CS3D

All you need to know about

the EU Corporate Sustainability Due Diligence Directive

AmCham
AMERICAN CHAMBER
OF COMMERCE IN FRANCE

ASCEND
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*In collaboration with ASCEND, the American Chamber of Commerce in France is pleased to present its Policy Flash on the crucial European Union **Corporate Sustainability Due Diligence Directive ("CS3D")**.*

As the directive is currently under negotiation between the European Parliament, Commission, and Council, some of the provisions below are likely to change.

The final version of the CS3D is expected to be finalized and adopted by March 2024.

By mid-2026, the directive will be incorporated into national legal systems, with a target application date by large companies in 2027.

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INTRODUCTION

Foundations and EU principles

Emerging from a trade agreement[1] in 1951, the European Union ("EU") transformed into a robust and integrated trading bloc[2], while fostering strong political alliances among its member states. Throughout the decades, these states have constructed and ratified numerous charters and treaties, some of which are dedicated to upholding rigorous human and environmental protection standards. The EU legal framework was meant to serve a "monumental, humanistic goal.[3]

The EU Green Deal

In 2020, the EU Parliament, Commission, and Council endorsed the European Green Deal[4] despite well-known and understood barriers to purely economic development. The Green Deal is a roadmap for Europe to become a climate-neutral continent by 2050. This act demonstrates the EU's commitment to positioning itself as a global sustainability leader, ensuring compliance with universally recognized standards[5].

CSRD and CS3D

Among the 75 documents constituting the Green Deal, the CS3D stands out as a pivotal text. For AmCham members, the Corporate Sustainability Reporting Directive[6] ("CSRD") might be more familiar, particularly in light of the Policy Flash released in May with Mazars' support.

1. The European Coal and Steel Community
2. 23 million companies operate within the EU and deliver goods and services to 447 million consumers
3. Marie-Anne Frison Roche, CSR & Duty of Vigilance, 2023
4. Communication from the Commission to the European Parliament, the European Council, the Council, the European Economic and Social Committee and the Committee of the Region "The European Green Deal" (COM/2019/640 final). https://commission.europa.eu/strategy-and-policy/priorities-2019-2024/european-green-deal_en
5. The USA itself has at least 71 ESG laws, regulations, policies and standards, according to https://www.carrotsandsticks.net/reporting-instruments/?actor=United+States
6. Directive (EU) 2022/2464 of the European Parliament and of the Council of 14 December 2022 amending Regulation (EU) No 537/2014, Directive 2004/109/EC, Directive 2006/43/EC and Directive 2013/34/EU, as regards corporate sustainability reporting (OJ L 322, 16.12.2022, p. 15).

While the CS3D and CSRD share conceptual underpinnings[7] and will use similar components, they significantly differ in application. The CSRD primarily mandates *ex-post* reporting while, the CS3D takes a strategic approach to shape corporate behavior proactively. The CS3D is crafted to mitigate potential adverse human rights and environmental consequences across value chains by instituting preventive (*ex-ante*) measures.

CSRD: DISCLOSURE	CS3D: BEHAVIOUR
• > 250 employees • > €50 million turnover[8] • Your operations • *Ex-post* (reporting) • Datapoints • For benchmarking purposes, mostly • Disclosure of performance (Key Performance Indicators) • For shareholders mostly • Breach = local, proportionate sanction by administrative authority and/or Sanctions committee headed by a judge.	• > 250 employees • > €40 million turnover • You and your value chain • *Ex-ante* (vigilance) • Policies and actions • For impact • Measures of risks, adverse impacts, best efforts (Key Risk Indicators) • For stakeholders (incl. shareholders) • Breach = local, proportionate sanction and/or judge

Global progressive agenda

The CS3D should be contextualized within a comprehensive, international sustainability framework encompassing several global initiatives.[9] These initiatives collectively aim at providing a framework for companies to safeguard human rights and apply procedures that respect and uphold environmental values across their operations and value chains. It extends the “know your customer” and “know your supplier” approaches to the whole value chain, upstream and downstream.

7. In line with article 191 of the Treaty on the Functioning of the European Union, CSRD and CS3D stress the “universality and indivisibility of human and environmental rights, and respect for the principles of the United Nations Charter and international law, which should guide the Union’s action on the international scene. It forms part of the EU policies and strategies for promoting fair and decent work worldwide, including in global value chains”.
8. Updated on 17 October 2023.
https://ec.europa.eu/transparency/documents-register/detail?ref=C(2023)7020&lang=en
9. This framework encompasses vital global initiatives, including the Paris Agreement, the recent Glasgow Climate Pact, the United Nations’ Sustainable Development Goals (“SDG”), Global Compact, and Guiding Principles on Business and Human Rights, as well as the OECD Guidelines for Responsible Business Conduct, and the International Labour Organisation’s Tripartite Declaration of Principles concerning Multinational Enterprises and Social Policy.

Various national duty of care laws in Europe

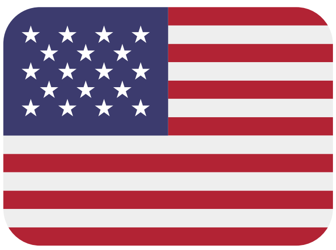
Within the EU, countries such as France, Germany, and the Netherlands have already instituted laws that include explicit expectations for businesses regarding their human rights and environmental responsibilities. Several stakeholders[10] advocated for creating a “common core,” which would integrate all due diligence legislation. Thus, the European initiative, unveiled in 2020 and aimed to harmonize corporate due diligence obligations, has been mostly well received. This effort is seen as a way to establish a level playing field, ensuring that companies operating within the EU adhere to a unified and equitable[11] set of standards and obligations when the CS3D comes into force, presumably in 2027.

The investors’ perspective

Numerous investors and asset managers have adopted a stance that aligns with several facets of the CS3D. Their perspectives on environmental[12] and social aspects have increasingly converged with those of prominent Non-Governmental Organizations. This convergence might lead to strategic alliances between the two groups in the foreseeable future, potentially increasing the pressure[13] on companies to adhere to evolving sustainability and corporate responsibility norms.

Scepticism and concerns from the US

On the other side of the Atlantic,[14] the CS3D is followed with reserve. Scepticism has been expressed by US politicians and administrative officials, particularly in light of bilateral trade between the US and EU.

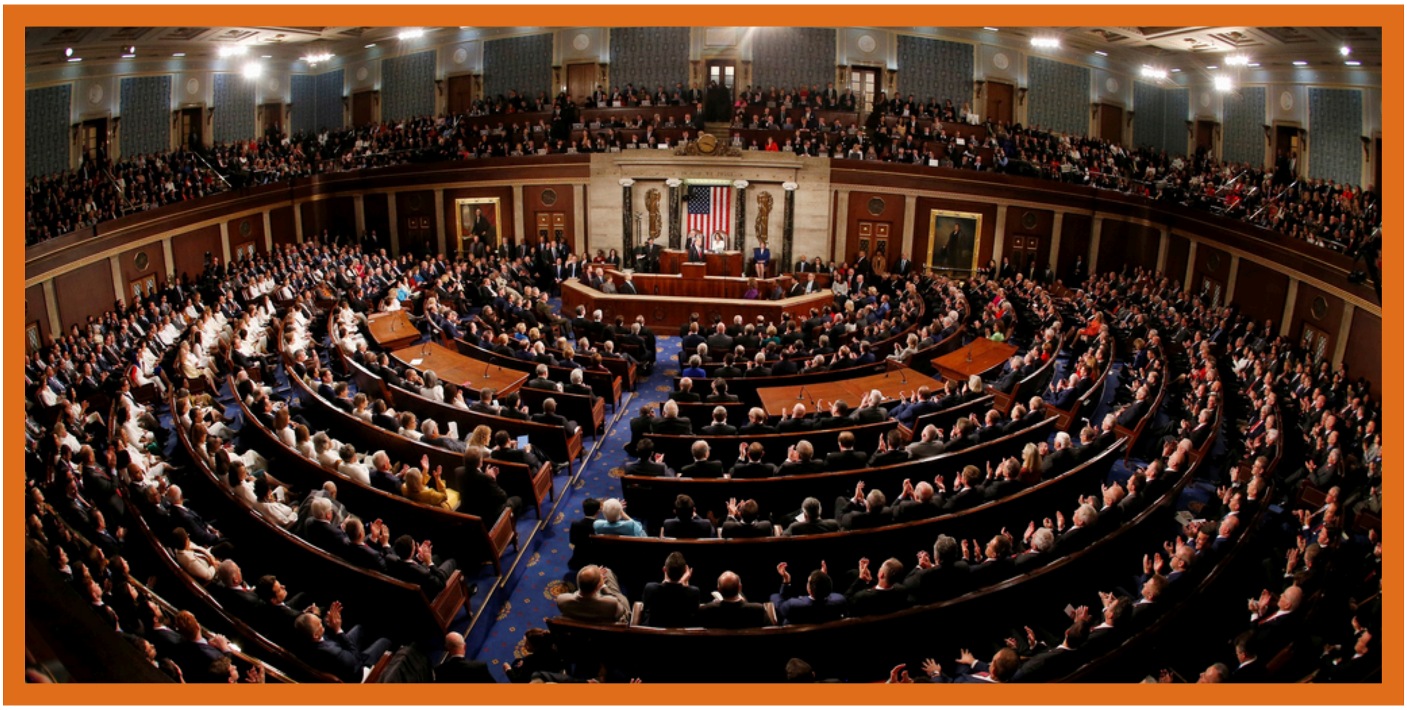


*Treasury Secretary **Janet Yellen** voiced US concerns about the potential "negative, unintended consequences" of the EU's push to compel corporations into scrutinizing their supply chains for environmental and social risks. “We’re looking very carefully at CS3D, and we’re concerned about the impact it could have on US firms (...) in addition to the directive’s extra-territorial scope,” she said.*

10. Loi n° 2017-399 relative au devoir de vigilance des sociétés mères et des entreprises donneuses d'ordre (2017), Sorgfaltspflichtengesetz (2021), Wet Zorgplicht Kinderarbeit (2019).
11. Article 3a of the CS3D
12. Examples include: the Principles for Responsible Investment, Ceres, Climate Action 100+, The Institutional Investors Group on Climate Change (IIGCC), Global Investor Coalition on Climate Change (GICCC), United Nations Environment Programme Finance Initiative (UNEP FI), Task Force on Climate-related Financial Disclosures (TCFD), Science-Based Targets initiative (SBTi), Montreal Carbon Pledge, Glasgow Financial Alliance for Net Zero (GFANZ), Eurosif, the Net Zero Asset Managers Initiative, The Asset Owner Alliance...
13. Examples include Transparency International, WWF, Finance Watch, Oxfam, Amnesty International, Global Witness.
14. In 2022, total trade in goods and services between the two economies totaled an estimated $1.3 trillion. This makes the EU-US trade relationship the largest in the world

- *The U.S. Chamber of Commerce stated, "If enacted without significant moderation, CS3D will impose heavy and potentially unfeasible burdens on companies and risks the constant threat of frivolous, excessive, and expensive litigation."*[15]

- *The ESG working group within the US Congress House Committee on Financial Services expressed growing concerns, noting, "CS3D poses even greater concerns than CSRD. This directive would capture a higher number of US-based companies. CS3D requires disclosure and mandates identifying, mitigating, and resolving adverse environmental and social impacts. This places US companies in a position to force their US-based suppliers and customers to reduce greenhouse gas emissions, irrespective of the economic consequences."*



15. https://www.uschamber.com/international/u-s-chamber-of-commerce-position-on-the-eu-corporate-sustainability-due-diligence-directive%20%20Source:%20

1 EU objectives

A 2020 European study revealed that only 37% of companies monitor suppliers, and only 16% extend this scrutiny throughout their production chain. Between 2020 and 2022, more than 10,500 public and private companies across geographies and sectors were linked to a supply chain-related ESG risk incident.[16] Prompted by these figures, the Commission proposed a directive, the CS3D, to improve these numbers.

The CS3D seeks to further mandate large companies to integrate sustainability into their corporate governance frameworks. It lays down rules:

- *on obligations for companies regarding actual and potential human rights adverse impacts and environmental adverse impacts that they caused, contributed to, or are directly linked to concerning their operations, those of their subsidiaries, and the operations carried out by entities in their value chain (...) and*
- *on liability for violations of the obligations mentioned above which led to the damage.[17] "*

This "duty of care" goes beyond the logic of compliance by providing for the possibility of bringing a specific civil liability claim against companies before a specialized judicial judge and supervision by independent administrative authorities, which can issue sanctions and injunctions. Self-regulation, while it has its virtues, also has its limits. The proposed directive would make it possible to turn primary international standards in the field of Corporate Social Responsibility ("CSR"), a "soft law," into European "hard law."

The directive acknowledges companies' substantial influence, affirming the principle that "great power carries great responsibility."[18] This duty recognizes companies' ability and resources to effectively prevent catastrophic events, such as those related to climate change.

A key element of CS3D relies on the EU's anticipation that companies will undertake meaningful consultation and engagement with stakeholders, particularly those who are most affected and vulnerable. This component, mocked by some as "stakeholder capitalism under steroids[19]", may present the most intricate challenge within the framework.

16. Source: RepRisk
17. Article 1 of the CS3D
18. Coined by Voltaire and popularized by Uncle Ben to Peter Parker, aka Spiderman
19. David Woodcock, Gibson Dunn, September 2023

2 Affected entities & timeline

Who is concerned ?

The June version of the CS3D applies[20] to companies including industrial, commercial, or financial undertakings (banks, insurance companies, investment firms) except for pension funds but the final version will likely exclude financial firms. The framework incorporates specific criteria, such as the number of employees[21] and the net annual turnover in the EU, coupled with sector specific risks.

- EU entities with more than 250 employees on average[22] and a worldwide net turnover of over EUR 40 million[23], or companies serving as the ultimate parent entity of a group with over 500 employees and net worldwide turnover exceeding EUR 150 million will be obliged to adhere to the requirements.

- To assure an equitable competitive environment, the CS3D embraces an extraterritorial scope[24], extending its applicability to subsidiaries and operations of non-EU companies, including American ones. Specifically,[25] the Directive applies to third-country companies that generated a net turnover of at least EUR 40 million within the Union or to companies that serve as the ultimate parent company of a group, which registered a net worldwide turnover exceeding EUR 150 million (with at least EUR 40 million generated within the Union) and employed 500 individuals in the previous year. Those thresholds were lowered in June 2023 to be consistent with the CSRD. Former estimates on the number of companies in scope are therefore irrelevant. Up to 50,000 companies may have to comply.

While Small and Medium-sized Enterprises (SMEs) are not directly in the scope of this Directive, they may still find themselves affected by its provisions when acting as contractors or subcontractors to larger companies that fall under its scope. Furthermore, obliged entities are encouraged to facilitate SME's compliance with due diligence measures. Member states shall provide financial and other support to help SMEs comply.

20. Article 2 of the CS3D
21. The assessment of turnover for third-country companies within the European Union and not on a global scale, is compatible with the rules of the World Trade Organization, by setting a less demanding (and non-discriminatory) threshold for non-European companies.
22. The calculation of the thresholds should include the number of employees and turnover of a company's branches, which are places of business other than the head office that are legally dependent on it, and therefore considered as part of the company, in accordance with EU and national legislation. Temporary agency workers and other workers in non-standard forms of employment should be included in the calculation of the number of employees in the user company. Posted workers should only be included in the calculation of the number of employees in the sending company.
23. Will likely be 50 million in the final version, aligned with the CSRD updated threshold.
24. It covers companies incorporated by the law of a third country with the legislation of a third country operating within the EU.
25. The French "Loi sur le devoir de vigilance" already applies to subsidiaries of US companies operating in France, directly or indirectly employing at least 5,000 individuals.

Timeline

1) For single companies

Company domiciliation	Net worldwide turnover	EU turnover	Number of employees	Application year
EU	> EUR 150m (1)	-	> 1,000 (2)	2027
Non-EU	-	> EUR 150m (1)	-	
EU	> EUR 40m (1)	-	> 250 (2)	2028 (3)
Non-EU	> EUR 150m (1	> EUR 40m (1)		

2) For the ultimate parent company of a group that meets the thresholds below

Company domiciliation	Net worldwide turnover	EU turnover	Number of employees	Application year
EU	> EUR 150m (1)	-	> 1,000 (2)	2027
Non-EU	-	> EUR 150m (1)	-	
EU	> EUR 150m (1)	-	> 500 (2)	2028
Non-EU	> EUR 150m (1	> EUR 40m (1)	-	

(1) In the last financial year
(2) On average, in the last financial year, including temporary agency workers and other workers in nonstandard forms of employment. Posted workers should only be included in calculating the sending company's employees.
(3) By derogation, EU companies with a net worldwide turnover below EUR 150m can delay the application by 2029 through notification to their national supervisory authority.

3 What obligations ?

1. Consult and engage with stakeholders in a meaningful way

Companies ought to facilitate authentic interaction and dialogue within their due diligence processes. Engagement requires thorough information dissemination and consultation with stakeholders, ensuring it is comprehensive, structured, effective, and timely while being culturally sensitive and gender-responsive. In this regard, the EU takes a specific double materiality approach, which usually needs some clarification on the other side of the Atlantic.

2. Conduct risk-based human rights and environmental due diligence on the company's operations and along its value chain[25]

A. Integrate due diligence into internal policies[26]

B. Identify, prioritize, prevent, mitigate, and remedy adverse impacts[27]

C. Communicate publicly on potential adverse impacts and report[28] through an annual statement, in line with CSRD

D. Continuously monitor the effectiveness of policies and measures,[29] report annually,[30] and store documentation for at least ten years

25. Article 4 of the CS3D
26. Article 5 of the CS3D
27. Articles 6, 7, 8, 8a, 8b, 8c, 8d of the CS3D
28. Article 9 of the CS3D
29. Article 10 of the CS3D
30. Article 11, 11a of the CS3D

3. Establish and publish a transition plan[31] to ensure that the business model and strategy are aligned with the objectives of:

A. Transitioning to a sustainable economy

B. Limiting global warming to 1.5 degrees Celsius in line with the Paris Agreement

C. Achieving climate neutrality in line with the European Climate Law for operations in the EU, including the 2050 climate neutrality target and the 2030 climate target

31. Article 15 of the CS3D

4 Non-compliance risks : what sanctions ?

While companies have been navigating the potential reputational and operational risks arising from ESG issues, CS3D intensifies legal risks by making them more immediate. If such failures cause or contribute to adverse impacts, non-compliance will be met with sanctions designed to be effective, proportionate, and dissuasive.

1. Administrative penalties[32]

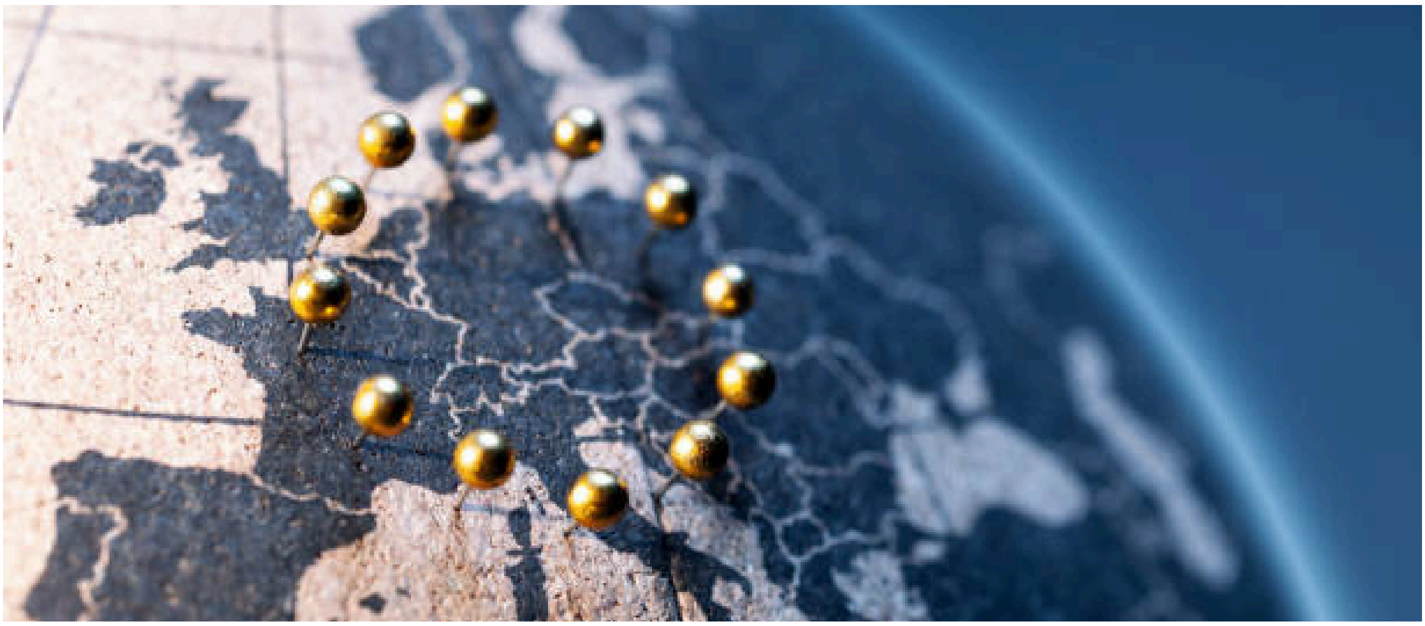
National supervisory authorities may impose various sanctions on non-compliant companies upon thorough investigations. These can include:

- Pecuniary sanctions of a maximum of 5% of the company's net consolidated worldwide turnover in the business year preceding the fine

- The issuance of a public statement outlining the company's responsibility and the specific nature of the infringement

- The obligation to cease the conduct and to ensure no recurrence of such behavior

- A suspension of the free circulation or export of products



32. Article 20 of the CS3D

2.Liability for Civil damages, even potential[33]

Claimants are granted at least ten years to pursue legal actions and seek damages under the directive's provisions. They can seek injunctive relief through summary proceedings, which may involve either definitive or provisional measures aimed at halting actions potentially in breach of this directive or ensuring compliance with its stipulated criteria.

3. Directors' Variable Remuneration[34]

Companies employing over 1,000 individuals must implement a relevant and effective policy, ensuring that part of any variable director remuneration is linked to the company's transition plan. The adoption of such a policy necessitates approval from the Annual General Meeting.

33. Article 22 of the CS3D
34. Article 15 of the CS3D

5 Reliefs

1. Proportionality

CS3D is intended to apply to companies that can carry out due diligence operations on their value chains, on the understanding that this due diligence will be proportionate to their size, means, and sector and adapted to the economic context.

2. Legal certainty and precision regarding indirect business partners

As it stands, the proposed directive offers a degree of legal certainty and accuracy regarding the conditions for exemption from liability in case of damage caused by indirect business partners.

3. The fault should be intentional or result from negligence

Incorporating the notion of "intentional fault or fault resulting from negligence" by the Council introduces a nuanced framework for determining the civil liability of companies under the new directive. This orientation implies that for a company to be held civilly liable for infringements, there must be a discernible element of deliberate violation or a fault stemming from negligent oversight in their due diligence processes.

It dictates that companies will not be categorically held liable for all adverse impacts within their operations or supply chains. However, they will face legal repercussions when it is determined that they have intentionally or negligently failed to uphold the requisite due diligence obligations.

This principle seeks to strike a balance between ensuring that companies are actively and effectively implementing the necessary processes to mitigate adverse impacts while protecting them from unwarranted liability in scenarios beyond their control or foresight.

Therefore, this emphasizes the importance of establishing robust and effective due diligence mechanisms within companies. It also underscores the necessity of thorough documentation and verification of efforts taken to prevent and mitigate adverse impacts to affirm compliance and safeguard against potential liabilities.

4. Obligation of means

In the spirit of the directive, companies must demonstrate substantive and proactive efforts in adhering to sustainability and due diligence practices rather than being strictly held to specific results or outcomes.

This distinction implies that organizations are not categorically liable for every adverse impact within their value chain. Instead, they must exhibit robust, practical efforts to identify, mitigate, and report on sustainability risks and consequences. Companies should demonstrate a systematic, well-documented, and genuine approach to understanding and addressing the potential and actual results in their operations and value chains to align with the directive and uphold their obligation of means.

6 Uncertainties and challenges faced today

1. Stakeholders

The directive understandably needs to work on defining stakeholders. Stakeholders are individuals, groups, or communities with rights or legitimate interests that are (or could be) affected by the adverse impacts mentioned above.

The EU expects an approach already proposed in the context of CSRD: the identification of stakeholders and the use of a materiality matrix. Using these tools ensures a company recognizes and engages stakeholders, and identifies and prioritizes the diverse sustainability issues that are most important to its business.

This dual approach ensures a company's sustainability efforts and reporting are relevant and targeted, aligning with the CSRD's emphasis on meaningful disclosure and the CS3D's mandate for proactive risk management in human rights and environmental matters.

2. Value chain[35]

The Commission's proposal incorporates the "value chain" concept, including not only the production of goods or the provision of services but also activities "related to the company's upstream and downstream commercial relations." The scope of the proposed directive thus includes well-established commercial relationships - direct or indirect - both upstream and downstream of the supply chain.

In the proposal, value chain means:

- Activities related to and entities involved in the production, design, sourcing, extraction, manufacture, transport, storage, and supply of raw materials, products, or parts of a company's product and the development of a company's product or the development or provision of a service.

- Activities related to, and entities involved in, the sale, distribution, transport, storage, and waste management of a company's products or the provision of services, excluding the waste management of the product by individual consumers.

- In the financial sector: it includes the activities of the clients directly receiving such financial services provided by financial undertakings, excluding households and natural persons or SMEs.

3. Judges

The duty of vigilance extends conventional compliance and regulatory frameworks, permeating more profoundly into the ethical, environmental, and societal dimensions of corporate operations. This principle transcends traditional notions of regulatory compliance and is entwined with the concepts of corporate responsibility, ethical business practice, and societal and environmental stewardship.

In this landscape, the role of the judge becomes crucial, serving not merely as an arbitrator of legalities but also as an enforcer of a holistic framework that includes regulatory, ethical, and sustainability norms.

Thus, contracts become instruments that embed and propagate the principles underlying the duty of care. Arbitration mechanisms may also enhance and amplify the judiciary's influence within corporate vigilance.

Arbitration, or alternative dispute resolution, may be an alternative to facilitate resolving disputes and enforcing obligations.

35. Article 3 of the CS3D

4. National transposition[36]

The domestic transposition of the directive brings about uncertainties, primarily due to the diverse legal and regulatory landscapes across EU Member States. Countries may interpret and implement the directive differently, aiming to align it with their existing legal frameworks and national policies.

Businesses, especially those operating across multiple EU countries, might need help navigating the divergent national regulations arising from the transposition. The use of contractual stipulations through the supply chain could unify the rules.

Furthermore, it still needs to be determined how cohesive the enforcement mechanisms will be across states. National authorities could adopt distinct approaches to oversight, compliance verification, and penalty imposition for non-compliance. Thus, they potentially create an uneven regulatory terrain for companies to navigate.

5. Sector-specific guidelines[37]

The Commission is willing to create clear, easily understandable guidelines to assist companies and Member State authorities in understanding how to meet their due diligence obligations, including those related to rights and protections detailed in the Annex of the Directive. This will be done in consultation with Member States, various European agencies, social partners, and potentially the OECD and other expert international bodies. These guidelines should include general advice and sector-specific guidance to facilitate compliance practically.

36. Article 30
37. Article 13 of the CS3D

7 Impact & obligations for company functions

Function	Main Risks and Requirements
Directors of the Board	• Ensure consideration of the implications of decisions on sustainability matters while adhering to the duty to act in the best interests of the company. • Tailor the corporate strategy to accommodate the duty of due diligence, ensuring it integrates relevant input from stakeholders and civil society organizations. • Mandate that companies with over 1,000 employees tie variable remuneration to the execution of the transition plan.
Chief Executive Officer (CEO)	• Guarantee adherence to the CS3D's dispositions by allocating resources and instilling a pervasive culture of sustainability within the company • Designate an Authorized Representative to facilitate communication with the national supervisory authority and orchestrate compliance efforts. • Actively engage with stakeholders individually or through industry-specific or multi-stakeholder initiatives to ensure comprehensive dialogue and collaboration. • Appoint a C-level executive, such as a Chief Sustainability Officer (CSO), tasked with devising and executing a strategic Transition Plan • Should keep in mind that his ultimate responsibility cannot be delegated to his deputies.

Function	Main Risks and Requirements
Chief Financial Officer (CFO)	• Evaluate the initial implementation and ongoing costs and assess the financial implications of internalizing negative externalities and reviewing the entire value chain in alignment with heightened standards. • Implement Due Diligence policies diligently to transparently communicate risks, advancements, and challenges to investors, ensuring consistency and transparency in reporting. • Budget for CS3D compliance and track the company's progression towards meeting established benchmarks.
Chief Operating Officer (COO) **Chief Product Officer (CPO)** **Chief Procurement Officer (CPO)**	• Proactively engage with both suppliers and clients to foster collaborative relationships and promote sustainability initiatives throughout the value chain. • Integrate performance indicators to safeguard prevention and mitigation measures, ensuring continuous assessment and improvement in sustainability practices. • Ensure a meticulous alignment of the company's operations with the Directive's stipulations, embedding systems, and processes that proficiently identify and manage sustainability risks. • Incorporate model contractual clauses to stipulate and safeguard sustainability and compliance expectations in legal agreements. • Contemplate employing independent third-party verification to validate and lend credibility to the company's sustainability claims and due diligence practices. • Adhere to the Directive's mandates, such as preventing "potential adverse impacts" and rectifying "actual adverse impacts" on human rights and the environment from the company's activities and those within their subsidiaries and value chains. • Maintain a regulatory focus on managing and mitigating ESG risks prevalent within supply chains to uphold sustainability and compliance standards. • Implement and oversee the company's due diligence management system, along with the additional responsibility of monitoring and reporting on sustainability and compliance efforts. • Ensure suppliers' adherence to the CS3D, develop and execute sustainable procurement policies and procedures to ensure systematic compliance and risk mitigation.

Function	Main Risks and Requirements
Chief Information (CIO) **Chief Technology Officer (CTO)**	• Guarantee that the company's information system fortifies transversal coordination internally and extends through the value chain to facilitate the exchange of critical data concerning risks and incidents, whilst ensuring stringent IT security and confidentiality measures. • Confirm that the company's IT infrastructure robustly supports the implementation of its sustainability strategy and ensures unwavering compliance with the Directive's mandates. • Formulate comprehensive reports adhering to guidelines and submit them to the European Single Access Point (when available), ensuring all requisite data and insights are accurately and transparently communicated. • Implement a whistle-blowing tool that enables stakeholders to confidentially report potential non-compliances or risks, thereby assisting in maintaining corporate integrity and adherence to the CS3D.
Chief Marketing Officer (CMO)	• Align the company's marketing and sales materials with the Directive's requirements, ensuring accuracy and avoiding misleading or unsubstantiated sustainability claims.
Chief Human Resources Officer (CHRO)	• Advocate for the newly implemented policies among employees and potential recruits to cultivate a responsibility-driven culture and attract individuals with a congruent mindset. • Guarantee employee awareness and understanding of the Directive’s requirements, coupled with training to adeptly identify and manage sustainability risks. • Formulate and execute the company's human rights policies and procedures, and ensure thorough employee training on the CS3D's dispositions.

Function	Main Risks and Requirements
Chief Revenue Officer (CRO)	• Ensure the sales team is thoroughly knowledgeable about the Directive's requirements to prevent the dissemination of misleading or unsupported claims regarding the company's sustainability performance to customers.
Chief Legal Officer (CLO) **Head of Compliance**	• Integrate model contractual clauses (vigilance clauses) both upstream and downstream to ensure alignment and adherence with the Directive. • Master and effectively communicate the distinctions and articulations between the directive and national legal dispositions, even amidst their technical complexity, to ensure accurate application and compliance. • Ensure meticulous understanding and application of the Directive, especially concerning the intricate details and technicalities, considering the links between the duty of care and the CSRD directive on sustainability reporting and extra-financial information. • Guarantee the company's contracts and practices are in strict compliance with the CS3D and to represent the company proficiently in related legal proceedings and disputes before courts. • Seize the opportunity to establish the company as a business partner aligned with legal and ethical sustainability, leveraging adherence to directives as a competitive and reputational advantage.
Chief Sustainability Officer (CSO)	• Collaborate closely with the Chief Marketing Officer to curate transparent and authentic communication strategies that avoid greenwashing and genuinely represent the company's sustainability efforts and accomplishments. • Lead the development and comprehensive implementation of a robust transition plan, ensuring that it is systematically aligned with sustainability goals and objectives, and adhering to the regulatory frameworks such as the CS3D. • Establish and maintain open channels of communication internally and externally to educate and inform stakeholders about the company's genuine sustainability practices, ensuring messages are clear, substantiated, and free from misleading claims.

Function	Main Risks and Requirements
Chief Sustainability Officer (CSO)	• Engage in strategic planning and orchestration of transition strategies that incorporate not only compliance with legislative requirements but also instil tangible, impactful change within the company and its value chain.
Risk manager	• Spearheaded the identification and thorough assessment of the company's human rights and environmental risks, ensuring a comprehensive understanding of potential threats and challenges across all operational facets and throughout the value chain. • Develop and meticulously implement effective mitigation strategies, ensuring they are not only robust and viable but also aligned with both the company's broader sustainability strategy and applicable legal frameworks, such as CS3D. • Maintain a proactive approach towards risk management, continuously monitoring and adjusting strategies as per the evolving risk landscape, ensuring that the company is perpetually poised to address emergent challenges and threats effectively. • Ensure alignment of risk management strategies with the company's overall business objectives and sustainability goals, ensuring that risk mitigation does not conflict with, but rather supports, organizational aims and aspirations. • Collaborate with various department heads and external experts to gain insights and expertise, ensuring that risk identification and mitigation strategies are holistically developed and comprehensively implemented. • Communicate effectively with internal and external stakeholders, ensuring that they are informed of relevant risks and mitigation strategies, without inducing unnecessary alarm or concern. • Implement robust monitoring and reporting systems that facilitate ongoing oversight of risks and the effectiveness of mitigation strategies, ensuring that adjustments can be made in a timely and informed manner. • Ensure that risk management is embedded within the organizational culture, promoting awareness and understanding amongst employees and fostering a collaborative approach towards identifying and mitigating potential threats.

Timeline

After the European Parliament adopted a resolution on March 10, 2021, the European Commission presented a proposal for a Directive on Corporate Sustainability Due Diligence to both the Parliament and the Council on February 23, 2022. On December 1st, 2022, Industry Ministers from the 27 EU Member States agreed on this proposal, establishing a delicate consensus on the text.

The Parliament, in a plenary session on June 1st, 2023, endorsed the proposed amendments. The adopted text significantly reflected the version approved by the Parliament’s Legal Affairs Committee in April of the same year.

The Commission, the Council, and the Parliament are currently negotiating the final text, discussing the legal liability of companies, enabling access to justice for victims of breaches, and meticulously defining its scope.

08 Feb.21	23 Feb.22	1st Dec.22	1st Jun.23	Q1 24 ?	Q1 26 ?	Q1 27 ?	Q1 28 ?
End of EU commission consultation on Sustainbale Corporate Gouvernance	EU Commission Proposal for a CS3D	27 industry ministers agree on the proposal	EU Parliament approval	Publication of a revised version following trialogue between EU concil,Commission and parliament	Deadline for national transpositions	Application to Tier 1 Companies	Application to tier 2 Companies (with possible extension to 2029 for some EU Companies)

Once approved, the directive would be published in the Official Journal of the European Union and take effect on the 20th day post-publication. Member States then have a maximum of two years to implement and publicize national acts that integrate the directive’s provisions into their domestic legislation. This transition, however, could lead to varying transpositions among states, perpetuating a degree of legal ambiguity.

Glossary

CSRD	Corporate Sustainability Reporting Directive
CS3D	Corporate Sustainability Due Diligence Directive
ESG	Environment, Social and Governance
CSR	Corporate Social Responsibility

Useful links

EU website:

https://www.europarl.europa.eu/doceo/document/TA-9-2023-0209_EN.html

CS3D.org on Linkedin :

https://www.linkedin.com/company/cs3d-org

About ASCEND

ASCEND is a sustainability advisory boutique based in Paris, France. We support companies, asset managers, and investors in Europe in developing strategies, a culture, and tech solutions where sustainability and profitability are inseparable. We help businesses navigate beyond regulatory compliance and toward a future where every decision inherently supports sustainable performance. In this vital journey, we ascend together, aligning ambitions with actions.

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About AmCham France

AmCham France was founded in 1894 to promote economic exchanges between France and the United States. As a platform for meetings, reflection and exchange, AmCham France acts as a link between political, economic and academic circles. Today, it brings together 200 leading French, European and American companies, as well as numerous academic and economic partners committed to the transatlantic relationship.

Independent of any government, and convinced that companies have a crucial role to play in bringing new ideas to the forefront of public debate, the AmC is a driving force behind proposals to meet the major challenges facing society, the economy and the environment. As such, AmCham France is committed to enhancing France's attractiveness.

On behalf of its members, it works with public decision-makers to develop and consolidate a French environment that is favorable to international companies, particularly American ones, which are the leading foreign investors and employers in France.

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