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NOTE

From: General Secretariat of the Council
To: Delegations

Subject: Proposal for a DIRECTIVE OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL amending Directives 2006/43/EC, 2013/34/EU, (EU) 2022/2464 and (EU) 2024/1760 as regards certain corporate sustainability reporting and due diligence requirements
- Presidency fourth compromise text

The following text replaces pages 38-41 of ST 9875/25 INIT:

(4) Article 29a is amended as follows:

(a) in paragraph 1, the first subparagraph is replaced by the following:

‘Parent undertakings of a large group which, on their balance sheet dates, exceed the average number of 1000 employees, on a consolidated basis, during the financial year, shall include in the consolidated management report information necessary to understand the group’s impacts on sustainability matters, and information necessary to understand how sustainability matters affect the group’s development, performance and position.’;

(b) paragraph 3 is amended as follows:

(i) after the first subparagraph, the following ~~five~~ subparagraphs are inserted :

‘When establishing contractual and other arrangements for the reporting of sustainability information as required by this Directive, an undertaking shall not require undertakings in its value chain which, on their balance sheet dates, do not exceed the average number of 1000 employees during the financial year, to provide information exceeding:

~~(i) — the information specified in the standards for voluntary use referred to in Article 29ca;~~ or

~~(ii) additional sustainability information that is commonly shared between undertakings in the sector concerned.~~

Any contractual provision contrary to the second subparagraph shall not be binding. This shall not affect the binding nature of the remainder of the contract.

Where an undertaking **requests information**:

(i) ~~requests information,~~ for the purposes of sustainability information as required by this Directive, from undertakings in its value chain; and

(ii) some or all of that information ~~exceeds the information referred to in points (i) and (ii) of the second subparagraph~~ **falls outside of the information specified in the standards for voluntary use referred to in Article 29ca,**

that undertaking shall ensure that undertakings in its value chain which, on their balance sheet dates, do not exceed the average number of 1000 employees during the financial year, are informed of which information falls into point (ii) of this subparagraph and of their statutory right to decline to provide that information.

Any undertaking in the value chain which, on its balance sheet date, does not exceed the average number of 1000 employees during the financial year, shall have a right to decline to provide information ~~falling outside of points (i) and (ii) of the second subparagraph~~ **exceeding the information specified in the standards for voluntary use referred to in Article 29ca** in response to a request made for the purposes of reporting of sustainability as required by this Directive.

Nothing in the second, third, fourth or fifth subparagraphs:

- (i) affects information requests for purposes other than for the reporting of sustainability information as required by this Directive, including Union requirements on undertakings to conduct a due diligence process; or
- (ii) imposes or implies any obligation on undertakings in the value-chain to provide information falling within ~~points (i) or (ii) of the second subparagraph~~ **the standards for voluntary use referred to in Article 29ca.**²

Parent undertakings that report the necessary value chain information without reporting from undertakings in their value chain which, on their balance sheet dates, do not exceed the average number of 1000 employees during the financial year any information that exceeds the information specified in the standards for voluntary use referred to in Article 29ca shall be deemed to have complied with the obligation to report value chain information set out in the first subparagraph.

- (iii) The fourth subparagraph is replaced by the following ~~three~~ subparagraphs:

‘When reporting the information referred to in paragraphs 1 and 2, parent undertakings may omit **the following information:**

a) classified information as defined in Article 2, point (7) of Regulation (EU) 2023/2418³;

b) **information that is to be protected from unauthorised access or disclosure because of obligations laid down in other Union legislation or in**

national law in order to safeguard the privacy or security of a natural person or the security of a legal person;

c) ~~When reporting the information referred to in paragraphs 1 and 2, parent undertakings may omit~~ information corresponding to intellectual capital, intellectual property, know-how or the results of innovation that qualifies as a trade secret as defined in Article 2, point (1), of Directive (EU) 2016/943, provided that both of the following conditions are met:

(ia) the parent undertaking discloses the fact that it has used this exemption; and

(iib) the parent undertaking reassesses at each reporting date whether the information may still be omitted.

d) ~~When reporting the information referred to in paragraphs 1 and 2, parent undertakings may also omit information~~ in exceptional cases, where the disclosure of such information **the disclosure of which** would be seriously prejudicial to the commercial position of the group, provided that all of the following conditions are met:

(ia) such omission does not prevent a fair and balanced understanding of the group's development, performance and position, or of its principal risks or principal impacts;

(iie) the parent undertaking has determined that it is impossible to disclose the information in a manner, such as at an aggregated level, that would enable it to meet the objectives of the disclosure requirement without seriously prejudicing the group's commercial position;

(iid) the parent undertaking discloses the fact that it has used this exemption;

(iie) the parent undertaking reassesses at each reporting date whether the information may still be omitted.'

(c) paragraph 8, second subparagraph, point (c) is replaced by the following:

‘if the parent undertaking is established in a third country, the disclosures laid down in Article 8 of Regulation (EU) 2020/852 of the European Parliament and of the Council or in Article 19b and Article 29aa of this Directive, as applicable, covering the activities carried out by the subsidiary undertaking established in the Union and exempted from sustainability reporting on the basis of Article 19a(9) of this Directive, shall be included in the management report of the exempted parent undertaking, or in the consolidated sustainability reporting carried out by the parent undertaking established in a third country.’

(d) paragraph 9 is replaced by the following:

‘The exemption laid down in paragraph 8 shall also apply to public-interest entities subject to the requirements of this Article’.
