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Verband der Chemischen Industrie e.V.
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Make the German due diligence act workable and legally sound

With the bill for an "Act on corporate due diligence in supply chains", the UN Guiding Principles on Business and Human Rights are to be implemented at national level. However, it would make sense to have global or at least European solutions instead of national go-it-alone action – also to create a level playing field.

Human rights due diligence is part of our companies' self-concept. But the planned due diligence act puts a considerable strain on business – while the duties of states are moved to the background. The division of roles between states and companies based on the UN Guiding Principles has to be maintained, as human rights enforcement is primarily a state duty and must not be transferred to business on a large scale under a due diligence act.

Safeguard workability and legal certainty
Laws must be formulated in a legally secure and practicable manner. The bill in its current form includes many undefined legal terms where companies cannot instantly see what concrete obligations they have and what measures they are expected to take to fulfil their duties. Business needs support here, such as recognized industry standards or generally applicable ratings.

Prevent civil liability and limit the "Prozessstandschaft"
According to communication accompanying the bill, policy-makers do not want to bring about a civil liability of companies based on the due diligence act. This intention should become manifest in the act and those passages in the bill which, contrary to existing communication, imply civil liability should be deleted. Furthermore, the rules for a statutory right of representation on behalf of affected parties ("Prozessstandschaft") in the bill should be explicitly limited to the legally protected rights of life and limb.

Maintain proportionality regarding the framework of fines and exclusion from public contracts
In view of the comprehensive catalogue of obligations and fines which applies even for slight negligence, the framework of fines is disproportionate. An additional exclusion from public contract awards might be considered only in rare exceptional cases.

Leave existing systems untouched; support industry initiatives
The bill provides for numerous obligations for companies that are already covered by other legislation in Germany. The public authority in charge of enforcing the due diligence act must have exclusive competence for cases with (primarily non-European) elements taking place abroad, in order to deploy public funds responsibly and not make existing systems more complex.
Moreover, existing industry initiatives should be recognized and supported, e.g. with safe harbour solutions or within a binding concretization of undefined legal terms (such as "appropriate" / "angemessen") in the due diligence act.

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The VCI represents the politico-economic interests of over 1,700 German chemical and pharmaceutical companies and German subsidiaries of foreign businesses vis-à-vis politicians, public authorities, other industries, science and media. In 2020, the German chemical industry realized sales of over 186 billion euros and employed around 464,000 staff.

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The German Federation of Chemical Employers' Associations (BAVC) is the head organization for collective bargaining and social policy in the chemical and pharmaceutical industry, as well as large parts of the rubber and plastics processing industries in Germany. It represents the interests of its 10 regional member associations, with 1,900 companies and 580,000 employees vis-à-vis trade unions, politics and public.

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