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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
= *Statement by Estonia*

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

Proposal for a Directive on Corporate Sustainability Due Diligence

Statement by Estonia

to be included in the minutes of COMPET Council on 1 December 2022

Estonia welcomes the general aim of the Directive on the protection of human rights and environment in the course of business activities. Companies, especially large enterprises play an important and even crucial role in regards of sustainability, as the means of production of goods and services have significant impact on the environment and human rights principles.

However, the solutions in regard to the human rights part of the Annex, civil liability and financial sector are from our perspective still neither legally clear nor feasible. The application of legally unclear provisions might create excessive administrative burden for both Member States and companies, as well as might diminish their competitiveness. Even though we see several positive amendments to the initial proposal, we still think that balance between the different interests tackled by the proposal has not been reached yet.

Regarding the implementation of the Annex (especially in the field of human rights), it would create questions on how to form legally clear and understandable obligations in the national law. This in turn might lead to insufficiently unified obligations across EU, which would not support the aim of the Directive. Furthermore, the vague obligations would make it difficult for the companies to assess their obligations in order to reasonably avoid possible civil liability and for the injured party to assess the reasonable prospects of a claim. Additionally, we still see inconsistencies with the general tort law principles, mainly in regard to attribution of liability. As to the financial sector, the sustainability in this sector is already regulated by different acts, which raises several questions on the interlinkages, coherence and legal clarity on the due diligence rules applicable to the financial sector.

In the context outlined above, Estonia cannot endorse the General Approach, especially as we would have liked to specify the human rights part of the Annex and to delete or at least specify further the civil liability provisions.
