



EUROPEAN COMMISSION

Brussels, 15.12.2016
C(2016) 8597 final:

Ms Danielle AUROI
Chair of the European Affairs Committee,
French National Assembly

cc. Mr Claude BARTOLONE
President of the French National
Assembly

Mr Eduardo FERRO RODRIGUES
President of the Assembly of the Portuguese
Republic

Mr Andrej DANKO
President of the Slovak Parliament

Ms Ināra MŪRNIECE
President of the Latvian Parliament

Ms Loreta GRAUŽINIENĖ
President of the Lithuanian Parliament

Mr Pietro GRASSO
President of the Italian Senate

Ms Khadija ARIB
President of the Lower House of the
Dutch Parliament

The Lord BOSWELL OF AYNHO
Chairman of the EU Select Committee,
House of Lords

Dear Ms Auroi,

The Commission wishes to thank the National Assembly and the seven other signatory parliamentary chambers for their opinions on corporate social responsibility in the European Union and notes their invitation to submit draft legislation implementing corporate social responsibility principles at European level.

The Commission is continuing to be proactive in its pursuit of promoting corporate social responsibility through all its policies. As you point out, advances have already been made in recent years on promoting responsible business conduct in the EU.

The transposition by the Member States of the Non-Financial Reporting Directive¹ is being finalised and should be complete by December 2016.

This directive lays down obligations for large undertakings on publishing information relating to actions they are taking in the area of corporate social responsibility, including due diligence procedures. It requires large public-interest entities (listed companies, banks, insurers and other undertakings so designated by the Member States) with more than 500 employees to disclose relevant and useful information on their policies, principal risks and results obtained in terms of environmental and social aspects, respecting human rights

¹ OJ L 330, 15.11.2014, pp. 1-9.

and fighting corruption. This information must be produced via an internal due diligence procedure to be established within each undertaking and with suppliers, subcontractors and other stakeholders. It must give shareholders and all stakeholders an overall view of the undertaking's position and performance. The Commission is also preparing, as a support measure, non-binding guidelines promoting the effective application of the directive by the undertakings concerned.

In addition, new provisions on public procurement that highlight environmental and social considerations recently became part of EU law². Their transposition is still ongoing in about a dozen Member States.

Furthermore, the Commission is promoting compliance with social and environmental standards and with human rights in non-member countries through development cooperation, political dialogue and trade instruments. It is pursuing an integrated approach using existing tools and others currently under development, including in certain sectors at particular risk from negative effects linked to business operations such as logging and mining, as well as the clothing sector.

After evaluating the implementation of European strategy on corporate social responsibility³, a consensus was reached among stakeholders on the need:

- to speed up the effective implementation of the recently adopted legislative measures,*
- to introduce measures that could encourage and reward responsible behaviour by EU undertakings, particularly by public and private investors and by public authorities when funding companies and buying goods and services;*
- to consolidate the implementation of recent important EU initiatives relating to action on corporate social responsibility, such as the strategy 'Trade for all: Towards a more responsible trade and investment policy'⁴, the EU Action Plan on Human Rights and Democracy⁵ and the Anti Tax-Avoidance Package (ATAP)⁶.*

These actions should also help to promote responsible behaviour by companies and investors as well as public authorities in non-EU countries, with specific regard to the responsible management of supply chains involving developing countries. To this end, in March 2014 the Commission also adopted a proposal for a regulation on conflict minerals⁷ which is currently the subject of discussions between the European Parliament and the Council. In its communication on a sustainable European future, which sets out its vision regarding the United Nations Sustainable Development Goals (SDGs)⁸, the Commission announced that it would intensify its work on Responsible Business Conduct, focusing on concrete actions to meet current and future social, environmental and governance challenges.

² Directive 2014/24/EU on public procurement and repealing Directive 2004/18/EC, OJ L 94, 28.3.2014, pp. 65-242.

³ COM(2011) 681 final.

⁴ http://trade.ec.europa.eu/doclib/docs/2015/october/tradoc_153846.pdf

⁵ JOIN(2015) 16 final.

⁶ http://ec.europa.eu/taxation_customs/business/company-tax/anti-tax-avoidance-package_en

⁷ COM(2014) 111 final.

⁸ COM(2016) 739 final.

In light of the many actions already undertaken or in progress (see annex for details), the Commission has no plans to adopt further legislation at this stage, but is carefully monitoring, in close collaboration with the main stakeholders, how the situation is evolving in the Member States and in the international bodies involved in the corporate social responsibility process.

The Commission wishes to thank the signatory parliamentary chambers for their contributions on this important matter and appreciates the willingness of the national parliaments to make a positive contribution to the development of EU policies. The Commission views this initiative as a clear sign of this constructive spirit.

Since taking office, the current Commission has sought to strengthen its ties with the national parliaments by stepping up political dialogue and increasing the number of direct contacts with them. As a result, since taking office the members of the Juncker Commission have had some 400 bilateral contacts with representatives of national parliaments in their respective capitals or in Brussels. In his State of the Union address on 14 September, President Juncker also reiterated the importance the Commission attaches to relations with the national parliaments.

Yours sincerely,

A handwritten signature in black ink, consisting of a large, stylized 'F' followed by a horizontal line and a vertical stroke.

*Frans Timmermans
First Vice-President*

A handwritten signature in black ink, featuring a large, flowing 'E' and 'B' followed by a horizontal line.

*Elzbieta Bienkowska
Member of the Commission*

ANNEX

The Commission is pleased to have this opportunity to highlight the main initiatives that it has recently undertaken and that are still ongoing in the field of corporate social responsibility (CSR).

A. General policy documents:

1. Communication on a renewed EU CSR Strategy (October 2011):

The communication ‘A renewed EU strategy 2011-14 for Corporate Social Responsibility’⁹ redefines corporate social responsibility and the EU’s policy approach to it. It sets out an Agenda for Action revolving around several priority areas which seek to enhance corporate uptake of CSR practices, encourage Member States to take action and promote international guidance frameworks on corporate social responsibility.

In particular, it recognises five main international tools which the EU regards as proactive tools which can facilitate responsible business conduct by all stakeholders: the ISO 26000 Guidance on Social Responsibility, the International Labour Organisation’s (ILO) Declaration of Principles concerning Multinational Enterprises and Social Policy (MNE Declaration), the UN Global Compact, the Organisation for Economic Co-operation and Development’s (OECD) Guidelines for Multinational Enterprises and the UN Guiding Principles on Business and Human Rights (UNGPs).

In this context, the Commission has been active in enhancing capacity and setting up a High-Level Group on Corporate Social Responsibility where Member States can share experiences on responsible business conduct and discuss progress in implementing their National Action Plans.

2. Corporate Taxation Action Plan (June 2015) and Communication on an External Strategy for Effective Taxation (January 2016)

The Action Plan¹⁰ presented a broader approach to corporate taxation in order to ensure effective taxation where profits are generated. The Commission also presented a communication¹¹ containing a framework for a new external strategy for effective taxation, in particular to promote tax good governance globally, support developing countries and develop an EU process for assessing and listing third countries that fail to respect tax good governance standards.

3. Staff Working Document on implementing the UN Guiding Principles on Business and Human Rights (July 2015):

⁹ COM(2011) 681 final.

¹⁰ COM(2015) 302 final.

¹¹ COM(2016) 24 final.

This Staff Working Document¹² presents the work done at EU level on implementing the UNGPs, in particular their first and third pillars ('State Duty to Protect Human Rights' and 'Access to Remedy for Victims').

4. Action Plan on Human Rights and Democracy (July 2015):

The Action Plan on Human Rights and Democracy for 2015-2019 aims at mainstreaming human rights in EU external policies. The Action Plan places a special emphasis on ownership by local institutions and improving policy coherence. The Action Plan contains a number of actions relevant to corporate social responsibility, business and human rights and economic and social rights such as actions on the fight against the worst forms of child labour and actions relating to the fight against trafficking in human beings and forced labour. It also contains a number of actions including:

- strengthening the role and expertise of EU delegations and Member States' embassies;*
- raising awareness of the UNGPs and corporate social responsibility in policy dialogues with partner countries;*
- proactively engaging with business and civil society on issues related to business and human rights and promoting the adoption of National Action Plans (NAPs).*

5. 'Trade for All' Communication (October 2015):

This strategy will make EU trade and investment policies more responsible by basing them on the three key principles of effectiveness, transparency and values, with a view to ensuring that trade and investment policy benefits as many people as possible. It contains a specific section on responsible management of supply chains with concrete areas for future action.

6. Communication 'Next steps for a sustainable European future' (November 2016):

The communication¹³ establishes the link between the Sustainable Development Goals (SDGs) under the 2030 Agenda for Sustainable Development adopted by the UN General Assembly in September 2015, on the one hand, and the European policy framework and Commission priorities, on the other. The communication refers to the role of EU action on corporate social responsibility (CSR) and responsible business conduct in encouraging the private sector to contribute to the achievement of social and environmental objectives, thereby fostering equitable and sustainable growth and the protection of social rights (SDG 8). It announces that the Commission will intensify its work on responsible business conduct, focusing on concrete actions to meet current and future social, environmental and governance challenges, building upon the main principles and policy approach identified in the 2011 EU Corporate Social Responsibility Strategy.

B. Main regulatory initiatives:

¹² SWD(2015) 144 final.

¹³ COM(2016) 739 final.

1. EU Timber Regulation (2010):

As a complement to the bilateral Forest Law Enforcement Governance and Trade (FLEGT) Voluntary Partnership Agreements (VPAs) negotiated with partner countries, in 2010 the EU adopted a Regulation¹⁴ that applies to timber and timber products placed on the EU market (i.e. both domestic and imported) and requires EU operators to exercise due diligence to minimise the risk of placing illegal timber in their supply chain. It also prohibits the placing on the market of illegally harvested timber and products derived from such timber.

2. Proposal for a Regulation on conflict minerals (March 2014):

The Commission and the High Representative proposed an integrated EU approach to tackle the problem of trade in certain minerals being used to finance armed groups in conflict and high-risk areas.

This approach consists of a proposal for a Regulation on conflict minerals¹⁵, for which a political agreement between the co-legislators was recently reached, and a Joint Communication by the Commission and the High Representative which mentions the possibility of proposing accompanying measures to the aforementioned proposed Regulation. The proposed Regulation on conflict minerals would set up an EU system for due diligence in supply chains for importers of tin, tantalum and tungsten, their ores, and gold originating in conflict-affected and high-risk areas. It would create legally binding obligations for importers of these minerals and metals to undertake due diligence in their supply chain and to identify and mitigate the risk of conflict financing. It is based on the OECD's Due Diligence Guidance for Responsible Supply Chains of Minerals from Conflict-Affected and High-Risk Areas.

3. Revised Public Procurement Directives (February 2014):

The revised public procurement Directives, which are still being transposed by several Member States, promote green, social and sustainable public procurement by public contracting authorities and recommend the use of the EU sustainability criteria that exist for priority products.

The Commission has also issued general guidance documents on introducing environmental and social criteria in public tenders. The use of sustainability criteria in public procurement can create additional market opportunities for sustainable products. These criteria are intended to be clear and easily verifiable, thus making it easier for public authorities to apply them and for tenderers to comply.

4. Directive on disclosure of non-financial information (December 2014):

¹⁴ JO L 295, 12.11.2010, p. 23.

¹⁵ COM(2014) 111 final.

This Directive entered into force in December 2014 and is due to be transposed by all the Member States by December 2016. It requires large listed companies, as well as other public-interest entities with more than 500 employees, to disclose relevant information on policies, results and principal risks relating to environmental, social and employee matters, respect for human rights, anti-corruption and bribery matters, as well as on the internal due diligence process of processes implemented to prepare such information.

After a public consultation (January-April 2016), the Commission is preparing non-binding guidelines on non-financial reporting.

5. Proposal for a revised Shareholder Rights Directive (2014):

The proposal¹⁶ is currently under negotiation in the legislative process involving both the European Parliament and the Council. It aims to improve the governance of EU companies listed on stock exchanges. It incentivises institutional investors and asset managers to be responsible shareholders with a long-term strategic outlook and engage with investee companies. It requires these investors to disclose their engagement policy on a 'comply or explain' basis and how they monitor the non-financial performance of their investee companies. It also requires certain institutional investors to disclose how their equity investment strategy and their asset management mandates are aligned with their long-term liabilities.

6. Proposal for a Directive amending Directive 2013/34/EU as regards disclosure of income tax information by certain undertakings and branches (2016):

The proposal¹⁷ is currently under negotiation in the legislative process involving both the European Parliament and the Council. As part of a broader strategy for a Fair and Efficient Corporate Tax System in the EU, the proposal seeks to promote public scrutiny, which can also strengthen companies' corporate social responsibility, by providing for the disclosure of specific information by large corporate groups, in particular the amount of income tax due and paid in each Member State.

C. Voluntary guidance and consultation initiatives:

1. Compendium of CSR public policies in Member States (June 2014):

This Compendium drew on the seven Peer Reviews on national CSR policies that took place throughout 2013. It provides an overview of national policy approaches to CSR, including the preparation of National Action Plans, while also looking at the rationale for different priorities set at national level as well as progress on implementing the various actions. It

¹⁶ COM(2014) 213 final.

¹⁷ COM(2016) 198 final.

also provides a thematic review of the most common approaches as well as good practices in relation to different aspects of CSR policy, which range from softer initiatives such as awareness-raising to legislative action.

2. Guidance materials for SMEs and for some sectors (2013-14):

The Commission has produced two guidance documents for Small and Medium Enterprises (*My Business and Human Rights: A Guide to Business and Human Rights for SMEs; CSR Handbook for SMEs*) for small and medium enterprises seeking to discover how they can adopt more responsible commercial practices.

It has also published guidance studies for companies in the information and communications technology, oil and gas and recruitment agency sectors on meeting the corporate responsibility to respect human rights under the UNGPs. The guidance sets out the steps required under the UNGPs to 'know and show' respect for human rights and translates this into the particular context of the oil and gas sector.

3. Public Consultation on the 2011 CSR Strategy and CSR Multi-Stakeholder Forum (2014 and 2015):

In 2014, the Commission held a public consultation on corporate social responsibility. In February 2015, the Commission held its two-day flagship event 'The EU's Multi-Stakeholder Forum on Corporate Social Responsibility' which brought together over 500 participants from all stakeholders and included 90 speakers from European multinationals, public authorities, investors, employers and workers organisations, as well as civil society NGOs and academic circles.

4. Public Consultation on long-term and sustainable investment (January-March 2016):

This public consultation looked into barriers and incentives for institutional investors and their asset managers to take environmental, social and governance issues into account in their investments. It covered the governance of the institutional investor, financial incentives, the role of credit rating agencies and investment advisors, governance of investee companies, fiduciary duty and financial regulation. Its results will be used in the preparation of a sustainable finance strategy, as provided for in the updated Capital Union Markets Action Plan.