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NOTE

From:	Permanent Representatives Committee (Part 1)
On:	30 November 2022
To:	Council
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Subject:	Proposal for a DIRECTIVE OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL on Corporate Sustainability Due Diligence and amending Directive (EU) 2019/1937 - General Approach = <i>Statement by Germany</i>

Delegations will find attached a statement by the German delegation on the above-mentioned subject with a view to the Competitiveness Council meeting on 1 December 2022.

Germany's statement for the minutes

in view of the General Approach

**DIRECTIVE OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL on Corporate
Sustainability Due Diligence**

and amending Directive (EU) 2019/1937, COM/2022/71

Germany supports an effective EU Directive on **Corporate Sustainability Due Diligence**, based on the UN Guiding Principles on Business and Human Rights, which will not overburden small and medium-sized enterprises. In this spirit, Germany supports the text proposed by the Presidency (14791/22) to reach a General Approach, putting aside, for the time being, its own concerns about some aspects in favour of a compromise in the Council. Germany wishes the future Presidencies every success in the trilogue negotiations.

In our opinion, the upcoming negotiations should be used to put more emphasis on some aspects of the draft Directive and/or enshrine them in the text, as we also pointed out during the negotiations:

1) In terms of the termination of business relations, Germany deems it necessary to apply the principle of 'withdrawal as a last resort' in view of the primacy of human rights and environmental protection. On the one hand, rash withdrawals from procurement markets must be avoided and the focus must be put on the capacity of suppliers. On the other hand, termination can ultimately become inevitable and, in extreme cases, must not be abandoned, as it may be necessary for the health of the company.

2) In principle, Germany welcomes the fact that the Directive contains provisions on access to remedies and the administration of justice. However, we believe that there is a need to provide an additional incentive to implement the provisions of the Directive. To this end, a ‘safe harbour’ provision for minor negligence in compliance with voluntary industry initiatives or the use of quality certifications is absolutely indispensable. This would provide a positive incentive to implement due diligence obligations and would reward companies’ efforts to do so. Germany will only endorse a Directive that meets these conditions.

3) In addition, access to remedies for victims of human rights violations should be further strengthened in a practical manner. In this regard, it will have to be clarified to what extent the possibility to sue on victims’ behalf contained in the German Supply Chain Due Diligence Act and a right of access to the files will have to be included in the Directive.

4) Germany welcomes the fact that the CSDDD will make an important contribution to the protection of human rights listed in Part 1 of Annex I. However, the list of human rights standards needs to be further specified and the catch-all clause must be limited in order to do justice to the principle of legal certainty enshrined in the constitutions of the Member States and in the EU Charter of Fundamental Rights. Companies must be able to clearly identify the conduct required of them.

5) Germany expressly welcomes the fact that the CSDDD strengthens the environmental concerns listed in Part 2 of Annex I. However, we are in favour of clarifying that protected areas within the meaning of Article 8a of the Convention on Biological Diversity are covered and that provisions from the London Protocol to the 1972 Convention on the Prevention of Marine Pollution by Dumping of Wastes and other Matter, as well as provisions on exploitation and exploration on the deep ocean floor under Article 153(3) of UNCLOS are included as other important concerns.

6) Germany is committed to the objective of integrating environmental and social values in a dialogue with industry in the context of sustainable finance measures. If financial services are not included in the scope of the CSDDD coherently across the EU, such obligations should in principle be addressed in the area of specific capital market regulation and financial service oversight.
