



Council of the
European Union

Brussels, 12 November 2019
(OR. en)

14022/19

WTO 301

NOTE

From: General Secretariat of the Council
To: Delegations
Subject: Towards European ambition on Responsible Business Conduct
- *Request from the Netherlands Delegation*

Delegations will find in ANNEX a document submitted by the Netherlands Delegation to be presented under "Any other business" at the Foreign Affairs/Trade Council at its session on 21 November 2019.

Towards European ambition on Responsible Business Conduct

*Explanatory note to open the discussion for the Any Other Business
on RBC at the Foreign Affairs Council Trade November 21st,
2019*

-----to be shared before FAC Trade-----

International trade is a major contributor to world prosperity: it creates employment and contributes to global economic development. The EU, as the largest economy in the world, plays a defining role in cross border trade.

As stated in “Trade for All” (2015), the EU’s trade and investment policy must respond to consumers’ concerns regarding the sustainability of our trade flows.¹ The EU already takes this into account, for example by incorporating sustainability chapters in EU trade agreements. These chapters currently receive great attention; their importance cannot be underestimated.

In parallel there is a responsibility for companies to ensure due diligence across their value chains. This includes the responsibility to respect human rights, labour and the environment when doing business abroad, also in countries with less developed legal systems. Labour conditions must be fair, human rights should be respected and business should not be done at the expense of the environment.

Internationally recognized guiding frameworks for responsible business conduct² include the responsibility for companies to carry out due diligence within their value chain when doing business abroad. This implies carrying out an assessment of risks to people and planet in the value chain, and mitigating these risks. States can and should contribute to promoting responsible behaviour by companies within their jurisdiction that are active abroad. Around

¹ See https://trade.ec.europa.eu/doclib/docs/2015/october/tradoc_153846.pdf

² Most importantly the OECD Guidelines for Multinational Enterprises and the UN Guiding Principles on Business and Human Rights.

the world governments are seeking means to motivate their companies to act responsibly.³

However, strategies and initiatives in individual countries, including in individual EU Member States, vary widely in scope and requirements. Some focus on specific negative effects (such as deforestation) whereas others include all human rights and environmental abuses. Some target all companies including SME's, others target specific sectors or solely include the largest enterprises. As a result a patchwork of different national and international policies is developing. These variations hinder responsible trade across the EU and fuel discussion on the level playing field.

As EU member-states we have a joint responsibility to ensure responsible trade. European cooperation is necessary to ensure a coherent and harmonized policy with which the greatest impact can be achieved. The Netherlands therefore stresses the importance of the development of an EU harmonized framework on responsible business conduct. A first step could be the exchange of national experiences at the EU level. The Netherlands will also call on the incoming European Commission to take the initiative to develop an EU action plan on responsible business conduct.

³ International examples in and outside the European Union are amongst others the United Kingdom's and Australia's Modern Slavery Act, the French Loi sur le Devoir de Vigilance, legislation studies in Finland, sectoral agreements in Germany and the Netherlands, the Dutch Child Labour Due Diligence Law and EU-legislation such as the conflict minerals regulation ([regulation 2017/821](#)) and the timber regulation ([regulation 995/2010](#)). Also modern EU trade agreements explicitly refer to the OECD Guidelines for Multinational Enterprises.