World Benchmarking Alliance

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Response to the European Commission proposal for a Corporate Sustainability Due Diligence and amending Directive (EU) 2019/1937

About the World Benchmarking Alliance

The World Benchmarking Alliance (WBA) is an international non-profit organisation that publishes free and publicly available benchmarks on how the world's most influential companies contribute to tackling the biggest sustainability challenges of our time, in line with the Sustainable Development Goals. As an organisation focused on ensuring business has a positive impact on people and planet, we take great interest in the recent proposal from the Europe Commission for a Corporate Sustainable Due Diligence directive.

Our mission is to build a movement to measure and incentivise business impact towards a sustainable future that works for everyone. We envision a society that values the success of business by what it contributes to the world. Our benchmarks equip all stakeholders – from governments and financial institutions to civil society organisations and individuals – with the information they need to hold the private sector accountable.

WBA takes this opportunity to provide comments on certain aspects of the proposals, as well as providing a more detail debriefing in Annex.

Comments on the Corporate Sustainability Due Diligence (CSDDD) proposal

WBA welcomes the Commission's proposal and recognises that this could be watershed moment to introduce EU policy which will help to close the corporate accountability gap. We believe that social, environmental, and climate considerations should be embedded throughout business activities, as opposed to treated separately to economic or financial performance. Even though some companies have demonstrated strong performance and/or improvement over the years, these improvements are slow, fragmented and insufficiently in line with international agreements like the UN Guiding Principles for Business and Human rights. For this reason, an EU legal framework is needed, so that respect for human rights in supply chains is a mandatory duty, as this will create a level playing field, reduce free-riding opportunities for companies that hide behind the efforts of some in their sector, and raise the bar of minimum expectations.

Respect for human rights and environmental protection are essential for companies to have a social license to operate. A more holistic approach will ensure that social and environmental impacts are not managed simply as a necessary consequence or by-product of business activities, but rather considered as crucial considerations in all business decisions, including the business model and strategies of companies.

WBA has published assessments confirming the need for this legislative proposal and we can share insights from our Climate and Energy Benchmarks of 180 companies (published 2021), Social Baseline Assessment of 1,000 companies (published January 2022) and five years of our Corporate Human Rights Benchmarks (CHRB) to strengthen this approach:

1. **An EU legislative tool is needed to safeguard human rights and the environment**
   - WBA research has shown that Implementation of human rights due diligence is low in the EU and highly varied within and between EU member states. An effective policy framework is needed to hold companies accountable and ensure a level playing field within the EU.

- In our 2022 Social Baseline Assessment, we found that the average human rights score for the entire sample of EU based companies was 3.8 points out of 10, while 18% of EU companies zero on all human rights indicators, suggesting a weak level of implementation of due diligence frameworks such as the UNGPs or OECD Guidelines and showcasing the need for reinforcing an effective policy framework across the EU.

2. **Board accountability for human rights and climate mitigation is critical to improve company performance in transitioning to net-zero**
   - Without board responsibility for climate strategy and targets, business climate action will be insufficient to align with the EU Green Deal and Paris Agreement.
   - Our Oil & Gas Benchmark, assessing 100 companies (16 HQ in the EU), shows that companies in high-emitting sectors show limited emissions responsibility through climate targets and transition planning. Similarly, of the 50 electric utility companies assessed (12 HQ in the EU), 47 have not aligned their targets with their 1.5°C pathway. Adequate responsibility and accountability at board level is needed to ensure companies implement climate targets in line with the EU Green Deal and Paris Agreement.
   - Respect for human rights starts with a global company strategy, with the right commitments and assigned board accountability – without it, corporate performance on social issues will not sufficiently improve.
   - The WBA's Corporate Human Rights Benchmarks (CHRB) examines board level accountability as a critical aspect of respect for human rights. In our most recent benchmarks we found clear differences in human rights performance between companies with board-level policy commitments to respect human rights performed versus those without (27% vs 9%), with a named board member or committee charged with oversight and expertise on human rights (40% vs 14%) and where there was a link with board level remuneration.

3. **Board remuneration should be linked to sustainability performance**
   - The CHRB results have shown that companies in which at least one Board member has incentives linked to aspects of the company's human rights policy commitments do better overall than their peers (of the ten companies that met this requirement in 2019, seven scored above 60% (against 24% on average across all companies) and were in the top 15 out of 195 companies assessed). As a specific example, Total's CEO's variable remuneration is partly indexed on Total's CHRB score. The company has demonstrated improvement on the benchmark since its first inclusion in 2017.
   - Within the Climate and Energy benchmark focused on Electric Utilities we see that companies are failing to back up Climate commitments with high-level strategic buy-in, comprehensive long-term finance strategies, transparency around projected generation and stress-tested climate scenarios. Further evidence indicates that for 90% of the companies, either ties still exist between executive remuneration and fossil capacity growth, or it is unclear whether these ties have been cut, and these companies have not committed to stop new fossil fuel. This should be prevented.
   - Also, within the Climate & Energy benchmark with a focus on automotive we see that 23 out of the 30 keystone companies reported having board-level or executive oversight of climate change issues. However, there was little evidence that auto manufacturers are hiring executives who have significant expertise on climate change and the low-carbon transition. We believe this to be crucial to understand the significance of the issue and to draw up mitigation plans.

4. **Specific climate mitigation measures are needed to improve company performance**
   - Climate change presents a fundamental threat to the enjoyment of human rights and CSDDD must include climate within the definition of adverse impacts.

- Climate transition plans should also be informed by and stress-tested against a range of climate scenarios, to quantify the future impact of investment decisions on the low-carbon economy. Our results show that companies are failing to quantify the financial impact the low-carbon transition will pose to their business. 23 out of the 50 electric utility companies do not use any form of scenario analysis. The 27 companies that do use scenario analysis are failing to report the results of their analysis in a meaningful way – with 25 either not reporting results or only reporting the results in qualitative terms.
- A key area of weakness for example in the automotive sector in climate assessments is supply chain management. In the 2020 Automotive Performance Update, more than half of the companies assessed showed no evidence of proactively driving emissions reductions throughout their supply chain in either the manufacturing or vehicle in-use phases, and a quarter of companies did not engage their suppliers on greenhouse gas emissions or broader climate change issues at all. Only three of the 25 companies are either fully aligned or meet 'next practice' requirements regarding supplier engagement on climate issues, indicating collaboration with key suppliers on a joint transition plan.

5. **Companies should identify their stakeholders and their interests to understand company impacts on people and planet**
   - Corporate directors should balance the interests of all stakeholders, instead of focusing on the short-term financial interests of shareholders, and this should be clarified in legislation as part of directors' duty of care
   - It is crucial to move away from a model where companies only focus on shareholder value, and towards a model where they have a legal duty to identify, analyse and manage wider societal and environmental impacts. To do this, companies must focus on identifying the (potential) impacts of their operations on stakeholders, as opposed to considering the interests of the company's stakeholders, which may at times be different.
   - The interests of all (potentially) affected stakeholders should be represented. The specific stakeholders will vary per sector and company, but is likely to include workers (including in the supply chains), their families, local communities, customers, users, and any other person or group of people whose life and environment might be impacted. The CHRB methodology defines affected stakeholders as*: "Affected stakeholder – An individual whose human rights have been or may be affected by a company's operations, products or services"*.
   - Without the input from (potentially) affected stakeholders themselves, companies are at a risk of overlooking certain risks and impacts. The CHRB results have shown that companies that engage with (potentially) affected stakeholders, including in the development or monitoring of their human rights approach, tend to do better overall on the benchmark than their peers.

6. **Financial institutions must align with baseline company rules**
   - In 2022, WBA will publish the Financial System Benchmark which will assess 400 leading financial institutions (asset owners, asset managers, banks, insurers) on their readiness to address global sustainability transitions and their contribution to the 2030 Agenda for Sustainable Development. The intention is that this benchmark presents the key topics on which stakeholders, including EU policymakers, expect financial institutions to act.
   - Financial institutions are key enablers of the economic system. They serve as facilitators and intermediaries for encouraging, mobilising and allocating funds towards their most productive use. They play a critical role in diversifying and mitigating risk. They promote economic growth, drive investment and employ millions of people worldwide.
   - The upcoming Financial System Benchmark will guide EU policy makers on how to close the corporate accountability gap in this sector and ensure that the sector is subject to the

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necessary due diligence obligations, taking into account the long-term nature of investment, crediting and other financial sector activities.

ANNEX - Briefing based on World Benchmarking Alliance data on over 1,000 companies

Relevant insight 1: Companies in high-emitting sectors show limited emissions responsibility through climate targets and transition planning. Adequate responsibility and accountability at board level is needed to ensure companies implement targets in line with the EU Green Deal and Paris Agreement.

Despite their stated low-carbon commitments, many companies aren't walking the talk when it comes to investment in technology to drive the transition. Our Oil & Gas Benchmark, assessing 100 companies (16 HQ in the EU), shows that scenario analysis does not happen often enough and investment in a low-carbon future is very low; only 30 of the 100 companies assessed reported their proportion of capital expenditure (CapEx) for low-carbon and mitigation technologies in 2019. Existing low-carbon revenue streams are relatively insignificant and the share of CapEx companies are allocating to low-carbon technologies is entirely insufficient to decarbonise at the scale and pace required.

Targets of 50 electric utility companies assessed (12 HQ in the EU) to reduce emissions are also falling short of the 1.5°C goal. While we see that nearly half the companies have improved target ambition and disclosure since the 2020 benchmark, 47 of the 50 companies assessed have not aligned their targets with their 1.5°C pathway. Our assessments also evidence that the majority of companies' low-carbon plans remain inadequate to bring about a rapid transition to low-carbon electricity generation.

In the case of the EU, half of 16 EU-headquartered oil and gas companies assessed did not report their proportion of capital expenditure (CapEx) for low-carbon and mitigation technologies in 2019 and plans beyond 2020. Only 2 out of 12 EU-headquartered electric utility companies assessed have set targets that are fully aligned with a 1.5°C pathway and which cover 100% of electricity generation activity.

Incorporating requirements for climate targets and adequate transition planning will be of the essence in order to ensure that company performance is in line with the 1.5°C pathway and the EU Green Deal.

Relevant insight 2: Respect for human rights starts with a global company strategy, with the right commitments and assigned board accountability – without it, corporate performance on social issues will not sufficiently improve.

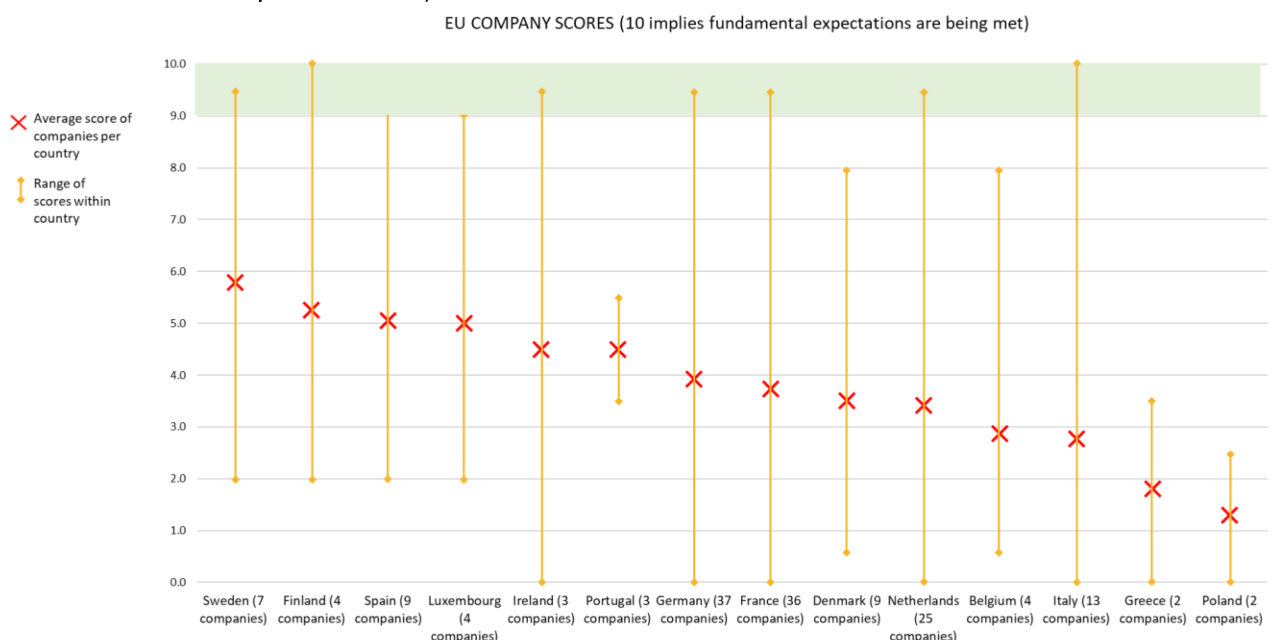
Since 2017, WBA's Corporate Human Rights Benchmark (CHRB) has been assessing and ranking high risk sectors on their human rights performance. The methodologies look at board level accountability as a critical aspect of respect for human rights – guided by the UN Guiding Principles' expectation that a company's approach be guided from the top of the business. In WBA's most recent benchmarks and analysis we found:

- Companies with **board-level policy commitments to respect human rights** performed much better than companies not making a commitment (27% vs 9%) demonstrating that board level commitments are a critical step towards better performance.
- Companies with a named **board member or committee with oversight and expertise** on human rights performed far better on the benchmark than companies without competent oversight (40% vs 14%).
- Companies with CEO or **board level remuneration** tied to human rights issues scored 57%, while companies who didn't link human rights to remuneration scored 21%.
- Overall rankings and scores for human rights due diligence were both positively correlated with performance on top-level governance indicators.

Adequate board oversight is critical to identify, prevent, mitigate and account for adverse human rights and environmental impacts by companies, and it is essential that a corporate due diligence framework ensures a rights-respecting culture is embedded in all organisations from the top-down.

Relevant insight 3: Implementation of human rights due diligence is low in the EU and highly varied within and between EU member states. An effective policy framework is needed to hold companies accountable and ensure a level playing field within the EU.

In our 2022 Social Baseline Assessment of 1,000 of the most influential companies, **over three quarters (78%), across 68 countries and 26 industries, scored zero on all three of WBA's Human Rights Due Diligence (HRDD) indicators**. Of the 1,000 companies **158 were headquartered in the EU**. The graph below shows the maximum, minimum and average score of companies per country. A score of 10 points signifies a company has the fundamentals in place to understand and manage its social risks and impacts (policy commitment to respect human and labour rights, human rights due diligence and access to remedy mechanisms):



The average human rights score for the **entire sample of EU based companies was 3.8 points out of 10**, while 18% of EU companies **zero on all human rights indicators,** suggesting a weak level of implementation of due diligence frameworks such as the UNGPs or OECD Guidelines. **Scores vary significantly both within and between countries**, reinforcing the need for a level playing field across the whole of the EU. The recent national level legislative efforts, focusing on sectors or elements of the value chain, do not seem to have made a significant impact to date, reinforcing the need for a broader approach.