**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 Tues 25 – Wed 26 (morning / afternoon hrs):**

**Article 6. Prevention**

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 issue of prevention 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 for a Directive on CSDD lies down a mandatory legal framework for corporate due diligence in the value chain as an effective tool for identifying, preventing, mitigating and accounting for adverse human rights impacts, and for having adequate governance, management systems and measures in place to this end.

The Proposal applies the principle of **proportionality in the context of due diligence.** The burden on companies stemming from compliance costs, has been adapted to the size, resources available, and the risk profile.

In relation to the Chair’s proposed language for art 6.2, the Proposal for a Directive on CSDD sets out the requirement for Member States to designate one or more **national supervisory authorities** in order to ensure compliance by companies with their due diligence obligations and to exercise the powers of enforcement of those obligations. It foresees the creation of a European Network of Supervisory Authorities.

Natural and legal persons will be entitled to submit **substantiated concerns** to any supervisory authority when they have reasons to believe, on the basis of objective circumstances, that a company is failing to comply with the national provisions adopted pursuant to the Directive.

With reference to Art 6.4 of the 3rd draft of the LBI, the EU stresses the need to ensure **transparency** about sustainability performance of companies including in the area of human rights. The European Commission adopted in April 2021 a [proposal for a Corporate Sustainability Reporting Directive (CSRD)](https://finance.ec.europa.eu/publications/sustainable-finance-package_en) which will amend the existing reporting requirements of the Non-Financial Reporting Directive of 2014. The proposal i.a. introduces **more detailed** reporting requirements whereby large companies are required to **report on sustainability issues** including concerning human rights. Moreover, the Proposal for a Directive on CSDD, foresees that companies not already subject to reporting requirements, should report on how they perform due diligence under the Directive, and publish an annual statement on their website.