

STITCH Alliance – Position Paper on Mandatory Due Diligence and SMEs

In favour of mandatory due diligence on human rights

As the Sustainable Textile Initiative: Together for Change (STITCH) Alliance¹, we envision a global garment industry that contributes to an equal and just society by respecting human rights in the world of work.

We applaud the efforts made by so many Small and Medium Sized Companies (SMEs) within the European Union to enhance the protection of human rights in international supply chains. They have shown that meaningful human rights due diligence is possible. Therefore **the STITCH Alliance takes the view that all SMEs² should fall under a practicable, proportionate, and effective corporate due diligence directive.** Our position is informed by working with over 250 garment and textile brands, the majority of which are SMEs, with a combined turnover of approx. 9 billion Euros. In the following position paper we outline the advantages of a directive that covers all businesses, regardless of their size.

We recognise the challenge of the European Commission to define which companies should fall under a mandatory human rights due diligence directive (HRDD). In this context we also recognise the important role of the Sustainable Corporate Governance initiative³ to promote companies to develop sustainability strategies that include appropriate due diligence throughout the supply chain, and measurable sustainability targets.

The STITCH Alliance views the hesitancy to include all SMEs in the HRDD directive to be based on misconceptions about administrative burdens and economic feasibility. **The many brands that the STITCH Alliance partners ETI and Fair Wear have guided over the last two decades have however shown that a business model that respects human rights globally is a viable one and does not undermine the profitability of SMEs.**

The EU Garment and Textile Industry and SMEs

The textile industry employs over 75 million workers globally⁴, that work in poor and often dangerous working conditions. The industry is one of the most polluting industries worldwide, with textile mills generating one-fifth of the world's industrial water pollution⁵. To improve the situation in this high-

¹The STITCH Alliance consist of Fair Wear Foundation (FWF), Mondiaal FNV, CNV Internationaal, the Ethical Trading Initiative (ETI), Civil Initiatives for Development and Peace, and the Center for Development and Integration

² STITCH prefers to follow the Dutch SME definition, which states that a company is SME when it matches one of the three criteria: 1) between 10 and 250 employees, 2) a balance sheet between E 350,000 and E 20 million, 3) a net turnover of between E 700,000 and E 40 million.

³ [European Commission](#)

⁴ [Solidarity Center](#)

⁵ [NRDC](#)



risk industry as a whole, it is essential that the HRDD⁶ directive creates enough momentum and leverage on the side of the (European) companies to have a positive effect on human rights being respected in their supply chain. **At least 90% of all companies in the EU garment and textile industry are Small Sized Enterprises with less than 50 employees and a share of 60% in the sector's total annual turnover** of EUR 166 billion⁷. Less than 1% is considered to be a large company⁸. **Without the inclusion of SMEs, a significant system change of the garment and textile sector cannot be achieved.**

HRDD will ensure a level playing field

The advantages of an effective implementation of HRDD from a business perspective are considerable; it would lead to less production interruptions through a reduction in workplace related accidents⁹, a reduced litigation risk, a positive reputation¹⁰ and other potential benefits. However, these benefits are realised in the mid- and long-term, while the costs for frontrunner SMEs are immediate and **undermine a level playing field.**

Hence, under the absence of HRDD legislation, SMEs that decide to implement HRDD face higher short-term costs compared to SMEs that choose to ignore their duty of HRDD. **EU legislation would ensure that SMEs are not disincentivised to carry out HRDD by cost disadvantages vis-à-vis their competitors.**

For example, many companies are not visible to consumers in such a way that their reputation might be at risk, decreasing the incentive for HRDD¹¹. Moreover, companies face different HRDD requirements depending in which Member State they are operating, with France already having a HRDD law in place, Germany having passed their due diligence legislation only recently¹² and the Netherlands and Belgium are currently reviewing planned legislation¹³.

HRDD will prevent a splintering of supply chains

A legislation that exempts SMEs from HRDD obligations could lead to companies splitting up their production chains in the EU into smaller entities that are not covered by any such legislation, to reduce the short-term costs of HRDD¹⁴. This would come at the cost of lower human rights compliance at enterprises in third countries that benefit from cooperation with larger companies through stable business relationships, assistance in the execution of HRDD and support in the implementation of higher standards. In addition, many industries – garments being a prime example

⁶ 'Due diligence' as defined in the United Nations Guiding Principles on Business and Human Rights and OECD Guidelines for Multinational Enterprise

⁷ [European Commission](#)

⁸ [Euratex FACTS & KEY FIGURES](#)

⁹ [Business & Human Rights Resource Centre](#)

¹⁰ [Ethical Trading Initiative](#)

¹¹ [Friedrich Ebert Stiftung 2015](#), p. 15

¹² [Business & Human Rights Resource Centre](#)

¹³ [iPoint](#)

¹⁴ [Nolan & Bott 2018](#), pp. 6-7



– are already extremely fragmented and cannot be adequately covered by a regulation that excludes SMEs¹⁵. Another dimension with far reaching consequences which would lead to splintering of supply chains in third country production countries is if EU mandatory HRDD would only go as far as tier 1. Therefore, **HRDD legislation should cover the entire supply chain.**

HRDD will not undermine SMEs profitability

The garment and textile industry is considered to be a high risk sector due to its severe human rights violations. Therefore we need both SMEs and large companies to fulfil the obligation of due diligence, and advocate that SMEs should fall within the scope with a close eye for proportionality in line with the OECD guidelines. **A disproportionate burden on SMEs can be ruled out**, as the size of the company correlates with the risks to be monitored as does the companies' capacity to manage these risks. This relationship can also be observed in a value-added assessment of the European Parliament which concludes that the costs decrease with the size of the SME. In this context, existing HRDD practices even suggest that SMEs can carry out HRDD more easily and perform better thanks to more flexibility¹⁶, clearer business structures and more local proximity¹⁷. Finally, an **effective HRDD will prevent larger costs in the long term** as it significantly reduces the risks of production interruptions due to accidents or strikes, litigations and lawsuits, and related reputational damages.

HRDD will promote a collaborative approach

An EU HRDD directive should take a **collaborative approach**, focusing on transparency and the identification of risks in supply chains of SMEs and large corporations. Despite the zero-tolerance approach that ethical trading requires, we realistically see the full elimination of human rights violations as a long-term goal. Hence, recognising the persistence of human rights violations, a directive would encourage companies to detect, openly communicate and cooperatively mitigate human rights violations in their supply chains. This would also be reflected in the determination of possible penalties as a last resort. More importantly we recognise that HRDD is a learning process for all stakeholder involved and require to take into account the engagement, or respectively, negligence of a company towards its supply chains¹⁸.

HRDD leads to the harmonisation and predictability of practices

A directive covering both SMEs and large companies – regardless of their size – would streamline and simplify the administrative processes of HRDD and make it predictable. There are currently many different principles and management standards, which are oftentimes based on the UN Guiding Principles and the OECD Guidelines but vary greatly in detail and level of implementation¹⁹. Binding regulation, conversely, would go hand in hand with the creation of uniform standards and

¹⁵ [EUideas](#)

¹⁶ [Ilgem 2019](#), p. 9

¹⁷ *Ibid.*, p. 16

¹⁸ [Friedrich Ebert Stiftung, 2015](#), p. 26

¹⁹ [European Parliament](#), p. 6



clear guidelines to which companies can reliably orient themselves²⁰. Thus, the **inclusion of all SMEs and absence of exemptions comes along with more clarity, predictability, and legal certainty.**

Furthermore, it would enable a **centralised exchange between those organisations already active in this field, and adoption of best practices by newcomers.** Finally, institutionalised support networks of government bodies, MSIs, trade unions, NGOs and business associations would emerge to support individual companies by providing information, expertise, and financial resources. In the latter case, several positive examples already exist, such as the Bangladesh Accord which offers help to improve conditions on the ground against measurable self-commitments. Moreover, organisations, such as FWF and ETI, can support SMEs in setting up and implementing a verifiable due diligence system, whereas the trade unions and labour NGOs serve as a valuable source of information and expertise for brands, while they strengthen the collective bargaining capacities of workers.

Comprehensive regulation would thus create more clarity as well as formalised structures for information exchange, cooperation, and support. This corresponds with the results of previous evaluations in the field of HRDD, according to which a harmonisation of existing HRDD models and the introduction of sectoral support²¹ reduce the costs of HRDD for SMEs considerably.

Conclusion

In conclusion, The STITCH Alliance views a **HRDD directive as imperative** to achieve an equal and just society by respecting human rights in the world of work. For this to materialise, SMEs and large companies should be covered under the HRDD directive. An EU directive on HRDD will promote a level playing field, will not undermine the competitiveness and profitability of SMEs and will make the business environment more predictable and stable to the benefit of companies and workers alike.

²⁰ [German Federal Ministry for Economic Cooperation and Development](#), p. 46

²¹ [Hermon 2020](#)

