

Background Paper: Initiative Lieferkettengesetz

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What is the Initiative Lieferkettengesetz?

Initiative Lieferkettengesetz (Supply Chain Law Initiative) is a broad civil society alliance of over 80 human rights, development and environmental organizations, unions and church-based initiatives founded in September 2019. The alliance demands mandatory human rights and environmental due diligence because, as numerous cases clearly show, companies are not willing to meet their human rights obligations voluntarily. So far, more than 115,000 people have signed the Initiative's petition for a supply chain law to German Chancellor Angela Merkel.

The *Initiative Lieferkettengesetz* advocates a world in which businesses respect human rights and environmental standards across the entire supply chain – from raw material extraction to the final customer – both at domestic and international levels. The website www.lieferkettengesetz.de/Organisationen (only available in German) includes a list of the 18 founding organizations and 69 supporting organizations.

Why was the Initiative founded?

German companies acquire resources as well as intermediate, final and processed products from around the world. They run production and distribution facilities internationally and export their products to all regions of the globe. They invest in major projects worldwide and offer their services on global markets. Yet in many industries, human rights abuses are no exception. When it comes to the production of our clothes, for example, catastrophic textile factory fires and collapses are merely the tip of the iceberg. Exploitative working conditions are a part of everyday life. We destroy the natural resources people rely on for their very existence to extract the raw materials we need to make our cars or electrical appliances. To feed their substantial demand for water, the extractive industries dry out wells while the toxic waste they leave behind pollutes the environment. And on cacao and palm oil plantations, children are made to work under extreme conditions.

The *Initiative Lieferkettengesetz* has compiled an overview of cases where German businesses have not met or are not meeting their human rights and environmental obligations. The list can be found here www.lieferkettengesetz.de/Fallbeispiele (only available in German).

Many of these problems have been known for some time, and companies have repeatedly declared their intention to resolve them “voluntarily”. In most cases, however, such voluntary approaches lead to nothing more than cosmetic changes: Human rights abuses are integral to a system in which companies, under considerable competitive and price pressures, cannot be held accountable for the impacts of their overseas activities.

For companies to truly respect human rights principles in their global business activities, a legal framework will be required – one that also provides opportunities for those affected to hold companies accountable for abuses, in which they were involved. European countries such as the Netherlands, France and the UK have already adopted laws to encourage the respect of human rights in overseas business operations. The German government's coalition agreement stipulates that the decision about whether to introduce a supply chain law will be on the political agenda in 2020. Germany's development minister Gerd Müller and labor minister Hubertus Heil have already announced that key points for a future supply chain law will be outlined by May 2020.

What kind of law do the Initiative and its supporters demand?

The alliance demands that a supply chain law be introduced in Germany that ensures companies put in place human rights and environmental safeguards across all their national and international business activities. Failure to observe the commitments made needs to entail clear consequences.

The Initiative's demands are based on the UN's Guiding Principles on Business and Human Rights as well as on the OECD Guidelines for Multinational Enterprises.

The supply chain law must commit companies to providing risk analyses to assess the human rights, labor rights and environmental impact of their activities. These risk analyses should provide companies with a basis to take adequate measures to prevent future and end current human rights abuses. Companies will also need to establish a complaints mechanism for victims. An effective supply chain law thereby needs to apply to the entire value chain: from resource extraction, product exports and investments to waste management.

Furthermore, a supply chain law would have to commit companies to transparency and reporting. In practice, companies would have to document compliance with due diligence and report publicly on the results. Non-compliance would have to result in fines or lead to companies being excluded from public tenders.

Ultimately, the rights of victims need to be strengthened. They should be able to file actions for damages at German courts against German companies that bear responsibility. The supply chain law needs to establish liability for companies that do not take adequate precautionary measures to prevent foreseeable and/or avoidable abuses. This equally applies to human rights abuses in supply chains or subsidiaries.

To which companies does the law on human rights due diligence obligations apply and what are the consequences?

The alliance demands a supply chain law that applies to all companies that do business in Germany, i.e. not only those with headquarters or branch offices in the country, but also foreign companies that regularly import products to Germany. The law would then ensure that products traded in Germany truly meet with human rights standards. Such a regulation would also help allay fears that the law could offer an advantage to foreign companies that do not observe these standards in their supply chains.

Human rights abuse risks are particularly high for large corporations with complex value chains. The supply chain law therefore should target all companies with at least 250 employees, an annual turnover of at least €40 million, or total assets of over €20 million. Smaller companies should only fall under the legislation if their main activities are in defined risk sectors – for example the textile or automotive industry.

In practice, companies would be asked to assess the human rights and environmental risks related to their business and to provide adequate safeguards that either prevent or mitigate human rights abuses and environmental damage. Adequacy should be defined based on the expected severity of the potential damages to humans and the environment, such as the number of people affected, as well as with regard to the business context. The greater the risk for systematic rights abuses and the more direct the link to a supplier, the greater the company's efforts will have to be to prevent damages.

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