

COMPARISON

	EU	Germany	France	Other countries
Objective	Reduce adverse impacts of businesses and their supply chains with regard to human rights, the environment and the climate	Reduce adverse impacts of businesses and their supply chains with regard to human rights and the environment	Reduce adverse impacts of businesses and their supply chains with regard to human rights and the environment	<ul style="list-style-type: none"> - UK: reduce modern slavery and human trafficking - Netherlands: reduce child labor
Status	<ul style="list-style-type: none"> - Proposed by European Commission, planned to be adopted by the Council after obtaining the consent of the Parliament in 2022 or 2023 - Member states shall then transpose directive into its national laws within two years 	Adopted in 2021, comes into effect in 2023	Came into effect in 2017	<ul style="list-style-type: none"> - UK: came into effect in 2015 - Netherlands: adopted in 2019, still unclear when it comes into effect
Scope	<ul style="list-style-type: none"> - Group 1: EU limited liability companies with 500+ employees and EUR 150 million+ in net turnover worldwide - Group 2: EU limited liability companies operating in defined high impact sectors (among other textiles, agriculture, mining), with 250+ employees and a net turnover of EUR 40 million+ worldwide. Rules will start to apply 2 years later than for group 1. - Non-EU companies are included if they generate turnover within the EU that exceeds either of the above thresholds - 13,000 EU and 4,000 non-EU companies 	<ul style="list-style-type: none"> - From 2023 onwards: German companies (seated or headquartered) and foreign companies' branch offices with 3,000+ employees in Germany (incl. subsidiaries) - From 2024 onwards: companies with 1,000+ employees in Germany - 900 companies in 2023, 4,800 companies in 2024 	<ul style="list-style-type: none"> - Companies headquartered in France with 5,000+ employees worldwide (incl. its subsidiaries) - Companies with 10,000+ employees worldwide - 260 companies 	<ul style="list-style-type: none"> - UK: commercial organization with turnover of GBP 36 million+ worldwide (incl. subsidiaries; 12,000 companies) - Netherlands: all companies selling or delivering goods or services to Dutch end-users
Obligations	<p>Covered companies are required to carry out human rights and environmental due diligence to identify existing and potential negative impacts</p> <ul style="list-style-type: none"> - within their own operations, - their subsidiaries, - from their "established business relationships" <p>and to take steps to prevent, end, and minimize the extent of those impacts.</p> <p>Required steps include</p>	<p>In companies' own area of business, its controlled subsidiaries and vis-à-vis direct suppliers, due diligence obligations include</p> <ul style="list-style-type: none"> - establishing a risk management system, - performing risk analyses, - issuing a policy statement, 	<p>Companies must establish and implement an effective vigilance plan for the company's and its subsidiaries' operations.</p> <p>The plan shall aim at identification and prevention of severe violations of human rights and environmental damage</p>	<p>UK: Companies must publish an annual statement. It will disclose the steps a company has taken to ensure its supply chain is free from slavery, or that it has taken no steps to combat slavery.</p> <p>Netherlands: Companies shall</p>

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	<ul style="list-style-type: none"> - consulting all possibly affected persons (“stakeholders”), - adopting a code of conduct, - adopting due diligence policies, - establishing a complaints procedure, - ensuring compliance and monitoring - publishing an annual statement. <p>Companies with EUR 150 million+ in net turnover shall adopt a plan to ensure compatibility with the transition to a sustainable economy and the limiting of global warming to 1,5°C (Paris Agreement).</p>	<ul style="list-style-type: none"> - laying down preventive measures, - establishing a complaints procedure and - taking remedial action if the company discovers a violation. <p>Only if the company has actual indications that suggest a violation of an obligation at indirect suppliers may be possible, it must take due diligence steps in that regard.</p>	<p>resulting directly or indirectly from</p> <ul style="list-style-type: none"> - the company’s own operations, - its subsidiaries’ operations, - as well as from the operations of the subcontractors or suppliers with whom it maintains an established commercial relationship when such operations derive from this relationship. <p>The plan shall be published.</p>	<ul style="list-style-type: none"> - investigate whether there is a "reasonable suspicion" that goods or services to be supplied have been created using child labor, - develop and execute a plan of action, if necessary, - and issue a statement to the supervising authority that will be published.
Directors’ duties	<p>Directors of companies are specifically addressed. They must consider the consequences of their decisions for sustainability matters, including human rights, climate change and environmental consequences.</p> <p>The member states’ rules for breach of directors’ duties shall apply.</p>	No special provisions	No special provisions	Netherlands: If a company receives two fines for breaching the Law within five years, the responsible company director is liable for up to two years of imprisonment if he was in office during both breaches.
Civil liability	Yes. Member states shall ensure that companies are liable for damages if they fail to comply with certain obligations.	No, just facilitated enforcement of existing civil liability under tort law	Yes, any stakeholder (such as an NGO) may sue companies for non-compliance	UK: No Netherlands: No
Sanctions	Yes, sanctions are mandatory and must be published. The amount will be left to the individual member states (must be based on turnover).	Yes, up to two percent of worldwide turnover	No	UK: No Netherlands: Yes, up to 10 percent of worldwide turnover

INITIAL INQUIRIES

Shortly after January 1, 2023, you, as a supplier to a major German company or a significant company doing business in Germany, can expect a questionnaire or similar inquiry if,

1. You directly or indirectly supply material quantities of anything (including services) to a covered German company. Let's assume, for illustration, that you are selling screws.
2. The questionnaire will cover your human rights and environmental policies in great detail and ask about your company and all your sub-suppliers.
3. If you supply goods or services, suppose you purchase from a sub-supplier from Mexico. You will have to provide this information about that sub-supplier.
4. Presume your Mexican sub-supplier of metal for the screws purchases scrap metal for smelting from its sub-supplier – perhaps in Honduras. You must also supply information about that scrap metal supplier.
5. Let us also assume your company has scrap shavings from the screw manufacturing process. What do you do with that scrap? Sell it to another scrap smelter? That disposal process is also subject to your reporting. What do you/they do with the waste and what about their employees?

This little sample scenario is just for illustration. The complexity of real-world supply chains, from extraction to disposal, can be far more complex.

Further, this covers only one supply chain product line for illustration.

Indeed, any company has multiple supply chain product lines, from production to packaging to services. Each one has to be separately analyzed and evaluated.

As of now, inquiries will start with German companies. Once the EU Directive is implemented, each EU company in every country will have to investigate its supply chains.

HOW TO PREPARE YOURSELF IN ADVANCE

- A step by step system – the earlier you start the easier it will be –

1. Appoint a Supply Chain Compliance Point Person. Provide that person with a basic overview, materials, guidance, and defined responsibility.
2. Make a list of ALL your suppliers, sub-suppliers, and contractors in your "value chain," both US and foreign. This includes the full range of suppliers of goods and services from extraction to disposal – both direct and indirect only - negligible and ancillary suppliers can be excluded, but these criteria remain undefined.
3. Categorize your suppliers
 - Country
 - Product or services
 - Purchase, sale, turnovers – remember volumes may change year-by-year, so consider criteria of "ongoing" and "regular" in your "value chain."
4. Create a risk analysis for each for human rights and environmental issues.
 - Determine their business
 - Prepare questions
 - Research
 - Interviews
 - Create a preliminary list of risk factors subject to further definition and modification

THIS IS ONLY A FIRST-CUT ANALYSIS.

1. Establish your company's Code of Conduct for yourself and your suppliers based on available statutory criteria.
2. Review your contracts or other supply agreements with each to determine your rights and obligations. Consider what would be involved if you found violations and needed to act.
3. Advise all your suppliers about your Code of Conduct – make your employees and your suppliers aware that the Code of Conduct is an inherent and essential part of your business plan
4. Establish required contractual obligations between you and your suppliers
 - Require a point person at each supplier
 - Set forth your code of conduct and specific standards
 - Establish terms and conditions in your contracts (check on compliance with foreign law obligations)
 - Provide training and guidance programs
 - Create inspection rights
 - Create right to questionnaires and right to see records
 - Require periodic written compliance reports
 - Create audit rights – at least annual
 - Consider confidentiality and competition issues
 - Provide for contract damages and indemnification
 - Right to terminate for failure to comply
- 5) The EU Directive requires you to invest in your SME suppliers to obtain compliance.:
- 6) Begin to plan an alternate supplier list if compliance cannot be achieved.
- 7) Prepare annual reports and publicize them as required