

An Industry Unraveling



The Impact of the Directive on Corporate Sustainability and Due Diligence on the H&M Group's Production Outside the European Union

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EU Directive, CSDDD, Fast Fashion, Sustainability, H&M Group, Risk-Management

Table of Contents

Table of Contents	2
List of Abbreviations.....	4
Chapter 1. Introduction.....	5
1.1. <i>Fast Fashion & the H&M Group.....</i>	<i>5</i>
1.2. <i>Corporate Sustainability Due Diligence Directive.....</i>	<i>6</i>
1.3. <i>Research Problem and Research Question.....</i>	<i>8</i>
1.4. <i>Methodology & Structure.....</i>	<i>10</i>
1.4.1. <i>Analysis of the Directive’s Risk Management System.....</i>	<i>10</i>
1.4.2. <i>Swedish National Law</i>	<i>11</i>
1.4.3. <i>The CSDDD, CSRD and Taxonomy Regulation</i>	<i>12</i>
1.5. <i>Relevance</i>	<i>13</i>
Chapter 2.....	14
CSDDD Risk Management and H&M’s Operations Outside the EU.....	14
2.1. <i>Risk Management</i>	<i>15</i>
2.2. <i>Article 7-12 of the CSDDD</i>	<i>15</i>
2.2.1. <i>Article 13.....</i>	<i>18</i>
2.3. <i>Deforestation in Brazil & Possible conflict with CSDDD.....</i>	<i>19</i>
2.3.1. <i>Use of Harmful Chemicals & Possible conflict with CSDDD</i>	<i>21</i>
2.4. <i>Legal Accountability and Enforcement Under the CSDDD</i>	<i>23</i>
Chapter 3.....	24
The CSDDD and Swedish National Sustainability Legislation.....	24
3.1. <i>The Swedish Environmental Code.....</i>	<i>26</i>
3.2. <i>The Annual Accounts Act (AAA)</i>	<i>28</i>
3.2.1. <i>Amendments to the AAA incorporating the NFRD and CSRD</i>	<i>31</i>
3.3. <i>CSDDD and Swedish Environmental Law</i>	<i>31</i>
Chapter 4.....	34
The CSDDD and Related EU Green Deal Instruments	34
4.1. <i>The European Green Deal.....</i>	<i>35</i>
4.1.1. <i>CSRD and Taxonomy Regulation as part of the EGD.....</i>	<i>36</i>
4.1.2. <i>The CSDDD as part of the EGD.....</i>	<i>37</i>
4.2. <i>Relevance of the EGD for the H&M Group</i>	<i>39</i>
4.3. <i>Proposal for Omnibus Law.....</i>	<i>40</i>
4.3.1. <i>Proposed Changes to CSDDD</i>	<i>41</i>
4.3.2. <i>Impact on CSDDD Efficacy</i>	<i>42</i>
4.3.3. <i>Initial procedural development.....</i>	<i>44</i>
Chapter 5. Conclusion	46
5.1. <i>Risk Management System and Case Studies.....</i>	<i>47</i>
5.2. <i>Sustainability Legislation in Sweden.....</i>	<i>47</i>

5.3.	<i>CSDDD as Part of the European Green Deal and Proposed Changes</i>	48
5.4.	<i>Policy Recommendation</i>	49
5.5.	<i>Conclusion</i>	51
Bibliography	.....	52
<i>Legislation</i>	.....	52
<i>Case Law</i>	.....	55
<i>Official Documents</i>	.....	55
<i>Literature</i>	.....	57
<i>Books</i>	.....	57
<i>Articles</i>	.....	57
<i>Websites</i>	.....	62

List of Abbreviations

AAA: Annual Accounts Act

ÅRL: Årsredovisningslagen (Swedish Annual Accounts Act)

CSDDD: Corporate Sustainability Due Diligence Directive

CSRD: Corporate Sustainability Reporting Directive

EC: European Commission

EGD: European Green Deal

EIA: Environmental Impact Assessment

EP: European Parliament

ESG: Environmental, Social, and Governance

EU: European Union

H&M: Hennes & Mauritz

NFRD: Non-Financial Reporting Directive

OECD: Organization for Economic Co-operation and Development

TFEU: Treaty on the Functioning of the European Union

UK: United Kingdom

UN: United Nations

UNFCCC: United Nations Framework Convention on Climate Change

Chapter 1. Introduction

The fashion industry is one of the most environmentally and ethically problematic sectors in the global economy.¹ It is widely recognized as the second-largest polluting industry worldwide, contributing significantly to greenhouse gas emissions, water pollution, and excessive resource consumption.² Furthermore, the industry is plagued by human rights violations, including exploitative labour conditions, child labour, and unsafe working environments.³ Within this sector, fast fashion is particularly notorious for exacerbating sustainability challenges due to its business model, which prioritizes fast, cost-efficient production and trend responsiveness over ethical and environmental responsibility.⁴

1.1. Fast Fashion & the H&M Group

Fast-fashion emerged as a result of increasing globalisation, following the Second World War.⁵ Consumers increasingly preferred buying mass-produced clothing rather than having clothes made specifically for them by a tailor, or opting for the cheaper alternative of making one's own clothing at home.⁶ To reduce costs, production was shifted to countries in the global south, where relaxed labour Laws and lower wages made manufacturing significantly cheaper.⁷

In 1947, Erling Persson, a Swedish entrepreneur, founded Hennes in Västerås, Sweden, initially selling women's clothing. In 1968, he acquired Mauritz Widforss, a

1 Luque & Herrero-García 2019, p. 2.

2 Bailey, Basu & Sharma 2023, p. 1.

3 Luque & Herrero-García 2019, p. 2.

4 Bailey, Basu & Sharma 2023, p. 1.

5 Ermilova et al. 2022, p. 72.

6 Linden, 2016.

7 Linden, 2016; Crofton 2007 p. 42.

hunting and outdoor gear retailer, expanding the business to include menswear. This merger created Hennes & Mauritz, later shortened to H&M.⁸ The company grew over time and experienced explosive growth thanks to its business model, which focused on producing clothing at a rapid pace in response to new fashion trends.⁹ These affordable garments enabled consumers to participate in fashion trends without the need to invest in expensive designer clothes.¹⁰

The H&M Group has grown out to be one of the largest actors in the fast fashion sector, to a multinational retailer headquartered in Stockholm, Sweden. It has become one of the world's leading fast-fashion corporations, the group operates in numerous countries and manages extensive global supply chains, sourcing raw materials and producing clothing primarily in third countries.¹¹ Given that the company is headquartered in Sweden, it falls under the jurisdiction of EU Law, including the Corporate Sustainability and Due Diligence Directive (CSDDD), which came into force on 25 July 2024.¹²

1.2. Corporate Sustainability Due Diligence Directive

The CSDDD is a EU Directive intended to integrate sustainability into corporate governance, and is one of the main legal instruments the European Green Deal, a policy framework aimed at making the EU climate neutral by 2050.¹³ The Directive requires Member States to adopt legislation that would oblige organisations implement

8 H&M Group. n.d.

9 Linden, 2016.

10 Hayes, 2024.

11 H&M Group, 2022; European Commission, "Third country – EMN Glossary"; Al Jazeera 2023. 'Third countries' refers to countries that are neither part of the European Union nor of the European Economic Area, the H&M Group mostly produces in third countries, these include China, India and Bangladesh.

12 Deloitte, "CSDDD: Corporate Sustainability Due Diligence Directive"; European Commission, "Single market for goods".

13 UNFCCC 2015; Fetting, 2020.

a risk management system across their supply chains, designed to assess, prevent, mitigate, and remediate adverse environmental and human rights impacts within their supply chains.¹⁴ Unlike prior voluntary sustainability and due diligence initiatives, like those formulated by UNCTAD, the CSDDD introduces legally binding standards that establish corporate accountability through reporting requirements and legal liability for non-compliance.¹⁵

The Directive was adopted in May 2024, it then moved into the transposition stage, this means that EU member states are now required to pass legislation that meets the standards set by the Directive. The transposition deadline is set for 26 July 2026, after this deadline the Directive would enter into force.¹⁶

Sweden, the country in which the H&M Group is headquartered, is member of the European Union and must therefore transpose the Directive into domestic Law. It will apply to the H&M Group's operations after it has been transposed into Swedish Law. As is stipulated in Article 2 of the CSDDD, companies with more than 1000 employees and 450 million euros in turnover are subject to the Directive. The H&M Group with over 100.000 employees worldwide and 20 billion euros in turnover falls within these requirements.¹⁷

The Directive introduces a regulatory framework that requires large organisations' due diligence with regards to the environmental and human rights impacts of their supply chains. These new legal requirements could mean that

14 Directive (EU) 2024/1760 (CSDDD).

15 Directive (EU) 2024/1760 (CSDDD); UNCTAD 2024; The "Voluntary sustainability standards and sustainable development due diligence" are a set of private voluntary sustainability and due diligence standards for products, processes, and transportation. These were published by the UN Trade and Development organisation in 2024 and are not legally binding.

16 European Commission, Corporate Sustainability Due Diligence; Art. 36 Directive (EU) 2024/1760 (CSDDD).

17 H&M Group, 2024; Statista, 2025.

organisations like the H&M Group will need to make changes in their operations to guarantee compliance.¹⁸

1.3. Research Problem and Research Question

This study seeks to examine the legal implications of the CSDDD on the H&M Group's production and sourcing operations outside the European Union. It will specifically focus on the Articles which establish a risk-management system. As mentioned earlier, fast fashion is marred with ethical and environmental challenges; however, this thesis will focus solely on the environmental impact of the sector rather than the ethical challenges, to ensure a complete analysis. Additionally, the research will only focus on the H&M Group's production and sourcing activities outside of the European Union. This is because the vast majority of the H&M Group's products are sourced and manufactured outside of the EU, it is also in non-EU countries that most cases of adverse impacts have occurred.¹⁹ The analysis will consider the legal mechanisms established by Directive through its risk management system and assess potential vulnerabilities within the company's supply chain. Additional focus will be placed on the strategies that the H&M Group has historically employed to evade responsibility for abuses in its supply chain, including the use of subcontractors and how the Directive addresses these issues.²⁰ In addition, a legal analysis will be conducted to determine how the CSDDD interacts with Swedish domestic Law, particularly the Annual Accounts Act and the Swedish Environmental Code. Finally, an examination will be done of the Directive's connection to other EU sustainability

¹⁸ Deloitte, 18 December 2024; Meyermans Spelmans, 2023.

¹⁹ H&M Group, 2022; European Commission, "How the EU is making fashion sustainable".

²⁰ Reuters, 2023.

instruments, including the Corporate Sustainability Reporting Directive (CSRD) and the Taxonomy Regulation.²¹

To guide this inquiry, the research is structured around the following research question:

“How will the Corporate Sustainability and Due Diligence Directive’s risk management system create legal sustainability obligations affecting the H&M Group’s production and sourcing operations outside the EU?”

To adequately address this, the study will further answer the following sub-questions:

- 1) “How does the risk management system stipulated in Articles 7-12 of the CSDDD establish legal obligations for the H&M Group that will affect its production and sourcing practices outside the EU?”
- 2) “How can the CSDDD’s risk management system complement existing national sustainability legislation in Sweden, in particular the Annual Accounts Act (Chapter 6, Sections 12-14) and the Swedish Environmental Code (Chapter 2, Section 5, and Chapters 6 and 29)?”
- 3) “How does the risk management system established in the CSDDD complement the CSRD and the Taxonomy Regulation as part of the broader framework of the European Green Deal?”

²¹ Årsredovisningslagen (SFS 1995:1554); Miljöbalken (SFS 1998:808); Directive (EU) 2022/2464 (CSRD); Regulation (EU) 2020/852.

1.4. Methodology & Structure

The methodology employed in this thesis will be doctrinal legal research, aimed at examining the impact of the CSDDD on the H&M Group's production and sourcing operations outside the European Union. Firstly, an analysis of the Directive's primary legal instrument, its risk management system will be performed. This will be followed by a case-study analysis of reports from civil society groups. In the subsequent chapter, the analysis will make use of National Legislation from the Kingdom of Sweden, in particular the country's Environmental Code and Annual Accounts Act. The analysis in this chapter will primarily be based on primary legal sources. When answering the third sub-question, the analysis will make use of primary and secondary legal sources. The texts of the Corporate Sustainability Reporting Directive (CSRD) and EU Taxonomy Regulation will be consulted, as well as supporting documents and sources from the European Commission. Reports from civil society organisations will also be used in the analysis of proposed changes to the CSDDD.

1.4.1. Analysis of the Directive's Risk Management System

Initially, an analysis of the CSDDD will be conducted to examine the risk-based management system which forms the primary legal mechanism of the Directive.²² Articles 7-12 of the Directive establish a risk-management system, in which it stipulates a legal requirement for companies falling under the scope of the Directive to develop a system designed to identify, prevent, mitigate, and remediate environmental and human rights risks within their supply chains.²³ These articles detail the legal

²² EPRS 2022, p. 3.

²³ Art. 7-12 Directive (EU) 2024/1760 (CSDDD).

requirements for companies to address any actual or potential adverse impacts resulting from their business operations. The analysis will include what implications these requirements have on the H&M Group's business practices, as it will analyse these articles and compare them to reports of adverse environmental impacts occurring in the H&M Group's production and sourcing operations outside of the EU. These cases will then subsequently be compared to the requirements set by the Directive and determine whether the operations discussed in the reports would constitute a violation of the Directive.

1.4.2. Swedish National Law

Another key element of this study will be an analysis of current Swedish sustainability legislation, with a focus on the Annual Accounts Act (Chapter 6, Sections 12–14) and the Swedish Environmental Code (Chapter 2, Section 5, and Chapters 6 and 29). The Annual Accounts Act outlines the requirements for Swedish companies to publish annual accounts, including a sustainability report that must cover specific environmental, social, and employee-related topics.²⁴ The Swedish Environmental Code chapter 2 introduces the “product-choice principle,” which obliges companies to avoid hazardous chemical products when less dangerous alternatives are available. Additionally, Chapter 6 establishes the requirement for organizations to conduct comprehensive Environmental Impact Assessments (EIAs).²⁵ These assessments must detail both the direct and indirect effects of planned business activities on human health and the environment. The analysis in this chapter will consider how current

²⁴ Årsredovisningslagen (SFS 1995:1554), Ch. 6, Secs. 10–14.

²⁵ Miljöbalken (SFS 1998:808), Ch. 2 & Ch. 6.

Swedish sustainability Law governs the H&M Group's activities, whether it impacts their production and sourcing operations and whether the CSDDD will expand on current legal obligations.

1.4.3. The CSDDD, CSRD and Taxonomy Regulation

Finally, the research will evaluate how the Directive connects with broader EU sustainability legislation, focusing specifically on the European Green Deal (EGD), a policy framework aimed at making the European Union carbon neutral by 2050.²⁶ The CSDDD is one of the three key pillars of the EGD, alongside the Corporate Sustainability Reporting Directive (CSRD), which requires large EU companies to report on their environmental impact, as well as the Taxonomy Regulation, which establishes a classification system for environmentally sustainable economic activities.²⁷ Together, the CSDDD, CSRD, and Taxonomy Regulation form a framework designed to hold companies accountable for their sustainability practices, increase corporate transparency, and stimulate sustainable investment.²⁸

This study will examine the interrelation between the different regulations part of the EGD and how these different legislative instruments are intended to work together towards the goals of the EGD. Additionally, it will be assessed how the EGD governs the H&M Group's operations, whether it already influences their operations and whether this is set to develop further. This element of the study is also designed to account for proposed reforms to the CSDDD by the European Commission to fuse

26 European Commission 2019

27 Directive (EU) 2022/2464 (CSRD); Regulation (EU) 2020/852.

28 European Commission 2023.

the CSDDD, CSRD and taxonomy regulation together in an Omnibus Law. Thus, an element of the analysis of the EGD will be to track developments in this regard.²⁹

1.5. Relevance

The relevance of this research extends beyond corporate compliance; it contributes to the broader legal discourse on the role of European Law in shaping binding sustainability standards for private companies. But this thesis' contribution is not only limited to legal discourse but also contributes to a broader societal understanding of the way EU Law shapes our way of life, the way we consume and the values we seek to uphold through these Laws. The CSDDD is designed to shift responsibility for the impacts of a company's operation's across in their supply chain, irrespective of whether the activities take place inside or outside of the European Union or are carried out by a business partner. In effect, it extends the reach of EU Law beyond the Union's borders and aims to ensure that the products we consume within the EU are sourced according to the same standards we have for products produced in the EU. In this sense, understanding the way the Directive functions, is of significant societal importance, as it has the potential to not only greatly influence our lives, but also those of people and ecosystems outside of the Union.

By employing a doctrinal legal research methodology, this thesis seeks to offer an understanding of the impact of the Corporate Sustainability and Due Diligence Directive on the H&M Group's business operations in non-EU countries, thereby contributing to legal scholarship in the field of corporate sustainability and due diligence.

²⁹ ECCJ, Joint Statement on Omnibus, 14 January 2025.

Chapter 2.

CSDDD Risk Management and H&M's Operations Outside the EU

This chapter will focus on a selection of articles from the Corporate Sustainability Due Diligence Directive (CSDDD), namely Articles 7-12, which establish the Directive's core risk-management system and form its most tangible legal mechanism.³⁰ These provisions set out the obligations for companies to identify, prevent, mitigate, and remediate sustainability-related risks within their operations and supply chains. Additionally, the chapter will address the complementary role of Articles 6, 13, 22, 27, and 29, which reinforce the risk management framework by establishing requirements for policy integration, stakeholder engagement, sanctioning powers, and civil liability.³¹ The analysis will be guided by the following question:

“How does the risk management system established Articles 7-12 of the CSDDD establish legal obligations for the H&M Group that will affect its production and sourcing practices outside the EU?”

This chapter will analyse the specific legal requirements created by these provisions and assess their impact on H&M's global supply chain management.

³⁰ Art. 7 – 12 Directive (EU) 2024/1760 (CSDDD).

³¹ Sarkkinen, 2024 p.4; Recital 6 Directive (EU) 2024/1760 (CSDDD).

2.1. Risk Management

An important responsibility introduced by the Directive for companies falling within its scope is the implementation of due diligence. It sets a standard for certain responsible practices and placing the responsibility of acting and reporting on these practices with the company itself.³² Legal penalties serve as a motivator for these actors to genuinely comply with these standards.³³ In the Directive, this is done in Articles 7 – 12, which introduce a risk management system, this is prefaced by Article 6, which establishes that companies must have in place due diligence frameworks that cover all their operations and business relationships.³⁴ Article 6 outlines the way parent companies need to provide their subsidiaries the necessary support to be compliant with the provisions of the Directive. The Article establishes that parent companies can fulfil the due diligence obligations of their subsidiaries on the condition they provide the necessary documentation to the parent company and provided they adhere to the parent company's due diligence policies.³⁵

2.2. Article 7-12 of the CSDDD

Article 7 of the Directive establishes that companies are responsible for ensuring they integrate due diligence into their relevant policies to ensure risk-based due diligence.³⁶ This effectively means that organizations falling under the scope of the Directive must assess which parts of their supply chain operations are most at risk of violating environmental standards.³⁷ This includes operations both within and outside

³² O'Leary 2024.

³³ Art. 29 Directive (EU) 2024/1760 (CSDDD).

³⁴ Recital 38 Directive (EU) 2024/1760 (CSDDD).

³⁵ Art. 6 Directive (EU) 2024/1760 (CSDDD).

³⁶ Art. 7(1) Directive (EU) 2024/1760 (CSDDD).

³⁷ Art. 7(3) Directive (EU) 2024/1760 (CSDDD).

the EU, as well as those carried out by subcontractors.³⁸ The assessment should focus on the prohibitions and obligations outlined in Annex Part II of the Directive.³⁹ This is done by creating the requirement for organisations to develop a risk-based management system, which can identify potential or actual adverse impacts of a company's operations.⁴⁰ Article 7 further stipulates Member States' responsibility to ensure that companies develop a due diligence policy detailing their approach to adhering to due diligence requirements as established by the Directive.⁴¹ This policy includes: A code of conduct, a description of a company's processes built to integrate due diligence into their operations, compliance verification mechanisms and the explicit statement of the applicability of these standards to the company falling under the Directive's scope, as well as its subsidiaries and direct and indirect business partners.⁴²

Article 8 of the CSDDD establishes the requirement for companies to systematically identify and assess actual and potential adverse impacts caused by their operations. This means that companies subject to the Directive are obligated to conduct regular assessments of their activities, including those of their subsidiaries and business partners, to determine whether their business practices cause adverse impacts.⁴³ Companies are required to reassess risks of adverse impacts along their supply chain periodically and address, prevent possible adverse impacts, and bring actual adverse impacts to an end.⁴⁴

Article 9 introduces the requirement for companies to develop prioritisation frameworks, designed to prioritize the prevention, mitigation, ending, or minimization

38 Art. 3(1)(g) Directive (EU) 2024/1760 (CSDDD).

39 Annex II Directive (EU) 2024/1760 (CSDDD).

40 Arts. 5(1)(a) and 6(1)(c) Directive (EU) 2024/1760 (CSDDD).

41 Art. 7(2) Directive (EU) 2024/1760 (CSDDD).

42 Art. 7(2) Directive (EU) 2024/1760 (CSDDD).

43 Arts. 8(1)(a), 8(1)(b) and 8(2) Directive (EU) 2024/1760 (CSDDD).

44 Arts. 15(2) and 11(1) Directive (EU) 2024/1760 (CSDDD).

of actual and potential adverse impacts based on their severity and likelihood. Given the potentially vast scope a company's supply chain, this article provides for the strategic allocation of resources, to bring most pressing adverse impacts to an end first.⁴⁵ The prioritisation framework that Article 9 requires companies to develop, must be designed in such a manner that it effectively identifies the risks with the highest potential for harm within an organisation's supply chains.⁴⁶ The assessment criteria for prioritisation should consider the scale, scope, and irremediable nature of the impact.⁴⁷

Article 10 introduces an obligation on Member States to ensure that companies take adequate measures to prevent potential adverse impacts.⁴⁸ To meet this requirement, companies must adopt and implement a prevention action plan, designed to prevent likely adverse impacts. They must also enshrine commitments to preventing adverse impacts in contractual agreements with subcontractors and make the necessary investments to achieve this.⁴⁹ These measures can include providing training and support to suppliers and business partners to encourage compliance with sustainability standards and establishing monitoring mechanisms to track compliance over time.⁵⁰

Where prevention is not possible, Article 11 focuses on the steps companies must take to bring adverse impacts to an end.⁵¹ If a company identifies that its operations or those of its subsidiaries or partners have resulted in human rights violations, environmental harm, or other negative impacts, they are required to act

45 Art. 9(1), 9(2) and 9(3) Directive (EU) 2024/1760 (CSDDD).

46 Art. 9(1) Directive (EU) 2024/1760 (CSDDD).

47 Art. 9(2) Directive (EU) 2024/1760 (CSDDD).

48 Art. 10(1) Directive (EU) 2024/1760 (CSDDD).

49 Art. 10(2)(a), 10(2)(b) and 10(2)(c) Directive (EU) 2024/1760 (CSDDD).

50 Art. 10(2)(e) Directive (EU) 2024/1760 (CSDDD).

51 Art. 11(1) Directive (EU) 2024/1760 (CSDDD).

accordingly to rectify the situation.⁵² This may involve stopping or modifying business activities that contribute to harm, engaging with affected stakeholders to decide on appropriate response measures, increasing monitoring, and terminating business relationships in cases of non-compliance if corrective action is not possible.⁵³

Article 12 addresses the remediation of adverse impacts and establishes that companies have a duty to provide or cooperate in remediation efforts for harms that have already occurred.⁵⁴ This means that companies must engage with affected parties, including workers, communities, and other stakeholders, to ensure that harm is appropriately remedied. In case of an adverse impact occurring only at the hands of a business partner, the parent company can choose to provide remediation, in whatever from they see fit, it can also influence their business partner on choosing the appropriate remediation.⁵⁵

2.2.1. Article 13

In addition to operational obligations, Article 13 of the CSDDD mandates that companies engage with stakeholders, particularly those affected by their business practices, to ensure accountability in due diligence procedures.⁵⁶ This means that failures in environmental protection, such as H&M's involvement in deforestation or chemical contamination, must be transparently communicated with impacted communities and rectified in accordance with the Directive's standards.⁵⁷

52 Art. 11(2) Directive (EU) 2024/1760 (CSDDD).

53 Art. 11(3)(c), (4), (6) and (7)(b) Directive (EU) 2024/1760 (CSDDD).

54 Art. 12(1) Directive (EU) 2024/1760 (CSDDD).

55 Art. 12(2) Directive (EU) 2024/1760 (CSDDD).

56 Art. 13(1) and 13(2) Directive (EU) 2024/1760 (CSDDD).

57 Art. 13(3)(a) and 13(3)(b) Directive (EU) 2024/1760 (CSDDD).

2.3. Deforestation in Brazil & Possible conflict with CSDDD

The H&M Group has faced multiple challenges regarding adherence to environmental standards. Though the CSDDD will only apply to the H&M Group starting in 2027, numerous reports have indicated that the company was in violation of other environmental standards. This means that following the Directive's entry into force, the Group runs the risk of being non-compliant with the Directive.⁵⁸

One of these reported cases was in April 2024, when the non-profit organisation Earthsight published a report linking several large fashion producers, including the H&M Group, to dangerous deforestation practices in Brazil's Cerrado savannah. The investigation revealed that fashion giants, including the H&M Group, source materials through a network of textile suppliers mostly based in Asia, which transform cotton from western Brazil into fabric used in garment production.⁵⁹ These agricultural practices have been identified as the cause for a decline of about half of the Cerrado biome's native vegetation, thus posing a serious threat to the region's biodiversity.⁶⁰ Deforestation alerts in the Cerrado jumped significantly, with cotton being a major cause as Brazil aims to become the world's largest exporter.⁶¹ Earthsight traced nearly a million tonnes of cotton being sourced like this, from companies in western Bahia to supply chains serving the H&M Group.⁶²

This would be in violation of the Directive under Article 8, which requires companies to identify and assess the risks of adverse environmental impacts in their supply chains.⁶³ As Lennarts (2023) discusses in her paper on the efficacy of civil

58 Ferris, 2023.

59 Earthsight 2024, p. 8.

60 Earthsight 2024, p. 12.

61 Earthsight 2024, pp. 5 and 7.

62 Earthsight 2024.

63 Art. 8(2)(a) and 8(2)(b) Directive (EU) 2024/1760 (CSDDD).

liability provisions in Article 22 of the Directive, failing to exercise due diligence in response to environmental harm, such as deforestation, constitutes a breach of the duty of care that parent companies owe to those impacted by their supply chains.⁶⁴ Following this reasoning, the failure to assess and act against sourcing materials linked to deforestation would constitute non-compliance with this requirement. Furthermore, the environmental obligations outlined in Annex Part II of the Directive prohibit actions that contribute to deforestation and diversity loss.⁶⁵ Additionally, under Article 10, which mandates preventive measures against adverse impacts, H&M's continued reliance on suppliers involved in environmental destruction without intervention or alternative sourcing strategies would violate the Directive.⁶⁶ Deforestation is restricted under Section 1 of Annex Part II, which specifically formulates the obligation to avoid or minimize adverse impacts on biological diversity in line with Article 10 of the 1992 Convention on Biological Diversity.⁶⁷ This means that the Group will be obligated to take steps to ensure that its suppliers do not damage the environment through their operations. If the company does not take such steps and continues sourcing from environmentally destructive suppliers, it could face legal consequences, including sanctions under Article 27.⁶⁸ Lastly, under Article 12, which covers remediation, H&M Group would be required to engage in corrective actions to address the environmental damage caused by its supply chain.⁶⁹ This would mean the Group would need to employ measures to restore affected ecosystems and mitigate biodiversity loss. If H&M fails to remediate such harm, it could be subject to civil liability

64 Lennarts 2023, p. 267.

65 Annex Part II, Sec. 1 Directive (EU) 2024/1760 (CSDDD).

66 Art. 10(2) Directive (EU) 2024/1760 (CSDDD).

67 Annex Part II, Sec. 1 Directive (EU) 2024/1760 (CSDDD).

68 Art. 27(3) Directive (EU) 2024/1760 (CSDDD).

69 Art. 12 Directive (EU) 2024/1760 (CSDDD).

under Article 29, allowing affected stakeholders to seek compensation for environmental damage caused by its supply chain operations.⁷⁰

2.3.1. Use of Harmful Chemicals & Possible conflict with CSDDD

In their report 'Dirty Laundry 2: Hung out to dry', environmental advocacy group Greenpeace revealed the presence of toxic chemicals in finished products of fashion retailers, including the H&M Group.⁷¹ The research found Nonylphenol ethoxylates (NPEs) surfactants in the company's products. NPEs break down into nonylphenol, a persistent chemical that disrupts hormones in the human body.⁷² Out of six samples from H&M Group retail outlets, four tested positive for these chemicals.⁷³ The presence of these chemicals in final products raises alarms regarding consumer safety and the strength of chemicals used throughout the supply chain. There are concerns about these chemicals being released through wastewater discharges during production and into local water supplies in end-user markets when garments are washed.⁷⁴

Since 2004, the use of these chemicals has been prohibited in textile manufacturing within the EU.⁷⁵ In 2021, EU regulation banned the import of textiles and clothing containing NPEs above a concentration of 0.01% by mass.⁷⁶ Under the CSDDD, even if these substances are used in production occurring outside the EU's territory, it would violate the Directive's environmental obligations as outlined in Annex Part II paragraph 6.⁷⁷ This part of the Directive specifically bans the production and

70 Art. 29(1) and 29(2) Directive (EU) 2024/1760 (CSDDD).

71 Greenpeace International, 2012, p. 6.

72 Endocrine Disruptor List n.d.

73 Greenpeace International, 2012, p. 6.

74 Greenpeace International. (2012), p. 7.

75 UK Government n.d.

76 The French National Institute for Industrial Environment and Risks. 2021.

77 Endocrine Disruptor List n.d; Annex II, para. 6 Directive (EU) 2024/1760 (CSDDD).

use of Persistent Organic Pollutants (POPs), which can cause pollution, environmental degradation and harm to human health. The presence of NPEs, which are considered POPs, in H&M's garments would be considered an adverse environmental impact according to Annex Part II paragraph 6 and would constitute a violation under Article 7, which mandates that companies integrate risk-based due diligence into their policies.⁷⁸ Additionally, Article 9(2) would be violated if H&M failed to prioritise the mitigation of chemical-related risks, based on the rampant chemical usage in textile sectors in, for example, Bangladesh, it would be reasonable for the H&M Group to prioritise this risk.⁷⁹ A breach of Article 10(2)(b) could also be argued, if it is found that the Group has not sought to establish contractual obligations with their producers, to ban the use of NPEs during production processes.⁸⁰

The failure to incorporate the risk of these chemicals being used in the production of H&M Group's products within or outside the EU in the group's risk management system would constitute a violation of the Directive's requirements to prevent, mitigate, and remediate adverse side effects of a company or subcontractor falling under the scope of the Directive.⁸¹ The risk management system outlined in Articles 7 to 12 requires companies to identify and assess environmental risks, prioritise them accordingly. They must take measures to prevent these risks and act to end any ongoing harmful practices. Finally, companies are obligated to remediate harm caused by past activities.⁸²

78 Art. 7 Directive (EU) 2024/1760 (CSDDD).

79 Art. 9(2)(a) Directive (EU) 2024/1760 (CSDDD); Uddin 2023, p. 14.

80 Art. 10 Directive (EU) 2024/1760 (CSDDD).

81 Art. 10 Directive (EU) 2024/1760 (CSDDD).

82 Art. 7-12 Directive (EU) 2024/1760 (CSDDD).

2.4. Legal Accountability and Enforcement Under the CSDDD

In the past, these activities may have been legally permissible due to a lack of local legislation in non-EU countries where such activities occurred and regulatory gaps in international supply chain due diligence.⁸³ However, under the CSDDD, the practices discussed would now be illegal.⁸⁴ The Directive imposes binding obligations on companies to actively monitor and address their environmental impact, including indirect effects caused by suppliers.⁸⁵ If H&M fails to comply with these obligations once the Directive is in effect, it could face legal and financial repercussions, including penalties and liability claims from affected stakeholders.⁸⁶ Article 29 introduces civil liability, making companies legally accountable for failing to comply with due diligence obligations that result in harm.⁸⁷ Under this article, victims of environmental harm caused by the H&M's group's negligence can seek compensation.⁸⁸ Additionally, Article 25 empowers supervisory authorities, appointed by Member States to oversee compliance with the Directive, to order companies that are found to be in violation of the Directive to cease any conduct in violation with the Directive, impose penalties and impose interim measures.⁸⁹ These provisions ensure that businesses cannot evade responsibility by shifting liability to suppliers or subsidiaries, thus strengthening the enforcement mechanism of the Directive.

83 Levinson, 2008, p. 224.

84 Lont, 2024.

85 Majamäki, 2024, p. 30.

86 Art. 27(1), (2)(h), (4) and (5) Directive (EU) 2024/1760 (CSDDD).

87 Art. 29(1)(a) Directive (EU) 2024/1760 (CSDDD).

88 Art. 29(2) Directive (EU) 2024/1760 (CSDDD).

89 Art. 25(5)(a)(i)–(iii), (5)(b) and (5)(c) Directive (EU) 2024/1760 (CSDDD).

Chapter 3.

The CSDDD and Swedish National Sustainability Legislation

In this chapter, the current legal landscape regarding sustainability in the Kingdom of Sweden, where the H&M Group is headquartered, will be examined.⁹⁰ The analysis will begin with an overview of two key Swedish Laws that align closely with the objectives of the European Green Deal: the Swedish Environmental Code and the Swedish Annual Accounts Act.⁹¹ These Laws form key Swedish domestic sustainability legislation and establish important obligations related to environmental responsibility and corporate sustainability reporting.

This chapter will begin by examining the Swedish Environmental code and establish which provisions currently govern the H&M Group's production and sourcing operations. The analysis will cover two key principles set out in Chapter 2 of the Environmental Code. In addition, Chapter 6 section 3, which requires Swedish companies to conduct Environmental Impact Assessments. Section 6, which covers transnational environmental impacts, will also be discussed.

Subsequently, the chapter will analyse the Swedish Annual Accounts Act (AAA). First by establishing the scope of the Act, which is determined in accordance with Chapter 6 Section 1 of the Swedish Accounting Act. Subsequently, the chapter will discuss the sustainability reporting requirements set by the AAA, as established in Chapter 6 sections 10 – 14.

The analysis will also briefly examine how the Annual Accounts Act has been amended to incorporate the Non-Financial Reporting Directive (NFRD) and

⁹⁰ H&M Group, n.d.

⁹¹ European Commission, 2024.

the Corporate Sustainability Reporting Directive (CSRD) into national legislation, and how this has altered the character and scope of the original Act from a financial reporting tool into an instrument for sustainability reporting.⁹²

The central aim of this chapter is to ascertain how the H&M Group is currently governed by the Environmental Code and the Annual Accounts Act, and how the CSDDD may complement and potentially expand upon these existing Laws. In particular, the chapter will consider to what extent Swedish Law currently governs corporate activities with high environmental impacts occurring outside Sweden and whether the risk management system established in the Directive creates additional legal obligations.

This chapter is guided by the following research question:

'How can the CSDDD's risk management system interact with and complement existing national legislation in Sweden, in particular the Annual Accounts Act (Chapter 6, Sections 12–14) and the Swedish Environmental Code (Chapter 2, Section 5, and Chapters 6 and 29)?'

By answering this question, the chapter will clarify the extent to which existing Swedish Law already aligns with EU sustainability obligations and where the CSDDD introduces new, binding obligations that may change legal responsibilities for the H&M Group.

⁹² DLA Piper, 2024.

3.1. The Swedish Environmental Code

The Swedish Environmental Code (Miljöbalken, 1998:808, the Code) serves as the primary legal instrument for environmental protection in Sweden and applies to all companies operating within Swedish jurisdiction.⁹³ This includes multinational corporations such as the H&M Group. This is stipulated in Chapter 2 Section 1 of the Code which establishes that it applies to any person or entity conducting activities that may impact the environment, without exemption for nationality or company size.⁹⁴ Although most of H&M's production occurs outside of Sweden, the Environmental Code still applies to all the Group's operations happening within Sweden. Its key principles still apply to corporate strategy and internal-decision-making with regards to environmental sustainability.⁹⁵

Two key principles of the Code are found in Chapter 2:

First, the precautionary principle (Section 3) requires companies to take preventive measures when there is a risk of environmental harm, even in the absence of full scientific certainty.⁹⁶ This can be likened to the risk-management system central to the CSDDD, as this too requires companies to assess possible risks, and not only remediate factual adverse impacts.⁹⁷

Second, the product-choice principle (Section 6) obliges companies to avoid using or selling hazardous chemical products when less harmful alternatives are available. This requirement also applies to using or selling products that are treated with hazardous chemical products or biotechnical organisms.⁹⁸ This provision is

93 Miljöbalken (SFS 1998:808), Ch. 2, Sec. 1.

94 Miljöbalken (SFS 1998:808), Ch. 2, Sec. 1.

95 Swedish Environmental Protection Agency n.d.

96 Miljöbalken (SFS 1998:808), Ch. 2, Sec. 3.

97 Art. 7 Directive (EU) 2024/1760 (CSDDD).

98 Miljöbalken (SFS 1998:808), Ch. 2, Sec. 6.

particularly relevant to H&M's textile sourcing and production decisions, particularly regarding the use of NPEs. As was discussed in the previous chapter, these surfactants are considered dangerous to human health.⁹⁹ Thus, pursuant to this article the sale of clothes containing these chemicals would be prohibited under the Code. The use of such chemicals is also banned under the CSDDD, but the Directive's scope is considerably larger, extending to the entirety of the company's supply chain, including its operations outside of Sweden.

Chapter 6 of the Code requires environmental impact assessments (EIAs) for projects that may significantly affect the environment. As described in Section 3, the purpose of an EIA is to consider and describe the possible environmental impact of a planned activity.¹⁰⁰ Section 6 explicitly addresses activities or measures that are likely to have a significant environmental impact in another country. It requires the responsible government authority to inform the competent authority in the affected country of the potential impact and to allow that country and its citizens to participate in a consultation procedure regarding the application and the environmental impact assessment.¹⁰¹ As the H&M Group's production and sourcing practices have been linked to large-scale deforestation in the Cerrado savannah, it may have been appropriate for the Group to submit an environmental impact assessment to the competent authority in Brazil.¹⁰² However, the use of subcontractors in these cases, entities not headquartered in Sweden, mean that these activities do not fall under this provision as they are not carried out directly by the H&M Group. It is apparent that the environmental protections described in the Code are comprehensive in preventing

99 Endocrine Disruptor List n.d.

100 Miljöbalken (SFS 1998:808), Ch. 6, Sec. 3.

101 Miljöbalken (SFS 1998:808), Ch. 6, Sec. 6.

102 Rubenson 1999.

environmental damage within Sweden.¹⁰³ However, its transnational provisions appear to be limited to the activities of Swedish companies and do not extend to economic activities carried out by subcontractors or business partners in other countries. Large-scale environmental damage caused by one of the H&M Group's business partners outside of Sweden would, therefore, be unlikely to result in legal consequences under the Swedish Environmental Code.¹⁰⁴

3.2. The Annual Accounts Act (AAA)

The Swedish Annual Accounts Act (Årsredovisningslagen, ÅRL, the Act, AAA) governs the preparation and publication of annual financial and non-financial reports by companies operating in Sweden.¹⁰⁵ It establishes requirements for how companies present their annual accounts, including financial statements, management reports and sustainability reports.¹⁰⁶ As is established in Chapter 1 Section 1, The ÅRL applies to companies as described in Chapter 6, Section 1 of the Swedish Accounting Act (Bokföringslagen).¹⁰⁷ This includes companies, economic associations, foundations, and other entities that exceed certain conditions during the last two financial years.¹⁰⁸ This means that the H&M Group falls within the scope of the Act, given its number of employees, yearly reported revenue, and being headquartered in Stockholm, Sweden.¹⁰⁹ As such, the company is legally required to prepare and submit an annual

103 Årsredovisningslagen (SFS 1995:1554); Swedish Environmental Protection Agency n.d.

104 Rubenson 1999.

105 BFN 2020.

106 Ch. 2, Sec. 1 Årsredovisningslagen (SFS 1995:1554);

107 Ch. 1, Sec. 1 Årsredovisningslagen (SFS 1995:1554); Ch. 6, Sec. 1 Bokföringslagen (SFS 1999:1078).

108 Ibid.: "Annual report must be prepared by legal persons who... during each of the two most recent financial years, exceeded more than one of the following conditions: the average number of employees in the business has been more than 50, the balance sheet total has exceeded 40 million kronor, the net turnover has exceeded 80 million kronor."

109 Ibid.

report, including a sustainability report, in accordance with the provisions set out in the Act.¹¹⁰ These reporting obligations, dictate how the H&M Group monitors, evaluates, and communicates its performance in environmental, social, and governance (ESG) areas, established in the Act.¹¹¹ The ÅRL also applies to branches of foreign companies operating in Sweden, meaning that a wide range of organizations are legally required to prepare and submit annual accounts.¹¹² The aim of the Act is to establish a legal mechanism that increases transparency and consistency in corporate disclosures.¹¹³

Chapter 6 of the ÅRL, particularly Sections 10 to 14, outlines the obligations for sustainability reporting.¹¹⁴ These provisions require companies falling in the scope of the Act to disclose information on environmental matters, social and employee-related issues, respect for human rights, anti-corruption and bribery, and relevant policies.¹¹⁵ Companies must also describe their business model, the risks associated with these areas, the policies implemented to address them, and the outcomes of those policies.

The report must include non-financial performance indicators that are relevant to the business which serve to illustrate how the company's operations affect, and are affected by, environmental, social, and governance (ESG) factors.¹¹⁶ The H&M Group is subject to the Annual Accounts Act and thus required to publish an annual sustainability report in line with the requirements set out in Chapter 6.¹¹⁷ For the Group, this means it must produce an annual report detailing the organization's finances,

110 Ch. 6, Sec. 10 Årsredovisningslagen (SFS 1995:1554).

111 Ch. 6, Sec. 12(a) – 12(g) Årsredovisningslagen (SFS 1995:1554).

112 Ch. 6, Sec. 10 Årsredovisningslagen (SFS 1995:1554).

113 Nyquist 2003, p. 682-691.

114 Ch. 6, Sec. 10 – 14 Årsredovisningslagen (SFS 1995:1554).

115 Ch. 6, secs. 12, 12(a), 12(b)(2) – (3), 12(b)(5) – (7), and 12(f) Årsredovisningslagen (SFS 1995:1554).

116 Ch. 6, secs. 12, 12a, 12(b)(9), and 12(g)(5) Årsredovisningslagen (SFS 1995:1554).

117 H&M Group 2025.

revenue streams, and other financial parameters detailed in the Act. On top of this, the report needs to cover specific areas with regards to the group's performance on metrics, including greenhouse gas emissions, energy use, waste management, gender equality, human rights policies, and anti-corruption initiatives across its operations.¹¹⁸

The scope of these reports requires the H&M Group to enact systems that monitor these areas across their operations. Additionally, by requiring transparency, the Act ensures that stakeholders, including consumers, investors, and regulators, can assess the H&M Group's commitment to sustainability. The purpose including these areas is to provide stakeholders with an understanding of the company's sustainability performance, beyond what is reflected in financial data.¹¹⁹ In this way, the AAA requires companies, including the H&M Group to present a factual representation of what their sustainability policies do and do not accomplish across their operations, possibly motivating the organization to intensify its efforts in these fields.

The Act requires companies to focus their sustainability reporting on the most significant risks associated with their operations. It is designed to make companies actively assess their own processes and be able to address risks before any real adverse impacts occur.¹²⁰

By requiring transparency, the Act establishes legal requirements for companies like the H&M Group to report on the environmental impact of their operations. This requirement for transparency can increase public pressure on companies to improve sustainability standards throughout their supply chains.¹²¹

118 Ch. 6, secs. 12, 12(a), 12(b)(1) – (3), 12(b)(5) – (7), 12(b)(9), and 12(c) Årsredovisningslagen (SFS 1995:1554).

119 King, 2023.

120 Månsson & Törnroos 2019.

121 Ibid.

3.2.1. Amendments to the AAA incorporating the NFRD and CSRD

The Swedish Annual Accounts Act was amended in 2016 to incorporate the requirements of the EU Non-Financial Reporting Directive (NFRD), introducing mandatory sustainability reporting for large companies.¹²² This amendment, most notably, added provisions 10 to 14 in Chapter 6, which requires companies to disclose information on their environmental, social and employee-related matters, respect for human rights, and anti-corruption and bribery issues.¹²³ Before this amendment the Act primarily focused on financial disclosures.¹²⁴ In 2024, the Act was further amended to transpose the Corporate Sustainability Reporting Directive (CSRD) into Swedish Law.¹²⁵ This expanded the scope of reporting requirements to a larger group of companies, introduced more detailed reporting standards, and incorporated mandatory verification by independent parties.¹²⁶ These amendments have changed the Annual Accounts Act from a strictly financial reporting instrument into a more comprehensive framework for corporate transparency for financial and sustainability matters throughout their operations.¹²⁷

3.3. CSDDD and Swedish Environmental Law

The Corporate Sustainability Due Diligence Directive (CSDDD) expands upon the existing frameworks established by the Swedish Annual Accounts Act and the Environmental Code by introducing legal obligations pertaining to Swedish companies'

¹²² Finansinspektionen, "Sustainability reporting".

¹²³ Månsson & Törnroos 2019; Ch. 6, secs. 12, 12(a), 12(b)(1) – (3), 12(b)(5) – (7), 12(b)(9), and 12(c) Årsredovisningslagen (SFS 1995:1554).

¹²⁴ Månsson & Törnroos 2019.

¹²⁵ Finansinspektionen, "Sustainability reporting".

¹²⁶ Aladin 2023.

¹²⁷ Delphi, 2024.

entire global supply chains, including their operations outside of Sweden.¹²⁸ While the Environmental Code formulates a framework for environmental protection within Sweden, its jurisdictional reach is limited. Although Section 6 of the Code includes provisions for transboundary environmental impacts, these apply only to activities directly undertaken by Swedish companies. These provisions do not extend liability to the actions of subcontractors or third-party entities operating on behalf of Swedish companies abroad.¹²⁹ For a multinational corporation such as the H&M Group, which outsources much of its production and sourcing to external suppliers in third countries, the Environmental Code has limited legal effect in regulating the Group's overseas operations.¹³⁰ This supply chain structure increases the risk of adverse environmental impacts because of a lack of oversight by the Group into their business partners' activities.¹³¹

Similarly, the Swedish Annual Accounts Act, particularly following its amendments to implement the Non-Financial Reporting Directive (NFRD) and the Corporate Sustainability Reporting Directive (CSRD), focuses primarily on the disclosure of sustainability-related impacts.¹³² Companies like the H&M Group are legally obligated to publish reports that include information on environmental, social, and governance (ESG) matters. However, the Act does not require the Group to take concrete action to prevent or mitigate the negative impacts identified in these reports.¹³³ As a result, while the H&M Group is required to report on the environmental

128 Sarkkinen, 2024, p.4.

129 Miljöbalken (SFS 1998:808), Ch. 6, Sec. 6.

130 Olito, 2018.

131 Selibas, 2024.

132 Finansinspektionen, "Sustainability reporting".

133 DLA Piper 2024.

impact of its operations, it is under no legal obligation under the Annual Accounts Act to make changes in its operations in response to those findings.

In contrast, the CSDDD goes beyond the limited scope of the Environmental Code and the of the disclosure mechanism of the AAA by introducing legally binding due diligence standards. It requires companies to actively identify, prevent, mitigate, and, where necessary, remediate adverse impacts across their supply chains, including those caused by subsidiaries and business partners operating in third countries.¹³⁴ For the H&M Group, this means that once the CSDDD comes into force, the company will no longer be able to rely on subcontracting arrangements to evade responsibility for adverse environmental impacts. Instead, it will be required to implement and maintain a risk management system, integrate due diligence into its corporate governance, and bear responsibility throughout its entire supply chain.

The Directive expands the legal obligations for companies, particularly large multinationals, by extending their accountability beyond national borders to their global supply chains. Therefore, it builds on what had already been established in Swedish domestic Law but strengthens it by introducing enforceable mechanisms, intended to change companies' operations, rather than require transparency in reporting. To conclude, for the H&M Group, headquartered in Sweden, and thus subject to both Swedish and EU Law, the CSDDD will establish an increase in legal accountability.¹³⁵

¹³⁴ Recital 16 Directive (EU) 2024/1760 (CSDDD).

¹³⁵ European Commission n.d.

Chapter 4.

The CSDDD and Related EU Green Deal Instruments

In this chapter, the analysis will focus on understanding how the CSDDD is designed to function within its larger legislative framework, the European Green Deal.¹³⁶ To this end the following sub-question will be examined:

“How does the risk management system established in the CSDDD complement the CSRD and the Taxonomy Regulation as part of the broader framework of the European Green Deal?”

The analysis outlines the contents of the European Green Deal and its objectives and will examine how the framework’s various legal instruments are intended to work together to achieve the EU’s climate and sustainability goals. Emphasis will be placed on the interrelation between its three key legislative pillars: the Corporate Sustainability Reporting Directive (CSRD), the EU Taxonomy Regulation, and the Corporate Sustainability Due Diligence Directive (CSDDD).¹³⁷

The chapter will continue by assessing the relevance of the EGD for the H&M Group. As the EGD is a vast legislative framework spanning several sectors, it will be important to ascertain how the overarching framework would impact an organisation like the H&M Group. It will be considered how the different key pillars of the EGD each govern the Group’s operations respectively and the overall impact of the EGD.

¹³⁶ European Commission n.d.

¹³⁷ COM(2025) 87 final, 12 March 2025 (A simpler and faster Europe).

Finally, the European Commission's recent proposal to consolidate the CSRD, CSDDD, and Taxonomy Regulation into a single omnibus Law will be analysed.¹³⁸ This proposal has the potential to impact the structure and implementation timeline of the CSDDD significantly, with possible implications for its efficacy.¹³⁹ By analysing these developments, the chapter aims to provide a current analysis of the Directive's position within the EU legal landscape and its practical impact on the H&M Group.

4.1. The European Green Deal

The European Green Deal (EGD) is the European Union's strategic framework to achieve climate neutrality by 2050.¹⁴⁰ It is designed to stimulate economic growth without the exhaustion of natural resources while simultaneously improving quality of life.¹⁴¹ The EGD consists of a plethora of policies and legal instruments intended to work towards this overarching goal. Key elements include climate action, particularly the goal to achieve net-zero emissions for the entire Union by 2050, as stipulated in the European Climate Law.¹⁴² The EGD also includes policies aimed at creating a circular economy and promoting cleaner technologies.¹⁴³

Different elements of the EGD pertain to stimulating transportation, developing resilient food systems and protections for biodiversity; but its main legal mechanisms are found in the CSRD, CSDDD and the EU Taxonomy regulation.¹⁴⁴ Together they

138 European Commission 2024.

139 Sherpa 2025.

140 European Commission, "The European Green Deal" 2024.

141 European Commission, "The European Green Deal" 2024.

142 Regulation (EU) 2021/1119 ("European Climate Law"),

143 European Commission, "The European Green Deal" 2024.

144 COM(2020) 789 final, 9 December 2020 (Sustainable and Smart Mobility Strategy; COM(2020) 381 final, 20 May 2020 (Farm to Fork Strategy); European Commission, "Biodiversity and ecosystems";

form an cohesive legal framework, designed to fulfil the goals of the European Green Deal.¹⁴⁵

4.1.1. CSRD and Taxonomy Regulation as part of the EGD

The Corporate Sustainability Reporting Directive and the EU Taxonomy Regulation are key components of the European Green Deal, working in tandem with the CSDDD to form a legal sustainability framework.¹⁴⁶ The CSRD focuses on transparency through sustainability reporting by requiring companies to disclose detailed information on their environmental, social, and governance (ESG) impacts.¹⁴⁷ The Directive incorporates the double materiality principle, which means that companies have to report on how sustainability issues will impact an undertaking financially, but also on how their operations impact people and the environment.¹⁴⁸ In addition, Articles 19a and 29a of the CSRD establish obligations for large undertakings and parent companies, ensuring that reports are accessible to investors, regulators, and the public.¹⁴⁹

The Taxonomy Regulation establishes a classification system that defines what constitutes an environmentally sustainable economic activity.¹⁵⁰ It sets out technical screening criteria across six environmental objectives, including climate change mitigation and adaptation, and introduces the ‘do no significant harm’ principle.¹⁵¹

145 COM(2019) 640 final, 11 December 2019 (European Green Deal).

146 Ibid.

147 Directive (EU) 2022/2464 (CSRD).

148 Double materiality means companies must report on how sustainability issues affect the company and how the company impacts society and the environment; Art. 29a(1), second subparagraph Directive (EU) 2022/2464 (CSRD).

149 Art. 19a Directive (EU) 2022/2464 (CSRD); Art. 29a Directive (EU) 2022/2464 (CSRD).

150 European Commission, "EU Taxonomy for sustainable activities".

151 The ‘Do no significant harm’ principle is part of the CSRD. It requires companies to ensure that their operations do not cause significant harm to any environmental objectives stipulates in the Directive; Art. 17 Directive (EU) 2022/2464 (CSRD).

Companies subject to the CSRD are required, under Article 8 of the Taxonomy Regulation, to report the extent to which their business activities align with the taxonomy, thus enabling investors to identify genuinely sustainable investments and reduce greenwashing.¹⁵²

Together, the CSRD, the Taxonomy Regulation, and the CSDDD work in concert to create a framework where companies are required not only to report on their sustainability performance but also to take measures to identify and combat adverse impacts throughout their operations. This interrelation is intended to stimulate corporate accountability and sustainable investment and align the private sector with the goals of the EGD.¹⁵³

4.1.2. The CSDDD as part of the EGD

The CSDDD is one of the core legal instruments of the EGD, contributing to the goal of achieving climate neutrality by 2050.¹⁵⁴ The EGD uses legal procedures to operationalise its goals, as it works towards enacting a socio-environmental change¹⁵⁵ The CSDDD does this by creating legally binding obligations for companies to manage and reduce adverse impacts throughout their global supply chains.¹⁵⁶

In contrast to other EGD instruments that focus on classification, such as the Taxonomy Regulation, or standardised sustainability reporting in the CSRD, the CSDDD is focused on action.¹⁵⁷ It requires companies to implement risk-based due diligence structures that let them identify, prevent, mitigate, and, where necessary,

¹⁵² European Commission 2023; Art. 8 Regulation (EU) 2020/852 (Taxonomy Regulation).

¹⁵³ European Commission, COM(2019) 640 final, p. 2–3 (European Green Deal).

¹⁵⁴ Recital 2 Directive (EU) 2024/1760 (CSDDD).

¹⁵⁵ European Commission, COM(2019) 640 final, p. 2–3 (European Green Deal).

¹⁵⁶ Directive (EU) 2024/1760 (CSDDD).

¹⁵⁷ Recitals 14 and 15 COM(2022) 71 final (Proposal for CSDDD).

remediate negative impacts resulting from their operations, and those of their subsidiaries and business partners.¹⁵⁸ This includes not only direct operations but also business relationships, including subcontractors and suppliers located in third countries.¹⁵⁹ Consequently, the Directive shifts the concept of sustainability from a matter of transparency into one of responsibility, requiring business practices to align with the environmental and social goals of the EGD.¹⁶⁰

By imposing these obligations, the CSDDD supports some of the core elements of the EGD, by requiring sustainable business practices from firms, across their international operations, reducing environmental pollution, and by upholding environmental protections and biodiversity.¹⁶¹ Its risk management system requires companies to integrate due diligence into their corporate governance and promotes changes in business practises rather than only reporting on business practises.¹⁶²

Additionally, the CSDDD compliments and expands on the CSRD and the Taxonomy Regulation by ensuring that the sustainability information disclosed by companies reflects not only how they define and measure sustainability, but also the actions they are taking to implement those standards across their operations.¹⁶³

In this way, the CSDDD contributes to the Green Deal's goal of enshrining sustainability into economic activity within the European Union.¹⁶⁴ It underlines the transition from voluntary due diligence standards to mandatory due diligence

158 Arts. 7-12 Directive (EU) 2024/1760 (CSDDD).

159 Recital 26 Directive (EU) 2024/1760 (CSDDD).

160 Recitals 15 and 16 COM(2022) 71 final (Proposal for CSDDD).

161 Recitals 14–16 COM(2022) 71 final (Proposal for CSDDD).

162 Deloitte, "CSDDD: Corporate Sustainability Due Diligence Directive"; European Commission, "Single market for goods".

163 SWD(2022) 42 final (Impact Assessment CSDDD).

164 Elshof 2023.

requirements, thereby expanding sustainable corporate operations to both the European and global level.¹⁶⁵

4.2. Relevance of the EGD for the H&M Group

The European Green Deal significantly impacts companies like the H&M Group. This is because several of the EGD's instruments create legally binding obligations for companies falling in its scope, which the Group does.¹⁶⁶ The Taxonomy Regulation introduces a unified classification system that stipulates how certain economic activities can or cannot be deemed sustainable.¹⁶⁷ The Regulation standardises environmental terminology to prevent greenwashing. Under Article 8 of the Taxonomy Regulation, companies subject to the CSRD must disclose to what extent their business activities are aligned with the Taxonomy Regulation's sustainability parameters.¹⁶⁸ The CSRD, another key pillar of the EGD, imposes sustainability reporting requirements on the H&M Group. These reports need to detail how environmental, social, and governance (ESG) issues affect the Group's finances and how their own operations impact society and the environment, as established by the principle of double materiality.¹⁶⁹ For a fast-fashion retailer like the H&M Group, this creates binding obligations to report on the environmental footprint of their supply chains, from material sourcing to end-of-life processing.¹⁷⁰ The introduction of these legal instruments requires sustainability to not be a voluntary initiative but a legally required standard central to the Group's corporate governance. The EGD therefore

¹⁶⁵ Recitals 14–16 COM(2022) 71 final (Proposal for CSDDD).

¹⁶⁶ Art. 2(1)(a) Directive (EU) 2024/1760 (CSDDD).

¹⁶⁷ Art. 8(1) Regulation (EU) 2020/852 (Taxonomy Regulation).

¹⁶⁸ Art. 8 Regulation (EU) 2020/852 (Taxonomy Regulation).

¹⁶⁹ Arts. 19a and 29a Directive (EU) 2022/2464 (CSRD).

¹⁷⁰ H&M Group, "How we report".

mandates companies, like the H&M Group, to assess their supply chains, investment decisions, and risk management processes to ensure overall compliance.¹⁷¹

4.3. Proposal for Omnibus Law

On 8 November 2024, the president of the European Commission Ursula von der Leyen, announced her intention to consolidate the three legislative pillars of the European Green Deal: The Taxonomy Regulation, CSRD and CSDDD, into a single Omnibus Law.¹⁷² The intended goal would be to alleviate the regulatory burden on European businesses, increase the competitiveness of European Businesses and harmonise sustainability legislation.¹⁷³

The proposal, presented on 16 February 2025, outlines a reform to the original legal instruments, introducing changes across the three frameworks. The objective of the proposed changes is for EU sustainability Laws to be more proportionate and easier to implement for small and medium-sized companies.¹⁷⁴

Though civil society groups argue that the consolidation risks weakening the efficacy of each legislative instrument by narrowing legal scope, lowering enforcement requirements, and removing protections originally included in the individual frameworks.¹⁷⁵ There are concerns that the integration will diminish the potential of the European Green Deal by prioritising competitiveness over sustainability.¹⁷⁶

171 COM(2019) 640 final, 11 December 2019 (European Green Deal).

172 Loyens & Loeff, "The Omnibus Simplification Package", 27 February 2025.

173 European Commission, IP/25/614 (press release 26 February 2025).

174 European Commission, IP/25/614 (press release 26 February 2025).

175 Sherpa 2025.

176 ECCJ, Joint Statement on Omnibus, 14 January 2025.

4.3.1. Proposed Changes to CSDDD

As part of the European Commission's efforts to streamline environmental and sustainability legislation, the Commission has proposed the CSDDD would be consolidated into an Omnibus Law together with the CSRD and the Taxonomy Regulation.¹⁷⁷ The Commission's intention is to align sustainability reporting and due diligence obligations, reduce administrative burden, and streamline EU sustainability policies.

The proposal revises Articles 8, 10 and 11 of the CSDDD, removing the requirement for companies falling under the scope of the Directive to perform due diligence assessments of indirect business partners, unless there is plausible information indicating potential or actual adverse impacts.¹⁷⁸ Article 4 is also revised, extending maximum harmonisation to additional due diligence provisions, specifically the duty to identify and address adverse impacts. This means that Member States will not be allowed to deviate from the Directive's requirements regarding how companies are to identify, prevent, and mitigate adverse impacts in their supply chains.¹⁷⁹ The Omnibus package also amends Article 15 of the CSDDD, lengthening the mandatory monitoring cycle from annually to every five years. Articles 10(6) and 11(7) are amended to remove the obligation to terminate business relationships as a last resort measure.¹⁸⁰ These measures mean that companies can reduce the frequency with which they assess their supply chains, and if any adverse impacts are found in a business partner's activities, it is no longer legally required to terminate a contract with said partner. In addition, the Omnibus package amends Article 29 of the CSDDD to

¹⁷⁷ European Commission, IP/25/614 (press release 26 February 2025).

¹⁷⁸ SWD(2025) 3.2.2.d. 80 final (Impact Assessment accompanying COM(2025) 80 and COM(2025) 81).

¹⁷⁹ SWD(2025) 3.2.1.p. 80 final (Impact Assessment accompanying COM(2025) 80 and COM(2025) 81).

¹⁸⁰ SWD(2025) 3.2.2.e. 80 final (Impact Assessment accompanying COM(2025) 80 and COM(2025) 81).

remove the harmonised rules on civil liability, instead leaving it to each Member State to determine how companies will be held accountable in cases of non-compliance. This means that each Member State will be able to decide who has standing to bring a claim, what proof will be required, and what remedies will be available.¹⁸¹

The proposed changes to the CSDDD have taken the form of a Directive, which must be adopted by the European Parliament and the Council, after which it must be transposed into national legislation by Member States.¹⁸² The changes include a one-year postponement of the transposition deadline, from July 2026 to July 2027, as well as a delay in the first phase of implementation, from July 2027 to July 2028.¹⁸³

4.3.2. Impact on CSDDD Efficacy

The proposed amendments to the CSDDD are aimed at reducing the administrative burden on companies to comply with the Directive.¹⁸⁴ However, civil society groups have warned that the proposed changes would weaken its efficacy.¹⁸⁵

Firstly: The proposed extension of the transposition deadline and the first wave of applicability by one year delays the point at which due diligence obligations would become legally binding, this means that the Directive will not apply to the H&M Group for another year, and any adverse impacts currently occurring in their supply chains will continue.

Furthermore, the removal of the obligation to assess indirect business partners undermines one of the core aims of the Directive: the requirement to proactively assess

181 SWD(2025) 3.2.1.u. 80 final (Impact Assessment accompanying COM(2025) 80 and COM(2025) 81).

182 Art. 1 COM(2025) 80 final.

183 Art. 2 COM(2025) 80 final.

184 European Commission 2025.

185 Sherpa 2025.

risks in complex supply chains and to maintain oversight even when business activities are conducted outside the EU.¹⁸⁶ By narrowing the scope to direct relationships only, the Directive risks becoming a reactive rather than a preventative tool. This means that adverse impacts will only be addressed after they have been found to take place in a supply chain. Under the original Directive, the responsibility lay with companies to take measures to prevent possible adverse impacts before they occur, including with business partners outside the EU.¹⁸⁷

For the H&M Group, this would mean that the company would only be required to investigate an indirect business partner for potential adverse impacts a result of their operations, if there is plausible information of such an impact occurring.

The extension of maximum harmonisation to the duty to identify and address adverse impacts and obligations related to complaints and notification mechanisms, is designed to prevent divergent rules among Member States. In practice, however, this means that Member States that might want to adopt higher standards, or separate standards for specific sectors can no longer do so. This can limit the possibility for Member States to impose specific due diligence obligations on sectors that are especially problematic within their economies, potentially reducing the efficacy of the Directive.¹⁸⁸

Under the proposal, also, it is no longer required to terminate business relationships with partners found to be in violation of the Directive. This risks weakening the deterrent effect, as business partners may feel less inclined to comply, knowing that EU companies are under no legal obligation to end relations with them in the event

¹⁸⁶ Art. 4 COM(2025) 81 final.

¹⁸⁷ Art. 6 Directive (EU) 2024/1760 (CSDDD).

¹⁸⁸ Article 4 and Recital 6. COM(2025) 81 final

of non-compliance.¹⁸⁹ For the H&M Group, this would mean that if a breach is persistently identified with a particular business partner, that the Group is under no obligation to end their contract with that business partner.

Finally, the removal of harmonised civil liability provisions threatens weakening equal access to justice for victims of adverse impacts. By shifting from Union-wide civil liability to national legal systems, the Directive risks being enforced differently across Member States, resulting in the ability to hold companies accountable varying widely between jurisdictions.¹⁹⁰

Taken together, these proposed changes weaken several of the Directive's key provisions and its overall efficacy. Firstly, by pushing the transposition deadline further into the future, but especially by weakening requirements for companies to ensure compliance by their business partners and fragmenting enforcement across Member States.¹⁹¹

4.3.3. Initial procedural development

On 3 April 2025, the European Parliament formally voted to adopt Directive 2025/794.¹⁹² On 14 April 2025, the Directive, commonly referred to as the “stop-the-clock Directive”, was published in the Official Journal of the European Union and entered into force on 17 April.¹⁹³

189 European Commission, COM(2025) 81 final, amending Articles 10(6) and 11(7); ECCJ, "Not Without Us", 14 January 2025.

190 Groll 2024.

191 ECCJ, "Not Without Us", 14 January 2025; Groll 2024.

192 European Parliament 2025. Press release on the postponed application of the CSDDD.

193 De Brauw 2025.

The Directive, which is part of the omnibus package makes initial changes to the CSRD and CSDDD by amending the original texts.¹⁹⁴ For the CSDDD, the transposition deadline, which was originally on 26 July 2026, has been moved with one year to 26 July 2027. This means the Directive will apply to the first wave of companies on 26 July 2028.¹⁹⁵ This first wave of companies consists of the largest companies, those with more than 5000 employees and 1.5 billion EUR turnover in the EU.¹⁹⁶ The H&M Group, which employs 140,000 people worldwide and generated a turnover of 20 billion euros, falls into this group and is thus part of the first wave of companies to which the CSDDD will apply.¹⁹⁷

On 1 April 2025, the European Parliament voted to handle the stop-the-clock Directive, using its urgent procedure.¹⁹⁸ The vote was called by the European People's Party Group, one of the political groups in the European Parliament.¹⁹⁹ After the request was approved by the parliament, the Parliament adopted the proposal on 3 April 2025, with 531 Members voting in the affirmative and 69 Members rejecting the proposal.²⁰⁰

The reforms affect the transposition deadlines and entry into force of the CSRD and CSDDD, although the rest of the Omnibus package is still under review by the European parliament and European Council.²⁰¹ The more substantive elements of the Omnibus proposal, like the extension of maximum harmonization on due diligence obligations, the lengthening of the monitoring cycle and the requirement to terminate

194 Arthur Cox 2025.

195 Art. 2(1)(a) – (b) Directive (EU) 2025/794.

196 Deloitte, "CSDDD: Corporate Sustainability Due Diligence Directive"

197 Reul 2025; H&M Group, 2024.

198 European Parliament 2025. Press release on EP vote approving urgent procedure; European Parliament 2025. EP Rules and procedures, Rule 170 urgent procedure.

199 EPP Group 2025.

200 European Parliament 2025. Press release on the postponed application of the CSDDD.

201 De Brauw 2025.

business relationships with business partners found to be in violation of the Directive will be handled in a later legislative procedure.²⁰² The EP is expected to take its negotiating position in October 2025, the Council is expected to take its negotiating position in June 2025; trilogues, negotiations between the EC, EP and Council, are subsequently expected to start towards the end of 2025.²⁰³

Chapter 5. Conclusion

This research aimed to examine how the Corporate Sustainability Due Diligence Directive (CSDDD) will impact the H&M Group's production and sourcing operations outside the European Union, based on the following research question:

“How will the Corporate Sustainability and Due Diligence Directive's risk management system create legal obligations affecting the H&M Group's production and sourcing operations outside the EU?”

The analysis was guided by three sub-questions each designed to investigate a different element of the topic. The first sub-question examined the Directive's risk management system, its main legal mechanism for addressing adverse impacts. The second sub-question explored how two Swedish sustainability Laws relate to the Directive. The third sub-question evaluated the Directive's alignment with the two other pillars of the European green deal, the Corporate Sustainability Reporting Directive (CSRD) and the EU Taxonomy regulation, with special focus on the proposed changes to this legal framework.

202 Art. 4(3), (5), (6) and (8) COM(2025) 81 final; De Brauw 2025.
203 Feijao and Voskoboinikova 2025.

5.1. Risk Management System and Case Studies

The first sub-question examined how articles 7 to 12 of the CSDDD establish a risk management system that imposes legal requirements on companies falling within its scope. These provisions establish a due diligence framework which requires companies, including the H&M Group, to identify, prevent, mitigate and remediate adverse environmental impacts in their global supply chains.²⁰⁴ By using two cases of adverse impacts occurring in the H&M Group's supply chains, cases of large-scale deforestation in Brazil and the use of banned chemicals in textile production, this thesis found that these cases constitute a violation of the Directive's provisions concerning its risk management system.²⁰⁵ Would such reports be published after the Directive comes into effect, this would have legal implications for the Group. It was therefore concluded that the CSDDD is likely to have an impact on the H&M Group's production and sourcing operations outside the EU, especially in areas where supply chain risks are high, and traceability is limited.

5.2. Sustainability Legislation in Sweden

The second sub-question focused on how the CSDDD's sustainability provisions interact with existing sustainability legislation in Sweden, where the Group is headquartered. In particular, the analysis focused on the Annual Accounts Act (Årsredovisningslagen) and the Swedish Environmental Code (Miljöbalken).²⁰⁶ While Swedish Law has already imposed legal obligations for sustainability transparency through reporting and environmental protections, these measures primarily focus on

204 Arts. 7 – 12 Directive (EU) 2024/1760 (CSDDD).

205 Greenpeace International, 2012. Earthsight 2024.

206 Årsredovisningslagen (SFS 1995:1554); Miljöbalken (SFS 1998:808).

domestic business activities and transparency rather than imposing requirements for operations.²⁰⁷ The analysis concluded that the CSDDD effectively broadens the scope of Swedish sustainability legislation, by requiring companies like the H&M Group to identify, prevent, mitigate and remediate adverse impacts in their supply chains, beyond Sweden's borders, even if these operations are performed by other companies. Although the implementation of the Directive into Swedish Law is still pending, it is evident that the CSDDD will impose additional legal obligations on the H&M Group, particularly in areas that extend beyond the current scope of Swedish National Law.

5.3. CSDDD as Part of the European Green Deal and Proposed Changes

The third sub-question examined the relationship between the CSDDD, CSRD and the EU Taxonomy Regulation within the context of the European Green Deal. The CSDDD is positioned among these instruments through its action-based obligations, rather than through reporting or classification duties. Nevertheless, the three instruments are designed to work together: while the CSRD requires transparency in sustainability disclosures and the Taxonomy Regulation defines sustainability standards, the CSDDD requires companies to act on the information they disclose.²⁰⁸ Together, they form a legal framework built to integrate sustainability into EU business practices and corporate governance. In this regard, this thesis also examined the proposed amendments to the CSDDD and the European Commission's proposal to consolidate it with the CSRD and Taxonomy regulation, into an Omnibus Law.²⁰⁹ While

207 Miljöbalken (SFS 1998:808), Ch. 6, Sec. 6.

208 Recital 15 COM(2022) 71 final (Proposal for CSDDD).

209 European Commission, IP/25/614 (press release 26 February 2025).

the CSDDD's scope has not been altered, the proposed removal of the obligation to assess indirect business partners could weaken the Directive's preventative potential. However, given the Group's business practices being heavily scrutinised, it is likely that adverse impacts at the hands of indirect business partners would come to light, like the reports by Greenpeace and Earthsight discussed in this research. Such reports would, following the proposed changes to the Directive, trigger the obligation to perform a due diligence assessment with that supplier.²¹⁰

Lastly, the removal of harmonised civil liability provisions weakens the Directive's enforceability at the EU level, but it remains possible that Member States like Sweden choose to preserve civil liability through national legislation. While the CSDDD underwent its initial changes in April 2025, its core obligations still signify a notable shift towards enforceable corporate responsibility.

5.4. Policy Recommendation

Civil society organisations have already extensively voiced their concerns regarding the proposed changes to the CSDDD, and this thesis will not attempt to expand on those concerns.²¹¹ Instead, it will consider possible changes to the original Directive that could contribute to a more effective and efficient legal instrument. The Directive employs broadly applicable language in the articles establishing its risk management system. This is further specified in Annex Part II, which bases its sustainability rules on existing EU regulations and international treaties covering areas

²¹⁰ Art. 8 Directive (EU) 2024/1760 (CSDDD); concerning the obligation to identify and assess adverse human rights and environmental impacts once information becomes available; Greenpeace International, *Dirty Laundry 2: Hung out to dry*, 2012.

²¹¹ ECCJ, Joint Statement on Omnibus, 14 January 2025.

such as chemical use in industry and biodiversity protection. This thesis deems it fitting that these rules could be further developed by introducing sector-specific due diligence standards. Much like the EU Taxonomy Regulation seeks to standardise sustainability reporting by establishing specific parameters through which undertakings must report on their activities, it may be most effective for the CSDDD to set specific due diligence standards for particularly high-risk sectors, such as textiles, agriculture, mining, and electronics. Although Article 19(2(c)) stipulates that the Commission will issue sector specific guidelines, it would be more efficient to either develop sector specific requirements or use existing legal frameworks to formulate sector-specific standards.²¹² This would ensure that sector-specific risks are addressed without imposing unnecessary burdens on other industries, improving the Directive's efficacy and proportionality. For the H&M Group, which is part of the textiles sector, this could mean formulating specific standards pertaining to operations with a high risk of adverse impacts. An example of this would be to enshrine the Organisation for Economic Co-operation and Development's "*Due Diligence Guidance for Responsible Supply Chains in the Garment and Footwear sector*" as an enforceable standard.²¹³ This voluntary standard is already recognized in Recital 6 of the CSDDD and would be compatible with the Directive's risk management system.²¹⁴ An implication of enshrining this guidance as an enforceable standard in the CSDDD on the H&M Group's operation would be, for example, that the Group is legally required to revise their purchasing strategies, to accommodate for suppliers to being granted adequate time to fulfil orders, to prevent subcontracting unauthorized suppliers. In summary, this thesis

²¹² Article 19(2(c)) Directive (EU) 2024/1760 (CSDDD).

²¹³ OECD 2018.

²¹⁴ OECD 2018, Chapter 2.1.

recommends drafting sector specific due diligence obligations, or enshrining existing due diligence guidance as enforceable requirements, enhancing the Directive's efficacy and proportionality.

5.5. Conclusion

In conclusion, this thesis finds that the Corporate Sustainability Due Diligence Directive's risk management system is likely to have a significant impact on the H&M Group's production and sourcing practices outside the European Union.

The analysis focused on how the Directive establishes a risk management system that requires companies falling within its scope to identify, prevent, mitigate, bring to an end, and remediate adverse impacts in their supply chains. Annex Part II specifically delineates what impacts are considered adverse environmental impacts and thus non-compliant with the Directive.

The CSDDD's obligations will apply both within Sweden and internationally, however, they are likely to be most transformative outside Sweden, where the H&M Group carries out most of its production and sourcing. The Directive would impose legal standards requiring the Group to exercise greater oversight over its global supply chains. The Directive's binding due diligence framework would render certain ongoing practices illegal, increasing corporate accountability for environmental impacts.

Although the final shape of the Directive may be altered, particularly considering the proposed Omnibus Law and its transposition into Swedish Law, the Directive as it currently stands introduces legal standards that would have a significant effect on how the H&M Group conducts production and sourcing outside of the European Union.

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