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Subject:	Council Conclusions on Human Rights and Decent Work in Global Supply Chains

Delegations will find in the annex the Council Conclusions on Human Rights and Decent Work in Global Supply Chains, approved by written procedure on 1 December 2020.

Council Conclusions on Human Rights and Decent Work in Global Supply Chains

RECALLING THAT

1. Protecting human rights, fostering sustainable development, protecting the environment, promoting social justice and upholding international law are founding values of the European Union enshrined in the Treaties on the European Union and the Charter of Fundamental Rights of the European Union.
2. These values guide the engagement of the European Union for protecting human rights and promoting decent work for all.
3. Member States have committed to promoting decent work for all as laid down in the UN 2030 Agenda for Sustainable Development. Sustainable global supply chains are key for achieving the UN Sustainable Development Goals as also underlined in the New European Consensus for Development.¹
4. The UN 2030 Agenda, the 2008 ILO Declaration on Social Justice for a Fair Globalisation and the 2019 ILO Centenary Declaration for the Future of Work have defined decent work for all as a key objective.
5. The ILO Tripartite Declaration of Principles concerning Multinational Enterprises and Social Policy provides guidance to enterprises on social policy and inclusive, responsible and sustainable workplace practices, whilst the OECD Guidelines for Multinational Enterprises provide principles and standards for responsible business conduct.²

¹ New European Consensus for Development: Our World, our Dignity, our Future. Joint Statement by the Council and the representatives of the Member States meeting within the Council, the European Parliament and the European Commission, 2017.

² International Labour Organization: Tripartite Declaration of Principles concerning Multinational Enterprises and Social Policy; Fifth edition - March 2017.
Organisation for Economic Cooperation and Development: OECD Guidelines for Multinational Enterprises; 2011 edition.

6. Respecting, promoting and effectively implementing the principles concerning fundamental rights at work as included in the 1998 ILO Declaration on Fundamental Principles and Rights at Work are an essential part of the decent work agenda.
7. In 2016, the Council of Europe adopted the recommendation on Human Rights and Business that provides specific guidance to assist Member States.³
8. The Council called upon the Member States and the European Commission to encourage and foster responsible management in global supply chains, including through corporate social responsibility, due diligence with respect to human rights, promotion of decent work and social and labour protection.⁴
9. The Commission adopted the European Green Deal⁵, highlighting that - as the world's largest single market - the EU can set standards that apply across global value chains.
10. The European Union and its Member States have committed to implementing the UN Guiding Principles on Business and Human Rights in order to protect human rights and labour standards against adverse impacts caused by businesses, including to ensure that those affected by business activities have access to an effective remedy.

³ Council of Europe: Human rights and business – Recommendation CM/Rec(2016)3 of the Committee of Ministers to Member States (2016).

⁴ Council of the European Union, The Future of Work: the European Union promoting the ILO Centenary Declaration, 2019, 13436/19, para 19.

⁵ European Commission; Communication “The European Green Deal”; COM(2019)640 final, p.22.

CONSIDERING THAT

11. The COVID-19 pandemic has exacerbated the already precarious situation of parts of the workforce in all tiers of global supply chains. In particular, women, children and migrant workers are affected and experience disproportionate business-related human and labour rights abuses.⁶
12. The continued sharp decline in working hours and substantial losses in labour income globally due to the COVID-19 pandemic mean that around 1.6 billion workers in the informal economy alone – i.e. nearly half of the global workforce – stand in immediate danger of losing their livelihoods.⁷
13. The COVID-19 pandemic caused a worldwide recession which is significantly worse than the economic and financial crisis from 2007 to 2009. Enterprises in Europe and all over the world face tremendous challenges in overcoming this extraordinary economic situation. The pandemic has shown that, in order to manage crises effectively and flexibly, companies are well advised to have an overview of their value chains, know their suppliers and cooperate with them.
14. Social partnership plays a key role in addressing and mitigating the impact of the COVID-19 crisis and can only be effective if freedom of association and collective bargaining are protected.
15. The last two decades have seen some improvements in the fight against child labour, although the latest estimates show a significant slowing down of progress.⁸ If the global reduction of child labour continues at this slow pace, it will take almost 40 more years to eliminate child labour, instead of five years as envisaged by target 8.7 of Sustainable Development Goal 8.

⁶ United Nations: Shared Responsibility, Global Solidarity: Responding to the socio-economic impacts of COVID-19; 2020; COVID-19 and Child Labour: A time of crisis, a time to act, UNICEF/ILO joint publication, June 2020.

⁷ ILO Monitor: COVID-19 and the world of work, 29 April 2020.

⁸ International Labour Organisation, Global Estimates of Child Labour, Results and Trends, 2012-2016, September 2017.

16. Global supply chains play a key role in economic activities across the world and in global trade. Hundreds of millions of workers are employed within the supply chain networks of multinational enterprises. These networks make up for 80 percent of global trade.⁹ They have to be managed sustainably to realise decent work for all, including fair wages that provide for a decent standard of living.
17. Sustainable management and production as well as social partnership offer a competitive advantage. By applying a coherent approach, the European Union could build on this advantage and assume - as the world's largest single market - a leading international role in fostering the responsibility of businesses for their actions and omissions.
18. Corporate due diligence, in particular human rights due diligence, is key for responsible supply chain management in line with the UN Guiding Principles on Business and Human Rights, the ILO Tripartite Declaration of Principles concerning Multinational Enterprises and Social Policy and the OECD Guidelines for Multinational Enterprises.
19. Fifteen Member States have adopted their National Action Plan on Business and Human Rights following a call by the Commission in 2011¹⁰. These plans differ widely in implementation approaches and commitments. Some countries have implemented or are planning to implement mandatory legislation regarding due diligence.
20. Analysis by the European Commission indicates that only a minority of businesses in the European Union currently undertake comprehensive due diligence, which takes into account all human and labour rights as well as environmental impacts and covers the entire value chain.¹¹ This might pose severe risks to both rights-holders and businesses.

⁹ UNCTAD, World Investment Report (2013).

¹⁰ European Commission, Communication 'A renewed EU strategy 2011-14 for Corporate Social responsibility', COM(2011)681 final.

¹¹ European Commission (2020): Study on due diligence requirements through the supply chain.

21. Voluntary measures and initiatives of businesses, trade unions, business organisations and other stakeholders, such as sectoral dialogues and sectoral or thematic multi-stakeholder platforms or initiatives as well as awareness raising amongst consumers, play an important role, but by themselves are unlikely to significantly change the way businesses manage their social, environmental and governance impacts and provide an effective remedy to those affected.¹²
22. European businesses, in particular those with cross-sector activities, are confronted with different EU sustainability and due diligence requirements and heterogeneous national legislation. Thus, the need for a level playing field with the same standards for all, including for competitors from third countries, within the European Single Market is increasingly recognised by a growing number of European businesses that acknowledge the value of EU-wide mandatory human rights due diligence rules¹³.
23. To bundle leverage and expertise it is essential to have a common understanding of due diligence requirements across sectors, sizes of businesses and countries, in line with the UN Guiding Principles and the OECD Guidelines for Multinational Enterprises and the ILO Tripartite Declaration of Principles concerning Multinational Enterprises and Social Policy.

UNDERLINING THAT

24. Violations of fundamental rights at work, poor working conditions, in particular insufficient occupational safety and health, lack of fair wages, irregular or excessive working time, discrimination, as well as gender-based violence and harassment disproportionately affecting women and girls, including in supply and value chains, have to be tackled by a global approach.

¹² European Commission (2020): Study on directors' duties and sustainable corporate governance. European Commission (2020): Study on due diligence requirements through the supply chain.

¹³ European Commission (2020): Study on due diligence requirements through the supply chain.

25. Implementing the Sustainable Development Goals requires a strong decent work agenda as underlined in SDG 8. Promoting decent work is also an essential element for sustainable production and consumption, combating poverty and hunger, strengthening social protection, supporting gender equality and reducing inequalities.
26. It is first and foremost the responsibility of each state to respect, protect and fulfil the human rights of individuals within their territory and/or jurisdiction. The corporate responsibility to respect human rights is independent of States' ability or willingness to fulfil their duty to protect human rights.
27. The achievement of the goals set by the 2030 Agenda for Sustainable Development requires enhanced efforts and concrete measures to promote decent work, including in global supply chains.
28. Establishing an enabling environment for and advancing responsible supply chain management is an important part of EU action on promoting decent work in global supply chains.
29. To close human rights protection gaps along global supply chains, simultaneous efforts through all existing policy channels will be necessary. The European Union and its Member States, Social Partners as well as the relevant Stakeholders, including civil society, need to work together to bundle their efforts for a robust policy framework and strategy that shape an international level playing field.
30. Any possible obligation imposed on enterprises should be in line with international commitments, be proportionate, create legal certainty, take into account the specific situation and needs of SMEs and aim at strengthening decent work, including fostering responsible relationships between EU enterprises and their partners in developing countries.

WELCOMING THAT THE EUROPEAN COMMISSION

31. Has committed to fostering social fairness in the rest of the world to ensure a just transition of the global economy.¹⁴
32. Has announced its intention to put forward a new initiative in 2021 on sustainable corporate governance, addressing, among other issues, human rights, the environmental duty of care and due diligence across economic supply and value chains.¹⁵
33. Is taking action in different policy areas to promote decent work in global supply and value chains and has announced further measures. These policies include trade, development cooperation, labour and human rights dialogues and policies, sectoral policies, neighbourhood policies and measures related to corporate responsibility, public procurement, corporate reporting, sustainable finance, due diligence in conflict minerals supply chains, the environment and consumer policies.
34. Is strengthening its engagement with partner countries and in international fora to actively promote and support national and global efforts to implement the UN Guiding Principles on Business and Human Rights and the OECD Guidelines for Multinational Enterprises and the ILO Tripartite Declaration of Principles concerning Multinational Enterprises and Social Policy.

¹⁴ European Commission: Communication ‘A Strong Social Europe for Just Transitions’; COM(2020) 14 final.

¹⁵ European Commission: Communication ‘EU Biodiversity Strategy for 2030’; COM(2020) 380 final.

35. Has invited the Member States to adopt National Action Plans¹⁶ and is reflecting on different forms of additional incentives for businesses to integrate SDGs into their operations as laid out in its Reflection Paper Towards a Sustainable Europe by 2030¹⁷, in line with the EU's declared willingness to look into options to step up the implementation of the UN Guiding Principles, including a possible related EU action plan.¹⁸
36. Has strongly committed to creating a culture of sustainable corporate governance and achieving a well-performing inclusive economy that works for people and delivers on environmental and social goals.¹⁹

THE COUNCIL OF THE EUROPEAN UNION

CALLS ON THE MEMBER STATES, IN ACCORDANCE WITH THEIR COMPETENCES AND TAKING INTO ACCOUNT NATIONAL CIRCUMSTANCES AND RESPECTING THE ROLE AND AUTONOMY OF THE SOCIAL PARTNERS, TO

37. STEP UP their efforts to effectively implement the UN Guiding Principles on Business and Human Rights, including through new or updated National Action Plans containing a smart mix of voluntary and mandatory measures, where appropriate. National Action Plan processes need to focus on closing human rights protection gaps and should continually involve workers and other rights-holders from affected groups and communities as well as social partners.
38. CONSIDER joining the Alliance 8.7. to catalyse action on target 8.7. of the 2030 Sustainable Development Goals to overcome child and forced labour and human trafficking in global supply chains.

¹⁶ European Commission: Communication 'A renewed EU strategy 2011-14 for Corporate Social responsibility'; COM(2011) 681 final.

¹⁷ European Commission (2019), Reflection Paper Towards a Sustainable Europe by 2030; COM(2019) 22.

¹⁸ Council Conclusions on EU Priorities in UN Human Rights Fora in 2019 adopted by the Council at its 3673rd meeting held on 18 February 2019; Document ST 6339/19.

¹⁹ 2019 Communication from the Commission on The European Green Deal; 2018 Commission action plan on financing sustainable growth; sustainable corporate governance initiative led by DG JUSTICE.

39. CONSIDER supporting the ILO-administered Vision Zero Fund and similar projects of other international organisations that contribute towards the vision of achieving zero severe and fatal work-related accidents, injuries and diseases in global supply chains. And SUPPORT the efforts to integrate the right to safe and healthy working conditions into the ILO framework on fundamental principles and rights at work.²⁰

CALLS ON THE MEMBER STATES AND THE EUROPEAN COMMISSION IN ACCORDANCE WITH THEIR RESPECTIVE COMPETENCES, TAKING INTO ACCOUNT NATIONAL CIRCUMSTANCES AND RESPECTING THE ROLE AND AUTONOMY OF SOCIAL PARTNERS, TO

40. PROMOTE human rights in global supply chains and decent work worldwide, including a zero-tolerance policy on child and forced labour, human trafficking, and other human rights violations and abuses, by their different internal and external policies, in multilateral fora and together with global partners.
41. CONSIDER establishing or reinforcing initiatives, notably partnership programmes, to strengthen the labour inspection systems in third countries.
42. CONTRIBUTE to a sustainable and resilient global recovery from the COVID-19 crisis by taking action to address its global implications on workers and other rights holders along global supply chains and establishing just transition policies.
43. WORK TOGETHER to foster coherence between national and European measures regarding sustainable corporate governance, including on supply chain requirements, and their effective implementation considering the difficult economic situation of European businesses due to the COVID-19 crisis.

²⁰ Council of the European Union: The Future of Work: the European Union promoting the ILO Centenary Declaration; 24 October 2019; Document ST 13436/19

CALLS ON THE EUROPEAN COMMISSION TO

44. UPDATE its 2006 Communication on ‘Promoting decent work for all – the EU contribution to the implementation of the decent work agenda in the world’.
45. 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. This supports the coherent implementation of the UN Guiding Principles on Business and Human Rights, the ILO Tripartite Declaration of Principles concerning Multinational Enterprises and Social Policy and the OECD Guidelines for Multinational Enterprises. The Action Plan should address the needs of those at the beginning of global supply chains, often in developing countries, and thus complement an updated decent work agenda.
46. TABLE a proposal for an EU legal framework on sustainable corporate governance, including cross-sector corporate due diligence obligations along global supply chains. This could include a definition of what kind of risk management process companies need to follow to identify, prevent, mitigate and account for its adverse human and labour rights and environmental impacts.
47. ENVISAGE the appropriate development cooperation and external policy support measures that can accompany the implementation of a smart mix of measures along global supply chains, including EU legislation, and their possible impact in generating a global level playing field and uptake by third-country partners.
48. FOSTER the development and implementation of National Action Plans on Business and Human Rights in Member States in order to enhance coordination and coherence.
49. CONSIDER presenting indicative guidance in the form of quality criteria and standards for National Action Plans on Business and Human Rights and building structures for peer learning among Member States with regard to their National Action Plans on Business and Human Rights.

50. CONSIDER launching EU-wide sector-dialogues and scaling up national sectoral approaches on a multi-stakeholder basis to address human and labour rights-related issues in global supply and value chains.
51. SUPPORT and actively MAKE USE of the work of the Fundamental Rights Agency²¹ and its advisory role on access to remedy for adverse human rights impacts along global supply chains.
52. STRIVE for ambitious sustainability chapters with strong social and labour rights and responsible supply chain management provisions in trade agreements and for robust essential element clauses on human rights. Continue to work on stronger monitoring and enforcement mechanisms and on aiming to ensure adherence to international human rights and labour standards by countries that benefit from unilateral tariff preferences.

²¹ European Union Agency for Fundamental Rights (2020), Report on Business and Human Rights - Access to Remedy.