
Cc: [redacted] 5.1.2e @minjenv.nl>
Subject: RE:

Beste allen,

Nog een kleine aanvulling t.a.v. de haalbaarheid due diligence. Ik heb uit [redacted] 5.1.2a begrepen dat de aarzelingen bij de Regulatory Scrutiny Board wel degelijk ook het due diligence voorstel betreffen, althans de (zeer) brede reikwijdte daarvan. In dat kader de opmerking dat de achtergrondtekst nu (onterecht) lijkt te suggereren dat er op dat vlak geen hobbel meer te nemen is.

Groet,

[redacted] 5.1.2e

buiten verzoek.

buiten verzoek.

To: [5.1.2e]@minbuza.nl; [5.1.2e]@minezk.nl; [5.1.2e]@minezk.nl; [5.1.2e]
[5.1.2e]@minezk.nl; [5.1.2e]@minbuza.nl
Cc: [5.1.2e]@vnoncw-mkb.nl; Secretariaat Economie[SecretariaatEconomie@vnoncw-mkb.nl]
From: [5.1.2e]
Sent: Thur 2/3/2022 12:34:50 PM
Subject: RE: Gesprek BZ/EZK/VNO-MKB over IMVO
Received: Thur 2/3/2022 12:34:54 PM

Hallo [5.1.2e]

Dank voor je positieve bericht. [5.1.2e] was ook akkoord. En ons secretariaat is snel inderdaad, haha.

We maken agenda en sturen die rond.

Groet, [5.1.2e]

Van: [5.1.2e]@minbuza.nl
Verzonden: donderdag 3 februari 2022 12:33
Aan: [5.1.2e]@vnoncw-mkb.nl; [5.1.2e]@minezk.nl; [5.1.2e]@minezk.nl;
[5.1.2e]@minbuza.nl
CC: [5.1.2e]@vnoncw-mkb.nl; Secretariaat Economie <SecretariaatEconomie@vnoncw-mkb.nl>
Onderwerp: RE: Gesprek BZ/EZK/VNO-MKB over IMVO

Externe mail. Klik alleen op links of bijlagen als je weet dat de inhoud veilig is.

Hi [5.1.2e] prima voorstel! Ik zag dat je secretariaat er geen gras overheen laat groeien. In dat licht lijkt het me wel handig als je spoedig aangeeft waar jullie het over willen hebben (agenda), dan kunnen we de voorbereiding ter hand nemen.
Groet, [5.1.2e]

From: [5.1.2e]@vnoncw-mkb.nl
Sent: woensdag 2 februari 2022 15:04
To: [5.1.2e]@minezk.nl; [5.1.2e]@minezk.nl; [5.1.2e]@minbuza.nl; [5.1.2e]
[5.1.2e]@minbuza.nl
Cc: [5.1.2e]@vnoncw-mkb.nl; Secretariaat Economie <SecretariaatEconomie@vnoncw-mkb.nl>
Subject: Gesprek BZ/EZK/VNO-MKB over IMVO

Beste allen,

Zoals bij enkelen aangekondigd, zou ik graag een afspraak met jullie maken met mij en mijn [5.1.2e] over IMVO.

IMVO houdt onze achterban sterk bezig. Graag bespreken we met EZK en BZ wat er allemaal speelt.

Als jullie hier voor open staan, laat even weten via wie (welk secretariaat) we een afspraak kunnen maken.

Vriendelijke groet,

[5.1.2e]

[5.1.2e]

email: 5.1.2e@vnoncw-mkb.nl
tel.: +31 (0)70 - [5.1.2e](tel:5.1.2e)
mobiel: +31 (0)6 [5.1.2e](tel:5.1.2e)
website: www.vno-ncw.nl - www.mkb.nl

Bezuidenhoutseweg 12, 2594 AV Den Haag
Postbus 93002, 2509 AA Den Haag

Twitter: [@vnoncw](https://twitter.com/vnoncw) - [@mkbnl](https://twitter.com/mkbnl) - linkedIn: [VNO-NCW](https://www.linkedin.com/company/vno-ncw) - [MKB](https://www.linkedin.com/company/mkb)



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To: 5.1.2e @minbuza.nl
Cc: 5.1.2e @minbuza.nl; 5.1.2e @minbuza.nl
From: 5.1.2e
Sent: Wed 5/12/2021 8:59:43 PM
Subject: RE: Gesprek R en Reynders op 26 mei 2021
Received: Wed 5/12/2021 8:59:43 PM

Hi 5.1.2e

Veel dank, goede punten! Heb ze meegenomen. Verder nog:

-Wat betreft timing: gisteren werd bekend dat het waarschijnlijk uitgesteld wordt. Het voorstel van Reynders is niet door de toetsing van het zogeheten *regulatory scrutiny board* gekomen. Op dit moment is onduidelijk wanneer het wel komt. Laatste officiële communicatie is dus nog steeds zomer 2021, maar dat wordt naar verwachting na de zomer (en volgens onze 5.1.2e collega op de PV zelfs eind 2021, maar dat heb ik bij mijn rondvraag verder niet gehoord). Wat ons betreft is eerder beter: wij hebben ook aan de TK gemeld dat we deze zomer de balans opmaken. Tegelijkertijd duren dit soort trajecten natuurlijk altijd lang, en wordt het vaak uitgesteld. 5.1.2a en dat is gezien het hoge ambitieniveau van Reynders ook niet helemaal onverwacht. Voor ons met name belangrijk dat het komt, en dat het ambitieus is en hebben wij op de timing niet bijzonder veel invloed..

buiten verzoek.

5.1.2e

From: 5.1.2e @minbuza.nl

Sent: woensdag 12 mei 2021 12:08

To: 5.1.2e @minbuza.nl

Cc: 5.1.2e @minbuza.nl; 5.1.2e @minbuza.nl; 5.1.2e @minbuza.nl; 5.1.2e @minbuza.nl; 5.1.2e @minbuza.nl; 5.1.2e @minbuza.nl; 5.1.2e @minbuza.nl; 5.1.2e @minbuza.nl; 5.1.2e @minbuza.nl; 5.1.2e @minbuza.nl

Subject: RE: Gesprek R en Reynders op 26 mei 2021

Dank hiervoor, en ook voor de INDEP special van gisteren over EU DD: informatief en nuttig, i.i.g. voor mij.

Wat betreft R-Reynders en de DD-directive: vraag naar de timing lijkt me een hele goede, incl. de achtergronden en overwegingen daarbij. Er leek wat licht te zitten tussen jullie info ('na de zomer, richting einde jaar') en die van MEP Wolters ('rond de zomer').

Hebben wij (NL/BHOS) daar trouwens een eigen visie op - meegeven in het dossier? Misschien goed om even mee te geven dat een herzien NAP Bedrijfsleven en Mensenrechten voor dit najaar is toegezegd aan de Kamer (stakeholderconsultaties starten in juni)?

In het najaar trouwens ook het voorstel voor een EU textielstrategie (waarvoor binnenkort publieke consultaties beginnen, DGENV).

Verder vroeg ik me af of R niet toch ook nog iets over de door NL/BHOS gewenste inhoud van de directive zou moeten zeggen: wat is ambitious and feasible, in NL ogen? Bijv. op het punt van het bereik, raadpleging, inspanning vs resultaat, respect vs protect, aansprakelijkheid, MKB? Of is er daarvoor deze keer geen tijd (pull aside) en/of zien jullie daarvoor andere, betere mogelijkheden (Reynders&team gaat in op het aanbod van R om ervaringen/kennis/ideeën verder uit te wisselen)?

Beste groet,

5.1.2e

From: 5.1.2e <5.1.2e @minbuza.nl>

Sent: Tuesday, May 11, 2021 11:30 AM

To: 5.1.2e @minbuza.nl; 5.1.2e @minbuza.nl; 5.1.2e @minbuza.nl

5.1.2e @minbuza.nl; 5.1.2e @minbuza.nl; 5.1.2e @minbuza.nl

5.1.2e @minbuza.nl; 5.1.2e @minbuza.nl

Cc: 5.1.2e @minbuza.nl; 5.1.2e @minbuza.nl; 5.1.2e @minbuza.nl

00005 5.1.2e @minbuza.nl

Subject: RE: Gesprek R en Reynders op 26 mei 2021

1101501

buiten verzoek.

Groet,

5.1.2e

From: 5.1.2e @minbuza.nl>

Sent: maandag 10 mei 2021 10:05

To: 5.1.2e @minbuza.nl>; 5.1.2e @minbuza.nl>; 5.1.2e @minbuza.nl>; 5.1.2e @minbuza.nl>; 5.1.2c @minbuza.nl>; 5.1.2e @minbuza.nl>; 5.1.2e @minbuza.nl>

Cc: 5.1.2e @minbuza.nl>; 5.1.2e @minbuza.nl>; 5.1.2e @minbuza.nl>

Subject: RE: Gesprek R en Reynders op 26 mei 2021

Enn de opletende lezers gaven het mij al mee, hierbij ook de link ☺

[Gesprek R - Reynders 26 mei 2021 13.15.docx \(buzaservices.nl\)](#)

From: 5.1.2e

Sent: vrijdag 7 mei 2021 14:12

To: 5.1.2e @minbuza.nl>; 5.1.2e @minbuza.nl>; 5.1.2e @minbuza.nl>; 5.1.2e @minbuza.nl>; 5.1.2e @minbuza.nl>

Cc: 5.1.2e @minbuza.nl>; 5.1.2e @minbuza.nl>; 5.1.2e @minbuza.nl>

Subject: Gesprek R en Reynders op 26 mei 2021

buiten verzoek.

5.1.2e

Van: R <r@minbuza.nl>

Datum: dinsdag 04 mei 2021 5:14 PM

Aan: IMH <imh@minbuza.nl>, 5.1.2e @minbuza.nl>

Kopie: 5.1.2e @minbuza.nl>, DL-DIE-MT <DL-DIE-MT@minbuza.nl>, 5.1.2e @minbuza.nl>, 5.1.2e @minbuza.nl>

5.1.2e @minbuza.nl>, 5.1.2e @minbuza.nl>, 5.1.2e @minbuza.nl>

Onderwerp: TEL.CON Commissioner D. Reynders/EC | woensdag 26 mei 13u15

5.1.2e

00005

1101501

5.1.2e

Go green, read from the screen!

To: [redacted] 5.1.2e [redacted]@minbuza.nl]
Cc: [redacted] 5.1.2e [redacted]@minbuza.nl]
From: [redacted] 5.1.2e
Sent: Wed 6/2/2021 8:34:11 PM
Subject: RE: ser-advies
Received: Wed 6/2/2021 8:34:00 PM

Ha,
Misschien naast update DUI update EU ook? Dus met 1) uitstel door oordeel regulatory scrutiny board, 2) colead nu met [redacted] 5.1.2a en verwachting dat uiteindelijke richtlijnvoorstel minder ambitieus zal worden dan in eerste instantie verwacht.

Prima voorstel zo, kijk graag mee!
Groet,
[redacted] 5.1.2e

From: [redacted] 5.1.2e [redacted]@minbuza.nl>
Sent: woensdag 2 juni 2021 15:13
To: [redacted] 5.1.2e [redacted]@minbuza.nl>
Subject: FW: ser-advies

buiten verzoek.

Groet,
[redacted] 5.1.2e
From: [redacted] 5.1.2e
Sent: woensdag 2 juni 2021 15:11
To: [redacted] 5.1.2e [redacted]@minbuza.nl>
Subject: FW: ser-advies

buiten verzoek.

Groet,
[redacted] 5.1.2e
From: [redacted] 5.1.2e
Sent: woensdag 2 juni 2021 15:10
To: [redacted] 5.1.2e [redacted]@minbuza.nl>; [redacted] 5.1.2e [redacted]@minbuza.nl>; [redacted] 5.1.2e [redacted]@minbuza.nl>
Cc: [redacted] 5.1.2e [redacted]@minbuza.nl>
Subject: RE: ser-advies

buiten verzoek.

Groet,
[redacted] 5.1.2e
From: [redacted] 5.1.2e [redacted]@minbuza.nl>
Sent: woensdag 2 juni 2021 15:04
To: [redacted] 5.1.2e [redacted]@minbuza.nl>; [redacted] 5.1.2e [redacted]@minbuza.nl>; [redacted] 5.1.2e [redacted]@minbuza.nl>
Cc: [redacted] 5.1.2e [redacted]@minbuza.nl>
Subject: RE: ser-advies

buiten verzoek.

buiten verzoek.

Tot zover, groet [redacted]

From [redacted]@minbuza.nl>

Sent: woensdag 2 juni 2021 14:00

To: [redacted]@minbuza.nl>

Cc: [redacted]@minbuza.nl>; [redacted]@minbuza.nl>

Subject: RE: ser-advies

Hi,

buiten verzoek.

From: [redacted]@minbuza.nl>

Sent: woensdag 2 juni 2021 10:12

To: [redacted]@minbuza.nl>

Cc: [redacted]@minbuza.nl>; [redacted]@minbuza.nl>

Subject: ser-advies

buiten verzoek.

Groet, [redacted]

[redacted]

Trade Policy and International Economic Governance Department

Ministerie van Buitenlandse Zaken

Rijnstraat 8 | 2515 XP

Den Haag | Nederland

[redacted]@minbuza.nl | 070 348 [redacted] 06 [redacted]

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To: [5.1.2e] [5.1.2e] @minbuza.nl]
From:
Sent: Wed 6/29/2022 2:26:44 PM
Subject: FW: Inwerken op IMVO
Received: Wed 6/29/2022 2:26:45 PM

From: [5.1.2e] @minbuza.nl>
Sent: woensdag 19 januari 2022 15:08
To: [5.1.2e] @minbuza.nl>
Cc: [5.1.2e] @minbuza.nl>
Subject: RE: Inwerken op IMVO

Ha [5.1.2e]

[5.1.2e]

Tot morgen,
[5.1.2e]

From: [5.1.2e] @minbuza.nl>
Sent: woensdag 19 januari 2022 13:45
To: [5.1.2e] @minbuza.nl>
Cc: [5.1.2e] @minbuza.nl>
Subject: Inwerken op IMVO

Hi [5.1.2e]

buiten verzoek.

buiten verzoek.

buiten verzoek.

Publicatie van het voorstel is meermaals uitgesteld en staat nu geagendeerd op 15 februari. Een reden voor de vertraging van het voorstel is dat de Regulatory Scrunity Board twee maal een negatief oordeel heeft gegeven over het Impact Assessment. Dit is vrij uitzonderlijk. Die Commissie kijkt nu of ze zonder akkoord van de RSB verder kunnen; dit kan alleen Eurocommissaris Sefkovic besluiten. Daarover volgende week dus meer. Een andere (vermoedelijke) reden voor vertraging is de onenigheid binnen de Commissie over het voorstel. Er zijn veel verschillende perspectieven betrokken bij het onderwerp en het voorstel raakt aan veel beleidsterreinen. Het EP nam eerder al een eigen-initiatief-rapport aan op IMVO.

buiten verzoek.

Nog veel meer te vertellen uiteraard, dat komt vast later!

Spreken elkaar morgen verder!

Groet, 5.1.2e

To: [5.1.2e]@minbuza.nl]; [5.1.2e]@minbuza.nl]; [5.1.2e]
[5.1.2e]@minbuza.nl]
From: [5.1.2e]
Sent: Mon 6/14/2021 7:58:30 AM
Subject: RE: Reg Scrutiny Board Opinion - EU Sustainable Corp Governance Impact Assessment
Received: Mon 6/14/2021 7:58:00 AM

Ah nice, dank!

En haha, wat wij ook al zeiden dus met dat zo'n adviesorgaan vaak heel kritisch is, en als het hetzelfde is als in NL, [5.1.2e] daar niet per se veel mee hoeft te gaan doen 😊.

From: [5.1.2e]@minbuza.nl>
Sent: maandag 14 juni 2021 08:57
To: [5.1.2e]@minbuza.nl>; [5.1.2e]@minbuza.nl>; [5.1.2e]
[5.1.2e]@minbuza.nl>
Subject: FW: Reg Scrutiny Board Opinion - EU Sustainable Corp Governance Impact Assessment

ti

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Cc: [5.1.2e]@minbuza.nl]; [5.1.2e]@minbuza.nl]; [5.1.2e]
[5.1.2e]@minbuza.nl]
From: [5.1.2e]
Sent: Fri 3/18/2022 9:33:32 PM
Subject: FW: Gesprek maandag minister BHOS en onze voorzitter
Received: Fri 3/18/2022 9:33:33 PM
Comments VNO-NCW - MKB-Nederland on the EU Due Diligence Directive.docx

Hi [5.1.2e]

[5.1.2e] zou jij dit, evt. gebundeld met andere definitieve inbreng ([buiten verzoek] heb je ook toch) kunnen delen met [5.1.2e] ?
[5.1.2e] zou jij kunnen kijken of hier nog hele nieuw dingen in staan (denk het niet)? [5.1.5]
[5.1.5]

Dank en groet,
[5.1.2e]

From: [5.1.2e]@vnoncw-mkb.nl>
Sent: vrijdag 18 maart 2022 13:30
To: [5.1.2e]@minbuza.nl>
Cc: [5.1.2e]@minbuza.nl> [5.1.2e]@minbuza.nl>
Subject: RE: Gesprek maandag minister BHOS en onze voorzitter

Hallo [5.1.2e]

Afgelopen dinsdag hebben we met de leden het voorstel van de EC voor een CSDD Directive besproken.
Bijgaand het verder aangevulde commentaar. Wellicht volgen er nog nabranders vanuit de achterban. If relevant, laat ik dat weten.
Weet ook, dat we het voorstel bespreken in onze besturen van 30 maart as.

Goed weekend,
[5.1.2e]

Van: [5.1.2e]
Verzonden: vrijdag 11 maart 2022 14:48
Aan: [5.1.2e]@minbuza.nl>
CC: [5.1.2e]@minbuza.nl>; [5.1.2e]@minbuza.nl>
Onderwerp: RE: Gesprek maandag minister BHOS en onze voorzitter

Hallo [5.1.2e]

We hebben al van verschillende leden input gekregen op onze comments en deze aangevuld, zie bijgaand.
Definitieve versie volgt na ledenraadpleging dinsdag.
Goed weekend alvast en tot maandag,

[5.1.2e]

Van: [5.1.2e]
Verzonden: woensdag 9 maart 2022 15:16
Aan: [5.1.2e]@minbuza.nl>
CC: [5.1.2e]@minbuza.nl>; [5.1.2e]@minbuza.nl>
Onderwerp: Gesprek maandag minister BHOS en onze voorzitter

00009
Halo [5.1.2e]

Dank voor je telefoontje net met bevestiging van de afspraak maandag.

Zoals afgesproken, stuur ik jullie alvast onze comments op het DD-voorstel van de Commissie. Zoals gezegd, dit is onder voorbehoud van de ledenraadpleging – die hebben we as. dinsdag.

Verder viel ons bijgaande brief van enkele internationale organisaties op.

We maken nog vergelijking SER-advies en DD-voorstel. Maar belangrijkste punt daarbij is ontbreken van incentive voor sectorale samenwerking, zal je niet verbazen.

Ik laat nog weten wie er met [5.1.2e] mee komen. Laten we ook secretariaat R weten.

Groet, [5.1.2e]

Van: [5.1.2e]

Verzonden: woensdag 9 maart 2022 14:47

Aan: [5.1.2e]@minbuza.nl>; [5.1.2e]@minbuza.nl>

Onderwerp: Gesprek maandag minister BHOS en onze voorzitter

Hallo [5.1.2e]

Ben gebeld door secretariaat [5.1.2e] dat er op verzoek van jullie minister maandag van 12:15 uur tot 13:00 uur een gesprek plaats zal vinden op het ministerie tussen haar en onze voorzitter over IMVO.

Kunnen jullie dat bevestigen?

Zo ja, zal ik tevoren een en ander opsturen.

Groet, [5.1.2e]

[5.1.2e]

International Affairs
VNO-NCW - MKB-Nederland
Confederation of Netherlands' Industry and Employers VNO-NCW
Royal Dutch Association of Small and Mediumsized Enterprises MKB Nederland

email: [5.1.2e]@vnoncw-mkb.nl

tel.: +31 (0)70 - [5.1.2e]

mobiël: +31 (0)6 [5.1.2e]

website: www.vno-ncw.nl - www.mkb.nl

Bezuidenhoutseweg 12, 2594 AV Den Haag
Postbus 93002, 2509 AA Den Haag

Twitter: @vnoncw - @mkbnl - linkedIn: VNO-NCW - MKB



To: [redacted] 5.1.2e [redacted] @minbuza.nl]
From: [redacted] 5.1.2e
Sent: Wed 6/8/2022 10:05:53 AM
Subject: FW: BusinessEurope Position on Corporate Sustainability Due Diligence Proposal
Received: Wed 6/8/2022 10:05:54 AM
[2022-05 BusinessEurope Comments Paper Corporate Sustainability Due Diligence.pdf](#)

Had je deze al in de database?

From: [redacted] 5.1.2e [redacted] @minbuza.nl>
Sent: donderdag 2 juni 2022 10:03
To: [redacted] 5.1.2e [redacted] @minbuza.nl>; [redacted] 5.1.2e [redacted] @minbuza.nl>; [redacted] 5.1.2e [redacted] @minbuza.nl>; [redacted] 5.1.2e [redacted] @minbuza.nl>; [redacted] 5.1.2e [redacted] @minbuza.nl>; [redacted] 5.1.2e [redacted] @minbuza.nl>
Subject: FW: BusinessEurope Position on Corporate Sustainability Due Diligence Proposal

Dag allen,

In de bijlage vinden jullie de positiepaper van Business Europe op het SCDD voorstel.

Vriendelijke groet,

[redacted] 5.1.2e

To: [redacted] 5.1.2e [redacted] @minbuza.nl]
From: [redacted] 5.1.2e
Sent: Wed 6/29/2022 2:32:59 PM
Subject: FW: Spoed: Bezoek Brussel [redacted] 5.1.2e /BZ vandaag en morgen
Received: Wed 6/29/2022 2:33:00 PM
N 220518 Relevant sections OECD Guidelines Multinational Enterprises.docx

From: [redacted] 5.1.2e [redacted] @vnoncw-mkb.nl>
Sent: vrijdag 20 mei 2022 18:52
To: [redacted] 5.1.2e [redacted] @minbuza.nl>
Cc: [redacted] 5.1.2e [redacted] @minbuza.nl>; [redacted] 5.1.2e [redacted] @minbuza.nl>; [redacted] 5.1.2e [redacted] @vnoncw-mkb.nl>
Subject: RE: Spoed: Bezoek Brussel [redacted] 5.1.2e /BZ vandaag en morgen

Beste [redacted] 5.1.2e

Voor eigen gebruik heb ik nog een keer een aantal relevante passages van de OESO Guidelines op een rij gezet over due diligence en eigen/andermans handelen. Wellicht ook voor jullie nog nuttig. De vette markering is van mij, de tekst is letterlijk overgenomen.

Groet!

[redacted] 5.1.2e

[redacted] 5.1.2e



VNO-NCW | MKB-Nederland
[redacted] 5.1.2e
T. [redacted] 5.1.2e | M. [redacted] 5.1.2e
E. [redacted] 5.1.2e @vnoncw-mkb.nl
W. vno-ncw.nl
W. mkb.nl
[redacted] 5.1.2e



Confederation of Netherlands' Industry and Employers VNO-NCW
EU Transparency Register: 13255254129-80
Royal Dutch Association of Small and Medium sized Enterprises MKB-Nederland
EU Transparency Register: 05673984520-73

Van: [redacted] 5.1.2e
Verzonden: vrijdag 13 mei 2022 12:45
Aan: [redacted] 5.1.2e [redacted] @minbuza.nl>
CC: [redacted] 5.1.2e [redacted] @minbuza.nl>; [redacted] 5.1.2e [redacted] @minbuza.nl>; [redacted] 5.1.2e [redacted] @vnoncw-mkb.nl>
Onderwerp: RE: Spoed: Bezoek Brussel [redacted] 5.1.2e /BZ vandaag en morgen

[redacted] 5.1.2e

Reeds beoordeeld

Reeds beoordeeld

Reeds beoordeeld

buiten verzoek.

Groet,

5.1.2e

From: 5.1.2e @minbuza.nl>

Sent: woensdag 15 december 2021 11:47

To: 5.1.2e @minbuza.nl>; 5.1.2e @minbuza.nl>; 5.1.2e @minbuza.nl>; 5.1.2e @minbuza.nl>; 5.1.2e @minbuza.nl>; 5.1.2e @minbuza.nl>; 5.1.2e @minbuza.nl>; 5.1.2e @minbuza.nl>; 5.1.2e @minbuza.nl>; 5.1.2e @minbuza.nl>; 5.1.2e @minbuza.nl>

Cc: 5.1.2e @minbuza.nl>

Subject: terugkoppeling MEPs 5.1.2e

Hi all,

Zojuist sprak R met MEP 5.1.2e en MEP 5.1.2e Hieronder mijn aantekeningen van deze gesprekken, met dikgedrukt acties voor onze kant. @ 5.1.2e nog aanvullingen?

Groet, 5.1.2e

Gesprek MEP 5.1.2e

buiten verzoek.

5.1.2a

buiten verzoek.

Gesprek MEP

5.1.2e

R:

buiten verzoek.

∨ R geeft daarbij aan te twifelen aan de haalbaarheid van 15 februari als nieuwe datum, want 1) door schade en schande wijs geworden, 2) vraag me af of bezwaren van RSB kunnen worden weggewerkt.

buiten verzoek.

5.1.2e

5.1.2a

buiten verzoek.

buiten verzoek.

To: [redacted] 5.1.2e @minbuza.nl]; [redacted] 5.1.2e @minbuza.nl]
Cc: [redacted] minbuza.nl]; [redacted] 5.1.2e @minbuza.nl]
From: [redacted] 5.1.2e
Sent: Tue 12/14/2021 6:04:14 PM
Subject: RE: R/CIE
Received: Tue 12/14/2021 6:04:15 PM

Ik ben een beetje huiverig voor het belobbyen van de RSB. Zullen we eerst even kijken wat Lara Wolters tegen R zegt hierover?

From: [redacted] 5.1.2e @minbuza.nl>
Sent: dinsdag 14 december 2021 10:57
To: [redacted] 5.1.2e @minbuza.nl>; [redacted] 5.1.2e @minbuza.nl>
Cc: [redacted] 5.1.2e @minbuza.nl>; [redacted] 5.1.2e @minbuza.nl>
Subject: RE: R/CIE

buiten verzoek.

Kunnen wij nog iets ondernemen richting de RSB? Een miltje/briefje met alle onderzoeken en stukken bijv. uit de evaluatie en vernieuwing van het IMVO-beleid.

[redacted] 5.1.2a Wat een gemiste kans.

Groeten,

[redacted] 5.1.2e

buiten verzoek.

00013 [redacted] 5.1.2e

Sent: vrijdag 10 december 2021 11:02

1101515

To: [5.1.2e]@minbuza.nl>; [5.1.2e]@minbuza.nl>; [5.1.2e]@minbuza.nl>; [5.1.2e]@minbuza.nl>;
[5.1.2e]@minbuza.nl>; [5.1.2e]@minbuza.nl>
Subject: RE: gesprek Medline

Nog niet [5.1.2e] heel nuttig. Dank!

Paar dingetjes zijn wel relevant voor gesprek met [5.1.2a] vind ik. Ik wist niet dat die RSB-opinies helemaal niet bindend waren. Sowieso ben ik het eens met die [5.1.2e] dat dit proces vrij schandalig is. Wij hebben ook een soort RSB, maar de adviezen daarvan zijn in ieder geval openbaar en de onderliggende wetsvoorstellen ook. Dan kan je zo'n advies in democratisch perspectief plaatsen. Als de RSB zich ondertussen wel laat belobbyen door bedrijfskoepels wordt het wel een ongeloofwaardig geheel.

buiten verzoek.

Groet,

[5.1.2e]

From: [5.1.2e]@minbuza.nl>

Sent: vrijdag 10 december 2021 10:00

To: [5.1.2e]@minbuza.nl>; [5.1.2e]@minbuza.nl>; [5.1.2e]@minbuza.nl>;
[5.1.2e]@minbuza.nl>; [5.1.2e]@minbuza.nl>

Subject: RE: gesprek Medline

Deze hieronder ook al gezien? Politico Pro

EU's new business ethics rules face battle for survival

By Sarah Anne Aarup, Barbara Moens · Dec 9, 2021, 7:13 PM · [View in your browser](#)

Brussels' plans to make companies accountable for human rights and environmental abuses in their supply chains are at high risk of unraveling.

While many politicians and campaigners in Europe want the EU to pursue a tough line — for example by following the [U.S. in pushing for tough bans](#) on products made by detainees from the Muslim Uyghur minority in China — that now looks unlikely in the face of an onslaught of corporate lobbying.

The immediate danger sign is that the European Commission's in-house quality control squad has [given a red light](#) to the draft law on the supply chain for the second time, a rare occurrence that casts more uncertainty on the future of the legislation.

Even before that setback, the fate of the law was looking shaky. The new rules on due diligence were supposed to be proposed in June, but the Commission has now delayed them three times, and they only look likely to come in February or March.

The draft law is highly contentious because it could [change](#) where companies source their products from and how boards [make decisions](#). At first, Justice Commissioner Didier Reynders had the sustainable corporate governance file all to himself but, in a big win for business, the initial thumbs-down from the scrutiny board in May [ushered in](#) EU industry chief Thierry Breton.

This time around, the scrutiny board's rejection is making business lobbies giddy, while the dearth of publicly available information and umpteenth delay is worrying many lawmakers and NGOs — so much so that a group of 46 nonprofits wrote [a letter](#) to Commission President Ursula von der Leyen this week, voicing their “strong concerns about the new delay” and asking her to show public support for due diligence rules.

“From what we are [hearing], the issues with the Regulatory Scrutiny Board are relating to climate, and they seem fixable,” [said](#) European lawmaker Axel Voss of von der Leyen's center-right European People's Party last week. “We believe climate standards are clearly defined and practical for undertakings.”

But people briefed on the dossier told POLITICO that the Commission’s auditors found a wider range of problems, including worries about how to enforce the rules, how to hold companies liable, and which types of businesses would have to comply with the future due diligence obligations. Including small companies in the rules’ design has long been a [hot-button issue](#).

“I’m disappointed with the delay, and ... I am concerned about the reasons that the Regulatory Scrutiny Board has rejected this,” said lawmaker Lara Wolters of the Socialists & Democrats group, who’s [expected](#) to become the main rapporteur on sustainable corporate governance for the European Parliament.

Dangerous delay

This new setback risks kicking the can far down the road, [making it hard to wrap up this landmark law before the next European Parliament election and change in EU commissioners in 2024](#) — especially given how contentious the topic is.

“The legislative proposal is part of the Commission’s ongoing work towards a more sustainable framework for economic operators,” von der Leyen [said in a letter](#) earlier this year to leaders of some of the Parliament’s biggest political groups. “The Commission has been working on such a legislative initiative, which ... is included in the Commission Work Programme for 2021.”

But with things on pause until February or March 2022, “what we’re seeing now is this slow erosion of the momentum and content of the proposal,” said Marc-Olivier Herman from the NGO Oxfam International.

The hold-up is worrying European lawmakers from across the political spectrum. “This further delay is intensely frustrating. ... We cannot keep our constituents waiting,” said Barry Andrews from the liberal Renew Europe group, who will lead the file for Parliament’s trade committee.

Because of the repeated stalling, the Netherlands is choosing to move ahead with national due diligence legislation, Dutch Trade Minister Tom de Bruijn [told national lawmakers](#) last week, hoping this will notch up pressure on the Commission.

(Nordic) business lobby funhouse

The Confederation of Danish Industry is openly ecstatic about the Regulatory Scrutiny Board’s second hold-up, still hoping for Brussels to [lop](#) directors’ duties off of the future law: Under the [sustainable corporate governance](#) proposal, Brussels’ plan is not only to compel companies to police their supply chains, but also to create sustainability rules for board directors, perhaps even linking board members’ pay to mandatory sustainability criteria. It’s these board rules that the Nordics [loathe](#) because they see them as violating private enterprise.

“The Commission’s Regulatory Scrutiny Board deserves great praise for living up to its important role in the EU’s lawmaking process. This case shows that the EU’s principles for Better Regulation aren’t just empty words — it’s actual quality control,” [said](#) Kim Haggren, deputy director for the Danish business group.

In an overt admission that it’s been lobbying the Commission’s internal Regulatory Scrutiny Board, the confederation’s [statement](#) reads, “we also made the Regulatory Scrutiny Board specifically aware of which Better Regulation principles weren’t being upheld and why.” Haggren adds that, “it’s really good to see that our and others’ hard efforts to inform about and influence the rules seems to be bearing fruit.”

After the news hit Twitter, Danish MEP Pernille Weiss from the European People’s Party also [gave her](#) “thanks to EU Regulatory Scrutiny Board.”

Why so secretive?

Meanwhile, lawmakers and NGOs are frustrated about the Commission’s turbid process, and they’re increasingly concerned about the potential impact of business lobbies on the Commission’s internal quality control squad.

“The fact that there seem to be rumors of meetings with the RSB of industry players is hugely concerning,” Wolters said.

MEP Manon Aubry of The Left group is even more emphatic, saying the draft law’s “rejection by a ‘scrutiny board’ that operates in complete opacity is a democratic scandal.”

NGOs are also pointing their fingers at corporate interests: Thierry Philipponnat of Finance Watch said that “we deeply regret that business lobbies were once again successful in pushing back against such a crucial regulatory initiative.”

The transparency register for the head of the Regulatory Scrutiny Board, Veronica Gaffey, shows a meeting last year with the French business lobby AFEP about sustainable corporate governance, but no meeting with the Danish trade lobby.

When asked about what’s happening with the sustainable corporate governance law, a Commission official said that “preparations on this proposal are in full swing.” The official added that “quality goes before speed,” and “it is important to ensure a comprehensive preparation of this proposal, taking into account the various aspects and striking a balance between the diversity of views of the stakeholders.”

The Commission official declined to answer questions about allegations of a lack of transparency and the contents of the RSB’s opinion.

Wolters is now ready to take on the Commission through a freedom of information request over the second negative board opinion. “I think we have a right to know,” she said, adding that she also wants to invite Commissioner Reynders “to come and explain what has happened within the Commission” in the Parliament’s legal affairs committee.

Uncertain future

Since the Regulatory Scrutiny Board was created in 2015, only two draft laws have received a double “no” — taxonomy rules on what forms of investment count as green and rules on equal pay. Although the RSB’s opinions aren’t legally binding, the normal procedure requires a concerted push within the College of Commissioners to press on with the future law before submitting the draft a third time for approval.

This could be a moment of reckoning, where commissioners reveal their cards — internally — on whether they really support Reynders’ brainchild.

“At some point, leadership needs to come both from the Commission and from member states, in particular from the new German government. If they give a signal that they mean business on cleaning up supply chains and making companies accountable, this will make a huge difference,” said Oxfam’s Herman. The new German government has already signaled that it supports a more stringent EU supply chain law than the one Berlin currently has.

One person close to the discussions said that “the Commission is analyzing the board’s opinion and is working on the points raised to obtain a solid and balanced proposal.”

Despite the hiccups, Wolters remains upbeat: “I am disappointed now, but generally, I’m optimistic because there’s too many people invested in this, there’s too many businesses, too many member states taking individual initiatives now for this to go away.”

Leonie Kijewski contributed reporting.

buiten verzoek.

buiten verzoek.

To: [redacted]@minbuza.nl]
From: 5.1.2e
Sent: Mon 12/6/2021 11:16:50 AM
Subject: RE: RSB opinion
Received: Mon 12/6/2021 11:16:50 AM

Sorry, ik herzie mijn mening. Ik bel je zo, haha

From: [redacted] 5.1.2e
Sent: maandag 6 december 2021 11:01
To: [redacted] 5.1.2e @minbuza.nl>
Subject: RE: RSB opinion

[redacted] 5.1.2e

[redacted] 5.1.2e

[redacted] 5.1.2a

From: [redacted] 5.1.2e @minbuza.nl>
Sent: maandag 6 december 2021 10:11
To: [redacted] 5.1.2e @minbuza.nl>
Subject: FW: RSB opinion

Wat denk jij?

From: [redacted] 5.1.2a
Sent: maandag 5 december 2021 10:02
To: [redacted] 5.1.2e @minbuza.nl>
Cc: [redacted] 5.1.2e @minbuza.nl>; [redacted] 5.1.2e @minbuza.nl>
Subject: RSB opinion

Hi [redacted] 5.1.2e

Helaas is de RSB opinion maar in een erg kleine kring verspreid. [redacted] 5.1.2a

[redacted] 5.1.2a

Groet,
[redacted] 5.1.2e

To: [5.1.2e]@minbuza.nl]; [5.1.2e]@minbuza.nl]
Cc: [5.1.2e]@minbuza.nl]; [5.1.2e]@minbuza.nl]; [5.1.2e]
From: [5.1.2e]
Sent: Fri 4/23/2021 10:07:22 AM
Subject: verslag gesprek met [5.1.2a] vandaag
Received: Fri 4/23/2021 10:07:22 AM

Hi all,
Hierbij verslag van ons gesprek met [5.1.2a] van afgelopen woensdag.

Groet!
[5.1.2e]
Gesprek [5.1.2e] met [5.1.2a] op woensdag 21 april 2021

[5.1.2e] (head of unit)
[5.1.2e]
[5.1.2e]
[5.1.2e] [5.1.2a] follows nfrd en just proposal)
[5.1.2e] [5.1.2a]
[5.1.2e] (BZ)
[5.1.2e] (BZ)
[5.1.2e] (BZ)

buiten verzoek.

oHet Impact Assessment wordt begin mei naar de Regulatory Scrutiny Board gestuurd. Bij positieve reactie wordt het CIE-voorstel (richtlijn) eind juni verwacht. Bij negatieve feedback pas na de zomer (!!). Op dit moment is er nog geen draft proposal.

buiten verzoek.

buiten verzoek.

To: [5.1.2e]@minbuza.nl]; [5.1.2e]@minbuza.nl]; [5.1.2e]
[5.1.2e]@minbuza.nl]
Cc: [5.1.2e]@minbuza.nl]
From: [5.1.2e]
Sent: Wed 1/26/2022 8:49:44 AM
Subject: RE: Lara Wolters RSB
Received: Wed 1/26/2022 8:49:45 AM

No way.. Wat slecht zeg. In de bespreking van [5.1.2e] met [5.1.2a] ging het gisteren ook nog even over de rol van de RSB. [5.1.2a] zei heel nadrukkelijk dat de RSB een adviesfunctie heeft en een mening kan geven, maar dat de besluitvorming altijd bij de Commissie ligt, die zich laat informeren door de RSB, als ook andere bronnen. Onderstaande houding lijkt met niet lang houdbaar eerlijk gezegd..

From: [5.1.2e]@minbuza.nl>
Sent: dinsdag 25 januari 2022 17:33
To: [5.1.2e]@minbuza.nl>; [5.1.2e]@minbuza.nl>; [5.1.2e]
[5.1.2e]@minbuza.nl>
Cc: [5.1.2e]@minbuza.nl>
Subject: RE: Lara Wolters RSB

Pfff, ik hoop dat ze hierover gaan procederen of zo, want kan me niet voorstellen dat een rechter deze redenering onderschrijft.

From: [5.1.2e]@minbuza.nl>
Sent: dinsdag 25 januari 2022 17:24
To: [5.1.2e]@minbuza.nl>; [5.1.2e]@minbuza.nl>; [5.1.2e]
[5.1.2e]@minbuza.nl>
Cc: [5.1.2e]@minbuza.nl>
Subject: RE: Lara Wolters RSB

Dit dan van RSB, ongelofelijk, hoe hoog is je ivoren toren:

In your request, you do not express any particular interest to have access to these personal data nor do you put forward arguments to establish the necessity to have the data transmitted for a specific purpose in the public interest

The public interest that you invoke in your letter concerns the need to resolve any doubt on the integrity, objectivity and impartiality on the process and indeed in the Regulatory Scrutiny Board's interpretation of its mandate. However, as explained earlier, the mandate of the Board is specified in the decision setting it up according to which Board Members shall not discuss individual files with directly concerned stakeholders. The release of the requested opinions already at this stage would not address the public interest of ensuring impartiality of the Board. Given that, the public interest in making the content of the documents public does not outweigh the harm the disclosure would cause to the interest protected by the invoked exceptions.

From: [5.1.2e]@minbuza.nl>
Sent: dinsdag 25 januari 2022 17:18
To: [5.1.2e]@minbuza.nl>; [5.1.2e]@minbuza.nl>; [5.1.2e]
[5.1.2e]@minbuza.nl>
Cc: [5.1.2e]@minbuza.nl>
Subject: RE: Lara Wolters RSB

Dit is toch echt wel een godgeklaagde gang van zaken. Hoe kun je nou volhouden dat je die opinie niet eens publiceert?

From: [5.1.2e]@minbuza.nl>
Sent: dinsdag 25 januari 2022 17:05
To: [5.1.2e]@minbuza.nl>; [5.1.2e]@minbuza.nl>; [5.1.2e]
[5.1.2e]@minbuza.nl>
Cc: [5.1.2e]@minbuza.nl>
Subject: Lara Wolters RSB

5.1.2e wees mij op deze [tweet](#) van Lara over hun WOB-verzoek van de RSB. Ook het [statement](#).

The disclosed documents reveal that the Board was subject to **persistent and seemingly coordinated lobbying**, making spurious claims that elements of the Commission's Impact Assessment went against principles of proportionality. Regretfully, the Board **declined to disclose their opinion on the Impact Assessment**, leaving us in the dark about the exact reasons they gave a negative opinion, and how these correlate with the lobbying campaign. It is also unclear as to whether all relevant documents and correspondence have been disclosed, with the Commission citing privacy concerns regarding a partial disclosure.

5.1.2e

Beleidsmedewerker

.....
Directie Internationale marktordening en handelspolitiek (IMH)
Afdeling Internationaal maatschappelijk verantwoord ondernemen (IMVO)
Ministerie van Buitenlandse Zaken
Rijnstraat 8 | 2515 XP I Den Haag

.....
M +31 6 5.1.2e

5.1.2e @minbuza.nl

<https://rijksoverheid.nl/imvo>

To: [redacted] 5.1.2e @minbuza.nl]; [redacted] 5.1.2e @minbuza.nl]; [redacted] 5.1.2e
[redacted] 5.1.2e @minbuza.nl]; [redacted] 5.1.2e @minbuza.nl]
From: [redacted] 5.1.2e
Sent: Thur 12/16/2021 9:45:43 AM
Subject: RE: POLITICO Pro Morning Trade: Procurement talks kick off — Due diligence quality control — Greening the WTO
Received: Thur 12/16/2021 9:45:00 AM

Wat een momentum, dank voor het delen!

From: [redacted] 5.1.2e @minbuza.nl>
Sent: donderdag 16 december 2021 09:43
To: [redacted] 5.1.2e @minbuza.nl]; [redacted] 5.1.2e @minbuza.nl]; [redacted] 5.1.2e
[redacted] 5.1.2e @minbuza.nl]; [redacted] 5.1.2e @minbuza.nl]
Subject: RE: POLITICO Pro Morning Trade: Procurement talks kick off — Due diligence quality control — Greening the WTO

Nice! Leuk 😊

@ [redacted] 5.1.2e zie brief van NGO-directeuren aan Von der Leyen.

Groeten,

[redacted] 5.1.2e

From: [redacted] 5.1.2e @minbuza.nl>
Sent: donderdag 16 december 2021 08:33
To: [redacted] 5.1.2e @minbuza.nl]; [redacted] 5.1.2e @minbuza.nl]; [redacted] 5.1.2e
[redacted] 5.1.2e @minbuza.nl>
Subject: FW: POLITICO Pro Morning Trade: Procurement talks kick off — Due diligence quality control — Greening the WTO

NEW DUTCH GOVERNMENT REITERATES DUE DILIGENCE SUPPORT: The freshly formed Dutch government aims to plow ahead with its own national due diligence rules, according to the coalition [agreement](#). The parties say this will “take into account a level playing field with surrounding countries and the implementation of possible EU regulations.” Read more on the Dutch reasoning [here](#).

Je weet dat je teveel een ambtenaar wordt als je het leuk vindt als we Politico halen 😊

En ook deze [brief](#) aan VDL, die jullie misschien al langs hadden zien komen.

From: Morning Trade Europe <morningtrade@politico.eu>
Sent: donderdag 16 december 2021 07:04
To: [redacted] 5.1.2e @minbuza.nl>
Subject: POLITICO Pro Morning Trade: Procurement talks kick off — Due diligence quality control — Greening the WTO



[View in your browser or listen to audio](#)

By **LEONIE KIJEWski**

with Sarah Anne Aarup, Barbara Moens and Louise Guillot

SNEAK PEEK

— **EU institutions are set to kick off negotiations today on the proposed international procurement instrument.**

— **Lawmakers are demanding access to the two reports from the European Commission’s in-house auditors, who rejected drafts of a due diligence proposal.**

— **Several European supermarkets are set to stop selling certain Brazilian beef products over concerns about deforestation.**

Good morning, and welcome to Morning Trade. You can reach us via bmoens@politico.eu, saarup@politico.eu and lkijewski@politico.eu | Follow us on Twitter [@Bmoens](https://twitter.com/Bmoens), [@SarahAnneAarup](https://twitter.com/SarahAnneAarup) and [@LeonieKij](https://twitter.com/LeonieKij).

DRIVING THE DAY

EU BATTLE OVER PROCUREMENT RULES KICKS OFF: The EU’s three institutions are today set to start so-called trilogue talks on the proposed [international procurement instrument](#), but aren’t getting into nitty-gritty negotiations quite yet: Each side will lay out their position, but the main focus today will be setting the dates for meetings and working out other technical details so France can launch discussions in earnest after the holidays, when it takes over the rotating Council of the EU presidency.

Who’s who of the trilogues: Today’s talks include Bernd Lange, chair of the Parliament’s trade committee; Daniel Caspary, Parliament’s rapporteur on the file; Karla Pinter from the Slovenian Council presidency; Leon Delvaux from the European Commission; as well as several shadow rapporteurs for Parliament and French Council presidency representatives.

European political momentum: The instrument has been [stalled](#) for such a long time that all sides now seem eager to close a deal as soon as possible. “Our goal is to complete the negotiations with EU ministers by next spring. The ball is now in Council’s court to start working with us without delay on the final version of an effective, efficient and straightforward tool,” Caspary said after Parliament approved its position on Tuesday.

... And French political momentum: Paris is keen to close a deal on this so-called [international procurement instrument](#) during its reign at the Council. Trying to keep other markets open by threatening to close the European market in retaliation is not just important for French businesses. It’s also seen in Paris as relatable for the French public and therefore an important win to show off before the French presidential election in April.

“The international procurement investment is a very clear policy item about reciprocity and about the end of a naïve Europe,” said the French Renew Europe MEP Marie-Pierre Vedrenne, who is shadow rapporteur on the file. “It’s understandable and tangible for a general public.”

Plenary push: Because Paris wants to get this done quickly, the French insisted on getting the plenary vote through this week instead of in January, two officials told Morning Trade. This meant today’s trilogue talks could begin before the holiday break and the French can start negotiations promptly in January.

Get up to speed: [Here’s our overview](#) of the obstacles ahead in trilogues if you need a recap.

DUE DILIGENCE

MEPS QUESTION SCRUTINY BOARD’S ‘INTEGRITY AND INDEPENDENCE’: European lawmakers Lara Wolters, Heidi Hautala, Manon Aubry and Pascal Durand [requested access](#) Wednesday to the two reports by the Commission’s internal auditors that rejected drafts of a new sustainable corporate governance proposal (refresher [here](#)).

They also asked the Commission to hand over all correspondences between lobbies and the Regulatory Scrutiny Board after the Confederation of Danish Industry’s overt admission that it had been [lobbying](#) the auditors.

Shocked: “This is a shocking revelation which calls into question the Regulatory Scrutiny Board’s integrity and independence,” the four lawmakers wrote in a statement. They added that the Danish lobby’s contact with the qu1101521

control group “calls into question this first opinion and its impartiality, and the possible neglect of the principles of objectivity and independence of the RSB’s work.”

Informing, not influencing: The Danish business association said in a statement [shared](#) with Morning Trade that it sent letters to the scrutiny board, adding, “We have no influence on the Scrutiny Board’s decision but we wanted to make sure it was aware of important facts about the initiative.”

No meetings this year? The MEPs also want the chair of the Regulatory Scrutiny Board, Veronica Gaffey, “to immediately provide an explanation” for why only one unrelated meeting appears on her transparency [register](#) in 2021.

Level playing field: The lawmakers argue that disclosing the scrutiny board’s opinions, meetings and correspondence with interest groups would put co-legislators on an equal footing and ensure that “no stakeholder is enjoying privileged access to information.”

NGO DIRECTORS DECRY DUE DILIGENCE DELAY: Meanwhile, a group of NGO directors and other top brass on Wednesday [decried](#) the delay to the due diligence proposal. In a [letter](#), they asked Commission President Ursula von der Leyen to throw her political weight behind the future rules “to ensure this essential legislation is not put on ice indefinitely” and to keep high ambitions in terms of scope and liability.

NEW DUTCH GOVERNMENT REITERATES DUE DILIGENCE SUPPORT: The freshly formed Dutch government aims to plow ahead with its own national due diligence rules, according to the coalition [agreement](#). The parties say this will “take into account a level playing field with surrounding countries and the implementation of possible EU regulations.” Read more on the Dutch reasoning [here](#).

SUPERMARKETS TO STOP SELLING BRAZILIAN BEEF OVER DEFORESTATION: A number of European supermarket chains are set to stop selling certain Brazilian beef products, in particular those connected to major producer JBS, after a report alleging links to deforestation.

The supermarkets include Ahold Delhaize, Lidl Netherlands, Carrefour Belgium, Auchan France and Sainsbury’s U.K. This comes after an investigation from Repórter Brasil, supported by the NGO Mighty Earth, connected some beef products (including beef jerky, corned beef and fresh prime cuts) sold in European stores with deforestation in Brazil.

JBS told [Reuters](#) it has zero tolerance for illegal deforestation and has blocked tens of thousands of suppliers for failing to comply with its company policies. The company has also [vowed](#) to eliminate illegal deforestation from its Brazilian cattle supply chain — including suppliers of suppliers — in the Amazon by 2025.

Context: The European Commission [presented](#) a new regulation last month aimed at minimizing the risk of EU imports being linked to deforestation and forest degradation. The proposed rules, which will be mulled over by the European Parliament and the Council of the EU in the coming months, would require companies to police their supply chains against deforestation and put in place prevention measures when importing coffee, cocoa, palm oil, soy, wood and beef. It could go as far as tracing products back the plot of land on which commodities were produced, using satellite images to ensure it’s not linked to deforestation.

Verbatim: Renée Bijvoets, sustainability manager for Lidl Netherlands, said in a [statement](#) that “given the risk of deforestation linked to beef with South-American origin, we have decided together with our supplier to look for alternative sourcing” and that “from January 2022 onwards we will not sell beef with South-American origin in our fixed assortment.”

Geoffroy Gersdorff from the Carrefour Group said the company “will stop selling Jack Link’s beef jerky in Carrefour Belgium and will increase its surveillance in all its operating countries.” A spokesperson for Delhaize Belgium also said Jack Link’s beef jerky will be removed from all of its stores.

Turning point? Nico Muzi, Mighty Earth’s Europe director, called it a “watershed moment,” arguing it’s not a “vague commitment” but a “series of concrete commercial actions taken by some of the biggest supermarkets in Europe to stop buying and selling beef from a company and a country that have made too many promises and have delivered too few results.”

EUROPE

AGENDA FOR NEXT THREE COUNCIL PRESIDENCIES VAGUE ON TRADE: A [document](#) from the next three countries to hold the rotating Council of the EU presidency — France, the Czech Republic and Sweden — is relatively vague on trade, but then again, what can you expect if you ask Paris, Prague and Stockholm map out trade policy together?

We particularly enjoyed the part in which the trio calls for a “robust trade policy” and says that “the Commission submitted a Trade Policy Review in this regard.” In fact, there [was no consensus in Council over that text](#), with France being one of the countries that blocked it because of references to the EU’s trade deal with Mercosur.

EU (REALLY) BENEFITS FROM TRADE, BUSINESS GROUP FINDS: Trade has contributed to prosperity and jobs in all of the EU, a new study by the American Chamber of Commerce to the EU finds. Check out the more detailed findings, including which regions benefited the most, [here](#).

TAIWAN’S HOPES FOR FRENCH COUNCIL PRESIDENCY: Taiwan hopes for progress on trade talks with the EU during the French presidency of the Council of the EU, President Tsai Ing-wen told French lawmakers on Thursday. [Reuters](#) has a write-up.

WTO

WTO MINISTERS SHOWCASE GREEN INITIATIVES: Ministers and ambassadors [presented](#) the results of three WTO plurilateral discussion groups focused on environmental actions on Wednesday. These include a dialogue on trade and environmental sustainability, another on trade in plastics, and a third on eliminating fossil fuel subsidies. At the moment, these groups are more like talking shops and didn’t offer any binding deals.

Global commons: “Problems of the global commons represent some of the biggest threats to the future prosperity and security of people around the world,” WTO Director-General Ngozi Okonjo-Iweala [said](#) at the launch of the three declarations, which was originally supposed to happen at the trade body’s ministerial conference that got postponed.

Dombro again floats coalition idea: “I believe that climate and environment issues must be tackled in a holistic way, not in silos ... This is why I recently initiated the idea of a trade ministers’ climate coalition,” EU trade chief Valdis Dombrovskis [said](#) during his presentation.

Next steps: “To put ambition into action, you need to come back in early 2022 and develop the work programs, undertake the technical discussions and formulate the proposals that will lead to tangible deliverables. I’m sure you’re not surprised to hear this from me,” Okonjo-Iweala said, addressing ministers and representatives. She’s known for trying to [whip up](#) new energy in the international trade organization. “I’m not trying to spoil your Christmas holidays by any means,” she added with a chuckle.

Reducing tariffs on green trade: Okonjo-Iweala also said she sees some interest from members to resume talks on trade in environmental goods and services, which petered out in 2016. “I urge you all to take a pragmatic approach. Let’s start with a reasonable list of goods,” she said.

US-CHINA

DEAL TO CRACK DOWN ON CHINA’S TREATMENT OF UYGHURS STALLS IN US SENATE: A bill passed in the U.S. House of Representatives meant to combat forced labor among China’s Uyghur minority is getting bogged down in domestic drama within the Senate. [Full story on POLITICO Pro](#).

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Cc: [redacted] 5.1.2e @minbuza.nl; [redacted] 5.1.2e @minbuza.nl; [redacted] 5.1.2e @minbuza.nl; [redacted] 5.1.2e @minbuza.nl
From: [redacted] 5.1.2e
Sent: Mon 3/21/2022 9:39:42 AM
Subject: RE: Position paper Shift
Received: Mon 3/21/2022 9:39:00 AM
[redacted] buiten verzoek.
Comments VNO-NCW - MKB-Nederland on the EU Due Diligence Directive.docx
[redacted] buiten verzoek.

Goedemorgen [redacted] 5.1.2e

Hopelijk heb je een fijn weekend gehad. Bijgaand de brieven en position papers die we tot nu toe hebben ontvangen van VNO-NCW/MKB-Nederland, [redacted] buiten verzoek.
Wij houden het in de gaten. Mogelijk volgen er op korte termijn nog enkele brieven.

Groet en fijne dag, [redacted] 5.1.2e

From: [redacted] 5.1.2e @minbuza.nl
Sent: woensdag 16 maart 2022 09:53
To: [redacted] 5.1.2e @minbuza.nl; [redacted] 5.1.2e @minbuza.nl
Cc: [redacted] 5.1.2e @minbuza.nl; [redacted] 5.1.2e @minbuza.nl; [redacted] 5.1.2e @minbuza.nl; [redacted] 5.1.2e @minbuza.nl; [redacted] 5.1.2e @minbuza.nl
Subject: RE: Position paper Shift

Ok, dank alvast!

Verzonden met BlackBerry Work
(www.blackberry.com)

Van: [redacted] 5.1.2e @minbuza.nl
Datum: woensdag 16 mrt. 2022 8:54 AM
Aan: [redacted] 5.1.2e @minbuza.nl; [redacted] 5.1.2e @minbuza.nl
Kopie: [redacted] 5.1.2e @minbuza.nl; [redacted] 5.1.2e @minbuza.nl; [redacted] 5.1.2e @minbuza.nl; [redacted] 5.1.2e @minbuza.nl; [redacted] 5.1.2e @minbuza.nl
Onderwerp: RE: Position paper Shift

Dag [redacted] 5.1.2e

Tot op heden heb ik geen extra lobbybrieven of position papers ontvangen. Het zijn veelal eerste reacties die nauwelijks de diepte in gaan.
Deze week hopen we de officiële position papers van VNO-NCW en [redacted] buiten verzoek. te ontvangen. Ik stuur ze door zodra ik die heb ontvangen.
Dat geldt ook voor andere papers die we nog ontvangen of vinden.

Groet, [redacted] 5.1.2e

From: [redacted] 5.1.2e
Sent: dinsdag 15 maart 2022 13:48
To: [redacted] 5.1.2e @minbuza.nl; [redacted] 5.1.2e @minbuza.nl
Cc: [redacted] 5.1.2e @minbuza.nl; [redacted] 5.1.2e @minbuza.nl; [redacted] 5.1.2e @minbuza.nl; [redacted] 5.1.2e @minbuza.nl; [redacted] 5.1.2e @minbuza.nl
Subject: RE: Position paper Shift

Dag [redacted] 5.1.2e en [redacted] 5.1.2e

00018 eken wat er al te vinden is/mogelijk nog aankomt. Jullie horen van me!

Groet, 5.1.2e

From: 5.1.2e @minbuza.nl>

Sent: dinsdag 15 maart 2022 13:45

To: 5.1.2e @minbuza.nl>; 5.1.2e @minbuza.nl>

Cc: 5.1.2e @minbuza.nl>; 5.1.2e @minbuza.nl>; 5.1.2e @minbuza.nl>; 5.1.2e @minbuza.nl>; 5.1.2e @minbuza.nl>

Subject: Position paper Shift

Hi 5.1.2e

Je vroeg om relevante nieuwe position papers over het CIE-voorstel, voor zover we die hebben, ook met jou te delen als naslagstukken voor R. Voor zover ik weet zijn er van NLse stakeholders nog geen position papers uit behalve de informele stukken van VNO en 5.1.2e . Als we die ontvangen zullen we die delen voor zover relevant, net als de definitieve versies van VNO en 5.1.2e .

5.1.2e

5.1.2a

5.1.2e

Groet,

5.1.2e



5.1.2e

5.1.2e

Afdeling Internationaal Maatschappelijk Verantwoord Ondernemen
Directie Internationale Marktordening en Handelspolitiek
Ministerie van Buitenlandse Zaken
Rijnstraat 8 | 2515 XP Den Haag
Postbus 20061 | 2500 EB Den Haag

E | 5.1.2e @minbuza.nl

T | 5.1.2e

L | www.linkedin.com/in/5.1.2e 5.1.2e

To: [5.1.2e]@vnoncw-mkb.nl
From: [5.1.2e]
Sent: Mon 5/9/2022 10:26:46 AM
Subject: RE: verdere kennismaking
Received: Mon 5/9/2022 10:26:00 AM

Ha [5.1.2e]

Fijne vakantie! Laten we week erop afspreken inderdaad! Heb dinsdag en vrijdag nog ruim de tijd.

Groetjes,

[5.1.2e]

From: [5.1.2e]@vnoncw-mkb.nl>
Sent: maandag 9 mei 2022 11:18
To: [5.1.2e]@minbuza.nl>
Subject: Re: verdere kennismaking

Hoi [5.1.2e]

Ik ben er zelf helaas niet bij want ik heb deze week vakantie maar misschien goed om volgende week weer een keer af te spreken! Wij hebben het ook veel over IMVO gehad dus lijkt me goed om ervaringen uit te wisselen.

Groet,

[5.1.2e]

Verstuurd vanaf mijn iPhone

Op 6 mei 2022 om 20:27 heeft [5.1.2e]@minbuza.nl> het volgende geschreven:

?

Externe mail. Klik alleen op links of bijlagen als je weet dat de inhoud veilig is.

Ha [5.1.2e]

Veel dank voor het doorsturen van het paper! En inderdaad drukke bedoeling in Straatsburg. Ben je volgende week woensdag op de VNO borrel? Wilde even langskomen namelijk. Wilde even wat dingen delen die ik in het EP heb gehoord, en ook beniwued wat jullie opgevangen hebben

Groetjes,

[5.1.2e]

From: [5.1.2e]@vnoncw-mkb.nl>
Sent: vrijdag 6 mei 2022 17:11
To: [5.1.2e]@minbuza.nl>
Subject: RE: verdere kennismaking

Hoi [5.1.2e]

Leuk om elkaar vorige week te treffen en in passing in Straatsburg te zien! Was het voor jullie net zo druk (en leuk) als voor ons?

Bijgevoegd een non-paper dat wij hebben opgesteld over het Europese Due diligence voorstel. Hierin staan de 6 punten die we eerder ook al in het gesprek met jou en [5.1.2e] hadden genoemd (en die grotendeels in het BNC fiche taan) en een paar mogelijke oplossingen die wij aandragen.

Het tweede gedeelte gaat op artikel niveau in op het voorstel met eventueel aanpassingen die wij willen doen.

Laat het vooral weten als hier vragen over zijn! Wij hopen hier op korte termijn in Brussel een bijeenkomst over te kunnen organiseren.

We houden contact!

Fijn weekend.

Groet,

5.1.2e

Van: 5.1.2e <[redacted]@minbuza.nl>

Verzonden: dinsdag 26 april 2022 11:33

Aan: 5.1.2e <[redacted]@vnoncw-mkb.nl>

Onderwerp: RE: verdere kennismaking

Externe mail. Klik alleen op links of bijlagen als je weet dat de inhoud veilig is.

Ha 5.1.2e

Ja hoor, geen probleem!

Groetjes,

5.1.2e

From: 5.1.2e <[redacted]@vnoncw-mkb.nl>

Sent: dinsdag 26 april 2022 10:40

To: 5.1.2e <[redacted]@minbuza.nl>

Subject: RE: verdere kennismaking

Hoi 5.1.2e

Zou jij donderdag misschien ook een half uurtje eerder kunnen? Wij organiseren een bijeenkomst met de leden over Oekraïne die 15.30 begint. Als het niet lukt is dat ook prima, maar dan hebben we iets korter de tijd.

Hartelijke groet,

5.1.2e

Van 5.1.2e

Verzonden: donderdag 21 april 2022 11:56

Aan: 5.1.2e <[redacted]@minbuza.nl>

Onderwerp: RE: verdere kennismaking

Prima, tot dan!

Van 5.1.2e <[redacted]@minbuza.nl>

Verzonden: donderdag 21 april 2022 11:55

Aan: 5.1.2e <[redacted]@vnoncw-mkb.nl>

Onderwerp: RE: verdere kennismaking

Externe mail. Klik alleen op links of bijlagen als je weet dat de inhoud veilig is.

Ha 5.1.2e

00020

1101523

Ah ja klopt! Donderdag 15u bij To Meli doen?

Groetjes,

5.1.2e

From: 5.1.2e <[redacted]@vnoncw-mkb.nl>

Sent: donderdag 21 april 2022 11:53

To: 5.1.2e <[redacted]@minbuza.nl>

Subject: RE: verdere kennismaking

Hoi 5.1.2e

Woensdag zijn wij geloof ik vrij i.v.m. Koningsdag maar ik zou donderdag kunnen, bijvoorbeeld om 15.00 of 16.00 uur? We kunnen bij ene van de tentjes rond Schuman afspreken.

Groet,

5.1.2e

Van: 5.1.2e <[redacted]@minbuza.nl>

Verzonden: donderdag 21 april 2022 10:58

Aan: 5.1.2e <[redacted]@vnoncw-mkb.nl>

Onderwerp: RE: verdere kennismaking

Externe mail. Klik alleen op links of bijlagen als je weet dat de inhoud veilig is.

Ha 5.1.2e

Lijkt me goed om volgende week koffie te drinken! Heb je tijd op woensdagochtend of donderdag?

Groetjes,

5.1.2e

From: 5.1.2e <[redacted]@vnoncw-mkb.nl>

Sent: donderdag 21 april 2022 10:16

To: 5.1.2e <[redacted]@minbuza.nl>

Subject: verdere kennismaking

Beste 5.1.2e

Leuk om elkaar onlangs online te zien in het gesprek over due diligence/ IMVO. Zou jij begin volgende week tijd hebben voor een koffietje voor een nadere kennismaking? IMVO en het nieuwe Europese wetsvoorstel zijn een belangrijke prioriteit voor het Nederlandse bedrijfsleven dus ik denk dat we elkaar wel meer gaan tegen komen.

Hartelijke groet,

5.1.2e

E-mail: 5.1.2e@vnoncw-mkb.nl

Telefoon: 5.1.2e

Mobiel: 5.1.2e

VNO-NCW - www.vno-ncw.nl

EU-transparantieregister: 13255254129-80

MKB-Nederland - www.mkb.nl

EU-transparantieregister: 05673984520-73

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To: [redacted] 5.1.2e [redacted]@minbuza.nl
From: [redacted] 5.1.2e
Sent: Wed 6/29/2022 2:27:40 PM
Subject: FW: terugkoppeling gesprek [redacted] 5.1.2a } 23/12
Received: Wed 6/29/2022 2:27:40 PM

From: [redacted] 5.1.2e [redacted]@minbuza.nl>
Sent: woensdag 12 januari 2022 13:55
To: [redacted] 5.1.2e [redacted]@minbuza.nl>; [redacted] 5.1.2e [redacted]@minbuza.nl>; [redacted] 5.1.2e [redacted]@minbuza.nl>; [redacted] 5.1.2e [redacted]@minbuza.nl>; [redacted] 5.1.2e [redacted]@minbuza.nl>; [redacted] 5.1.2e [redacted]@minbuza.nl>; [redacted] 5.1.2e [redacted]@minbuza.nl>
Cc: [redacted] 5.1.2e [redacted]@minbuza.nl>; [redacted] 5.1.2e [redacted]@minbuza.nl>; [redacted] 5.1.2e [redacted]@minbuza.nl>
Subject: RE: terugkoppeling gesprek [redacted] 5.1.2a } 23/12

Beste [redacted] 5.1.2e

Dank voor je mail!

De Europese Commissie vermeldt er het volgende over op haar officiële website:

Een advies kan, samen met de effectbeoordeling, alleen ter goedkeuring aan de Commissie worden voorgelegd als de Raad voor regelgevingstoetsing er een positief advies (eventueel met voorbehoud) over uitgebracht heeft. Bij een negatief advies moet het verslag herzien worden en opnieuw aan de Raad worden voorgelegd voordat de Commissie verdere stappen zet. Als de Raad tweemaal een negatief advies heeft gegeven, mag alleen de vicevoorzitter voor interinstitutionele betrekkingen en toekomstplanning het initiatief aan het college van commissarissen voorleggen dat dan moet besluiten er al dan niet mee door te gaan (zie hier de link, onder het kopje 'Hoe gaat de Raad te werk').

Maros Sefcovic is voor de periode 2019-2024 benoemd als vicevoorzitter voor interinstitutionele betrekkingen. Hij is de aangewezen persoon om het initiatief alsnog aan het college voor te leggen en niet vicevoorzitter Jourova.

Vriendelijke groet,

[redacted] 5.1.2e

From: [redacted] 5.1.2e [redacted]@minbuza.nl>
Sent: woensdag 12 januari 2022 12:11
To: [redacted] 5.1.2e [redacted]@minbuza.nl>; [redacted] 5.1.2e [redacted]@minbuza.nl>; [redacted] 5.1.2e [redacted]@minbuza.nl>; [redacted] 5.1.2e [redacted]@minbuza.nl>; [redacted] 5.1.2e [redacted]@minbuza.nl>; [redacted] 5.1.2e [redacted]@minbuza.nl>
Cc: [redacted] 5.1.2e [redacted]@minbuza.nl>; [redacted] 5.1.2e [redacted]@minbuza.nl>; [redacted] 5.1.2e [redacted]@minbuza.nl>
Subject: RE: terugkoppeling gesprek [redacted] 5.1.2a } 23/12

Dank [redacted] 5.1.2a Ik ben benieuwd of [redacted] 5.1.2e en [redacted] 5.1.2e hier toevallig meer over weten. Groet! [redacted] 5.1.2e

From: [redacted] 5.1.2e [redacted]@minbuza.nl>
Sent: dinsdag 11 januari 2022 16:31
To: [redacted] 5.1.2e [redacted]@minbuza.nl>; [redacted] 5.1.2e [redacted]@minbuza.nl>; [redacted] 5.1.2e [redacted]@minbuza.nl>; [redacted] 5.1.2e [redacted]@minbuza.nl>
Cc: [redacted] 5.1.2e [redacted]@minbuza.nl>; [redacted] 5.1.2e [redacted]@minbuza.nl>; [redacted] 5.1.2e [redacted]@minbuza.nl>
Subject: RE: terugkoppeling gesprek [redacted] 5.1.2a } 23/12

Beste [redacted] 5.1.2e

00021

1101525

Ik denk dat [5.1.2e] en [5.1.2e] (nu ook in de mailwisseling) jullie hier misschien mee verder zouden kunnen helpen. Zij zijn verantwoordelijk voor het IMVO dossier binnen ons team bij DJZ-ER ☺.

Vriendelijke groet,

[5.1.2e]

From: [5.1.2e]@minbuza.nl>

Sent: dinsdag 11 januari 2022 15:29

To: [5.1.2e]@minbuza.nl>; [5.1.2e]@minbuza.nl> [5.1.2e]

[5.1.2e]@minbuza.nl>
Cc: [5.1.2e]@minbuza.nl>; [5.1.2e]@minbuza.nl>; [5.1.2e]@minbuza.nl>

Subject: RE: terugkoppeling gesprek [5.1.2a] 23/12

Excuus! Bij deze

From: [5.1.2e]@minbuza.nl>

Sent: dinsdag 11 januari 2022 15:17

To: [5.1.2e]@minbuza.nl>; [5.1.2e]@minbuza.nl> [5.1.2e]
[5.1.2e]@minbuza.nl>

Cc: [5.1.2e]@minbuza.nl>; [5.1.2e]@minbuza.nl>; [5.1.2e]@minbuza.nl>

Subject: RE: terugkoppeling gesprek [5.1.2a] 23/12

Dank voor je reactie [5.1.2e]! Ben erg benieuwd of DJZ hier meer vanaf weet. Ik zie alleen geen [5.1.2e] in de mailing staan. Hoe heet [5.1.2e] verder? Dan check ik t graag bij haar! ☺

From: [5.1.2e]@minbuza.nl>

Sent: dinsdag 11 januari 2022 15:06

To: [5.1.2e]@minbuza.nl>; [5.1.2e]@minbuza.nl>; [5.1.2e]@minbuza.nl>

Cc: [5.1.2e]@minbuza.nl>; [5.1.2e]@minbuza.nl>; [5.1.2e]@minbuza.nl>

Subject: RE: terugkoppeling gesprek [5.1.2a] 23/12

[5.1.2e] jullie ook gelukkig nieuwjaar! Met hoop ik veel moois om IMVO vlak.

Goede vraag, maar ik vrees dat ik je het antwoord hier schuldig moet blijven – kunnen dit denk ik het beste even nagaan bij DJZ.

[5.1.2e] weet jij misschien bij wie van ER we deze vraag het beste kunnen neerleggen?

Dank alvast!

Groet,

[5.1.2e]

From: [5.1.2e]@minbuza.nl>

Sent: maandag 10 januari 2022 17:03

To: [5.1.2e]@minbuza.nl>; [5.1.2e]@minbuza.nl>; [5.1.2e]@minbuza.nl>

Cc: [5.1.2e]@minbuza.nl>; [5.1.2e]@minbuza.nl>; [5.1.2e]@minbuza.nl>

Subject: FW: terugkoppeling gesprek [5.1.2a] 23/12

Ha collega's,

Al is het eigenlijk te laat: nog de beste wensen voor 2022!

Vlak voor de kerstvakantie spraken [5.1.2e] en ik met [5.1.2a] over IMVO. Een van de punten die ter sprake kwam was de procedure bij 00021 iadat de Regulatory Scrunity Board twee negatieve adviezen heeft gegeven. [5.1.2a]

1101525

5.1.2a

Weten jullie toevallig meer over de procedure na twee negatieve adviezen van de RSB?

Groet, 5.1.2e

From: 5.1.2e

Sent: donderdag 23 december 2021 17:35

To: 5.1.2e @minbuza.nl>; 5.1.2e @minbuza.nl>; 5.1.2e @minbuza.nl>; 5.1.2e @minbuza.nl>; 5.1.2e @minbuza.nl>; 5.1.2e @minbuza.nl>

Subject: terugkoppeling gesprek 5.1.2a 23/12

Hi allen,

5.1.2e en ik spraken vanochtend even met 5.1.2a Hier een korte terugkoppeling.

Fijne feestdagen voor nu!

Groet, 5.1.2e

5.1.2a

To: [redacted] 5.1.2e [redacted]@minbuza.nl]
From: [redacted] 5.1.2e
Sent: Wed 10/13/2021 10:37:52 AM
Subject: FW: Kamervragen SP - publiek statement VNO-NCW/MKB NL
Received: Wed 10/13/2021 10:37:00 AM
ANP: 'Lobby VNO-NCW saboteert wetgeving duurzaam ondernemen'

From: [redacted] 5.1.2e
Sent: woensdag 29 september 2021 17:03
To: [redacted] 5.1.2e [redacted]@minbuza.nl>
Subject: FW: Kamervragen SP - publiek statement VNO-NCW/MKB NL

Ter info. Bijgevoegd statement VNO.

From: [redacted] 5.1.2e [redacted]@vnoncw-mkb.nl>
Sent: woensdag 29 september 2021 16:56
To: [redacted] 5.1.2e [redacted]@minbuza.nl>
Subject: RE: Kamervragen SP - publiek statement VNO-NCW/MKB NL

Hallo [redacted] 5.1.2e

We hebben in de richting van het ANP een publiek statement gemaakt, zie bijgevoegd bericht. Daar kan naar verwezen worden.

Groet, [redacted] 5.1.2e

Van: [redacted] 5.1.2e [redacted]@minbuza.nl>
Verzonden: woensdag 29 september 2021 16:21
Aan: [redacted] 5.1.2e [redacted]@vnoncw-mkb.nl>
Onderwerp: Kamervragen SP - publiek statement VNO-NCW/MKB NL

Externe mail. Klik alleen op links of bijlagen als je weet dat de inhoud veilig is.

Dag [redacted] 5.1.2e

Goed je vanochtend in actie te zien tijdens de rondetafel IMVO in de Tweede Kamer, waardevolle gesprekken denk ik. In een van je reacties gaf je nog een korte reflectie op de twee sets Kamervragen SP over de lobby en vertragingen in zowel het Internationaal Maatschappelijk Verantwoord Ondernemen (IMVO) op Europees niveau als de Wet Zorgplicht Kinderarbeid op nationaal niveau.

Wij zijn inmiddels bezig met de beantwoording van [deel twee van de Kamervragen](#). Heeft VNO-NCW/MKB NL een publiek statement gemaakt over de aantijgingen?

In de beantwoording zouden we daar graag naar willen verwijzen.

Alvast bedankt voor jouw reactie.

Met groet,

[redacted] 5.1.2e

.....
Directie Internationale marktordening en handelspolitiek (IMH)
Afdeling Internationaal maatschappelijk verantwoord ondernemen (IMVO)
Ministerie van Buitenlandse Zaken
Rijnstraat 8 | 2515 XP I Den Haag

.....
M +31 6 [redacted] 5.1.2e
E [redacted] 5.1.2e [redacted]@minbuza.nl
W <https://rijksoverheid.nl/imvo>

90%, zorg dat u erbij bent! www.startmetoesorichtlijnen.nl

00022

1101530

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To: [5.1.2e]@minbuza.nl]
From: [5.1.2e]
Sent: Wed 6/29/2022 2:29:33 PM
Subject: FW: proposal Sustainable Corporate Governance
Received: Wed 6/29/2022 2:29:34 PM

From: [5.1.2e]
Sent: donderdag 2 december 2021 12:38
To: [5.1.2e]@minbuza.nl>; [5.1.2e]@minbuza.nl>; [5.1.2e]
[5.1.2e]@minbuza.nl>; [5.1.2e]@minbuza.nl>; [5.1.2e]@minbuza.nl>
Cc: [5.1.2e]@minbuza.nl>
Subject: FW: proposal Sustainable Corporate Governance

In aanvulling op eerdere berichten via PVEU ook reactie van [5.1.2a]

- [5.1.2a] bevestigt de vertraging
- Timing echter nog niet bekend - geruchten over timing van eind maart uit Politico dus nog niet bevestigd.
- Advies van RSB vertrouwelijk. Over inhoud van kwaliteitsaanbevelingen dus niks te zeggen.

Groet, [5.1.2e]

From: [5.1.2e]@ec.europa.eu>
Sent: donderdag 2 december 2021 12:17
To: [5.1.2e]@minbuza.nl> [5.1.2e]@ec.europa.eu>
Cc: [5.1.2e]@minbuza.nl> [5.1.2e]@minbuza.nl>; [5.1.2e]
[5.1.2e]@minbuza.nl>
Subject: RE: proposal Sustainable Corporate Governance

Dear [5.1.2e]

[5.1.2a]

Best regards,

[5.1.2e]

European Commission
DG for Internal Market, Industry, Entrepreneurship and SMEs
Unit G.2 –Proximity, social economy and creative industries

BREY 06/274
B-1049 Brussels/Belgium
+32 229-69355
[5.1.2e]@ec.europa.eu

From [redacted] 5.1.2e [redacted]@minbuza.nl>

Sent: Thursday, December 2, 2021 10:13 AM

To [redacted] 5.1.2e [redacted]@ec.europa.eu>; [redacted] 5.1.2e [redacted]@ec.europa.eu>

Cc: [redacted] 5.1.2e [redacted]@minbuza.nl>; [redacted] 5.1.2e [redacted]@minbuza.nl>; [redacted] 5.1.2e [redacted]@minbuza.nl>

Subject: proposal Sustainable Corporate Governance

Dear [redacted] 5.1.2e and [redacted] 5.1.2e

I hope you are both doing well.

[redacted]

5.1.2a

Hope you can help us.

Best, [redacted] 5.1.2e

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To: [redacted] 5.1.2e [redacted]@minbuza.nl]
From: [redacted] 5.1.2e
Sent: Mon 3/7/2022 5:45:46 PM
Subject: RE: BNC-fiche
Received: Mon 3/7/2022 5:46:02 PM

Hallo [redacted] 5.1.2e

Hier ook alles goed – erg druk vanwege de oorlog in Oekraïne.

Dank voor je bericht, nuttig. Op laatste punt kom ik nog terug.

Hartelijke groet,

[redacted] 5.1.2e

Van: [redacted] 5.1.2e [redacted]@minbuza.nl>
Verzonden: maandag 7 maart 2022 17:13
Aan: [redacted] 5.1.2e [redacted]@vnoncw-mkb.nl>
Onderwerp: RE: BNC-fiche

Externe mail. Klik alleen op links of bijlagen als je weet dat de inhoud veilig is.

Dag [redacted] 5.1.2e

Zeker, hoop bij jou ook alles goed! We zitten nog middenin het BNC-traject. Dat zal volgende week nog niet afgerond zijn. Hoe eerder hoe beter natuurlijk, dat wel, want hoe langer we eraan schrijven hoe meer het allemaal een beetje uitkristalliseert.

Ik ben benieuwd naar jullie inbreng! Wordt het een publiek statement of onderhandse inbreng?

Hartelijke groet,

[redacted] 5.1.2e

From: [redacted] 5.1.2e [redacted]@vnoncw-mkb.nl>
Sent: maandag 7 maart 2022 13:48
To: [redacted] 5.1.2e [redacted]@minbuza.nl>
Subject: BNC-fiche

Hallo [redacted] 5.1.2e

Hopelijk alles goed.

Wat is jullie planning voor het BNC-fiche over due diligence proposal EC?

Als we jullie eind volgende week onze reactie sturen, kunnen jullie dat dan nog mee nemen?

Vriendelijke groet,

[redacted] 5.1.2e

[redacted] 5.1.2e

International Affairs
VNO-NCW - MKB-Nederland
Confederation of Netherlands' Industry and Employers VNO-NCW
Royal Dutch Association of Small and Mediumsized Enterprises MKB Nederland
00025

1101534

email: 5.1.2e @vnoncw-mkb.nl
tel.: +31 (0)70 5.1.2e
mobiel: +31 (0)6 5.1.2e
website: www.vno-ncw.nl - www.mkb.nl

Bezuidenhoutseweg 12, 2594 AV Den Haag
Postbus 93002, 2509 AA Den Haag

Twitter: @vnoncw - @mkbnl - linkedIn: VNO-NCW - MKB



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To: [redacted] 5.1.2e [redacted]@minbuza.nl]
From: [redacted] 5.1.2e
Sent: Fri 8/20/2021 1:30:15 PM
Subject: RE: bellen?
Received: Fri 8/20/2021 1:30:26 PM
SER-advies bouwstenen Europese IMVO-wetgeving

Hallo [redacted] 5.1.2e

Tja, de zomer houdt niet over dit jaar.. Maar vakantie was lekker, jij hebt hopelijk ook fijne tijd gehad.

Dat is prima. Liefst maandag bellen om 15:30 uur. Ik heb daarvoor overleg met [redacted] 5.1.2e dat kan beetje uit lopen. Handig dus, als ik jou dan bel.

Bijgaand ter informatie, een mail die ik gisteren heb gestuurd aan de vakbonden en SER secretariaat over de stand van zaken bij ons, ben je al beetje op de hoogte.

Goed weekend,

[redacted] 5.1.2e

[redacted] 5.1.2e

International Affairs

VNO-NCW - MKB-Nederland

Confederation of Netherlands' Industry and Employers VNO-NCW

Royal Dutch Association of Small and Mediumsized Enterprises MKB Nederland

email: [redacted] 5.1.2e @vnoncw-mkb.nl

tel.: +31 (0)70 - [redacted] 5.1.2e

mobiel: +31 (0) [redacted] 5.1.2e

website: www.vno-ncw.nl - www.mkb.nl

Bezuidenhoutseweg 12, 2594 AV Den Haag
Postbus 93002, 2509 AA Den Haag

Twitter: @vnoncw - @mkbnl - linkedIn: VNO-NCW - MKB

Van: [redacted] 5.1.2e [redacted]@minbuza.nl>

Verzonden: vrijdag 20 augustus 2021 14:22

Aan: [redacted] 5.1.2e [redacted]@vnoncw-mkb.nl>

Onderwerp: bellen?

Externe mail. Klik alleen op links of bijlagen als je weet dat de inhoud veilig is.

Dag [redacted] 5.1.2e

Hopelijk heb je een fijne (zij het een beetje grauwe) zomer.

Heb jij misschien maandag een momentje om te bellen over de laatste stand van zaken in jullie achterban, de timing van jullie bestuursvergadering, etc.?

Binnen om 9.30, 12.00 – 13.30, of 14-16u?
00026

1101536

Dank en hartelijke groet,

5.1.2e



5.1.2e

Afdeling Internationaal Maatschappelijk Verantwoord Ondernemen
Directie Internationale Marktordening en Handelspolitiek
Ministerie van Buitenlandse Zaken
Rijnstraat 8 | 2515 XP Den Haag
Postbus 20061 | 2500 EB Den Haag

E | 5.1.2e@minbuza.nl

T | @5.1.2e

L | www.linkedin.com/in/5.1.2e

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To: 5.1.2e @minbuza.nl
Cc: 5.1.2e @minbuza.nl; 5.1.2e @minbuza.nl; 5.1.2e @minbuza.nl
5.1.2e @vnoncw-mkb.nl; 5.1.2e @vnoncw-mkb.nl; 5.1.2e @vnoncw-mkb.nl;
5.1.2e @minbuza.nl;
From: 5.1.2e
Sent: Wed 6/9/2021 1:16:30 PM
Subject: RE: Bijpraat EU-traject IMVO-wetgeving
Received: Wed 6/9/2021 1:16:34 PM

Hallo 5.1.2e
Onze voorkeur is dan donderdag 17 juni om 13:00 uur.
Stuur jij een invite naar 5.1.2e en mij? [En de rest natuurlijk van jullie kant.]
Groet 5.1.2e

Van: 5.1.2e @minbuza.nl>
Verzonden: dinsdag 8 juni 2021 11:36
Aan: 5.1.2e @vnoncw-mkb.nl>
CC: 5.1.2e @minbuza.nl>; 5.1.2e @minbuza.nl>; 5.1.2e @vnoncw-mkb.nl>;
5.1.2e @vnoncw-mkb.nl>; 5.1.2e @vnoncw-mkb.nl>; 5.1.2e @vnoncw-mkb.nl>;
5.1.2e @minbuza.nl>

Onderwerp: RE: Bijpraat EU-traject IMVO-wetgeving
Exteme mail. Klik alleen op links of bijlagen als je weet dat de inhoud veilig is.

Dag 5.1.2e
Goed om te horen. Op de volgende momenten zijn wij beschikbaar:

- Woensdag 16 juni tussen 10.00-12.00 uur
- Donderdag 17 juni tussen 13.00-14.00 uur
- Maandag 23 juni tussen 10.00-12.00 uur

Wij horen graag of een van deze momenten jullie ook schikt.
Alvast bedankt.
Groet 5.1.2e

From: 5.1.2e @vnoncw-mkb.nl>
Sent: maandag 7 juni 2021 15:26
To: 5.1.2e @minbuza.nl>
Cc: 5.1.2e @minbuza.nl>; 5.1.2e @minbuza.nl>; 5.1.2e @vnoncw-mkb.nl>;
5.1.2e @vnoncw-mkb.nl>; 5.1.2e @vnoncw-mkb.nl>; 5.1.2e @vnoncw-mkb.nl>

Subject: RE: Bijpraat EU-traject IMVO-wetgeving
Hallo 5.1.2e
5.1.2e en ik gaan dit gesprek graag aan met jullie.
Als je een paar opties hebt waarop jullie kunnen, prikken we een moment.
Vriendelijke groet,
5.1.2e

Van: 5.1.2e @minbuza.nl>
Verzonden: vrijdag 4 juni 2021 15:16
Aan: 5.1.2e @vnoncw-mkb.nl>; 5.1.2e @vnoncw-mkb.nl>
CC: 5.1.2e @minbuza.nl>; 5.1.2e @minbuza.nl>

Onderwerp: Bijpraat EU-traject IMVO-wetgeving
Exteme mail. Klik alleen op links of bijlagen als je weet dat de inhoud veilig is.

Dag 5.1.2e en 5.1.2e
Hopelijk gaat alles goed met jullie beiden. Op 1 februari jl. spraken wij elkaar voor het laatst uitgebreid over het EU-traject rond een wetgevend voorstel op het gebied van duurzaam ondernemingsbestuur, waar gepaste zorgvuldigheid onderdeel van is. In de tussentijd is er veel gebeurd; o.a. het aangenomen initiatiefrapport Wolters door het EP, de aankondiging Corporate Sustainability Reporting Directive (CSRD) en de vertraging van het wetgevend voorstel EC.
00027
CSRD moeten wij 5.1.2e mogen verwelkomen als coördinator IMVO-wetgeving. Ik begrijp dat hij inmiddels kennis heeft gemaakt met
1101537

5.1.2e maar nog niet met 5.1.2e

Om die redenen zouden we graag weer bijpraten met jullie. We horen graag of jullie daarvoor openstaan.

Alvast bedankt.

Met groet, mede namens 5.1.2e en 5.1.2e

5.1.2e

Directie Internationale marktordening en handelspolitiek (IMH)
Afdeling Internationaal maatschappelijk verantwoord ondernemen (IMVO)
Ministerie van Buitenlandse Zaken
Rijnstraat 8 | 2515 XP | Den Haag

M: 31 6 5.1.2e

E: 5.1.2e@minbuza.nl

W: <https://rijksverheid.nl/imvo>

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To: [5.1.2e]@minbuza.nl]
From: [5.1.2e]
Sent: Fri 1/14/2022 4:49:09 PM
Subject: RE: Gesprekken R -MEP's Straatsburg - bevestigd
Received: Fri 1/14/2022 4:49:00 PM

buiten verzoek.

En [5.1.2e] belde me nog om toelichting te vragen op een paar punten, ook n.a.v. de briefing (waarvoor ze overigens nog complimenten uitdeelde). Zij wilde weten hoe het nou zit met verordening vs. richtlijn en wat die Regulatory Scrutiny Board precies voor beestje is.

buiten verzoek.

buiten verzoek.

Groet,

[5.1.2e]

buiten verzoek.

buiten verzoek.

buiten verzoek.

buiten verzoek.

buiten verzoek.

5.1 Gesprek met Eurocommissaris Reynders

Gesprek R met Eurocommissaris voor Justitie Didier Reynders op 20 januari 2022, 14.00u

Aanwezigen

Zijde CIE:

- Eurocommissaris Didier Reynders

Zijde NL:

- R, 5.1.2e

-

-

5.1.2e

Opzet

Taal: Engels

Tijd gesprek: 14.00u

Locatie: digitaal

Gesprek op verzoek van: NL

Vorig contactmoment incl. follow-up: uw voorganger sprak voor het laatst op 6 oktober 2021 met Eurocommissaris Reynders. Ambtelijk is er contact met beleidsmedewerkers van DG JUST en met het kabinet van Eurocommissaris Reynders.

Nb. MP spreekt op 24 januari met Commissaris Reynders over de Rule of Law.

buiten verzoek.

buiten verzoek.

- 5.1.2a explained that the delays were caused by negative opinions of the Regulatory Scrutiny Board. How will the latest negative opinion be addressed? What could we do to help speed up the process and address possible obstacles?

buiten verzoek.

5.1.2e

[Uitstel CIE-voorstel]

- Over de redenen voor het uitstel van het CIE-voorstel is niet officieel gecommuniceerd. Van contacten bij [5.1.2a] en uit de media is vernomen dat de *Regulatory Scrutiny Board* (RSB) voor de tweede maal een negatief advies heeft gegeven over het voorstel. Sinds de instelling van de RSB is dat slechts een aantal keren voorgekomen.
- Informeel [5.1.2a] is vernomen dat het advies van de RSB op veel vlakken kritisch is over het voorstel, bijv. over de noodzaak van overheidsinterventie, de

5.1 Gesprek met Eurocommissaris Reynders

proportionaliteit voor het MKB, en de noodzaak van civiele aansprakelijkheid.

- Onduidelijk wanneer het CIE-voorstel nu wel gepubliceerd wordt. 5.1.2a
noemde aan uw voorganger de datum 15 februari a.s. – deze streefdatum is ook met de Kamer gedeeld. Informele bronnen bij 5.1.2a stellen dat het voorstel niet opnieuw voorgelegd zal worden aan de RSB. 5.1.2a
neemt hierover volgende week een besluit.

buiten verzoek.

buiten verzoek.

To: [redacted] @minbuza.nl]
From: [redacted]
Sent: Fri 10/15/2021 9:18:50 AM
Subject: FW: Verslag gesprek R-[redacted]
Received: Fri 10/15/2021 9:18:00 AM

From: [redacted]
Sent: woensdag 6 oktober 2021 17:40
To: [redacted] @minbuza.nl>; [redacted] @minbuza.nl>; [redacted]
[redacted] @minbuza.nl>; [redacted] @minbuza.nl>; [redacted] @minbuza.nl>; [redacted]
[redacted] @minbuza.nl>; [redacted] @minbuza.nl>; [redacted]
[redacted] @minbuza.nl>; [redacted] @minbuza.nl>
Subject: Verslag gesprek R-[redacted]

Allen,

Hierbij verslag (zo gedetailleerd mogelijk) van het hartelijke videogesprek tussen R en [redacted] vandaag, dat ongeveer een halfuur duurde. [redacted] hebben ook aantekeningen gemaakt en hebben misschien nog aanvullingen of correcties.

[redacted]

5.1.2a

- [redacted] antwoordde dat hij vrij snel een nieuwe impact assessment verwachtte van de Regulatory Scrutiny Board en dat het wetgevende voorstel voor de winter het levenslicht zou zien. Momentum was versterkt door de State of the Union-opmerkingen van VDL over importverbod op producten van dwangarbeid.

[redacted]

buiten verzoek.

Groet,

5.1.2e



5.1.2e

Afdeling Internationaal Maatschappelijk Verantwoord Ondernemen

Directie Internationale Marktordening en Handelspolitiek

Ministerie van Buitenlandse Zaken

Rijnstraat 8 | 2515 XP Den Haag

Postbus 20061 | 2500 EB Den Haag

E | 5.1.2e @minbuza.nl

T | @ 5.1.2e

L | www.mkeun.com/in/ 5.1.2e

To: [redacted] 5.1.2e [redacted]@vnoncw-mkb.nl]
From: [redacted] 5.1.2e
Sent: Mon 3/28/2022 8:10:46 PM
Subject: RE: gesprek
Received: Mon 3/28/2022 8:10:00 PM

Fijn, dank je!

Groet,

[redacted] 5.1.2e

From: [redacted] 5.1.2e [redacted]@vnoncw-mkb.nl>
Sent: maandag 28 maart 2022 21:08
To: [redacted] 5.1.2e [redacted]@minbuza.nl>
Cc: [redacted] 5.1.2e [redacted]@minbuza.nl>; [redacted] 5.1.2e [redacted]@minbuza.nl>
Subject: RE: gesprek

Perfect.

Heb gemakshalve jullie alle drie MS Teams invite gestuurd, zien we donderdag wel wie aan haakt van jullie kant.

Prettige avond,

[redacted] 5.1.2e

Van: [redacted] 5.1.2e [redacted]@minbuza.nl>
Verzonden: maandag 28 maart 2022 20:01
Aan: [redacted] 5.1.2e [redacted]@vnoncw-mkb.nl>
CC: [redacted] 5.1.2e [redacted]@minbuza.nl>; [redacted] 5.1.2e [redacted]@minbuza.nl>
Onderwerp: RE: gesprek

Externe mail. Klik alleen op links of bijlagen als je weet dat de inhoud veilig is.

Hi [redacted] 5.1.2e

Dat is prima! Wil jij dan een Teams-link sturen of ander medium dat jullie prefereren? Van onze kant haakt waarschijnlijk collega [redacted] 5.1.2e of [redacted] 5.1.2e aan.

Groet,

[redacted] 5.1.2e

From: [redacted] 5.1.2e [redacted]@vnoncw-mkb.nl>
Sent: maandag 28 maart 2022 17:20
To: [redacted] 5.1.2e [redacted]@minbuza.nl>
Subject: RE: gesprek

Hallo [redacted] 5.1.2e,

Dank voor je reactie, klinkt hoopvol..

Zou je donderdag om 17:00 uur kunnen? Daarvoor heb ik seminar waar ik spreek. Doen we het virtueel, zodat [redacted] 5.1.2e ook aan kan haken.

Groet, [redacted] 5.1.2e

Van: [redacted] 5.1.2e [redacted]@minbuza.nl>
Verzonden: maandag 28 maart 2022 14:26

1101546

Aan: [5.1.2e]@vnoncw-mkb.nl>

Onderwerp: RE: gesprek

Externe mail. Klik alleen op links of bijlagen als je weet dat de inhoud veilig is.

Hi [5.1.2e]

Dank voor je schriftelijke inbreng! Snel gescand: ziet er op eerste gezicht uit alsof we op veel vlakken al op dezelfde lijn zitten, met name rondom alles wat met OESO-conformiteit te maken heeft. Laten we donderdag verder bespreken!

Groet,
[5.1.2e]

From: [5.1.2e]@vnoncw-mkb.nl>

Sent: maandag 28 maart 2022 14:09

To: [5.1.2e]@minbuza.nl>

Subject: RE: gesprek

Hallo [5.1.2e]

Dank voor je reactie. Ik kom op donderdag nog even terug.

Eerder gaf je aan, dat we altijd schriftelijke input konden leveren. Daarom stuur ik je nog even overzicht van onze comments, maar belangrijker ook onze mogelijke solutions bij het CSDD-voorstel.

Groet, [5.1.2e]

Van [5.1.2e]@minbuza.nl>

Verzonden: maandag 28 maart 2022 13:33

Aan: [5.1.2e]@vnoncw-mkb.nl>

Onderwerp: RE: gesprek

Externe mail. Klik alleen op links of bijlagen als je weet dat de inhoud veilig is.

Goedemorgen [5.1.2e]

Sorry dat het niet meer lukte om je vrijdag te antwoorden. Het is echt spitsuur in de afrondingsfase van het BNC-fiche. Dat blijkt ook uit het feit dat ik vanochtend om 9u begon aan dit antwoord maar het nu pas afrond. Het fiche komt als het goed is vrij snel naar buiten. Ook om die reden zijn de agenda's erg vol begin deze week. Wel zijn we altijd bereid en ook eager (hoe zeg je dat in het NLs) met jullie te praten over praktische issues. Als [5.1.2e] bij dat gesprek betrokken kan zijn, des te beter. Het beste/eerste wat ik qua planning kan bieden is donderdagnmiddag. Na 14u heb ik geen afspraken. Biedt dat voor jullie mogelijkheden?

Dank en hartelijke groet,

[5.1.2e]

From: [5.1.2e]@vnoncw-mkb.nl>

Sent: vrijdag 25 maart 2022 15:47

To: [5.1.2e]@minbuza.nl>

Subject: RE: gesprek

Hallo [5.1.2e]

00031 or je bericht.

1101546

Het BNC-traject is natuurlijk een belangrijke reden dat we met jullie willen spreken. Om onze bezwaren toe te lichten, om de bezwaren van OESO c.s. te bespreken maar vooral ook om constructief te kijken hoe we – gelet op die bezwaren – het CSDD-voorstel werkbaar kunnen maken voor het bedrijfsleven. Om daadwerkelijk impact te genereren.

Wat ons betreft, kan dit gesprek as. maandag al, bij voorkeur fysiek. Kan bij ons, kan bij jullie. Bijvoorbeeld tussen 10:30 uur en 12:00 uur, of tussen 14:30 uur en 15:30 uur. Of na 16:30 uur.

Hoor graag van je.

Goed weekend,

5.1.2e

Van: 5.1.2e @minbuza.nl>

Verzonden: vrijdag 25 maart 2022 15:31

Aan: 5.1.2e @vnoncw-mkb.nl>

Onderwerp: gesprek

Externe mail. Klik alleen op links of bijlagen als je weet dat de inhoud veilig is.

Dag 5.1.2e

Dank voor je telefoontje zonet. Ik heb het nog even overlegd en de agenda erop nagekeken. Volgende week is, zoals ik al aangaf, bijzonder druk omdat we in afrondende fase van het BNC-traject zitten. Natuurlijk blijven we in algemene zin graag in gesprek met jullie, maar voor dit specifieke verzoek zou het ook erg helpen om iets helderder te krijgen wat vanuit jullie optiek het doel zou zijn. Dan kan ik ook zorgen dat we daarvoor de juiste mensen kunnen oplijnen. Overigens is nadere inbreng op papier hoe dan ook welkom.

Hartelijke groet en alvast een goed weekend,

5.1.2e



5.1.2e

Afdeling Internationaal Maatschappelijk Verantwoord Ondernemen

Directie Internationale Marktordening en Handelspolitiek

Ministerie van Buitenlandse Zaken

Rijnstraat 8 | 2515 XP Den Haag

Postbus 20061 | 2500 EB Den Haag

E | 5.1.2e @minbuza.nl

T | @ 5.1.2e

L | www.linkedin.com/in/ 5.1.2e

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Dit bericht kan informatie bevatten die niet voor u is bestemd. Indien u niet de geadresseerde bent of dit bericht abusievelijk aan u is toegezonden, wordt u verzocht dat aan de afzender te melden en het bericht te verwijderen. De Staat aanvaardt geen aansprakelijkheid voor schade, van welke aard ook, die verband houdt met risico's verbonden aan het elektronisch verzenden van berichten.

1101546

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To: [5.1.2e]@minbuza.nl
Cc: [5.1.2e]@minbuza.nl; [5.1.2e]@minbuza.nl
From: [5.1.2e]
Sent: Thur 12/2/2021 1:07:52 PM
Subject: RE: QA op uitstel CIE
Received: Thur 12/2/2021 1:07:00 PM
[Q reden vertraging EU.docx](#)

Hi [5.1.2e]

Zoals besproken ook een Q over de reden waarom het voorstel is vertraagd. Hebben zojuist van [5.1.2e] vernomen dat het gaat over de opinie van de RSB.

Deze hoeft m.i. niet naar R, laat even weten als je het anders ziet.

Groet,
[5.1.2e]

From: [5.1.2e]@minbuza.nl
Sent: donderdag 2 december 2021 11:58
To: [5.1.2e]@minbuza.nl
Cc: [5.1.2e]@minbuza.nl; [5.1.2e]@minbuza.nl; [5.1.2e]
[5.1.2e]@minbuza.nl
Subject: QA op uitstel CIE

Hi [5.1.2e] voor de nalevering op de nalevering, graag je akkoord. [5.1.2e]



[5.1.2e]

Trade Policy and International Economic Governance Department

Ministerie van Buitenlandse Zaken
Rijnstraat 8 | 2515 XP
Den Haag | Nederland

[5.1.2e]@minbuza.nl | 070 348 [5.1.2e] 06 [5.1.2e]

www.rijksoverheid.nl/ministeries/bz | www.twitter.com/minbuza

To: [5.1.2e] [5.1.2e] [5.1.2e] [5.1.2e] [5.1.2e] [5.1.2e]
[5.1.2e] [5.1.2e] [5.1.2e] [5.1.2e] [5.1.2e]
Cc: [5.1.2e] [5.1.2e] [5.1.2e]
From: [5.1.2e]
Sent: Thur 2/3/2022 4:10:18 PM
Subject: Voorstel agenda IMVO-bespreking wo. 9-2 9u
Received: Thur 2/3/2022 4:10:23 PM

Beste allen,

Dank voor jullie snelle reacties op onze vraag om overleg over IMVO. Dit overleg staat nu woensdag aanstaande van 9:00 uur tot 9:45 uur.

Wij stellen de volgende agenda voor:

1. Europese IMVO-ontwikkelingen
2. Nationale IMVO-wetgeving: hoe staat het er voor?
3. [5.1.2e]
4. [5.1.2e]
5. [5.1.2e] buiten verzoek.
6. [5.1.2e]

Genoeg te bespreken dus.

Tot woensdag,

[5.1.2e]
[5.1.2e]

International Affairs
VNO-NCW - MKB-Nederland
Confederation of Netherlands' Industry and Employers VNO-NCW
Royal Dutch Association of Small and Mediumsized Enterprises MKB Nederland

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website: www.vno-ncw.nl - www.mkb.nl

Bezuidenhoutseweg 12, 2594 AV Den Haag
Postbus 93002, 2509 AA Den Haag

Twitter: @vnoncw - @mkbnl - linkedIn: VNO-NCW - MKB



To: [5.1.2e]@minbuza.nl; [5.1.2e]@minbuza.nl
From:
Sent: Tue 5/18/2021 10:46:57 AM
Subject: RE: [CPK spoed verzoek] RBZ Handel: Update gespreksfiche Wilmes & aanleveren spreekpunten voor Renew-voorzitter >> vandaag 12:00
Received: Tue 5/18/2021 10:46:57 AM
[5.1.2a]

Hi [5.1.2e]

Dank!

buiten verzoek.

Wat betreft watering down: dit is wat we hebben gehoord maar wel informeel, zal het weghalen (Het regulatory scrutiny board is vorige week niet akkoord gegaan met het CIE-voorstel omdat het te ambitieus zou zijn.. (zie nog mail hierover id bijlage))

buiten verzoek.

Groet!

From: [5.1.2e]@minbuza.nl>

Sent: dinsdag 18 mei 2021 11:29

To: [5.1.2e]@minbuza.nl; [5.1.2e]@minbuza.nl>

Subject: RE: [CPK spoed verzoek] RBZ Handel: Update gespreksfiche Wilmes & aanleveren spreekpunten voor Renew-voorzitter >> vandaag 12:00

buiten verzoek.

Overigens vind ik niet dat je uitstel al kunt verbinden aanwatering down, dat weten we nog niet.

buiten verzoek.

[5.1.2e]

From: [5.1.2e]@minbuza.nl>

Sent: dinsdag 18 mei 2021 11:23

To: [5.1.2e]@minbuza.nl; [5.1.2e]@minbuza.nl>

Subject: RE: [CPK spoed verzoek] RBZ Handel: Update gespreksfiche Wilmes & aanleveren spreekpunten voor Renew-voorzitter >> vandaag 12:00

Hi [5.1.2e]

Zie hierbij spreekpunten voor gesprek met [5.1.2e] [buiten verzoek.]

buiten verzoek.

• forward to commissioner Reynders's proposal on this topic. Urgent. Rumour proposal will be delayed until later this year. Concerned delay may mean watering down and less ambition. Your opinion?

00035

buiten verzoek.

1101554

Van: [redacted] 5.1.2e @minbuza.nl>

Datum: dinsdag 18 mei 2021 10:33 AM

Aan: [redacted] 5.1.2e @minbuza.nl>

Onderwerp: FW: [CPK spoed verzoek] RBZ Handel: Update gespreksfiche Wilmes & aanleveren spreekpunten voor Renew-voorzitter >> vandaag 12:00

Hi [redacted] 5.1.2e

buiten verzoek.

Dank! [redacted] 5.1.2e

From: BHOS-CPK <BHOS-CPK@minbuza.nl>

Sent: dinsdag 18 mei 2021 10:26

To: [redacted] 5.1.2e @minbuza.nl>; [redacted] 5.1.2e @minbuza.nl>; [redacted] 5.1.2e @minbuza.nl>;
<[redacted] 5.1.2e @minbuza.nl>; [redacted] 5.1.2e @minbuza.nl>; [redacted] 5.1.2e @minbuza.nl>;
[redacted] 5.1.2e @minbuza.nl>; [redacted] 5.1.2e @minbuza.nl>; [redacted] 5.1.2e @minbuza.nl>;
[redacted] 5.1.2e @minbuza.nl>; [redacted] 5.1.2e @minbuza.nl>; [redacted] 5.1.2e @minbuza.nl>;
[redacted] 5.1.2e @minbuza.nl>; [redacted] 5.1.2e @minbuza.nl>; [redacted] 5.1.2e @minbuza.nl>; [redacted] 5.1.2e @minbuza.nl>;
[redacted] 5.1.2e @minbuza.nl>; [redacted] 5.1.2e @minbuza.nl>; [redacted] 5.1.2e @minbuza.nl>; [redacted] 5.1.2e @minbuza.nl>;
[redacted] 5.1.2e @minbuza.nl>; [redacted] 5.1.2e @minbuza.nl>; [redacted] 5.1.2e @minbuza.nl>; [redacted] 5.1.2e @minbuza.nl>;
<[redacted] 5.1.2e @minbuza.nl>; [redacted] 5.1.2e @minbuza.nl>; [redacted] 5.1.2e @minbuza.nl>; [redacted] 5.1.2e @minbuza.nl>;
<[redacted] 5.1.2e @minbuza.nl>

Cc: BHOS-CPK <BHOS-CPK@minbuza.nl>; [redacted] 5.1.2e @minbuza.nl>

Subject: [CPK spoed verzoek] RBZ Handel: Update gespreksfiche Wilmes & aanleveren spreekpunten voor Renew-voorzitter >> vandaag 12:00

Importance: High

buiten verzoek.

buiten verzoek.

From: BHOS-CPK <BHOS-CPK@minbuza.nl>

Sent: maandag 17 mei 2021 21:58

To: [redacted] 5.1.2e @minbuza.nl>; [redacted] 5.1.2e @minbuza.nl>; [redacted] 5.1.2e @minbuza.nl>; [redacted] 5.1.2e @minbuza.nl>; [redacted] 5.1.2e @minbuza.nl>; [redacted] 5.1.2e @minbuza.nl>

Subject: FW: Voorlopig programma R - Brussel - 19-20mei

From: [redacted] 5.1.2e

Sent: Monday, May 17, 2021 9:57:40 PM (UTC+01:00) Amsterdam, Berlin, Bern, Rome, Stockholm, Vienna

To: [redacted] 5.1.2e

Cc: BRE [redacted] 5.1.2e BRE-ISHE-Secretariat; BRE [redacted] 5.1.2e

Subject: Voorlopig programma R - Brussel - 19-20mei

buiten verzoek.

buiten verzoek.

Groet

5.1.2e

To: [redacted] 5.1.2e [redacted]@minbuza.nl]
Cc: [redacted] 5.1.2e [redacted]@minbuza.nl]
From: BRE-ISHE-Secretariat
Sent: Wed 4/6/2022 1:16:23 PM
Subject: RE: Due Diligence- 12 april
Received: Wed 4/6/2022 1:16:24 PM

Hoi [redacted] 5.1.2e

[redacted] 5.1.2e is de 12^e in Nederland en vraagt of de afspraak van 15:30, via VTC kan en dan om 16:15.
Is dat goed voor jou (volgens je agenda kan het)?

Dank en groet,

[redacted] 5.1.2e

From: [redacted] 5.1.2e [redacted]@minbuza.nl>

Sent: donderdag 24 maart 2022 14:41

To: [redacted] 5.1.2e [redacted]@vnoncw-mkb.nl>; [redacted] 5.1.2e [redacted]@minbuza.nl>

Cc: [redacted] 5.1.2e [redacted]@minbuza.nl>; [redacted] 5.1.2e [redacted]@vnoncw-mkb.nl>; BRE-ISHE-Secretariat <BRE-ISHE-Secretariat@minbuza.nl>

Subject: RE: Dank en contact Due Diligence

Beste [redacted] 5.1.2e

Graag bereid natuurlijk! In cc. ons secretariaat om de afspraak te maken.

Vriendelijke groet,

[redacted] 5.1.2e

Verzonden met BlackBerry Work
(www.blackberry.com)

Van: [redacted] 5.1.2e [redacted]@vnoncw-mkb.nl>

Datum: dinsdag 22 mrt. 2022 8:52 PM

Aan: [redacted] 5.1.2e [redacted]@minbuza.nl>

Kopie: [redacted] 5.1.2e [redacted]@minbuza.nl>; [redacted] 5.1.2e [redacted]@minbuza.nl>; [redacted] 5.1.2e [redacted]@vnoncw-mkb.nl>

Onderwerp: RE: Dank en contact Due Diligence

Beste [redacted] 5.1.2e

Dank voor je bericht.

Beste [redacted] 5.1.2e en [redacted] 5.1.2e

Ik zou graag een keer met jullie van gedachten wisselen over het Commissievoorstel voor een richtlijn over due diligence. Kunnen we daar binnenkort een keer een afspraak over maken?

Met vriendelijke groet,

[redacted] 5.1.2e

[redacted] 5.1.2e

VNO-NCW - MKB-Nederland

Confederation of Netherlands' Industry and Employers VNO-NCW

.00036;parency Register: 13255254129-80

1101556

E 5.1.2e@vnoncw-mkb.nl
T [5.1.2e](tel:5.1.2e)
M +31 (0) [5.1.2e](tel:5.1.2e)

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[5.1.2e](#)

Van: [5.1.2e](#) <5.1.2e@minbuza.nl>

Verzonden: dinsdag 22 maart 2022 20:45

Aan: [5.1.2e](#) <5.1.2e@vnoncw-mkb.nl>

CC: [5.1.2e](#) <5.1.2e@minbuza.nl>; [5.1.2e](#) <5.1.2e@minbuza.nl>

Onderwerp: Dank en contact Due Diligence

Externe mail. Klik alleen op links of bijlagen als je weet dat de inhoud veilig is.

Beste [5.1.2e](#)

Veel dank voor de lunch vanmiddag! Was een goed gesprek.

Tav je punt over due diligence verwees ik naar collega's [5.1.2e](#) en [5.1.2e](#) Ik heb heb geïnformeerd en in cc opgenomen. Ze zijn graag bereid hierover eens met je te zitten.

H Groet

[5.1.2e](#)

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To: [redacted] 5.1.2e @minbuza.nl]; [redacted] 5.1.2e @minbuza.nl]; [redacted] 5.1.2e
From: [redacted] 5.1.2e @minbuza.nl]; [redacted] 5.1.2e @minbuza.nl]
Sent: Fri 5/13/2022 1:47:29 PM
Subject: FW: Spoed: Bezoek Brussel [redacted] 5.1.2e BZ vandaag en morgen
Received: Fri 5/13/2022 1:47:30 PM
N 220430 Comments EU CSDDD (002).docx

t.i.

From: [redacted] 5.1.2e @vnoncw-mkb.nl>
Sent: vrijdag 13 mei 2022 12:45
To: [redacted] 5.1.2e @minbuza.nl>
Cc: [redacted] 5.1.2e @minbuza.nl>; [redacted] 5.1.2e @minbuza.nl>; [redacted] 5.1.2e
[redacted] 5.1.2e @vnoncw-mkb.nl>
Subject: RE: Spoed: Bezoek Brussel [redacted] 5.1.2e BZ vandaag en morgen

Beste [redacted] 5.1.2e

Hierbij, in vervolg op ons gesprek van vanochtend, de jongste en hopelijk laatste versie van ons non-paper. Van [redacted] 5.1.2e heb ik geen direct e-mailadres, kun jij het doorsturen?

Tot 13 juni!

[redacted] 5.1.2e

Met vriendelijke groet | kind regards | bien à vous,

[redacted] 5.1.2e
[redacted] 5.1.2e

VNO NCW


VNO-NCW | MKB-Nederland

[redacted] 5.1.2e

T. [redacted] 5.1.2e | M. +31 6 [redacted] 5.1.2e
E. [redacted] 5.1.2e @vnoncw-mkb.nl

W. vno-ncw.nl
W. mkb.nl

[redacted] 5.1.2e



Confederation of Netherlands' Industry and Employers VNO-NCW
EU Transparency Register: 13255254129-80

Royal Dutch Association of Small and Medium sized Enterprises MKB-Nederland
EU Transparency Register: 05673984520-73

Van: [redacted] 5.1.2e @minbuza.nl>
Verzonden: vrijdag 13 mei 2022 08:26
Aan: [redacted] 5.1.2e @vnoncw-mkb.nl]; [redacted] 5.1.2e @minbuza.nl
CC: [redacted] 5.1.2e @minbuza.nl]; [redacted] 5.1.2e @minbuza.nl]; [redacted] 5.1.2e
[redacted] 5.1.2e @vnoncw-mkb.nl>
Onderwerp: RE: Spoed: Bezoek Brussel [redacted] 5.1.2e BZ vandaag en morgen
00037

Externe mail. Klik alleen op links of bijlagen als je weet dat de inhoud veilig is.

Hi [redacted]

Dank voor je reactie! Zouden we rond 10 uur bij jullie kunnen afspreken?

Groet,

[redacted]

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Van: [redacted]@vnoncw-mkb.nl>

Datum: vrijdag 13 mei 2022 12:09 AM

Aan: [redacted]@minbuza.nl, [redacted]@minbuza.nl, [redacted]@minbuza.nl>

Kopie: [redacted]@minbuza.nl, [redacted]@minbuza.nl, [redacted]

[redacted]@vnoncw-mkb.nl>

Onderwerp: Spoed: Bezoek Brussel [redacted] BZ vandaag en morgen

Beste [redacted]

Ik zag je bericht pas heel laat, vandaar ook deze late reactie. Ik ben heel graag bereid [redacted] te spreken, ik kan de hele ochtend, alleen niet tussen 9 en 10. Het kan wat mij betreft bij ons op kantoor maar ook elders in Brussel.

Groet!

[redacted]

Met vriendelijke groet | kind regards | bien à vous,

[redacted]

VNO NCW



VNO-NCW | MKB-Nederland

[redacted]

T. [redacted] | M. +31 6 [redacted]

E. [redacted]@vnoncw-mkb.nl

W. vno-ncw.nl

W. mkb.nl

[redacted]



Van: [redacted] 5.1.2e [redacted]@minbuza.nl>
Verzonden: donderdag 12 mei 2022 08:10
Aan: [redacted] 5.1.2e [redacted]@vnoncw-mkb.nl>
CC: [redacted] 5.1.2e [redacted]@minbuza.nl>; [redacted] 5.1.2e [redacted]@minbuza.nl>
Onderwerp: Bezoek Brussel [redacted] 5.1.2e BZ vandaag en morgen

U ontvangt niet vaak e-mail van [redacted] 5.1.2e [redacted]@minbuza.nl. [Meer informatie over waarom dit belangrijk is](#)

Externe mail. Klik alleen op links of bijlagen als je weet dat de inhoud veilig is.

Beste [redacted] 5.1.2e

Vandaag en morgen brengt [redacted] 5.1.2e [redacted] 5.1.2e (MVO) een bezoek aan Brussel in het kader van het voorstel voor de CSDDD. We spreken met stakeholders bij de CIE en het EP en zouden ook graag willen spreken met het bedrijfsleven. Op een verzoek aan Business Europe hebben we nog geen gehoor gekregen.

Heb jij tijd voor een korte kennismaking, bijv. vanmiddag of morgenochtend?

Groeten,

[redacted] 5.1.2e

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To: [redacted] 5.1.2e @minbuza.nl]; [redacted] 5.1.2e @minbuza.nl]
Cc: [redacted] 5.1.2e @minbuza.nl]
From: [redacted] 5.1.2e
Sent: Fri 10/15/2021 3:19:50 PM
Subject: VDL/dwargarbeid
Received: Fri 10/15/2021 3:19:00 PM

Hi [redacted] 5.1.2e

Na het gesprek met [redacted] 5.1.2a vorige week waar ik ook al verslag van deed, spraken we vandaag met [redacted] 5.1.2a. Ik vroeg ook hen

[redacted] 5.1.2a

[redacted] 5.1.2a en kwam daarmee tegemoet aan kritiek van de Regulatory Scrutiny Board over gebrek aan handhavingsmogelijkheden op niet-EU bedrijven.

Kunnen jullie misschien duiden wat zij bedoelden met [redacted] 5.1.2a van bedrijven? De tijd liet niet toe hierover door te vragen...

Dank en groet,
[redacted] 5.1.2e



[redacted] 5.1.2e
[redacted] 5.1.2e

Afdeling Internationaal Maatschappelijk Verantwoord Ondernemen
Directie Internationale Marktordening en Handelspolitiek
Ministerie van Buitenlandse Zaken
Rijnstraat 8 | 2515 XP Den Haag
Postbus 20061 | 2500 EB Den Haag

E | [redacted] 5.1.2e @minbuza.nl
T | [redacted] 5.1.2e
L | [www.linkedin.com/in/\[redacted\]](http://www.linkedin.com/in/[redacted]) [redacted] 5.1.2e

To: [redacted] 5.1.2e [redacted]@minbuza.nl] 5.1.2e [redacted]@minbuza.nl]
From: [redacted] 5.1.2e
Sent: Tue 6/15/2021 10:03:58 AM
Subject: RE: 2-wekelijks overleg morgen
Received: Tue 6/15/2021 10:03:00 AM

Helaas niet...

[redacted] 5.1.2a

From: [redacted] 5.1.2e [redacted]@minbuza.nl>

Sent: dinsdag 15 juni 2021 07:25

To: [redacted] 5.1.2e [redacted]@minbuza.nl>; [redacted] 5.1.2e [redacted]@minbuza.nl>

Subject: RE: 2-wekelijks overleg morgen

Hartelijk dank [redacted] 5.1.2e Toevallig ook het oordeel van de Scrutiny Board over het ontbossingsvoorstel boven water kunnen krijgen?
Heb ik zelf nog niet kunnen vinden.

Mvg,

[redacted] 5.1.2e

From: [redacted] 5.1.2e [redacted]@minbuza.nl>

Sent: maandag 14 juni 2021 23:28

To: [redacted] 5.1.2e [redacted]@minbuza.nl>; [redacted] 5.1.2e [redacted]@minbuza.nl>

Subject: 2-wekelijks overleg morgen

Hi [redacted] 5.1.2e

Ik wil ons overleg van morgen graag verplaatsen. Afspraken overlappen precies, maar heb vrijdag nog een moment gevonden en voorgesteld.

Als dat niet uitkomt, 2 updates van mijn kant:

[redacted] buiten verzoek.

- Het advies van een adviesorgaan voor EU wetten ('regulatory scrutiny board') over het sustainable corporate governance voorstel (waar due diligence dus onderdeel van is) is bekend, zie pdf. Daarover:
 - Kritisch rapport (maar: dat is ook de rol van dit soort organisaties. Betekent blijkbaar niet per se dat het voorstel enorm wordt aangepast).
 - Rapport stelt dat een betere onderbouwing waarom een dergelijke wet noodzakelijk is nodig (dit is opvallend gezien het onderzoek dat de CIE in februari 2020 publiceerde dat liet zien waarom vrijwillige maatregelen op due diligence absoluut niet werken)
 - Pleidooi voor een smart mix van beleidsmaatregelen
 - Voorstel zet blijkbaar in op alle bedrijven vanaf 20 werknemers. Regulatory board adviseert om de proportionaliteit van includeren MKB beter uit te zoeken.

[redacted] buiten verzoek.

Groet,

[redacted] 5.1.2e

.....
Directie Internationale marktordening en handelspolitiek (IMH)
Afdeling Internationaal maatschappelijk verantwoord ondernemen (IMVO)
Ministerie van Buitenlandse Zaken
Rijnstraat 8 | 2515 XP I Den Haag

.....
M6 [redacted] 5.1.2e
[redacted] 5.1.2e [redacted]@minbuza.nl
<https://rijksoverheid.nl/imvo>

To: [5.1.2e] [redacted]@minbuza.nl
Cc: [5.1.2e] [redacted]@minbuza.nl; [5.1.2e] [redacted]@minjenv.nl; [5.1.2e] [redacted]@minbuza.nl
From: [5.1.2e] [redacted]@minjenv.nl; [5.1.2e] [redacted]@minbuza.nl
Sent: Fri 2/25/2022 9:45:31 AM
Subject: FW: Update [5.1.2a] [redacted]
Received: Fri 2/25/2022 9:46:00 AM

[5.1.2a] [redacted]

Beste [5.1.2e]

Zie hieronder de mail die ik ontvang van het secretariaat van de [5.1.2a] [redacted]. Het voorstel zal inderdaad daar worden besproken, dus wellicht handig als jij (en/of anderen bij BZ) je laat registreren als lid. Dan krijg je namelijk ook updates als er nieuwe documenten in [5.1.2a] [redacted] worden geplaatst. De documenten die daarin nu te vinden zijn heb ik aangehecht. Het betreft het voorstel en de relevante bijlagen [5.1.2a] [redacted], etc.).

Registreren kan volgens mij via [5.1.2e] [redacted] van de PV, maar [5.1.2e] [redacted] kan mij ongetwijfeld corrigeren als ik dat niet goed zeg.

Groet,
[5.1.2e] [redacted]

[5.1.2a] [redacted]

5.1.2a

5.1.2e

5.1.2a

5.1.2a

To: [5.1.2e]@minbuza.nl]; [5.1.2e]@minbuza.nl]; [5.1.2e]
[5.1.2e]@minbuza.nl]; [5.1.2e]@minbuza.nl]
From: [5.1.2e]
Sent: Wed 12/1/2021 8:33:08 AM
Subject: RE: CIE-voorstel maart?
Received: Wed 12/1/2021 8:33:09 AM

Ah dat zou nogal wat betekenen. Ik heb de PV om een update gevraagd, kijken zo even naar de stand van zaken. Wellicht is [5.1.2e] gisteravond nog op de lijn gekomen..

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Van: [5.1.2e]@minbuza.nl>
Datum: dinsdag 30 nov. 2021 7:43 PM
Aan: [5.1.2e]@minbuza.nl>, [5.1.2e]@minbuza.nl>, [5.1.2e]
[5.1.2e]@minbuza.nl>, [5.1.2e]@minbuza.nl>
Onderwerp: CIE-voorstel maart?

Hi allen,
FYI, [5.1.2e] [5.1.2a] hebben info dat het toch gaat om een negatieve opinie van de Regulatory Scrutiny Board, wat zou betekenen dat het pas in maart weer op de rol kan...
Maar even kijken waar de PV morgen mee komt...

Groet,
[5.1.2e]



[5.1.2e]

Afdeling Internationaal Maatschappelijk Verantwoord Ondernemen
Directie Internationale Marktordening en Handelspolitiek
Ministerie van Buitenlandse Zaken
Rijnstraat 8 | 2515 XP Den Haag
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[5.1.2e]@minbuza.nl
T | [5.1.2e]
L | [www.linkedin.com/in/\[5.1.2e\]](http://www.linkedin.com/in/[5.1.2e])

NON PAPER

Version 220310 (not final)

This non paper contains first reaction based on an analysis of the draft Directive. It is not a position paper.

Comments on the proposal for a Directive on Corporate Sustainability Due Diligence and amending Directive EU 2019/1937

Main points of concern

- The Directive applies to the **whole value chain** (upstream and downstream, not only to the supply chain. This is an enormous extension compared to e.g. the German Lieferkettengesetz.
- A sectoral approach is needed to have really impact. The Directive should embody an incentive for **sectoral agreements**, for instance a lighter enforcement regime (without creating a safe harbour). See also the advice of the Dutch Social and Economic Council – <https://www.ser.nl/en/Publications/sustainable-supply-chains>.
- The **material norms** with which the companies will have to comply are unclear and/or unfit for application by companies. The six pages of international norms in the annex are mostly government-to-government standards. The annex was removed from the own initiative report of the European Parliament. The absence of applicable material norms is an existential concern, as **legal certainty** for companies, supervisory authorities and judges depends on it.
- The Explanatory Memorandum, p.14 claims that 99% of EU companies are excluded from the due diligence duty. This is manifestly untrue. They might be excluded from the possibility of being administratively fined, but the Directive evidently shows that it **expects the whole value chain to be bound by contractual clauses to do due diligence**; equally, contracts may contain civil law fines.
- The provisions to **shield SMEs from disproportionate requirements** don't provide any certainty.
- A **reasonable delimitation of stakeholders** is needed.
- The **level playing field within the Internal Market** and the proper functioning of the Internal Market, which is the professed legal basis of the Directive, is seriously put into question by 1) many provisions which leave large discretionary room with the member states (e.g. art 9 complaints procedure; art 13, 17 and 21 on supervisory authorities; art 20 on sanctions; and 2) the explicit freedom given to Member States to adopt legislation which could go further than the Directive. When a high level of obligations is introduced, as is the case with this Directive, EU wide harmonization should be the aim.
- The **level playing field between EU companies and third country companies** is jeopardized by substantially diverging thresholds for EU and third country companies.
- The **concepts of preventing adverse impacts and bringing adverse impacts to an end are fundamentally flawed**. The concepts do not incorporate a substantial distinction between the liability for own acts and the liability for the acts of others, and there is no clear distinction whether an obligation of result or an obligation of means is established.

- The concepts of **contractual assurance and contractual cascading** are highly problematic in legal practice. De facto they imply that the Directive fully applies to all SMEs in the value chain.
- The concept of **collective action** is not elaborated. As is the dimension of the **learning process**. Enforcement and sanctions provisions are extensively detailed, provisions on collective action contain only the rudiments.
- The **definitions of ‘businesses relationship’ and ‘established business relationship’** are unclear and operationally difficult to apply.
- Many **terms are unclear**: appropriate measure, necessary, not negligible, ancillary.
- The definition of appropriate measures does not include essential elements of the Explanatory Memorandum.

Art 1 Subject matter

Art 1.1.

- The Directive lays down rules on obligations and liability for companies.
- Introduces the application to the whole value chain, upstream and downstream. This is an enormous extension compared to previous approaches which were mainly supply chain (upstream) oriented. Further definition in article 3.g.

Art 1.2 and 1.3

- Existing protection in Member State law or EU law providing more protection shall prevail.

Art.2 Scope

Art 2.1

- The thresholds for EU companies (>500 employees, >150 mln turnover; >250 employees and >40 mln turnover for risk sectors) are substantially lower than the advice of the Dutch Social Economic Council (1000) or the French and German laws.
- The risk sectors have a wide scope: manufacture and trade of textiles, leather and related footwear, agriculture, forestry, fisheries, food products, beverages, wood, all mineral resources, basic metal products, construction materials, fuels, chemicals and other intermediate products. This corresponds with the sectors for which the OECD has developed sectoral due diligence guidance. These sectors include many SMEs.
- The financial sector is not considered a high risk sector, although there is an OECD sectoral guidance.

Art. 2.2

- The thresholds for non-EU companies are much higher than for EU companies (EU: 150 mln *worldwide* turnover; third country: 150 mln *EU* turnover). This means that in practice, the EU companies which have to comply with the direction will mostly be much smaller than the third country companies and the Explanatory Memorandum p. 16 recognizes this. This is outright discriminatory. Nevertheless the Explanatory Memorandum p.3 refers soothingly to a ‘similar turnover criterion’.
- ExplanMem p.15 recognizes that the criteria are not the same. However, the extensive justification that follows is in no way convincing. The main argument is (see also recital 24), that a relatively high turnover may have an effect on the Internal Market, which creates a territorial connection. The problem here is that the need to demonstrate a territorial connection forces the Directive, the explicit basis of which is

the functioning of the Internal Market, to introduce a manifest discrimination of EU companies and a blatant disruption of the Internal Market.

Art 2.4

- The Member State competent to regulate is the Member State in which the company has its registered office. This opens the possibilities for forum shopping in case the Directive leaves open possibilities – as in fact it does – for diverging national interpretation and implementation, including sanctions.

Art 3 Definitions

Art 3.a Company

- Financial sector and insurance and pension funds also included; long detailed list of financial institutions; very large scope.

Art 3 b and c

- Adverse environmental impact and human rights impact based on an annex of 6 pages of international rights and (often political) declarations;
- Are these rights that are formulated in such a way that they can be invoked in a private – private relation? Does this create sufficient legal certainty that they can be applied by companies, supervisors and judges? How large is the discretionary room for interpretation, also taking into account the ‘obligation of means’ approach in the ExplanMem?

Art 3.e

- Business relationship: very broad definition: ‘business operations related to the products or services’. A business relation can exist very far in the chain, e.g. when a company provides information on a product related to repair of a very old product or to its recycling.

Art 3.f

- Established business relationship:
 - What is the meaning of ‘which is or is expected to be lasting’? What is ‘lasting’?
 - What is the meaning of ‘not a negligible or ancillary part of the value chain’: this leaves large room for interpretation, and provides no criteria

Art 3.g

- Value chain: upstream and downstream, from the development of the product to its disposal; this is a very substantial extension of the supply-chain approach mostly applied until now, e.g. in the German *Lieferkettengesetz*.
- Recital 17, p.32: ‘throughout the life cycle of production and use and disposal of product or provision of services, at the level of own operations, subsidiaries and in value chains’. Recital 18 also gives a very wide, all-encompassing description of the value chain.
- What is a ‘group’?
- The value chain of financial institutions does not include SMEs; for other companies, SMEs are not excluded?

Art 3.h

- Independent third party verification: it should be recognized that this implies substantial extra cost for companies. It is also linked to the CSRD.

Art 3.j

- Definition industry initiative is ok; specific request in our lobby to include collective initiatives

Art 3.l

- Severe adverse impact: definition in broad strokes, not precise.

Art 3.n

- Definition of stakeholders: any right or interest could be affected ('other individuals whose rights or interests are or could be affected').
- Further delimitation is required: substantive interest, substantiated complaint, filter against frivolous claims. See e.g. art. 19: substantiated concern

Art 3.q

- Appropriate measure: the definition gives large room for interpretation. Too much room for interpretation by Member States may jeopardize the stated aim of the Directive, which is creating a better functioning Internal Market. A more unified approach in the EU should therefore be envisaged.
- Recital 15: 'his Directive should not require companies to guarantee, in all circumstances, that adverse impacts will never occur or that they will be stopped. Recital 16, p.32 says that the main obligations in this Directive should be 'obligations of means'.
- In order to provide more clarity in the definition of appropriate measures, these elements of recitals 15 and 16 should be integrated in the definition.

Art. 4 Due diligence

Art 4.1

- Six steps of due diligence: ok, established approach

Art 4.2

- Competition law should not hamper RBC cooperation of companies. Ok, specific request in our lobby

Art 5 Integrating due diligence into companies' policies

- ok

Art 6 Identifying actual and potential adverse impacts

Art 6.1

- Identifying adverse impact: what are appropriate measures? See remark on definition under art 3q.

Art 6.2

- Smaller high risk companies shall only be required to identify severe adverse impacts (definition of severe in art 3.l). Ok.

Art 6.3

- Financial sector due diligence has to be provided before providing the service. Question: can this lead to substantial delay in financing? How can this potential disadvantage be addressed?

Art 6.4

- Appropriate resources of information should be made available. Consultation with relevant stakeholders . Ok, but the definition of stakeholders should be better defined (see 3.n).

Art 7 Preventing potential adverse impact

Art 7.1

- Appropriate measures should be better defined: see 3.q.
- What are impacts that ‘should have been’ identified?

Art 7.2.a

- What is the definition of necessary?
- Prevention plan: ok. What are reasonable timelines? Unified EU approach desirable for functioning of the Internal Market.

Art 7.2.b

- *Seek* contractual assurances, prevention action plan, contractual cascading from a *direct* business relationship. This is formulated as an obligation of means (seek). It should be stated more clearly under what conditions the Directive considers the obligation of means is reasonably fulfilled.
- Contractual assurances and contractual cascading imply that de facto due diligence rules will also fully apply to SMEs.
- See art. 12 on Commission guidance on voluntary model contract clauses.

Art 7.2.c

- What is the definition of necessary?

Art 7.2.d

- Companies ‘shall’ provide targeted and proportionate support to SMEs if compliance would jeopardize its viability. This would imply substantial administrative burdens. Such cost should be borne by the authorities, not by companies.

Art 7.2.e

- What are ‘other entities’? Other companies or also other entities?
- The Directive requires the company to collaborate with third ‘entities’ to stop adverse impact, if other action is not effective. No specification of the ‘collaboration’ is provided.

Art 7.3

- The company *may seek* to conclude a contract with a partner with whom it has an *indirect* relationship (<-> 7.2.b) for adverse impacts that could not otherwise be addressed. This is also formulated as an obligation of means.

- The term 'partner' is not defined; is this an (indirect) established business relationship as defined under 3.f? If not, what else?

Art 7.4

- This provision also shows that SMEs may be fully affected by this Directive. In practice, due diligence obligations will be transferred via contract clauses to all SMEs upstream and downstream. Clauses will be accompanied by fines. The Directive will not *directly* affect SMEs, but indirectly, via their contract partners, they will be subject to all due diligence burdens, including fines.
- Suitable industry initiatives can be used for verification.
- Contract terms with SMEs should be fair, reasonable and non-discriminatory. Who defines this? If Member States can define this, the functioning of the Internal Market may be jeopardized, as standards may vary per Member State.
- The cost of verification of the SME action should be borne by the company with which it has a relation. This is not reasonable. If the SME cannot pay for costs related to new legislation, it is logical that the government provides for support, not contract partners. See 14.2 on financial support by Member States.

Art 7.5

- This provision is incompatible with the UN GP and the OECD GL. It is too prescriptive concerning the approach companies should take. On this very point the Ruggie Principles provide broad discretionary powers to companies. Forbidding to extend the existing relationship when adverse impacts cannot be prevented or mitigated can be counterproductive in solving the problem. Extension can be a carrot for change, while here only the stick remains.

Art 8 Bringing actual adverse impacts to an end

Art 8.1

- See 7.1

Art 8.3.a

- Is 'proportionate' sufficiently operationally defined?

Art 8.3.b - f

- See 7.2.a - e
- See art. 12 on Commission guidance on voluntary model contract clauses.

Art 8.4

- See 7.3

Art 8.5

- See 7.4
- See 14.2

Art 8.6

- See 7.5

Art 8.7

- See 7.6

Art 9 Complaints procedure

- The complaints procedure and the definition of legitimate concerns should be determined on an EU level to guarantee the well-functioning of the Internal Market.
- Legitimate concerns could better be defined as substantiated concerns (as in art.19) or as substantive interest. In fact, an interest should be *and* legitimate *and* substantive, as is indicated in art 19.5.
- The complaints procedure should contain a protection against frivolous claims.

Art 10 Monitoring

- This provision also implies that SMEs will be substantially affected by this Directive.

Art 11 Communicating

- This provision also implies that SMEs will be substantially affected by this Directive.
- Reporting requirements should be fully compatible with the other EU reporting requirements from CSRD, SFDR and taxonomy.
- Delegated act will determine content and criteria for report.

Art 12 Model contract clauses

- Commission shall adopt guidance for voluntary model contract clauses. It is questionable whether this will provide sufficient legal certainty. But legal certainty on this point is essential, taking into account the importance of these clauses as highlighted in art. 22.2.

Art 13 Guidelines

- The Commission *may* issue guidelines to support companies or Member State authorities. This instrument is probably too weak to guarantee a well-functioning Internal Market, if too much discretionary power is left to the Member States.

Article 14 Accompanying measures

Art 14.1

- Member states may set up dedicated websites/platforms/portals.
- This provision explicitly shows that SMEs are fully affected by this Directive: 'Special consideration shall be given to SMEs present in the value chains'.

Art 14.2

- Member States may financially support SMEs. Why are 7.4 and 8.5 then necessary?
- This provision again indicate explicitly that SMEs are affected by this Directive.

Art 14.3

- The Commission may facilitate joint stakeholder initiatives. This was a specific request in our lobby. In 14.3 the facilitation is not defined or limited. However, in 14.4, the facilitation seems to be limited to dissemination of information. Facilitation by the Commission should be more substantive.

- See also Explanatory Memorandum p.17 and recital 37.

Art 14.4

- The Directive limits the facilitation to the provision of information. That is not enough. It seems to indicate that the Commission has a very narrow approach to collective initiatives (see 14.3).
- Concrete amendments should be formulated, elaborating on the way the Commission should facilitate collective initiatives.
- Also, an amendment could be proposed elaborating the 'learning process' which should be encouraged. See art. 18.

Art 15 Combating climate change

- EU companies with >500 employees/>150 mln turnover and third country companies with >150 mln EU turnover must have a plan on to comply with the Paris Agreement and especially on the CO2 footprint.
- Here again, EU companies are in a disadvantaged position vis-à-vis third country companies. See art. 2.2.
- If climate change is a principal risk/impact, the company must include climate reduction objectives (Emission of what? Not specified).
- Fulfillment of these obligations should be taken into account in variable remuneration.

Art 16 Authorised representative

- Third country companies should designate an authorized representative in one of the Member States.
- As the Directive leaves large discretionary freedom to the Member States, the choice of where to register the authorized representative could substantially impact the level playing field.
- For the rest: ok.

Art 17 Supervisory authorities

- The large discretionary freedom of Member States in the way to set up the supervisory authorities jeopardizes the level playing field. See also the Explanatory Memorandum p.17: 'The Directive will leave it up to the Member States how to organize enforcement'.
- For the rest: ok.

Art 18 Powers of the supervisory authorities

- NB: The article provides only for enforcement powers. The element of advice and assisting in the learning process is absent.
- Equally absent is a reference to the National Contact Points NCP related to the OECD Guidelines.

Art 18.1

- Supervisory authorities should have adequate powers and resources. As the field of supervision of the authorities is vast, this is a substantial requirement. Nevertheless, the Explanatory Memorandum p.17 states that 'this Directive does not entail

unnecessary costs'. The Directive plus Explanatory Memorandum should provide an honest picture of the substantial cost that will be involved if a massive supervisory task as envisaged by the Directive is made operational.

Art 18.3

- Inspections shall be conducted in compliance with the national law of the Member State: risk to level playing field.

Art 18.5

- 'Supervisory authorities shall at least have the following powers'. This article recognizes that the powers may vary from Member State to Member State.

Art 18.7

- Member States should provide for an effective remedy against decisions of the supervisory authorities. This is an element we have specifically asked for in our lobby. See art. 19.5.

Art 19 Substantiated concerns

- NB: substantiated is not an element in the definition of 3.n. However, it should be.

Art 19.5

- Duplication of 18.7, but more elaborate, and only focused on complainants. Art 18.7 and 19.5 should be brought in line with each other.

Art 20 Sanctions

Art 20.1

- The rules on sanctions are determined on the national level; this is a serious risk for the level playing field.

Art 20.3

- Pecuniary sanctions shall be based on the company's turnover. Why should this criterion be mandatory?

Art. 21 European Network of Supervisory Authorities

Art 21.1

- The network should facilitate the coordination and alignment of practices of the supervisory authorities. It is highly questionable whether this will be sufficiently effective to safeguard a level playing field.

Art. 22 Civil liability

Art 22.1

- Civil liability is only established for companies, there is no personal liability for directors.
- Civil liability is limited to failing to comply with articles 7 and 8 (prevention and bringing impact to an end).

Art. 22.2

- The article differentiates only marginally between liability for own acts of the company and liability for acts of others in the value chain. This is a substantial diversion from the OECD Guidelines where this is an essential difference.
- Companies are not liable if they have *sought* contractual assurances, have in place a prevention action plan, and apply contractual cascading, and if compliance has been verified. As the fulfilment of the condition of *seeking* has important consequences, it is essential that the obligation of means to *seek* should be very clearly defined. The model contract clauses of art. 12 are thus of great importance.

Art 23 Reporting of breaches and protection of reporting persons

- Ok

Art 24: Public support

- Companies applying for public support must certify that no sanctions have been imposed on them for a failure to comply with this directive. Without further qualification this seems to be a disproportionate measure.

Art 25 Directors' duty of care

- Seems ok.

Art 26: Setting up and overseeing due diligence

- Directors responsibility. Seems ok

Art 27 Amendment to Directive (EU) 2019/1937

Art 28 Exercise of the delegation

- The power to adopt delegated acts as referred to in art. 11 is conferred on the Commission

Art 29 Review

- A 7 year review term is far too long for such an impactful legislation. This is especially so since the Regulatory Scrutiny Board has twice given a clearly negative opinion and has not been consulted for the third version (See lengthy but not necessarily convincing reasoning in Explanatory Memorandum p.20 – 23).
- The review period should therefore be no longer than 2 years.

Art 30 Transposition

Art 31 Entry into force

- The Directive should provide for a reasonable transition period of *at least* 3 years.

Externe mail. Klik alleen op links of bijlagen als je weet dat de inhoud veilig is.

.ANP

NOTIFICATIE
29 september 2021

Ik heb het onderstaande artikel gevonden

'Lobby VNO-NCW saboteert wetgeving duurzaam ondernemen'

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DEN HAAG (ANP) - De lobby van ondernemersorganisatie VNO-NCW saboteert wetgeving voor maatschappelijk verantwoord en duurzaam ondernemen. Dat stelt de Stichting Onderzoek Multinationale Ondernemingen (SOMO) na een analyse van lobby-uitingen van de bedrijvenorganisatie en haar Europese partner BusinessEurope. De

ondernemersclub zelf kijkt hier anders tegenaan.

"VNO-NCW beweert in Nederland voorstander te zijn van ambitieuze regels voor verantwoord en duurzaam ondernemen, maar voert ondertussen met BusinessEurope een sterke tegenlobby in Brussel", zegt SOMO-onderzoeker Jasper van Teeffelen na het napluizen van bijvoorbeeld brieven van de ondernemers aan de Tweede en Eerste Kamer, het Europees Parlement en Eurocommissarissen.

Volgens Van Teeffelen was VNO-NCW voorheen fervent tegenstander van wetgeving voor maatschappelijk verantwoord ondernemen, maar verschoof de organisatie in 2020 van standpunt. Deze "draai" zou deel uitmaken van een uitgekende lobbystrategie. "Nu het verhinderen van nieuwe wetgeving politiek onhaalbaar is geworden, verschuift de focus van naar het vertragen en verzwakken van wetgeving voor verantwoord ondernemen."

VNO-NCW laat in een reactie weten bepaalde misstanden in productieketens effectief te willen aanpakken. "Daar zijn we al jaren voorstander van en lobbyen we al langer voor in tegenstelling tot wat wordt gesuggereerd." Het klopt volgens een zegsman dat de ondernemers in hun lobby in Europa soms inhoudelijk kritisch uit de hoek kunnen komen, maar dat zou zijn als niet aan bepaalde voorwaarden wordt voldoen. "Belangrijk is dat die wetgeving bovenal effectief is en werkbaar voor bedrijven van groot tot klein. Daar is onze lobby in de EU op gericht. En het klopt dat we daarbij Europese wetgeving prefereren boven nationale."

JORIAN VAN DER MOST (MWE)

Deze mail is verzonden door 5.1.2e @vnoncw-mkb.nl

Comments on the proposal for a Directive on Corporate Sustainability Due Diligence and amending Directive EU 2019/1937 (Com(2022) 71 final; 2022/0051 (COD))
220327

Summary

I. Basic approach of business

- Problems related to ESG occurring in supply chains need to be addressed. Building on the experience with the UN Guiding Principles and the OECD MNE Guidelines, an additional substantial step forward in the field of due diligence should be taken.
- New rules on due diligence should be established at least on EU level, for two reasons:
 - they will be more likely to have real impact due to the size of the EU
 - they will secure a level playing field. A patchwork of 27 national legislations is unworkable.
- EU rules should thus comply with three essential demands:
 - they must 'work', i.e. bring about the desired effect
 - they must be 'workable', i.e. administrative burdens and costs should be manageable
 - they should bring a level playing field on the Internal Market, among EU companies as well as between EU companies and third country companies.

II. Six main points of concern related to the CSDDD, and possible solutions

1. *The CSDDD does not provide legal certainty; the material norms companies have to comply with are numerous, unclear and/or unfit for application by companies.*

- The CSDDD annex contains 6 pages of generally formulated human rights and international agreements, often government-to-government, which are often unfit for application by companies.
- The absence of applicable material norms is an essential concern, as legal certainty for companies, supervisory authorities and judges depends on it. See art. 3.b and 3.c.

Possible solutions

- The German Lieferkettengesetz has a much more limited list of international agreements and contains additional text on how to implement them.
- Readily applicable norms for private parties in these fields often do not exist yet. Therefore, the balance in the CSDDD should shift from a heavy accent on surveillance and enforcement to promoting a smart mix of measures, including room for learning experiences and collective initiatives.
- The definition of 'appropriate measures' (art 3.q) should provide better guidance to companies, supervisors and judges. Key sentences of Recital 15 (p.31: 'this Directive should not require companies to guarantee, in all circumstances, that adverse impacts will never occur or that they will be stopped'; p.32 'the main obligations in this Directive should be 'obligations of means') should be incorporated in the definition.
- Many terms are unclear and need further clarification: necessary, not negligible, ancillary, etc.
- Companies should be given more discretionary room, and judges should review not integrally, but marginally.

2. *The provisions on liability are too vague, too broad, and not in line with the OECD Guidelines*

- The OECD Guidelines contain a clear distinction between on the one hand ‘cause and contribute to’ (which see to the own actions of companies and require that the adverse impact is avoided or stopped) and on the other hand ‘directly being linked to’ (which sees to the actions of others in the chain and requires that the company ‘seeks to prevent’ the adverse impact). There is thus a sharp dividing line between liability and responsibility. This is not the case in the CSDD.
- In the CSDDD, the definitions of ‘business relationship’ and ‘established business relationship’ are new, unclear, seemingly contradictory and operationally difficult to apply. The definitions of ‘direct’ and ‘indirect’ relationship are equally unclear. See articles 3.e and 3.f.
- Equally the essential concepts of ‘preventing adverse impacts’ and ‘bringing adverse impacts to an end’ are not precise and unreasonably broad. See articles 7 and 8.
- As a consequence of these flaws, the required causal relationship between a company’s actions and the adverse impact, which is necessary to establish liability, is missing. However, companies, supervisors and judges should know on what exactly the liability is founded, as liability is combined in the CSDDD with high fines.

Possible solutions

- The provisions should be fundamentally reviewed, clarified and brought into line with the definitions and distinctions in the OECD Guidelines. The distinction between own acts and acts of others, as recognized in Recital 38, should be part of the main text of the CSDDD.
- A coherent text incorporating Recital 15 (on the reasonable limitation of what is expected from companies), art. 3.q (the definition of appropriate measures), art. 7 and 8 (take appropriate measures to prevent and bring to an end adverse impacts) and art. 22.1.a (civil liability based on the efforts to prevent or bring to an end adverse impacts) should be drafted. It is essential to clarify what is expected from companies, especially also SMEs.

3. *The CSDDD does not create a level playing field*

- The level playing field within the Internal Market and the proper functioning of the Internal Market, which is the professed legal basis of the Directive, is seriously put into question in the CSDDD:
 - 1) many provisions leave large discretionary room for implementation to the member states (e.g. art. 1.2 and 1.3; art 9 complaints procedure; art 13, 17 and 21 on supervisory authorities; art 14 on support and stakeholder initiatives; art 20 on sanctions)
 - 2) Member States are explicitly given the freedom to maintain or adopt legislation which could go further than the Directive.
- As the CSDDD introduces very substantial new obligations, far-reaching EU wide harmonization should be required. Implementation of the Non-Financial Reporting Directive has shown that diverging implementation can lead to substantial problems.
- The CSDDD will not only bring no level playing field among EU companies on the Internal Market, but also not between EU companies and third country companies, as the thresholds for the CSDDD to be applicable are substantially different and manifestly discriminatory (respectively 150/40 mln total turnover and 150/40 mln

turnover on the EU market). Thus a third country company has to be much bigger before it falls under the CSDDD than an EU company.

Possible solutions

- It should be reconsidered whether the CSDDD should not have the legal form of a Regulation. If not, the room for divergence should be substantially reduced.
- The thresholds for EU companies and third country companies should be the same.

4. *The wide scope of the CSDDD, and the divergence from the OECD Guidelines, leads to unreasonable administrative burdens for all companies, including SMEs*

- Firstly, the proposed Directive applies to the whole value chain, upstream as well as downstream. This is an enormous extension compared to the existing practice with the OECD Guidelines and e.g. the German Lieferkettengesetz and provides very substantial additional burdens for business. It also leads to practical challenges, as the upstream part is defined, but the downstream part is open ended. See art. 1.1 and 3.g.
- Secondly, the Commission claims that the CSDDD is only applicable to 1% of companies in the EU. This is misleading. It is also diverging from the system of the OECD Guidelines.
- The CSDDD will only apply to bigger companies as far as the administrative supervision, fines and liability are concerned. But the fact that the CSDDD obliges to do due diligence in the whole value chain and encourages the use of contractual cascading will have as result that the very large administrative burdens of due diligence, including the possibility of civil law claims in case of noncompliance with contracts, will befall on all companies, large and small. De facto the Directive fully applies to all SMEs in the value chain. See a.o. art. 7.2.b, 7.4,
- Contractual assurance and contractual cascading are proven to be highly problematic in practice, especially concerning monitoring and enforcement.
- The point of departure of the OECD Guidelines is different from the CSDDD. Its main trigger is not size but risk. All multinationally operating companies, also SMEs, are expected to respect the Guidelines. Adverse impact of own actions should be terminated, adverse impacts of others should be prevented as far as reasonable. The responsibilities of SMEs are limited by a range of provisions concerning proportionality and prioritization. The reliance on contractual cascading is limited. Overall, The Guidelines establish a better balance between responsibilities of bigger companies and those of SMEs.
- Thirdly, stakeholders should be duly consulted, but the definition of stakeholder in the CSDDD is far too wide.

Proposed solutions

- Limit the scope of the CSDDD, at least until a few years' experience has been built up, to the upstream part of the value chain. Extension could then be considered in a review.
- The provisions to shield SMEs from disproportionate requirements should be extended and provide certainty and operational guidance for SMEs, supervisors and judges.
- The overreliance of contractual cascading should be reduced.
- Big companies should not simply be obliged to assist smaller companies in due diligence and bear the cost of it.

- A reasonable delimitation of stakeholders is needed. Stakeholders should have a legitimate and substantive interest, and complaints should be substantiated. See art 3.n and 19.
- The focus should shift from surveillance and enforcement to facilitating and making room for learning experiences.

5. *The provisions on collective initiatives are rudimentary; the role of learning experience is not given sufficient weight*

- The concept of collective action is not elaborated in the CSDDD. Art 14 merely mentions that the Commission may devise new measures, including facilitation of joint stakeholder initiatives.
- The dimension of the learning process is not given sufficient weight, while enforcement and sanctions provisions are extensively detailed. This is unbalanced and leads to an over-legalisation. Due diligence is an ongoing process, where mistakes should be discovered and remedied without the immediate threat of sanctions. It should be considered positive when problems are identified, this is the beginning of a solution. Mandatory due diligence is not a panacea, it should be part of a smart mix of measures. Risk avoidance should give way to engagement. Disconnecting is not the solution. See also comments of art. 7.5 and art. 8.6.

Proposed solutions

- The concepts and roles of collective action and joint stakeholder initiatives should be elaborated further in the CSDDD. A harmonised approach between Member States should be the goal.
- The CSDDD should contain a better balance between enforcement and supervision on the one hand, and facilitating learning experiences on the other.

6. *The review period of 7 years is far too long*

- The CSDDD contains massive new obligations for all companies active in international value chains. It will also entail vast costs.
- Notwithstanding the potentially huge implications, and the fact that the Regulatory Scrutiny Board has twice given a negative opinion on the CSDDD, the Commission decided to move forward with the initiative without submitting it a third time to the RSB. See Explanatory Memorandum p.20.
- A review period of 7 years is far too long for such a complicated and impactful legislation on which the RSB did not express its opinion. See art. 29.

Proposed solution

- The review period should be shortened to no longer than two years

These are the main six concerns related to the CSDDD. Other specific and substantial points of concern are mentioned in the next section on specific comments per article.

NON PAPER

Version 220318 (not final)

This non paper contains first reaction based on an analysis of the draft Directive. It is not a position paper.

Comments on the proposal for a Directive on Corporate Sustainability Due Diligence and amending Directive EU 2019/1937 (Com(2022) 71 final; 2022/0051 (COD))

Basic approach of business

- Problems in supply chains related to ESG which might occur need to be addressed. Building on the decade-long experience with the UN Guiding Principles and the OECD MNE Guidelines, an additional substantial step forward in the field of due diligence should be considered.
- A sectoral approach is needed to have really impact. The Directive should embody an incentive for **sectoral agreements**, for instance a lighter enforcement regime (without creating a safe harbour). See also the advice of the Dutch Social and Economic Council – <https://www.ser.nl/en/Publications/sustainable-supply-chains>.
- It is important that new rules concerning due diligence are established on the EU level for two reasons: in principle they will be more likely to bring about the desired effect in addressing problems in the supply chain while at the same time securing a level playing field. A patchwork of 27 national legislations should be avoided.
- EU rules should comply with three essential demands:
 - they should ‘work’, i.e. bring about the desired effect
 - they should be ‘workable’, i.e. the administrative burden and costs should be manageable
 - they should bring a level playing field on the Internal Market, among EU companies as well as between EU companies and third country companies.

Main points of concern

- The proposed Directive applies to the **whole value chain** (upstream and downstream, not only to the supply chain. This is an enormous extension compared to e.g. the German Lieferkettengesetz and provides very substantial additional challenges for business. See art. 1.1 and 3.g.
- The **material norms** with which the companies will have to comply are unclear and/or unfit for application by companies. The absence of applicable material norms is an existential concern, as **legal certainty** for companies, supervisory authorities and judges depends on it. See art. 3.b and 3.c.
- The Explanatory Memorandum, p.14 claims that 99% of EU companies are excluded from the due diligence duty. This is manifestly untrue. They might be excluded from the possibility of being administratively fined, but the Directive evidently shows that it **expects the whole value chain to be bound by contractual clauses to do due diligence**; equally, contracts may contain civil law fines.
- The **level playing field within the Internal Market** and the proper functioning of the Internal Market, which is the professed legal basis of the Directive, is seriously put into question by 1) many provisions which leave large discretionary room to the member states (e.g. art. 1.2 and 1.3; art 9 complaints procedure; art 13, 17 and 21 on

supervisory authorities; art 20 on sanctions; and 2) the explicit freedom given to Member States to adopt legislation which could go further than the Directive. When a high level of obligations is introduced, as is the case with this Directive, EU wide harmonization should be the aim.

- The **level playing field between EU companies and third country companies** is jeopardized by substantially diverging thresholds for EU and third country companies.
- The **definitions of ‘business relationship’ and ‘established business relationship’** seem to be contradictory and are unclear and operationally difficult to apply. See art. 3.e and 3.f.
- A **reasonable delimitation of stakeholders** is needed. Stakeholders should have a legitimate and substantive interest, and complaints should be substantiated. See art 3.n and 19.
- The description of the **concepts of ‘preventing adverse impacts’ and ‘bringing adverse impacts to an end’ are not precise and create unreasonable responsibilities for companies**. The concepts do not explicitly incorporate a substantial distinction between the liability for own acts and the liability for the acts of others. Also, they do not specify whether an obligation of result or an obligation of means is established. See art. 7 and 8.
A **coherent text** incorporating Recital 15 (on the reasonable limitation of what is expected from companies), art. 3.q (the definition of appropriate measures), art. 7 and 8 (take appropriate measures to prevent and bring to an end adverse impacts) and art. 22.1.a (civil liability based on the efforts to prevent or bring to an end adverse impacts) should be established. It is essential to clarify what is expected from companies, especially also SMEs.
- De facto **the Directive fully applies to all SMEs in the value chain**. See a.o. art. 7.2.b, 7.4,
- The various provisions to **shield SMEs from disproportionate requirements** don’t provide any certainty.
- The concepts of **contractual assurance and contractual cascading** are highly problematic in legal practice.
- The concept of **collective action** is not elaborated. As is the dimension of the **learning process**. Enforcement and sanctions provisions are extensively detailed, provisions on collective action contain only the rudiments.
- Many **terms are unclear**: appropriate measure, necessary, not negligible, ancillary.
- The **review period** of 7 years is far too long for such a complicated and impactful legislation on which the RSB did not express its opinion. See art. 29.

Art 1 Subject matter

Art 1.1.

- The Directive lays down rules on 1) obligations (including administrative sanctions, art. 20) for companies regarding adverse impacts of their own and their subsidiaries’ operations and the value chain operations by established business relationships, and 2) (civil) liability for violations of these obligations.
- Introduces the application to the whole value chain, upstream and downstream. This is an enormous extension compared to previous approaches which were mainly supply chain (upstream) oriented, as well as to the new French and German laws. Further definition in article 3.g.

Art 1.2 and 1.3

- Existing protection in Member State law or EU law providing more protection shall prevail.

Art.2 Scope

Art 2.1

- The thresholds for EU companies (>500 employees, >150 mln turnover; >250 employees and >40 mln turnover for risk sectors) are substantially lower than the advice of the Dutch Social Economic Council (1000) or the French and German laws.
- The risk sectors have a wide scope: manufacture and trade of textiles, leather and related footwear, agriculture, forestry, fisheries, food products, beverages, wood, all mineral resources, basic metal products, construction materials, fuels, chemicals and other intermediate products. This corresponds with the sectors for which the OECD has developed sectoral due diligence guidance. These sectors include many SMEs.
- The financial sector is not considered a high risk sector, although there is an OECD sectoral guidance.

Art. 2.2

- The thresholds for non-EU companies are in practice much higher than for EU companies (EU: 150 mln *worldwide* turnover; third country: 150 mln *EU* turnover). This means that in practice, the EU companies which have to comply with the directive will mostly be much smaller than the third country companies. The Explanatory Memorandum p. 16 recognizes this. This is outright discriminatory. Nevertheless the Explanatory Memorandum p.3 refers soothingly to a 'similar turnover criterion'.
- Explanatory Memorandum p.15 recognizes that the criteria are not the same. However, the extensive justification that follows is in no way convincing. The main argument is (see also recital 24), that a relatively high turnover may have an effect on the Internal Market, which in turn creates a territorial connection. The problem here is that the need to demonstrate a territorial connection forces the Directive, the explicit basis of which is the functioning of the Internal Market, to introduce a manifest discrimination of EU companies and a clear disruption of the Internal Market. Why should the threshold for 'normal' companies be as high as 150 mln turnover, whereas for 'high risk' sectors it can be lowered to just 40 mln?

Art 2.4

- The Member State competent to regulate is the Member State in which the company has its registered office. This opens the possibilities for forum shopping in case the Directive leaves open possibilities – as in fact it does – for diverging national interpretation and implementation, including sanctions.

Art 3 Definitions

Art 3.a Company

- Financial sector and insurance and pension funds also included; long detailed list of financial institutions; very large scope.

Art 3.b and 3.c

- Adverse environmental impact and human rights impact will be based on an annex of 6 pages of international rights, (often government-to-government) conventions and (often political) declarations.
- These sources do not provide material norms which are readily applicable by companies in private-to-private relations. This is not in line with the Explanatory Memorandum p.16, which refers to ‘impacts that can be clearly defined in selected international conventions’.
- A comparable annex was removed from the own initiative report of the European Parliament in the final version.
- This annex does not create sufficient legal certainty for companies, supervisors and judges alike. How large is the discretionary room for interpretation, also taking into account the ‘obligation of means’ approach in the Explanatory Memorandum?
- Thus, a key element of the Directive, the material norms which could be violated by adverse impacts, is not clearly defined.
- Moreover, Recital 25 indicates that the Annex is even not exhaustive; it includes also ‘rights that have not been specifically listed’ but ‘directly impair a legal interest protected in those conventions’.

Art 3.e

- The definitions of ‘business relationship in 3.e and ‘established business relationship’ in art. 3.f seem to be contradictory.
- Business relationship: very broad definition: a relationship with a (sub)contractor or any other legal entity with whom the company has a commercial agreement or which performs business operations related to the products or services of the company, *for or on behalf of the company*’.
- ‘For or on behalf of the company’ seems to indicate that some form of explicit understanding should exist, and thus a direct relationship. However, 3.f indicates that a relationship can also be indirect. Or does ‘for or on behalf of’ merely say that at some point the business operation is in the interest of the company which is subject to due diligence obligations

Art 3.f

- Established business relationship:
 - Direct or indirect; how can an established relationship be *indirect* when the definition of 3.e is taken into account?
 - It is very relevant to determine whether a relationship is direct or indirect: see art. 7.2/3 (prevention) and art. 8.3/4 (bringing to an end) and art. 22.2 (civil liability).
 - The terms direct/indirect are not defined in the proposal.
 - What is the meaning of ‘which is or is expected to be lasting’? What is ‘lasting’? An important one-off supply is not lasting, but should it not be subject to due diligence?
 - What is the meaning of ‘not a negligible or ancillary part of the value chain’: this leaves large room for interpretation, and provides no criteria.
- This definition, which defines a key concept in the Directive, is not clear.

Art 3.g

- Value chain: upstream and downstream, from the development of the product to its disposal; this is a very substantial extension of the supply-chain approach mostly applied until now, e.g. in the German *Lieferkettengesetz* and the French *Loi de Vigilance*.

- Recital 17, p.32: ‘throughout the life cycle of production and use and disposal of product or provision of services, at the level of own operations, subsidiaries and in value chains’. Recital 18 also gives a very wide, all-encompassing description of the value chain.
- What is a ‘group’?
- The value chain of financial institutions does not include SMEs; for other companies, SMEs are included?

Art 3.h

- Independent third party verification: it should be recognized that this implies substantial extra cost for companies. It is also linked to the CSRD.

Art 3.j

- The definition of industry initiative is ok; specific request in our lobby to include collective initiatives

Art 3.l

- Severe adverse impact: definition in broad strokes, not precise.

Art 3.n

- The definition of stakeholders is very wide: any right or interest could be affected (‘other individuals whose rights or interests are or could be affected’).
- Further delimitation is required: legitimate and substantive interest, substantiated complaint. There should be a filter against frivolous claims. See e.g. art. 19: substantiated concern

Art 3.q

- See also essential remarks under Art 7.1.
- The definition of appropriate measure should be adapted. It leaves now too much room for interpretation by Member States, which may jeopardize the stated aim of the Directive, i.e. creating a better functioning Internal Market. A more unified approach in the EU should be envisaged.
- The text of Recital 15 (p.31: ‘this Directive should not require companies to guarantee, in all circumstances, that adverse impacts will never occur or that they will be stopped’; p.32 ‘the main obligations in this Directive should be ‘obligations of means’’) should be incorporated in the definition of appropriate measures. This will have an essential impact on articles 7 and 8 (prevention and bringing adverse impacts to an end) and, as a consequence, also for the extent of civil liability, which is linked to article 7 and 8 (see art 22.1.a.)

Art. 4 Due diligence

Art 4.1

- Six steps of due diligence: ok, established approach

Art 4.2

- Competition law should not hamper RBC cooperation of companies. Ok, specific request in our lobby

Art 5 Integrating due diligence into companies’ policies

- ok

Art 6 Identifying actual and potential adverse impacts

Art 6.1

- Identifying adverse impact: what are appropriate measures? See remark on definition under art 3q.

Art 6.2

- Smaller high risk companies shall only be required to identify severe adverse impacts (definition of severe in art 3.1). Ok.

Art 6.3

- Financial sector due diligence has to be provided before providing the service. Question: can this lead to substantial delay in financing? How can this potential disadvantage be addressed?

Art 6.4

- Appropriate resources of information should be made available. Consultation with relevant stakeholders . Ok, but the definition of stakeholders should be better defined (see 3.n).

Art 7 Preventing potential adverse impact

Art 7.1

- See also art. 8.1. The description of the concepts of ‘taking appropriate measures to prevent adverse impacts’ and ‘taking appropriate measures to bring adverse impacts to an end’ are not precise and seem to create unreasonable responsibilities for companies. The concepts do not explicitly incorporate a substantial distinction between the liability for own acts and the liability for the acts of others. Also, they do not specify whether an obligation of result or an obligation of means is established. However, the text provides the elements to elaborate a more precise definition.
 1. The text is explicitly based on the OECD Guidelines. The Guidelines provide an explicit distinction in liability for the own acts of the company (cause or contribute to) and acts of others in the chain (being directly linked to). When the own acts of companies are at stake, the adverse impact should be prevented or brought to an end (obligation of result), when acts of others are a stake, the company should ‘seek to’ prevent or bring to an end (obligation of means).
 2. It should be made explicit in art. 3.q (definition of appropriate measures) that ‘taking into account the specific business relationship and the company’s influence thereon’ includes taking to account whether own acts of companies or acts of others are at stake; and that own acts demand an obligation of result, whereas acts of others demand an obligation of means. This is also explicitly stated in Recital 38.
 3. Furthermore, a coherent text incorporating Recital 15 (on the reasonable limitation of what is expected from companies), art. 3.q (the definition of appropriate measures), Recital 38, art. 7 and 8 (take appropriate measures to prevent and bring to an end adverse impacts) and art. 22.1.a (civil liability based on the efforts to prevent or bring to an end adverse impacts) should be established.
- What are impacts that ‘should have been’ identified?

Art 7.2.a

- What is the definition of necessary?
- Prevention plan: ok. What are reasonable timelines? Unified EU approach desirable for functioning of the Internal Market.

Art 7.2.b

- *Seek* contractual assurances, prevention action plan, contractual cascading from a *direct* business relationship (NB: does this refer to a direct business relationship, or a direct *established* business relationship; see definitions in art. 3.e and 3.f). This is formulated as an obligation of means (seek). It should be stated more clearly under what conditions the proposal considers the obligation of means is reasonably fulfilled. See under art. 7.1.
- Contractual assurances and contractual cascading imply that de facto due diligence rules will also fully apply to SMEs.
- In practice, contractual assurances and contractual cascading are highly problematic as far as monitoring and enforcing of assurances is concerned.
- See art. 12 on Commission guidance on voluntary model contract clauses.

Art 7.2.c

- What is the definition of necessary?

Art 7.2.d

- Companies 'shall' provide targeted and proportionate support to SMEs if compliance would jeopardize its viability. This would imply substantial administrative burdens. Such cost should be borne by the authorities, not by companies.

Art 7.2.e

- What are 'other entities'? Other companies or also other entities?
- The Directive requires the company to collaborate with third 'entities' to stop adverse impact, if other action is not effective. No specification of the 'collaboration' is provided.

Art 7.3

- The company *may seek* to conclude a contract with a partner with whom it has an *indirect* relationship (<-> 7.2.b) (NB: does this refer to an indirect business relationship, or an indirect *established* business relationship; see definitions in art. 3.e and 3.f) for adverse impacts that could not otherwise be addressed. This is also formulated as an obligation of means.
- The term 'partner' is not defined; is this an (indirect) established business relationship as defined under 3.f? If not, what else?

Art 7.4

- This provision also shows that SMEs may be fully affected by this Directive. In practice, due diligence obligations will be transferred via contract clauses to all SMEs upstream and downstream. The contract clauses can be expected to be accompanied by fines. The Directive will not *directly* affect SMEs, but indirectly, via their contract partners, they will be subject to all due diligence burdens, including fines.
- Suitable industry initiatives can be used for verification.

- Contract terms with SMEs should be fair, reasonable and non-discriminatory. Who defines this? If Member States can define this, the functioning of the Internal Market may be jeopardized, as standards may vary per Member State.
- The proposal wants the cost of verification of the SME action to be borne by the company with which it has a relation. This is not reasonable. If the SME cannot pay for costs related to new legislation, it is logical that the public authorities provide for support, not contract partners. See 14.2 on financial support by Member States.

Art 7.5

- This provision is not in line with the UN GP and the OECD GL. It is substantially more prescriptive concerning the approach companies should take. On this very point the Ruggie Principles provide broad discretionary powers to companies. Forbidding to extend the existing relationship when adverse impacts cannot be prevented or mitigated can be counterproductive in solving the problem. Extension can be a carrot for change, while here only the stick remains.
- Art 7.5 also seems to be incompatible with Recital 32.

Art 8 Bringing actual adverse impacts to an end

General: Recital 38 makes an important statement. ‘It can be expected that a company is able to bring to an end actual adverse impacts in their own operations and in their subsidiaries. However, it should be clarified that, as regards established business relationships, where adverse impacts cannot be brought to an end, companies should minimize the extent of such impacts’. This statement, which explicitly makes a distinction between own acts of companies, and acts by business relationship should be explicitly incorporated in art.8.2. It is essential.

Art 8.1

- See 7.1

Art 8.3.a

- Is ‘proportionate’ sufficiently operationally defined?
- Proportionate to *the contribution of the company’s conduct* to the adverse impact. Does this introduce a distinction between own acts of the company and acts of others? If so, it would help to state this explicitly.
- The requirement of proportionality should cover not only art.8.3.a, but the whole of art 8.3.

Art 8.3.b - f

- See 7.2.a - e
- See art. 12 on Commission guidance on voluntary model contract clauses.

Art 8.4

- See 7.3

Art 8.5

- See 7.4
- See 14.2

Art 8.6

- See 7.5

Art 8.7

- See 7.6

Art 9 Complaints procedure

- The complaints procedure and the definition of legitimate concerns should be determined on an EU level to guarantee the well-functioning of the Internal Market.
- Legitimate concerns could better be defined as substantiated concerns (as in art.19) or as substantive interest. In fact, an interest should be *and* legitimate *and* substantive, as is indicated in art 19.5.
- The complaints procedure should contain a protection against frivolous claims.

Art 10 Monitoring

- This provision also implies that SMEs will be substantially affected by this Directive.

Art 11 Communicating

- ‘Communicating’ may be a confusing title; ‘Communicating and reporting’ would be more appropriate.
- This provision also implies that SMEs will be substantially affected by this Directive.
- Reporting requirements should be fully compatible with the other EU reporting requirements from CSRD, SFDR and taxonomy.
- Delegated act will determine content and criteria for report.

Art 12 Model contract clauses

- Commission shall adopt guidance for voluntary model contract clauses. It is questionable whether this will provide sufficient legal certainty. But legal certainty on this point is essential, taking into account the importance of these clauses as highlighted in art. 22.2.

Art 13 Guidelines

- The Commission *may* issue guidelines to support companies or Member State authorities. This instrument is probably too weak to guarantee a well-functioning Internal Market, if too much discretionary power is left to the Member States.

Article 14 Accompanying measures

Art 14.1

- Member states may set up dedicated websites/platforms/portals.
- This provision explicitly shows that SMEs are fully affected by this Directive: ‘Special consideration shall be given to SMEs present in the value chains’.

Art 14.2

- Member States may financially support SMEs. Why are 7.4 and 8.5 then necessary?
- This provision again indicate explicitly that SMEs are affected by this Directive.

Art 14.3

- The Commission may facilitate joint stakeholder initiatives. This was a specific request in our lobby. In 14.3 the facilitation is not defined or limited. However, in 14.4, the facilitation seems to be limited to dissemination of information. Facilitation by the Commission should be more substantive.
- See also Explanatory Memorandum p.17 and recital 37.

Art 14.4

- The Directive limits the facilitation to the provision of information. That is not enough. It seems to indicate that the Commission has a very narrow approach to collective initiatives (see 14.3).
- Concrete amendments should be formulated, elaborating on the way the Commission should facilitate collective initiatives. To quote the advice of the Dutch Social and Economic Council: 'Recognition of European sector agreements and other equivalent international agreements should be done by the European Commission. The establishment of such agreements should also be supported by the European Commission. Once recognised, companies adhering to an agreement should be subject to a lighter supervisory regime and supervision focuses on the collective level of the sector agreements. The sector agreements do not fall outside the supervision and are not safe harbours. However, the lighter supervisory regime gives a clear and positive incentive to join the sector agreements. In addition to the development of the best available techniques (BATs), companies in sector agreements can jointly develop sector-specific due diligence guidance and assessment frameworks. In principle, these should be adopted by the European Commission. Companies that do not participate in sector agreements should be subject to a stricter supervisory regime and should also apply the BATs that have been developed in sector agreements and have been adopted by the European Commission.'
- Also, an amendment could be proposed elaborating the 'learning process' which should be encouraged. See art. 18.

Art 15 Combating climate change

- EU companies with >500 employees/>150 mln turnover and third country companies with >150 mln EU turnover must have a plan on to comply with the Paris Agreement and especially on the CO2 footprint.
- Here again, EU companies are in a disadvantaged position vis-à-vis third country companies. See art. 2.2.
- If climate change is a principal risk/impact, the company must include climate reduction objectives (Emission of what? Not specified).
- Fulfillment of these obligations should be taken into account in variable remuneration.

Art 16 Authorised representative

- Third country companies should designate an authorized representative in one of the Member States.
- As the Directive leaves large discretionary freedom to the Member States, the choice of where to register the authorized representative could substantially impact the level playing field.
- For the rest: ok.

Art 17 Supervisory authorities

- The large discretionary freedom of Member States in the way to set up the supervisory authorities jeopardizes the level playing field. See also the Explanatory Memorandum p.17: 'The Directive will leave it up to the Member States how to organize enforcement'.
- For the rest: ok.

Art 18 Powers of the supervisory authorities

- NB: The article provides only for enforcement powers. The element of advice and assisting in the learning process is absent.
- Equally absent is a reference to the National Contact Points NCP related to the OECD Guidelines.

Art 18.1

- Supervisory authorities should have adequate powers and resources. As the field of supervision of the authorities is vast, this is a substantial requirement. Nevertheless, the Explanatory Memorandum p.17 states that 'this Directive does not entail unnecessary costs'. The Directive plus Explanatory Memorandum should provide an honest picture of the substantial cost that will be involved if a massive supervisory task as envisaged by the Directive is made operational.

Art 18.3

- Inspections shall be conducted in compliance with the national law of the Member State: risk to level playing field.

Art 18.5

- 'Supervisory authorities shall at least have the following powers'. This article recognizes that the powers may vary from Member State to Member State.

Art 18.7

- Member States should provide for an effective remedy against decisions of the supervisory authorities. This is an element we have specifically asked for in our lobby. See art. 19.5.

Art 19 Substantiated concerns

- NB: substantiated is not an element in the definition of 3.n. However, it should be.

Art 19.5

- Duplication of 18.7, but more elaborate, and only focused on complainants. Art 18.7 and 19.5 should be brought in line with each other.

Art 20 Sanctions

General

- The title should read: 'Administrative sanctions' (see art. 18.4 and 18.5.b)

Art 20.1

- The rules on sanctions are determined on the national level; this is a serious risk for the level playing field.

Art 20.3

- Pecuniary sanctions shall be based on the company's turnover. Why should this criterion be mandatory?

Art. 21 European Network of Supervisory Authorities

Art 21.1

- The network should facilitate the coordination and alignment of practices of the supervisory authorities. It is highly questionable whether this will be sufficiently effective to safeguard a level playing field.

Art. 22 Civil liability

Art 22.1

- Civil liability is only established for companies, there is no personal liability for directors vis-à-vis external stakeholders.
- Civil liability is limited to failing to comply with articles 7 and 8 (prevention and bringing impact to an end).

Art. 22.2

- The article differentiates conditionally between liability for own acts of the company and liability for acts of indirect business relationships in the value chain.
- Companies are not liable if they have *sought* contractual assurances, have in place a prevention action plan, and apply contractual cascading, and if compliance has been verified. As the fulfilment of the condition of *seeking* has important consequences, it is essential that the obligation of means to *seek* should be very clearly defined. The model contract clauses of art. 12 are thus of great importance.
- The conditionality which is proposed in art. 22.2, which exonerates companies for acts of 'indirect partners with whom it has an established business relationship' is far too complicated and restrictive. See for an alternative the remarks under art. 7.1.

Art 23 Reporting of breaches and protection of reporting persons

- Ok

Art 24: Public support

- Companies applying for public support must certify that no sanctions have been imposed on them for a failure to comply with this directive. Without further qualification this seems to be a disproportionate measure.

Art 25 Directors' duty of care

- Seems ok.

Art 26: Setting up and overseeing due diligence

- Directors responsibility. Seems ok

Art 27 Amendment to Directive (EU) 2019/1937

Art 28 Exercise of the delegation

- The power to adopt delegated acts as referred to in art. 11 is conferred on the Commission

Art 29 Review

- A 7 year review term is far too long for such an impactful legislation. This is especially so since the Regulatory Scrutiny Board has twice given a clearly negative opinion and has not been consulted for the third version (See lengthy but not necessarily convincing reasoning in Explanatory Memorandum p.20 – 23).
- The review period should therefore be no longer than 2 years.

Art 30 Transposition

Art 31 Entry into force

- The Directive should provide for a reasonable transition period of *at least* 3 years.

Proposals to amend the Directive on Corporate Sustainability Due Diligence (CSDDD)¹ so that it works for business, plus specific comments per article.

I. Basic approach of business

- Problems related to ESG occurring in supply chains need to be addressed. Building on the experience with the UN Guiding Principles and the OECD MNE Guidelines, an additional substantial step forward in the field of due diligence should be taken.
- New rules on due diligence should be established on an international level - at least on EU level - for two reasons:
 - they will be more likely to have real impact due to the size of the EU
 - they will secure a level playing field; a patchwork of 27 national legislations is unworkable.
- EU rules should thus comply with three essential demands:
 - they must 'work', i.e. bring about the desired effect
 - they must be 'workable', i.e. administrative burdens and costs should be manageable
 - they should bring a level playing field on the Internal Market, among EU companies as well as between EU companies and third country companies.

II. Six main points of concern related to the CSDDD

- The CSDDD does not provide legal certainty; the **material norms** companies have to comply with and supervisors and judges have to apply are numerous, unclear and unfit for application by companies, whereas consequences of non-compliance are severe.
- The CSDDD does not create a **level playing field**, not between EU companies from different member states, and not between EU companies and third country companies.
- The approach of the CSDDD is on essential aspects **not in line with the OECD Guidelines**. This concerns the **process** as well as the **action** when adverse impacts are identified. **Provisions on liability and responsibility** are too vague, too broad, and not in line with the OECD Guidelines
- The wide scope of the CSDDD, and the divergence from the OECD Guidelines, leads to **unreasonable administrative burdens** for all companies, including SMEs
- The provisions on **collective initiatives** are rudimentary; the role of **learning experience** is not given sufficient weight; the accent is too much on enforcement and too little on engagement and improvement.
- The **review period** of 7 years is far too long

NB: a number of other substantial points of concern are addressed further down in this non-paper under IV.

III. Proposals to amend the CSDDD on these six main points, so that it works for business

1. General: material rules, level playing field

¹ Directive on Corporate Sustainability Due Diligence and amending Directive EU 2019/1937, Com(2022) 71 final; 2022/0051 (COD)

Material rules

- The **material rules** with which business has to comply and which supervisors and judges have to apply **urgently need clarification**. The open, voluntary recommendations of the OECD Guidelines and the UN Guiding Principles cannot simply be transposed in mandatory law. Readily applicable norms for private parties in the ESG fields do often not yet exist. And the six pages of international agreements – often government-to-government - and human rights in the CSDDD annex are unfit for direct application.
- The absence of applicable material norms is an essential concern, as **legal certainty** for companies, supervisory authorities and judges depends on it (see art. 3.b and 3.c) and non-compliance of the rules can result in substantial administrative fines (art. 20) as well as civil liability (art. 22.2).

Proposals:

- Substantially **limit the list** in the annex (as in the German Lieferkettengesetz).
- Add in the CSDDD an **interpretative guidance** for companies, supervisors and judges (cf German Lieferkettengesetz)
- Where no readily applicable norms exist, companies should be provided **sufficient discretionary room for interpretation**, and supervisors and judges should **review not integrally, but marginally**.

Level playing field 1: harmonization of rules within the Single Market

- The legal basis of the CSDDD is art 50 TFEU, the freedom of establishment in, and the well functioning of the Internal Market. Contrary to this stated intention, the CSDDD may easily create a **patchwork of mutually incompatible national implementation acts** of Member States:
 - 1) Many provisions leave large discretionary room for interpretation to the member States (e.g. art. 1.2 and 1.3; art 9 complaints procedure; art. 13, 17 and 21 on supervisory authorities; art. 14 on support and stakeholder initiatives; art. 20 on sanctions)
 - 2) Member States are explicitly given the freedom to maintain or adopt legislation which could go further than the directive.
- Recent experience with implementation of the NFRD shows how much national implementation can diverge in this field. This puts in jeopardy the well-functioning of the Internal Market.

Proposal:

- Ideally, the Directive should be transformed in a **Regulation**.
- Alternatively, **far-reaching EU wide harmonization** is required: key articles should be harmonized and/or the CSDDD should stress that Member States are demanded to **limit divergence and ‘gold plating’** in national implementation acts. Actually, the CSDDD draft does the opposite and openly encourages Member States to maintain existing legislation as well as to introduce further reaching legislation. There should be an understanding to first gain experience with this – already very consequential – legislation before moving further.
- The **supervision** should be organized **on a European level**. The European Network of Supervisory Authorities proposed by the Commission does in no way present sufficient guarantee to that end.

Level playing field 2: the same thresholds for EU and non-EU companies

- The CSDDD will not only not bring a level playing field among EU companies on the Internal Market, but also not between EU companies and third country companies, as the **thresholds** for the CSDDD to be applicable to the two groups are **substantially diverging and manifestly discriminatory** (respectively 150 mln *total* turnover for EU companies and 150 mln turnover *on the EU market* for third country companies². This regards both the process of due diligence as well as required action against adverse impacts.

Proposal:

- The **thresholds** for EU companies and third country companies **should be the same**. The justification of the Commission for the different criteria on p.15 of the Explanatory Memorandum is not convincing, as one legal problem is solved by creating another one (discrimination).

2. The due diligence process; and preventing and bringing adverse impacts to an end

The due diligence process

- The CSDDD introduces a **mandatory due diligence process in six steps**, plus administrative fines for big companies. This is a very substantial and consequential change compared to the existing approach.
- However, it should be recalled that **the threshold in the approach of the Commission does not determine which companies have to execute due diligence** and which not, as all companies in the whole value chain are expected to do due diligence, but **only which companies can be subject to administrative supervision and fines**. The narrative of the Commission that the CSDDD does only impact on the 1% largest companies in the EU is therefore substantially misleading. And SMEs can of course be subject to contractual fines, even if they are not subject to administrative fines.
- The six-step mandatory due diligence process is **in principle acceptable** by business, but **only under the following conditions**:
 - *Proposal:*
 - As in the OECD Guidelines, the approach should be **primarily risk-based**, not size-based.
 - Additionally, a **threshold for SMEs** can be introduced.
 - However, more important than the precise level of the threshold is a clear and readily applicable definition of the **'appropriate measures'** (art 3.q) companies are expected to take in the process of identifying possible adverse impacts. There should be a **clear, systematic and complete set of criteria** to define proportionality and prioritization, based on 1) the criteria in the OECD Guidelines, 2) essential sentences in the CSDDD Recitals³ which must be incorporated in article 3.q itself, and 3) the distinction between own acts and acts of others (see below and under specific comments per

² For both: 40 mln in case of high risk sectors

³ Key sentences of Recital 15 (p.31: 'this Directive should not require companies to guarantee, in all circumstances, that adverse impacts will never occur or that they will be stopped'; p.32 'the main obligations in this Directive should be 'obligations of means') should be incorporated in the definition.

article). The actual definition in the Commission proposal is too wide and too vague.

- The mandatory process should be **limited to the supply chain (upstream)**, and should not encompass the whole value chain (including downstream), **at least until a few years of experience has been gathered**. Extension could then possibly be considered in a review. The downstream chain is unlimited in scope and time; including it would make the obligation unmanageable.

- **Support for SMEs** should be **financed by public funds**, it cannot be a responsibility of other companies in the chain, as the CSDDD draft proposes now (art. 7.4 and 8.5).

- The process should also encompass an **effective complaint mechanism**, to address concerns early on in an accessible, speedy and cheap way.

How to act when the due diligence process reveals adverse impacts: preventing and bringing to an end

- The CSDDD introduces a **novel and unclear set of definitions** and rules which are not in line with the OECD Guidelines, create confusing demands on business (see a.o. art 3.e, 3.f, 7, 8) and are unreasonably broad. It lacks a sharp distinction between
 - own acts and acts of others,
 - obligations of result and obligations of means, and
 - liability and responsibility.

It thus **tilts the balance away from constructive engagement to supervision and enforcement** and will push business to disengage in order to avoid risk. This is the opposite of what should be the intention.

- In the CSDDD, **the definitions of ‘business relationship’ and ‘established business relationship’** are new, unclear, seemingly contradictory and operationally difficult to apply. The definitions of ‘direct’ and ‘indirect’ relationship are equally unclear. See comments on articles 3.e and 3.f.
- As a consequence of these flaws, the required **clarity concerning causal relationship** between a company’s actions and the adverse impact, which is necessary to establish liability, **is missing**. However, companies, supervisors and judges should know the exact grounds for liability, as liability in the CSDDD can lead to high fines.

Proposals:

- Basically, the CSDDD should **not introduce a complicated novel system of liability/responsibility and new definitions parallel to the OECD approach**, but should faithfully incorporate the OECD system and definitions in EU law.
- The CSDDD should **explicitly enshrine, in article 3.q, the distinction between own acts** of a company (cf. the Guidelines ‘cause’ and ‘contribute to’) **and acts of others** (cf. the Guidelines ‘being directly linked to’ and the essential sentence ‘This is not intended to shift responsibility from the entity causing an adverse impact to the enterprise with which it has a business relationship’⁴)⁵.
 - In the case of **own acts**, businesses are expected to prevent and/or bring to an end

⁴ OECD MNE Guidelines, chapter II, point 12.

⁵ This would be perfectly in line with Recital 38, which makes the distinction. A coherent text incorporating Recital 15 (on the reasonable limitation of what is expected from companies), art. 3.q (the definition of appropriate measures), art. 7 and 8 (take appropriate measures to prevent and bring to an end adverse impacts) and art. 22.1.a (civil liability based on the efforts to prevent or bring to an end adverse impacts) should be drafted. It is essential to clarify what is expected from companies, especially also SMEs.

adverse impacts, it is an *obligation of result* (cf Guidelines: ‘prevent’). Own acts are by their nature concentrated in the first tier and the tiers immediately behind it, but there is no sharp dividing line. Own acts can result in *liability*.

- In the case of *acts of others*, businesses are expected to *seek to prevent* and/or bring to an end adverse impacts, it is an *obligation of means* (cf Guidelines ‘seek to prevent’). Acts of others can result in *responsibility*, doing what is reasonably within your possibilities, taking into account the circumstances of the case.

- A **coherent text incorporating** Recital 15 (on the reasonable limitation of what is expected from companies), art. 3.q (the definition of appropriate measures), art. 7 and 8 (take appropriate measures to prevent and bring to an end adverse impacts) and art. 22.1.a (civil liability based on the efforts to prevent or bring to an end adverse impacts) **should be drafted**. It is essential to clarify what is expected from companies, especially also SMEs.
- Overreliance on **contractual cascading** should be avoided. Contractual cascading is in practice difficult to monitor and enforce, and it leads to a culture of avoidance and pushing responsibilities further down in the chain, instead of engagement. Contractual clauses are and can remain a normal practice in business relations, but they are unfit for being the sole instrument (art. 22.2) to avoid liability/responsibility further in the chain, as the CSDDD proposes.
- Concerning **disengagement**, the CSDDD should much more precisely follow the UN Guiding Principles, where disengagement is only the solution of last resort. The CSDDD now prescribes immediate cessation of new activities (art. 8.6).
- When it comes to the **respective roles of supervisors and judges**, as there is necessarily so much discretionary room in implementing generally formulated norms in such a vast field of compliance as ESG, supervisors and judges should **review marginally, not integrally**. They should assess whether what the company has done is reasonable in the given circumstances.

3. How to come to reasonable administrative burdens for SMEs

- The wide scope of the CSDDD combined with the divergence from the OECD Guidelines, leads to **unreasonable administrative burdens** for all companies, including SMEs.
- Firstly, the proposed Directive applies to the **whole value chain**, upstream as well as downstream. This is an enormous extension compared to the existing practice with the OECD Guidelines and e.g. the German Lieferkettengesetz and provides very substantial additional burdens for business. It also leads to practical challenges, as the upstream part is defined, but the downstream part is open ended. See art. 1.1 and 3.g.
- Secondly, the Commission claims that the CSDDD is **only applicable to 1% of companies** in the EU. This is **misleading**. It is also diverging from the system of the OECD Guidelines.
- The CSDDD will only apply to bigger companies as far as the administrative supervision, fines and liability are concerned. But the fact that the CSDDD obliges to do due diligence in the whole value chain and encourages the use of contractual cascading will have as result that **the very large administrative burdens** of due diligence, including the possibility of civil law claims in case of noncompliance with

contracts, **will befall on all companies, large and small**. De facto the Directive fully applies to all SMEs in the value chain. See a.o. art. 7.2.b, 7.4.

- **Contractual assurance and contractual cascading** are proven to be highly **problematic in practice**, especially concerning monitoring and enforcement.
- The point of departure of the OECD Guidelines is different from the CSDDD. Its main trigger is not size but risk. All multinationally operating companies, also SMEs, are expected to respect the Guidelines. Adverse impact of own actions should be terminated, adverse impacts of others should be prevented as far as reasonable. The responsibilities of SMEs are limited by a range of provisions concerning proportionality and prioritization. The reliance on contractual cascading is limited. Overall, **the Guidelines establish a better balance** between responsibilities of bigger companies and those of SMEs.
- Thirdly, stakeholders should be duly consulted, but the **definition of stakeholder in the CSDDD is far too wide**.

Proposed solutions

- The **provisions to shield SMEs from disproportionate requirements**, primarily through the definition of appropriate measures in art. 3.q, should be extended and provide certainty and operational guidance for SMEs as well as for supervisors and judges.
- The overreliance of contractual cascading should be reduced.
- A **reasonable delimitation of stakeholders** is needed. Stakeholders should have a legitimate and substantive interest, and complaints should be substantiated. See art 3.n and 19.
- The **focus should shift from surveillance and enforcement to facilitating and making room for learning experiences**.

4. Collective initiatives and the role of learning experience: avoid over-legalisation

- The **concept of collective action is not elaborated** in the CSDDD. Art 14 merely mentions that the Commission may devise new measures, including facilitation of joint stakeholder initiatives.
- The **dimension of the learning process is not given sufficient weight**, while enforcement and sanctions provisions are extensively detailed. This is unbalanced and leads to an over-legalisation.

Proposals:

- It should be **duly recognized that due diligence is an ongoing process**, where mistakes should be discovered and remedied without the immediate threat of sanctions. It should be considered positive when problems are identified as this is the beginning of a solution. **Mandatory due diligence is not a panacea**, it should be part of **a smart mix of measures**. Risk avoidance should give way to engagement. Disconnecting is not the solution. See also comments of art. 7.5 and art. 8.6.
- The **balance in the CSDDD should shift from a heavy accent on surveillance and enforcement to promoting a smart mix of measures**, including room for learning experiences and collective initiatives.
- The **concepts and roles of collective action and joint stakeholder initiatives should be elaborated further** in the CSDDD. A harmonised approach between Member States should be the goal.

- In the OECD Guidelines, the **Specific Instance procedures before the National Contact Points (NCP) provide for a non-adversarial, mediation oriented remedy process** which is complementary to the adversarial legal remedies. The CSDDD should **recognize the added value** of this instrument and accommodate it in its system.
- Having a well-functioning NCP is an legal obligation according to international law for all the EU Member States which are also a member of the OECD. The **EU should see to it that there is a well-functioning NCP in every Member State**, also the few which are not yet a member of the OECD, and that **an EU-level mechanism of exchange of best practices** promotes the steady improvement of the system

5. The review period of 7 years is far too long

- The CSDDD contains **massive new obligations** for all companies active in international value chains. It will also entail **vast costs**. As an indication: PWC announced that it would hire worldwide an extra 100.000 accountants only for ESG reporting (Financial Times, 15 June 2021).
- Notwithstanding the potentially huge implications, and the fact that the Regulatory Scrutiny Board has twice given a negative opinion on the CSDDD, the Commission decided to move forward with the initiative without submitting it a third time to the RSB. See Explanatory Memorandum p.20. **A review period of 7 years is far too long** for such a complicated and impactful legislation on which the RSB did not express its opinion. See art. 29.

Proposal:

- Introduce a review period of max two years

(see next page)

IV. Specific comments per article

Art 1 Subject matter

Art 1.1.

- The Directive lays down rules on 1) obligations (including administrative sanctions, art. 20) for companies regarding adverse impacts of their own and their subsidiaries' operations and the value chain operations by established business relationships, and 2) (civil) liability for violations of these obligations.
- It introduces the application to the whole value chain, upstream and downstream. This is an enormous extension compared to previous approaches which were mainly supply chain (upstream) oriented, as well as to the new French and German laws. Further definition in article 3.g.

Art 1.2 and 1.3

1. Existing protection in Member State law or EU law providing more protection shall prevail.

Art.2 Scope

Art 2.1

- The **thresholds** for EU companies (>500 employees, >150 mln turnover; >250 employees and >40 mln turnover for risk sectors) are **substantially lower** than the advice of the Dutch Social Economic Council (1000) or the French and German laws.
- The **risk sectors have a wide scope**: manufacture and trade of textiles, leather and related footwear, agriculture, forestry, fisheries, food products, beverages, wood, all mineral resources, basic metal products, construction materials, fuels, chemicals and other intermediate products. This corresponds with the sectors for which the OECD has developed sectoral due diligence guidance. These sectors **include many SMEs**.
- The **financial sector** is not considered a high risk sector, although there is an OECD sectoral guidance.

Art. 2.2

- The **thresholds for non-EU companies are in practice much higher than for EU companies** (EU: 150 mln *worldwide* turnover; third country: 150 mln *EU* turnover). This means that in practice, the EU companies which have to comply with the directive will mostly be much smaller than the third country companies. The Explanatory Memorandum p. 16 recognizes this. This is **outright discriminatory**. Nevertheless the Explanatory Memorandum p.3 refers soothingly to a 'similar turnover criterion'.
- Explanatory Memorandum p.15 recognizes that the criteria are not the same. However, the **extensive justification that follows is in no way convincing**. The main argument is (see also recital 24), that a relatively high turnover may have an effect on the Internal Market, which in turn creates a territorial connection. The problem here is that the need to demonstrate a territorial connection forces the Directive, the explicit basis of which is the functioning of the Internal Market, to introduce **a manifest discrimination of EU companies and a clear disruption of the Internal Market**. Why should the threshold for 'normal' companies be as high as 150 mln turnover, whereas for 'high risk' sectors it can be lowered to just 40 mln?

Art 2.4

- The Member State competent to regulate is the Member State in which the company has its registered office. This opens the possibilities for **forum shopping** in case the Directive leaves open possibilities – as in fact it does – for diverging national interpretation and implementation, including sanctions.

Art 3 Definitions

Art 3.a Company

- Financial sector and insurance and pension funds also included; long detailed list of financial institutions; very large scope.

Art 3.b and 3.c

- Adverse environmental impact and human rights impact will be based on an annex of 6 pages of international rights, (often government-to-government) conventions and (often political) declarations.
- These sources **do not provide material norms which are readily applicable** by companies in private-to-private relations. This is **not in line with the Explanatory Memorandum p.16**, which refers to ‘impacts that can be clearly defined in selected international conventions’.
- **A comparable annex was removed from the own initiative report of the European Parliament** in the final version.
- This annex does not create sufficient legal certainty for companies, supervisors and judges alike. How large is the discretionary room for interpretation, also taking into account the ‘obligation of means’ approach in the Explanatory Memorandum?
- Thus, a key element of the Directive, the material norms which could be violated by adverse impacts, is not clearly defined.
- Moreover, Recital 25 indicates that **the Annex is even not exhaustive**; it includes also ‘rights that have not been specifically listed’ but ‘directly impair a legal interest protected in those conventions’.

Art 3.e

- The **definitions** of ‘business relationship in 3.e and ‘established business relationship’ in art. 3.f **seem to be contradictory**.
- Business relationship: very broad definition: a relationship with a (sub)contractor or any other legal entity with whom the company has a commercial agreement or which performs business operations related to the products or services of the company, *for or on behalf of* the company’.
- ‘For or on behalf of the company’ seems to indicate that some form of explicit understanding should exist, and thus a direct relationship. However, 3.f indicates that a relationship can also be indirect. In that case, ‘for or on behalf of’ would merely mean that at some point the business operation is in the interest of the company which is subject to due diligence obligations

Art 3.f

- Established business relationship:
 - Direct or indirect; how can an established relationship be *indirect* when the definition of 3.e is taken into account?
 - It is very relevant to determine whether a relationship is direct or indirect: see art.

7.2/3 (prevention) and art. 8.3/4 (bringing to an end) and art. 22.2 (civil liability).

- The terms direct/indirect are not defined in the proposal.
- What is the meaning of ‘which is or is expected to be lasting’? What is ‘lasting’? An important one-off supply contract is not lasting, but should it not be subject to due diligence?
- What is the meaning of ‘not a negligible or ancillary part of the value chain’: this leaves large room for interpretation, and provides no criteria.
- This definition, which defines a key concept in the Directive, is not clear.
- It is not easy to imagine e.g. an indirect, non-negligible business relationship which is expected to be lasting in view of its intensity. Normally such a relationship by nature would be direct.

Art 3.g

- Value chain: upstream and downstream, from the development of the product to its disposal; this is a **very substantial extension** of the supply-chain approach mostly applied until now, e.g. in the German *Lieferkettengesetz* and the French *Loi de Vigilance*.
- Recital 17, p.32: ‘throughout the life cycle of production and use and disposal of product or provision of services, at the level of own operations, subsidiaries and in value chains’. Recital 18 also gives a very wide, all-encompassing description of the value chain.
- What is a ‘group’?
- The value chain of financial institutions does not include SMEs; for other companies, SMEs are included?

Art 3.h

- Independent third party verification: it should be recognized that this implies **substantial extra cost** for companies. It is also linked to the CSRD.

Art 3.j

- The definition of industry initiative is ok; **inclusion of collective initiatives** is important.

Art 3.l

- Severe adverse impact: definition in broad strokes, not precise.

Art 3.n

- The **definition of stakeholders is very wide**: any right or interest could be affected (‘other individuals whose rights or interests are or could be affected’).
- Further delimitation is required: legitimate and substantive interest, substantiated complaint. There should be a **filter against frivolous claims**. See e.g. art. 19: substantiated concern

Art 3.q

- See also essential remarks under Art 7.1.
- The **definition of appropriate measures is key**. It determines both the scope of the due diligence process to identify adverse impacts, as well as the required action once adverse impacts have been detected. The **definition should be amended**. It leaves now too much room for interpretation by Member States, which may jeopardize the

stated aim of the Directive, i.e. creating a better functioning Internal Market. A more unified approach in the EU should be envisaged.

- The text of Recital 15 (p.31: ‘this Directive should not require companies to guarantee, in all circumstances, that adverse impacts will never occur or that they will be stopped’; p.32 ‘the main obligations in this Directive should be ‘obligations of means’’) **should be incorporated in the definition of appropriate measures.** This will have an essential impact on the scope of the due diligence process, as well as on articles 7 and 8 (prevention and bringing adverse impacts to an end) and, as a consequence, also for the extent of civil liability, which is linked to article 7 and 8 (see art 22.1.a.).
- The **graduation of appropriate measures**, depending on the fact whether the adverse impact is due to the **own acts** of the company (in OECD Guidelines terms: ‘cause’ and ‘contribute to’) or the **acts of others** with which the company is ‘directly related’ is **essential**. The OECD Guidelines state in respect to ‘directly related’ that ‘This is not intended to shift responsibility from the entity causing an adverse impact to the enterprise with which it has a business relationship’⁶
The essential distinction between own acts of the company and acts of others should be **explicitly incorporated in art. 3.q**, while exactly taking over the language of the OECD Guidelines. In the actual text of art. 3.q, the phrase ‘taking into account the specific circumstances of the case’ could be interpreted as including the aforementioned distinction, but this is too important to be covered by an implicit mentioning.

Art. 4 Due diligence

Art 4.1

- Six steps of due diligence: ok, established approach

Art 4.2

- Competition law should not hamper RBC cooperation of companies. Ok, specific request in our lobby

Art 5 Integrating due diligence into companies’ policies

- ok

Art 6 Identifying actual and potential adverse impacts

Art 6.1

- Identifying adverse impact: what are appropriate measures? See remark on definition under art 3q.

Art 6.2

- Smaller high risk companies shall only be required to identify severe adverse impacts (definition of severe in art 3.1). Ok.

Art 6.3

⁶ OECD MNE Guidelines, chapter II, point 12.

- Financial sector due diligence has to be provided before providing the service. Question: can this lead to substantial delay in financing? How can this potential disadvantage be addressed?

Art 6.4

- Appropriate resources of information should be made available. Consultation with relevant stakeholders . Ok, but the definition of stakeholders should be better defined (see 3.n).

Art 7 Preventing potential adverse impact

Art 7.1

- See also art. 8.1. The description of the concepts of ‘taking appropriate measures to prevent adverse impacts’ and ‘taking appropriate measures to bring adverse impacts to an end’ are **not precise** and seem to create **unreasonable responsibilities** for companies. The concepts do not explicitly incorporate a substantial distinction between the liability for own acts and the responsibility for the acts of others. Also, they do not specify whether an obligation of result or an obligation of means is established.

However, **the text provides elements to elaborate a more precise definition.**

1. The text is explicitly based on the OECD Guidelines. The Guidelines provide an explicit distinction in liability for the own acts of the company (cause or contribute to) and acts of others in the chain (being directly linked to). When the own acts of companies are at stake, the adverse impact should be prevented or brought to an end (obligation of result), when acts of others are a stake, the company should ‘seek to’ prevent or bring to an end (obligation of means).

2. It should be made explicit in art. 3.q (definition of appropriate measures) that ‘taking into account the specific business relationship and the company’s influence thereon’ includes taking into account whether own acts of companies or acts of others are at stake; and that own acts demand an obligation of result, whereas acts of others demand an obligation of means. This is also explicitly stated in Recital 38.

3. Furthermore, a coherent text incorporating Recital 15 (on the reasonable limitation of what is expected from companies), art. 3.q (the definition of appropriate measures), Recital 38, art. 7 and 8 (take appropriate measures to prevent and bring to an end adverse impacts) and art. 22.1.a (civil liability based on the efforts to prevent or bring to an end adverse impacts) should be established.

- What are impacts that ‘should have been’ identified?

Art 7.2.a

- What is the **definition of necessary**?
- Prevention plan: ok. What are reasonable timelines? Unified EU approach desirable for functioning of the Internal Market.

Art 7.2.b

- *Seek* contractual assurances, prevention action plan, contractual cascading from a *direct* business relationship (NB: does this refer to a direct business relationship, or a direct *established* business relationship; see definitions in art. 3.e and 3.f). This is formulated as an obligation of means (seek). It should be stated more clearly under what conditions the proposal considers the obligation of means is reasonably fulfilled. See under art. 7.1.

- Contractual assurances and contractual cascading imply that de facto due diligence rules will also fully apply to SMEs.
- In practice, contractual assurances and contractual cascading are highly problematic as far as monitoring and enforcing of assurances is concerned.
- See art. 12 on Commission guidance on voluntary model contract clauses.

Art 7.2.c

- What is the definition of necessary?

Art 7.2.d

- Companies 'shall' provide targeted and proportionate support to SMEs if compliance would jeopardize its viability. This would imply **substantial administrative burdens**. Such **cost should be borne by the authorities, not by companies**.

Art 7.2.e

- What are 'other entities'? Other companies or also other entities?
- The Directive requires the company to collaborate with third 'entities' to stop adverse impact, if other action is not effective. No specification of the 'collaboration' is provided.

Art 7.3

- The company *may seek* to conclude a contract with a partner with whom it has an *indirect* relationship (<-> 7.2.b) (NB: does this refer to an indirect business relationship, or an indirect *established* business relationship; see definitions in art. 3.e and 3.f) for adverse impacts that could not otherwise be addressed. This is also formulated as an obligation of means.
- The term 'partner' is not defined; is this an (indirect) established business relationship as defined under 3.f? If not, what else?

Art 7.4

- This provision also shows that **SMEs may be fully affected by this Directive**. In practice, due diligence obligations will be transferred via contract clauses to all SMEs upstream and downstream. The contract clauses can be expected to be accompanied by fines. The Directive will not *directly* affect SMEs, but indirectly, via their contract partners, they will be subject to all due diligence burdens, including fines.
- Suitable industry initiatives can be used for verification.
- Contract terms with SMEs should be fair, reasonable and non-discriminatory. Who defines this? If Member States can define this, the functioning of the Internal Market may be jeopardized, as standards may vary per Member State.
- The proposal wants the cost of verification of the SME action to be borne by the company with which it has a relation. This is not reasonable. If the SME cannot pay for costs related to new legislation, it is logical that the public authorities provide for support, not contract partners. See 14.2 on financial support by Member States.

Art 7.5

- This provision is **not in line with the UN GP and the OECD GL**. It is substantially more prescriptive concerning the approach companies should take. On this very point the Ruggie Principles provide broad discretionary powers to companies. Forbidding to extend the existing relationship when adverse impacts cannot be prevented or

mitigated can be counterproductive in solving the problem. Extension can be a carrot for change, while here only the stick remains.

- Art 7.5 also seems to be incompatible with Recital 32.

Art 8 Bringing actual adverse impacts to an end

General: Recital 38 makes an important statement. ‘It can be expected that a company is able to bring to an end actual adverse impacts in their own operations and in their subsidiaries. However, it should be clarified that, as regards established business relationships, where adverse impacts cannot be brought to an end, companies should minimize the extent of such impacts’. This statement, which explicitly makes a distinction between own acts of companies, and acts by business relationship should be **explicitly incorporated in art.8.2**. It is essential.

Art 8.1

- See 7.1

Art 8.3.a

- Is ‘proportionate’ sufficiently operationally defined?
- Proportionate to *the contribution of the company’s conduct* to the adverse impact. Does this introduce a distinction between own acts of the company and acts of others? If so, it would help to state this explicitly.
- The requirement of proportionality should cover not only art.8.3.a, but the whole of art 8.3.

Art 8.3.b - f

- See 7.2.a - e
- See art. 12 on Commission guidance on voluntary model contract clauses.

Art 8.4

- See 7.3

Art 8.5

- See 7.4
- See 14.2

Art 8.6

- See 7.5

Art 8.7

- See 7.6

Art 9 Complaints procedure

- The complaints procedure and the definition of legitimate concerns should be **determined on an EU level** to guarantee the well-functioning of the Internal Market.
- Legitimate concerns could better be defined as substantiated concerns (as in art.19) or as substantive interest. In fact, an interest should be *and* legitimate *and* substantive, as is indicated in art 19.5.
- The complaints procedure should contain a protection against frivolous claims.

Art 10 Monitoring

- This provision also implies that SMEs will be substantially affected by this Directive.

Art 11 Communicating

- ‘Communicating’ may be a confusing title; ‘**Communicating and reporting**’ would be more appropriate.
- This provision also **implies that the CSDDD will substantially affect SMEs**.
- Reporting requirements should be **fully compatible** with the other EU reporting requirements from CSRD, SFDR and taxonomy.
- Delegated act will determine content and criteria for report.

Art 12 Model contract clauses

- Commission shall adopt guidance for voluntary model contract clauses. It is **questionable whether this will provide sufficient legal certainty**. But legal certainty on this point is essential, taking into account the importance of these clauses as highlighted in art. 22.2.

Art 13 Guidelines

- The Commission *may* issue guidelines to support companies or Member State authorities. This instrument is probably too weak to guarantee a well-functioning Internal Market, if too much discretionary power is left to the Member States.

Article 14 Accompanying measures

Art 14.1

- Member states may set up dedicated websites/platforms/portals.
- This provision explicitly shows that **SMEs are fully affected** by this Directive: ‘Special consideration shall be given to SMEs present in the value chains’.

Art 14.2

- Member States may financially support SMEs. Why are 7.4 and 8.5 then necessary?
- This provision again **indicate explicitly that SMEs are affected** by this Directive.

Art 14.3

- The Commission may facilitate joint stakeholder initiatives. In 14.3 the facilitation is not defined or limited. However, in 14.4, the facilitation seems to be limited to dissemination of information. Facilitation by the Commission should be more substantive.
- See also Explanatory Memorandum p.17 and recital 37.

Art 14.4

- The Directive limits the facilitation to the provision of information. **That is not enough**. It seems to indicate that the Commission has a very **narrow approach** to collective initiatives (see 14.3).

- Concrete amendments should be formulated, elaborating on the way the Commission should facilitate collective initiatives.
- Also, an amendment could be proposed elaborating the ‘learning process’ which should be encouraged. See art. 18.

Art 15 Combating climate change

- Brief content: EU companies with >500 employees/>150 mln turnover and third country companies with >150 mln EU turnover must have a plan on to comply with the Paris Agreement and especially on the CO2 footprint. If climate change is a principal risk/impact, the company must include climate reduction objectives. Fulfillment of these obligations should be taken into account in variable remuneration.

Comment

- Here again, **EU companies are in a disadvantaged position** vis-à-vis third country companies. See art. 2.2.
- **Coherence with the CSRD** is necessary. No two systems.

Art 16 Authorised representative

- Third country companies should designate an authorized representative in one of the Member States.
- As the Directive leaves large discretionary freedom to the Member States, the choice of where to register the authorized representative could substantially impact the level playing field.

Art 17 Supervisory authorities

- The large **discretionary freedom** of Member States in the way to set up the supervisory authorities **jeopardizes the level playing field**. See also the Explanatory Memorandum p.17: The Directive will leave it up to the Member States how to organize enforcement?.

Art 18 Powers of the supervisory authorities

- NB: The article provides only for enforcement powers. The **element of advice and assisting in the learning process is absent**.
- Equally **absent is a reference to the National Contact Points NCP** related to the OECD Guidelines.

Art 18.1

- Supervisory authorities should have adequate powers and resources. As the field of supervision of the authorities is vast, this is a substantial requirement. Nevertheless, the Explanatory Memorandum p.17 states that ‘this Directive does not entail unnecessary costs’. The Directive plus Explanatory Memorandum should provide an **honest picture of the substantial cost** that will be involved if a massive supervisory task as envisaged by the Directive is made operational.

Art 18.3

- Inspections shall be conducted in compliance with the national law of the Member State: risk to level playing field.

Art 18.5

- ‘Supervisory authorities shall at least have the following powers’. This article recognizes that the powers may vary from Member State to Member State.

Art 18.7

- Member States should provide for an **effective remedy against decisions of the supervisory authorities**. See art. 19.5.

Art 19 Substantiated concerns

- NB: **substantiated should be an element in the definition of 3.n.**

Art 19.5

- Duplication of 18.7, but more elaborate, and only focused on complainants. Art 18.7 and 19.5 should be brought in line with each other.

Art 20 Sanctions

General

- The **title should read: ‘Administrative sanctions’** (see art. 18.4 and 18.5.b)

Art 20.1

- The rules on sanctions are determined on the national level; this is a **serious risk for the level playing field**.

Art 20.3

- Pecuniary sanctions shall be based on the company’s turnover. **Why should this criterion be mandatory?**

Art. 21 European Network of Supervisory Authorities

Art 21.1

- The network should facilitate the coordination and alignment of practices of the supervisory authorities. It is **highly questionable whether his will be sufficiently effective** to safeguard a level playing field.

Art. 22 Civil liability

Art 22.1

- Civil liability is only established for companies, there is no personal liability for directors vis-à-vis external stakeholders.
- Civil liability is limited to failing to comply with articles 7 and 8 (prevention and bringing impact to an end).
- **Establishment of civil liability should be inextricably linked to the establishment of clear and operational material norms**, which are not yet in the draft.

Art. 22.2

- The article differentiates conditionally between liability for own acts of the company and liability for acts of indirect business relationships in the value chain.

- Companies are not liable if they have *sought* contractual assurances, have in place a prevention action plan, and apply contractual cascading, and if compliance has been verified. As the fulfilment of the condition of *seeking* has important consequences, it is essential that the obligation of means to *seek* should be very clearly defined. The model contract clauses of art. 12 are thus of great importance.
- The **conditionality** which is proposed in art. 22.2, which exonerates companies for acts of ‘indirect partners with whom it has an established business relationship’ *only* when they have concluded or tried to conclude a contract, is **both far too restrictive and far too complicated**. See for an alternative approach remarks under a.o. art. 7.1.

Art. 22.5

- This article seems to fundamentally **change the system and provisions of the Brussels I Regulation** on the competences of courts. Such a fundamental amendment of a cornerstone Regulation should be part of an integral review of Brussels I, but is **not acceptable** as a sub-article of a Directive in another field.

Art 23 Reporting of breaches and protection of reporting persons

Art 24: Public support

- Companies applying for public support must certify that no sanctions have been imposed on them for a failure to comply with this directive. **Without further qualification this seems to be a disproportionate measure.**

Art 25 Directors’ duty of care

- Taking into account the consequences of director’s decisions for sustainability matters must be part of the duty to act in the best interest of the company.

Art 26: Setting up and overseeing due diligence

- Directors responsibility to put in place and oversee due diligence actions.

Art 27 Amendment to Directive (EU) 2019/1937

Art 28 Exercise of the delegation

- The power to adopt delegated acts (art. 11) is conferred on the Commission

Art 29 Review

- A **7 year review term is far too long** for such an impactful legislation. This is especially so since the Regulatory Scrutiny Board has twice given a clearly negative opinion and has not been consulted for the third version (See lengthy but not convincing reasoning in Explanatory Memorandum p.20 – 23).
- The review period should therefore be **no longer than 2 years**.

Art 30 Transposition

Art 31 Entry into force

- 20 days after publication is extremely short. The Directive should provide for a reasonable transition period of *at least* 3 years.

14. Q: Het is bekend geworden dat het aanstaande Commissievoorstel is vertraagd; waarom is het vertraagd?

A:

- Ik heb bevestigd gekregen dat het aanstaande Commissievoorstel is vertraagd. Ik ben hierover teleurgesteld.
- De EU Raad voor regelgevingstoetsing heeft opnieuw kwaliteitsaanbevelingen gedaan, die de Commissie in het aanstaande voorstel dient te verwerken.

buiten verzoek.

Opzet bijeenkomst

buiten verzoek.

Tijdschema

buiten verzoek.

Te behalen resultaten Ronde Tafel

buiten verzoek.

Spreekpunten

buiten verzoek.

buiten verzoek.

buiten verzoek.

- Daarnaast werk ik de in het coalitieakkoord opgenomen doelstelling omtrent IMVO-wetgeving uit. Betekent bevorderen Europese wetgeving enerzijds en invoering nationale IMVO-wetgeving anderzijds. Hierbij houd ik rekening met een gelijk speelveld met omringende landen en implementatie van mogelijke EU-regelgeving. Ook ontwikkelen we handreikingen voor bedrijven, zoals een IMVO-steunpunt.

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[Thema 3: IMVO,

buiten verzoek.

IMVO

- Europese wetgeving op het gebied van IMVO blijft in het belang van NL, vanwege het gelijke speelveld voor onze bedrijven en de impact in productielanden. Het kabinet blijft spoedige totstandkoming van EU-regelgeving bevorderen. Ik ben verheugd dat het wetgevende voorstel van de Europese Commissie gisteren eindelijk is verschenen.
 - Tegelijkertijd heeft NL ook een eigen verantwoordelijkheid. Daarom wordt nationale IMVO-wetgeving ingevoerd die rekening houdt met een gelijk speelveld. Een nationaal wetsvoorstel zorgt voor (1) druk op het Europese proces, (2) bereidt ons voor op EU-wetgeving en
- buiten verzoek.
- IMVO-wetgeving komt eraan. Benieuwd hoe u uw bedrijf zich voorbereidt op wetgeving?

buiten verzoek.

-
- buiten verzoek.

buiten verzoek.

Ook

over de vormgeving van wetgeving zal het bedrijfsleven in de gelegenheid worden gesteld zich te laten horen.

buiten verzoek.

buiten verzoek.

Achtergrond

buiten verzoek.

buiten verzoek.

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buiten verzoek.

buiten verzoek.

[IMVO]

- In het coalitieakkoord is opgenomen: *‘NL bevordert in de EU de internationaal maatschappelijk verantwoord ondernemen wetgeving (IMVO) en voert nationale IMVO-wetgeving in die rekening houdt met een gelijk speelveld met de omringende landen en implementatie van mogelijke EU-regelgeving.’*
- Het wetgevend voorstel van de Europese Commissie is gisteren, op 23 februari verschenen. Na eerdere aankondigingen is publicatie al meermaals uitgesteld. Na publicatie van het voorstel is nog een aantal jaar nodig om de EU-richtlijn af te ronden.

buiten verzoek.

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Gesprek met MVO Platform en VNO NCW – Update uitwerking IMVO-nota

AGENDA

Omschrijving	Update uitwerking IMVO-nota												
Vergaderdatum en -tijd	12 januari 2021, 9:00 - 10:00 uur												
Vergaderplaats	MS Teams												
Aanwezigen	<table border="1"><tr><td>5.1.2e</td><td>(VNO NCW)</td></tr><tr><td>5.1.2e</td><td>(MVO Platform)</td></tr></table>	5.1.2e	(VNO NCW)	5.1.2e	(MVO Platform)								
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5.1.2e	(MVO Platform)												
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Doel

MVO Platform en VNO NCW een update geven over het uitwerken van de IMVO-nota (verschillende V's) en hun visie/eerste gedachtes daarover horen.

Agenda

8.50 Inbellen met MS Teams

9.00 Inleiding en introductie overkoepelende nota door

5.1.2e

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9.40 Update en vragen over de EU-ontwikkelingen, inclusief kabinetsreactie op de EU publieke consultatie inzake duurzaam ondernemingsbestuur door

5.1.2e

9.50 Dankwoord en afsluiting

Geannoteerde agenda (rol 5.1.2e)

10.00 Inleiding en introductie overkoepelende nota door 5.1.2e

Spreekpunten:

- Welkom. Zoals jullie weten is op 16 oktober het nieuwe IMVO-beleid op hoofdlijnen gepresenteerd in de nota 'Van voorlichten tot verplichten; een nieuwe impuls voor internationaal maatschappelijk verantwoord ondernemerschap'.
- Kern daarvan is een brede due diligence verplichting voor bedrijven, bij voorkeur op Europees niveau. buiten verzoek.

buiten verzoek.

- Nu zullen de verschillende collega's een korte update geven. 5.1.2e buiten verzoek. buiten verzoek. dan volgt 5.1.2e buiten verzoek. buiten verzoek. dan 5.1.2e buiten verzoek. en tot slot 5.1.2e over de EU-ontwikkelingen.
- Dan geef ik nu het woord aan 5.1.2e

10.10 buiten verzoek. door 5.1.2e

buiten verzoek. door 5.1.2e

buiten verzoek. door 5.1.2e

10.40 Update en vragen over de EU-ontwikkelingen, inclusief kabinetsreactie op de EU publieke consultatie inzake duurzaam ondernemingsbestuur door 5.1.2e

10.50 Dankwoord en afsluiting door 5.1.2e

buiten verzoek.

NON PAPER

Comments VNO-NCW / MKB-Nederland on the proposal for a Directive on Corporate Sustainability Due Diligence and amending Directive EU 2019/1937

General remarks:

- The directive requires member states to adopt legislation ensuring that companies comply with the provisions of the directive
- The 'learning dimension' is only marginally included. Enforcement and sanctions provisions are extensively detailed, provisions on collective action contain only the rudiments.
- Legal basis of art 50 TFEY: Internal Market.
- LPF between EU companies. The Directive introduces a high level of obligations. However, in a number of provisions, it leaves open the possibility for Member States to go further. The Directive even seems to encourage this. This is incompatible with the stated aim and legal basis of promoting the functioning of the Internal Market. When a high level of obligations is introduced, EU wide harmonization should be the aim.
- LPF with third country companies on the Internal Market.
- ExplanMem, p. 14: 99% of EU companies are excluded from the due diligence duty. This is manifestly untrue. They are excluded from the possibility of being administratively fined, but the Directive explicitly expects the whole value chain to be bound by contractual clauses to do due diligence (see a.o. art 7.2.b). SMEs
- Difference in treatment of own acts and acts of others is minimal and highly conditional

To: [redacted] @minbuza.nl]
Cc: [redacted] @minbuza.nl]; [redacted] @minbuza.nl]; [redacted] 5.1.2e
From: [redacted] 5.1.2e @minbuza.nl]; [redacted] 5.1.2e @minbuza.nl]
Sent: Mon 1/31/2022 9:54:11 AM
Subject: EP debat dwangarbeid & SGC
Received: Mon 1/31/2022 9:54:12 AM

Dag allen,

Interessant stuk in Politico vanmorgen over SCG voorstel en dwangarbeid. (waaronder 1 week uitstel...)

Groetjes,

[redacted] 5.1.2e

DRIVING THE DAY

FORCED LABOR BAN TOOL SPLIT FROM DUE DILIGENCE RULES: The ban on goods made using forced labor is now set to be translated into a standalone “product withdrawal mechanism,” separate from the upcoming sustainable corporate governance proposal, according to people with knowledge of the file.

Background: The Commission — especially its trade department — was originally toying with the idea of inserting the forced labor product ban into the upcoming due diligence rules. But public pressure from progressive lawmakers and NGOs for a separate instrument, in the form of a customs-based import ban like in the U.S., seems to have shifted the plans.

French President Emmanuel Macron and Germany’s Foreign Minister Annalena Baerbock also recently showed public support for an import ban to halt forced labor goods from entering the EU market.

Lukewarm on product withdrawal mechanism: “As we feared, the Commission will foresee the possibility to withdraw some forced labor products from the European market, and it will claim to have fulfilled its president’s promise,” S&D lawmaker Raphaël Glucksmann, who’s been leading the charge for a forced labor import ban, told POLITICO. “But let’s not be fooled,” he added, explaining that it’s “a good thing for sure, but far from enough to have a real impact on forced labor around the world.”

Due diligence softened for businesses: In a sign of goodwill to businesses, SMEs with fewer than 250 employees will be exempt from the due diligence law altogether to avoid burdening them with compliance costs.

High-risk sectors: Companies with 250 to around 500 full-time employees in a handful of designated high-risk sectors will have to comply with the rules, according to people with knowledge of the dossier. The sectors are expected to be a handful of ones that are already covered by EU legislation, like conflict minerals.

Due diligence clauses: Large businesses will have to monitor their supply chains for environmental and human rights violations, but the Commission is adjusting the range of these obligations as their responsibility reduces for every new notch further down in the supply chain. One option on the table in the Berlaymont is to allow companies to use generic models of due diligence clauses in their supplier contracts, which would offer a degree of legal protection for purchasers.

Likely to land February 23: The Commission’s sustainable corporate governance proposal is expected to be released on February 23, according to an internal Commission planning document seen by POLITICO and dated January 28.

From: [redacted] 5.1.2e @minbuza.nl>
Sent: dinsdag 25 januari 2022 13:26
To: [redacted] 5.1.2e @minbuza.nl>
Cc: [redacted] 5.1.2e @minbuza.nl]; [redacted] 5.1.2e @minbuza.nl]; [redacted] 5.1.2e
00048 @minbuza.nl]; [redacted] 5.1.2e @minbuza.nl]; [redacted] 5.1.2e @minbuza.nl]; [redacted] 5.1.2e 1109422
5.1.2e @minbuza.nl>

Subject: RE: Early warning of a possible letter to EC on SCG/due diligence

Hi 5.1.2e

Enorm veel dank hiervoor! Heel nuttig en informatief.

Ik heb ook met een half oor meegeluisterd. Wat mij, aanvullend op jouw notities, opviel was dat 5.1.2a

5.1.2a

5.1.2a Benieuwd of anderen dat ook zo hebben opgevat! Hieronder overigens nog een berichtje uit Politico over de bijeenkomst, zag ik net voorbijkomen.

Wellicht hebben 5.1.2e of 5.1.2e (cc) hier nog andere aanvullingen op.

Groet!

5.1.2e

EU set to ban forced labor goods with product withdrawal tool

By Sarah Anne Aarup · Jan 25, 2022, 12:41 PM · [View in your browser](#)

The European Commission favors outlawing forced labor goods through a product withdrawal mechanism in its upcoming sustainable corporate governance law, rather than a separate import ban, the EU's top trade civil servant Sabine Weyand outlined during a hearing in the European Parliament today.

Mandatory due diligence "can then be linked through different means with the prohibition to place goods on the market — a marketing ban — when due diligence has not been followed. Member states' market surveillance authorities would enforce the due diligence duty and product prohibition," Weyand told lawmakers.

Trade chief Valdis Dombrovskis has been dodging calls from hundreds of lawmakers and NGOs for a standalone import ban based in customs law ever since Commission President Ursula von der Leyen promised an EU-wide ban on the sale of goods made with forced labor.

Weyand argued today that the U.S. law to ban forced labor imports has "quite a few drawbacks," including that "it is discriminatory because it only deals with imports," places a "very heavy burden" on companies to prove that their goods aren't tainted by forced labor, and importers can circumvent it by setting up dummy companies in other countries.

"A combination of due diligence and marketing prohibition is actually a tried and tested EU approach," Weyand added, citing the timber regulation and the recent deforestation proposal.

The Commission's current schedule has the proposal down for February 15. "I am convinced that we will come forward with this proposal on the date that was announced," Weyand said.

From: 5.1.2e [@minbuza.nl](#)>

Sent: dinsdag 25 januari 2022 12:14

To: 5.1.2e [@minbuza.nl](#)>; 5.1.2e [@minbuza.nl](#)>; 5.1.2e

5.1.2e [@minbuza.nl](#)>; 5.1.2e [@minbuza.nl](#)>

Cc: 00048 5.1.2e [@minbuza.nl](#)>; 5.1.2e [@minbuza.nl](#)>

Subject: FW: Early warning of a possible letter to EC on SCG/due diligence

Dag collega's,

5.1.2e

5.1.2e

5.1.2a

To: [5.1.2e]@minbuza.nl
Cc: [5.1.2e]@vnoncw-mkb.nl; [5.1.2e]@vnoncw-mkb.nl; [5.1.2e]@minbuza.nl; [5.1.2e]@minbuza.nl; [5.1.2e]@minbuza.nl
From: [5.1.2e]
Sent: Wed 2/16/2022 10:31:23 PM
Subject: RE: input VNO-NCW op concept nationaal actieplan mensenrechten en bedrijfsleven
Received: Wed 2/16/2022 10:31:27 PM

Veel dank [5.1.2e]!

Mochten er verder vragen zijn nav de opmerkingen, dan hoor ik het graag.

Groet,
[5.1.2e]

Van: [5.1.2e]@minbuza.nl>

Verzonden: dinsdag 15 februari 2022 17:01

Aan: [5.1.2e]@vnoncw-mkb.nl>

CC: [5.1.2e]@vnoncw-mkb.nl; [5.1.2e]@vnoncw-mkb.nl; [5.1.2e]@minbuza.nl; [5.1.2e]@minbuza.nl; [5.1.2e]@minbuza.nl
[5.1.2e]@minbuza.nl>

Onderwerp: RE: input VNO-NCW op concept nationaal actieplan mensenrechten en bedrijfsleven

Externe mail. Klik alleen op links of bijlagen als je weet dat de inhoud veilig is.

Beste [5.1.2e]

Dank voor je mail en dank voor de aanvullende feedback (naast de schriftelijke input die jullie al hebben geleverd via de online tool).
Ik zal jullie feedback delen met de penvoeders van de verschillende pilaren.

Vriendelijke groeten,
[5.1.2e]

[5.1.2e]
Beleidsmedewerker Duurzame Productie en Handel
.....
Directie Duurzame Economische Ontwikkeling
Directoraat-Generaal Internationale Samenwerking
Ministerie van Buitenlandse Zaken
Rijnstraat 8 | 2515 XP | Den Haag
Postbus 20061 | 2500 EB | Den Haag
.....

T +31 [5.1.2e]
M +31 [5.1.2e]
E [5.1.2e]
LinkedIn [5.1.2e]
Twitter [5.1.2e]
.....

Ook benieuwd welke resultaten we boeken?
Go to www.DutchDevelopmentResults.nl

From: [5.1.2e]@vnoncw-mkb.nl>

Sent: vrijdag 11 februari 2022 14:36

To: [5.1.2e]@minbuza.nl>

Cc: [5.1.2e]@vnoncw-mkb.nl; [5.1.2e]@vnoncw-mkb.nl>

Beste 5.1.2e

Wij begrepen dat jij bezig bent om de input die op het nationaal actieplan mensenrechten en bedrijfsleven binnen is gekomen, te verwerken. 5.1.2e heeft namens VNO-NCW hiervoor een reactie ingestuurd via de digitale tool. Wij hebben echter ook nog een aantal nabranders. Is het misschien mogelijk deze nog mee te nemen?

Bij voorbaat dank!

Met vriendelijke groet,

5.1.2e

- P. 5 . Mbt Rijksinkoop. Wij ontvangen regelmatig feedback van bedrijven die geconfronteerd worden met onmogelijke IMVO eisen bij inkoop. Bv een garantie dat er nergens in de supply chain schending van mensenrechten plaatsvindt. Een dergelijke garantie is onmogelijk. Dus advies om in dit actieplan op te nemen dat het om uitvoerbare IMVO eisen moet gaan en de kennis van inkopers hierover op peil moet worden gebracht.
- P. 7. Sector convenanten worden enkel in de context van voldoen aan zorgvuldigheidsnormen geplaatst. Sector convenanten kunnen ook gericht zijn op positieve impact on the ground, daar waar je juist vanuit collectiviteit meer macht hebt richting bv een land of lokale producent. Dit zouden wij wat krachtiger neerzetten in de tekst. Sowieso zou de rol van sectorale convenanten, ook in Europese context, sterker mogen. Zie ook het SER advies daarover.
- P. 7 IMVO steunpunt. Niet enkel het IMVO steunpunt gaat bedrijven helpen met de due diligence. Ook bv brancheorganisaties kunnen hier een rol in vervullen. Of UN Global Compact/ Global Compact Network Netherlands die dit jaar een versnellingsprogramma op mensenrechten gaat aanbieden aan bedrijven, zodat bedrijven ambitieuzere doelstellingen hieromtrent kunnen opnemen en hun due diligence kunnen verbeteren. Onze suggestie is om dit ook op te nemen in het actieplan.
- Wij vinden over het algemeen dat de rol van de overheid wat te eenzijdig is gericht op het vraagstuk, hoe kunnen we bedrijven beter bij de les houden als het gaat om naleving mensenrechten. De overheid zou eigen rol wat meer nog mogen uitwerken. Bv mbt handel niet alleen hoe kan je het bedrijfsleveninstrumentarium meer koppelen aan IMVO normen, maar hoe kan je er aan bijdragen dat bedrijven op gevoelige markten zodanig zaken kunnen doen dat de kans op schending mensenrechten geminimaliseerd wordt. Bv bedrijven meer helpen bij uitleg nationale wetgeving en culturele gebruiken die negatieve impact kunnen hebben op mensenrechtenschending. Dus meer overheid als partner tov bedrijven in plaats van als controleur/handhaver.
- En wellicht dat jullie ook nog iets op kunnen nemen over de UN Binding Treaty en dat daarin de positie van het bedrijfsleven goed meegenomen moet worden? Dat missen we nu.

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