



Due Diligence in Supply Chains: It is Time for Binding and Effective Rules for Everyone

Position Paper

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Tchibo wants to stimulate the debate on effective regulation of human rights and environmental due diligence in supply chains. The company believes that the urgently needed progress in sustainable business requires a balanced combination of obligation, individual engagement and collaboration. Only such a holistic approach can enable significant improvement of the respect for human rights and environmental standards worldwide. Tchibo is convinced:

- Voluntary self-regulation by businesses is not sufficient enough. Tchibo seeks explicit framework conditions *that are binding for everyone* and prevent competitive advantage at the expense of human rights and environmental protection.
- A possible regulatory framework should aim for *impact*, involve *self-reliant engagement* and demand and promote *cooperation*.
- Germany should lead the way and work for a European solution.

WHAT IS IT ABOUT?

Today, companies are taking on more responsibility for the way their goods are produced and the impact this has on people and the environment. However, even today human rights and environmental protection are still jeopardized in most producing countries and are far from being taken as a given.

Tchibo is a brand and retailer with a wide range of products from coffee and clothing to household goods, furniture, electronics and services. Each of these sectors poses its own challenges to us, especially in regard to the protection of employees and the environment. Since 2006 - a time when this topic was barely on the agenda in many economic sectors - we have been working on becoming a sustainable company. We take the responsibility for the manufacture of our products very seriously. One example: 86% of the cotton used by Tchibo in 2018 comes from sustainable sources, and we are the world's third-largest supplier of textiles made from organic cotton for the past four years.¹

In order to jointly achieve better working conditions for people in the production countries, we have been working for many years in Germany and our purchasing markets with politics, business, non-governmental organizations and trade unions. In Germany and in Europe we are one of the pioneers in this field. For example, we are co-founders of numerous sector and multi-stakeholder initiatives such as the *Partnership for Sustainable Textiles*, the *Bangladesh Accord on Fire and Building Safety* and *ACT on Living Wages* in the apparel sector or the *Global Coffee Platform* and *coffee&climate*.

However, we also know from the many years of experience of our work on the ground that it is not sufficient for individual actors to make efforts to protect human rights and the environment in the context of purely voluntary activities alone. This mode reaches its limits in view of the complexity of the challenges. For example, good collective and individual efforts by companies fail because a critical mass of partners is lacking, or large burdens cannot be shared. While failure is always a possible outcome in the search for the best solutions, time is running out for significant progress. There is a need for visible effects towards a better economy for all participants.

In addition to the claim of effectiveness, fairness is currently also a question of costs and investment. Respect for human rights and environmental protection still poses a financial competitive disadvantage for companies. To change this, the same ambitious standards are needed for all market actors. In this level playing field, pioneers and committed players would not be economically penalized for their investments, but the entire market would be encouraged to move in the same direction. Corporate responsibility must no longer be an option but must become the rule.

We believe that a collective movement is required, and not just a relatively small number of pioneers. Why? Because the challenges of sustainability are complex, they are global, and they cannot be solved in the long run as long as companies act on the principle of individual "business as usual".

¹ Tchibo (2019): Nachhaltigkeitsbericht 2018, <https://tchibo-nachhaltigkeit.de/bilanz-2018>

We need joint solutions by all players, with shared responsibility for people and nature and equal conditions for all companies involved in the creation of value. State-determined, binding and transparent

rules can be the basis for this - in Germany and Europe. Tchibo offers to contribute its expertise and be part of the quest for solutions.

WHAT CAN WE BUILD ON?

The conditions for legal regulation are favourable, as it can take up the political decisions and legal agreements of recent years: The central starting point are the *United Nations' Guiding Principles on Business and Human Rights (UN Guiding Principles)*, which were unanimously adopted by the United Nations Human Rights Council in June 2011. The *Guiding Principles* provide an international frame of reference for the implementation of human rights due diligence, with associated standards and responsibilities for all actors. The concept of due diligence was integrated into other standards and legislation after the adoption of the UN Guiding Principles. Another comprehensive standard is the *OECD Guidelines for Multinational Enterprises*. While the *UN Guiding Principles* explicitly cover human rights due diligence obligations, the *OECD Guidelines* are broader in scope and include the environmental sector. Both frameworks encourage companies to establish effective management systems for the active protection of human rights.

States are called on by the United Nations to implement the UN Guiding Principles nationally and to draw up their own action plans to achieve this. The German government thereupon developed and adopted the

National Action Plan for the Implementation of the UN Guidelines on Business and Human Rights (NAP) in 2016. In 2018, however, the *UN Committee on Economic, Social and Cultural Rights* reprimanded the Federal Republic of Germany for not yet having implemented the principles in a national law.

In the coalition agreement for the 19th legislative period, the CDU/CSU and SPD have agreed to work for the consistent implementation of the *NAP*. The German government is currently monitoring the extent to which companies based in Germany are complying with the duty of care identified in the *NAP*. The goal: By 2020 at least half of all German companies should have integrated the core elements of human rights due diligence into their business activities. If this is not achieved, the coalition agreement stipulates that the Federal Government will legislate nationally and will also advocate an EU-wide regulation.

Tchibo is convinced that the principles of the NAP should be converted into legal regulation, even despite the current monitoring process. We need a minimum threshold for human rights and environmental protection as a basis for corporate action.

WHAT NEEDS TO BE DONE FROM OUR PERSPECTIVE?

We believe it is the duty of all companies to respect human rights and environmental protection in their value chains - at all levels. For human rights are not negotiable; they apply equally to every human being. In concrete terms, this means that employees and their families can live on their wages; they work in compliance with statutory working hours, enjoy safe working conditions and are protected against discrimination. They also have functioning grievance mechanisms at

their disposal, which they can use without fear of dismissal or other repression. And finally, this means that production preserves and maintains our planet's resources.

In order to achieve this against the background of our complex world, we believe that three principles are needed, which should be incorporated into a regulatory framework.

PRINZPLE 1: GOOD REGULATION FOCUSES ON IMPACT

Regulation is effective when it *actually improves adherence to human rights and environmental standards.* Transparency and reporting obligations are important elements in this respect. They encourage companies to be accountable to policy-makers and the public for their progress towards better compliance with human rights and environmental standards. As Tchibo, we therefore present all measures in this regard in a comprehensive sustainability report every year. We regularly publish our garment, textile and footwear producers and their precursors, disclose progress reports on the reduction of chemicals in our garment production and report on our corporate blog on measures taken in the various sectors in which we operate.

However, reporting obligations alone are not sufficient. We must question the actual influence of pure reporting obligations on systemic progress in the manufacturing countries. It is limited from our point of view. But

how do we achieve tangible, lasting and widespread improvements for people in global supply chains? Legal regulation should focus on the *impact orientation* of measures. By encouraging companies to develop management systems and implementation programmes that bring about long-term and sustainable improvements in local production conditions, such an impact orientation is possible.

The *UN Guiding Principles* and the *OECD Guidelines* define this principle of corporate due diligence: companies should identify and assess possible and actual negative impacts of their business activities on people and the environment in their value chains. They must take measures to prevent, end or, in the event of violations, remedy such effects. Complaint mechanisms must be available for those affected. Finally, companies must report on compliance with due diligence obligations.

PRINCIPLE 2: SELF-RELIANCE FOSTERS INNOVATION AND EXCELLENCE

Self-reliant activities and voluntary commitments are and remain valuable building blocks for impact-oriented measures. For a long time now, they have been generating innovative solutions for the adherence to due diligence obligations. Tchibo itself has invested heavily in its own measures in recent years. For example, with our *WE (Worldwide Enhancement of Social Quality)* training program, which we launched in 2008, we are successfully pursuing the goal of permanently improving working conditions for people in our supply chains through intensive dialogue between factory managers and employees, from the perspective of the people on the ground. Almost 70 percent of our non-food products

come from manufacturers in the WE program.²

A regulatory framework should leave room for autonomous action and recognise it. This means that different business models and company sizes are taken into account, as are their performance and development potential. This will ensure that companies can continue to develop, and advance solutions based on legal requirements within their own context that meet not only their capabilities but also their industry-specific challenges. This principle also respects the actions and sometimes very high investments that companies have already made in the past in their sustainability strategy.

PRINCIPLE 3: SECTOR-WIDE COLLABORATION CAN BE KEY TO SUCCESS

Effective and significant human rights and environmental protection is achieved primarily through the cooperation of many. We and other companies have made this key experience in recent years as part of our voluntary commitment. After all, value chains and their characteristic problems are complex, as are the demands that human rights and ecological diligence put on companies and states.

This can be observed in a striking example: In the *ACT on Living Wages* initiative, Tchibo has been working with other brand companies in the garment sector and trade unions for several years to make it possible for industry-wide living wages to be paid in the key producing countries.³ John Ruggie, the UN Secretary-General's Special Representative for

Business and Human Rights and author of the *UN Guiding Principles*, and the G20 cite *ACT* as an important building block for living wages worldwide.⁴ However, in the first project country, Cambodia, this project is already at risk of failing. The 21 *ACT* brands together already account for half of Cambodia's textile production. However, more companies are required to give their support for the final approval and necessary cooperation of the national government and employers to take crucial steps towards a living wage in the coming years together with *ACT*. Important major buyers of textile products from Cambodia do not want to join the project despite the intensive efforts of *ACT* members. In the worst case, they could shift their sourcing to cheaper countries, at the

² Tchibo (2019): Nachhaltigkeitsbericht 2018, <https://tchibo-nachhaltigkeit.de/bilanz-2018>

³ Tchibo Unternehmensblog: Wann gibt es existenzsichernde Löhne in der Textilindustrie? (13.12.2018),

<https://blog.tchibo.com/aktuell/unternehmen/existenzsichernde-loehne-in-der-textilindustrie/>

⁴ <https://actonlivingwages.com/presenting-act-at-the-g20-labour-ministers-meeting/>

expense of all workers and the ambitious brands. The willingness to finally work towards living wages is being undermined in this way.

Regulation should call for and promote sector-wide cooperation. In our example, the ACT brands, which want to fulfil their responsibility in accordance with the *UN Guiding Principles*, are on their own to convince other market players of living wages. On the other hand, it shows that companies that do not take over responsibility on a voluntary basis currently enjoy competitive advantages. In light of this, we are now, like other pioneering companies, at a point at which it is no longer possible to significantly increase investments in sustainability without endangering our own

competitiveness. The success of the *Bangladesh Accord on Fire and Building Safety* since 2013 has shown that broad sector initiatives can make real progress.

Tchibo calls for effective and integrative regulation: in order to take the next substantial steps in the direction of the *UN Guiding Principles*, the necessary regulatory, binding framework conditions are essential for all players alike. Only through a balanced combination of liability, self-reliance and collaboration is it possible to achieve the best impact and ensure human rights and environmental protection in supply chains.

GERMANY SHOULD LEAD THE WAY AND PROMOTE A EUROPEAN SOLUTION

A broad impact demands the participation of all stakeholders. Tchibo supports a joint European solution, as Europe is one of the strongest economic areas in the world. Germany should lead the way and work for a European solution.

Systemic change cannot be achieved through individual national strategies. Effective protection of human rights and the environment can only be achieved if all market players pull together. If only companies from individual European countries are bound to respect such due diligence obligations in their supply chains, this would be a first step, but not enough to have any real impact.

Without a European solution, German companies are threatened with competi-

tive disadvantages: If there is no broad participation and no European regulation, German companies are at risk of being at a disadvantage in European and global competition. With a regulatory proposal, Germany can actively shape a European solution.

We therefore explicitly welcome the announcements by Federal Minister of Labour Hubertus Heil (SPD) and Federal Minister of Development Gerd Müller (CSU) to put legal regulations for fair supply chains on the agenda of the German EU Council Presidency in the second half of 2020. The preliminary results of the NAP monitoring in December 2019, which were discussed at a joint press conference of the two ministers, provide an opportunity to start an objective debate with companies, associations and stakeholders on how good regulation can look like.

CONCLUSION

The political system should establish clear and binding rules that require all companies to jointly adhere to respecting environmental and social standards in their supply chains, thus enabling fair competition. Only such framework conditions ensure that no company can gain competitive advantages at the expense of human rights and the environment. It is about a minimum standard that creates the same conditions for all, encourages collective responsibility and also enables innovative solutions from companies. A European regulation is the best way to achieve these objectives.

ABOUT TCHIBO

Tchibo stands for a unique business model. In eight countries, Tchibo operates almost 1,000 stores, over 24,300 retail depots and national online shops. Via its multi-channel distribution system, the company offers not only coffee and the single-serving systems Cafissimo and Qbo, but also non-food ranges and services that change on a weekly basis, such as travels, mobile communications or Tchibo Share. In 2018 Tchibo achieved a turnover of 3.15 billion euros with around 11,800 employees internationally. Tchibo is the market leader for roasted coffee in Germany, Austria, the Czech Republic and Hungary and is one of the leading e-commerce companies in Europe.

Founded in Hamburg in 1949, the family-owned company has received several awards for its sustainable business policy: in 2012 the Prize for Business Ethics and the Logistics Environmental Prize, and in 2013 the CSR Awards of the German Federal Government and the EU. In 2016, Tchibo was named Germany's most sustainable major company.

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