



International
Labour
Organization

ORGANISATION
FOR ECONOMIC
CO-OPERATION
AND DEVELOPMENT



ORGANISATION DE
COOPÉRATION ET
DE DÉVELOPPEMENT
ÉCONOMIQUES



UNITED NATIONS
HUMAN RIGHTS
OFFICE OF THE HIGH COMMISSIONER

7 March 2022

Dear Commissioner Breton,

The International Labour Organization (ILO), the Organisation for Economic Co-operation and Development (OECD), and the Office of the UN High Commissioner for Human Rights (OHCHR) welcome the European Commission's commitment to advancing the protection of human rights and the environment through due diligence. In this respect, we appreciate that the UN Guiding Principles on Business and Human Rights (UNGPs), the ILO Tripartite Declaration of Principles concerning Multinational Enterprises and Social Policy (MNE Declaration) and the OECD Guidelines for Multinational Enterprises (OECD MNE Guidelines) have helped shape due diligence expectations for business in the Commission's recently released legislative proposal for a Directive on Corporate Sustainability Due Diligence and amending Directive (EU) 2019/1937.

It has been over 10 years since the UN Human Rights Council endorsed the UNGPs and OECD adherent States updated the OECD MNE Guidelines to include a cross-cutting recommendation that enterprises carry out proactive, risk-based due diligence on their adverse environmental, human rights and governance impacts. The ILO updated its Tripartite MNE Declaration in 2017 to include an expectation that companies carry out due diligence in relation to the human rights of workers.

These international instruments, together with the OECD Due Diligence Guidance for Responsible Business Conduct, were developed through multi-stakeholder consultation and set forth common, broadly accepted and authoritative standards for responsible business conduct (RBC).

The world stands at a critical moment. As governments and companies look for ways to respond to the realities of a global pandemic, rising inequality and the triple planetary crisis - climate change, pollution and biodiversity loss - global efforts to promote sustainable supply chains and financial flows have taken on new momentum. Human rights and environmental due diligence, as outlined in the UNGPs, MNE Declaration and OECD RBC standards, is a key tool in this regard. It helps companies identify, prioritise and address their potential adverse impacts on people and planet, and plan for and respond to future challenges. In this way, the private sector can build resilience, and ultimately help achieve the Sustainable Development Goals and global climate objectives.

A mix of regulation, greater policy coherence, and market-based incentives are needed to make further progress on and drive consistent implementation of RBC. Mandatory due diligence can play an important role within this smart mix of measures. Existing domestic laws and market requirements on environmental, social and governance matters may differ in their risk focus, company scope and levels of consistency with international standards. An EU-wide approach, aligned with international standards, can play an important role in ensuring coherence in regulatory measures taken at the national level.

As the world's largest trading bloc, the EU has a unique opportunity to promote more sustainable and responsible business practices in Europe and beyond. In its trade policy, the EU is already committed to advancing RBC in partner countries, promoting the three international instruments referenced in the Commission's proposal. Coherence with the substantive elements of international standards can help bolster the impact and effectiveness of the EU's efforts. For example, it can guard against box-ticking compliance approaches and overreliance on contractual assurances. It can also ensure that due diligence is embedded into enterprises' oversight and management systems, covers the entire value chain, and is sufficiently risk-based, dynamic, proportionate and based on proactive and meaningful stakeholder consultation and dialogue, particularly with workers and all others potentially impacted by business activities. Coherence with international standards can also support the creation of a truly global level playing field, provide legal clarity to business, and reduce costs for companies seeking to comply with similar laws in other regions. Most importantly, aligning with such standards can help to prevent business involvement with harms to people and planet in the first instance, and enable access to effective remedy where they occur.

We welcome that the Commission's proposal recognises the need for a range of accompanying measures to help facilitate its implementation. An appropriate package of measures, alongside an effective enforcement regime, will better enable business to meet their responsibilities under the proposal and promote market-based incentives to advance RBC. Administrative supervision and judicial enforcement play important and complementary roles. Cooperation with and support to partner countries, especially developing countries, will be critical.

Initiatives such as the Commission's proposal represent important developments in the international community's work towards more responsible business practices. Our organizations look forward to reviewing the legislative proposal in greater detail and engaging with you to advance our shared goals on business and human rights, decent work and RBC more broadly.

Yours sincerely,



Guy Ryder
Director-General
International Labour
Organization



Mathias Cormann,
Secretary-General
Organisation for Economic
Co-operation and
Development



Michelle Bachelet
United Nations High
Commissioner for Human
Rights

cc: Ambassador Lotte Knudsen, Head of the Delegation of the European Union to the United Nations and other international organisations in Geneva
Ambassador Didier Lenoir, Permanent Representative of the European Union to the OECD

This letter has also been sent to President Ursula von der Leyen and Commissioner Didier Reynders.