

Why all companies  
need to be included  
in due diligence  
and corporate  
accountability  
legislation

An analysis of the Dutch textiles  
and garment sector

# Table of contents /

|   |           |
|---|-----------|
| <b>Executive Summary</b>  | <b>2</b>  |
| <b>1. Introduction</b>  | <b>3</b>  |
| <b>2. The responsibility of all companies to respect human rights and the environment</b> | <b>5</b>  |
| <b>3. Current thresholds in due diligence and corporate accountability legislation</b>    | <b>8</b>  |
| The French Duty of Vigilance Law  | 8         |
| The German Supply Chain Act   | 8         |
| The Dutch Bill on Responsible and Sustainable International Business Conduct              | 8         |
| The European Parliament's proposal for an EU Directive                                    | 9         |
| <b>4. Methods</b>   | <b>10</b> |
| Company and market share data   | 10        |
| Selection of companies  | 11        |
| Data availability   | 12        |
| Analysis  | 12        |
| <b>5. Implications of thresholds in the Dutch Garment and Textiles sector</b>             | <b>13</b> |
| Overview of the Dutch garment and textiles sector   | 13        |
| Companies in the Dutch Agreement on Garment and Textiles                                  | 15        |
| <b>6. Conclusions and Recommendations</b>   | <b>22</b> |
| <b>Annex</b>  | <b>24</b> |
| <b>References</b>   | <b>26</b> |

# Executive Summary

This study analyses the limiting impact of using a company size threshold in future due diligence and corporate accountability regulation in the Netherlands and the EU. Based on an analysis of the Dutch textiles and garment sector as a whole and the companies participating in the Dutch Responsible Business Conduct (RBC) Agreement on Sustainable Garments and Textiles (AGT), this study finds that **any company size threshold would very strongly limit the number of companies covered by future due diligence legislation**. If a high company size threshold, as currently applied in the French Duty of Vigilance Law and the German Supply Chain Law, were to be used in future Dutch and EU due diligence regulation, this would mean only a very limited number of companies would have to comply with mandatory due diligence obligations. In contrast, small and medium-sized enterprises (SMEs), just like large enterprises, face severe risks in their value chains and can be directly linked or contribute to human rights violations or environmental damage.

The percentage of AGT member companies that would fall within the scope of such legislation ranges from seven per cent with the 5,000-employee threshold used in the French Duty of Vigilance Law to nine per cent with the 3,000-employee threshold and 14 per cent with the 1,000-employee threshold used in the German Supply Chain Law. A 500-employee threshold means the share of AGT participants that would be covered by a due diligence obligation would only increase to 19 per cent. The 250-employee minimum, proposed in the Dutch Bill on Responsible and Sustainable International Business Conduct, would mean only approximately one third of the AGT members would fall within the scope of the law. However, data on the Dutch textiles and garment sector as a whole show that an estimated 95 per cent of all companies in the sector are small and medium-sized enterprises. This means that even a law with a 250-employee threshold would only apply to approximately 5 per cent of the companies in the textiles and garment sector, while the remaining 95

per cent would continue to be able to operate without any binding obligations to respect human rights and the environment in their value chains.

This report therefore asserts that **future due diligence and corporate accountability legislation should apply to companies of all sizes**. This is in line with the OECD Guidelines for Multinational Enterprises and UN Guiding Principles on Business and Human Rights, which emphasise that all enterprises, regardless of their size, have a responsibility to respect human rights and the environment. For effective and meaningful regulation which succeeds in addressing human and labour rights violations of workers and communities, and environmental damage in global value chains, it is vital that legislation covers all companies, rather than a highly limited group of large enterprises.

# 1. Introduction

Now that several EU member states and the European Commission have adopted, or are working on, mandatory corporate accountability and due diligence legislation, intense debates have started on the scope of such regulation. The existing normative frameworks for responsible business conduct, the UN Guiding Principles on Business and Human Rights and the OECD Guidelines for Multinational Enterprises, make clear that all companies, regardless of size, have the responsibility to respect human rights and the environment in their operations and value chains. However, several business lobby groups are now acting to limit the scope of future regulation as much as possible, suggesting that it should only apply to large or very large enterprises. For example, in the Netherlands, the business lobby group VNO-NCW has suggested limiting the scope of future regulation to companies with more than 3,000 or even 5,000 employees.<sup>1</sup> In Germany, after intense lobbying efforts from business<sup>2</sup>, it was decided that the Supply Chain Law will initially only apply to companies with more than 3,000 employees, followed by a 1,000-employee threshold as from 2024.<sup>3</sup>

This report makes the case for mandatory due diligence and corporate accountability legislation that applies to companies of all sizes. Not only is this in line with the current normative framework for responsible business conduct, it is also a prerequisite for effective regulation that succeeds in addressing human rights and labour rights violations and environmental damage in value chains worldwide, including in the textiles and garment sector. For due diligence regulation to have an impact on the lives of workers and communities worldwide, it is imperative that all companies in a sector, rather than just a small number of very large companies, take action to prevent and mitigate human rights violations and environmental damage in their value chains. In line with the OECD Guidelines, this report argues that all companies should be required to conduct due diligence for responsible business conduct in a manner that is proportional to the severity of the risks and the size and context of the enterprise.

**“All companies, regardless of size, have the responsibility to respect human rights and the environment in their operations and value chains.”**

If legislation were only to apply to a select group of companies, this would lead to a de facto perpetuation of the current situation in which respect for human rights and the environment in global value chains largely depends on the voluntary efforts by companies, and in which violations of the human rights and environmental standards in global value chains largely go unpunished.

To demonstrate the impact of using company size thresholds, this study analyses what such thresholds would mean in terms of the number of companies in the Dutch textiles and garment sector that would be covered by due diligence regulations. The report does so based on publicly available data on the sector as a whole and an analysis of the companies that participate in the Dutch Responsible Business Conduct (RBC) Agreement on Sustainable Garments and Textiles (AGT). The study specifically looks at the impact of the company size thresholds that have been proposed in the French Duty of Vigilance Law (5,000 employees), the German Supply Chain Law (3,000 and 1,000 employees) and the Dutch Bill on Responsible and Sustainable Business Conduct (250 employees), as well as the 500-employee threshold currently used in the EU Non-Financial Reporting Directive.

The report first describes the responsibilities of all companies, including small and medium-sized enterprises, to respect human rights and the environment under the current normative framework for responsible conduct, in Chapter 2. Chapter 3 outlines the company size threshold criteria that currently exist in legislation or have been proposed for future legislation, after which the methods used for the analysis are discussed in Chapter 4. Chapter 5 presents the results of the analysis of the impact of different company size thresholds, followed by the conclusions and recommendations in Chapter 6.

## 2. The responsibility of all companies to respect human rights and the environment

In order to realise substantial and meaningful improvements for workers and communities in global supply chains, it is key that future due diligence and corporate accountability laws apply to companies of all sizes.<sup>4</sup> This means that instead of limiting the scope of new rules to large multinational enterprises, they should apply to companies of all sizes.<sup>5</sup> According to EU Directive 2013/34/EU of the European Parliament and the European Council, a company is categorised as large, medium, small or micro if it falls within at least two of the three thresholds of the respective company size category (Table 1).

**Table 1. Threshold criteria for large, medium, small and micro companies according to EU Directive 2013/34/EU (2013)<sup>6</sup>**

| Company size | Average number of employees (in FTE) | Net turnover (in EUR)  | Total asset value (in EUR) |
|--------------|--------------------------------------|------------------------|----------------------------|
| Large        | > 250                                | > 40,000,000           | > 20,000,000               |
| Medium       | 50 – 250                             | 8,000,000 – 40,000,000 | 4,000,000 – 20,000,000     |
| Small        | 10 – 50                              | 700,000 – 8,000,000    | 350,000 – 4,000,000        |
| Micro        | < 10                                 | < 700,000              | < 350,000                  |

A general due diligence obligation for companies of all sizes would mean all companies are required to conduct due diligence in a manner that is appropriate to the particular context in which they operate.<sup>7</sup> This is in line with the OECD Guidelines for Multinational Enterprises (2011), which state that “enterprises, regardless of their size, sector, operational context, ownership and structure, should respect human rights wherever they operate”.<sup>8</sup> The responsibility of all companies, including small and medium-sized enterprises (SMEs), to conduct due diligence has also been underlined by Shift<sup>9</sup>, the expertise centre on the UN Guiding Principles on Business and Human Rights (UNGPs), as well as the court in The Hague, the Netherlands, in its recent ruling in the Shell climate case.<sup>10</sup> Based on the UNGPs and OECD Guidelines, the court affirmed that under Dutch law, companies have a responsibility to respect human rights in their operations and value chains, which “applies to all enterprises regardless of their size, sector, operational context, ownership and structure.”<sup>11</sup>

The OECD Guidelines make clear that enterprises should “carry out human rights due diligence as appropriate to their size, the nature and context of operations and the severity of the risks of adverse human rights impacts”.<sup>12</sup> The Guidelines further specify that “the nature and extent of due diligence, such as the specific steps to be taken, appropriate to a particular situation will be affected by factors such as the size of the enterprise, context of its operations, the specific recommendations in the Guidelines, and the severity of its adverse impacts”.<sup>13</sup>

In other words, the OECD Guidelines state that the due diligence process by definition is proportional to, among other factors, the size of the company in question. A general due diligence obligation in line with the OECD Guidelines would therefore not imply that small and medium-sized enterprises must conduct due diligence in a manner that is identical to the due diligence processes of large multinational enterprises. The OECD Due Diligence Guidance for Responsible Business Conduct (2018) was specifically developed in response to a call by G7 governments for the OECD to establish “a common understanding on due diligence, *in particular for small and medium-sized enterprises*”.<sup>14</sup> The Guidance contains recommendations and practical advice for enterprises on how a company can conduct due diligence in a way that is appropriate to its circumstances, including company size, position in the supply chain and the nature of the products or services the company

provides.<sup>15</sup> The Guidance also states that smaller enterprises with a limited number of products or services may need less formalised and extensive due diligence systems than large enterprises with expansive operations and a wide range of products and services.<sup>16</sup> As such, conducting due diligence is not more or less complicated for smaller companies than it is for larger enterprises, but can be different depending on the company’s size and circumstances as well as the risks it faces. It must also be noted that within the category of SMEs, the way due diligence is conducted may be different in a medium-sized company with 200 employees than in a small enterprise with a dozen employees.

The OECD Due Diligence Guidance for Responsible Supply Chains in the Garment and Footwear Sector affirms that “SMEs, like all enterprises, have a responsibility to conduct due diligence”.<sup>17</sup> While the Guidance acknowledges that SMEs may have less knowledge and capacity to conduct due diligence, have less leverage, and rely more on business partners and other external sources for information than large companies, it also underlines that small and medium-sized companies have significant advantages over their larger counterparts.<sup>18</sup>

**“SMEs, like all enterprises, have a responsibility to conduct due diligence”.**

These advantages for SMEs include having fewer suppliers, having more open communication channels and being more able to quickly adapt procedures than large companies. The Guidance provides specific recommendations to SMEs in the garment and footwear sectors on how to conduct due diligence in their supply chains, including actively seeking information, improving supplier selection processes, consolidating the number of suppliers from which they source and engaging with multi-stakeholder, sectoral initiatives.<sup>19</sup> Collaborating through such initiatives can also help SMEs to share and reduce the cost of conducting due diligence.<sup>20</sup> The Shift expertise centre emphasises that SMEs often have an internal business culture as well as high-quality, long-term supplier relationships that are conducive to integrating responsible business conduct in their operations and value chains.<sup>21</sup>

There is a strong need for including enterprises of all sizes in the scope of future due diligence regulations, rather than limiting their focus to exclusively apply to large or even very large enterprises. SMEs play a crucial role, both in terms of numbers of companies and value added in many sectors in the EU economy, including the textiles and garment sector.<sup>22</sup> In the EU, 98.9 per cent of all companies are SMEs, which produce 55.9 per cent of the total value added in the EU economy.<sup>23</sup> SMEs thus have a strong impact on preventing and mitigating violations of human rights and labour rights and environmental damage in global supply chains.<sup>24</sup> SMEs in the textiles and garment sector, for example, can cause, contribute or be directly linked to the exploitation of workers, gender-based discrimination and environmental pollution in their value chains. Research by SOMO and the Clean Clothes Campaign into 34 brands that participate in the Dutch AGT, including 12 SMEs, observed a strong lack of transparency among these companies, including with regard to taking action to ensure a living wage is paid to garment workers.<sup>25</sup>

As stated above, the current normative framework for responsible conduct, including the OECD Guidelines,<sup>26</sup> already applies to SMEs. This has been reaffirmed by e.g. the Dutch government, which explicitly states that all companies should operate in accordance with the OECD Guidelines. The Dutch National Contact Point (NCP) for the OECD Guidelines, too, has stated that “the size of an enterprise does not affect its responsibility to conduct due diligence” in its final statement in a case that had been filed against an SME.<sup>27</sup> The NCP also provided specific

recommendations to the company on how to improve its due diligence.<sup>28</sup> Future due diligence legislation that is based on the OECD Guidelines therefore would not impose new obligations on SMEs.

It must also be noted that even if the scope of future legislation would be limited to large enterprises on paper, there is a risk it would indirectly affect many SMEs in practice in any case. Many SMEs are part of the supply chains of large multinational enterprises and would therefore still have to participate in these companies' due diligence processes and comply with their requirements.<sup>29</sup> Conversely, the due diligence processes of large multinational enterprises would also benefit from a due diligence obligation for SMEs, as legislation will create clear expectations and a non-negotiable standard for all companies. Some SMEs are subsidiaries of large multinational enterprises, which would complicate matters further. It would thus be preferable to include SMEs in the scope of future legislation directly. This would enable legislators to include specific provisions on the requirements for SMEs in future due diligence laws and thus make clear what is expected of SMEs.

Many SMEs themselves support the introduction of due diligence legislation that would also apply to small and medium-sized companies. In 2020, Dutch SME network MKB-Nederland expressed its support for including all companies in the scope of due diligence legislation by supporting the Dutch Social-Economic Council's (SER) advisory report on future responsible business conduct regulation.<sup>30</sup> The report advised the Dutch government to develop legislation at either the EU or national level that applies to “the broadest possible group of companies (including SMEs)”.<sup>31</sup> The Dutch business network MVO Nederland, with over 2,000 company members, of which most are SMEs, has also called upon the Dutch government to implement such legislation.<sup>32</sup> Several dozen SMEs have joined the Dutch Initiative for Sustainable and Responsible Business Conduct (IDVO), which advocates the introduction of due diligence legislation in the Netherlands.<sup>33</sup>



# 3. Current thresholds in due diligence and corporate accountability legislation

This section outlines the company size thresholds that have currently been included in due diligence and corporate accountability laws or legislative proposals in France, Germany, the Netherlands and the European Parliament.

## The French Duty of Vigilance Law

The French Duty of Vigilance Law (Loi sur le devoir de vigilance) applies to all companies registered in France that employ at least 5,000 staff in France, including through subsidiaries, or at least 10,000 staff worldwide, again including subsidiaries.<sup>34</sup>

## The German Supply Chain Law

The German Supply Chain Law (Gesetz über die unternehmerischen Sorgfaltspflichten in Lieferketten) defines its scope as all companies with over 3,000 employees and their headquarters in Germany.<sup>35</sup> Employees working at subsidiary companies should be included in these numbers. In 2024, one year after the law enters into force, the threshold will be lowered to a minimum company size of 1,000 employees.

## The Dutch Bill on Responsible and Sustainable International Business Conduct

The Dutch Bill on Responsible and Sustainable International Business Conduct (wetsvoorstel Verantwoord en Duurzaam Internationaal Ondernemen) imposes a duty of care to prevent violations of human rights and environmental standards and an obligation to conduct due diligence in accordance with the OECD Guidelines. The duty of care applies to all companies registered in the Netherlands as well as foreign companies that sell products or services on the Dutch market. The due diligence obligation applies to all companies in the Netherlands and companies operating on the Dutch market that exceed two of the three threshold criteria<sup>36</sup>:

- Total asset value: 20 million euros
- Net turnover: 40 million euros
- Average number of employees: 250 employees

The Bill specifies that it also applies to a company's subsidiary companies, which means that a company needs to include these subsidiaries when assessing whether it meets the threshold criteria.<sup>37</sup>

The Dutch government has not taken an official position on the threshold criteria yet, but has previously stated it was against imposing a legal due diligence obligation on companies of all sizes.<sup>38</sup> It has suggested setting the minimum threshold at a staff size of 500 employees, in combination with either of the two other threshold criteria that are also used in the Bill on Responsible and Sustainable International Business Conduct.<sup>39</sup> This is the same threshold the Dutch government currently uses for monitoring the number of large companies that have publicly committed to the OECD Guidelines or UN Guiding Principles.<sup>40</sup> A 500-employee threshold is also used in the EU Directive on Non-financial reporting<sup>41</sup>, which is currently being revised and will likely cover more companies in the future.<sup>42</sup> The Dutch government is expected to announce its official position on the scope of due diligence legislation in September 2021.

## The European Parliament's proposal for an EU Directive

The Wolters report, which was adopted by the European Parliament in March 2021, recommends that a future EU Directive on Due Diligence apply to large enterprises, as well as SMEs that are publicly listed and SMEs in sectors with high risks of human rights violations or environmental damage.<sup>43</sup>

# 4. Methods

This report aims to show to what extent different company size thresholds limit the scope of future due diligence and corporate accountability regulation in the Dutch garment and textiles sector. Sectoral statistics were used to estimate the share of SMEs in the sector. In addition, due to the lack of clear and comprehensive data on the share of SMEs in this sector, this study analyses a sample of textiles and garment companies. The companies participating in the Dutch AGT were selected for this sample, because it provides a clear and demarcated group of companies in the sector. As the AGT is part of the Dutch government's policy to promote responsible business conduct, an analysis of which percentage of companies would be affected by regulation if a threshold were to be used can provide useful insights into the potential effectiveness of future RBC policies and regulations.

## Company and market share data

Data on the number of companies and their staff sizes in the Dutch textiles and garment sector was retrieved from Statistics Netherlands (Centraal Bureau voor de Statistiek, CBS). The statistical company categories (SBI categories) that were selected to retrieve these figures are the same ones the Dutch knowledge platform Retail Insiders uses for its data dashboard. Three subcategories in the Wholesale company category were added to these figures (see Table 2).<sup>44</sup> The Statistics Netherlands data distinguish between different company sizes under 250 employees, but not above the 250-employee threshold.

However, the figures from Statistics Netherlands do not provide a fully accurate representation of the actual number of companies in the Dutch textiles and garment sector. First, the figures include sole proprietorship enterprises in the 1-employee category, which in many cases, albeit not all, represent freelance workers (in Dutch: zelfstandigen zonder personeel, zzp'ers) instead of actual enterprises. Moreover, some companies that are relevant to the textiles and garment sector, such as department stores, are not included in these figures as they are

statistically classified under other SBI categories, e.g. "47.19 - Department stores". A sample search in the Company.info database also revealed that some large garment companies are classified as other types of companies outside of the textiles and garment sector, such as holding companies.<sup>45</sup> Finally, the total number of large companies with more than 250 employees appears to be on the low side compared to the number of large retail chains that actually operate in the Dutch textiles and garment sector. This is discussed further in chapter 5.

To increase accuracy, the data from the Statistics Office were triangulated with other figures that are publicly available. SOMO also contacted the secretariat of the AGT as well as Modint and InRetail business associations to request further information on the composition of the Dutch textiles and garment sector. All information in this report, including the estimation of the market share of SMEs in chapter 4, is based entirely on publicly available information. It must be noted that this figure serves as an approximate estimation only.

## Selection of companies

The list of companies participating in the AGT was retrieved from the AGT website in April 2021. In total, the website lists 81 brands that participate in the agreement. Several brands are owned by the same parent companies (e.g. TC WOW and ten Cate, both owned by L. Ten Cate BV, or Esprit for Mom by Noppies, Imps and Elfs, Nop, Noppies, Queen Mom and Supermom, all owned by NINE & Co. BV). Some companies were listed twice (e.g. The Cookie Company Group BV and The Cookie Company BV). Other brands were listed as being individual companies, but in fact have the same parent company (i.e. Fully Fashion BV and Knits Only BV, both owned by dBC Fashion BV). The listed names of a small number of companies appeared to be outdated and were replaced by the current company names for the analysis.

The Dutch Bill on Responsible and Sustainable International Business Conduct applies to companies that are registered in the Netherlands or foreign companies that market products in the Netherlands. In this analysis, it was assumed that the Bill applies to companies registered in the Netherlands directly rather than to their foreign parent companies which are not registered or do not directly market their products in the Netherlands (e.g. it was assumed the Bill applies to the Dutch company Esprit Europe BV, rather than the Hong Kong-based parent company Esprit Holdings Ltd). For these companies with foreign parent companies, the figures in the annual accounts of the Dutch subsidiary company were used (e.g. Fristads BV, owned by the Sweden-based Hulfator Group, or Esprit Europe BV, a subsidiary of Esprit Hong Kong Ltd). This also applies to Dutch companies with the same foreign parent company (e.g. WE Europe BV and O'Neill Europe BV are both ultimately owned by Luxembourg-registered Quod Bonum SA). The two Belgian companies that participate in the AGT, Alsico NV and Van der Erve NV, were also included in the analysis, assuming that these companies would be considered foreign companies that directly sell products in the Netherlands.

For the companies that are part of larger holding companies which publish consolidated annual accounts, the accounts of the holding company were used for this assessment. An exception was made for ultimate beneficial owner holding companies that solely serve financial and/or structuring purposes and also contain subsidiaries in other sectors than the textiles and garment sector (for example, Tricorp BV's annual accounts were used rather than those of its ultimate owner Bella Beheer BV, as the latter also comprises other subsidiaries). When a company chooses to publish consolidated financial statements or annual accounts, this means it includes the accounts of subsidiaries in the holding's financial figures.<sup>46</sup> If the Dutch Bill enters into force, the due diligence obligation in these cases would automatically apply to the holding company and its subsidiaries. Many of the smaller companies, however, are part of holding companies that do not publish consolidated accounts. In these cases, the annual accounts of the subsidiary companies themselves were used for this analysis.

After adjusting the brand and company list for these factors, a total of 57 AGT companies remained for the analysis. The full list of names of parent companies and data sources that were used can be found in Annex.

## Data availability

A number of companies use corporate structures that make it impossible to access the annual accounts of these companies and properly assess whether or not they meet the threshold criteria for the proposed due diligence regulations. These companies are G-Star Raw CV, Vanilia CV, and C&A Netherlands CV. By using the Dutch legal form 'Commanditaire Vennootschap' (C.V.), a specific legal form that does not require the filing of annual accounts, these companies manage to avoid transparency about their turnover, assets and staff figures. Instead, in the cases of G-Star Raw CV (Savile Holding BV) and Vanilia (Vanilia the Shops BV), the annual accounts of the companies that are part of the corporate group and are publicly accessible were used. For C&A, data from corporate websites and media sources was used as a proxy. It must be noted that the figures from these sources are most likely incomplete as they probably do not fully comprise the companies in question (see Annex).

One other company, VOF Rademakers Fur & Fashion, is registered as a VOF ('Vennootschap onder Firma'), a business partnership between two individuals. No annual accounts need to be filed for this company type, although the number of employees could be derived from the company's extract at the Dutch business registry (Kamer van Koophandel).

The company Prénatal Moeder en Kind BV is a subsidiary of Prénatal Retail Group S.p.A. Ovvero, registered in Italy. The Dutch subsidiary does not publish its own figures, but files a yearly statement of consent ('instemmingsverklaring') at the Dutch business registry instead, which for this study means that the annual accounts of its parent company had to be used.

No public figures or estimations on the market shares of SMEs and large companies in terms of turnover and/or asset value were found. As SMEs are not required to publicly report turnover figures in their annual accounts, it was also impossible to estimate market shares based on the data of the companies participating in the AGT.

## Analysis

In order to determine whether the selected companies would be covered by the different thresholds listed in chapter 3, data on the number of employees, total asset value and net turnover was retrieved from the companies' annual accounts. Most of these accounts were extracted from Company.info, a subscription database through which annual accounts and other documents that companies file at the Dutch business registry Kamer van Koophandel can be accessed. If necessary, annual accounts and other documents, such as extracts and filing overviews, were purchased directly from the Kamer van Koophandel registry, as well as the Belgian and Italian business registries. For most companies, the 2019 annual accounts were used, while the 2019/2020 reports were used for a small number of companies whose reporting cycles differ from calendar years. 2019 was selected as more recent data was not yet available for most companies at the time the research was conducted. Older figures were used if the data for 2019 was unavailable. Information on the companies' ultimate owners and corporate structure was retrieved from Bureau van Dijk's Orbis corporate database. A full overview of the sources used is included in Annex.

Neither the Dutch Bill nor the German Law specify whether the staff size threshold applies to a company's number of employees within the respective country or globally. For this analysis, it was assumed the staff size thresholds refer to the total number of staff a company employs, regardless of the location of this staff.

The SOMO Code of Conduct states that companies that are mentioned in SOMO publications in principle are given the right to reply to a draft version of the research findings.<sup>47</sup> For this report it was decided not to conduct a company review. This report focuses on policy debates in the field of due diligence and corporate accountability legislation and does not contain any new findings or allegations regarding the conduct of the companies that are mentioned in the report. The cases that are mentioned in Box 1 are existing examples that were previously published or refer to information that was published by the companies involved. The company data used are figures these companies published themselves or submitted to the Dutch, Belgian or Italian business registries. All figures that were used are publicly accessible. The full references to the data sources can be found in Annex I.

# 5. Implications of thresholds in the Dutch Garment and Textiles sector

## Overview of the Dutch garment and textiles sector

Based on a combination of indicators, this report estimates the share of SMEs in the Dutch garment and textiles sector to be approximately 95 per cent. Exact figures are unavailable due to a number of reasons (see section 4).

According to Statistics Netherlands (CBS), based on data from the Dutch business registry (Kamer van Koophandel, KvK)<sup>48</sup>, 14,385 companies were registered in the statistical categories for the textiles and garment sector at the end of 2019 (Table 2).<sup>49</sup> Of these companies, 99 per cent have fewer than 250 employees and are thus considered SMEs.<sup>50</sup> Excluding companies with one employee, many of which are likely to be freelance workers (see chapter 4), the sector contains 6,615 registered companies, of which still 99 per cent are SMEs. These figures correspond with estimations of the share of SMEs in the sector at the EU level by Euratex, the European business association for textiles and clothing companies.<sup>51</sup>

According to the CBS/KvK figures, there are 35 textiles and garment companies with more than 250 employees in the Netherlands. These figures are not entirely accurate, however, as they most likely underestimate the number of large companies in the garment and textiles sector.<sup>52</sup>

According to data from the Dutch knowledge platform Retail Insiders, the total net turnover of the textiles and garment retail sector was 13.8 billion euros in 2019, with an average turnover of 1.1 million euros per company.<sup>53</sup>

Retail Insiders data, based on information from retail research company Locatus, shows that the number of large companies in the Dutch textiles and garment sector is higher than the Statistics Office figures suggest. According to Retail Insiders, there are 127 retail chains in the Dutch textiles and garments sector with at least ten shops in the Netherlands and/or more than 100 employees (Table 3).<sup>54</sup>

**Table 2. Numbers of companies in the textiles and garment sector in the Netherlands in 2019 (fourth quarter), according to Statistics Netherlands.<sup>53</sup>**

| SBI categories   | Total number of companies | Number of companies based on staff size |              |              |            |          |
|--|---------------------------|---|--------------|--------------|------------|----------|
|  |                           | 1                                       | 1-50         | 1-250        | 50-250     | > 250    |
| <b>Wholesale trade (46)</b>  |                           |   |              |              |            |          |
| 4616 agents involved in the sale of textiles, clothing, footwear and leather goods | 1,515                     | 1,175                                   | 340          | 340          | -          | -        |
| 4642 wholesale of clothes, footwear and clothing accessories                       | 3,455                     | 2,045                                   | 1,355        | 1,405        | 50         | 5        |
| 4641 wholesale of clothing fabrics, haberdashery and household textiles            | 445                       | 260                                     | 180          | 185          | 5          | -        |
| <b>Retail trade (47)</b>   |                           |   |              |              |            |          |
| 4751 shops selling clothing fabrics, household textiles and haberdashery           | 575                       | 410                                     | 165          | 165          | -          | -        |
| 4771 shops selling clothes and clothing accessories: textile supermarkets          | 8,395                     | 3,845                                   | 4,435        | 4,520        | 85         | 30       |
| <b>Total</b>   | <b>14,385</b>             | <b>7,735</b>                            | <b>6,475</b> | <b>6,615</b> | <b>140</b> | <b>5</b> |

Sixty of these companies have at least 25 shops. This overview does not contain all large companies operating in the Dutch textiles and garment sector, e.g. warehouses, web shops (such as large garment and textiles web shops, such as Wehkamp, Zalando or Otto) or non-retail textiles and garment enterprises (e.g. workwear companies). No clear data on these sub-sectors was found. Nevertheless, the Retail Insiders figures do provide a strong indication that the total number of large companies in the sector is larger than the 35 the Statistics Office reports, as it seems reasonable to assume that a retail company in the textiles and garment sector with at least 25 shops employs over 250 staff, while large companies with fewer than 25 shops may in some cases also employ over 250 staff.

Taking into account the underreporting of the number of large companies in the sector by Statistics Netherlands, it appears reasonable to estimate that SMEs comprise approximately 95 per cent of the total number of companies in the Dutch textiles and garment sector (instead of the 99 per cent reported by CBS/KvK).

**Table 3. Overview of garment and textiles retail chains in the Netherlands, as listed by Retail Insiders and Locatus.<sup>55</sup>**

|                           | Number of shops |           |           |          |           | Total      |
|---------------------------|-----------------|-----------|-----------|----------|-----------|------------|
|                           | 10-25           | 25-50     | 50-75     | 75-100   | >100      |            |
| General textiles shops    | 4               | -         | -         | -        | -         | 4          |
| Baby and youth fashion    | 1               | -         | -         | -        | -         | 1          |
| Body fashion              | 1               | 1         | -         | -        | -         | 4          |
| Women's and men's fashion | 28              | 11        | 6         | 2        | 5         | 52         |
| Women's fashion           | 20              | 14        | 4         | 2        | 2         | 42         |
| Men's fashion             | 12              | 5         | 3         | -        | -         | 20         |
| Textiles supermarkets     | 1               | 1         | -         | -        | 2         | 4          |
| <b>Total</b>              | <b>67</b>       | <b>32</b> | <b>13</b> | <b>4</b> | <b>11</b> | <b>127</b> |

## Companies in the Dutch Agreement on Garment and Textiles

Due to the lack of clear and comprehensive data on the share of SMEs in the Dutch textiles and garment sector, this study takes the company members of the AGT as a sample of textiles and garment companies in the Netherlands. The analysis of the 57 AGT member companies shows that 67 per cent of these companies are SMEs. As the number of companies participating in the AGT (57) is only a fraction of the total number of companies in the Dutch textiles and garment sector, it is unclear to what extent this proportion of SMEs is representative of the sector as whole. Despite the relatively small number of companies that participate in the AGT and the absence of large international fashion retailers that have a strong presence on the Dutch market, such as H&M, Zara and Primark<sup>56</sup>, the AGT claims that its members have a combined market share of 40-45 per cent.<sup>57</sup>

The analysis reveals that all potential thresholds exclude the majority of the companies participating in the AGT (Tables 4 and 5). The highest thresholds

even exclude almost all companies, meaning that due diligence and corporate accountability regulations with these thresholds would only apply to a very limited number of companies.

When applying the employee number threshold currently used in the French Duty of Vigilance Law (minimum 5,000 employees), without assessing the location in which the staff is based (in the home country or worldwide), only the four largest companies (7.0 per cent of the AGT companies) fall within the scope of the Law. The threshold of 3,000 employees, as laid down in the German Supply Chain Act, provides a similar picture: only five companies (8.8 per cent) exceed this minimum. Some of the largest and most well-known companies in the Dutch garment and textiles sector, such as De Bijenkorf and The Sting, would not be covered by legislation if this threshold were to be used.



A total of eight companies (14.0 per cent) would be included in the scope of legislation if the lower threshold of 1,000 employees is used. With a 500-employee threshold, only eleven of 57 AGT companies (19.3 per cent) would fall within the scope of future legislation. Large and well-known brands in the Dutch garment and textiles sector, such as Esprit, O'Neill or America Today, would still be exempt from legal due diligence obligations (Box 1). Esprit is a large multinational enterprise, with a global net turnover of HKD 12.9 billion (EUR 1.5 billion) and 4,910 employees in 2019.<sup>58</sup> However, in this study it is assumed that Esprit Europe BV would be the company required to comply with the Dutch Bill on Responsible and Sustainable Business Conduct, as it is based in the Netherlands and responsible for selling Esprit's products in the Dutch market.<sup>59</sup> For this reason, Esprit Europe BV's figures were used for the threshold analysis.

The requirement in the Dutch Bill on Responsible and Sustainable International Business Conduct to meet two of three threshold criteria, among which a minimum of 250 employees, would mean the legal due diligence obligation would apply to 35.1 per cent of the companies (n=20) participating in the AGT. Thirty-eight companies would not be covered by the Bill. This group includes 13 medium-sized companies, with an average staff size of 68.5 FTE. The remaining group of 25 companies are considered small companies according to the EU's classification criteria (Table 1).

In other words, each threshold criterion leads to the exclusion of a large number of AGT member companies from the legal obligation to conduct due diligence in accordance with the OECD Guidelines. The proportion of AGT companies excluded ranges from 67 per cent with the lowest threshold, up to 93 per cent if the highest is used. For the Dutch textiles and garment sector as a whole, an estimated 95 per cent of companies would be excluded even with the lowest threshold. Given the severity of the human rights and labour rights violations and the risks thereof in the textiles and garment sector, to which AGT companies have also been linked (Box 1), it is of crucial importance to include all AGT companies as well as all companies operating in the Dutch market in the scope of future due diligence regulation, regardless of the number of employees, total asset value or net turnover.

**“The highest thresholds even exclude almost all companies, meaning that due diligence and corporate accountability regulations with these thresholds would only apply to a very limited number of companies.”**

### Box 1. Examples of company links to human rights and labour rights risks in the textiles and garment sector.

Several of the AGT companies that would not fall under a due diligence obligation if a 500-employee threshold were to be used have been linked to cases of human rights or labour rights violations, or themselves report on having detected these risks in their supply chains. These companies also source from several high-risk countries. Examples include:

- According to the Worker Rights Consortium, Esprit failed to make a commitment to pay in full for orders that were completed or in production due to the Covid-19 pandemic.<sup>60</sup>
- According to the Clean Clothes Campaign Fashion Checker, G-Star RAW and Esprit have not published any evidence that their suppliers pay their workers a living wage.<sup>61</sup>
- According to O'Neill's 2020 sustainability report, there are several human rights risks in its supply chain, including risks to safe working conditions, freedom of association and the payment of a living wage to workers.<sup>62</sup> The company sources directly from 25 production locations (tier-1) in several high-risk countries, including Myanmar, India, Bangladesh and China.<sup>63</sup>
- America Today reports that it has detected several human rights and labour rights risks in its supply chain, including risks related to decent working hours, occupational health and safety, living wages and forced labour.<sup>64</sup> The company sources from at least 65 tier-1 production locations in several high-risk countries, including China, India, Turkey and Bangladesh.<sup>65</sup>

**Table 4. Share of AGT member companies covered by legislation using company size thresholds**

| Threshold                          | Share of AGT member companies covered | Share of AGT companies falling outside of scope |
|------------------------------------|---------------------------------------|---|
| 5,000 Employees                    | 7.0% (4)                              | 93.0% (53)                                      |
| 3,000 Employees                    | 8.8% (5)                              | 91.2% (52)                                      |
| 1,000 Employees                    | 14.0% (8)                             | 86.0% (49)                                      |
| 1,000 Employees                    | 14.0% (8)                             | 86.0% (49)                                      |
| 500 Employees                      | 19.3% (11)                            | 80.7% (46)                                      |
| 250 Employees + financial criteria | 35.1% (20)                            | 64.9% (37)                                      |
|                                    | <b>Sector as a whole: ± 5%</b>        | <b>Sector as a whole: ± 95%</b>                 |

Table 5. Individual textiles companies covered by legislation using company size thresholds <sup>66</sup>

| Company name                              | Brands               | Company used for figures            | Assets (EUR)  | Net turnover (EUR) | Number of employees | Threshold (number of employees) |      |      |     |                  |
|---|----------------------|-------------------------------------|---------------|--------------------|---------------------|---------------------------------|------|------|-----|------------------|
|   |                      |                                     |               |                    |                     | 5000                            | 3000 | 1000 | 500 | 250 <sup>a</sup> |
| C&A Netherlands C.V. <sup>b</sup>         | C&A                  |                                     |               | 5,500,000,000      | 35,000              | Yes                             | Yes  | Yes  | Yes | Yes              |
| Hunkemöller International B.V.            | Hunkemöller          | HKM Holding BV                      | 1,014,493,000 | 521,826,000        | 6,761               | Yes                             | Yes  | Yes  | Yes | Yes              |
| Zeeman Textielsupers B.V.                 | Zeeman               | Zeeman Groep BV                     | 217,468,000   | 639,052,000        | 6,067               | Yes                             | Yes  | Yes  | Yes | Yes              |
| HEMA B.V.                                 | HEMA                 | HEMA B.V.                           | 1,783,200,000 | 1,259,000,000      | 5,757               | Yes                             | Yes  | Yes  | Yes | Yes              |
| Prénatal Moeder en Kind B.V. <sup>c</sup> | Prénatal             | Prénatal Retail Group S.p.A. Ovvero | 514,200,000   | 800,800,000        | 4,933               | No                              | Yes  | Yes  | Yes | Yes              |
| Magazijn De Bijenkorf B.V.                | de Bijenkorf         | St Clair BV                         | 1,134,515,000 | 500,162,000        | 1,840               | No                              | No   | Yes  | Yes | Yes              |
| The Sting House of Brands B.V.            | Costes, The Sting    | Basilicum BV                        | 96,142,000    | 260,659,000        | 1,658               | No                              | No   | Yes  | Yes | Yes              |
| We Europe B.V.                            | WE Fashion           | We International BV                 | 306,233,000   | 264,887,000        | 1,390               | No                              | No   | Yes  | Yes | Yes              |
| Wibra Supermarkt B.V.                     | Wibra                | Wibra Supermarkt B.V.               | 48,830,721    | 136,069,465        | 965                 | No                              | No   | No   | Yes | Yes              |
| J.O.G. Group B.V.                         | GARCIA, Jeans Centre | J.O.G. Group B.V.                   | 48,092,028    | 130,229,890        | 822                 | No                              | No   | No   | Yes | Yes              |
| G-Star Raw C.V. <sup>d</sup>              | G-Star RAW           | Savile Holding BV                   | 72,575,000    | 162,507,000        | 794                 | No                              | No   | No   | Yes | Yes              |
| O'Neill Europe B.V.                       | O'Neill              | Boardco BV                          | 41,588,000    | 78,610,000         | 411                 | No                              | No   | No   | No  | Yes              |
| Chasin' Wholesale B.V.                    | Chasin'              | Score Group BV                      | 21,049,567    | 51,438,598         | 388                 | No                              | No   | No   | No  | Yes              |
| America Today B.V.                        | America Today        | AT B.V.                             | 17,677,000    | 61,408,000         | 378                 | No                              | No   | No   | No  | Yes              |

| Company name  | Brands   | Company used for figure                   | Assets (EUR) | Net turnover (EUR) | Number of employees | Thresold (number of employees) |      |      |     |     |
|---|--|---|--------------|--------------------|---------------------|--------------------------------|------|------|-----|-----|
|   |  |   |              |                    |                     | 5000                           | 3000 | 1000 | 500 | 250 |
| B.V. Textiel Fabrieken H. van Puijenbroek h/o HaVeP     | HaVeP  | B.V. Textiel Fabrieken H. van Puijenbroek | 27,117,371   | 39,995,531         | 288                 | No                             | No   | No   | No  | Yes |
| Just Brands B.V.  | Cast Iron, PME Legend, Vanguard  | Just Brands B.V.                          | 44,527,000   | 147,558,000        | 280                 | No                             | No   | No   | No  | Yes |
| Euretco BV  | Babyface   | Euretco Holding BV                        | 95,621,000   | 55,331,000         | 267                 | No                             | No   | No   | No  | Yes |
| NINE & Co B.V.  | Esprit for Mums by Noppies, Imps & Elfs, Nop, Noppies, Queen Mom, Supermom | NINE & Co B.V.                            | 40,669,000   | 47,290,000         | 255.2               | No                             | No   | No   | No  | Yes |
| Esprit Retail B.V.                                      | Esprit   | Esprit Europe BV                          | 313,959,000  | 66,102,000         | 229                 | No                             | No   | No   | No  | Yes |
| Van der Erve N.V.                                       | Erve Europe  | Van der Erve NV                           | 26,971,955   | 72,951,556         | 13.2                | No                             | No   | No   | No  | Yes |
| Groenendijk Bedrijfskleding B.V.                        | Groenendijk Bedrijfskleding  | Groenendijk Bedrijfskleding B.V.          | 24,642,768   | -                  | 175                 | No                             | No   | No   | No  | No  |
| Vanilia C.V.®   | Vanilia  | Vanilia The Shops BV                      | 6,702,590    | -                  | 147                 | No                             | No   | No   | No  | No  |
| Alsico N.V.   | Alsico   | Alsico NV                                 | 21,074,037   | 33,090,453         | 99.8                | No                             | No   | No   | No  | No  |
| Van Es Home B.V.  | Covers & Co, Essenza Home  | Van Es Home B.V.                          | 16,505,416   | -                  | 95                  | No                             | No   | No   | No  | No  |
| Dare To Be B.V.   | Marlies Dekkers  | Dare to Be Holding BV                     | 7,941,221    | -                  | 83.1                | No                             | No   | No   | No  | No  |
| L.Ten Cate B.V.   | TC WOW, ten Cate, Tweka  | L. Ten Cate Group BV                      | 9,449,000    | -                  | 71                  | No                             | No   | No   | No  | No  |
| Micro Verkoop B.V.                                      | Michaelis, Micro Fashion, Profuomo   | Micro Verkoop B.V.                        | 17,415,512   | -                  | 59                  | No                             | No   | No   | No  | No  |
| Tricorp B.V.  | Tricorp  | Tricorp BV                                | 19,967,195   | -                  | 56                  | No                             | No   | No   | No  | No  |
| Heigo Nederland B.V.                                    | Heigo  | Heigo Nederland BV                        | 6,507,140    | -                  | 55                  | No                             | No   | No   | No  | No  |
| The Cookie Company B.V. / The Cookie Company Group B.V. | The Cookie Company, Foot Brands, HOME Brands                               | The Cookie Company B.V.                   | 11,320,853   | -                  | 52                  | No                             | No   | No   | No  | No  |

| Company name   | Brands                        | Company used for figure                         | Assets<br>(EUR) | Net turnover<br>(EUR) | Number of<br>employees | Thresold (number of employees) |      |      |     |     |
|--|-------------------------------|---|-----------------|-----------------------|------------------------|--------------------------------|------|------|-----|-----|
|  |                               |   |                 |                       |                        | 5000                           | 3000 | 1000 | 500 | 250 |
| Fully Fashion B.V. / Knits Only BV   | Fully Fashion, Knits Only     | dBC Fashion BV                                  | 7,700,230       | -                     | 46                     | No                             | No   | No   | No  | No  |
| Fab B.V.   | Fabienne Chapot               | Fab BV  | 5,763,073       | -                     | 43                     | No                             | No   | No   | No  | No  |
| Ducky Dons Nederland B.V.  | Castella, Ducky Dons, Silvana | Ducky Dons Nederland BV                         | 8,155,546       | -                     | 39                     | No                             | No   | No   | No  | No  |
| Dibella B.V.   | Dibella                       | Dibella BV                                      | 19,082,803      | -                     | 31.6                   | No                             | No   | No   | No  | No  |
| Emma Safety Footwear B.V.  | EMMA                          | Emma Safety Footwear B.V.                       | 7,881,519       | -                     | 28.5                   | No                             | No   | No   | No  | No  |
| LaDress B.V.   | LaDress                       | LaDress B.V.                                    | 2,926,926       | -                     | 27                     | No                             | No   | No   | No  | No  |
| Fristads Kansas Benelux B.V.   | Fristads Workwear             | Fristads BV                                     | 19,122,000      | -                     | 26.8                   | No                             | No   | No   | No  | No  |
| PWG Bedrijfsveilige Kleding B.V.   | PWG                           | PWG Bedrijfsveilige Kleding B.V.                | 4,517,999       | -                     | 26.3                   | No                             | No   | No   | No  | No  |
| Corn. Van Dijk B.V.  | Vandyck                       | Corn. Van Dijk B.V.                             | 12,672,468      | -                     | 22.5                   | No                             | No   | No   | No  | No  |
| Goose Craft B.V.   | Goose Craft                   | Goose Craft B.V.                                | 4,093,272       | -                     | 22                     | No                             | No   | No   | No  | No  |
| Schijvens Confectiefabriek<br>Hilvarenbeek B.V. / Schijvens<br>Corporate Fashion | Schijvens                     | Schijvens Confectiefabriek<br>Hilvarenbeek B.V. | 6,664,839       | -                     | 20.6                   | No                             | No   | No   | No  | No  |
| Company Fits B.V.  | Company Fits                  | Company Fits B.V.                               | 2,977,967       | -                     | 18                     | No                             | No   | No   | No  | No  |
| KOI International B.V.   | Kings of Indigo               | KOI International B.V.                          | 2,953,781       | -                     | 16.4                   | No                             | No   | No   | No  | No  |
| O My Bag B.V.  | O My Bag                      | O My Bag B.V.                                   | 1,628,261       | -                     | 14.5                   | No                             | No   | No   | No  | No  |
| Mauritz & Zn. B.V.   | Mauritz Workwear              | Mauritz & Zn. B.V.                              | 1,838,640       | -                     | 12.3                   | No                             | No   | No   | No  | No  |

| Company name                                       | Brands   | Company used for figure      | Assets<br>(EUR) | Net turnover<br>(EUR) | Number of<br>employees | Thresold (number of employees) |            |             |             |             |
|--|--|------------------------------|-----------------|-----------------------|------------------------|--------------------------------|------------|-------------|-------------|-------------|
|  |  |                              |                 |                       |                        | 5000                           | 3000       | 1000        | 500         | 250         |
| Emergo Textile Projects B.V.                       | ETP  | Emergo Textile Projects B.V. | 3,619,995       | -                     | 12                     | No                             | No         | No          | No          | No          |
| Yongo Europe B.V.                                  | Arrivee, GCM Henderson,<br>GCM Originals, Meantime | Yongo Europe B.V.            | 1,197,620       | -                     | 11                     | No                             | No         | No          | No          | No          |
| Donsje Amsterdam B.V.                              | Donsje Amsterdam                                   | Donsje Amsterdam BV          | 790,707         | -                     | 10.6                   | No                             | No         | No          | No          | No          |
| Okimono B.V. <sup>!</sup>                          | Okimono  | Okimono B.V.                 | 169,089         | -                     | 9                      | No                             | No         | No          | No          | No          |
| Star Sock B.V.                                     | Star Sock  | Star Sock B.V.               | 2,407,047       | -                     | 9                      | No                             | No         | No          | No          | No          |
| H.J. de Rooy Lederwaren                            | H.J. De Rooy Lederwaren                            | H.J. De Rooy Lederwaren      | 2,224,408       | -                     | 8                      | No                             | No         | No          | No          | No          |
| LC Kidswear B.V.                                   | LC Kids  | LC Kidswear B.V.             | 1,586,045       | -                     | 7                      | No                             | No         | No          | No          | No          |
| Forever Workwear <sup>9</sup>                      | Indushirt  | Forever Workwear             | -               | -                     | 4                      | No                             | No         | No          | No          | No          |
| Kuyichi BV   | Kuyichi  | Kuyichi BV                   | 958,005         | -                     | 4                      | No                             | No         | No          | No          | No          |
| Studio Anneloes B.V. <sup>h</sup>                  | Studio Anneloes                                    | Studio Anneloes B.V.         | 3,170,950       | -                     | 4                      | No                             | No         | No          | No          | No          |
| VOF Rademakers Fur & Fashion                       | Rademakers Fur & Fashion                           | VOF Rademakers Fur & Fashion | -               | -                     | 3                      | No                             | No         | No          | No          | No          |
| CVRD Fahion B.V.                                   | CVRD   | CVRD Fashion B.V.            | 359,989         | -                     | 1                      | No                             | No         | No          | No          | No          |
| <b>Totals</b>                                      |  |                              |                 |                       |                        | <b>4</b>                       | <b>5</b>   | <b>8</b>    | <b>11</b>   | <b>20</b>   |
| <b>% of total number of<br/>companies (n = 57)</b> |  |                              |                 |                       |                        | <b>7.0</b>                     | <b>8.8</b> | <b>14.0</b> | <b>19.3</b> | <b>35.1</b> |

# 6. Conclusions and Recommendations

This report has analysed the implications of using a company size threshold in due diligence and corporate accountability legislation. The analysis of the AGT member companies' employee numbers, total asset value and net turnover figures and the estimation of the proportion of SMEs in the Dutch textiles and garment sector show that the vast majority of the companies in the sector would not be subject to a due diligence obligation if any kind of staff size threshold were to be introduced. By contrast, the European Parliament's proposal for an EU Directive on due diligence also applies to SMEs in high-risk sectors, which most likely would include the textiles and garment sector. The Dutch Bill on Responsible and Sustainable International Business Conduct potentially also imposes a due diligence obligation on SMEs, depending on how the proposed general duty of care will be interpreted.

Any company size threshold will exclude the vast majority of companies in the Dutch textiles and garment sector. This study estimates that even a 250-employee threshold would exempt 95 per cent of all companies in the Dutch textiles and garment sector from due diligence obligations. The threshold proposed in the Dutch Bill on Responsible and Sustainable International Business Conduct would directly cover only 35 per cent of current AGT member companies. Higher thresholds lead to a further limitation of the scope of future regulation. Of the sample of AGT companies used for this study, only 19 per cent would be covered by a 500-employee threshold, decreasing even further to nine per cent with the 3,000-employee threshold that was adopted in Germany and only seven per cent with the threshold used in the French Duty of Vigilance Law.

Limiting the scope of legislation would be detrimental to the objective of reducing human rights and labour rights violations in supply chains, including in the global textiles and garment sector. Examples in this report show that SMEs, just like large enterprises,

face severe risks in their value chains and can be linked to or contribute to human rights violations. Given the important role SMEs play in many sectors and value chains, including the garment and textiles sector, legislation needs to require all companies to meaningfully address these risks and violations. The OECD Guidelines make clear that when assessing risks and potential impacts on human rights and the environment, company size is not the guiding criterion.

The official evaluation of the Dutch government's policy on RBC agreements between companies, civil society organisations, trade unions and the government concluded that these voluntary agreements alone are insufficient to achieve meaningful impact in terms of better adherence to RBC standards and reduced negative impacts on workers and communities in supply chains, including in the textiles and garment sector.<sup>67</sup> Other policy evaluations and studies have reached similar conclusions and argue for a smart mix of binding and voluntary measures, including due diligence and corporate accountability legislation.<sup>68</sup>

High thresholds for legislation would thus mean a failure to address one of the most important shortcomings of governments' current voluntary RBC policies. In fact, if legislation only applies to a small group of large companies, the insufficient system of voluntary adherence to RBC standards would continue to be in place for most companies.

By extending the scope of legislation to small and medium-sized enterprises, legislators will also prevent creating potential loopholes that enable companies to avoid legal due diligence obligations by artificially spreading out assets or employees across multiple subsidiaries and holding companies<sup>69</sup>, or transparency issues caused by companies that avoid publishing annual accounts by using opaque legal forms (also see Box 2). A general obligation will also help avoid uncertainty about which companies fall within the scope of legislation, an important issue that currently limits the possibilities for holding companies to account under the French Duty of Vigilance Law<sup>70</sup> and the EU Conflict Minerals Regulation.<sup>71</sup>

Furthermore, a general obligation will also help avoid a situation in which multinational enterprises that do need to comply with due diligence regulations shift the costs of this obligation to SMEs in their value chain, which supposedly fall outside of its scope.

This report therefore calls upon legislators and policy-makers in the Netherlands, the EU and other EU and OECD member states to introduce due diligence and corporate accountability legislation that applies to companies of all sizes. Such an obligation means companies would be required to conduct due diligence in a way that is proportional to both the characteristics of the company and the severity of the risks it faces in its supply chain. A due diligence obligation for all companies makes a strong contribution to addressing the persistent inequalities and violations of human and labour rights that exist in global value chains today.

## Box 2. Issues related to the scope of due diligence and corporate accountability legislation.

**A number of potential issues that could hamper the effectiveness of future legislation became apparent while conducting the research for this report. This study therefore provides a number of specific recommendations for the design of future regulation:**

- Future due diligence regulation should make clear that its obligations apply to company groups as a whole, including foreign parent companies or foreign subsidiary companies. This way, a situation can be avoided in which smaller subsidiaries at the national level that are part of large multinational enterprises fall outside of the scope of legal due diligence obligations. Any company size threshold should apply to the total worldwide number of employees of a company, as is currently the case in the French Duty of Vigilance Law.
- Future regulation should avoid creating loopholes that enable smaller companies that individually do not meet the threshold criteria to avoid having to comply with due diligence and corporate accountability legislation, while being part of the same corporate group.
- For civil society organisations and trade unions to be able to fulfil their role as a watchdog, companies must be transparent about whether they are required to comply with due diligence and corporate accountability regulations. It is important that governments are transparent about which companies fall within the scope of the legislation.



# Annex 1: List of companies and datasources

| Company name  | Company used for figures                  | Year | Source  |
|---|---|------|---|
| Alsico N.V.   | Alsico NV                                 | 2019 | Jaarrekening 2019 (Balanscentrale), p. 6, 8, 45.  |
| America Today B.V.                                  | AT B.V.                                   | 2019 | Financial statements for the year 2019 (Company.Info), p. 4, 5, 26.                     |
| B.V. Textiel Fabrieken H. van Puijenbroek h/o HaVeP | B.V. Textiel Fabrieken H. van Puijenbroek | 2019 | Jaarrekening (Company.Info), p. 5, 7, 26  |
| C&A Netherlands C.V.                                |   |      | C&A is a family-owned enterprise and does not publish financial statements.*            |
| Chasin' Wholesale B.V.                              | Score Group BV                            | 2019 | Jaarrekening 2019 (Company.Info), p. 5, 6, 33   |
| Company Fits B.V.                                   | Company Fits B.V.                         | 2019 | Vennootschappelijk 2019 (Company.info), p. 3, 6   |
| Corn. Van Dijk B.V.                                 | Corn. Van Dijk B.V.                       | 2019 | Vennootschappelijk 2019 (Company.info), p. 4, 7   |
| CVRD Fashion B.V.                                   | CVRD Fashion B.V.                         | 2019 | Vennootschappelijk 2019 (Company.info), p. 4, 5   |
| Dare To Be B.V.                                     | Dare to Be Holding Bv                     | 2019 | Vennootschappelijk 2019 (Company.info), p. 4, 14  |
| Dibella B.V.  | Dibella BV                                | 2019 | Vennootschappelijk 2019 (Company.info), p. 4, 13  |
| Donsje Amsterdam B.V.                               | Donsje Amsterdam BV                       | 2019 | Vennootschappelijk 2019 (Company.info), p. 4, 8   |
| Ducky Dons Nederland B.V.                           | Ducky Dons Nederland BV                   | 2019 | Vennootschappelijk 2019 (Company.info), p. 4, 14  |
| Emergo Textile Projects B.V.                        | Emergo Textile Projects B.V.              | 2019 | Vennootschappelijk 2019 (Company.info), p. 4, 8   |
| Emma Safety Footwear B.V.                           | Emma Safety Footwear B.V.                 | 2019 | Vennootschappelijk 2019 (Company.info), p. 4, 12  |
| Esprit Retail B.V. & Co. KG                         | Esprit Europe BV                          | 2018 | Financial report 2017/2018, p. 9, 11, 35.   |
| Euretco BV  | Euretco Holding BV                        | 2019 | Annual Accounts 2019 (Company.info), p. 4, 25, 26                                       |
| Fab B.V.  | Fab BV                                    | 2019 | Vennootschappelijk 2019 (Company.info), p. 3, 6   |
| Forever Workwear                                    | Forever Workwear                          | N/A  | Company.info profile (retrieved on 19 April 2021)                                       |
| Fristads Kansas Benelux B.V.                        | Fristads BV                               | 2019 | Vennootschappelijk 2019 (Company.info), p. 4, 7   |
| Fully Fashion B.V. / Knits Only BV                  | dBC Fashion BV                            | 2019 | Vennootschappelijk 2019 (Company.info), p. 4, 14  |
| Goose Craft B.V.                                    | Goose Craft B.V.                          | 2019 | Vennootschappelijk 2019 (Company.info), p. 4-5.   |
| Groenendijk Bedrijfskleding B.V.                    | Groenendijk Bedrijfskleding B.V.          | 2019 | Vennootschappelijk 2019 (Company.info), p. 4, 13.                                       |
| G-Star Raw C.V.                                     | Savile Holding BV                         | 2019 | Annual report as at 30 April 2019 for publication purposes (Company.info), p. 4, 6, 26. |
| H.J. de Rooy Lederwaren                             | H.J. De Rooy Lederwaren                   | 2019 | Vennootschappelijk 2019 (Company.info), p. 4-5.   |

\* The staff figure that was used comes from the C&A website, "Over C&A", <<https://www.c-and-a.com/nl/nl/corporate/company/werken-bij-ca/over-ca/>> (retrieved on 20 April 2021); the turnover figure was reported in M. Mehringer, "C&A zieht sich auch aus China zurück", Manager Magazin, 20 August 2020, <<https://www.manager-magazin.de/unternehmen/c-and-a-zieht-sich-auch-aus-china-zurueck-a-d42bb01c-a90b-4e4f-993c-e66db5ab0c50>> (retrieved on 20 April 2021).

| Company name   | Company used for figures                     | Year          | Source  |
|--|--|---------------|---|
| Heigo Nederland B.V.   | Heigo Nederland BV                           | 2019          | Vennootschappelijk 2019 (Company.info), p. 4, 12.   |
| HEMA B.V.  | HEMA B.V.                                    | 2019          | Annual report 2019, p. 43, 45, 75   |
| Hunkemöller International B.V.   | HKM Holding BV                               | 2020          | Annual report for the fiscal year ended January 31, 2020, p. 15, 17, 50                     |
| J.O.G. Group B.V.  | J.O.G. Group B.V.                            | 2019          | Publicatierapport 2019, p. 5, 7, 44   |
| Just Brands B.V.   | Just Brands B.V.                             | 2019          | Annual report 2019, p. 4, 6, 18   |
| KOI International B.V.   | KOI International B.V.                       | 2019          | Vennootschappelijk 2019 (Company.info), p. 4, 8.  |
| Kuyichi BV   | Kuyichi BV                                   | 2019          | Vennootschappelijk 2019 (Company.info), p. 4, 6.  |
| L.Ten Cate B.V.  | L. Ten Cate Group BV                         | 2019          | Vennootschappelijk 2019 (Company.info), p. 4, 17.   |
| LaDress B.V.   | LaDress B.V.                                 | 2019          | Vennootschappelijk 2019 (Company.info), p. 4, 7.  |
| LC Kidswear B.V.   | LC Kidswear B.V.                             | 2019          | Vennootschappelijk 2019 (Company.info), p. 4, 7.  |
| Magazijn De Bijenkorf B.V.   | St Clair BV                                  | 2019          | Financial report for the year ended February 1, 2020, p. 13, 14, 51                         |
| Mauritz & Zn. B.V.   | Mauritz & Zn. B.V.                           | 2019          | Vennootschappelijk 2019 (Company.info), p. 3, 6.  |
| Micro Verkoop B.V.   | Micro Verkoop B.V.                           | 2019          | Vennootschappelijk 2019 (Company.info), p. 4, 13.   |
| NINE & Co B.V.   | NINE & Co B.V.                               | 2019          | Jaarverslag 2019, p. 5, 12, 13.   |
| O My Bag B.V.  | O My Bag B.V.                                | 2019          | Vennootschappelijk 2019 (Company.info), p. 4, 8.  |
| Okimono B.V.   | Okimono B.V.                                 | 2019          | Vennootschappelijk 2019 (Company.info), p. 3.   |
| O'Neill Europe B.V.  | Boardco BV                                   | 2020          | Annual report 2019/2020 (Balance sheet date 31 January 2020) (Company.info), p. 10, 12, 34. |
| Prénatal Moeder en Kind B.V.   | Prénatal Retail Group S.p.A. Ovvero          | 2019          | Annual report 2019, p. 114, 116, 118  |
| PWG Bedrijfsveilige Kleding B.V.   | PWG Bedrijfsveilige Kleding B.V.             | 2019          | Vennootschappelijk 2019 (Company.info), p. 4, 7.  |
| Schijvens Confectiefabriek Hilvarenbeek B.V. / Schijvens Corporate Fashion | Schijvens Confectiefabriek Hilvarenbeek B.V. | 2018/<br>2019 | Vennootschappelijk 2018/2019 (31 mei 2019; Company.info), p. 4, 7.                          |
| Star Sock B.V.   | Star Sock B.V.                               | 2019          | Vennootschappelijk 2019 (Company.info), p. 4, 8.  |
| Studio Anneloes B.V.   | Studio Anneloes B.V.                         | 2019          | Vennootschappelijk 2019 (Company.info), p. 4.   |
| The Cookie Company B.V. / The Cookie Company Group B.V.                    | The Cookie Company B.V.                      | 2019          | Vennootschappelijk 2019 (Company.info), p. 4, 12.   |
| The Sting House of Brands B.V.   | Basilicum BV                                 | 2019          | Jaarrekening 2019, p. 5, 7, 31.   |
| Tricorp B.V.   | Tricorp BV                                   | 2019          | Vennootschappelijk 2019, p. 4, 14.  |
| Van der Erve N.V.  | Van der Erve NV                              | 2019          | Jaarrekening 2019, p. 6, 8, 41.   |
| Van Es Home B.V.   | Van Es Home B.V.                             | 2019          | Vennootschappelijk 2019, p. 4, 16.  |
| Vanilia C.V.   | Vanilia The Shops BV                         | 2017          | Vennootschappelijk 2017, p. 4, 7.   |
| VOF Rademakers Fur & Fashion   | VOF Rademakers Fur & Fashion                 | N/A           | Uittreksel KvK (retrieved on 20 April 2021)   |
| We Europe B.V.   | We International BV                          | 2020          | Annual accounts 2019/2020 (31 January 2020) (Company.info), p. 20, 23.                      |
| Wibra Supermarkt B.V.  | Wibra Supermarkt B.V.                        | 2019          | Publicatiestukken 2019, p. 6, 8, 21.  |
| Yongo Europe B.V.  | Yongo Europe B.V.                            | 2019          | Vennootschappelijk 2019, p. 4, 8.   |
| Zeeman Textielsupers B.V.  | Zeeman Groep BV                              | 2019          | Financial Report 2019, p. 7, 8, 32.   |

# References

- 1 See SOMO, 2021, "Obstruct, delay, weaken", 21 May 2021, <<https://www.somo.nl/obstruct-delay-weaken/>>; VNO-NCW, 2021, "Reactie VNO-NCW op concept Wet verantwoord en duurzaam internationaal ondernemen", 23 February 2021, <<https://www.tweedekamer.nl/downloads/document?id=af0243b5-473e-4f60-b780-bd4d046d6a97&title=Reactie%20VNO-NCW.pdf>>.
- 2 C. Dohmen, 2021, "Wirtschaftsverbände wollen Lieferkettengesetz aushöhlen", Süddeutsche Zeitung, 1 September 2020, <<https://www.sueddeutsche.de/wirtschaft/lieferkettengesetz-kritik-1.5015863>> (retrieved on 14 June 2021);
- 3 Deutscher Bundestag, "Entwurf eines Gesetzes über die unternehmerischen Sorgfaltspflichten in Lieferketten", Drucksache 19/28649, 19 April 2021, <<https://dserver.bundestag.de/btd/19/286/1928649.pdf>>, p. 7.
- 4 Also see Clean Clothes Campaign, 2021, "Fashioning Justice. A call for mandatory and comprehensive human rights due diligence in the garment industry", <[https://cleanclothes.org/file-repository/fashioning\\_justice.pdf/view](https://cleanclothes.org/file-repository/fashioning_justice.pdf/view)>, p. 13.
- 5 "Directive 2013/34/EU of The European Parliament And Of The Council of 26 June 2013 on the annual financial statements, consolidated financial statements and related reports of certain types of undertakings, amending Directive 2006/43/EC of the European Parliament and of the Council and repealing Council Directives 78/660/EEC and 83/349/EEC", Chapter 1, Article 3, <<https://eur-lex.europa.eu/legal-content/EN/TXT/HTML/?uri=CELEX:32013L0034&from=NL#d1e583-19-1x>>.
- 6 "Directive 2013/34/EU of The European Parliament And Of The Council of 26 June 2013 on the annual financial statements, consolidated financial statements and related reports of certain types of undertakings, amending Directive 2006/43/EC of the European Parliament and of the Council and repealing Council Directives 78/660/EEC and 83/349/EEC", Chapter 1, Article 3, <<https://eur-lex.europa.eu/legal-content/EN/TXT/HTML/?uri=CELEX:32013L0034&from=NL#d1e583-19-1x>>.
- 7 MVO Platform, 2021, "The need to include small and medium-sized enterprises in rules for responsible business conduct", <<https://www.mvoplatform.nl/the-need-to-include-small-and-medium-sized-enterprises-in-rules-for-responsible-business-conduct>>.
- 8 OECD, 2011, "OECD Guidelines for Multinational Enterprises", Paris: OECD, <<http://www.oecd.org/daf/inv/mne/48004323.pdf>>, p. 31-32.
- 9 F. West, 2020, "On Mandatory Due Diligence, SMEs Don't Need a Free Pass; They Need Flexibility", Shift website, <<https://shiftproject.org/smes-mhrdd/>> (retrieved on 7 June 2021).
- 10 Rechtbank Den Haag, "ECLI:NL:RBDHA:2021:5339", 26 May 2021, <<https://uitspraken.rechtspraak.nl/inziendocument?id=ECLI:NL:RBDHA:2021:5339>>, section 4.4.16.
- 11 Rechtbank Den Haag, "ECLI:NL:RBDHA:2021:5339", 26 May 2021, <<https://uitspraken.rechtspraak.nl/inziendocument?id=ECLI:NL:RBDHA:2021:5339>>, section 4.4.16.
- 12 OECD, 2011, "OECD Guidelines for Multinational Enterprises", Paris: OECD, <<http://www.oecd.org/daf/inv/mne/48004323.pdf>>, p. 31-32.
- 13 OECD, 2011, "OECD Guidelines for Multinational Enterprises", Paris: OECD, <<http://www.oecd.org/daf/inv/mne/48004323.pdf>>, p. 15.
- 14 OECD, 2018, "OECD Due Diligence Guidance for Responsible Business Conduct", Paris: OECD, <<https://mneguidelines.oecd.org/OECD-Due-Diligence-Guidance-for-Responsible-Business-Conduct.pdf>>, p. 3.
- 15 OECD, 2018, "OECD Due Diligence Guidance for Responsible Business Conduct", Paris: OECD, <<https://mneguidelines.oecd.org/OECD-Due-Diligence-Guidance-for-Responsible-Business-Conduct.pdf>>, p. 46-47.
- 16 OECD, 2018, "OECD Due Diligence Guidance for Responsible Business Conduct", Paris: OECD, <<https://mneguidelines.oecd.org/OECD-Due-Diligence-Guidance-for-Responsible-Business-Conduct.pdf>>, p. 21.
- 17 OECD, 2018, "OECD Due Diligence Guidance for Responsible Supply Chains in the Garment and Footwear Sector", Paris: OECD, <<https://www.oecd-ilibrary.org/docserver/9789264290587-en.pdf?expires=1622207606&id=id&accname=guest&checksum=F9CBE47DC649A4CC96D7DE6217BECE9C>>, p. 81.
- 18 OECD, 2018, "OECD Due Diligence Guidance for Responsible Supply Chains in the Garment and Footwear Sector", Paris: OECD, <<https://www.oecd-ilibrary.org/docserver/9789264290587-en.pdf?expires=1622207606&id=id&accname=guest&checksum=F9CBE47DC649A4CC96D7DE6217BECE9C>>, p. 26, 81, 144.
- 19 OECD, 2018, "OECD Due Diligence Guidance for Responsible Supply Chains in the Garment and Footwear Sector", Paris: OECD, <<https://www.oecd-ilibrary.org/docserver/9789264290587-en.pdf?expires=1622207606&id=id&accname=guest&checksum=F9CBE47DC649A4CC96D7DE6217BECE9C>>, p. 59, 81, 144.
- 20 OECD, 2018, "OECD Due Diligence Guidance for Responsible Supply Chains in the Garment and Footwear Sector", Paris: OECD, <<https://www.oecd-ilibrary.org/docserver/9789264290587-en.pdf?expires=1622207606&id=id&accname=guest&checksum=F9CBE47DC649A4CC96D7DE6217BECE9C>>, p. 29.

- 21 F. West, 2020, "On Mandatory Due Diligence, SMEs Don't Need a Free Pass; They Need Flexibility", Shift website, <<https://shiftproject.org/smes-mhrdd/>> (retrieved on 7 June 2021); IOE, 2019, "SMEs and the Responsibility to Respect Human Rights", <<https://shiftproject.org/wp-content/uploads/2020/01/index.pdf>>.
- 22 Eurostat, 2020, "Small and medium-sized enterprises: an overview", 14 May 2020, <<https://ec.europa.eu/eurostat/en/web/products-eurostat-news/-/ddn-20200514-1>> (retrieved on 4 June 2021).
- 23 Eurostat, 2020, "Small and medium-sized enterprises: an overview", 14 May 2020, <<https://ec.europa.eu/eurostat/en/web/products-eurostat-news/-/ddn-20200514-1>> (retrieved on 4 June 2021).
- 24 See e.g. SOMO & Arisa, 2021, "Spinning around workers' rights", <<https://www.somo.nl/spinning-around-workers-rights/>>; Bangladesh Centre for Workers Solidarity (BCWS), 2020, "Break the Silence, Stop the Violence. Gender-based violence in the garment sector of Bangladesh: A study on cases, causes and cures", <[https://www.bcwsbd.org/uploads/GBV\\_Stop-Violence\\_Report\\_BCWS-FEMNET-2020.pdf](https://www.bcwsbd.org/uploads/GBV_Stop-Violence_Report_BCWS-FEMNET-2020.pdf)>; United Nations Environment Programme, "Sustainability and Circularity in the Textile Value Chain. Global Stocktaking", <[https://www.oneplanetnetwork.org/sites/default/files/unep\\_sustainability\\_and\\_circularity\\_in\\_the\\_textile\\_value\\_chain.pdf](https://www.oneplanetnetwork.org/sites/default/files/unep_sustainability_and_circularity_in_the_textile_value_chain.pdf)>.
- 25 Schone Kleren Campagne & SOMO, 2020, "Dutch Agreement on Sustainable Garments and Textile. Signatory companies' due diligence reporting comes short", <[https://www.schonekleren.nl/wp-content/uploads/2020/06/SKC\\_AGT\\_rapport\\_final.pdf](https://www.schonekleren.nl/wp-content/uploads/2020/06/SKC_AGT_rapport_final.pdf)>, p. 6-10.
- 26 Ministerie van Buitenlandse Zaken, 2020, "Van Voorlichten tot Verplichten. Een nieuwe impuls voor maatschappelijk verantwoord ondernemerschap", <<https://www.rijksoverheid.nl/documenten/beleidsnotas/2020/10/16/van-voorlichten-tot-verplichten-een-nieuwe-impuls-voor-internationaal-maatschappelijk-verantwoord-ondernemerschap>>, p. 24.
- 27 Dutch National Contact Point for the OECD Guidelines for Multinational Enterprises, 2018, "Final Statement FIVAS, the Initiative to Keep Hasankef Alive and Hasankef Matters vs. Bresser", 20 August 2018, <<https://www.oecdguidelines.nl/binaries/oecd-guidelines/documents/publication/2018/08/20/fs-fivas-the-initiative-to-keep-hasankef-alive-and-hasankef-matters-vs-bresser/180820-web-Final+Statement+HasanKeyF-Bresser.pdf>>, p. 5.
- 28 Dutch National Contact Point for the OECD Guidelines for Multinational Enterprises, 2018, "Final Statement FIVAS, the Initiative to Keep Hasankef Alive and Hasankef Matters vs. Bresser", 20 August 2018, <<https://www.oecdguidelines.nl/binaries/oecd-guidelines/documents/publication/2018/08/20/fs-fivas-the-initiative-to-keep-hasankef-alive-and-hasankef-matters-vs-bresser/180820-web-Final+Statement+HasanKeyF-Bresser.pdf>>, p. 5.
- 29 See e.g. Chong, S., R. Hoekstra, O. Lemmers, et al., 2019, "The role of small- and medium-sized enterprises in the Dutch economy: an analysis using an extended supply and use table", *Economic Structures* 8, 8, <<https://link.springer.com/article/10.1186/s40008-019-0139-1>>.
- 30 SER, 2020, "Working together for Sustainable Supply Chain Impact", <<https://www.ser.nl/-/media/ser/downloads/engels/2020/sustainable-chain-impact.pdf?la=en&hash=A46ED36B78F30856A7909F5DACEFACA8>>, p. 39.
- 31 SER, 2020, "Working together for Sustainable Supply Chain Impact", <<https://www.ser.nl/-/media/ser/downloads/engels/2020/sustainable-chain-impact.pdf?la=en&hash=A46ED36B78F30856A7909F5DACEFACA8>>, p. 39.
- 32 MVO Nederland, "Naar een nieuw IMVO-beleid", <<https://www.mvonderland.nl/wp-content/uploads/2020/04/Naar-een-nieuw-IMVO-beleid-standpunt-en-onderbouwing-MVO-NL-.pdf>> (retrieved on 4 June 2021), p. 5.
- 33 IDVO website, "Wie zijn wij", <<https://idvo.org/wie-zijn-wij/>> (retrieved on 4 June 2021).
- 34 Journal Officiel De La République Française, "LOI no 2017-399 du 27 mars 2017 relative au devoir de vigilance des sociétés mères et des entreprises donneuses d'ordre (1)", 28 March 2017, <[https://www.legifrance.gouv.fr/download/pdf?id=9aawcYcwwkntYs2UUCMwL4iX\\_erjxoTD\\_Jy3AVXRFk=>](https://www.legifrance.gouv.fr/download/pdf?id=9aawcYcwwkntYs2UUCMwL4iX_erjxoTD_Jy3AVXRFk=>), p. 1; S. Brabant, E. Savourey, 2017, "Scope of the Law on the Corporate Duty of Vigilance", *Revue Internationale de la Compliance et de l'Éthique des Affaires – Supplément à la Semaine Juridique Entreprise et Affaire*, 50, 14 décembre 2017, <<https://media.business-humanrights.org/media/documents/cc551474b8206d6a7b9c6a92c2a3fb280c881139.pdf>>, p. 2.
- 35 Deutscher Bundestag, "Entwurf eines Gesetzes über die unternehmerischen Sorgfaltspflichten in Lieferketten", Drucksache 19/28649, 19 April 2021, <<https://dserver.bundestag.de/btd/19/286/1928649.pdf>>, p. 7.
- 36 Tweede Kamer, 2021, Wet Verantwoord en Duurzaam Internationaal Ondernemen, "Voorstel van wet (35761-2)", <<https://www.tweedekamer.nl/downloads/document?id=69db3a5e-b040-41b3-86fc-0e114c1eebbc&title=Voorstel%20van%20wet.pdf>>, p. 3.
- 37 Tweede Kamer, 2021, Wet Verantwoord en Duurzaam Internationaal Ondernemen, "Voorstel van wet (35761-2)", <<https://www.tweedekamer.nl/downloads/document?id=69db3a5e-b040-41b3-86fc-0e114c1eebbc&title=Voorstel%20van%20wet.pdf>>, p. 1.
- 38 Tweede Kamer, "Brief van de minister voor Buitenlandse Handel en Ontwikkelingssamenwerking over Nota 'Van voorlichten tot verplichten: een nieuwe impuls voor internationaal maatschappelijk verantwoord ondernemerschap'", 16 October 2020, <<https://www.tweedekamer.nl/downloads/document?id=467571d1-4550-4cc6-bd81-954da8fba57c&title=Nota%2027Van%20voorlichten%20tot%20verplichten%3A%20een%20nieuwe%20impuls%20voor%20internationaal%20maatschappelijk%20verantwoord%20ondernemerschap%E2%80%99.pdf>>, p. 7.
- 39 Tweede Kamer, "Verslag van een notaoverleg Internationaal Maatschappelijk Verantwoord Ondernemen", 8 December 2020, <<https://www.tweedekamer.nl/downloads/document?id=be34ab36-e44e-4707-8652-8e225feaa9d8&title=Verslag%20van%20een%20notaoverleg%2C%20gehouden%20op%208%20december%202020%2C%20over%20internationaal%20maatschappelijk%20verantwoord%20ondernemerschap%20%28IMVO%29.pdf>>, p. 25.
- 40 EY, 2020, "Monitoringsproject onderschrijving OESO-richtlijnen en UNGP's", <<https://www.rijksoverheid.nl/onderwerpen/internationaal-maatschappelijk-verantwoord-ondernemen-imvo/documenten/publicaties/2020/04/03/monitoringproject-onderschrijving-oeso-richtlijnen-en-ungps>>, p. 3.

- 41 Official Journal of the European Union, 2014, "Directive 2014/95/EU of the European Parliament and of the Council of 22 October 2014 amending Directive 2013/34/EU as regards disclosure of non-financial and diversity information by certain large undertakings and groups", <<https://eur-lex.europa.eu/legal-content/EN/TXT/HTML/?uri=CELEX:32014L0095&from=EN>>.
- 42 Official Journal of the European Union, 2014, "Directive 2014/95/EU of the European Parliament and of the Council of 22 October 2014 amending Directive 2013/34/EU as regards disclosure of non-financial and diversity information by certain large undertakings and groups", <<https://eur-lex.europa.eu/legal-content/EN/TXT/HTML/?uri=CELEX:32014L0095&from=EN>>.
- 43 Minister van Buitenlandse Zaken, "Fiche 1: Richtlijn herziening duurzaamheidsrapportage", 11 June 2021, <[https://www.tweedekamer.nl/kamerstukken/brieven\\_regering/detail?id=2021Z10614&did=2021D23201](https://www.tweedekamer.nl/kamerstukken/brieven_regering/detail?id=2021Z10614&did=2021D23201)>, p. 2.
- 44 European Parliament, "European Parliament resolution of 10 March 2021 with recommendations to the Commission on corporate due diligence and corporate accountability (2020/2129(INL))", 10 March 2021, P9\_TA(2021)0073, <[https://www.europarl.europa.eu/doceo/document/TA-9-2021-0073\\_EN.pdf](https://www.europarl.europa.eu/doceo/document/TA-9-2021-0073_EN.pdf)>, p. 28.
- 45 Retail Insiders website, "Algemene textielzaken" <<https://www.retailinsiders.nl/branches/kleding-schoen-sport/algemene-textielzaken>>; "Baby- en kindermode" <<https://www.retailinsiders.nl/branches/kleding-schoen-sport/baby-en-kindermode>>; "Bodyfashion" <<https://www.retailinsiders.nl/branches/kleding-schoen-sport/bodyfashion>>; "Dames- en herenmode" <<https://www.retailinsiders.nl/branches/kleding-schoen-sport/dames-en-herenmode>>; "Damesmode" <<https://www.retailinsiders.nl/branches/kleding-schoen-sport/damesmode>>; "Herenmode" <<https://www.retailinsiders.nl/branches/kleding-schoen-sport/herenmode>>; "Textielsupermarkten" <<https://www.retailinsiders.nl/branches/kleding-schoen-sport/textielsupermarkten>> (retrieved on 19 May 2021).
- 46 For example, Primark Netherlands BV is classified as 70101 (Holding companies; Support activities for the own enterprise group) (Company.info, Primark Netherlands BV company profile (retrieved on 19 May 2021); WE Europe BV is classified as 70102 (Holding companies (not financial)) and 46902 (Non-specialised wholesale of non-consumer goods) (Company.info, WE Europe BV company profile (retrieved on 19 May 2021).
- 47 Investopedia website, "Consolidated Financial Statements", <<https://www.investopedia.com/terms/c/consolidatedfinancialstatement.asp>> (retrieved on 19 May 2021).
- 48 SOMO, 2006, "Code of Conduct", <[https://www.somo.nl/wp-content/uploads/2016/07/Code\\_of\\_conduct.pdf](https://www.somo.nl/wp-content/uploads/2016/07/Code_of_conduct.pdf)>, p. 5.
- 49 CBS website, "Populatie van actieve bedrijven in Nederland", <<https://www.cbs.nl/nl-nl/onze-diensten/methoden/onderzoeksomschrijvingen/korte-onderzoeksbeschrijvingen/populatie-van-actieve-bedrijven-in-nederland>> (19 May 2021).
- 50 CBS Statline, "Bedrijven; bedrijfstak, 2019, 4e kwartaal", <<https://opendata.cbs.nl/statline/#/CBS/nl/dataset/81589NED/table?dl=530B4>> (retrieved on 19 May 2021).
- 51 Statistics Netherlands does not take the other two threshold criteria for SMEs into account here.
- 52 According to calculations by Euratex, the European Apparel and Textile Confederation, the share of SMEs and micro companies in the EU textiles and clothing sector is 99.8 percent, of which 11.0 percent are SMEs (Euratex, 2020, "Facts & Key Figures on the European Textile and Clothing Industry", <<https://euratex.eu/wp-content/uploads/EURATEX-Facts-Key-Figures-2020-LQ.pdf>>, p. 10). Excluding micro companies, the share of SMEs in the EU textiles and clothing sector is 98.2 percent (calculation by SOMO).
- 53 CBS Statline, "Bedrijven; bedrijfstak, 2019, 4e kwartaal", <<https://opendata.cbs.nl/statline/#/CBS/nl/dataset/81589NED/table?dl=530B4>> (retrieved on 19 May 2021).
- 54 Retail Insiders website, Retail data dashboard, "Kleding en Sport. Ondernemingen", <<https://www.retailinsiders.nl/data/>> (retrieved on 7 June 2021); total net turnover (13,821,000,000) divided by number of companies (12,150). The total number of companies differs slightly from the figures retrieved from Statistics Netherlands; the Retail Insiders data dashboard does not make clear on which SBI categories its figures are based.
- 55 Retail Insiders website, "Algemene textielzaken" <<https://www.retailinsiders.nl/branches/kleding-schoen-sport/algemene-textielzaken>>; "Baby- en kindermode" <<https://www.retailinsiders.nl/branches/kleding-schoen-sport/baby-en-kindermode>>; "Bodyfashion" <<https://www.retailinsiders.nl/branches/kleding-schoen-sport/bodyfashion>>; "Dames- en herenmode" <<https://www.retailinsiders.nl/branches/kleding-schoen-sport/dames-en-herenmode>>; "Damesmode" <<https://www.retailinsiders.nl/branches/kleding-schoen-sport/damesmode>>; "Herenmode" <<https://www.retailinsiders.nl/branches/kleding-schoen-sport/herenmode>>; "Textielsupermarkten" <<https://www.retailinsiders.nl/branches/kleding-schoen-sport/textielsupermarkten>> (retrieved on 19 May 2021).
- 56 Retail Insiders website, "Algemene textielzaken", <<https://www.retailinsiders.nl/branches/kleding-schoen-sport/algemene-textielzaken>> (retrieved on 19 May 2021).
- 57 Retail Insiders website, "Dames- en herenmode", <<https://www.retailinsiders.nl/branches/kleding-schoen-sport/dames-en-herenmode/>> (retrieved on 19 May 2021).
- 58 Convenant Duurzame Kleding en Textiel, "Gedetailleerde Feiten en Cijfers. Jaarrapportage Convenant Duurzame Kleding en Textiel 2019", <<https://www.imvoconvenanten.nl/-/media/imvo/mag/kleding-textiel/jaarrapportage-2019-feiten-cijfers.pdf>>, p. 6.
- 59 Esprit Holdings Limited, 2019, "Annual report. Year ended 30 June 2019", <[https://www.esprit.com/index.php?command=ItemDownload&class=Esprit\\_Model\\_IR\\_DocAttachment&identity=1626](https://www.esprit.com/index.php?command=ItemDownload&class=Esprit_Model_IR_DocAttachment&identity=1626)>, p. 19, 132. Exchange rate on 30 June 2019: 1 HKD = 0,112574 EUR (Xe.com, "HKD to EUR Chart", <<https://www.xe.com/currencycharts/?from=HKD&to=EUR&view=2Y>> (retrieved on 11 June 2021)).
- 60 Esprit Europe BV, "Financial report 2017/2018", retrieved from Company.info, p. 4.

- 61 Worker Rights Consortium website, "Covid-19 Tracker: Which Brands Are Acting Responsibly toward Suppliers and Workers?", 21 April 2021 update, <<https://www.workersrights.org/issues/covid-19/tracker/>> (retrieved on 7 June 2021).
- 62 KIT, 2020, "Evaluation of the Dutch RBC Agreements 2014-2020. Are voluntary multi-stakeholder approaches to responsible business conduct effective?", <<https://www.kit.nl/wp-content/uploads/2020/07/KIT-2020-Evaluation-of-RBC-agreements-FINAL.pdf>>.
- 63 Fashion Checker website, "G-star RAW", <<https://fashionchecker.org/brand-profile.html?q=1173483>> (retrieved on 7 June 2021); Fashion Checker website, "Esprit", <<https://fashionchecker.org/brand-profile.html?q=9127>> (retrieved on 7 June 2021).
- 64 E.g. IOB, 2019, "Mind the governance gap, map the chain", <<https://www.rijksoverheid.nl/binaries/rijksoverheid/documenten/rapporten/2019/11/22/bijlage-kamerbrief-inzake-iob-evaluatie-imvo-beleid/bijlage-kamerbrief-inzake-iob-evaluatie-imvo-beleid.pdf>>; Andersson Elffers Felix, 2020, "Dwingende en vrijwillige IMVO-maatregelen", <<https://www.rijksoverheid.nl/documenten/rapporten/2020/03/26/dwingende-en-vrijwillige-imvo-maatregelen>>.
- 65 See e.g. the controversy around a German company that allegedly created fifteen additional subsidiary companies to circumvent a 50-employee threshold in new German labour law (A. Preker, "Tönnies' geheimnisvolle Töchter", Der Spiegel, 30 July 2020, <<https://www.spiegel.de/wirtschaft/unternehmen/toennies-warum-der-konzern-15-tochterfirmen-trotz-verbot-von-werkvertraegen-gruendet-a-70dcf931-6a6f-4325-a4ea-be6e3eeb7d6d>> (retrieved on 11 June 2021)).
- 66 CCFD-Terre Solidaire, Sherpa, 2020, "Le radar du devoir de vigilance", <<https://plan-vigilance.org/wp-content/uploads/2020/06/2020-06-25-Radar-DDV-Edition-2020.pdf>>, p. 5.
- 67 Eurac, 2020, "Ensuring transparency in the implementation of the European Union's Regulation on the supply of 3TG minerals", 2 March 2020, <[https://www.eurac-network.org/sites/default/files/policy\\_note\\_transparency\\_v6\\_0.pdf/](https://www.eurac-network.org/sites/default/files/policy_note_transparency_v6_0.pdf/)>.
- 68 E.g. IOB, 2019, "Mind the governance gap, map the chain", <<https://www.rijksoverheid.nl/binaries/rijksoverheid/documenten/rapporten/2019/11/22/bijlage-kamerbrief-inzake-iob-evaluatie-imvo-beleid/bijlage-kamerbrief-inzake-iob-evaluatie-imvo-beleid.pdf>>; Andersson Elffers Felix, 2020, "Dwingende en vrijwillige IMVO-maatregelen", <<https://www.rijksoverheid.nl/documenten/rapporten/2020/03/26/dwingende-en-vrijwillige-imvo-maatregelen>>.
- 69 See e.g. the controversy around a German company that allegedly created fifteen additional subsidiary companies to circumvent a 50-employee threshold in new German labour law (A. Preker, "Tönnies' geheimnisvolle Töchter", Der Spiegel, 30 July 2020, <<https://www.spiegel.de/wirtschaft/unternehmen/toennies-warum-der-konzern-15-tochterfirmen-trotz-verbot-von-werkvertraegen-gruendet-a-70dcf931-6a6f-4325-a4ea-be6e3eeb7d6d>> (retrieved on 11 June 2021)).
- 70 CCFD-Terre Solidaire, Sherpa, 2020, "Le radar du devoir de vigilance", <<https://plan-vigilance.org/wp-content/uploads/2020/06/2020-06-25-Radar-DDV-Edition-2020.pdf>>, p. 5.
- 71 Eurac, 2020, "Ensuring transparency in the implementation of the European Union's Regulation on the supply of 3TG minerals", 2 March 2020, <[https://www.eurac-network.org/sites/default/files/policy\\_note\\_transparency\\_v6\\_0.pdf/](https://www.eurac-network.org/sites/default/files/policy_note_transparency_v6_0.pdf/)>.

**Why all companies need to be included in due diligence and corporate accountability legislation**

An analysis of the Dutch textiles and garment sector  
June 2021

**Author:** David Ollivier de Leth

**Stichting Onderzoek Multinationale Ondernemingen (SOMO)**  
Centre for Research on Multinational Corporations

Sarphatistraat 30  
1018 GL Amsterdam  
The Netherlands  
+ 31 (20) 6391291  
info@somo.nl  
www.somo.nl



**With contributions from:** Pauline Overeem (SOMO), Joseph Wilde-Ramsing (SOMO), Manon Wolfkamp (MVO Platform), Willemijn Rooijmans (SKC), Muriel Treibich (CCC) and Bram Joanknecht (SKC)

**Commissioned by:**  
**Clean Clothes Campaign / Schone Kleren Campagne**  
Nieuwezijds Voorburgwal 292-sous  
1012RT Amsterdam  
The Netherlands  
+31 (20) 4122785  
www.schonekleren.nl