



Sustainability

Regulation Mapping

Dutch Responsible and Sustainable International Business Conduct Act

Dutch Responsible and Sustainable International Business Conduct Act

Applies to:

Any Dutch or other EU entity that engages in activities outside the Netherlands; or is a non-EU entity engaged in activities or marketing products in the Netherlands; and it is a large entity under the EU Accounting Directive – log in for further details

What it says:

Entities with known activities that have adverse human rights or environmental impact would be required to take all reasonable measures to prevent the impacts or mitigate or reverse them to the extent possible and, where necessary, enable remediation

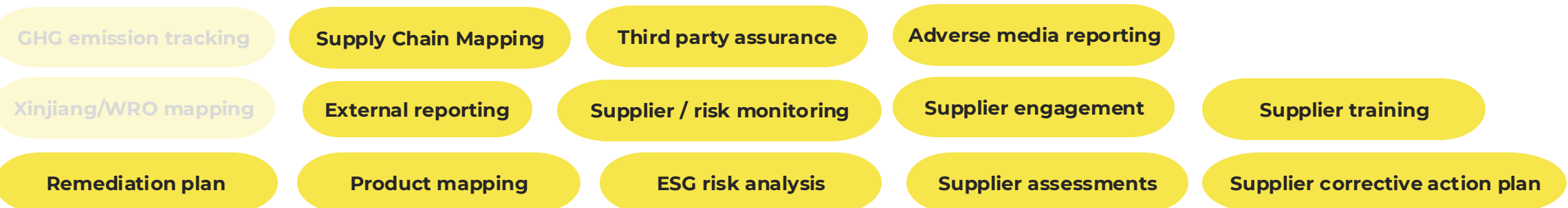
Penalty:

Those found not in compliance could face civil action or fines of up to 10% of an entity's net turnover

Proposed:

Proposed in 2022

Key Requirements:



Overview - Responsible and Sustainable International Business Conduct Act (Proposed) - Netherlands

Law / Country	Responsible and Sustainable International Business Conduct Act (the “Act”) (Netherlands)
Goal	Mitigate human rights risks, including environmental risks that can lead to human rights violations, in global supply chains.
Adoption / Status	The Act was submitted to the Dutch Parliament in March 2021. In November 2022, six Dutch political parties submitted an amended bill to the House of Representatives. If passed as amended, the Act would enter into force with effect from July 1, 2024, phasing in over a twelve-month period. If adopted, the Act would repeal the Child Labor Due Diligence Act approved by the Dutch Senate on May 14, 2019.
Issues Addressed	• Human rights • Forced labor • Child labor • Labor rights • Climate change • Animal welfare
Covered Entities	An undertaking would be subject to the Act if it: • Is a Dutch or other EU undertaking that engages in activities outside the Netherlands; or • Is a non-EU undertaking engaging in activities or marketing products in the Netherlands; and it • Is a large undertaking under the EU Accounting Directive, i.e., it meets at least two of the following thresholds for the applicable fiscal year: • A balance sheet of €20 million; • Net turnover of €40 million; and • An average of 250 employees during the financial year (including part time and agency workers).
Mandatory	Yes

Overview - Responsible and Sustainable International Business Conduct Act (Proposed) - Netherlands

Duty of Care	Subject undertakings that know or should reasonably suspect that their activities, or those of their business relationships, may have adverse impacts on human rights or the environment in countries outside of the Netherlands would be required to: • Take all measures reasonably required to prevent such adverse impacts. • If the impacts cannot be prevented, mitigate or reverse them to the extent possible and, where necessary, enable remediation; and • If the impacts cannot be sufficiently limited, refrain from the relevant activity or terminate the relationship if it is reasonable to do so. “Business relationships” would include contractors, subcontractors or other legal entities in an undertaking's value chain that are linked to the undertaking's activities, including the financing, insurance or reinsurance of the undertaking. “Value chain” would be defined as the entirety of an undertaking's activities, services, products, production lines, supply chain and customers, as well as the activities of its business relationships. Human rights and/or the environment would be adversely impacted if the value chain involves: • Restriction of freedom of association and collective bargaining; • Discrimination; • Forced labor; • Child labor; • Changes in the climate that are directly or indirectly attributed to human activity, that change the composition of the atmosphere and that are observed in addition to natural climate variability during comparable periods; • Environmental damage; • Unsafe working conditions; • Violations of animal welfare regulations; • Slavery; or • Exploitation.
Due Diligence	“Due diligence” would be defined as the continuous process whereby undertakings investigate, prevent, mitigate or terminate the potential and actual adverse impacts of their activities and those of their business relationships on human rights and the environment in countries outside the Netherlands, which those undertakings can use to account for the way they tackle those impacts as an integral part of their decision-making process and risk management system, in accordance with the principles and standards of the Organisation for Economic Co-operation and Development Guidelines for Multinational Enterprises (“OECD MNE Guidelines”). Undertakings would be able to fulfill their due diligence obligations jointly if it achieves at least the same result as intended under the Act. Joint implementation would be able to take place after prior notification to the Authority for Consumers and Markets that explains why the joint implementation is equivalent, while retaining the undertaking's individual responsibility to fulfill its due diligence obligations.

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Reporting	The director responsible for the implementation of due diligence would be required to annually report to the subject undertaking's board on the implementation and execution of the policy. Subject undertakings would be required to annually publish a report on their policy and due diligence measures. The report would be required to be published on the undertaking's website in Dutch, English and any relevant local language by April 30 of the subsequent calendar year. Reports would be required to include information on: • The results of the risk assessment and prioritization effort; • The execution of the action and climate plans; • The measures taken to prevent, mitigate or terminate risks of adverse impacts and their results; • The execution of and findings from monitoring; • Complaints received; and • The remediation offered or the contribution made to it. The obligation to prepare a report would need to be met within one year of the entry into force of the Act.
Enforcement	Enforcement of the Act would be overseen by the Authority for Consumers and Markets (the "Authority"). The Authority would be able to compel compliance with the Act and impose a penalty of up to 10% of an undertaking's net turnover. In addition to the Authority, foundations and associations whose objectives under its articles of association are to promote the interests of human rights or the environment would be able to bring civil actions against subject undertakings. If the party bringing the action puts forward facts that may give rise to a suspicion of a link between the adverse impact and an undertaking's acts or omissions, the burden would be on the undertaking to prove it has not acted in breach of an obligation under the Act.