**Mandatory Due Diligence on Human Rights and Environmental Impacts**

**(Company Survey)**

Human rights and environmental due diligence is a process whereby a business identifies, prevents, mitigates and accounts for adverse human rights impacts and environmental damage. A number of governments have introduced legislation or have announced their intention to consider the introduction of laws that require companies to conduct human rights and environmental due diligence, inter alia, through their supply chain. In April 2020, the European Commissioner for Justice expressed the intention of the European Commission to introduce a legislative initiative on mandatory corporate human rights and environmental due diligence by 2021.

In Luxembourg, the Government’s Coalition Agreement of 2018 includes a commitment to “study the possibility to introduce legislation on mandatory due diligence for companies domiciled in Luxembourg, in so far that such due diligence will allow to guarantee the respect of human rights and the environment all along their value chain and would be a complementary measure to the National Action Plan on business and human rights stressing the importance of due diligence in order to prevent human rights violations and environmental damages caused by business activities”.[[1]](#footnote-1) This commitment was reiterated in the second National Action Plan on the Implementation for the United Nations Guiding Principles on Business and Human Rights that was adopted in December 2019.[[2]](#footnote-2)

The present survey is a part of that study. It aims to find out about current due diligence practices and the perceived social, environmental and human rights impacts of a legislation that would require companies to conduct mandatory due diligence for human rights and environmental impacts (a separate survey will be sent to other stakeholders). It also explores the “advantages and disadvantages [of such a legislation] in terms of costs and benefits for companies and in terms of the competitiveness of Luxembourg companies and the Luxembourg economy”.[[3]](#footnote-3) The questions are based on the survey prepared by the British Institute of International and Comparative Law (BIICL survey) and published by the European Commission in January 2020, but are adapted to fit the national context when necessary.[[4]](#footnote-4)

The scope of the present survey is limited to “mandatory human rights and environmental due diligence” which is distinguishable from voluntary guidelines and corporate human rights reporting regimes. Mandatory due diligence for human rights impacts and environmental damage, including through the supply chain, refers to explicit legal duties to undertake due diligence activities *and/or* to prevent harm through the exercise of due diligence.[[5]](#footnote-5)

The survey questionnaire contains 31 questions that take approximately 15-20 minutes to complete. Your participation is entirely voluntary. All responses will be compiled, anonymized and analysed collectively.

The Ministry of Foreign and European Affairs encourages companies to participate in this study, so that the government can obtain as complete a picture as possible of the preferences and concerns of all stakeholders concerned.

Please return the completed survey to **biz.hrs.lu@gmail.com** by **4 January 2021** with the subject line **“Company Survey”**.

Thank you for your time and feedback.

**Questionnaire on Mandatory Due Diligence on Human Rights and Environmental Impacts: Company Survey**

1. **What is the legal form of your company?**

|  |
| --- |
|  |

1. **In which sector(s) does your company operate? (Please select more than one if relevant)**

|  |  |
| --- | --- |
| Agriculture and agribusiness |  |
| Automotive |  |
| Chemicals |  |
| Construction and real estate |  |
| Consulting, auditing and legal |  |
| Consumer goods |  |
| Education |  |
| Energy production and utilities |  |
| Mining and quarrying |  |
| Entertainment, media and publishing |  |
| Financial services |  |
| Government/Public sector |  |
| Healthcare, pharmaceuticals and biotechnology |  |
| IT and Technology |  |
| Logistics and distribution |  |
| Manufacturing |  |
| Professional services |  |
| Retailing |  |
| Telecoms |  |
| Transportation, travel and tourism |  |
| Waste disposal |  |
| Other [please specify] |  |

**3. Is your company domiciled in Luxembourg?**

|  |  |
| --- | --- |
| Yes |  |
| No |  |

**4. In addition to Luxembourg, in which other region(s) does your company operate (including through group companies or subsidiaries)?**[*Please select more than one if relevant*]

|  |  |
| --- | --- |
| EU |  |
| UK |  |
| Other European countries outside the EU (including Russia) |  |
| China |  |
| India |  |
| Asia (excluding India and China) |  |
| Australia, New Zealand and Pacific |  |
| Middle East and North Africa |  |
| Sub-Saharan Africa |  |
| Latin America (including Mexico) |  |
| US and Canada |  |

**5. What is the approximate number of employees you have?**

|  |  |
| --- | --- |
| 0-9 employees |  |
| 10-49 employees |  |
| 50-249 employees |  |
| 250-500 employees |  |
| 500-1000 employees |  |
| 1000+ employees |  |

**6. How many suppliers are in your company's global supply chain? It is acknowledged that these numbers may only be rough estimations.**

*[Note: For investor companies, questions about suppliers should be answered with respect to investee companies, where possible]*

|  |  |
| --- | --- |
| Estimate number of first tier suppliers (suppliers with which we have a direct relationship) |  |
| Estimate number of suppliers in the entire upstream supply chain (including suppliers beyond the first tier of the supply chain) |  |
| Estimate number of business enterprises in the entire value chain (including upstream and downstream) |  |
| We have not taken steps to find out the number of suppliers in our supply chain |  |
| Do not know |  |

**7. What was the approximate size (in Euro) of your total annual turnover in 2019?**

|  |
| --- |
|  |

**8. What actions, if any, does your company take to prevent, mitigate or remedy the adverse human rights and environmental impacts of its own operations?**[Please select all that apply]

|  |  |
| --- | --- |
| Training on human rights / environmental impacts |  |
| Contractual clauses & Codes of Conduct |  |
| Audits |  |
| Internal / external investigations |  |
| Engagement / leverage with suppliers |  |
| Engagement / leverage with other third parties |  |
| Additional staff for human rights / environmental measures |  |
| Working with local partners |  |
| Working with human rights & environmental experts |  |
| Divestment |  |
| Termination of relationships (for non-compliance with standards) |  |
| Refusal to renew / enter into new contracts (due to non-compliance with standards) |  |
| Other [please specify] |  |

**9. What action, if any, does your company take to prevent, mitigate or remedy the adverse human rights and environmental impacts of third parties in its upstream and downstream value chain?**

**“Upstream”** activities include operations that relate to the initial stages of producing a good or service, including material sourcing, material processing, and supplier activities.

**"Downstream"** activities include operations that relate to processing the materials into a finished product and delivering it to the end user, including transportation, distribution, consumption and disposal/recycling.

*[Note: For investor companies, questions about suppliers should be answered with respect to investee companies, where possible]*   
[Please select all that apply]

|  |  |  |
| --- | --- | --- |
|  | Upstream | Downstream |
| Training on human rights / environmental impacts |  |  |
| Contractual clauses & Codes of conduct |  |  |
| Audits |  |  |
| Internal / external investigations |  |  |
| Engagement / leverage with suppliers |  |  |
| Engagement / leverage with other third parties |  |  |
| Additional staff for human rights & environmental measures |  |  |
| Working with local partners |  |  |
| Working with human rights & environmental experts |  |  |
| Divestment |  |  |
| Termination of relationships (for non- compliance with standards) |  |  |
| Refusal to renew / enter into contracts (due to non-compliance with standards) |  |  |
| Other [please specify] |  |  |

**10. Human rights due diligence (including for environmental rights impacts) is a process which includes “*assessing actual and potential human rights impacts, integrating and acting upon the findings, tracking responses, and communicating how impacts are addressed*”. (UN Guiding Principles on Business and Human Rights, Principle 17)**

**Does your company undertake, or has it ever undertaken due diligence for any of the following?**

|  |  |
| --- | --- |
| Human rights due diligence, but only in certain areas (for example health & safety, labour, non-discrimination & equality, environmental, land rights & indigenous communities) |  |
| Human rights due diligence which takes into account all human rights (including environment) |  |
| Environmental / climate change due diligence (not extending to other human rights) |  |
| My company does not / has not yet undertaken any form of due diligence for any human rights or environmental impacts |  |
| Do not know |  |

**11. Which of the following aspects does your company’s due diligence cover either expressly or implicitly?**[Please select all that apply]

|  |  |  |  |
| --- | --- | --- | --- |
|  | Expressly mentioned | Implied as included (though not expressly mentioned) | No reference |
| Health and safety |  |  |  |
| Labour rights |  |  |  |
| Non-discrimination and equality |  |  |  |
| Land rights |  |  |  |
| Indigenous communities |  |  |  |
| Environment |  |  |  |
| Climate change |  |  |  |
| Biodiversity |  |  |  |
| Air pollution/Greenhouse gas emissions |  |  |  |
| Profit-shifting to lower-tax jurisdictions |  |  |  |
| Income inequality |  |  |  |

**12. What language does your company use to describe its due diligence process for human rights and/or environmental impacts?**

|  |  |
| --- | --- |
| “Human rights due diligence” |  |
| “Human rights due diligence including environmental aspects” |  |
| “Sustainability due diligence” |  |
| “Climate change due diligence” |  |
| “Social, environmental and human rights due diligence” |  |
| “Due diligence for human rights and/or environmental impacts” |  |
| “Due diligence for sustainability impacts” |  |
| “Due diligence for social, labour, environmental and /or other specific human rights impacts” [Please specify below which specific impacts] |  |
| Other [please specify] |  |

**13. Does your company’s due diligence include the human rights or environmental impacts of third parties in your company’s supply chain or value chain?**

*[Note: The value chain refers to the* ***upstream*** *and* ***downstream*** *life cycle of a product, process, or service, including material sourcing, production, consumption, and disposal/recycling.]*

|  |  |
| --- | --- |
| Yes, first tier suppliers only |  |
| Yes, entire upstream supply chain (beyond the first tier) |  |
| Yes, entire value chain (including upstream and downstream) |  |
| No |  |

**14. In your opinion, what are/will become your company's main incentives to conduct due diligence for these impacts through the supply chain?**[Please select all that apply]

|  |  |
| --- | --- |
| Mandatory reporting |  |
| Regulation which allows for judicial oversight over steps taken |  |
| Regulation which allows for sanctions / fines |  |
| Standards required for export credit or procurement contracts |  |
| Risk of litigation by those affected |  |
| Reputational risks |  |
| Operational risks |  |
| Financial risks |  |
| Investors requiring a high standard |  |
| Employees requiring a high standard |  |
| Consumers requiring a high standard |  |
| Other [please specify] |  |

**15. If such a mandatory due diligence requirement would be introduced, please select your preference for the application of the regulation:**

|  |  |
| --- | --- |
| Industry-specific regulation, tailored for your company's sector only and applying only to companies operating within this sector. |  |
| Cross-sectoral regulation, applying to companies of a certain size regardless of their sector. |  |
| Cross-sectoral regulation, applying to all companies regardless of size or sector. |  |
| Both industry-specific and cross-sectoral options have their benefits (Please elaborate below) |  |
| No preference |  |

[Optional] Please elaborate on the reason for your preference:

|  |
| --- |
|  |

**16. If such a mandatory requirement would be introduced, please select your preference for the content of the regulation:**

|  |  |
| --- | --- |
| Issue-specific regulation covering specific human rights or environmental issue (e.g. modern slavery) *[Please specify below which human rights or environmental issue]* |  |
| Regulation which covers all internationally recognized human rights and environmental impacts |  |
| Both issue-specific and broader human rights and environmental options have their benefits *[Please specify below]* |  |
| No preference |  |

[Optional] Please elaborate on the reason for your preference:

|  |
| --- |
|  |

**17. Do you foresee that the introduction of new regulation requiring mandatory due diligence, i.a. through the supply chain, would have *social impacts* (including in relation to labour rights, employment, wages, gender-related issues, income equality)?**

|  |  |
| --- | --- |
| Yes, it is likely to have social impacts |  |
| No, it is unlikely to have social impacts |  |
| Do not know / No opinion |  |

**18. Please specify the impacts that new regulation requiring mandatory due diligence is likely to have on the following areas along your supply chain.**

*Note: A positive impact refers to a change due to the benefits accrued in terms of sustainability, e.g. improved quality of jobs, reduced poverty, etc.*

|  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- |
|  | Very positive impact | Slightly positive impact | Neutral | Slightly negative impact | Very negative impact | No opinion/ Do not know |
| Social  Employment (number of jobs) |  |  |  |  |  |  |
| Employment (quality of jobs) |  |  |  |  |  |  |
| Wages |  |  |  |  |  |  |
| Household income |  |  |  |  |  |  |
| Transition from informal to formal employment |  |  |  |  |  |  |
| Freedom of association and effective recognition of the right to collective bargaining |  |  |  |  |  |  |
| Greater leverage over suppliers |  |  |  |  |  |  |
| The elimination of all forms of forced or compulsory labour |  |  |  |  |  |  |
| The effective abolition of child labour |  |  |  |  |  |  |
| The elimination of discrimination in respect of employment and occupation |  |  |  |  |  |  |
| Social protection |  |  |  |  |  |  |
| Social dialogue |  |  |  |  |  |  |
| Poverty reduction |  |  |  |  |  |  |
| Income equality |  |  |  |  |  |  |
| Equality in the benefit distribution along the supply chain |  |  |  |  |  |  |
| Gender-related issues |  |  |  |  |  |  |

**19. Do you foresee that the introduction of new regulation requiring mandatory due diligence, i.a. through the supply chain, would have *impacts on the environment*? (including on pollution, waste, natural resources, biodiversity, greenhouse gas emissions, climate change)?**

|  |  |
| --- | --- |
| Yes, it is likely to have impacts on the environment |  |
| No, it is unlikely to have impacts on the environment |  |
| Do not know / No opinion |  |

**20. Please specify the impacts that new regulation requiring mandatory due diligence is likely to have on the following areas along your supply chain.**

*Note: A positive impact refers to a change due to the benefits accrued in terms of sustainable development, e.g. improved quality of jobs, reduced poverty, etc.*

|  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- |
|  | Very positive impact | Slightly positive impact | Neutral | Slightly negative impact | Very negative impact | No opinion/  Do not know |
| Environmental  Air pollution (emissions of greenhouse gases, of carbon dioxide (CO2), of sulphur oxides (SOx), of nitrogen oxides (NOx), and of particulates) |  |  |  |  |  |  |
| Waste production |  |  |  |  |  |  |
| Energy use and mix |  |  |  |  |  |  |
| Transport |  |  |  |  |  |  |
| Water resources |  |  |  |  |  |  |
| Biodiversity (including wildlife) |  |  |  |  |  |  |
| Forests/forest resources |  |  |  |  |  |  |
| Fisheries/fish resources |  |  |  |  |  |  |
| Greening of the economy (including trade in environmental goods and services) |  |  |  |  |  |  |
| Agricultural fertilisers, land use, soil, and livestock |  |  |  |  |  |  |
| If previous line selected, please provide further detail with regard to the sectors of coffee, tea and cacoa. |  |  |  |  |  |  |

**21. Do you foresee that the introduction of new regulation requiring mandatory due diligence through the supply chain would have *impacts on human rights*?**

|  |  |
| --- | --- |
| Yes, it is likely to have impacts on human rights |  |
| No, it is unlikely to have impacts on human rights |  |
| Do not know / No opinion |  |

**22. Please specify the impacts which new regulation requiring mandatory due diligence is likely to have on the following areas along your supply chain.**

*Note: A positive impact refers to a change due to the benefits accrued in terms of sustainable development, e.g. improved quality of jobs, reduced poverty, etc.*

|  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- |
|  | Very positive impact | Slightly positive impact | Neutral | Slightly negative impact | Very negative impact | No opinion/  Do not know |
| Human Rights  Right to life, liberty and security of person (including in this context, impacts on serious bodily injury) |  |  |  |  |  |  |
| Right to the enjoyment of the highest attainable standard of physical and mental health (including, in this context, health risks impacts of business) |  |  |  |  |  |  |
| Right to not be subjected to torture or to cruel, inhuman or degrading treatment or punishment |  |  |  |  |  |  |
| Right to freedom of opinion and expression |  |  |  |  |  |  |
| Right to non- discrimination and equality |  |  |  |  |  |  |
| Right to own property |  |  |  |  |  |  |
| Right to freedom from slavery |  |  |  |  |  |  |
| Right to freedom from arbitrary arrest |  |  |  |  |  |  |
| Right to freedom from interference with privacy, family, home and correspondence |  |  |  |  |  |  |
| Right to peaceful assembly and association |  |  |  |  |  |  |
| Right to education |  |  |  |  |  |  |
| Rights of the child |  |  |  |  |  |  |
| Women’s rights |  |  |  |  |  |  |
| Rights of indigenous people |  |  |  |  |  |  |
| Rights of people with disabilities |  |  |  |  |  |  |

**23. Please estimate how many person-days (8 working hours/day) per month would it require for your company to set up a structure (one-off / start up costs) to carry out the following activities to comply with a new regulation that requires companies to undertake mandatory due diligence through the supply chain?**

|  |  |
| --- | --- |
| Impact assessments & tracking effectiveness of actions |  |
| Training |  |
| Incorporation of standards into contracts / codes of conduct |  |
| Audits / investigations |  |
| Leverage (suppliers / investee companies / third parties) & collective engagement |  |
| Reporting activities |  |
| *Alternative*: Total days |  |
| Do not know |  |

**24. Please estimate how many person-days (8 working hours/day) per month would it require for your company to carry out the following activities to comply with a new regulation that requires companies to undertake mandatory due diligence through the supply chain?**

|  |  |
| --- | --- |
| Impact assessments & tracking effectiveness of actions |  |
| Training |  |
| Incorporation of standards into contracts / codes of conduct |  |
| Audits / investigations |  |
| Leverage (suppliers / investee companies / third parties) & collective engagement |  |
| Reporting activities |  |
| *Alternative*: Total days |  |
| Do not know |  |

**25. To the best of your knowledge, what is your estimation of the cost (in EUR) of all activities which your company would incur in accordance with a new regulation requiring mandatory due diligence through the supply chain in one year?**

|  |  |
| --- | --- |
| Cost of labour |  |
| Overheads |  |
| Cost of outsourcing/external services (including audits and experts) |  |
| Cost of reporting |  |
| Other costs |  |
| *Alternative:* total cost |  |
| Do not know |  |

**26. In your opinion, where do you see the greatest additional constraints for your company that would result from a new regulation requiring mandatory due diligence compared to the current situation? These may include non-financial costs as well as financial costs that were not specified above.**

|  |
| --- |
|  |

**27. In your opinion, where do you see the greatest additional benefits for your company that would result from a new regulation requiring mandatory due diligence compared to the current situation?**

**It is acknowledged that these benefits are difficult to quantify. They may include benefits such as, reputation based increases in revenue and in investment, improved governance and civil society relationships, greater legal certainty, greater supply chain certainty, greater leverage over suppliers provided by non- negotiable standard, lower operational risks, etc.**

|  |
| --- |
|  |

**28. In your opinion, how would a new regulation requiring mandatory due diligence impact (positive/negative) Luxembourg’s position as a host country, please comment?**

|  |
| --- |
|  |

**29. In your company, which department of function is primarily responsible for human rights due diligence?**

|  |  |
| --- | --- |
| Corporate social responsibility |  |
| Procurement/supply chain management |  |
| Compliance |  |
| Legal |  |
| Sustainability |  |
| Human resources |  |
| CEO |  |
| Dedicated human rights officer |  |
| External consultant |  |
| Other [please specify] |  |

**30. What position do you hold in your company?**

|  |
| --- |
|  |

**31. Do you have any further comments on new regulation which requires business to under take mandatory due diligence for human rights and environmental impacts through the supply?**

|  |
| --- |
|  |

**Thank you very much for completing our survey.  
Please include your details below for our own information only.**

|  |  |
| --- | --- |
| Name |  |
| Email address |  |

1. <https://gouvernement.lu/en/publications/accord-coalition/2018-2023.html> at 218. [↑](#footnote-ref-1)
2. < <https://maee.gouvernement.lu/dam-assets/directions/d1/pan-entreprises-et-droits-de-l-homme/2020-2022/PAN-LU-entreprises-et-DH-2020-2022-FR.pdf>> at 27. [↑](#footnote-ref-2)
3. Terms of Reference. [↑](#footnote-ref-3)
4. < <https://op.europa.eu/en/publication-detail/-/publication/5bd8a55a-4c84-11ea-b8b7-01aa75ed71a1/language-en/format-PDF/source-147467650>> [↑](#footnote-ref-4)
5. <<https://www.ohchr.org/Documents/Issues/Business/MandatoryHR_Due_Diligence_Issues_Paper.pdf>> at 3. [↑](#footnote-ref-5)