

Mandate of the Working Group on the issue of human rights and transnational corporations and other business enterprises

7 February 2024

Statement by the United Nations Working Group encourages European Union Member States to adopt the draft Corporate Sustainability Due Diligence Directive

The United Nations Working Group on Business and Human Rights (Working Group) has followed closely the developments in the drafting of the European Union (EU) Corporate Sustainability Due Diligence Directive and has previously commented on the draft.¹ We are concerned that there may be resistance from some EU Member States to the draft Directive, which was agreed as a consequence of the triologue with the European Commission, the European Council and the European Parliament.

We urge all EU Member States to agree to this draft Directive for four reasons:

1. The draft Directive is part of the smart mix of measures – national and international, mandatory and voluntary – of regulation to implement the United Nations Guiding Principles on Business and Human Rights (UNGPs), which was endorsed by the UN Human Rights Council in 2011. More than half of the EU Member States have expressly publicly committed to implement the UNGPs.
2. The draft Directive has the ability to bring coherence and consistency, and provide broad human rights protections, to the current legislative and other regulatory developments, including at the international level, across the world. It also offers legal certainty for businesses, many of which are calling for the Directive to be passed.
3. The need for legislation in this field by the EU is seen in the number of EU domiciled businesses which have had claims brought against them for adverse human rights and environmental impacts, as well as the evident lack of voluntary action being taken by most EU domiciled businesses in relation to their impacts. This has consequent impacts on rightsholders, on businesses which aim to take action but are constrained by the lack of action by their competitors, and on the reputation of the EU Member States in relation to their leadership in this field.
4. The draft Directive, and the actions taken to implement it, may have an influence on the development of a Legally Binding Instrument (LBI) on business and human rights. The creation of the Directive can be leveraged as a means to prepare EU businesses for a LBI and other mandatory obligations worldwide. In addition, the lack of a Directive may lead to the creation of a draft of a LBI over which EU Member States will have less ability to affect than their own Directive.

We hope that you will draw our statement to the attention of all EU Member States as a matter of urgency.

¹ <https://www.ohchr.org/sites/default/files/documents/issues/business/workinggroupbusiness/Statement-Financial-Sector-WG-business-12July2023.pdf>