

Brussels, 31st of March, 2022.

Subject: Ensuring a gender-responsive and effective Corporate Sustainability Due Diligence legislation

Dear President of the European Commission Ursula von der Leyen,
Dear Vice-President Vera Jourová,
Dear Commissioner Thierry Breton,
Dear Commissioner Helena Dalli,
Dear Commissioner Didier Reynders,
Dear Members of Parliament,
Dear Council of the European Union Representatives,

On March 8th, we celebrated International Women's Day and paid tribute to the women who defend human rights and the environment across the world - women who are at the forefront of the fight against discrimination and inequality, and work towards protecting environmental, land and Indigenous peoples' rights in the context of business activities. We also highlighted the violence and discrimination that they face in the workforce as a result of their gender.

The Corporate Sustainability Due Diligence Directive proposal¹ adopted by the European Commission on February 23rd lays down rules for companies to respect human rights and the environment in global value chains. We, the undersigned organizations, welcome this long-awaited proposal and strongly believe that it is high time for companies to respect human rights and the environment, and be held accountable for their actions and impacts.

However, despite its groundbreaking potential, the Commission's proposal is gender-blind and risks leaving women and girls behind.

The current text does not recognize the fact that business and human rights abuses have differentiated impacts on individuals and groups in marginalized situations, including on women and girls. This comes as a great disappointment when [over 60 organisations wrote to the European Commission](#) in November 2021, urging them to ensure that the upcoming proposal be gender-responsive² and strongly aligned with the EU Gender Equality Strategy and the Gender Action Plan III.

Gender-specific impacts on women happen in all sectors³, from extractives, manufacturing and agriculture to accommodation, food services industry⁴ and the garment sector⁵. Such issues frequently intersect with other grounds for discrimination many women are further discriminated against based on intersecting identities such as their ethnic origin, age, class, caste, migration status, gender identity and/or other factors.

¹ https://ec.europa.eu/commission/presscorner/detail/en/ip_22_1145

² <https://corporatejustice.org/wp-content/uploads/2021/11/OPEN-LETTER-Urgent-request-to-ensure-a-gender-responsive-SCGD.pdf>

³ ActionAid 'We mean business' https://actionaid.nl/wp-content/uploads/2020/02/We-Mean-Business-Protecting-Womens-Rights-in-Global-Supply-Chains_ActionAid_March-2020.pdf

⁴ Oxfam, Not in this together, 2021 <https://oxfamilibrary.openrepository.com/bitstream/handle/10546/621194/bp-not-in-this-together-220621-en.pdf?sequence=22>

⁵ Clean Clothes Campaign, Fashioning justice, 2021, <https://cleanclothes.org/news/2021/fashioning-justice>

This is why gender-responsive due diligence rules and corporate accountability are urgently needed to properly address these deep-seated inequalities.

Gender-responsiveness must be included in all steps of the due diligence process; if not, it will render invisible the specific risks and additional barriers faced by women and/or groups in vulnerable situations.

Furthermore, not addressing the obstacles in access to justice will continue tying the hands of affected women and girls to be able to defend themselves and demand remedy.

As the proposal makes its way through the European Parliament and the Council of the European Union, we call on policy-makers to bring the following improvements to the proposal to ensure it is gender-responsive:

1. In line with the UNGPs and the OECD guidelines, the Directive should recognise that companies need to pay special attention in their due diligence to the actual and potential adverse impacts on groups or populations that may have a heightened risk of vulnerability or marginalisation. Companies should also take into account the different risks that may be faced by women and men⁶, as women and people with gender-diverse identities face gender-specific impacts;
2. The list of rights and prohibitions and conventions used to define “adverse human rights impacts” in the Annex is too limited, particularly to prevent and remedy corporate women’s rights abuses. It must be made clear that this Annex is non-exhaustive. In addition the list should be expanded to include additional violations and prohibitions in Part I⁷ and other key conventions should also be added in Part II⁸;
3. The company scope must be broadened so that all companies have an obligation to respect human rights and the environment. Furthermore, all companies under the scope must identify all adverse impacts. The current distinction where a group of companies active in high-impact sectors is allowed to limit identification to “*severe adverse impacts*”, instead of all their impacts is not justified. It contradicts international standards and is counter-intuitive as high-impact sectors are those where the risk of adverse impacts is the highest, where women are most present⁹ and thus where the need for intervention is the most crucial;

The due diligence obligation, as described throughout the proposal, must be amended on several aspects to ensure that it is gender-responsive in every step, notably:

4. The due diligence obligation must cover the whole value chain. The term “*established business relationship*” risks limiting the coverage of the obligation to the closest, only formal or lasting suppliers. Such limitation risks leaving out entire layers of activities,

⁶ To this end, the [UN](#) and the [OECD](#) developed specific guidance about integrating a gender lens throughout the due diligence process.

⁷ For instance Articles 1 and 2 of the *Convention on the Elimination of all Forms of Discrimination against Women* and articles 3 of the *International Covenant on Economic, Social and Cultural Rights* and of the *International Covenant on Civil and Political Rights*, which both guarantee the enjoyment of the rights covered in the covenants without discrimination between men and women

⁸ Including the *ILO Convention 190 on Violence and Harassment in the World of Work* and the *Convention on the Protection of the Rights of All Migrant Workers and Members of their Families*

⁹ Women make up around 80% of the textile and apparel workforce; 37 % of the global workforce in agriculture are women, due to limited ownership and control over land and natural resources they are disproportionately affected by human rights violations such as land grabbing.

including semi-formal and informal working schemes as well as unofficial subcontracting and home-based work, in which women are disproportionately represented;

5. Companies must be required to safely and meaningfully engage with stakeholders, and in particular with vulnerable and marginalised individuals, communities and their representatives throughout each step of due diligence. Stakeholder engagement and complaints mechanisms must be gender-responsive¹⁰. Furthermore, the protection of whistleblowers (article 23) should be expanded to protecting all Human Rights Defenders in particular when based outside the EU where their vulnerability is particularly heightened¹¹;
6. Identification of risks as well as monitoring of operations and measures must include gender-sensitive human rights and environmental impact assessments and indicators, including by gathering and using disaggregated data (based on sex, ethnicity, age, migration status and others). Companies must also be required to map and disclose their value chain and business relationships;
7. To ensure that the objectives of the proposed directive are achieved, the described due diligence obligation must go beyond procedural provisions. The text must clearly state that companies have an obligation to respect human rights and the environment and this must be reflected in Article 1 on the purpose of the Directive and on Article 4 on Due Diligence, independent from the additional procedural requirements laid down in the proposal. It must also require companies to carry out detailed and qualitative assessment and evaluation of the measures taken to prevent and minimise actual and potential adverse impact, giving specific attention to women and girls and other marginalised groups, and do so through safe and meaningful consultation with stakeholders;
8. Specify that the impact of purchasing practices and business models must be an integral part of a company's due diligence policies and activities. Unfair purchasing practices on cost and schedules have a direct and disproportionate impact on women (low wages and incomes, unsafe conditions, abusive subcontracting);
9. Include the explicit obligation for companies to remediate harm, as well as provisions for victims to access both non-judicial and judicial remedies. Available remedies must go beyond financial compensation (article 8.3.(a))¹², they must take into account the needs and interests of the affected party and be decided and designed in consultation with rightholders. Due attention shall be given to overcome the barriers that women, and other marginalised groups face in accessing and securing remedy, as well as in ensuring that all procedures are impartial, safe and free from undue influence;
10. Include provisions to facilitate access to justice by ensuring a fair distribution of the burden of proof, reducing time limitations, allowing for collective redress and representative actions.

¹⁰ https://media.business-humanrights.org/media/documents/files/documents/FEMINISTS_CONTRIBUTIONS_TREATY.pdf

¹¹ In 2020, 13% of the 331 human rights defenders killed worldwide were women; most of these killings occurred in the context of business activities.

¹² Remedy may include apologies, restitution, rehabilitation, financial or non-financial compensation and punitive sanctions (whether criminal or administrative, such as fines), as well as the prevention of harm through, for example, injunctions or guarantees of non-repetition.

The Corporate Sustainability Due Diligence Directive proposal represents a unique opportunity to fight gender inequality and discrimination in global value chains. We call on you to take that step and change the text to ensure that the proposal fulfills its promise and its potential.

Sincerely,

Signatories:

1. ActionAid International
2. AK EUROPA
3. Amigas de la Tierra (Spain)
4. Anti-Slavery International
5. Arisa
6. ASTM
7. Asociación de investigación y Especialización sobre Temas Iberoamericanos
8. Asociación por la Paz y los Derechos Humanos Taula per Mèxic
9. Avocats Sans Frontières
10. Broederlijk Delen
11. Brot für die Welt
12. Business & Human Rights Resource Centre
13. Cambodian Center for Human Rights (CCHR)
14. Campagna Abiti Puliti
15. CARE International
16. CNCD-11.11.11
17. Christian Aid Ireland
18. Christian Initiative Romero
19. CIDSE
20. Clean Clothes Campaign
21. CooperAcció
22. CorA-Netzwerk für Unternehmensverantwortung
23. Corporate Justice Coalition
24. cum ratione gGmbH
25. Development Projects for Women - Marie-Schlei-Verein
26. Diakonia
27. Entraide et Fraternité
28. European Trade Union Confederation (ETUC)
29. European Coalition for Corporate Justice - ECCJ
30. EU-LAT Network
31. European Center for Constitutional and Human Rights (ECCHR)
32. EZA Fairer Handel GmbH
33. Fair Finance International
34. Fair Trade Advocacy Office
35. Fairtrade International
36. FAIRTRADE Österreich
37. FEMNET e.V.
38. FIAN Germany
39. Focus Association for Sustainable Development

40. FOKUS - Forum for Women and Development
41. Forum Fairer Handel
42. Friends of the Earth Europe
43. Foro Ciudadano de Participación por la Justicia y los Derechos Humanos
FOCO.INPADE Argentina
44. ForumCiv
45. Fundacion Alboan
46. Global Policy Forum
47. Global Witness
48. Grupo belga Solidair met Guatemala
49. Human Rights Without Frontiers
50. International Dalit Solidarity Network
51. IM Swedish development partner
52. INKOTA-Netzwerk
53. International Federation for Human Rights (FIDH)
54. International Justice Mission Germany
55. International Service for Human Rights
56. Irish Coalition for Business and Human Rights
57. Jamaa Resource Initiatives, Kenya
58. KOLPING International
59. Lady Lawyer Foundation
60. Les Amis de la Terre - Belgique
61. Manushya Foundation, Thailand
62. Milieudefensie - Friends of the Earth Netherlands
63. Oxfam International
64. PICUM (Platform for International Cooperation on Undocumented Migrants)
65. Project Organising Development Education and Research (PODER)
66. Protection International (PI)
67. Rainforest Alliance
68. Red europea de comité Oscar Romero
69. ShareAction
70. Centre for Research on Multinational Corporations - SOMO
71. Stichting IUCN Nederlands Comité
72. Südwind (Austria)
73. Swedish Fellowship Of Reconciliation
74. Swedwatch
75. TERRE DES FEMMES e.V.
76. Trócaire
77. We Effect
78. Women Engage for a Common Future - WECF International
79. Women's International League for Peace and Freedom
80. Workers Assistance Center, Inc., Philippines
81. World Organisation Against Torture (OMCT)
82. WSM