**OEIGWG 24-28 October 2022 - EU comments based on EU legislative proposals**

*The following comments aim to inform about relevant developments in the EU and notably the recent legislative proposals in the area of due diligence. They do not represent a negotiating position on behalf of the EU on the draft text. The proposals are under legislative procedure and under discussion by the EU co-legislators (European Parliament and Council).*

**- CHECK AGAINST DELIVERY -**

**To be delivered on Thurs 27 morning / afternoon hrs:**

**Article 1 Definitions**

With the caveat that this does not represent a negotiating position on behalf of the EU, the EU would like to provide some comments on some definitions on the basis of the recent legislative proposal by the [European Commission for a Directive on Corporate Sustainability Due Diligence.](https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A52022PC0071)

The Proposal defines ‘adverse human rights impact’ (as an adverse impact on protected persons resulting from the violation of one of the rights or prohibitions enshrined in the international conventions on human rights and labour rights listed in the Annex of the proposal.

As for the definition of “Human rights due diligence”, the Proposal of the European Commission relies on the six steps defined by the OECD Due Diligence Guidance for Responsible Business Conduct which describes due diligence measures to be carried out by companies in order to identify and address adverse human rights and environmental impacts.

The Proposal also includes a definition of ‘company’

**To be delivered on Thurs 27 morning / afternoon hrs:**

**Article 2. Statement of purpose**

With the caveat that this does not represent a negotiating position on behalf of the EU, the EU would like to provide some comments on the statement of purpose on the basis of the recent legislative proposal by the [European Commission for a Directive on Corporate Sustainability Due Diligence.](https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A52022PC0071)

The European Commission’s Proposal on Corporate Sustainability Due Diligence provides that aim of the future EU Directive is to ensure that companies active in the EU internal market contribute to sustainable development and the sustainability transition of economies and societies through the identification, prevention and mitigation, bringing to an end and minimisation of potential or actual adverse human rights and environmental impacts connected with companies’ own operations, subsidiaries and value chains.

To this aim, the Proposal lays down rules on obligations for companies regarding actual and potential human rights adverse impacts and environmental adverse impacts, with respect to their own operations, the operations of their subsidiaries, and the operations in their value chain; and rules on liability for violations of the obligations mentioned above.

**To be delivered on Thurs 27 morning / afternoon hrs:**

**Article 3 Scope**

With the caveat that this does not represent a negotiating position on behalf of the EU, the EU would like to provide some comments the issue of scope on the basis of the recent legislative proposal by the [European Commission for a Directive on Corporate Sustainability Due Diligence](https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A52022PC0071).

The EU would like to stress, as mentioned during the 7th negotiating session, that it supports those who consider that any international legally binding instrument should cover all businesses in a non-discriminatory manner, with due consideration to issues of proportionality.

The Proposal provides that the scope of due diligence obligations under the future Directive should be carried out with respect to adverse human rights impact on protected persons resulting from the violation of one of the rights and prohibitions enshrined in the international conventions listed in its Annex to the Proposal. These are the international human rights conventions from the United Nations and the international labour rights conventions from the International Labour Organisation. The list of such international conventions is based on the authoritative human rights framework as referred to in the UNGPs.