

European Commission  
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## **The Danish Chamber of Commerce contribution to the European Commission's roadmap on Sustainable corporate governance**

The Danish Chamber of Commerce welcomes the opportunity to provide input to the public consultation on the Commission's roadmap on Sustainable corporate governance.

### **General remarks**

According to the roadmap the Commission seeks to explore the need for a possible new EU regulatory framework in company law and corporate governance with the aim of increasing focus on long-term sustainable value creation in companies across the EU as regards social and human rights, climate change, environment etc. The initiative aims at both internal matters in the company and in the companies' value chain, i.e. subsidiaries, contracts with suppliers, etc. According to the roadmap due considerations will be given to limiting and alleviating the burden for SMEs.

Under Danish law there is already a requirement in the Danish Financial Statements Act for large companies to supplement the management report with a non-financial report on CSR-related issues such as environment, climate change, social and human rights etc. Among others these requirements entail describing the companies' due diligence processes, if the company has any. The Danish Chamber of Commerce supports the need for a possible new EU-initiative on this matter on the grounds of securing a level playing field across the EU. The Danish Chamber of Commerce agrees with the Commission's view that issues such as sustainability are global and have cross-border effects since many companies are becoming EU- and global-wide.

### **Specific remarks**

#### *The scope and detail of the initiative – the roadmap*

According to the roadmap an EU level initiative is expected to become a new EU directive on Due Diligence-requirements for limited liability companies to "do no harm" and integrate wider stakeholder interests into decision-making. This can be done by taking measures to address the company's sustainability impact also in its value chain. In addition, company directors should take into account all stakeholder interests as part of the company's strategies and policies. Furthermore, according to the roadmap the companies should facilitate, enforce and implement mechanisms accompanying the Due Diligence-mechanisms and other possible corporate governance arrangements.

The duties could according to the roadmap be designed by building on existing authoritative guidelines using well-established definitions developed by the UN and later expanded by the OECD.

*The initiative should be based on existing UN and OECD guidelines*

The Danish Chamber of Commerce supports that an EU initiative in this area is based on existing UN and OECD guidelines. It is important that there is not introduced new Due Diligence-requirements that goes beyond the existing UN and OECD-guidelines to secure a level playing field globally.

*SMEs should be given due consideration*

The Danish Chamber of Commerce supports and fully agrees with the Commission's view on giving due considerations to SMEs to exempt where possible and limit and alleviate burdens. SMEs will in practice be covered by the initiative being suppliers to the large companies. This should be taken into consideration as to the scope of the EU initiative towards SMEs. In practise, it is possible that large multinationals simply pass on or outsource responsibility and data requests to SMEs further down in the value chain. This scenario must be duly addressed by the Commission, so that Due Diligence requirements do not end up distorting competition.

*Policy coherence and simple, uniform reporting standards*

It is the position of the Danish Chamber of Commerce that simple reporting-standards should be available for business to ensure uniform use and comparability of impact, across the EU. Mandatory Due Diligence should be aligned with other regulatory initiatives from the Commission, for instance the review of the Non-Financial Reporting Directive as well as the demands in the EU taxonomy for sustainable activities, both of which will have companies report on environmental and social performance indicators.

*Concerns as to the tiers of value chain-responsibility*

The scope of the EU initiative to not only involve the company itself but also their (entire) value chain is a matter of concern to the Danish Chamber of Commerce. The Danish Chamber of Commerce encourages that due consideration is given to the complexity of business models. Many Danish companies simply do not have the size and bargaining power to affect and impose measures on their suppliers or other contractual relations. Worst case is that these companies end up being liable for matters over which they have no influence. The Danish Chamber of Commerce therefore stresses the need for proportionality with the use of, e.g., exemptions and limitation in liability for non-compliance.

*Legal certainty*

The Commission should address the central question of liability: When a company complies with all the formal requirements for Due Diligence, and a violation of human rights for some reason still takes place in its supply chain, where do the company stand in terms of liability? Existing court rulings suggest that having a supplier code of conducts and actively following up on it, place companies in greater risk to be held liable for violations in the supply chain. This must be clarified in the interests of legal certainty and the basic incentives. Due Diligence legislation should incentivize companies to collaborate and share best practice.

Kind regards,

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