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Consultation Document Proposal for an Initiative on Sustainable Corporate Governance

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This document is a working document of the Commission services for consultation and does not prejudge the final decision that the Commission may take.
The views reflected on this consultation paper provide an indication on the approach the Commission services may take but do not constitute a final policy position or a formal proposal by the European Commission.
Please note that in order to ensure a fair and transparent consultation process only responses received through the online questionnaire will be taken into account and included in the report summarising the responses.

Introduction

Political context

The Commission's political guidelines set the ambition of Europe becoming the world's first climate-neutral continent by 2050 and foresee strong focus on delivering on the UN Sustainable Development Goals[1], which requires changing the way in which we produce and consume. Building on the political guidelines, in its Communication on the European Green Deal[2] (adopted in December 2019) and on A Strong Social Europe for Just Transition[3] (adopted in January 2020) the Commission committed to tackling climate and environmental-related challenges and set the ambition to upgrade Europe's social market economy.

The European Green Deal sets out that "sustainability should be further embedded into the corporate governance framework, as many companies still focus too much on short-term financial performance compared to their long-term development and sustainability aspects."

Sustainability in corporate governance encompasses encouraging businesses to frame decisions in terms of their environmental (including climate, biodiversity), social, human and economic impact, as well as in terms of the company's development in the longer term (beyond 3-5 years), rather than focusing on short-term gains.

As a follow-up to the European Green Deal, the Commission has announced a sustainable corporate governance initiative for 2021, and the initiative was listed among the deliverables of the Action Plan on a Circular Economy[4], the Biodiversity strategy[5] and the Farm to Fork strategy[6]. This initiative would build on the results of the analytical and consultative work carried out under Action 10 of the Commission's 2018 Action Plan on Financing Sustainable Growth and would also be part of the Renewed Sustainable Finance

Strategy.

The recent Communication "Europe's moment: Repair and Prepare for the Next Generation" (Recovery Plan)[7] (adopted in May 2020) also confirms the Commission's intention to put forward such an initiative with the objective to "ensure environmental and social interests are fully embedded into business strategies". This stands in the context of competitive sustainability contributing to the COVID-19 recovery and to the long-term development of companies. Relevant objectives are strengthening corporate resilience, improving predictability and management of risks, dependencies and disruptions including in the supply chains, with the ultimate aim for the EU economy to build back stronger.

This initiative is listed in the Commission Work program for 2021 [8].

EU action in the area of sustainable corporate governance will complement the objectives of the upcoming Action Plan for the implementation of the European Pillar of Social Rights, to ensure that the transitions towards climate-neutrality and digitalisation are socially sustainable. It will also strengthen the EU's voice at the global scene and would contribute to the respect of human rights, including labour rights– and corporate social responsibility criteria throughout the value chains of European companies – an objective identified in the joint Communication of the Commission and the High Representative on the Global EU response to COVID-19[9].

This initiative is complementary to the review of the Non-Financial Reporting Directive (NFRD, Directive 2014/95/EU[10]) which currently requires large public-interest companies to disclose to the public certain information on how they are affected by non-financial issues, as well as on the company's own impacts on society and the environment. The NFRD also requires companies to report on their social and environmental policies and due diligence processes if they have them, or otherwise explain why they do not have any (comply or explain approach). Whilst the NFRD is based on incentives "to report", the sustainable corporate governance initiative aims to introduce duties "to do". Such concrete actions would therefore contribute to avoiding "greenwashing" and reaching the objectives of the on-going review of the NFRD too, in particular the aim of enhancing the reliability of information disclosed under the NFRD by ensuring that the reporting obligation is underpinned by adequate corporate and director duties, and the aim of mitigating systemic risks in the financial sector. Reporting to the public on the application of sustainability in corporate governance and on the fulfilment of directors' and corporate duties would enable stakeholders to monitor compliance with these duties, thereby helping ensure that companies are accountable for how they mitigate their adverse environmental and social impacts.

The initiative would build upon relevant international standards on business and human rights and responsible business conduct, such as the United Nations' Guiding Principles on Businesses and Human Rights and the OECD Guidelines for Multinational Enterprises and its Due Diligence Guidance for Responsible Business Conduct.

As regards environmental harm linked to deforestation, the Commission is also conducting a fitness check of the EU Timber Regulation and an impact assessment.

Finally, Covid-19 has put small and medium sized companies under financial pressure, partly due to increased delay in the payments from their larger clients. This raises the importance of the role of board members of companies to duly take into account the interests of employees, including those in the supply chains as well as the interests of persons and suppliers affected by their operations. Further support measures for SMEs also require careful consideration.

Results of two studies conducted for the Commission

To integrate properly sustainability within corporate strategies and decisions, the High-Level Expert Group on Sustainable Finance[11] recommended in 2018 that the EU clarifies corporate board members´ duties so that stakeholder interests are properly considered. Furthermore, they recommended for the EU to require that directors adopt a sustainability strategy with proper targets, have sufficient expertise in sustainability, and to improve regulation on remuneration.

In its 2018 Action Plan on Financing Sustainable Growth[12] the Commission announced that it would carry out analytical and consultative work on the possible need to legislate in this area.

The Commission has been looking at further obstacles that hinder the transition to an environmentally and socially sustainable economy, and at the possible root causes thereof in corporate governance regulation and practices. As part of this work, two studies have been conducted which show market failures and favour acting at the EU level.

The *study on directors' duties and sustainable corporate governance* [13] evidences that there is a trend in the last 30 years for listed companies within the EU to focus on short-term benefits of shareholders rather than on the long-term interests of the company. Data indicate an upward trend in shareholder pay-outs, which increased from 20% to 60% of net income while the ratio of investment (capital expenditure) and R&D spending to net income has declined by 45% and 38% respectively. The study argues that sustainability is too often overlooked by short-term financial motives and that to some extent, corporate short-termism finds its root causes in regulatory frameworks and market practices. Against these findings, the study argues that EU policy intervention is required to lengthen the time horizon in corporate decision-making and promote a corporate governance more conducive to sustainability. To achieve this, it spells out three specific objectives of any future EU intervention: strengthening the role of directors in pursuing their company's long-term interest by dispelling current misconceptions in relation to their duties, which lead them to prioritise short-term financial performance over the long-term interest of the company; improving directors' accountability towards integrating sustainability into corporate strategy and decision-making; and promoting corporate governance practices that contribute to company sustainability, by addressing relevant unfavourable practices (e.g. in the area of board remuneration, board composition, stakeholder involvement).

The *study on due diligence requirements* through the supply chain[14] focuses on due diligence processes to address adverse sustainability impacts, such as climate change, environmental, human rights (including labour rights) harm in companies' own operations and in their value chain, by identifying and preventing relevant risks and mitigating negative impacts. The study shows that in a large sample of mostly big companies participating in the study survey, only one in three businesses claim to undertake due diligence which takes into account all human rights and environmental impacts. Therefore voluntary initiatives, even when backed by transparency do not sufficiently incentivise good practice. The study shows wide stakeholder support, including from frontrunner businesses, for mandatory EU due diligence. 70% of businesses responding to the survey conducted for the study agreed that EU regulation might provide benefits for business, including legal certainty, level playing field and protection in case of litigation. The study shows that a number of EU Member States have adopted legislation or are considering action in this field. A potential patchwork of national legislation may jeopardise the single market and increase costs for businesses. A cross-sectoral regulatory measure, at EU level, was preferred to sector specific frameworks.

Objectives of this public consultation

This public consultation aims to collect the views of stakeholders with regard to a possible Sustainable Corporate Governance Initiative. It builds on data collected in particular in the two studies mentioned above and on their conclusions, as well as on the feedback received in the public consultation on the Renewed Sustainable Finance Strategy[15]. It includes questions to allow the widest possible range of stakeholders to provide their views on relevant aspects of sustainable corporate governance.

About you

* Language of my contribution

- ○ Bulgarian
- ○ Croatian
- ○ Czech
- ○ Danish
- ○ Dutch
- ◉ English
- ○ Estonian
- ○ Finnish
- ○ French
- ○ German
- ○ Greek
- ○ Hungarian
- ○ Irish
- ○ Italian
- ○ Latvian
- ○ Lithuanian
- ○ Maltese
- ○ Polish
- ○ Portuguese
- ○ Romanian
- ○ Slovak
- ○ Slovenian
- ○ Spanish
- ○ Swedish

* Surname

* I am giving my contribution as

- Academic/research institution
- Business association
- Company/business organisation
- Consumer organisation
- EU citizen
- Environmental organisation
- Non-EU citizen
- Non-governmental organisation (NGO)
- (selected) Public authority
- Trade union
- Other

* First name

* Email (this won't be published)

* Scope

- (selected) International
- Local
- National
- Regional

* Organisation name

255 character(s) maximum

Ministry of Foreign Affairs (The Netherlands), in accordance with the Dutch Ministry of Justice and Security, Ministry of Finance, Ministry of Economic Affairs and Climate Policy, Ministry of Social Affairs and Employment

* Organisation size

- Micro (1 to 9 employees)

- Small (10 to 49 employees)
- Medium (50 to 249 employees)
- Large (250 or more)

Transparency register number

255 character(s) maximum

Check if your organisation is on the transparency register. It's a voluntary database for organisations seeking to influence EU decision-making.

N.A.

* Country of origin

Please add your country of origin, or that of your organisation.

- Afghanistan
- Åland Islands
- Albania
- Algeria
- American Samoa
- Andorra
- Angola
- Anguilla
- Antarctica
- Antigua and Barbuda
- Argentina
- Armenia
- Aruba
- Australia
- Austria
- Azerbaijan
- Djibouti
- Dominica
- Dominican Republic
- Ecuador
- Egypt
- El Salvador
- Equatorial Guinea
- Eritrea
- Estonia
- Eswatini
- Ethiopia
- Falkland Islands
- Faroe Islands
- Fiji
- Finland
- France
- Libya
- Liechtenstein
- Lithuania
- Luxembourg
- Macau
- Madagascar
- Malawi
- Malaysia
- Maldives
- Mali
- Malta
- Marshall Islands
- Martinique
- Mauritania
- Mauritius
- Mayotte
- Saint Martin
- Saint Pierre and Miquelon
- Saint Vincent and the Grenadines
- Samoa
- San Marino
- São Tomé and Príncipe
- Saudi Arabia
- Senegal
- Serbia
- Seychelles
- Sierra Leone
- Singapore
- Sint Maarten
- Slovakia
- Slovenia
- Solomon Islands

- Bahamas
- Bahrain
- Bangladesh
- Barbados
- Belarus
- Belgium
- Belize
- Benin
- Bermuda
- Bhutan
- Bolivia
- Bonaire Saint Eustatius and Saba
- Bosnia and Herzegovina
- Botswana
- Bouvet Island
- Brazil
- British Indian Ocean Territory
- British Virgin Islands
- Brunei
- Bulgaria
- Burkina Faso
- Burundi
- French Guiana
- French Polynesia
- French Southern and Antarctic Lands
- Gabon
- Georgia
- Germany
- Ghana
- Gibraltar
- Greece
- Greenland
- Grenada
- Guadeloupe
- Guam
- Guatemala
- Guernsey
- Guinea
- Guinea-Bissau
- Guyana
- Haiti
- Heard Island and McDonald Islands
- Honduras
- Hong Kong
- Mexico
- Micronesia
- Moldova
- Monaco
- Mongolia
- Montenegro
- Montserrat
- Morocco
- Mozambique
- Myanmar /Burma
- Namibia
- Nauru
- Nepal
- Netherlands
- New Caledonia
- New Zealand
- Nicaragua
- Niger
- Nigeria
- Niue
- Norfolk Island
- Northern Mariana Islands
- Somalia
- South Africa
- South Georgia and the South Sandwich Islands
- South Korea
- South Sudan
- Spain
- Sri Lanka
- Sudan
- Suriname
- Svalbard and Jan Mayen
- Sweden
- Switzerland
- Syria
- Taiwan
- Tajikistan
- Tanzania
- Thailand
- The Gambia
- Timor-Leste
- Togo
- Tokelau
- Tonga

- Cambodia
- Cameroon
- Canada
- Cape Verde
- Cayman Islands
- Central African Republic
- Chad
- Chile
- China
- Christmas Island
- Clipperton
- Cocos (Keeling) Islands
- Colombia
- Comoros
- Congo
- Cook Islands
- Costa Rica
- Côte d’Ivoire
- Croatia
- Cuba
- Curaçao
- Cyprus
- Hungary
- Iceland
- India
- Indonesia
- Iran
- Iraq
- Ireland
- Isle of Man
- Israel
- Italy
- Jamaica
- Japan
- Jersey
- Jordan
- Kazakhstan
- Kenya
- Kiribati
- Kosovo
- Kuwait
- Kyrgyzstan
- Laos
- Latvia
- North Korea
- North Macedonia
- Norway
- Oman
- Pakistan
- Palau
- Palestine
- Panama
- Papua New Guinea
- Paraguay
- Peru
- Philippines
- Pitcairn Islands
- Poland
- Portugal
- Puerto Rico
- Qatar
- Réunion
- Romania
- Russia
- Rwanda
- Saint Barthélemy
- Trinidad and Tobago
- Tunisia
- Turkey
- Turkmenistan
- Turks and Caicos Islands
- Tuvalu
- Uganda
- Ukraine
- United Arab Emirates
- United Kingdom
- United States
- United States Minor Outlying Islands
- Uruguay
- US Virgin Islands
- Uzbekistan
- Vanuatu
- Vatican City
- Venezuela
- Vietnam
- Wallis and Futuna
- Western Sahara
- Yemen

- Czechia
- Democratic Republic of the Congo
- Denmark
- Lebanon
- Lesotho
- Liberia
- Saint Helena Ascension and Tristan da Cunha
- Saint Kitts and Nevis
- Saint Lucia
- Zambia
- Zimbabwe

* Publication privacy settings

The Commission will publish the responses to this public consultation. You can choose whether you would like your details to be made public or to remain anonymous.

- **Anonymous**
  Only your contribution, country of origin and the respondent type profile that you selected will be published. All other personal details (name, organisation name and size, transparency register number) will not be published.
- **Public**
  Your personal details (name, organisation name and size, transparency register number, country of origin) will be published with your contribution.

☑ I agree with the personal data protection provisions

If you replied that you answer on behalf of a business, please specify the type of business:

- institutional investor, asset manager
- other financial sector player (e.g. an analyst, rating agency, data and research provider)
- auditor
- other

Consultation questions

If you are responding on behalf of a large company, please indicate how large is the company:

- Large company with 1000 or more people employed
- Large company with less than 1000 but at least 250 people employed

If you are responding on behalf of a company, is your company listed on the stock-exchange?

- Yes, in the EU
- Yes, outside the EU
- Yes, both in and outside the EU
- No

If you are responding on behalf of a company, does your company have experience in implementing due diligence systems?

- Yes, as legal obligation
- Yes, as voluntary measure
- No

If resident or established/registered in an EU Member State, do you carry out (part of) your activity in several EU Member States?

- Yes
- No

If resident or established/ registered in a third country (i.e. in a country that is not a member of the European Union), please specify your country:

If resident or established registered in a third country, do you carry out (part of) your activity in the EU?

- Yes
- No

If resident or established registered in a third country, are you part of the supply chain of an EU company?

- Yes
- No

Section I: Need and objectives for EU intervention on sustainable corporate governance

Questions 1 and 2 below which seek views on the need and objectives for EU action have already largely been included in the public consultation on the Renewed Sustainable Finance Strategy earlier in 2020. The

Commission is currently analysing those replies. In order to reach the broadest range of stakeholders possible, those questions are now again included in the present consultation also taking into account the two studies on due diligence requirements through the supply chain as well as directors' duties and sustainable corporate governance.

Question 1: Due regard for stakeholder interests', such as the interests of employees, customers, etc., is expected of companies. In recent years, interests have expanded to include issues such as human rights violations, environmental pollution and climate change. Do you think companies and their directors should take account of these interests in corporate decisions alongside financial interests of shareholders, beyond what is currently required by EU law?

- (x) Yes, a more holistic approach should favour the maximisation of social, environmental, as well as economic/financial performance.
- ( ) Yes, as these issues are relevant to the financial performance of the company in the long term.
- ( ) No, companies and their directors should not take account of these sorts of interests.
- ( ) Do not know.

Please provide reasons for your answer:

In the Netherlands we attach great importance to long-termism. We believe that long-term value creation should be central in a company's strategy and the interests of stakeholders should always be taken into account. It is economically and socially valuable when companies commit to long-term value creation and carefully weighing stakeholder interests.

Commitment to long-term value creation contributes, in our opinion, to finding solutions to societal challenges such as climate change and biodiversity loss and can contribute to healthy labor relations, a stable business climate and to reducing the burden on the environment. As a result, the potential for long-term economic growth is increasing.

Focusing on the governance of listed companies, the Dutch Corporate Governance Code provides guidance for effective cooperation and management. Dutch listed companies are required to report on compliance with this Code using the 'comply or explain' principle. According to the Dutch Corporate Governance Code, the management board members are expected to act in a sustainable manner by focusing on long-term value creation in the performance of their work. Stakeholder interests should be taken into careful consideration.

The Netherlands has deemed it necessary that, in line with the Dutch Corporate Governance Code, serious attention should be paid to Responsible Business Conduct (RBC) within the existing structures and responsibilities of the board of directors and the supervisory board. Management board members and supervisory board members are expected to focus on long-term value creation in the performance of their work.

In line with the OECD Guidelines for Multinational Enterprises (OECD Guidelines) the Netherlands expects companies to apply good corporate governance practices, recognize the rights of stakeholders and encourage active co-operation in creating wealth, jobs, and the sustainability of financially sound enterprises.

Question 2: Human rights, social and environmental due diligence requires companies to put in place continuous processes to identify risks and adverse impacts on human rights, health and safety and environment and prevent, mitigate and account for such risks and impacts in their operations and through their value chain.
In the survey conducted in the context of the study on due diligence requirements through the supply chain, a broad range of respondents expressed their preference for a policy change, with an overall preference for establishing a mandatory duty at EU level.
Do you think that an EU legal framework for supply chain due diligence to address adverse impacts on human rights and environmental issues should be developed?

- (selected) Yes, an EU legal framework is needed.
- No, it should be enough to focus on asking companies to follow existing guidelines and standards.
- No action is necessary.
- Do not know.

Please explain:

1. In spite of many positive steps taken by many businesses, studies and evaluations show that voluntary RBC policy is insufficient. There are still too few companies in the Netherlands that do business in accordance with the RBC norms*.

2. In October 2020 the Dutch government proposed new RBC policy consisting of a mix of mutually reinforcing measures which together should lead to an effective change in behavior among businesses. A key element of this mix is a general due diligence obligation. The effect of this mandatory element will primarily be to spur laggards into action by obliging them to observe the principles of responsible business conduct. A general obligation to carry out due diligence ties in with the OECD Guidelines and recognizes that adverse impacts are not confined to one particular sector or theme.

3. Dutch studies and consultations show that such an obligation is most effective if it is formulated at the EU level. A European approach makes for greater impact in the supply chain and safeguards a level playing field. Moreover, the Dutch government is convinced that, in line with the advisory opinion of the Social and Economic Council, due diligence in line with the OECD Guidelines and the UN Guiding Principles on Business and Human Rights (UNGPs) is the basis for an effective, efficient, and coherent contribution of companies to the achievement of the Sustainable Development Goals (SDGs). We welcome the initiative of the European Commission to prepare a European approach for due diligence.

Building on the insights from the policy evaluation and exploration of policy options, the Dutch government is currently working on the relevant building blocks for due diligence legislation in more detail. We will provide these as timely and relevant input for the European approach.

* Shown by studies such as: Royal Tropical Institute (2020), 'Evaluation of the Dutch RBC Agreements 2014 – 2020'; The Terrace (2020), 'Business Perspective on RBC measures'; EY (2020), 'Onderschrijven OESO-richtlijnen en UNGP's' [Monitoring report on adherence to OECD Guidelines and UNGPs].

Question 3: If you think that an EU legal framework should be developed, please indicate which among the following possible benefits of an EU due diligence duty is important for you (tick the box/multiple choice)?

- [x] Ensuring that the company is aware of its adverse human rights, social and environmental impacts and risks related to human rights violations other social issues and the environment and that it is in a better position to mitigate these risks and impacts
- [x] Contribute effectively to a more sustainable development, including in non-EU countries
- [x] Levelling the playing field, avoiding that some companies freeride on the efforts of others
- [x] Increasing legal certainty about how companies should tackle their impacts, including in their value chain
- [x] A non-negotiable standard would help companies increase their leverage in the value chain

- [x] Harmonisation to avoid fragmentation in the EU, as emerging national laws are different
- [ ] SMEs would have better chances to be part of EU supply chains
- [ ] Other

Question 3a. Drawbacks
Please indicate which among the following possible risks/drawbacks linked to the introduction of an EU due diligence duty are more important for you (tick the box /multiple choice)?

- [x] Increased administrative costs and procedural burden
- [x] Penalisation of smaller companies with fewer resources
- [x] Competitive disadvantage vis-à-vis third country companies not subject to a similar duty
- [x] Responsibility for damages that the EU company cannot control
- [ ] Decreased attention to core corporate activities which might lead to increased turnover of employees and negative stock performance
- [ ] Difficulty for buyers to find suitable suppliers which may cause lock-in effects (e.g. exclusivity period/no shop clause) and have also negative impact on business performance of suppliers
- [x] Disengagement from risky markets, which might be detrimental for local economies
- [ ] Other

Section II: Directors' duty of care – stakeholders' interests

In all Member States the current legal framework provides that a company director is required to act in the interest of the company (duty of care). However, in most Member States the law does not clearly define what this means. Lack of clarity arguably contributes to short-termism and to a narrow interpretation of the duty of care as requiring a focus predominantly on shareholders' financial interests. It may also lead to a disregard of stakeholders' interests, despite the fact that those stakeholders may also contribute to the long-term success, resilience and viability of the company.

Question 5. Which of the following interests do you see as relevant for the long-term success and resilience of the company?

	Relevant	Not relevant	I do not know/I do not take position
the interests of shareholders	○	○	○
the interests of employees	○	○	○

the interests of employees in the company's supply chain	◯	◯	◯
the interests of customers	◯	◯	◯
the interests of persons and communities affected by the operations of the company	◯	◯	◯
the interests of persons and communities affected by the company's supply chain	◯	◯	◯
the interests of local and global natural environment, including climate	◯	◯	◯
the likely consequences of any decision in the long term (beyond 3-5 years)	◯	◯	◯
the interests of society, please specify	◯	◯	◯
other interests, please specify	◯	◯	◯

Question 6. Do you consider that corporate directors should be required by law to (1) identify the company´s stakeholders and their interests, (2) to manage the risks for the company in relation to stakeholders and their interests, including on the long run (3) and to identify the opportunities arising from promoting stakeholders' interests?

	I strongly agree	I agree to some extent	I disagree to some extent	I strongly disagree	I do not know	I do not take position
Identification of the company´s stakeholders and their interests	◯	◯	◯	◯	◯	◯
Management of the risks for the company in relation to stakeholders and their interests, including on the long run	◯	◯	◯	◯	◯	◯
Identification of the opportunities arising from promoting stakeholders' interests	◯	◯	◯	◯	◯	◯

Please explain:

For a general and comprehensive answer to the questions of Section II we refer to the answer to question 6 below:

In the Netherlands the Rhineland model prevails. The company director is required to act in the interest of the company. Our Supreme Court has ruled in several judgments that the interest of the company depends on the circumstances. The interest of the company will be determined by the encouragement of the lasting success of the enterprise. Directors and supervisory board members should exercise care in relation to the interests of all involved. According to the Dutch Corporate Governance Code the management board should develop a view on long-term value creation by the company and should formulate a strategy in line with this. The application of the Corporate Governance Code is according to the principle of 'comply or explain'.

Recently our Parliament carried a motion asking the government to examine how companies can be stimulated, by law or otherwise, to weigh the interests of all stakeholders in a balanced manner. As we are preparing this examination, we are not yet able to answer the questions in this section II. Once we have finalized the examination and have drawn conclusions from it in the course of 2021, we will inform the Commission about the outcomes.

Furthermore, the Parliament carried a motion asking the government to propose measures to prevent short-terminism gaining the upper hand by discouraging quarterly reports and stimulating loyalty shares. The Dutch government will include this motion in the examination mentioned above.

However, we can provide more general criteria that will be applicable if the Commission would decide to propose to broaden the scope to managing stakeholder interests by directors.

Firstly, we value the impact assessment of the proposal and more specifically a cost analysis. The regulatory burden for companies and their directors' by broadening the scope of directors' duty of care must be weighed against the added value for society and the environment at large. Secondly, any requirement for companies and their directors should be proportional to the size of businesses. What particular stakeholders should be involved by the directors and what sort of mechanisms should be established to engage with them, should also depend amongst others on the size of the business and the area (both geographical and sectoral) in which the company is active or operates. Thirdly, the success of such requirements also depends on, amongst others, the support by the European trade and industry. The Dutch government is, therefore, looking forward to the outcome of this consultation. Fourthly, it is important to find a middle ground between the interests of the company and the interests of the stakeholders.

Question 7. Do you believe that corporate directors should be required by law to set up adequate procedures and where relevant, measurable (science –based) targets to ensure that possible risks and adverse impacts on stakeholders, ie. human rights, social, health and environmental impacts are identified, prevented and addressed?

- I strongly agree
- I agree to some extent
- I disagree to some extent
- I strongly disagree

- I do not know
- I do not take position

Please explain:

Question 8. Do you believe that corporate directors should balance the interests of all stakeholders, instead of focusing on the short-term financial interests of shareholders, and that this should be clarified in legislation as part of directors' duty of care?

- I strongly agree
- I agree to some extent
- I disagree to some extent
- I strongly disagree
- I do not know
- I do not take position

Please provide an explanation or comment:

Question 9. Which risks do you see, if any, should the directors' duty of care be spelled out in law as described in question 8?

How could these possible risks be mitigated? Please explain.

Where directors widely integrate stakeholder interest into their decisions already today, did this gather support from shareholders as well? Please explain.

Question 10. As companies often do not have a strategic orientation on sustainability risks, impacts and opportunities, as referred to in question 6 and 7, do you believe that such considerations should be integrated into the company's strategy, decisions and oversight within the company?

- I strongly agree
- I agree to some extent
- I disagree to some extent
- I strongly disagree
- I do not know
- I do not take position

Please explain:

Enforcement of directors' duty of care

Today, enforcement of directors' duty of care is largely limited to possible intervention by the board of directors, the supervisory board (where such a separate board exists) and the general meeting of shareholders. This has arguably contributed to a narrow understanding of the duty of care according to which directors are required to act predominantly in the short-term financial interests of shareholders. In addition, currently, action to enforce directors' duties is rare in all Member States.

Question 11. Are you aware of cases where certain stakeholders or groups (such as shareholders representing a certain percentage of voting rights, employees, civil society organisations or others) acted to enforce the directors' duty of care on behalf of the company? How many cases? In which Member States? Which stakeholders? What was the outcome?
Please describe examples:

Question 12. What was the effect of such enforcement rights/actions? Did it give rise to case law/ was it followed by other cases? If not, why?
Please describe:

Question 13. Do you consider that stakeholders, such as for example employees, the environment or people affected by the operations of the company as represented by civil society organisations should be given a role in the enforcement of directors' duty of care?

- I strongly agree
- I agree to some extent

- I disagree to some extent
- I strongly disagree
- I do not know
- I do not take position

Please explain your answer:

Question 13a: In case you consider that stakeholders should be involved in the enforcement of the duty of care, please explain which stakeholders should play a role in your view and how.

Section III: Due diligence duty

For the purposes of this consultation, “due diligence duty” refers to a legal requirement for companies to establish and implement adequate processes with a view to prevent, mitigate and account for human rights (including labour rights and working conditions), health and environmental impacts, including relating to climate change, both in the company’s own operations and in the company’s the supply chain. “Supply chain” is understood within the broad definition of a company’s “business relationships” and includes subsidiaries as well as suppliers and subcontractors. The company is expected to make reasonable efforts for example with respect to identifying suppliers and subcontractors. Furthermore, due diligence is inherently risk-based, proportionate and context specific. This implies that the extent of implementing actions should depend on the risks of adverse impacts the company is possibly causing, contributing to or should foresee.

Question 14: Please explain whether you agree with this definition and provide reasons for your answer.

Following international standards – notably the OECD Guidelines for Multinational Enterprises and the UN Guiding Principles on Business and Human Rights – the Dutch government is of the opinion that companies have a duty to carry out due diligence in their supply chains. With the aim to foster policy coherence at EU and international level, the Dutch government urges the European Commission to fully align definitions with internationally agreed language stemming from the OECD Guidelines for Multinational Enterprises, the OECD Due Diligence Guidance for Responsible Business Conduct and the UN Guiding Principles on Business and Human Rights.

In line with the OECD Guidelines for Multinational Enterprises, due diligence is understood as the process through which companies can identify, prevent, mitigate and account for their actual and potential adverse impacts as an integral part of business decision-making and risk management systems.

In line with the OECD Guidelines for Multinational Enterprises, “supply chain” is understood as the companies’ own activities and all types of “business relationships”: subsidiaries, as well as suppliers and subcontractors, but also franchisees, licensees, joint ventures, investors, clients, contractors, customers, consultants, financial, legal and other advisers, and any other non-State or State entities linked to its business operations, products or services.

Question 15: Please indicate your preference as regards the content of such possible corporate due diligence duty (tick the box, only one answer possible). Please note that all approaches are meant to rely on existing due diligence standards, such as the OECD guidance on due diligence or the UNGPs. Please note that Option 1, 2 and 3 are horizontal i. e. cross-sectorial and cross thematic, covering human rights, social and environmental matters. They are mutually exclusive. Option 4 and 5 are not horizontal, but theme or sector-specific approaches. Such theme specific or sectorial approaches can be combined with a horizontal approach (see question 15a). If you are in favour of a combination of a horizontal approach with a theme or sector specific approach, you are requested to choose one horizontal approach (Option 1, 2 or 3) in this question.

- ○ Option 1. “Principles-based approach”: A general due diligence duty based on key process requirements (such as for example identification and assessment of risks, evaluation of the operations and of the supply chain, risk and impact mitigation actions, alert mechanism, evaluation of the effectiveness of measures, grievance mechanism, etc.) should be defined at EU level regarding identification, prevention and mitigation of relevant human rights, social and environmental risks and negative impact. These should be applicable across all sectors. This could be complemented by EU-level general or sector specific guidance or rules, where necessary

- Option 2. “Minimum process and definitions approach”: The EU should define a minimum set of requirements with regard to the necessary processes (see in option 1) which should be applicable across all sectors. Furthermore, this approach would provide harmonised definitions for example as regards the coverage of adverse impacts that should be the subject of the due diligence obligation and could rely on EU and international human rights conventions, including ILO labour conventions, or other conventions, where relevant. Minimum requirements could be complemented by sector specific guidance or further rules, where necessary.
- Option 3. “Minimum process and definitions approach as presented in Option 2 complemented with further requirements in particular for environmental issues”. This approach would largely encompass what is included in option 2 but would complement it as regards, in particular, environmental issues. It could require alignment with the goals of international treaties and conventions based on the agreement of scientific communities, where relevant and where they exist, on certain key environmental sustainability matters, such as for example the 2050 climate neutrality objective, or the net zero biodiversity loss objective and could reflect also EU goals. Further guidance and sector specific rules could complement the due diligence duty, where necessary.
- Option 4 “Sector-specific approach”: The EU should continue focusing on adopting due diligence requirements for key sectors only.
- Option 5 "Thematic approach": The EU should focus on certain key themes only, such as for example slavery or child labour.
- [x] None of the above, please specify

Please specify:

A general obligation to carry out due diligence (meaning due diligence covering the themes from the OECD Guidelines for Multinational Enterprises and the UN Guiding Principles on Business and Human Rights) supports adherence to the OECD guidelines and UN Guiding Principles and recognizes that risks are not confined to one particular sector or theme. Therefore, crosscutting due diligence legislation is to be preferred over sector-specific legislation. With a view to creating legal certainty, the Netherlands is of the opinion that it is crucial to clearly formulate due diligence requirements and to use definitions of the OECD Guidelines and the UN Guiding Principles. In order to foster coherence and ensuring a level playing field, setting requirements and definitions should be done in line with the terminology of the OECD Guidelines and UN Guiding Principles.
The Netherlands encourages the Commission to assess a due diligence duty in the light of other developments in policy areas, such as the EU Green Deal, the 2030 Agenda for Sustainable Development and the Paris Climate Agreement. The Netherlands is of the opinion that policy coherence should be fostered in order to create certainty for companies.

The Netherlands believes that general due diligence legislation could be supplemented with mandatory and voluntary sector specific measures, should this be warranted in a specific sector, for example with regard to biodiversity, climate related issues and the circular economy, land rights, animal welfare or gender. The Netherlands is of the opinion that overlap between possible sectoral initiatives and a general due diligence requirement should be avoided.

Question 15a: If you have chosen option 1, 2 or 3 in Question 15 and you are in favour of combining a horizontal approach with a theme or sector specific approach, please explain which horizontal approach should be combined with regulation of which theme or sector?

The Dutch government is of the opinion that a general due diligence obligation should be accompanied by measures to inform, facilitate, incentivize and set conditions for companies to conduct due diligence. Reinforcing measures targeting different groups of companies, for example those in the leading pack, the peloton or laggards with regard to RBC, could very well contain sector- or theme specific elements. For example, sector wide cooperation can be instrumental for companies to tackle concrete risks and discuss dilemmas in the conduct of due diligence.

Question 15b: Please provide explanations as regards your preferred option, including whether it would bring the necessary legal certainty and whether complementary guidance would also be necessary.

The Dutch government is of the opinion that setting clear due diligence requirements and definitions could provide legal certainty for companies. Moreover, an EU legal framework should be in line with existing international frameworks (notably the OECD Guidelines for Multinational Enterprises and the UN Guiding Principles) and therefore should encompass human rights as well as environmental aspects. The Netherlands recommends the Commission to address, among others, legal certainty and alignment of the proposal with existing rules of private international law in their research.

Question 15c: If you ticked options 2) or 3) in Question 15 please indicate which areas should be covered in a possible due diligence requirement (tick the box, multiple choice)

- ☑ Human rights, including fundamental labour rights and working conditions (such as occupational health and safety, decent wages and working hours)
- ☑ Interests of local communities, indigenous peoples' rights, and rights of vulnerable groups
- ☑ Climate change mitigation
- ☑ Natural capital, including biodiversity loss; land degradation; ecosystems degradation, air, soil and water pollution (including through disposal of chemicals); efficient use of resources and raw materials; hazardous substances and waste
- ☑ Other, please specify

Other, please specify:

The Dutch government strongly suggests the European Commission to fully align definitions with internationally agreed language stemming from the OECD Guidelines for Multinational Enterprises, the OECD Due Diligence Guidance for Responsible Business Conduct and the UN Guiding Principles on Business and Human Rights. This includes, in addition to the above, also the issue of deforestation, child labour and women's rights.

Question 15d: If you ticked option 2) in Question 15 and with a view to creating legal certainty, clarity and ensuring a level playing field, what definitions regarding adverse impacts should be set at EU level?

Question 15e: If you ticked option 3) in Question 15, and with a view to creating legal certainty, clarity and ensuring a level playing field, what substantial requirements regarding human rights, social and environmental performance (e.g. prohibited conducts, requirement of achieving a certain performance/target by a certain date for specific environmental issues, where relevant, etc.) should be set at EU level with respect to the issues mentioned in 15c?

Question 15f: If you ticked option 4) in question 15, which sectors do you think the EU should focus on?

Question 15g: If you ticked option 5) in question 15, which themes do you think the EU should focus on?

Question 16: How could companies'- in particular smaller ones'- burden be reduced with respect to due diligence? Please indicate the most effective options (tick the box, multiple choice possible)
This question is being asked in addition to question 48 of the Consultation on the Renewed Sustainable Finance Strategy, the answers to which the Commission is currently analysing.

- [ ] All SMEs[16] should be excluded
- [ ] SMEs should be excluded with some exceptions (e.g. most risky sectors or other)
- [ ] Micro and small sized enterprises (less than 50 people employed) should be excluded
- [ ] Micro-enterprises (less than 10 people employed) should be excluded
- [ ] SMEs should be subject to lighter requirements ("principles-based" or "minimum process and definitions" approaches as indicated in Question 15)
- [ ] SMEs should have lighter reporting requirements
- [ ] Capacity building support, including funding
- [ ] Detailed non-binding guidelines catering for the needs of SMEs in particular
- [ ] Toolbox/dedicated national helpdesk for companies to translate due diligence criteria into business practices
- [x] Other option, please specify
- [ ] None of these options should be pursued

Please explain your choice, if necessary

The Netherlands would like to stress that the scope of the proposal must be addressed with due regard for proportionality and effectiveness. Legislation must be proportional for it to be effective: the cost of the regulatory burden to companies must bear relation to the extent to which the stated goals are achieved. Therefore the Netherlands is conducting a study into the regulatory burden for companies when conducting due diligence. The initiative of the Commission should for any possible obligation take into account the capacity for SMEs to shoulder the regulatory burden, since studies and advices have shown that the capacity at SMEs for undertaking due diligence is limited. The Netherlands would therefore suggest to look more specifically into the burden of a due diligence obligation for large companies and companies with a heightened risk profile (i.e. in certain risk sectors). On the basis of the study into the regulatory burden the Netherlands will determine a definitive position on which companies should fall within scope of the proposal.

The Dutch government urges the European Commission to commission a Full Impact Assessment by the EU Regulatory Scrutiny Board.

Question 17: In your view, should the due diligence rules apply also to certain third-country companies which are not established in the EU but carry out (certain) activities in the EU?

- Yes
- No
- I do not know

Question 17a: What link should be required to make these companies subject to those obligations and how (e.g. what activities should be in the EU, could it be linked to certain turnover generated in the EU, other)? Please specify.

Question 17b: Please also explain what kind of obligations could be imposed on these companies and how they would be enforced.

Question 18: Should the EU due diligence duty be accompanied by other measures to foster more level playing field between EU and third country companies?

- Yes
- No
- I do not know

Please explain:

Question 19: Enforcement of the due diligence duty

Question 19a: If a mandatory due diligence duty is to be introduced, it should be accompanied by an enforcement mechanism to make it effective. In your view, which of the following mechanisms would be the most appropriate one(s) to enforce the possible obligation (tick the box, multiple choice)?

- [ ] Judicial enforcement with liability and compensation in case of harm caused by not fulfilling the due diligence obligations
- [ ]

Supervision by competent national authorities based on complaints (and/or reporting, where relevant) about non-compliance with setting up and implementing due diligence measures, etc. with effective sanctions (such as for example fines)

- [ ] Supervision by competent national authorities (option 2) with a mechanism of EU cooperation/coordination to ensure consistency throughout the EU
- [x] Other, please specify

Please provide explanation:

The Netherlands is of the opinion that a due diligence obligation should be accompanied by an enforcement mechanism to make it effective, including the possibility to sanction in the case of non-compliance. According to a study by the Erasmus Platform for Sustainable Business and Human Rights*, a particular interesting concept could be dynamic supervision, which encourages companies to constantly improve their performance rather than pointing out their mistakes. The Netherlands advises the Commission to build on lessons learned from the EU Conflict Minerals Regulation. Furthermore, for any enforcement mechanism due regard should amongst others be paid to encouraging a level playing field for companies and the proportionality of the mechanism.

The Netherlands is currently working out the building blocks needed for due diligence legislation. These will be provided as input for designing a due diligence obligation at the EU level. One of the building blocks is the organization of oversight. On the basis of this study the Netherlands will determine a definitive position on the enforcement of a due diligence duty.

* https://www.government.nl/topics/responsible-business-conduct-rbc/documents/publications/2020/04/21/options-for-enforceable-irbc-instruments

Question 19b: In case you have experience with cases or Court proceedings in which the liability of a European company was at stake with respect to human rights or environmental harm caused by its subsidiary or supply chain partner located in a third country, did you encounter or do you have information about difficulties to get access to remedy that have arisen?

- ( ) Yes
- ( ) No

In case you answered yes, please indicate what type of difficulties you have encountered or have information about:

If you encountered difficulties, how and in which context do you consider they could (should) be addressed?

Section IV: Other elements of sustainable corporate governance

Question 20: Stakeholder engagement

Better involvement of stakeholders (such as for example employees, civil society organisations representing the interests of the environment, affected people or communities) in defining how stakeholder interests and sustainability are included into the corporate strategy and in the implementation of the company's due diligence processes could contribute to boards and companies fulfilling these duties more effectively.

Question 20a: Do you believe that the EU should require directors to establish and apply mechanisms or, where they already exist for employees for example, use existing information and consultation channels for engaging with stakeholders in this area?

- ○ I strongly agree
- ○ I agree to some extent
- ○ I disagree to some extent
- ○ I strongly disagree
- ○ I do not know
- ● I do not take position

Please explain.

As previously outlined in the answer to question 6, in the Netherlands, the interests of stakeholders should always be taken into account by the company and its directors. We are currently examining how to stimulate a way of management that includes the interests of all stakeholders in a balanced way. When we will have finalized the study and when we will have drawn conclusions from it, we will inform the Commission about the outcomes.

Question 20b: If you agree, which stakeholders should be represented? Please explain.

Question 20c: What are best practices for such mechanisms today? Which mechanisms should in your view be promoted at EU level? (tick the box, multiple choice)

	Is best practice	Should be promoted at EU level
Advisory body	○	○

Stakeholder general meeting	◯	◯
Complaint mechanism as part of due diligence	◯	◯
Other, please specify	◯	◯

Question 21: Remuneration of directors

Current executive remuneration schemes, in particular share-based remuneration and variable performance criteria, promote focus on short-term financial value maximisation [17] (Study on directors' duties and sustainable corporate governance).

Please rank the following options in terms of their effectiveness to contribute to countering remuneration incentivising short-term focus in your view.

This question is being asked in addition to questions 40 and 41 of the Consultation on the Renewed Sustainable Finance Strategy the answers to which the Commission is currently analysing.
Ranking 1-7 (1: least efficient, 7: most efficient)

Restricting executive directors' ability to sell the shares they receive as pay for a certain period (e.g. requiring shares to be held for a certain period after they were granted, after a share buy-back by the company)	☆☆☆☆☆☆☆
Regulating the maximum percentage of share-based remuneration in the total remuneration of directors	☆☆☆☆☆☆☆
Regulating or limiting possible types of variable remuneration of directors (e.g. only shares but not share options)	☆☆☆☆☆☆☆
Making compulsory the inclusion of sustainability metrics linked, for example, to the company's sustainability targets or performance in the variable remuneration	☆☆☆☆☆☆☆
	☆☆

Mandatory proportion of variable remuneration linked to non-financial performance criteria	
Requirement to include carbon emission reductions, where applicable, in the lists of sustainability factors affecting directors' variable remuneration	
Taking into account workforce remuneration and related policies when setting director remuneration	
Other option, please specify	
None of these options should be pursued, please explain	

Please explain:

Question 22: Enhancing sustainability expertise in the board

Current level of expertise of boards of directors does not fully support a shift towards sustainability, so action to enhance directors' competence in this area could be envisaged [18] (Study on directors' duties and sustainable corporate governance).
Please indicate which of these options are in your view effective to achieve this objective (tick the box, multiple choice).

Requirement for companies to consider environmental, social and/or human rights expertise in the directors' nomination and selection process

- [ ] Requirement for companies to have a certain number/percentage of directors with relevant environmental, social and/or human rights expertise
- [ ] Requirement for companies to have at least one director with relevant environmental, social and/or human rights expertise
- [ ] Requirement for the board to regularly assess its level of expertise on environmental, social and/or human rights matters and take appropriate follow-up, including regular trainings
- [x] Other option, please specify
- [ ] None of these are effective options

Please explain:

> All directors, regardless of their expertise, should in the performance of their duties direct their attention to the (long term) interests of the corporation and of the enterprises connected with it. However, the way a company wants to increase the expertise of its directors on sustainable corporate governance, is a matter to decide for the company itself. For example, in the Netherlands a company can specify in its bylaws that its directors should meet certain qualitative requirements.

Question 23: Share buybacks

Corporate pay-outs to shareholders (in the form of both dividends and share buybacks) compared to the company's net income have increased from 20 to 60 % in the last 30 years in listed companies as an indicator of corporate short-termism. This arguably reduces the company's resources to make longer-term investments including into new technologies, resilience, sustainable business models and supply chains[19]. (A share buyback means that the company buys back its own shares, either directly from the open market or by offering shareholders the option to sell their shares to the company at a fixed price, as a result of which the number of outstanding shares is reduced, making each share worth a greater percentage of the company, thereby increasing both the price of the shares and the earnings per share.) EU law regulates the use of share-buybacks [Regulation 596/2014 on market abuse and Directive 77/91, second company law Directive].
In your view, should the EU take further action in this area?

- ( ) I strongly agree
- ( ) I agree to some extent
- ( ) I disagree to some extent

- [x] I strongly disagree
- [ ] I do not know
- [ ] I do not take position

Question 23a: If you agree, what measure could be taken?

Question 24: Do you consider that any other measure should be taken at EU level to foster more sustainable corporate governance?
If so, please specify:

In line with the UN Guiding Principles and as confirmed by studies, consultations and advice, the Dutch government has proposed a mix of mutually reinforcing measures to foster RBC in a heterogeneous target group. The Dutch government is of the opinion that a general due diligence obligation should be accompanied by measures that inform, facilitate, incentivize and set conditions for companies to conduct due diligence. Mutually reinforcing measures have the capability to target different groups of companies, for example those in the leading pack, the peloton or laggards, as the international frameworks on RBC apply to all companies.

At EU level, an EU action plan on RBC, which consists of a smart mix of measures, provides the best opportunity for taking RBC forward. EU member states are calling on the Commission to launch an EU Action Plan by 2021 focusing on shaping global supply chains sustainably, promoting human rights, social and environmental due diligence standards and transparency and which takes the experiences and lessons learned from the COVID 19 pandemic into account*. An EU action plan must help create a European level playing field when it comes to RBC and increase the combined impact achieved in producer countries by addressing risks to people and the environment in businesses’ global value chains.

As recently stressed by France and the Netherlands**, an EU action plan should include the scaling up of existing national sectoral measures, create peer-learning structures for member states’ national action plans on business and human rights (NAP), combine the efforts on sustainable trade promotion, provide guidelines (notably based on the OECD’s work on RBC, including sector-specific guides) on what is expected of companies within its jurisdiction and define the role of the EU as a market actor, for example with regard to EU public procurement. Furthermore, the Netherlands believes that an EU action plan must at least work towards coherence and consistency in European policies with regard to risks to people and the environment in businesses’ global value chains. Measures to support the implementation of the UN Guiding Principles and the OECD Guidelines could be complemented with, for instance, appropriate development cooperation instruments and external policy measures in order to encourage both companies and governments in producer countries to address supply-side risks. The Commission is asked to develop this action plan before 2022 in cooperation with the Council – where the responsible Council preparatory bodies should be tasked with RBC – and in conjunction with the private sector and civil society.

* Council Conclusions on Human Rights and Decent Work in Global Supply Chains, adopted in EPSCO on 3 December 2020.
** Non-paper from France and the Netherlands on Trade and Social Economic Effects and Sustainable Development (2020).

Section V: Impacts of possible measures

Question 25: Impact of the spelling out of the content of directors' duty of care and of the due diligence duty on the company

Please estimate the impacts of a possible spelling out of the content of directors' duty of care as well as a due diligence duty compared to the current situation. In your understanding and own assessment, to what extent will the impacts/effects increase on a scale from 0-10? In addition, please quantify/estimate in quantitative terms (ideally as percentage of annual revenues) the increase of costs and benefits, if possible, in particular if your company already complies with such possible requirements.

Table

	Non-binding guidance. Rating 0-10	Introduction of these duties in binding law, cost and benefits linked to setting up /improving external impacts' identification and mitigation processes Rating 0 (lowest impact)-10 (highest impact) and quantitative data	Introduction of these duties in binding law, annual cost linked to the fulfilment of possible requirements aligned with science based targets (such as for example climate neutrality by 2050, net zero biodiversity loss, etc.) and possible reorganisation of supply chains Rating 0 (lowest impact)-10 (highest impact) and quantitative data
Administrative costs including costs related to new staff required to deal with new obligations			
Litigation costs			
Other costs including potential indirect costs linked to higher prices in the supply chain, costs liked to drawbacks as explained in question 3, other than administrative and litigation costs, etc. Please specify.			
Better performance stemming from increased employee loyalty, better employee performance, resource efficiency			

Competitiveness advantages stemming from new customers, customer loyalty, sustainable technologies or other opportunities			
Better risk management and resilience			
Innovation and improved productivity			
Better environmental and social performance and more reliable reporting attracting investors			
Other impact, please specify			

Please explain:

Question 26: Estimation of impacts on stakeholders and the environment
A clarified duty of care and the due diligence duty would be expected to have positive impacts on stakeholders and the environment, including in the supply chain. According to your own understanding and assessment, if your company complies with such requirements or conducts due diligence already, please quantify / estimate in quantitative terms the positive or negative impact annually since the introduction of the policy, by using examples such as:
- Improvements on health and safety of workers in the supply chain, such as reduction of the number of accidents at work, other improvement on working conditions, better wages, eradicating child labour, etc.
- Benefits for the environment through more efficient use of resources, recycling of waste, reduction in greenhouse gas emissions, reduced pollution, reduction in the use of hazardous material, etc.
- Improvements in the respect of human rights, including those of local communities along the supply chain
- Positive/negative impact on consumers
- Positive/negative impact on trade
- Positive/negative impact on the economy (EU/third country).

Contact

just-cleg@ec.europa.eu