

**Outcome Paper of the Conference
“Global Supply Chains – Global Responsibility:
Human Rights and Decent Work win Global Supply Chains”**

6 and 7 October 2020

**The European Way Forward:
Proposals for a New EU-Agenda
on Human Rights and Decent Work
in Global Supply Chains**

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Why do we have to act?

- » The conference "Global Supply Chains – Global Responsibility: Human Rights and Decent Work in Global Supply Chains" held by the Federal Ministry of Labour and Social Affairs in the framework of Germany's Presidency of the Council of the European Union has clearly shown: EU Member States, the European Commission, the European Parliament, trade unions, social partners, civil society and a growing number of companies agree by a large majority that the time to act is now! The EU and its Member States must take decisive action and require also companies to respect human rights and decent work.
- » Respect for human rights in supply and value chains must not end at the external borders of the EU. European companies that do business globally must also take global responsibility for the people who manufacture, transport, sell their products or are affected by their business activities because they live nearby.
- » The current situation in global supply chains is unacceptable for many people. Millions of people around the world are working for starvation wages in slave-like conditions. Children work hard on plantations or in mines instead of going to school. Men and women work – sometimes without breaks – twelve hours or more six days a week in horrible conditions.
- » The COVID-19 crisis has further exacerbated the situation worldwide. Children in particular are suffering. It will take at least 40 years to overcome child labour if it continues to decline as slowly as it is currently. However, only five years remain to abolish child labour and only ten years to eliminate forced labour to implement the Sustainable Development Goals (SDGs).
- » According to the ILO, more than 150 million children are still forced to work because their parents' wages are insufficient or the parents have lost their jobs. Around 40 million people are victims of forced labour or sexual exploitation. Nearly 2.8 million people die each year in work-related accidents and around 374 million suffer from work-related illnesses.
- » The EU has a special responsibility to tackle these problems. As a community of shared values and the world's largest internal market with a share of 15 percent of all global imports, it plays a decisive role in ensuring that the products that end up in our shopping carts are produced under fair and sustainable conditions.

Where do we stand today?

- » Businesses have a responsibility to respect human rights along global supply chains. They are expected to undertake human rights due diligence as defined in the United Nations' Guiding Principles on Business and Human Rights (UNGPs). Businesses should adopt a policy commitment on human rights, analyse their risks and adverse human rights impacts, and publicly disclose how they address the risks identified. This includes taking appropriate measures to prevent and mitigate any harm, and providing effective remedy to affected rights-holders.
- » States have the duty to protect human rights. This duty requires States to adopt a smart mix of measures in order to protect rights-holders effectively. Imposing legal due diligence obligations on companies becomes necessary when encouragement, voluntary standards, advisory support and capacity-building alone prove insufficient.
- » So far 15 EU countries have complied with the request of the European Commission to draw up and implement National Action Plans on Business and Human Rights. Most of the Action Plans do not contain the necessary smart mix of measures as their content and focus vary greatly. The perspective of the rights-holders concerned is hardly taken into account and the central issue of access to remedy, the third pillar of the UNGPs, has been neglected. National implementation activities are often not coordinated and thus not sufficient to close gaps systematically and change the behaviour of enterprises.
- » In consequence, almost ten years after the UNGPs were adopted, only a minority of European businesses undertakes comprehensive human rights due diligence along the entire supply chain. In particular those with cross-sector activities are confronted with different EU sustainability and due diligence requirements and heterogeneous national legislation.
- » Without a coherent EU-strategy to implement the UNGPs and with voluntary measures alone EU Member States are unable to significantly change the way businesses manage their human rights risks. To bundle leverage and expertise it is essential to have a common understanding of due diligence requirements across sectors, size of businesses and countries.
- » By passing EU legislation on human rights due diligence, companies would benefit from harmonised requirements, legal certainty and fair competition. Simultaneously the EU would demonstrate its willingness and ability to shape globalisation fairly.
- » A legally binding EU standard has the potential to improve the situation for millions of people along global supply chains. For this purpose, the European Commission has announced an EU legislative act by 2021 to improve the EU regulatory framework on corporate governance. The public debate has now shifted from the „if“ to the „how“ of EU human rights due diligence legislation.
- » Any regulatory framework needs to be complemented by supportive measures enabling enterprises to exert due diligence throughout their supply chains. Many enterprises need more orientation and collaboration with other companies building up competences to act responsibly.

Actions Points – How to move forward and generate an impact

- » There have already been important efforts to implement and promote the UNGPs, the OECD Guidelines for Multinational Enterprises and the ILO Tripartite Declaration of Principles concerning Multinational Enterprises and Social Policy by Member States and the EU institutions, which are widely appreciated.
- » However, more needs to be done to maximise the role States and businesses can play in protecting and respecting human rights and promoting sustainable development. A more strategic, coherent and integrated EU approach is called for.
- » This Outcome Paper contains proposals for an Action Plan on Human Rights and Decent Work in Global Supply Chains and refers to the five key topics of the conference. Other topics such as sustainability chapters in EU trade agreements or the role of public procurement are also relevant and could be addressed in an EU action plan.
- » The Action Plan should be a joint effort by the EU Institutions and Member States. Moreover, it should offer a clear set of measures to support, enable, incentivise and require business respect for human rights.
- » The Action Plan should be accompanied and complemented by an update of the 2006 Communication on “Promoting decent work for all - the EU contribution to the implementation of the decent work agenda in the world”. Most of the human rights abuses in global supply chains are caused by poor and undignified working conditions.
- » Finland’s Presidency of the Council of the European Union in December 2019 has already pointed in this direction and sent a strong signal with the Outcome Paper of the Business and Human Rights Conference.

Advancing human rights and decent work through a smart mix of measures

1. Mandatory due diligence

- » The cornerstone of an EU Action Plan should be making human rights due diligence mandatory for businesses. Legislation has to ensure that companies respect human rights not only in Europe, but all over the world.
- » Mandatory due diligence should cover all human rights and all economic sectors along the entire supply chain. Most human rights violations take place at the deeper levels of supply chains, for example in the mining of raw materials, in agriculture or in textile processing. It is therefore important for companies in all sectors to make their supply chains as transparent as possible and assume responsibility for the parts of the chain beyond their direct contractual partner.
- » For legal regulation to be effective, the scope of application must cover more than only a few large corporations. We need a comprehensive change of culture so that sustainable supply chain management becomes a matter of course.
- » Companies' failure to undertake human rights due diligence should have consequences and those affected should be able to enforce their rights in the courts of EU Member States.
- » The new legal framework has to be manageable for businesses and should be proportionate, create legal certainty, take into account the needs of SMEs and aim at strengthening decent work. This also includes fostering responsible relationships between EU enterprises and their partners in developing countries.
- » There should also be incentives for companies to cooperate closely and to join sector initiatives in order to pool their market power and bring about positive changes in manufacturing countries.

2. European sector dialogues

- » A key element of the smart mix as envisaged by the UNGPs are sector dialogues. In particular, SMEs need sector-specific support and can benefit from the expertise of larger enterprises, the social partners as well as of civil society. The combined market power of an entire European sector has the potential to bring about improvements on the ground that national dialogues alone would be unable to achieve.
- » Therefore, European sector dialogues should be among the top priorities of a European Action Plan on Human Rights and Decent Work in Global Supply Chains. National best practices can be helpful in setting up European sector dialogues.
- » The vision is to establish resilient and sustainable supply chains that are UNGP-compliant for each sector and create advancement in the targets as defined by the UN Sustainable Development Goals.
- » European sector dialogues need an agreed purpose, a clear roadmap and practical, achievable deliverables as well as a transparent process involving civil society, social partners and local stakeholders like farmers or communities in mining areas.
- » They should prioritize impact-oriented collaborative action covering all five core elements of human rights due diligence from policy statements to the effectiveness of grievance mechanisms.
- » The sector dialogues should enhance local capacity-building for long-term impact and need to be tailored towards the specific contributions that companies can make and cover cross-cutting issues, e.g. living wages.

3. EU quality criteria for National Action Plans (NAPs)

- » The European Commission and the Member States should commit themselves to the ambitious and coordinated implementation of the UNGPs.
- » The European Commission plays a key role in ensuring coherence and should seek to base national policies on quality criteria for the preparation, content and effective implementation of NAPs.
- » Common objectives could be identified and formulated by the European Commission together with the member states and the involvement of relevant stakeholders, including the perspective of those whose rights are affected.
- » Structures for peer learning among Member States could be built up in order to learn from each other about what constitutes a substantial NAP and how they could better live up to challenges.
- » Guidelines for Member States on the preparation and implementation of NAPs could provide clarity in detail on how to identify and close gaps in protection. They could also contain a methodology for monitoring businesses and their activities on human rights due diligence.

4. Eradicating child labour, forced labour and human trafficking

- » A significant proportion of working children and victims of forced labour and trafficking is integrated into global supply chains. Despite some progress, voluntary approaches and private standard-setting have had limited impact. They suffer from various deficits: often, only parts of the value chain are covered, traceability is lacking, audits have proven as unreliable and important cross-cutting issues such as living wages and social protection are neglected.
- » The fight against child labour, forced labour and human trafficking requires enhanced efforts using all available policy tools and instruments. A holistic approach is needed. It is important to look at structural root causes and interrelated human rights issues. For the fight against child labour to be successful, fair wages must be paid and everyone must have access to social protections.
- » EU legislation on sustainable corporate governance with a robust human rights due diligence standard along global supply chains that covers all human rights would improve the quality of voluntary standards.
- » Credible voluntary standards and certifications can play an important complementary role, but they need to become more effective and should therefore also be taken into account in other areas, such as the EU's finance sector, trade and EU development cooperation. Individual approaches and ownership of companies should also continue to play an important role.
- » The European Commission and Member States should, in accordance with their respective competences, give more coordinating support to companies. They should set guidelines with effectiveness criteria for voluntary standards which could simultaneously certify sustainable value chains or production steps.
- » Binding criteria concerning human rights due diligence should be included as well as the payment of living wages or prices which guarantee a living income. Standard-setting organisations should be obligated to take effective measures to control compliance with the criteria.
- » Further EU Member States should join the Alliance 8.7.

5. Access to remedy

- » To overcome obstacles in relation to access to remedies for victims of business-related human rights abuses, a coherent system of remedies needs to be in place that provides victims in each specific case with a remedy that is suited to their specific problem. Without touching upon the right of access to court, judicial and non-judicial mechanisms are to be seen as complementary in this system.
- » The EU-Commission and Member States should acknowledge the important contribution of non-judicial remedies in ensuring an effective access to remedy. They should advocate the use of insights from research and practice of Alternative Dispute Resolution for the purpose of improving remedies in business and human right cases. Taking into account the work by the EU Fundamental Rights Agency on access to justice in cases of business-related human rights abuses and adopting a holistic approach to access to remedy, the EU-Commission and Member States should determine what practical steps are needed to achieve a coherent system of remedies that corresponds to the needs of victims.
- » Member States and the EU-Commission should consider establishing an online tool to support victims of corporate human rights abuses in their search for a suitable complaint mechanism. This new tool should provide easy access to information about the different grievance mechanisms.
- » Providers of non-judicial remedies should be nudged to find ways to encourage synergies in the provision of remedies, especially through industry-wide mechanisms.
- » Member States and the EU-Commission should explore how to incentivize the development of remedial mechanisms pursuing an integrative, interest-based approach to dispute resolution.