

OSCE Conference “The Public-Private Partnership in the Fight Against
Human Trafficking”

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THE RECENT PROGRESS TO STRENGTHEN THE PUBLIC-PRIVATE PARTNERSHIP IN THE FIGHT AGAINST HUMAN TRAFFICKING

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RÉPUBLIQUE FRANÇAISE

Premier ministre

SECRÉTARIAT D'ÉTAT
CHARGÉ DE L'ÉGALITÉ
ENTRE LES FEMMES
ET LES HOMMES

I. Major legislative reform: the due diligence law of March 27th 2017

Objectives

- to give **greater responsibility to large firms** in order to avoid human rights and environmental violations in France and abroad. It requires an assessment and mitigation of human rights infringements and environmental risks regarding their activities and those of the whole supply chain, though the establishment of a “vigilance plan”.
- an **extensive approach** of the risks resulting from the company’s activities or its supply chain : from the protection of human rights (including decent work and, as a consequence, punishing all forms of trafficking for labour purposes and child labour) to the environment.

Context

- Introduced in 2013 after the Rana Plaza disaster, commonly called “the Rana Plaza law”.



- 4 years of intense debate at the parliament. After final adoption by the parliament on the 21st of February, a referral was made to the Constitutional Council, which deleted several provisions such as the civil penalty of 10 millions euros fines.

International movement

- Due diligence concept in :
 - 2011 “United Nations’ guiding principles on business and human rights”
 - UN international treaty on companies and human rights debates
 - ILO, G7 and G20 discussions
 - OCDE Materials
 - Council of Europe Resolutions
- Similar initiatives in neighbouring countries :
 - The UK : Modern Slavery Act, 2015
 - The Netherlands : passing a bill on due diligence and child labor.
 - Italy : the Government announced in December 2016 that it would carry out legal clarifications with a view to introducing a duty of due diligence.



Scope of the law

- Companies concerned with at least :
 - 5 000 employees in their head office (in France) and in their direct and indirect subsidiaries : head office in France, with at least
 - 10 000 employees in their head office (in France or abroad) and in their direct and indirect subsidiaries.
 - Between 150 and 200 entities, which represents 2/3 of international trade by French companies
- “Vigilance plan” includes : *“Reasonable vigilance measures to identify risks and to prevent serious violations of human rights and fundamental liberties, affecting health and safety of people as well as the environment, resulting from the activities of the company as well as those of their subsidiaries and suppliers with whom they had established business relationship.”*

- **Content of the vigilance plan :**
 - Risks mapping,
 - Regular evaluation procedure of subsidiaries and subcontractor
 - Appropriate actions to mitigate risks or prevent serious damage
 - Warning and collection mechanisms for reports on the existence or the realization of risks
 - Monitoring mechanisms on the implemented measures, assessing their effectiveness
- **Risks in case of non compliance :**
 - Formal notice and injunction made by a judge
 - Civil liability engaged in case of damage if it is proven the business has not taken appropriate measures to prevent it
 - Reputational risks in particular through the publication, distribution or display of the decision or an excerpt of the decision.



It has to be noted that the law establishes an obligation of means and not an obligation of results.

The publication of the vigilance plan and the reporting on its implementation of the vigilance plan remains the best way to prove its good faith in the performance of the due diligence.

The existence of damage does not ipso facto prove the ineffectiveness of the plan of vigilance or its poor execution.

I. The institutional framework to strengthen the public- private partnership

The National Action Plan against THB (2014-2017)

- *Measure n°4* : Conclusion of a partnership agreement between professional organizations, trade unions and consular chambers in order to sensitize the business community on the consequences of the use of forced labor or the employment of victims of THB (*on going discussions*)/ Action also part of the Nation Plan to combat illegal employment (2016-2018)
- *Aims* :
 - Awareness raising measures in business
 - Training of employees and employers
 - Local applicability strengthening partnerships among actors
 - Encouraging "due vigilance principle" to a broader range of actors

The National Action Plan for the implementation of the United Nations Guiding principles on Business and Human rights adopted on April 2017

Drawn up by the inter-ministerial working group lead by the French Ambassador on charge of Social Corporate responsibility, based on the orientations of the National Consultative Commission on Human Rights and the Corporate Social Responsibility Platform. It reflects several commitments of the State such as :

- Monitoring the implementation of the law on the duty of vigilance of companies
- Strengthening vigilance, particularly in sectors and countries at risk in the field of human rights
- Raising awareness within French companies on their obligations in the exercise of the duty of care on mineral supply chains, on the basis of relevant regulatory initiatives
- Strengthening the training of employees on human rights and business issues

The Corporate Social Responsibility Platform

- Installed by the Prime Minister in June 2013, the platform is composed of :
 - Representatives of companies
 - Representatives of employees
 - NGOs & Multi-stakeholder structures
 - Central administrations
 - Parliamentarians
 - Local authorities...
- Mission : *“Issue opinions on the matters referred to the platform [eg. national action plan, due vigilance law...] and makes recommendations on the social, environmental and governance issues raised by corporate social responsibility”*
- Launched in 2016 a Working group on "Responsible relations between mother companies and suppliers"



President, H el ene Vallade
Director Sustainable development
GDF Suez Group , Director C3D

Thank you for your attention



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