

Resolutions recommended by the expert advisory council on the development of the Green Button to Green Button 2.0

Preamble

The expert advisory council welcomes the first draft of the Due Diligence Requirements for the Green Button 2.0 as presented by the scheme owner. Overall, the council regards the requirements as expedient for significantly raising the level of ambition of the certification label, at least for the area of Due Diligence Requirements which is currently under consideration. It is evident that the scheme owner is seriously interested in specifying the Requirements for Due Diligence in greater detail in the form of the requirements presented, and in addressing the weak points that became apparent during the pilot phase of the Green Button 1.0 that was introduced in September 2019. The council explicitly welcomes the main amendments to the criteria grid, which will now feed into the public consultation. They include, in particular, the proposals that relate to a) involving the stakeholders, b) living wages, and c) mainstreaming human rights due diligence at companies and guaranteeing the product properties in the supply chain.

The expert advisory council explicitly supports the intend to use the Green Button to audit the UN Guiding Principles on Business and Human Rights (UN Guiding Principles) at a high level and to embed it deeply in practice. The council is aware that, by extensively translating the UN Guiding Principles into auditable criteria, the Green Button will create challenges for many companies. This means simultaneously recognising that the level of ambition set in the Green Button requirements must be harmonised with the corporate reality, where comprehensive implementation of the UN Guiding Principles is only just starting to be established in the management systems. The introduction of many processes involving human rights and environmental law due diligence will take time and care.

Even if the Green Button 2.0 indicators are extended in the field of due diligence requirements, there will still be areas of entrepreneurial due diligence that require additional steps for implementation and will have to be developed for the longer term. The expert advisory council can therefore understand the limitations of the Green Button 2.0, such as those that apply to grievances mechanisms. However, even after the Green Button 2.0 has been introduced, the council will also assess whether the scheme owner can clearly communicate to consumers what the Green Button 2.0 stands for, what is not covered by the requirements, what the future development tasks are, and the Green Button's obligation on companies to gradually raising maturity levels. The key company documents, for example the public policy and aggregated information about successful work on due diligence, must be made easily accessible to all interested consumers on the website www.gruener-knopf.de.

Pursuant to section 2(1) of the rules of procedure of the Green Button expert advisory council, the expert advisory council issues its recommendations for resolutions to BMZ concerning the development of the Green Button to Green Button 2.0. Pursuant to section 5(2) of the rules of procedure, the members of the council approve recommendations for resolutions by consensus. Abstentions shall be taken to indicate agreement.

Pursuant to section 5(1) of the rules of procedure, the expert advisory council is quorate and has approved the following recommendations for resolutions in consensus: the scheme owner shall be requested to observe the following recommendations of the expert advisory council on individual improvements to the indicator grid for the due diligence requirements during the revision phase after the first consultation (scheduled to end on 31 January 2021).

1. Development logic for the due diligence requirements of the Green Button 2.0

The expert advisory council supports incorporation of the development logic which it suggested itself during the current process of identifying the due diligence requirements for the Green Button 2.0. The basic idea is to make it clear that the core elements of the UN Guiding Principles should be ambitiously implemented, but that this requires companies to have a development process in place and not everything can be realised immediately. The defining regulations for orientation are, in particular, the UN Guiding Principles on Business and Human Rights and the OECD Due Diligence Guidance for Responsible Supply Chains in the Garment and Footwear Sector.

The expert advisory council is extremely confident in the capability of the textile industry to also reach improvements in the lower levels of the supply chain. It is convinced that products certified with the Green Button 2.0 label will create tangible competitive advantages for the companies which will reward entrepreneurial commitment in the long term. The Green Button 2.0 will thus counteract distortion of competition in the international supply chain.

When it comes to the justified discussion on the correct level of ambition for the Green Button 2.0, in cases of doubt a high level of ambition and deep penetration through the supply chain will be prioritised over the goal of enabling as many companies as possible to label their products with the Green Button 2.0. Lasting competitive advantages arising from changed patterns of consumption will only come about if the Green Button is seen as credible. It is therefore essential that companies unwilling to fulfil the requirements should not be permitted to use the certification label on their products.

In this context, the expert advisory council recommends the following:

- 1.1 To avoid misinterpretation, the two-stage development logic should be specified in more detail in the indicator grid for Green Button 2.0 due diligence requirements prior to the start of public consultation. This should be achieved in particular through:

- 1.2 more transparent allocation of the requirements and indicators to facilitate a successful first audit/certification (stage 1) and for the additional indicators that will help determine whether or not there is a measurable increase in the degree of maturity in terms of the procedures applied by the company in the supply chain after 24 months (stage 2).
- 1.3 The expert advisory council notes that in the first monitoring audit (one year after the first certification) only conformity regarding the implementation of the basic requirements is examined. However, this does not rule out the possibility that the first monitoring audit may check whether the procedures for achieving the higher degree of maturity have been established after 24 months.
- 1.4 Foreseeable development requirements for a further improvement in the degree of maturity after the second monitoring audit are to be communicated suitably (e.g. in a preamble to the indicator grid, or preferably in the indicator grid itself). This applies, for example, to the (still) lacking, explicit inclusion of home work/the informal sector in the indicator grid, and makes the development requirements more predictable for all the stakeholders. At present, the indicator grid contains one such requirement that is aimed at the future, but only for the indicator 'living wages' (see indicator grid 3.2.3: goals/KPIs for the next five years after the second monitoring audit). Overall, the expert advisory council notes that, with one exception, the development logic of the current indicator grid terminates after the second monitoring audit. Yet conformity with the Green Button 2.0 includes an obligation to raise the degree of maturity of the procedure applied by the company in an ongoing and appropriate manner. This must be expressed more clearly.
- 1.5 In the opinion of the expert advisory council, the ongoing improvement in the degree of maturity should not only relate to living wages (core elements 1 and 2) and child and forced labour (already taken into account in core element 5), but should also include trade union rights, the right to collective bargaining, and protection from gender-specific violence. This should be made transparent in the indicator system.
- 1.6 Documentation obligations are to be defined to establish compliance with requirements vis-à-vis the auditors from the certification bodies. Addressing this obligation in the audit/certification programme, is too late and will not ensure substantive or procedural transparency of the requirements. It should be made clear that the indicator grid should not contain any specific proposals for suitable evidence; instead, the grid should only include the general obligation to keep appropriate documentation and collect appropriate data. It must also be made clear that the auditors from the certification bodies are free to request evidence in addition to that proposed in the accompanying documents, if this appears necessary to demonstrate conformity.
- 1.7 In principle, the Green Button 2.0 can serve as a reference for fleshing out legal requirements. A smart mix, as envisaged in the UN Guiding Principles, would be, in particular, the possibility of regulatory dualism, which is binding on all companies, combined with voluntary Green Button 2.0 certification. However, the Green Button 2.0 cannot guarantee that companies fulfil all potential legal due diligence obligations. This must

be determined by each company individually in accordance with the UN Guiding Principles.

The expert advisory council notes the following:

The Green Button conformity statement relates solely to product conformity and is not a certification of the company. This is not affected by the fact that the product distributor (a company with Green Button certification) has to comply with requirements regarding its responsibility for supply-chain management in order to meet certain social, human rights and environmental standards (called Green Button due diligence requirements). After all, compliance with product requirements can only be achieved along the complex international supply chain if the distributor has established these systems. This approach is an important unique characteristic of the Green Button.

The expert advisory council recommends explaining at an appropriate place the role of the Green Button's due diligence requirements as product-related conformity statements in order to prevent misunderstandings.

2. Policy (indicator grid for core element (CE) 1)

The expert advisory council welcomes the fact that the frame of reference for human rights and the environment has been expanded to include integrity.

In this context the expert advisory council recommends:

- 2.1 Specifying the point of reference for the policy. Indicator 1.1.2. 'Voluntary commitment to international standards and agreements' should adopt the formulation in the UN Guiding Principles on human rights standards, ensure that attention is drawn to the most important environmental standards, and define specific standards for entrepreneurial integrity. The relevant chapters in the OECD Guidelines for Multinational Enterprises may be used as starting points. If no standard works are cited for entrepreneurial integrity, readers are to be referred to an exact definition in the glossary.
- 2.2 Specifying the expanded frame of reference for all following core elements. At present, the subsequent section of the current grid refers for the most part only to human rights and the environment. Where relevant, it should give more details concerning aspects of integrity.

3. Mapping relations with suppliers and risk assessment (indicator grid for CE 2)

The expert advisory council welcomes the added depth/expanded mapping of relations with suppliers and of risk analysis and assessment in CE 2 to include stages of the supply chain prior to manufacturing.

The expert advisory council specifically recommends:

- 3.1 Ascertaining the country, sector, product and material-specific risks (including those at the deeper stages of the supply chain) before the first audit (integration 2.1.4.C at 2.1.4.A). In addition, any existing gaps in the risk analysis at the time of the first audit should be mentioned and targets included for plugging these gaps at the latest by the time of the second monitoring audit. Whether the targets have been achieved will be examined during the second monitoring audit.
- 3.2 Making it clear that companies are required to include the positions of external stakeholders in the mapping of relations with suppliers and the risk assessment right from the outset, that is, during the first audit itself. Companies may use publicly available sources, for example the press, scientific studies, appraisals or reports by civil society players such as trade unions, and similar materials.

4. Involving the stakeholders (rights holders)

The expert advisory council welcomes the fact that more attention will be paid to integrating the perspectives of rights holders across the new indicator grid.

The expert advisory council specifically recommends:

- 4.1 Explicitly integrating external stakeholders into the following points and adding more detailed information, if necessary:
 - Policy (CE1): indicator 1.1.8. 'Vulnerable groups' should take the particular affectedness of women into account,
 - Risk analysis and assessment (CE2) (see section 3 above),
 - Remediation and compensation (CE5): rights holders should participate in identifying effective remedial and compensatory measures. They should also be involved in verifying effective implementation of these measures. The important role of trade unions should be taken into consideration here.
- 4.2 The Green Button will help SMEs in particular to make it compulsory for their importers to be incorporated and to require them to involve stakeholders.

5. Living wages (indicator grids for CE 1, CE 2 and 3)

The expert advisory council notes that little progress has been made in the payment of living wages at all levels of global textile supply chains. The council therefore stresses that living wages must be a goal for Green Button certification despite the difficulties involved in realising this goal. The expert advisory council considers it expedient to pursue this through improvements to company purchasing and procurement practices and/or by establishing cooperative approaches and social dialogue. In the interest of a successful start of the Green Button 2.0, the expert advisory council regards it as right and proper to currently focus the indi-

cators for living wages on manufacturing (i.e. not including outsourced processes such as printing, embroidery and washing, or deeper supply chain stages).

In this context, the expert advisory council recommends:

- 5.1 Clarifying during the consultation that implementation is an iterative process which includes companies' obligation to continually increase the degree of maturity, and this process should be continued even after the degree of maturity is first checked after 24 months.
- 5.2 Clarifying that the dualism of cooperative and/or systemic solutions and individual corporate approaches is the only way to gradually achieve payment of living wages across the board while avoiding competitive disadvantages. Consumers must be made aware of the difficulties companies have in implementing this requirement; the scheme owner should communicate this proactively.
- 5.3 Placing far more stringent requirements regarding the degree of maturity after 24 months in relation to an 'evident wage increase paid by at least one producer' by:
 - 5.3.1 distinguishing between large companies and SMEs regarding the number of producers, for example by indicating a percentage, or through graded requirements that depend on the total number of producers;
 - 5.3.2 specifying what an 'evident wage increase' means, based on statutory minimum wages (e.g. a percentage decrease in the gap between the statutory minimum wage and a living wage (indicating the benchmark applied), evidence in line with the process requirements for cooperative/systemic solutions, and/or through company audits including validation in interviews of the rights holder concerned and by involving external stakeholders).

6. Complaints management (indicator grid for CE 5)

In view of the lessons learned from Green Button 1.0, the expert advisory council is pursuing the path for Green Button 2.0 proposed by the scheme owner and the Green Button Secretariat, of limiting the requirements for the grievances mechanism to manufacturing (not including outsourced processes such as printing, embroidery and washing). The council points out that remediation and compensation are always independent of grievances management. A need for remediation can arise from the risk analysis itself, not only through grievances. This should be taken into account in the description of the core element and the relevant indicators.

In this context, the expert advisory council recommends:

- 6.1 Adding more detail to the requirements for handling and examining grievances, and for remediation and restoration. They include:

- evaluation by the rights holders concerned and their representatives in indicator 5.2.5.C should cover both remedial and restorative measures;
- supplementing the reporting obligation in indicator 4.2.1. b) by adding implemented restorative measures;
- supplementing the reporting obligation in indicator 4.2.1. as follows: companies should report on their procedures for monitoring their efficacy.

6.2 Bringing serious grievances also to the attention of the company's top management for consultation and a final decision.

6.3 Drawing attention to cooperative/systemic solutions with multi-stakeholder governance for backup mechanisms in particular.

6.4 Defining the 'effectiveness' of the systems (within the factory and backup) in greater detail.

6.5 Providing evidence of introduction/improvement of backup mechanisms in at least one high-risk country for the second monitoring audit.

7. Public reporting/transparency (indicator grid for CE 4)

The expert advisory council notes that the stakeholders (to be) involved in the process have a wide range of expectations in terms of transparency. This relates first of all to the procedures and processes for detecting risks and for prevention itself, but especially to the impacts achieved through these processes, and to avoiding, eliminating and rectifying risks to human rights, the environment and integrity. There are also differing expectations regarding the subsequent reporting. All the stakeholders share an unconditional interest in honest, comprehensible and thus traceable transparency.

The Green Button 2.0 should respond to this with a tiered information policy that is appropriate to the target group.

As Green Button 2.0 auditors from the certification bodies are expected to recommend products for certification, complete process and content transparency should be ensured across all stages of the supply chain under examination first by checking the company's documents, and in the specific audit situation. The same applies to the owners of cooperative/systemic solutions in accordance with their respective regulations. In order to handle the large volume of potential information and to publicly demonstrate that the internal corporate processes are functioning properly/being improved, the scheme owner of the Green Button 2.0 itself needs aggregated information from the companies, illustrated with samples of detailed information from specific supply chains.

It is important to consumers that consumer products are not manufactured under conditions detrimental to human rights, integrity or the environment. For example, 84 per cent of consumers assume that living wages are paid in the production of Green-Button-certified goods. To prevent consumers from being misled, the development logic and the goals of the Green

Button must be clearly communicated. To this end, aggregated information must be made available to consumers in an easily accessible and comprehensible form and should therefore include limits, residual risks and deficits already identified. All the companies certified by the Green Button 2.0 should be required to prepare this information in the most standardised form possible.

Various stakeholders (e.g. representatives of civil society, trade unions, stakeholder groups) have special information needs and an interest in enhanced transparency of impacts either materialising or not materialising for the stakeholders/rights holders in the production facilities including home workers/workers in the informal sector. These groups should be given access to such information if they undertake to treat it as confidential.

The expert advisory council is aware that well-known textile companies now publish complete lists of their suppliers. By contrast, SMEs in particular find it much more difficult to provide public transparency that goes further than aggregated information, because they invest more (relative to their size) in developing relations with a few producers whom they wish to protect in the competitive environment.

In this context, the expert advisory council recommends:

- 7.1 Careful handling of public transparency requirements relating to the varied interests, particularly in public transparency regarding impacts either materialising or not materialising in specific supply chains on the one hand, and the need to protect company interests on the other.
- 7.2 Ensuring that company reporting does not remain solely at the process level, but reflects results and impacts more closely; this should be done at least in aggregated form, and preferably for each supply chain separately.
- 7.3 Making it clear that ‘positive’ impacts may not have occurred (or cannot occur) in the early stages of the development logic. However, when it comes to avoiding anything that would mislead consumers, this refers, in particular (but not only) to paying living wages, but also to eliminating all negative impacts on the environment and human rights violations in the supply chain of a certified product that has been purchased.
- 7.4 Making a commitment to ensure public transparency of aggregated information about the processes and their impacts or lack of impact, specifying this obligation in the indicator grid, and naming prioritised information channels such as the Green Button website, including the exploitation of synergies of the further-developed QR code in the indicator grid (indicators 1.4.1 and 4.1.4). The relevant information must be easily accessible and comprehensible to consumers, who are taken into consideration as a ‘relevant target group’ (indicator 1.4.2).
- 7.5 Recommending to companies that are not yet willing to ensure public transparency in and about their specific supply chains that goes beyond aggregated information, to cre-

ate ‘protected rooms’ for information about impacts or lack of impact in the specific supply chains, including their lists of producers; the companies themselves will be able to decide whether to authorise access when requested.

7.6 Establishing a procedure for reporting to the issuing body in cases where this information has allegedly or actually been used improperly by the label user in contravention of the goals of the Green Button 2.0.

8. Due diligence requirements: mainstreaming in companies and integration into internal processes

The indicators for mainstreaming within companies and integration into internal processes are regarded by the expert advisory council as very positive and ambitious and therefore supported.

The following comments emerged during the discussion:

8.1 Assessments are normally made by the supervisory bodies as part of annual planning.

8.2 Linking the sustainability goals with the business targets set by the management is a modern approach and is commended.

8.3 The interplay between human rights, the environment and integrity is highlighted as desirable because these topics are mainstreamed most effectively in the organisation through the company’s managerial levels.

The expert advisory council requests the scheme owner to inform it of the consideration of these recommendations during the ongoing development of the due diligence criteria after the public consultation.

The Green Button 2.0 expert advisory council, Berlin, 18 December 2020

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