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Today. Tomorrow. Together.



Business & Human Rights: How the proposed EU Corporate Sustainability Due Diligence Directive will impact the way companies operate

European Compliance and Ethics Conference

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Dr. Sarah Tischer

Has the implementation of the numerous supply chain laws already caused you headaches?

The journey of a Brazilian coffee bean



Corporate Sustainability Due Diligence Directive Proposal



Intention

- ▶ Make proactive management of potential and actual adverse human rights and environmental impacts mandatory
- ▶ Make global supply chains more ethical and sustainable

Who is subject to the directive?

- Group 1:** More than 500 employees on average and net worldwide turnover of more than 150 Mio. Euro
- Group 2:** More than 250 employees on average and net worldwide turnover of more than 40 Million Euro, if at least 50% of it was generated in high-risk sectors
- Group 3:** Non EU companies, net turnover of more than 150 Mio. Euro or more than 40 Mio. Euro, provided at least 50% of it was generated in high-impact sector

What is the scope?

- ▶ Own operations, subsidiaries, and value chain (direct and indirect suppliers and customers), where related to an **established business relationship** (expected to be lasting, in view of its intensity or duration)

What are the due diligence obligations?

- ▶ Set up respective policies
- ▶ Identify, bring to an end or minimize actual human rights & env. impacts
- ▶ Prevent or mitigate potential adverse human rights and environmental impacts
- ▶ Establish & maintain complaints procedure
- ▶ Monitor the effectiveness of measures
- ▶ Publicly communicate on due diligence
- ▶ Adopt business strategy to limit global warming to 1.5 °C
- ▶ Directors' duty of care

Sanctions/ Liability/ Timeline

- ▶ **Sanctions based on company's turnover**
- ▶ **Civil liability**
- ▶ **Timeline:** Needs approval of European Parliament and Council, then required to be transposed into EU Member State national law (2 years time), rules for Group 2 companies apply two years later, SMEs are not directly in the scope (but indirectly)

Challenges

Complexity of global supply chains and industry differences not sufficiently taken into account

Risk-management

- is prioritized based on the nature of business relationship and not on severity of actual and potential harm
- should be proportionate to the capabilities and risk exposure of companies (especially, for SMEs)
- lacks a mechanism that helps to identify degree of obligation such as substantiated knowledge (LkSG) and company's leverage in addressing the adverse impact

Strong focus on contractual assurance and audit/ verification process

Civil liability due to a third party's conduct

Not clear how to distinguish between company-induced impacts and socio-economic causes

Unintended consequences

Following the “rule to the letter” instead of focusing on measures with the biggest impact

Companies allocating scarce resources not efficiently, creating bureaucracy and a paper tiger

Companies leaving high-risk countries as they do not have the capabilities and resources to observe the due diligence requirements to the extent required

Companies passing on responsibility

Poverty as root cause for many of the problems is not addressed

The way forward

1. Set up a meaningful risk-based due diligence approach
2. Collaborate
3. Look at root causes

A teal-tinted photograph of a truck cab. The driver's side door is visible, featuring a logo that consists of a stylized 'N' inside a circle, with a plant sprout growing from the top of the 'N'. The background shows a stack of shipping containers, with one clearly labeled 'MAERSK SEELAND'. The overall scene is industrial and related to logistics or supply chain management.

Set up a meaningful risk-based due diligence approach

NKG Supply Chain Integrity Program

SCIP aims to enable NKG to meet supply chain due diligence requirements by adopting a risk-based management approach.



HUMAN RIGHTS
RISK ASSESSMENT



SUPPLIER DUE
DILIGENCE
PROCESS



SUPPLIER CODE
OF CONDUCT AND
SELF-ASSESSMENT



GRIEVANCE
MECHANISM



NKG Verified

NKG's program to ensure compliance with key sustainability criteria and improve traceability along supply chains.

Beyond compliance with critical criteria, improvement plans help supply chain actors to improve their social, environmental and economic performance.

✓ ECONOMIC

- Record keeping
- Production and processing practices
- Inclusion and equity*
- Sustainability set-up
- Access to grievance mechanism
- Regulatory requirements
- Ethical conduct
- Traceability
- Pricing
- Services

✓ ENVIRONMENTAL

- Genetically modified organism (GMO)
- Farm mapping
- Flora and fauna
- Soil conservation
- Pesticide use
- Integrated pest management
- Water sources and use
- Water pollution
- Energy use*
- Waste management
- Hazardous waste
- Climate change*

✓ SOCIAL

- No discrimination
- No harassment
- Freedom of association
- Collective bargaining
- Minimum wage
- Working hours
- Labor contracts
- Adequate housing
- Drinking water
- Access to facilities
- Occupational health and safety

✓ CRITICAL

- Continuous improvement
- No worst forms of child labor
- No child labor
- School attendance
- No forced labor
- Forests and ecosystems
- Prohibited pesticides

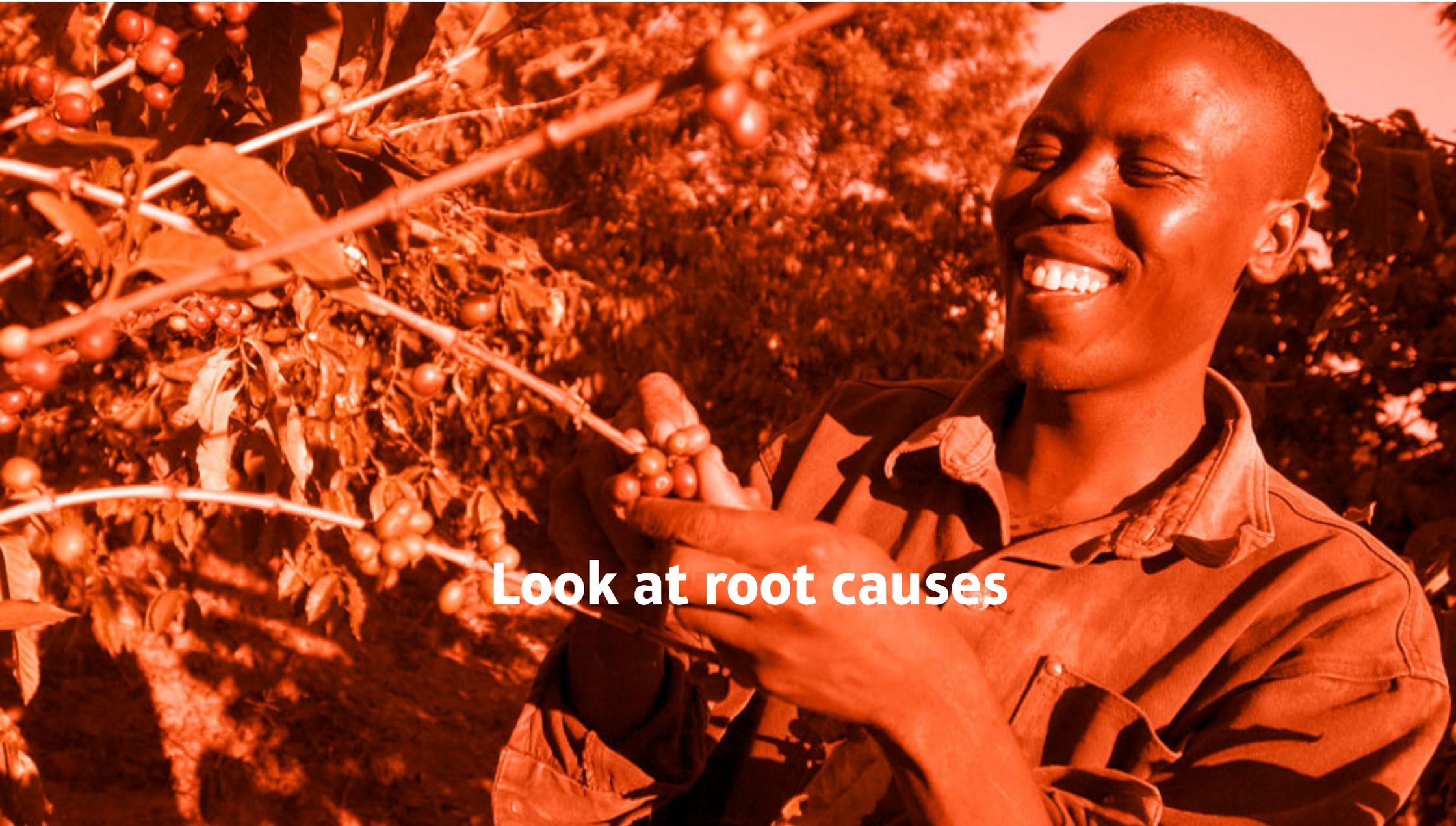




Collaborate

Collaborate

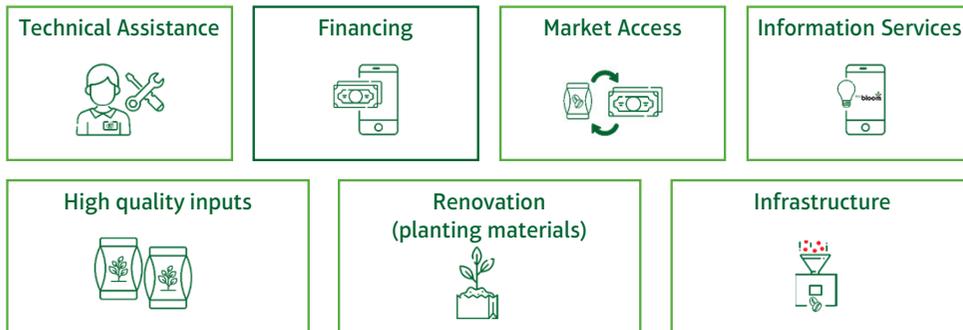




Look at root causes



An NKG initiative to support smallholder farmers by providing them with the opportunities and resources needed to run their farms at full potential and to enter a pathway out of poverty.



81,000+
TOTAL NUMBER OF
SMALLHOLDER
FARMERS ACCESSING
SERVICES



To make global supply chains more ethical and sustainable, we need to work together to find solutions that really make a difference.

Contact

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