

27 November 2020, 14:00-14:30

MEETING WITH representatives of the European Federation of Jewellery (EFJ)

Scene setter

- You are meeting with members of the **European Federation of Jewellery/EFJ** which brings together **5 national federations from 4 EU countries** (Belgium, France, Italy, Portugal) promoting the **interests of the European jewellery sector**.
- The **participants in this meeting** represent 4 of the EFJ members, i.e.
 - 2 from Belgium: [REDACTED]
 - 1 from France: [REDACTED]
 - 1 from Italy: [REDACTED]and are accompanied and supported by an EU consulting agency, [REDACTED]
- The **meeting's objective** is to discuss the planned EU rules on due diligence with focus on coherence with existing frameworks and on a level playing field for EU companies while catering to the needs of SMEs.
- The **EFJ is supportive** of an EU-wide cross-sectoral mandatory due diligence, as communicated in its position paper published in September 2020. The EFJ sees the need to **build the new framework on existing schemes** such as the **Kimberley Process and the Conflict Minerals Regulation** (EU/2017/821) which will apply from 1 January 2021 and which is already **aligned with the OECD due diligence** guidance for responsible minerals sourcing. It further invites the Commission to **also consider existing third-party's schemes** such as the Responsible Jewellery Council's Code of Practices, which also seeks to be compliant with the Conflict Minerals Regulation. To this end, the EFJ expects the **Commission to perform a thorough impact assessment** to avoid duplication of legal requirements and identify potential compliance issues.
- Of particular **importance** to the EFJ is **support to SMEs**, especially given that the **European jewellery sector is mainly composed of SMEs**. With regard to the **new EU legislation** on corporate sustainable governance, the EFJ is of the opinion that a **specific framework should be envisaged for SMEs** to encourage compliance without increasing burden, as well as a **transition period of at least 3 years before entering into full force** should be allowed for companies to adapt. The EFJ also urges the Commission to ensure a **level playing field for EU companies at international level** in order to support European competitiveness.

Lines to take

- In order for **due diligence to be effective**, it is necessary to adopt a **comprehensive approach** that would cover **both directors' duties** and **corporate due diligence duties** as they are intrinsically linked.
- We intend to propose a **coherent legally binding** framework that would be **based on a context-specific and a risk-based approach**. It will **build on** internationally accepted standards such as the **UN Guiding Principles on Business and Human rights**, as well as the **OECD Due Diligence Guidance for Responsible Business Conduct**. We will also take into account relevant **existing national and EU legislation**.
- Such a framework would clarify that **directors and board members**, as part of their **duty of care**, would need to consider in their decisions the **long-term interest of the company** and the **interests of, and the impacts on, all stakeholders** (workers, customers, the environment, local communities) **affected by the business' operations, including along the supply chain**.

- This is important to enable directors to **better manage risks** and to ensure that those **impacts that are today considered “external” to the company are properly internalized** and taken into account as factors influencing the long-term performance of the company itself.
- It would also entail proper **identification** and **management** of the **company’s risks**, as well as **undertaking due diligence** in their own operations and **supply chains on a regular basis**.
- We expect the new due diligence rules to **provide a level playing field** for EU companies and bring **legal certainty** about their companies’ duties vis-a-vis the supply chains.
- Special **attention** will be given to the **needs of SMEs**, taking into account their limited human and financial resources. We can already share that the **results** of the Commission’s public **consultation** on the renewed sustainable finance strategy **show that there is strong public support** for the duty of care to apply to SMEs as well, with **lighter requirements**.

- We believe that this **horizontal duty of care/standard** would help European companies to **improve their supply chains** and could also favourably **influence the behaviours of other players in third countries**.
- There is an ongoing discussion about how **trade agreements can support and promote the European sustainable governance approach**.
- In terms of **process**, we launched a **public consultation** which provides the opportunity to further share your views and proposals to help inform the preparation of our **impact assessment** and policy actions. It is open for feedback **until 8 February 2021**.

DEFENSIVES

[Concept]

Regarding due diligence, why do you reflect on a corporate governance action and not a trade measure?

A trade instrument could be appropriate when it comes to targeting specific products and the import of them, such as conflict minerals or where the aim is to ensure the legality of a product that is imported to the EU/placed on the EU market.

However, the overall preference of stakeholders is for an all-around economy and cross-sectoral measure and due diligence which applies to all the production processes (raw material sourcing, manufacturing, transport of the products, etc.) through the entire value chain. For this, a corporate governance instrument is more appropriate.

The Commission should build the new framework on the basis of existing schemes such as the so-called Conflict Minerals Regulation and the Kimberley Process Certification Scheme in order to avoid any duplication of legal requirements.

The Commission will take into account existing requirements and avoid duplication of rules. The conflict minerals regulation is more limited in its approach as it only applies to the most significant human rights abuses.

Furthermore, the conflict minerals regulation is based on the European Commission recognising the compliance of industry / private sector due diligence schemes with the European rules. Such an approach is feasible when it comes to certain products and a limited number of industries or industry players but would not be easy to put in place for a horizontal, all economy initiative which we are planning.

The Commission should ensure a level playing field for EU companies at international level in order to support European competitiveness. The EU trade policy could play a crucial role in this area.

The EU trade policy is currently being reviewed with the view to better integrating sustainability into trade agreements and other policies.

The cross-sectorial EU legal framework on mandatory due diligence should include a transition period of at least 3 years before entering into full force to allow national governments and companies to adapt to the new regulation.

As we plan to adopt a Directive, it will likely have 2 years implementation period. We have urgency to act and transform supply chains.

[Scope]

Will the EU due diligence duty apply to companies of third countries?

We are examining whether and if so, how the corporate governance measure could also apply to at least some third-country companies operating in the EU.

How will the needs of SMEs be taken into account?

As regards the scope of application, in striving for levelling the playing field, we will pay particular attention to the needs of SMEs. There is an embedded flexibility in due diligence as it is risk based and requires to deploy reasonable action to identify and mitigate negative impact. On the one hand, smaller companies may be very risky, on the other hand, if they are not, they may not need very sophisticated processes. SMEs should also reap the benefits of the sustainability transition. They would not only benefit from due diligence rules, they would also have better chances to be selected to be part of European supply chains.

[Complementarities]

Many business operators, whilst calling for due diligence legislation (impacting the demand side of the supply chain equation) also call for actions to take place in producing countries: can the Commission play a role on both ends?

The Commission services having competence in complementary areas on this matter cooperate in this process. A single instrument cannot solve all sides of the equation, however it is clear that the sustainable corporate governance initiative is central to the necessary sustainability transition. Other policies, such as development cooperation, neighbourhood policy, **trade** and external relations contribute with support, funding, dialogue.

BACKGROUND

[EFJ]

The **European Federation of Jewellery/EFJ** founded in 2013, representing and defending the interests of the European jewellery sector, aims at exchanging best practices, promoting the unique European know how of the sector, as well as developing a high level of education and research.

EFJ members:

UFBJOP - Union Française de la Bijouterie, Joaillerie, Orfèvrerie, des Pierres et des Perles (France)

ARS NOBILIS – Fédération Belge du Bijou et de la Montre (Belgium)

AORP - Associação de Ourivesaria e Relojoaria de Portugal (Portugal)

FEDERORAFI - Federazione Nazionale Orafi Argentieri Gioiellieri Fabbricanti (Italy)

AWDC - Antwerp World Diamond Centre (Belgium)

The EFJ **contributed to** the process that led to the creation of a set of tools supporting SMEs to comply with the **Conflict Minerals Regulation**.

Launched in 2003, the **Kimberley Process** is a coalition of governments, civil society and the diamond industry to eliminate the trade in so-called conflict diamonds. Based on a mandate from the United Nations, the Kimberley Process regulates the international trade in rough diamonds. Today, the Kimberley Process has 55 participants, representing 82 countries (with the **EU and its 27 MS as a single participant**) which account for more than 99% of the global rough diamond production and trade. Through the Foreign Policy Instruments (FPI), the European Commission represents the EU in the Kimberley Process.

[EU]

The **EP's JURI committee** has been working on **two-own initiative reports** on these topics, namely a legislative report (INL) on "Corporate Due Diligence and Corporate accountability" (rapporteur Lara Wolters, S&D, NL) and a report (INI) on "Sustainable Corporate Governance" (rapporteur Pascal Durand, Renew, FR). The EP **discussions show a growing consensus on most aspects of the forthcoming sustainable corporate governance initiative**, including mandatory due diligence requirements, the redefinition of directors' duty of care and the interest of the company. As regards the scope of due diligence, the emerging EP position is for the **law to apply** to large companies, as well as **risky SMEs**.

The recently adopted **INTA opinion** to the Wolters report **calls for** the due diligence rule to be applicable to **all companies** entering the internal market and **for complementary measures such as the prohibition of import of products related to severe human rights violations** such as forced labour or child labour. **The INTA opinion also calls for improving Trade agreements** and Sustainable Development Chapters. The lead JURI committee will have to take this opinion into account when adopting its final report.

All Member States have now expressed their **strong support for the Commission's agenda to promote decent work worldwide**, as reflected in the draft Council Conclusions on "human rights and decent work in global supply chains" due for adoption by EPSCO on 3 December 2020.

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Meanwhile, a number of **Member States** have or are preparing **laws, initiatives and plans** to reform corporate governance measures (DE, AT, FI, FR, NL, DK, IT, BE, LU, SE); the FR Duty of Vigilance Law being the first and most prominent, and the **DE Supply Chain Act considerations being the most recent.**

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INTERLOCUTORS

EFJ participants:

