UNITED NATIONS
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Mandate of the Working Group on the issue of human rights and transnational corporations and other business enterprises

12 February 2025

Statement by the United Nations Working Group on Business and Human Rights encouraging the European Union to ensure that any developments relating to the Corporate Sustainability Due Diligence Directive are in alignment with the UN Guiding Principles on Business and Human Rights

The United Nations Working Group on Business and Human Rights (Working Group), composed of five independent experts, followed with great interest the drafting and adoption of the European Union's (EU) Corporate Sustainability Due Diligence Directive (CSDDD). This was arguably the most important legislative development in the field of business and human rights since the endorsement by the Human Rights Council in 2011 of the United Nations Guiding Principles on Business and Human Rights (UNGPs).

The adoption of the CSDDD followed a long process of negotiation. The Working Group commented on the draft of this directive[1] and on the process surrounding its adoption.[2] Other regions are following the EU's lead. Developments in the European context will have implications worldwide and emerging markets are looking to the EU to continue the leadership that it has shown over the past five years.

In light of concerns raised by various stakeholders following the European Commission's recent Omnibus proposal, reportedly aimed at simplifying human rights due diligence, sustainability reporting and taxonomy, and with regard to the role which the Working Group has in relation to the promotion, dissemination and interpretation of the UNGPs, the Working Group encourages the EU not to reopen the text of the CSDDD, for the following reasons:

Businesses need legal certainty. The CSDDD has an important role to play in ensuring coherence and consistency, and in providing human rights protections in relation to corporate responsibility for adverse human rights impacts, including in relation to the environment and climate change. The CSDDD provides legal certainty for businesses, which they repeatedly emphasize that they both need and want. Businesses need to allocate capital efficiently. To do this, they need to understand what is required of them, through clear regulation, and the implementation of legislation on expected timescales. Over 160 investors recently called for the CSDDD to be implemented as agreed[3] and without reopening the text. Careful consideration, negotiation and drafting has resulted in a text that merits implementation, rather than renegotiation. Risks have been safeguarded against in the existing text, such as for small and medium-sized enterprises. Simplification, if such is needed, should take place through guidance, not through opening up the agreed text.

[1] https://www.ohchr.org/sites/default/files/documents/issues/business/workinggroupbusiness/Statement-Financial-Sector-WG-business-12July2023.pdf
[2] https://www.ohchr.org/sites/default/files/documents/issues/business/workinggroupbusiness/20240207-Corporate-Sustainability-Due-Diligence-Directive.pdf
[3] 4 February 2025, "Investor joint statement on Omnibus Legislation" https://www.unpri.org/download?ac=22691

The CSDDD builds upon universal instruments. The CSDDD forms part of the smart mix of measures – national and international, mandatory and voluntary – of regulation to implement the UNGPs. The UNGPs provide the global authoritative framework for State duties and business responsibilities in preventing and addressing business-related human rights abuses. The UNGPs are applied in the OECD Guidelines for Multinational Enterprises on Responsible Business Conduct and the ILO Tripartite Declaration of Principles concerning Multinational Enterprises and Social Policy. The CSDDD explicitly refers to the UNGPs and the priority given by the EU to implementing the UNGPs. Alignment with the UNGPs is key in all regulatory contexts. This is especially true in relation to the EU's sustainability policy architecture, of which human rights form an integral part.

Transparency and participation in regulatory processes is of paramount importance. As the UNGPs make clear, regulation and business actions in this area should occur on the basis of human rights impact assessments, consultation, and meaningful stakeholder engagement. Therefore, if any changes are to be made to the CSDDD, this should occur only after these processes have taken place.

Relevant regulatory developments build on the UNGPs and have relevance to the mandate of the Working Group. As such, the experts are ready to engage with the EU and all relevant entities in relation to any proposals to amend the CSDDD.