

SUMMARY: OPEN EXPERT DISCUSSION

RESPONSIBLE BUSINESS CONDUCT FOR CHILDREN:

STRENGTHENING EU POLICY MEASURES TO ADDRESS BUSINESS IMPACT ON CHILDREN'S RIGHTS

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This note summarises key take-aways from a virtual EU Council Presidency event hosted by the German Foreign Office and UNICEF Germany. The event brought together 150 experts, including officials from almost all EU Member States, the European External Action Service, the EU Commission and participants from international and non-governmental organizations, business associations, individual enterprises and trade unions.

The discussions centred around the **impact of business activities on the full spectrum of children’s rights as defined in the UN Convention of the Rights of the Child (CRC)**. While acknowledging the merits of prioritising action on high-risk environments and issues, the expert discussion focussed on key considerations for EU policy on business and human rights that address the wide

variety of business impact on children – within and outside the European Union.

Following introductory remarks from the German Foreign Office and UNICEF Germany, the event was split into two parts: the first highlighted the range of adverse business impacts on children, including their root causes, through contributions from leading experts; the second part explored the relevance of these insights for EU policy processes on business and human rights by way of a panel discussion. Throughout the event, participants used the chat function for commentary and a lively exchange of ideas and information. The following summarises “key considerations” that emanated from the discussions and that will feed into the relevant German and EU-wide efforts to strengthen responsible business conduct.

1 A HOLISTIC PERSPECTIVE ON BUSINESS IMPACT ON CHILDREN

Article 3(3) of the Treaty on European Union establishes the objective for the EU to promote protection of the rights of the child. Moreover, the current EU Commission has declared “zero tolerance on child labour” a policy priority. The EU has already adopted legislation for some industry sectors that includes child rights protections (e.g. EU ‘Conflict Minerals’ Regulation 2017/821). However, these measures are mainly limited to child labour.

From a child rights perspective, the fundamental importance of addressing all forms of detrimental business impact on children was highlighted, including indirect impacts. The expert contributions stressed that child labour is a symptom of mutually reinforcing root causes – such as poverty, social exclusion and lack of access to education and basic services. Accordingly, preventing child labour effectively requires holistic approaches that address the full spectrum of child and family deprivations. *Ines Kaempfer* from the Centre for Child Rights and Corporate Social Responsibility (CCR CSR) illustrated the need to expand the focus to the wider community context if solutions to prevent child labour are to be effective. Focusing on decent work for parents and caregivers, for example, plays a crucial role in addressing the root causes of child labour. Similarly, *Anne-Claire Dufay*, UNICEF Representative in Ghana, highlighted the multitude of

inter-connected root causes – notably poverty, social exclusion and lack of access to quality education – that drive children into child labour in West Africa’s cocoa sector.

Participants also stressed that **business-related child rights impacts exist well beyond child labour**. Due to their unique stages of physical, psychological and social development, children are more vulnerable to business-related harm than adults. At times, business practices that do not adversely affect adults may be harmful to children (e.g. environmental pollutants). Some business impacts can also be indirect and less apparent than others. For instance, the working conditions of parents and caregivers can have a significant impact on children, as the ability of parents and caregivers to care for them may be severely curtailed due to the absence of family-friendly workplace policies (e.g. insufficient parental leave, inadequate breastfeeding and childcare support, long working hours and low wages). As highlighted by *Andrew Mawson*, Child Rights and Business Chief at UNICEF, while child labour is the conventional entry point for business, all too frequently it is also the end point. As a result, child rights impacts often remain blindspots for businesses. **In light of the socio-economic consequences of COVID-19**, which threaten to roll back years of progress for children, it was argued that **holistic**

policy measures that address business impact on children in their entirety are more critical than ever.

A holistic approach is also needed for business responses if negative child rights impacts occur.

Removing a child from a workplace, for instance, would be an obvious response to finding child labour. However,

this may lead to his or her relocation to another even more dangerous context. Article 3(1) of the CRC establishes that ‘in all actions concerning children...the best interests of the child shall be a primary consideration.’ This principle has emerged as an important guide to interpreting the CRC and should also be an important consideration for EU policy on business and human rights.

2 A DEDICATED EU STRATEGY ENCOMPASSING CHILD RIGHTS

In his opening remarks, *Alexander Schönfelder*, Deputy Director-General for Business and Human Rights from the Federal Foreign Office in Germany, highlighted **the need to link efforts in the area of child rights to a broader EU strategy on business and human rights.** This call was re-iterated by *Ambassador Thomas Ossowski*, German Permanent Mission to the EU in Brussels, who noted the importance of combining different efforts at the EU level into a coherent action plan on business and human rights, including children’s rights. The importance of not fragmenting policy discussions through the singling out of specific issues, industries, regions or product groups was stressed. The notion of a **‘smart mix’** of measures was explored by *David Vermijs* from Shift who stated how binding and non-binding measures can effectively complement each other, including in relation to adverse business impact on children.

Mandatory human rights due diligence requirements for companies were emphasised as a critical element in this mix by *Alejandro García Esteban* from the European Coalition for Corporate Justice (ECCJ). Such legislation is currently being put forward in several EU Members States, including Germany, as well as at the EU level. The panel explored how EU legislation can effectively

support national efforts in this regard and create a level playing field across the EU single market.

The need for accompanying measures to ensure that due diligence regulations are effective was also emphasized, including accountability and remedy frameworks. Other policy areas influencing business behavior were equally highlighted as critical to support and reinforce mandatory human rights due diligence requirements. Notably, these can include trade, investment and procurement policies, company law and non-financial reporting rules and wider external EU development policy. *Sarah Twigg*s from the International Finance Corporation (IFC) showcased how employer-supported investment in children, notably in the area of childcare, does not only benefit children and families, but also businesses themselves; for example, through improved productivity, recruitment and employee retention. In her concluding remarks, *Sandie Blanchet*, Director of the UNICEF Office for Relations with the EU, called on EU institutions and policy makers to utilize the full panoply of available policy instruments – from mandatory human rights due diligence legislation to trade and investment policy, non-financial reporting, procurement standards and other business incentives – to ensure that companies minimize harm and act responsibly for children.

3 SCOPE OF EU POLICY MEASURES

The scope of business activities ideally covered by policy measures was another topic discussed. As noted by several contributors, **adverse impact on children can be linked to virtually all sizes of businesses – large, medium and small. It can occur at different levels of the supply chain, from upstream to downstream. Child rights impacts**

also occur in the marketplace (e.g. product formulation and safety, marketing and online safety). Generally, for children and their families, the less formalized the business environment, the greater the risk of adverse business impacts. In this context, *Marlese von Broembsen* from WIEGO (Women in Informal Employment: Globalizing and Organizing)

brought attention to the share of informal employment in global supply chains and offered a **deep-dive into the impact on children in the often invisible sphere of informal work**. She highlighted that any policy measure regarding responsible business conduct must address this dimension of the workforce, which often makes up a majority in global supply chains, if some of the most vulnerable workers and their families are to be reached.

At the other end of the value chain, *Patrycja Pogodzinska* from the EU Fundamental Rights Agency reminded the audience about **the need to also consider business impact on children within the European Union**.

While child rights are a significant concern in global supply chains, they may equally be affected by businesses own operations, including within the EU. *Gerbrand Haverkamp* from the World Benchmarking Alliance reiterated this by pointing out the risks of adverse business impact on children in the digital space, which have been exacerbated by COVID-19 and the longer periods of time children spend online due to school closures and restrictions on movement. He also highlighted the **importance of stronger policy measures** (e.g. in the areas of non-financial disclosure and sustainability reporting) that increase transparency regarding the social impact businesses have across the supply chain.

CONTRIBUTIONS FROM PARTICIPANTS

Throughout the virtual event, participants provided important feedback and examples. Among the contributions made, the **need to complement human rights due diligence regulations with specific and practical guidelines for business (on implementation) and national competent authorities (on monitoring and enforcement)** was highlighted, ideally starting with high-risk sectors. Examples of **promising multi-stakeholder interventions** (e.g. coffee sector in Uganda) and innovative research (e.g. child rights risks in homeworker settings) were also shared. On the question of addressing root causes, one of the submissions examined how **effective public-private partnerships (PPPs) can offer promising pathways if clear priorities, strategies and responsibilities are defined**.

Such PPPs can support a shift away from ad-hoc and isolated monitoring and remediation approaches towards investing in more systemic and longer-term interventions that address root causes at scale. Several comments also touched on the potential **risk of due diligence requirements leading to a proliferation of 'private' compliance approaches**, which undermine rather than reinforce enforcement of national (and regional) regulations and development efforts. Another important comment highlighted **the need to meaningfully engage children and adolescents themselves in the formulation of business approaches and policy measures**. Several participants shared examples and manuals for child participation and agreed that embedding the voices of children in policy development processes will be critical moving forward.