Meeting with the Watch & Jewellery Initiative 2030

Scene setter

- You are meeting the Watch & Jewellery Initiative 2030, who will present this initiative and discuss with you about their roadmap and the corporate sustainability due diligence (CSDD) proposal.

- Founded by Kering and Cartier, Watch and Jewellery Initiative 2030 is a coalition well-known brands (Cartier, Chanel, Gucci, Swarovski, Pandora, Pomellato, inter alia), guided by the Ten Principles of the United Nations Global Compact and the 17 SDGs. The initiative acts as a platform to achieve their 3 main goals, i.e. 1) building climate resilience; 2) preserving resources; and 3) fostering inclusiveness in the value chains.

- There is no position of the Watch & Jewellery Initiative 2023 on the CSDD proposal. The European Federation of Jewellery (which is the umbrella organisation of a number of national jewellery associations and has an overlap in members with the Watch & Jewellery Initiative 2023) has given input on the CSDD proposal; your head of Cabinet also met them on 27 November 2020 (see background).

- Given that was actively involved in developing relevant Codes of Conduct, audits and certification schemes, it could be expected that asks about a stronger role of such tools in the CSDD proposal.

- The Council general approach was adopted on 1 December 2022 in the COMPET Council (for the main points of the state of play on the Council GA see background below). The EP negotiation mandate is expected for May 2023. Trilogues could start then still under SE Presidency.
LTT

- The proposal sets out an ambitious and harmonised, coherent and proportionate EU approach on corporate sustainability due diligence.
- The due diligence duty is aligned with internationally recognised human rights and labour standards.
- The new rules are expected to bring multiple benefits to EU companies. This includes a harmonised legal framework in the EU, a level playing field, competitiveness, better risk management and resilience.

DEFENSIVES

How will the companies be accompanied in this transition?

- OECD and UN guidance on how business activities may impact human rights and what corporate behaviour is already available for companies.
- In order to support companies and Member States with the implementation of the directive, the Commission may issue further guidance, where necessary.
- Accompanying measures include supporting tools such as hotlines, databases or training, funding, support as part of partnership cooperation, e.g. to create a stronger regulatory environment in a third country and capacity-building.

Should companies not be able to rely even more on industry-driven certification schemes, e.g. via a safe harbour clause shielding companies joining an industry initiative or making use of a certification against civil liability limiting their civil liability to intent or gross negligence?

- A possible safe harbour clause for companies joining an industry initiative or making use of a certification would render the civil liability regime much less effective and thus put in danger one of the key achievements envisaged by the Directive, as it would not incentivise companies to carry out thorough and committed due diligence. Companies could “buy their way out of civil liability”. This was already raised in particular from NGO side in the feedback to the proposal.
- Analysing and supervising ambitious industry standards or certification schemes on a rolling basis, in all 27 Member States, would lead to significant costs and bureaucracy for national authorities, in particular for smaller ones.
- It undermines harmonisation by creating diverging standards between Member States.
BACKGROUND

State of play on the Council GA (main points)

Council General Approach (GA): Adopted on 1 December; NL, DK, IE, FI and EE had voted against.

- The personal scope, both as regards thresholds and as regards covering EU and non-EU companies, has been maintained.
  - A phase-in approach was introduced (one year after end of transposition period: companies with more than 1000 employees and €300 million net worldwide turnover or, for non-EU companies, €300 million net turnover generated in the EU; 2 years after end of the transposition period: COM proposed scope).
  - As opposed to the Commission’s proposed inclusion of the financial sector, the GA gives discretion to the Member States to apply the Directive to banks and insurance companies with respect to their business partners to which they provide services. Investment funds have been excluded from the scope.

- As regards material scope:
  - the notion of “value chain” was replaced with a company’s “chain of activities”, which covers a company’s upstream business partners (supply chain) and in a limited manner also downstream business partners leaving out the use of the company’s products or provision of services;
  - the concept of “established business relationships”, limiting the scope to business relations expected to be lasting in view of intensity or duration, was deleted;
  - the risk-based approach has been strengthened: the company must prioritise between the adverse impacts they have identified if they cannot address all fully at the same time;
  - the list of human rights/violations and corresponding conventions has been reduced; a limited number of environmental conventions has been added.

- As regards civil liability, the GA excludes companies’ liability if the damage is caused only by the business partners in the chain of activities. It is unclear what this means; it is possible that damage occurring at the level of indirect relationships, but also, depending on the situation, even of direct relationships (tier 1) is not covered by liability. From the COM proposal, the rebuttable presumption aimed at limiting companies’ liability in indirect business relationships has been deleted.

- Due diligence obligations as such remained broadly the same, but certain derogations have been introduced for the last resort obligation of disengagement of a business relationship. Regulated financial undertakings have been carved out from the obligation to disengage.

- Directors’ duties have been deleted.

- Elements related to the remuneration of directors linked to the adoption of a sustainability transition plan have been deleted.

- The proposed specific regime on combating climate change has been largely maintained.
Situation in the EP

In the EP, JURI is the lead committee with 9 others associated to give an opinion (DROI, ENVI,EMPL, IMCO, ECON, INTA, ITRE, DEVE). Ms. Lara Wolters (S&D/NL) is the rapporteur and Mr. Axel Voss (EPP/DE), Mr. Adrián Vázquez Lázara (Renew/ES), Ms. Manon Aubry (GUE/NGL/FR), Ms. Hautala (Greens/FI), and Mr. Buxadé Villalba (ECR/ES) are the shadow rapporteurs.

It is planned that the JURI committee will vote on its opinion on 13 March 2023. The EP plenary vote on the trilogue mandate is scheduled for May 2023.

1713 amendments have been tabled in JURI (259 of those in MEP Wolters’ draft report).

The European Federation of Jewellery/EFJ, founded in 2013, represents the interests of the European jewellery sector.

Position of the European Federation of Jewellery on the CSDD proposal

- EFJ emphasises that they have been very proactive in ensuring responsible and sustainable mineral sourcing through the implementation of the EU legislation and industry-driven certification schemes.
- The sector is mainly composed of SMEs, with limited human and financial resources, therefore the proportionate approach regarding SMEs is key. Effective supporting measures are needed, e.g. dedicated websites or trainings. It is essential to avoid the passing on of the burden from those large companies to the smaller suppliers in the value chain. It is also important that all EU Member States financially support SMEs, and not only a few, to avoid unfair competition in the EU.
- Companies should be able to rely on industry-driven certification schemes (Responsible Jewellery Council’s Code of Practices and the World Diamond Council’s renewed System of Warranties) to support the implementation of their due diligence obligations.
- EFJ concurs with the Commission’s proposal on the complementarity of the initiative, as it aims to be aligned and consistent with already existing EU initiatives, in particular with the EU Conflict Minerals Regulation.
- EFJ is satisfied with the fact that the proposed framework on due diligence is based on an obligation of means rather than an obligation of results.
- Having an exhaustive list of all the different legislations that companies have to consider in order to identify, bring to an end, prevent, mitigate and account for adverse human rights and environmental impacts in an Annex of the Directive provides for further legal certainty.
- EFJ would urge the Commission to come forward as soon as possible with contractual clause examples that will help companies comply with the Directive.
- EFJ regrets that the current proposal is focused on sanctioning companies at first stage in case of non-compliance with the EU Directive, instead of positively
triggering and motivating companies to implement due diligence practices into their business structure.

- EFJ agrees with covering third-country companies.
- EFJ criticises that the proposal of the Directive also leaves a great deal of leeway to the Member States to draft diverging national legislation, e.g. with regard to sanctions policy.
Meeting with the Watch & Jewellery Initiative 2030
10/01/2023 15:00 – 16:00
Meeting with the Watch & Jewellery Initiative 2030
10/01/2023 15:00 – 16:00