

EuroCommerce views on social taxonomy

Background

Retailers and wholesalers take of their role in addressing key societal challenges seriously, including how to address potential risks in their supply chains. Sustainable initiatives are the result of a lengthy process involving internal actors and engaging partners in the supply chain and as a minimum relying on appropriate enforcement of national legislation. Success is embedded in cooperation, and it is built on long-term and trustworthy relationships based on but not limited to strict criteria defined according to International guidance and standards.

The sector has long been committed to be part of the solution and has been involved in setting measurable and transparent actions such as

- Respect for Human Rights through own voluntary due diligence measures, corporate Human Rights policies and grievance mechanisms.
- Respect for Human Rights among suppliers by voluntary initiatives and responsible business agreements.
- Developing and participating in company schemes focused on improvements in their commodity or regions or both
- Cooperation among multinationals to tackle human rights and environmental challenges.

This document intends to give some preliminary feedback to the draft report by Subgroup 4 Social Taxonomy

General Considerations

Support reference to the International guidance and existing schemes

The sector has long been committed to measure and improve the impact of its activities in this supply chain. To do so, we rely on both International and regional guidance and on private certification and verification schemes.

We appreciate that the draft report relies on such International declaration and recommend that the work done by the private sector is recognised.

Consistency with current work led by EU institutions

The European Commission is currently working on assessing and preventing impacts of business activities on stakeholders and the environment, including a proposal for corporate sustainable governance and due diligence, expected to be released in October 2021.

While directors should be incentivised to integrate sustainability into their consideration, some proposals in the platform draft's report such as defining the remuneration of board members seems out of scope and may be falling under the same criticism as the one expressed by the Board of Scrutiny.

We do not believe that it is up to EU legislation to define the board directors' criteria for remuneration as it may create unrealistic demands directors.

We suggest to hold on a Social Taxonomy until the Corporate Sustainable Governance initiative is approved by EU institutions to provide a more consistent and complementary approach to different pieces of legislation.

Social taxonomy goes beyond EU competences or national legislation

As mentioned in the draft report, the definition and scope of the social taxonomy should be clearly framed and scoped.

Social objectives are inherent in company practices and more homogeneous across sectors compared to environmental impacts, which depend largely on the type of economic activities. Moreover, social investments are usually a mix of public and private financing. It would be much more complex, if not impossible, to quantify the contribution of a company on social aspects, as the impact of, e.g. collective bargaining, investment in skills etc. is more difficult to measure. For example, government investments in the unemployed may yield very different results. Likewise, employers' skills investments may lead to iverse levels of productivity improvements depending on the engagement and motivation of workers. Different from an environmental taxonomy, social taxonomy cannot rely on evidence in the same way. Decisive criteria in an environmental taxonomy are usually developed on the basis of scientifically validated research results. A social taxonomy might be driven by political undertones.

National law and practice have made collective bargaining the norm in retail and wholesale, with collective agreements providing appropriate levels of protection for employees. Some 88% of staff in our sector are on permanent contracts and are ensured good levels of social protection. Women account for 62% of the workforce in retail and the sector gives millions of young people their first step-up into employment. As a sector, we are committed to giving all involved in retail and wholesale as good working conditions as possible. Experience has shown that autonomous collective bargaining, particularly through constructive engagement with our social partners at the level closest to the workplace, works better in agreeing positive change rather than top-down legislation. As social partners, we therefore strongly disagree with new political induced criteria for remuneration. Also companies already now have to comply with many social requirements through legislation. Companies also understand well and take action to mitigate any negative impacts of their activities on society, including on the communities in which they operate and on human rights. That is why many companies have already integrated different global social standards or social aspects of sustainability frameworks into their business strategies. Lastly, governance aspects, including those related to tax, corporate governance etc., are not social aspects as such. We therefore do not see the added value in a sustainability linked remuneration.

The best way of meeting the current challenges is through stronger EU investment in promoting autonomous and voluntary social dialogue throughout Europe. This was why, together with our social partner UNI Europa and other leading players in the service sector, we recently called upon the Commission for capacity-building in this area and not pursue further proposed cuts to EU sectoral social dialogue

However, as per due diligence activities in the supply chain, we recognise the need to align with International guidance such as the UN Guiding Principles to clarify expectations on human rights.

Consequently, we do not believe that the EU social taxonomy should supplement current European and national practices by addressing payment, social dialogue nor protection.

Administrative requirement on reporting

Furthermore, we would like to remind the Platform that our sector is composed by 99% of Small and

Medium Enterprises. Some of retail or wholesale companies may not have the adequate resources to undertake such an exercise.

Any systematic reporting requirements should be fit for purpose and proportionate to provide an added value.

Extraterritoriality

European companies may face risks of liability for offences which are legal in a third county or committed by third parties.

On specific points

Scope

It would be necessary to clarify the depth and scope of social impact considered and it should be aligned with Due Diligence scope of liability defined. Principle 17 of UN Guiding Principles recognizes that where business enterprises have large numbers of entities in their value chains it may be unreasonably difficult to conduct due diligence for adverse human rights impacts across them all. Moreover, UN Guiding principles settles a clear distinction to be made between cause, contribute and direct linkage.

For the reasons above mentioned social taxonomy and due diligence should be based on activities directly linked to business operations, products or services related.

Stakeholder –centered approach

Although the consideration of stakeholders is essential, there is varying degree of relevance depending on the type of decision to make, on the sector, the size, the location(s), overall business environment etc. of individual companies. It is each company's responsibility to define these parameters, including which stakeholders are relevant to different part of the business operations to secure meaningful engagement.

We recognise that these interests are part of the recommendations by the GRI¹ Standards, the OECD Guidelines on Responsible Business Conduct, or the Non-Financial Reporting Directive 2014/95/EU.

Vertical dimension

Our sector will be impacted by both the vertical and horizontal approaches. Basic needs should be analysed globally, not just in Europe, when defining substantial contribution, which will require some additional work on impact definition and measurement.

¹ <https://www.globalreporting.org/>

Measuring social impacts

While the sector supports the development of the EU taxonomy on environmental activities, we are aware of the challenges that reporting of such activities implies for our sector.

Firstly, generally speaking, we would insist on highlighting the specificity within this sector and the complexity of our supply chains. Our companies are part of a global, highly complex value creation and economic system. They are subject to intense international competition.

Secondly, with respect to social activities, we believe that there is for the moment little science-based criteria to measure and report on substantial contributions or do no significant harm. For environmental activities, measurement mechanisms such as CO2 emissions can be used, which is not the case for social activities.

We recognise the reference to International declarations, agreements and guidance such as the International declaration on human rights, this provides little certainty on the methodology to measures the impact in the supply chain for our sector. A common reporting framework and guidance seems more appropriate, rather than multiple reporting schemes across various regulations. A streamlined approach would support companies by relieving their expert resources to focus on the social and environmental work needed on the ground rather than on increased administration.

We recommend that reporting be grounded on a smart mix of science-based assessment supported by harmonised standards and principles recognised at International level as long as it does not interfere with the EU treaty.

We note that a social taxonomy would not regulate social affairs, but rather determine criteria to provide access to investment. Despite this, some members still have concerns that it would not be possible to define activities as either socially positive or negative, as it depends on the context, which in the area of social affairs, is predominantly about the national level, including the industrial relations system. For example, it would not make sense to evaluate whether a company, under German labour/social law is performing better from a social point of view than a company operating under Danish or Spanish labour/social law, as the contexts are different. Furthermore, compared to environmental or climate issues, it is far more difficult to establish KPIs on social matters. We fear that in this area, KPIs would not be based on evidence but rather on politics. Depending on the approach, we are concerned that the extension of the Taxonomy Regulation could target investment only to certain companies, potentially creating obstacles for some companies that make a positive social contribution to access important investment.

Tax transparency

Retailers and wholesalers are, notwithstanding the burdens involved, committed to providing detailed, country-based information to tax authorities all over Europe, as already required under the DAC 4 provisions. This applies both to companies operating in a single Member State and operating throughout the EU. However, we find that the proposal for systematic reporting present some shortcomings.

While we are not opposed to public disclosure per se, public disclosure of tax related information could be misleading without the proper interpretation if figures are not set in proper context; E.g. a company could pay little corporate income tax in a year due to high investments.

Definition of harmful activities

For many years now, retail and wholesale companies have been expanding their cooperation with industry-specific standards on a voluntary basis, also in order to take various social aspects into account more closely in the supply chains. The sector relies on numerous International guidance and

national legislation such as the- UN Guiding Principles on Business and Human Rights (UNGPs), OECD Guidelines for Multinational Enterprises (OECD MNE Guidelines), as well as the fundamental rights set out in the International Labour Organization’s Declaration on Fundamental Principles and Rights at Work and the ILO Tripartite Declaration of Principle concerning Multinational Enterprises and Social Policy (ILO MNE Declaration, the Sustainable Development Goals; and consider the existing specific regulations applicable in some EU countries (France, the Netherlands, etc.).

The sector works with its suppliers and stakeholders and identifies the risk and impacts that their activities can have on communities and their environment.

The UNGP are already targeting human rights at the level of an economic entity. The UNGPs provide a good basis to assess and ensure a process regarding respect for human rights in supply chains. A thorough assessment is critical to evaluate if new criteria would add any value on the ground.

We recommend that the selection of harmful activities is grounded on a risk-based approach

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