

Position Paper on the Effects Corporate Sustainability Due Diligence on SMEs

In light of the European Commission's intentions to propose a Regulation on Corporate Sustainability Due Diligence (CSDD), the EEA is hereby providing key points to visualize the points for SMEs.

As the EEA and on behalf of our membership, we welcome the intentions of the European Commission to propose Corporate Sustainability Due Diligence (CSDD) however we do carry concerns regarding the impacts of this directive on the SMEs. Despite the proposed exclusion of EU SMEs from the scope of CSDD, they will still experience the impact of reporting obligations due to their involvement in value chains. Consequently, SMEs will face onerous and excessive requirements that consume significant financial and human resources and time.

The amendment recognizes the importance of preventing or minimizing adverse impacts throughout companies' operations, subsidiaries, and business relationships in their value chains. Furthermore, it emphasizes that companies should not be expected to guarantee the complete elimination of adverse impacts under all circumstances. This paper advocates for the inclusion of specific measures to support small and medium-sized enterprises (SMEs) in complying with the directive.

I. Clarification of Obligations:

1. Obligations of Means:

We should stress that there may be situations where adverse impacts result from state intervention, limiting companies' ability to achieve desired outcomes. Therefore, the main obligations outlined in the directive should be 'obligations of means,' where companies are expected to take measures that can reasonably be expected to prevent or minimize adverse impacts given the specific circumstances of the case.

2. Proportionate Measures:

Considering the specificities of a company's value chain, sector, or geographical area of operation, as well as its power to influence business relationships, it highlights the need for companies to implement due diligence measures within their means. These measures should be proportionate and

commensurate with the severity and likelihood of adverse impacts, as well as the size, resources, and capacities of the company.

3. Scope of Application:

It is justifiable that there is a focus on entities in third countries that are not bound by the EU's legal framework, ensuring a level playing field and protecting EU value chains, particularly European SMEs. We should acknowledge that although SMEs are not included in the scope of the directive, they could still be indirectly affected as contractors or subcontractors to companies falling within the scope.

II. Support for SMEs:

1. Dedicated Websites or Platforms:

To mitigate the financial and administrative burden on SMEs, the proposed amendment suggests that Member States establish and operate user-friendly dedicated websites, portals, or platforms. We are in favour of these platforms and should provide information and resources to assist SMEs in complying with due diligence measures effectively. Member States are encouraged to tailor the support to the specific needs and challenges faced by SMEs.

2. Financial and Capacity-Building Support:

Member States are urged to provide financial support to Union SMEs voluntarily complying with the directive. This support should be made accessible and, if necessary, adapted and extended to economic operators upstream in third countries. Additionally, Member States should help SMEs build their capacity to implement due diligence measures effectively.

3. Fair and Reasonable Requirements:

SME business partners support them in complying with due diligence measures. The requirements imposed on SMEs should be fair, reasonable, non-discriminatory, and proportionate to their size and capabilities.

III. Complementary Support by the Commission:

1. Utilization of Existing EU Tools and Actions:

The Commission Should complement the support provided by Member States to SMEs by utilizing existing EU tools, projects, and actions that aid in the implementation of due diligence. This approach aims to enhance the implementation efforts of companies, including SMEs, in meeting the due diligence requirements outlined in the directive.

2. Observatory for Value Chain Transparency:

To promote transparency and accountability, we should make sure about the establishment of an observatory for value chain transparency. This initiative would involve collecting and analyzing information on supply chains, ensuring enhanced visibility throughout the value chain.

3. Facilitating Stakeholder Initiatives:

The Commission would facilitate joint stakeholder initiatives, encouraging collaboration between various actors involved in value chains to promote responsible practices. Such initiatives would help foster responsible business conduct and support companies in meeting their due diligence obligations.

In conclusion, even though the Directive implicates the obligations placed upon both EU companies and non-EU companies operating within the EU pertain to the real and potential adverse impacts on human rights and the environment. These obligations extend to their own operations, subsidiaries, and other entities involved in their value chain, we believe that these can have impacts on SMEs, which for this reason we provide crucial clarifications on the obligations of companies and introduces measures to support SMEs in implementing due diligence measures effectively. By focusing on 'obligations of means,' proportionate measures, and tailored support, there is a balanced approach to addressing adverse impacts while safeguarding the interests of EU value chains and SMEs. The involvement of Member States and the Commission in providing information, financial assistance, and tools further strengthens the overall implementation efforts of the directive.