

THE IMPORTANCE OF REFERRING TO RESPONSIBLE PURCHASING PRACTICES IN THE EU CORPORATE SUSTAINABILITY DUE DILIGENCE DIRECTIVE

June 2023

We, the undersigned civil society organisations and businesses, warmly welcome the proposed **Corporate Sustainability Due Diligence Directive (CSDDD)**. This is a pivotal step for stronger corporate accountability on human rights and the environment, as the CSDDD can ensure that companies do not benefit from the economic opportunities offered by global markets without respecting a set of human rights and environmental standards.

Yet, **the Commission's proposal left out a key lever for action to rebalance asymmetric power relationships in supply chains – responsible purchasing practices**, whose relevance for the Directive and potential impacts in value chains are further detailed below. **This missed opportunity was not fixed in the Council's General Approach last December**; but was tackled by the European Parliament, which incorporated several references to purchasing practices in its report. **We strongly call for these references to be preserved in the CSDDD agreement** after the conclusion of interinstitutional negotiations.

What are *responsible purchasing practices*?

'Purchasing practices' commonly refer to a set of measures taken by companies to buy a product or a service, generally from a supplying entity. '*Responsible (or fair) purchasing practices*' are those **purchasing practices that do not negatively impact human rights nor the environment in any part of the value chain**. This entails a profound restructuring of buyer-supplier relationships to recalibrate asymmetric power imbalances which largely benefit buying companies. Experience shows that in the current international business framework **suppliers do not have sufficient leverage to counter exploitative and unsustainable buying practices**, such as late payments, changeable order placement, and price negotiations below production costs. It also shows that the **purchasing practices of companies impact the entire value chain**. If unfair, they lead to adverse effects, like excessive and forced overtime and low wages, particularly when orders are frequently changed or cancelled, further down the supply chain.

Bearing the above in mind, the benefits of **responsible purchasing practices have been recognized internationally**, in particular by the OECD which recommends in its 2018 "[Due Diligence guidance for Responsible Supply Chains in the Garment and Footwear sector](#)" that enterprises should assess whether their purchasing practices are contributing to harm and should implement control measures. In 2022, a multi-stakeholder initiative presented a [Common Framework for Responsible Purchasing Practices](#) (CFRPP) specifically tailored for the textile sector, which is largely structured around global value chains, with suppliers located in least developed and middle income countries. This provides a reference point for textile companies to define, implement and continuously improve their purchasing practices.

References to purchasing practices were also introduced at national level, for instance in **Germany's Supply Chain Due Diligence Act**, which entered into force on 1 January 2022 and sets a legal obligation on companies to develop and implement responsible purchasing practices.

How can responsible purchasing practices benefit European businesses, people, and the planet?

The link between companies' purchasing practices and human rights and environmental negative impacts, especially on production sites situated at the end of value chains, has been widely documented and demonstrated. A 2017 [survey](#) conducted by the International Labour Organization (ILO) for example outlined that **a third of producers accept orders that are worth less than production costs**. This is due to **large concentrations of power at the buyer's level**, which constrain suppliers to accept asymmetric terms and conditions. A recent [report](#) (Clean Clothes Campaign and Fair Trade Advocacy Office) also showed that unfair purchasing practices are widespread in garment production in Europe as well. Because they burden and disable the suppliers (e.g., with unsatisfactory pricing conditions, late payments, short deadlines or frequent order changes), exploitative purchasing practices disproportionately lead to environmental harm and human rights abuses, both in and outside of the EU.

Therefore, responsible purchasing practices are an effective tool to **address the root causes** of economic deprivation, human rights violations and environmental degradation. They encompass a **set of overarching principles and related practices**, as those laid out below and largely based on the CFRPP and on the World Fair Trade Organisation (WFTO)'s [Fair Trade Standard](#):

- **Long-term equal trading partnership**: Buyers and suppliers maintain via direct and regular exchanges a long-term relationship that is based on solidarity, horizontality and trust. Trading relationships should not be stopped unilaterally without sufficient notice of termination nor without meaningful engagement with affected stakeholders, which secures social and economic benefits on both ends and contributes to the creation of resilient economic relationships and reliable supply chains.
- **Fair payment**: Buyers and suppliers agree on payment terms that were freely and transparently negotiated. These should not be changed (except to take into account significant external factors and costs) and should not come as a burden on any of the parties. Risks should be equally shared. Fair payment includes both fair pricing and fair wages, as well as a living income to smallholders, which should ensure that workers and farmers benefit from adequate living standards in local and regional contexts. Fair payment also ensures that buyers provide timely and secure payment to suppliers (potentially including pre-financing and pre-payments).
- **Collaborative production planning**. Order placement and planning of production and transport processes are mutually agreed upon and are based on realistic assumptions, which are sustained by suppliers' capacity and experience of production and/or cultivation processes. Sampling requirements and fluctuating orders are limited to a minimum.

- **Sustainable sourcing policy:** Orders and purchases are adjusted according to the supplier's cultivation and labour capacities. It can prevent risks of disruptions in value chains and reinforces security of supply.

In July 2021 already, several civil society organisations had [called](#) the European Commission to include explicit references to responsible purchasing practices in its upcoming due diligence proposal.

How should responsible purchasing practices be referenced in the CSDDD?

The Commission's proposal mentioned 'purchasing decisions' in recital 28 but not in the operative part of the text. This was not modified in the Council's General Approach. We strongly support the changes incorporated in the Parliament's report, i.e. the following:

- Article 5 states that a company's due diligence policy shall contain measures taken to ***'incorporate due diligence into its own business model, employment and purchasing practices with entities with which the company has a business relationship'***
- Articles 7 and 8 require companies to ***'adapt business models and strategies, including purchasing practices, including those which contribute to living wages and incomes for their suppliers, in order to bring to an end or mitigate actual adverse impacts, and develop and use purchase policies that do not encourage actual adverse impacts on human rights or the environment'***
- Article 12 calls on the Commission to come up with guidance for companies to adopt voluntary model contractual clauses, which shall stipulate a ***'clear allocation of tasks between both contracting parties, in ongoing cooperation'*** and shall specifically avoid leading to ***'the transfer of responsibility for carrying out due diligence'***
- Article 13 asks the Commission to include ***'information on responsible purchasing practices'*** in the guidelines it will issue to support companies or Member States on how companies should fulfil their due diligence obligations.

The above changes would ensure that requirements for companies to develop and adopt responsible purchasing practices are **enshrined in core obligations** laid out in the Directive, and that these come with **specific guidance for companies and Member States**. Proposed changes are **not overly prescriptive** and leave sufficient flexibility for companies to decide how to best adapt their business models and strategies, therefore not unduly interfering with corporate governance.

While they are expected to **correct structural imbalances** within value chains, the proposed changes will also ensure that responsible purchasing commitments **no longer constitute a competitive disadvantage** for the companies undertaking them, as they will support the establishment of a level-playing field inside the EU market.

Based on the above, we, the co-signing organisations listed below, strongly call on Member States to ensure that these changes are included in the final trilogue agreement.

List of signatories:

1. ActionAid International
2. Akademie für Textilveredlung
3. Arbeitsgemeinschaft (ARGE) Weltläden
4. Campagna Abiti Piliti
5. Clean Clothes Campaign - International Office
6. Clean Clothes Kampagne Österreich
7. E-BIKES Tübingen
8. Economy for the Common Good
9. El Puente GmbH
10. Fair Finance Institute
11. Fair Trade Advocacy Office
12. Fairtrade International
13. FEMNET
14. Focus Association for Sustainable Development
15. Forum Fairer Handel
16. Future-Fit Foundation
17. Genossenschaft für Gemeinwohl
18. GEPA - The Fair Trade Company
19. GLOBO Fair Trade Partner GmbH
20. INKOTA-netzwerk
21. innovia gem GmbH
22. Naturland Fair
23. NEPALAYA focused on fair
24. Oxfam
25. Rainforest Alliance
26. Schone Kleren Campagne / Clean Clothes Campaign Netherlands.
27. Solidaridad
28. SONNENTOR Kräuterhandels GmbH
29. soulproducts GmbH
30. Steuerkanzlei Eberhardt, Konstanz
31. Swedwatch
32. Tourismusverband Wilder Kaiser
33. VAUDE Sport GmbH & Co KG
34. Weltladen-Dachverband
35. Zadruga Buna
36. Zavod za pravično trgovino 3MUHE

