Council of the EU Calls for Due Diligence Rules Along Global Supply Chains

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Overview
On December 1, 2020 the Council of the EU adopted conclusions calling on the Commission to launch an Action Plan by 2021 focusing on shaping global supply chains sustainably, promoting human rights, social and environmental due diligence standards and transparency. In April 2020, the Commission already announced its intention to develop a legislative proposal and published a study on due diligence requirements through the supply chain (see our previous client alert).

The Action Plan should include a call for a proposal from the Commission for an EU legal framework on sustainable corporate governance including cross-sector corporate due diligence obligations along global supply chains. An EU framework is likely to foresee binding due diligence obligations and may include a definition of the risk management processes companies will be required to follow to identify, prevent, mitigate and account for its adverse human and labor rights and environmental impacts. Companies will have to ensure that human rights are respected along their entire supply chain and will have to assume responsibility for more than just their direct contractual partners. Those affected by violations of companies’ human rights due diligence obligations will be able to enforce their rights in the courts of EU Member States. The German Council Presidency recently suggested that EU-wide legislation could also improve the quality of voluntary standards and certification on fair wages and universal access to social protection.

Further, the Council asks the Commission to update its 2006 communication on “Promoting decent work for all – the EU contribution to the implementation of the decent work agenda in the world,” which proposes strategies for ensuring that EU policy and action play a greater part in promoting the decent work agenda.

In addition to these initiatives at EU level, the Council calls on the EU Member States to step up their efforts at national level, including through new or updated National Action Plans. The Council points out that such plans should contain a mix of voluntary and mandatory measures and involve workers and other rights-holders from affected groups and communities as well as social partners.

The EU initiative supports the coherent implementation of the UN Guiding Principles on Business and Human Rights, the ILO Tripartite Declaration of Principles concerning Multinational Enterprises and Social Policy and the OECD Guidelines for Multinational Enterprises. Other jurisdictions, including the UK and Canada, are pursuing similar initiatives to address human rights issues in global supply chains. (For US government actions to combat forced labor see our separate client alert.)

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