



CSDDD compliance requires collaboration between value chain actors on a global scale

A first interpretation of the Corporate Sustainability Due Diligence Directive and the implications for Dutch agri-food companies, their suppliers and other stakeholders

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This report offers a first interpretation of the scope and implications of the CSDDD for the different types of companies in the Dutch agri-food sector, their direct and indirect suppliers. It is estimated that 6,000 EU-based companies and 900 non-EU companies fall within the scope of the Directive. 415 Netherlands-based companies fall within the scope of the Directive, of which 54 companies belong to the Dutch agri-food sector. The companies that will be indirectly affected are numerous and theoretically concern all companies that maintain direct or indirect business relationships with a company in scope. How the due diligence requirements will affect different value chain actors will depend on a further clarification and guidance on key elements of the Directive. The transposition phase and development of implementation guidance are crucial steps to set the scene and decrease the burden upon different value chain actors.

Key words: CSDDD; Dutch Agri-Food Sector; Legislation; Due Diligence; Supply Chain; Sustainability; Human Rights; Living Income; Climate; Biodiversity; Environment

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This policy explainer is directed to the Dutch Ministry of Agriculture, Fisheries, Food Security and Nature. Its primary aim is to provide a general overview of the type of companies in the Dutch Agri-food sector that fall under the scope of the Corporate Sustainability Due Diligence Directive (CSDDD) and get an informed impression of how the Directive might affect other value chain actors. It is important to note that this is an exploratory study, based on current and available, yet not all-encompassing information, without intent to cover all the elements or possible insights of the Directive. Moreover, the authors explicitly do not aim for or intend to provide any legal statements or legal advice, nor does the document constitute as such. Accordingly, Stichting Wageningen Research accepts no liability for any direct or indirect damages resulting from the use of, reliance on or actions taken based on the information derived from the document. For any further information, it is always recommended to refer to the original source.

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Glossary

Companies in scope	Companies that fall under the scope and are legally liable under the CSDDD
Companies indirectly in scope	Companies that do not fall under the scope of the CSDD but will be affected by the Directive because of their direct or indirect relationships with a company under scope (part of the 'chain of activities' of a company under scope)
CSDDD	Corporate Sustainability Due Diligence Directive
CSRD	Corporate Sustainability Reporting Directive
EUDR	European Union Deforestation Regulation
Forced Labour Regulation	EU Forced Labour Regulation
ILO MNE Declaration	ILO Tripartite Declaration of Principles concerning Multinational Enterprises and Social Policy (first adopted in 1977, last update 2022).
Involvement framework	This framework has been developed in the UNGPs, OECD Guidelines and OECD Due Diligence Guidance and defines the expectations for companies when responding to impacts based on their involvement in or relationship to the impact. It distinguishes between three levels of involvement.
OECD Due Diligence Guidance	OECD Due Diligence Guidance for Responsible Business Conduct (published in 2018)
OECD Guidelines	OECD Guidelines for Multinational Enterprises (published in 2011, updated in 2023)
Rightsholders	A category of stakeholders that is highlighted (a.o.) in the OECD Due Diligence Guidance. It concerns those stakeholders that are subject to real or potential human rights impacts.
SME	Small & Medium Enterprise
The Directive	Refers to: Corporate Sustainability Due Diligence Directive
Transposition	Transposition refers to the process of incorporating EU directives into national legislation of EU Member States
UNGPs	United Nations Guiding Principles on Business and Human Rights (published in 2011)

Additional guidance is needed to prepare companies and value chain actors for CSDDD compliance

The EU Corporate Sustainability Due Diligence Directive (CSDDD) will be impactful for the Dutch agrifood sector (including horticulture). The companies that will be affected by the CSDDD can be divided into two categories. First, approximately 6,000 EU-based companies and 900 non-EU companies fall directly in scope of the Directive ('companies in scope'), which are liable for demonstrating that they have taken appropriate measures to effectively address adverse impacts associated with their business operations, those of their subsidiaries and their business partners. According to the Orbis database, *415 Netherlands-based companies* are in scope of the Directive, of which *54 companies belong to the Dutch agri-food sector* (including horticulture). The specific list of companies in scope in the Dutch agri-food sector can be found in Appendix 2. Second, there are companies indirectly affected by the scope of the Directive ('companies indirectly in scope'), because they are the subsidiaries of the companies in scope, or the companies maintain direct or indirect business relationships with a company in scope. Companies indirectly in scope are not legally liable under the CSDDD, but due to their business relationship with a company in scope they might (and probably will) be affected by the CSDDD. The number of companies indirectly in scope cannot be precisely quantified, since this concerns all companies (including those in the Dutch agri-food sector) that maintain direct or indirect business relationships with companies in scope.

The CSDDD obliges companies in scope to identify and address actual and potential adverse human rights and environmental impacts (e.g. child labour, forced labour, living income/wage and biodiversity impacts) connected with companies' own operations, operations of their subsidiaries and of their business partners in the chains of activities of the companies, and requires companies to create and implement a transition plan for climate mitigation. The CSDDD provides the companies in scope with *an obligation of means*, implying that a company needs to do its best efforts to reach the intended result. This implicates setting and showing credible policies, processes and steps to identify human rights and environmental issues and solving, mitigating and preventing them from happening (again). The CSDDD follows the six steps of due diligence as specified in the OECD Due Diligence Guidance, and allows companies to adapt them to their circumstances.

Companies in scope are expected to engage in *risk-based due diligence*. This allows companies to *prioritise* certain risks when not all risks can be addressed at once. This means that a company in scope is allowed to prioritise certain business operations, suppliers, business partners and impacts based on the severity and likelihood of adverse impacts. As a result, only the subsidiaries and suppliers that are prioritised will be affected. Since EU Member States still have to implement the CSDDD in national legislation (transposition) and additional guidance documents still need to be developed, how the Due Diligence requirements of the CSDDD will affect the two categories of companies is not totally clear yet. A timely and clear perspective on the Dutch transposition process is crucial to set the scene for the companies in scope and support them in the implementation of the Directive.

Experts suggest additional guidance is needed to ensure consistent implementation of the CSDDD in line with the Directive's objectives. Guidance is imperative to decrease the burden upon companies in scope, their suppliers, SMEs (including farming families) and producing countries while facilitating the positive impact that is in the spirit of the Directive. The risk of shifting the burden to companies indirectly in scope (including SMEs and actors in the countries of production), as well as disengagement from 'high-risk countries' or 'high-risk suppliers' should be prevented. Experts emphasise that international standards and good practices provide a logical starting point for further specification. The following recommendations were made by the experts: to further specify responsibility of companies in scope and those that are part of their chain of activities (companies indirectly in scope) as well as the responsibility and roles non-value chain actors (state and non-state) to address systemic sustainability issues; to establish collaborations between and support for value chain actors that allow for mutual learning and impact; to build upon international standards and good practices to provide additional guidance; to provide a clarification on the material scope

of the Directive and to addresses the interrelatedness of the EU Deforestation Regulation (EUDR), Corporate Sustainability Reporting Directive (CSRD); Forced Labour Regulation and the CSDDD to decrease the burden upon companies. Table 3.1 in Section 3.5 provides an overview of the type of responsibilities that are expected from various supply chain actors in each due diligence step. It includes the role of other stakeholders and expert recommendations.

Companies in the Dutch agri-food sector will be directly and indirectly affected by the CSDDD; hence, how the Directive will be operationalised has crucial implications for how it will affect the different value chain actors both in the Netherlands and abroad. The Dutch agri-food sector is part of global value chains and is well positioned to provide its stakeholders with additional guidance on specific elements of the institutional text, as different (international) guidance documents have been developed, and the sector has considerable experience in collaborating with stakeholders on issues related to Responsible Business Conduct and its impacts. However, these clarifications and guidance are needed to guarantee an efficient implementation and optimisation of impacts, as companies need to start preparing for the rollout. The Dutch Government can take a leading role by providing additional clarification and guidance and creating a supportive environment for an efficient and effective implementation of the Directive.

Methodology

This report, commissioned by the Ministry of Agriculture, Fisheries, Food Safety and Nature seeks to better understand the effect of the Corporate Sustainability Due Diligence Directive (CSDDD) on the Dutch agri-food sector. In particular, LVVN strives for a first (broad) interpretation of the scope and implications of the Directive for the different types of companies in the Dutch agri-food sector. In response to this request, Wageningen University & Research (WUR) scrutinised the proposed Directive 2022/0051(COD) text and the final text of the Directive (EU) 2024/1760; reviewed several international standards that are recognised good practices (such as the UNGPs and OECD Guidelines); and interviewed experts to allow for an informed interpretation how the directive might be transposed and implemented in the upcoming years. The Orbis Database was used to provide an indication of the amount and type of companies that are in scope of the Directive in the agri-food sector in the Netherlands.

1 What are the implications of the CSDDD for the Dutch agri-food sector?

Following two years of negotiations, the European Union (EU) has reached an agreement on the Corporate Sustainability Due Diligence Directive (CSDDD or the Directive), which officially entered into force on 25 July 2024. The Directive establishes, for the first time, mandatory corporate sustainability due diligence obligations for large companies operating in the EU. A new landscape that changes the voluntary nature of existing international standards, such as the UN Guiding Principles on Business and Human Rights (UNGPs), the OECD Guidelines for Multinational Enterprises (OECD Guidelines); OECD Due Diligence Guidance for Responsible Business Conduct (OECD Due Diligence Guidance) and the ILO Tripartite Declaration of Principles concerning Multinational Enterprises and Social Policy (ILO MNE Declaration), by translating many aspects of these standards into law.

The CSDDD outlines a legally binding framework on human rights and environmental due diligence, which aims to provide a level playing field to promote international corporate social responsibility. It sets out obligations for large companies to identify and address potential and actual human rights and environmental impacts in their own operations, their subsidiaries' operations and their 'chain of activities', and requires companies to create and implement a transition plan for climate mitigation. Examples of human rights or environmental impacts that are highlighted in the CSDDD are: child labour, forced labour, living income/living wage and biodiversity (European Parliament, 2024: 54-58). However, to discern the operationalisation and implementation of the Directive, it is necessary to carefully consider and interpret the institutional text in terms of scope, requirements and responsibilities of the different value chain actors.

Aware of the nuances and challenges of interpreting the scope of the Directive, the Ministry of Agriculture, Fisheries, Food Safety and Nature (LNV) seeks to better understand the effect of the CSDDD on the Dutch agri-food sector. In particular, LNV strives for a first (broad) interpretation of the scope and implications of the Directive for the different types of companies in the Dutch agri-food sector (including horticulture). This research focused on two main questions: what type of companies fall under the current and future scope of the CSDDD? How will the due diligence requirements of the 'companies in scope' affect other value chain actors ('companies indirectly in scope')? In response to this request, Wageningen University & Research (WUR) engaged in a literature research: researchers scrutinised the Directive proposal 2022/0051(COD) institutional text and the final text of the Directive (EU) 2024/1760; reviewed several international standards that are recognised good practices (such as the UNGPs and OECD Guidelines);¹ the Orbis database was used to obtain a broad and approximate overview of agri-food companies (including horticulture) in The Netherlands falling under the scope of the CSDDD; and several experts were interviewed to allow for an informed interpretation how the directive might be transposed and implemented in the upcoming years.

This report summarises the findings of the research assignment, starting with an overview of the companies in the Dutch agri-food sector that are directly and indirectly affected by CSDDD, in Chapter two. A list of companies that fall in scope of the CSDDD in the Dutch agri-food sector can be found in Appendix 2. The third chapter provides an overview of how the due diligence requirements of the CSDDD might affect different value chain actors. This chapter also highlights the crucial role of the transposition phase and the need for additional guidance on different aspects of the law to clarify the role and responsibilities for different value chain actors. The last chapter summarises this report's main conclusions and provides the reader with some reflections on the implications for the Dutch agri-food sector.

We would like to thank the different experts that have been interviewed for this report: Richard Gardiner (Head EU Public Policy at World Benchmarking Alliance), Linda Kromjong (President of Amfori), Joseph Wilde-Ramsing, Director of Advocacy at the Centre for Research on Multinational Corporations (SOMO), Manon Wolfkamp (Independent Expert on Responsible Business Conduct), and an anonymous expert on UNGPs and Mandatory due diligence. Their combined expertise enabled us to get an informed impression of how the CSDDD might affect different value chain actors after its implementation in 2027.

¹ See reference for an overview of international standards that have been reviewed as part of this research.

2 The CSDDD will directly and indirectly affect companies in the Dutch agri-food sector

2.1 How the CSDDD affects companies depends on two broad but key categories

This chapter provides an overview of the personal scope of the Directive, specifically of Dutch-based companies in the agri-food sector that are directly and indirectly affected by the CSDDD. It offers an interpretation of the scope of the CSDDD in terms of the companies covered, based on the scrutiny of the 2022/0051(COD) proposal text and the Directive (EU) 2024/1760 final text. In this process, two categories emerge: companies directly under the scope of the Directive, hereafter referred to as 'companies in scope', and companies impacted by the Directive, hereafter referred to as 'companies indirectly in scope'.

2.2 In the Netherlands 54 agri-food companies have due diligence obligations and qualify for civil liability

The CSDDD outlines specific criteria (Figure 2.1) to delimit the scope of companies covered under the Directive. The European Commission estimates that approximately 6,000 EU-based companies and 900 non-EU companies fall directly within the scope of the CSDDD.

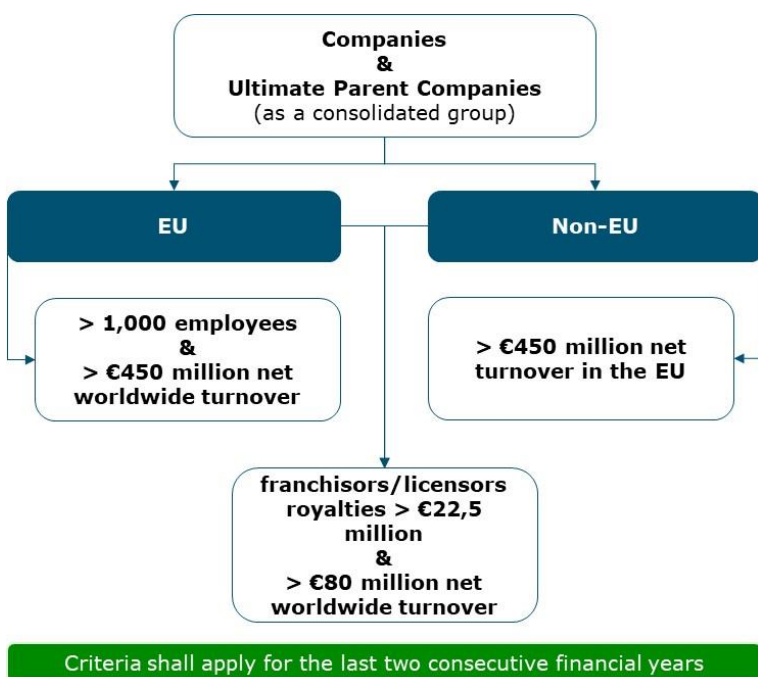


Figure 2.1 Criteria for companies with obligations under the CSDDD (data based on criteria from European Parliament, 2024: 6-7)²

The criteria delimit the companies that have to comply with due diligence obligations and qualify for public enforcement and civil liability under the Directive. However, the due diligence obligations set out in the

² Please refer to the institutional text for detailed information on the calculation of turnover thresholds and number of employees.

Directive do not apply exclusively to the own operations of the companies in scope. The CSDDD requires companies in scope to identify and address potential and actual human rights and environmental impacts in their own operations, their subsidiaries operations and their 'chain of activities'. Therefore, the group of companies and stakeholders that will be affected by the CSDDD will be considerably larger, as many direct and indirect business partners in the supply chain of a company in scope might be affected. This will be discussed further in the next section on 'companies indirectly in scope'.

To contextualise the companies in scope to the Dutch agri-food sector, it is important to consider how the Directive assigns supervisory responsibilities to Member States. For EU companies, due diligence rules will be enforced by the supervisory authority of the Member State where the company is registered. For non-EU companies, the supervisory responsibility lies with the Member State where the company has a branch. If the company does not have a branch in any Member State, or has branches in multiple Member States, the responsibility lies with the Member State in which the company generates most of its net turnover in the EU.

By bringing together the criteria of companies in scope and the supervisory responsibility criteria, we can provide a preliminary list of agri-food companies in scope in the Netherlands. For this purpose, we used a global database with detailed information on private and public companies and their corporate structures, called Orbis. The analysis focused on active companies with a registered office, headquarters or branches in the Netherlands, employing over a thousand people and generating more than €450 million net turnover. The results showed that there are approximately 415 Netherlands-based companies in scope of the CSDDD, from which approximately 54 companies are relevant to the agri-food and horticulture sector. Due to limitations in the Orbis database search, the number of companies remains an approximation and not a definitive list. For a detailed explanation on the methodology and its limitations, see Appendix 1.

The tentative list of 54 agri-food companies in scope in the Netherlands provides tangible insights into each company's name, activity, financials and ownership structure (Appendix 2). This information allows for gaining insights into the timeline for implementation, as the Directive will be implemented gradually over a three-year period. Based on key financial data of the companies, such as turnover and number of employees, due diligence obligations will apply to 17 agri-food companies in the Netherlands as of 26 July 2027, to 8 companies the following year, and 29 agri-food companies will have to comply as of 26 July 2029, at which point all companies in scope will be liable. This shows that while most companies become responsible for their due diligence obligations in 2029, one third of agri-food companies in the Netherlands are responsible from the first year of implementation, in 2027. The specific rollout criteria as established in the CSDDD legal text is outlined in Figure 2.2.

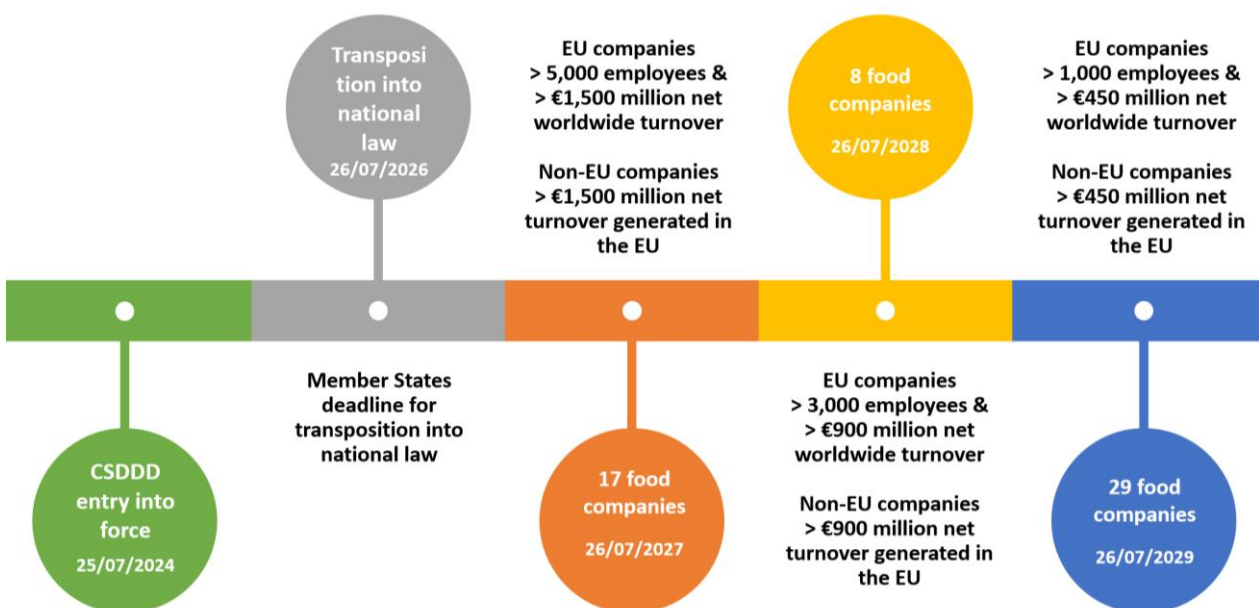


Figure 2.2 Rollout timeline of the CSDDD for food companies in the Netherlands
 Source: data based on criteria from European Parliament (2024: 53).

Further data on the 54 agri-food companies in scope in the Netherlands relate to the company's core business activity. Based on this analysis, approximately half of the companies are engaged in food manufacturing, with a large representation of the meat and dairy sectors. Retail and wholesale accounts for more than 20 percent of companies and the beverage sector includes about 13% of companies. The remaining companies focus on activities related to agriculture, food ingredients or feed manufacturing.

Additionally, the results provide information on the company's role within its corporate group structure, where two main types of companies are identified: controlled subsidiaries (approximately 70%) and ultimate parent companies (approximately 30%), in addition to one independent company. The main difference is that the ultimate parent company is at the top of the corporate hierarchy and is not controlled by any other entity. Whereas the controlled subsidiary is majority-owned by another company and accountable to the parent company. An independent parent company is a standalone entity that is not controlled by any other entity, does not have a parent company and does not form part of a larger corporate group. In relation to the Directive, these distinctions are relevant in terms of allocation of due diligence obligations and liability. In Chapter 3, Section 3.2, a summary is provided of how the due diligence responsibilities between ultimate parent companies and subsidiaries may be allocated, including their liability.

2.3 Companies that need to provide information on impacts and collaborate on mitigation are at all levels of a company's operation

In theory, there are many companies, next to the companies in scope, that will be impacted by the CSDDD. This is because the obligations of the companies in scope extend beyond the company's own operations and include the operations of its subsidiaries and business partners. Accordingly, companies indirectly in scope concern all the subsidiaries³ and most of the companies in the 'chain of activities' of all 6,900 (EU and non-EU) companies that are in scope of the Directive. Yet, it is important to highlight that due diligence obligations allow for prioritisation of risks, when it is not possible to address all risks at once, meaning that in practice companies indirectly in scope will be affected if their business operations are associated with prioritised adverse impacts. Chapter 3 provides further information on how due diligence responsibilities may affect different value chain actors.

The companies indirectly in scope do not have obligations under the Directive nor can be subjected to public enforcement or civil liability. Even so, they may be requested, by their business partners in scope, to collaborate in the provision of information and in the mitigation of adverse impacts, especially if they are involved in activities where impacts are most likely to occur. So, a company in the Dutch meat processing industry (indirectly in scope) which has business relationships with an Italian company (directly in scope) might be affected by the CSDDD by needing to collaborate with their Italian business partner in scope on potential labour issues. This is the reason why it is relevant to gain an understanding of the extent of companies indirectly in scope.

With a focus on the Dutch agri-food sector, we analysed the corporate structure data from the 54 food companies in scope in the Netherlands. The results show the number of subsidiaries owned by each of the companies. As Figure 2.3 shows, approximately half of the companies (26) have none to twenty subsidiaries, the other half (26) has twenty-one to two hundred subsidiaries, and the last 2 companies have more than two hundred subsidiaries. This provides an initial picture of the companies indirectly in scope, with a total count of 2,844 subsidiaries among the 54 agri-food companies in scope in the Netherlands.

³ Companies owned or controlled by a company.

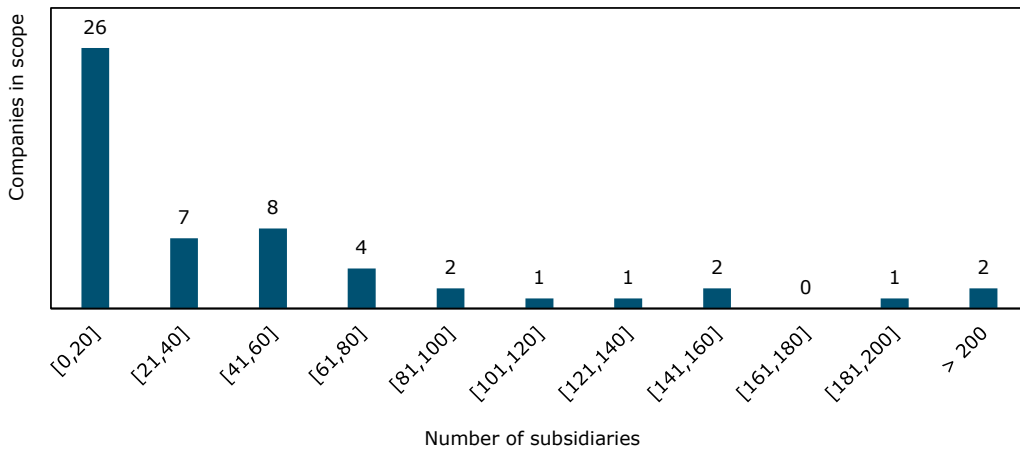


Figure 2.3 Categorisation of agri-food companies in scope in the Netherlands per number of subsidiaries
 Source: data from own analysis in Orbis database.

Identifying the subsidiaries is the first step, because the due diligence obligations set out in the Directive include not only the subsidiaries but also their operations. This adds multiple layers of tiers to the companies potentially impacted by the Directive. Figure 2.4 attempts to capture with a fictitious example how large this scope can be by imagining a Dutch dairy company in scope with five subsidiaries in several countries worldwide. In this way, it is visualised how the operations of the subsidiaries, in all the locations where they operate, can link many more companies to the category of companies indirectly in scope. That said, it is important to emphasise that the companies with 'higher risk' factors are the ones that will be asked to participate in the due diligence of the companies in scope (see Chapter 3 for more information).

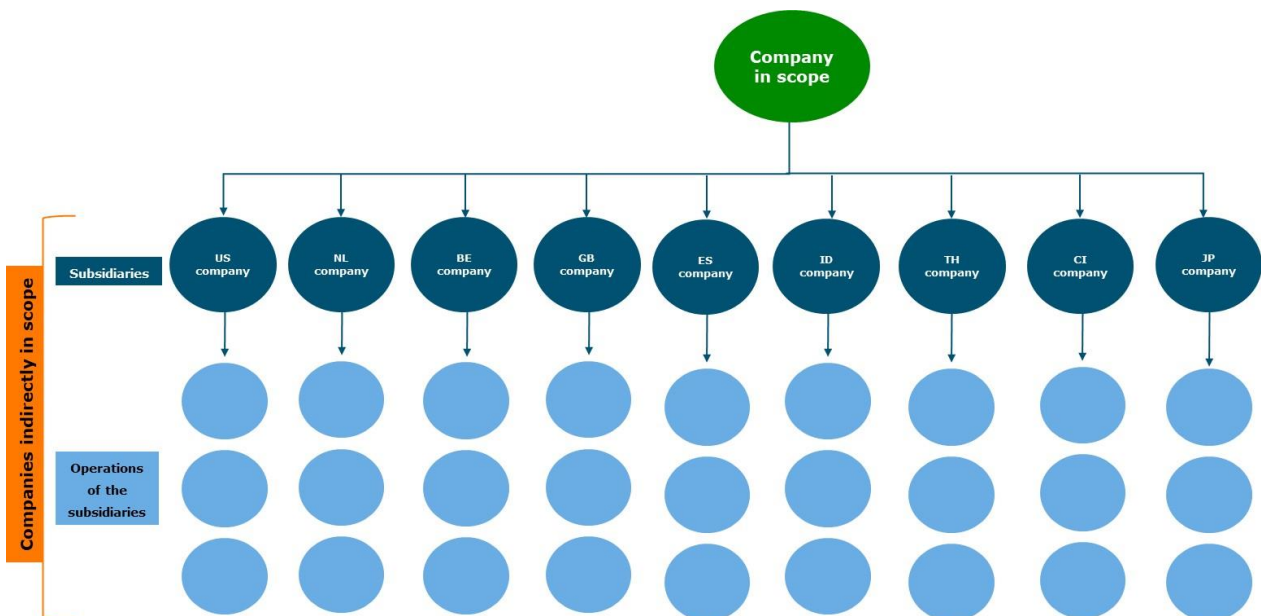


Figure 2.4 Fictitious example featuring the magnitude of companies indirectly in scope arising from a company in scope which has due diligence obligations in the operations of its 9 subsidiaries
 Source: Developed by the authors.

On top of this, the obligations of companies in scope extends beyond their own operations and those of their subsidiaries to those of their business partners in their 'chain of activities'. This makes the number of companies indirectly in scope even broader. The Directive describes a *direct business partner* as an entity with whom 'the company (in scope) has a commercial agreement related to its operations, products or

services, or an entity to which the company in scope provides services in the chain of activities'. While an *indirect business partner* is 'an entity which is not directly contracted but still performs business operations related to the operations, products or services of the company in scope' (European Parliament, 2024: 29). The 'chain of activities' describes the roles of upstream and downstream business partners in a company's supply chain.

'Upstream activities of business partners involve activities related to the production of goods or the provision of services by the company, including the design, extraction, sourcing, manufacture, transport, storage and supply of raw materials, products or parts of the products and development of the product or the service. While downstream activities of business partners involve activities related to the distribution, transport and storage of the product, where the business partners carry out those activities for the company or on behalf of the company' (European Parliament, 2024: 29).

The Directive does not cover the disposal of the product. In addition, there are a few other exclusions such as financial services provided in the context of relationships with clients and export-controlled products under Regulation (EU) 2021/821. Please refer to the institutional text for the complete information on exclusions under this Directive.

According to the conceptualisation of business partners and 'chain of activities', we use a fictitious example in Figure 2.5 to provide a first broad interpretation of who the, upstream and downstream, direct and indirect, business partners of a dairy company in scope can be.

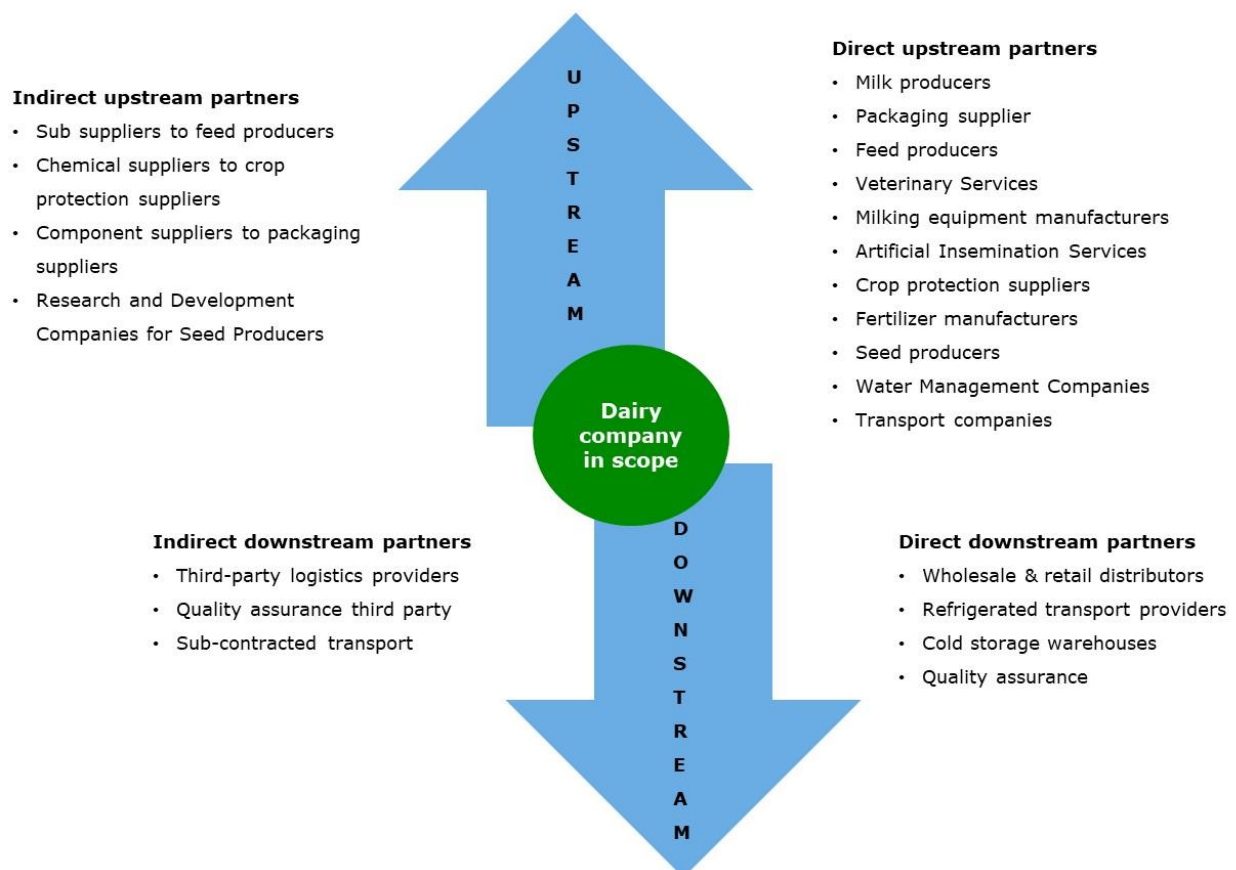


Figure 2.5 Fictitious example of the type of business partners that may be indirectly in scope as part of the 'chain of activities' of a dairy company in scope

Source: Developed by the authors.

3 Efficient and effective implementation of the CSDDD requires further clarification and additional guidance for value chain actors

3.1 The CSDDD codifies the international standards into law

The CSDDD codifies the OECD Guidelines, OECD Due Diligence Guidance, ILO MNE Declaration and UNGPs into law. Experts indicated that the CSDDD is able to take away some of the ambiguity that have prevented companies from undertaking action in the past. For the companies in scope, due diligence obligations depend on their position in the corporate structure and relationship to the adverse impact. Companies in scope will need to cooperate with their value chain actors that are indirectly in scope but are part of their chain of activities (referred to as 'companies indirectly in scope'). Collaboration with other non-value chain actors (state and non-state) is essential in order to create the supportive environment in which due diligence can be effective. Transposition allows for different national interpretations of the law. However, additional guidance is needed to deal with some of ambiguities in the text and provide additional guidance for all stakeholders. This chapter aims to answer the question of how the due diligence requirements that apply to the companies in scope will be translated to those companies indirectly in scope. The chapter also shortly discusses the role of other (non-value chain) stakeholders such as the EU and governments, NGOs, CSOs, knowledge institutes and investors.

3.1.1 The CSDDD provides a shared understanding of responsible business conduct while creating a level playing field for business operating in the EU

The Directive aims to

'ensure that companies active in the internal market [read: EU market] contribute to sustainable development and the sustainability transition of economies and societies through the identification, and where necessary, prioritisation, prevention and mitigation, bringing to an end, minimisation and remediation of actual or potential adverse human rights and environmental impacts connected with companies' own operations, operations of their subsidiaries and of their business partners in the chains of activities of the companies, and ensuring that those affected by a failure to respect this duty have access to justice and legal remedies' (European Parliament, 2024: 3).

The CSDDD codifies due diligence expectations that have been specified in international standards such as the UNGPs and OECD Due Diligence Guidance into law.

'This Directive is consistent with the joint communication of the Commission on the EU Action Plan on Human Rights and Democracy 2020-2024. That action plan defines as a priority strengthening the Union's engagement to actively promote the global implementation of the UN Guiding Principles and other relevant international guidelines such as the MNE Guidelines [read: OECD Guidelines], including by advancing relevant due diligence standards' (European Parliament, 2024: 3).

Hereby it aims to contribute to a level playing field for business operating in the EU and takes away ambiguity and uncertainty by laying out a shared understanding of the companies in scope and the steps they are expected to undertake. 'The lack of these [generally accepted] principles may have gotten companies and governments lost on what to focus on, now it is the CSDDD [that provides a shared starting point]' (Linda Kromjong, President of Amfori).

3.1.2 The CSDDD provides an obligations of means and allows for a prioritisation of risks

The CSDDD requires a company to undertake 'risk-based due diligence'. This means that the measures a company should undertake are proportionate with the severity and likelihood of an adverse impact. This allows a company for a dynamic and flexible approach that is adapted to the circumstances of a company's business operations and its 'chain of activities'. Due diligence allows for a prioritisation of risks when it is not possible to address all risks at once (European Parliament, 2024: 11; OECD, 2011; 2018; 2022a; 2023; United Nations, 2012). The Directive's main obligations are an obligation of means:

'The company should take appropriate measures which are capable of achieving the objectives of due diligence by effectively addressing adverse impacts, in a manner commensurate to the degree of severity and the likelihood of the adverse impact.' (European Parliament, 2024:4).

This is aligned with the OECD Guidelines and UNGPs. This means that a company needs to give its best effort to reach the intended result. But this is clearly different from legislation that requires an obligation of result, such as the EUDR in which an actor is held responsible for a specific outcome. The CSDDD explicitly does not expect companies to guarantee that adverse impacts will never occur or to completely eradicate the risk (European Parliament, 2024: 4). The CSDDD is about showing credible policies, process and steps to identify human rights and environmental issues and solving, mitigating and preventing them from happening (again).

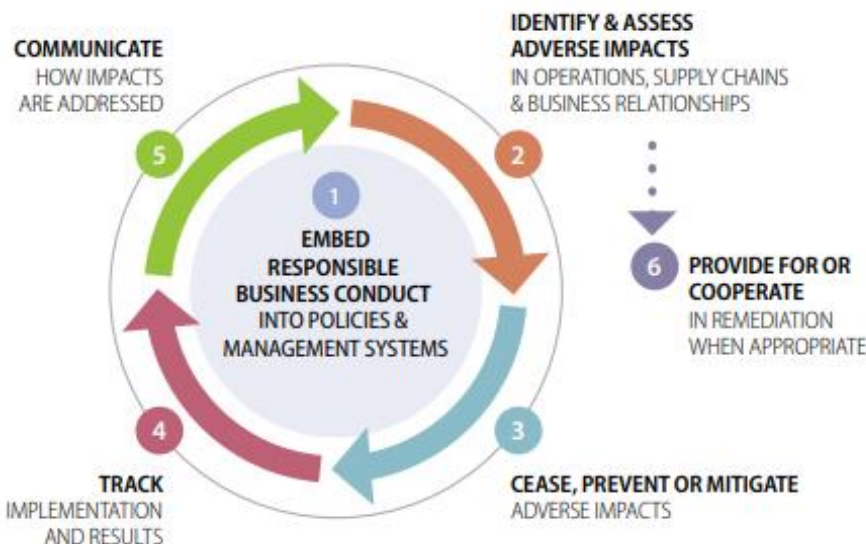


Figure 3.1 Due Diligence Process and supporting measures
Source: OECD (2018: 21).

The flexibility inherent in the CSDDD does not mean that companies can randomly decide on what is important. International standards and good practices have set parameters on how and when companies are allowed to prioritise (e.g. OECD, 2018; OECD, 2022a). 'Demonstrating credible prioritisation processes and progress against outcome-oriented targets consistent with the expectations set out in the due diligence framework become critical' (OECD, 2022a: 6). The 'involvement framework' (OECD, 2018; UN, 2011) further specifies the appropriate measures for a company to prevent, address or mitigate adverse impacts depending on their relationship with the adverse impact. In line with international standards the CSDDD distinguishes three levels of involvement: causing, contributing to or being linked to the adverse impact. For each of these levels of involvement different obligations apply.

3.1.3 The CSDDD requires collaboration between value chain actors, stakeholders and rightsholders

The due diligence process set out in the CSDDD follows the six steps defined in the OECD Due Diligence Guidance (OECD, 2018). See Figure 3.1 and Section 3.5 for more information. The companies in scope will need to collaborate with companies indirectly in scope, as well as with other stakeholders and rightsholders to identify, assess and address adverse impacts to which they face an obligation. Companies indirectly in scope will be specially affected if their business operations are associated with (prioritised) adverse impacts. Specific due diligence requirements might become part of pre-qualification requirements, contracts and written agreements. The company in scope is expected to support companies in their chain of activities (e.g. resources and training) and use its leverage to motivate them (the companies indirectly in scope, related to prioritised impacts and operations) to participate, assess and address impacts. But after failed attempts, disengagement of that business partner is a last resort. In sum: the companies indirectly in scope cannot be held legally accountable under the CSDDD for their role and effort but a lack of participation in the due diligence processes of the 6,900 companies under scope might lead to losing their access to companies in the European market.

3.2 Due diligence responsibilities depend on corporate structure

The role a company has within its corporate group structure is relevant for determining how the due diligence obligations under the CSDDD may be allocated between ultimate parent companies and their subsidiaries. Below is a summary of how responsibilities are allocated across five different scenarios:

Both the ultimate parent company and its subsidiary(ies) are in scope (due diligence at group level)

- The ultimate parent company may fulfil the due diligence obligations on behalf of its subsidiaries, if this ensures effective compliance, including obligations on combatting climate change.
- The ultimate parent company and subsidiary must cooperate and share information to meet their legal obligations.
- The subsidiary in scope must adhere to the parent company due diligence policy, integrating it to all its policies and risk management systems, and adapting it if necessary to its unique requirements and circumstances.
- The subsidiary manages contractual assurances and relationships when required.
- The subsidiary in scope must comply with and adopt the ultimate parent company's transition plan for climate change mitigation, adjusted to their business model and strategy.
- Both the ultimate parent company and its subsidiary remain liable under the Directive and subject to the supervision of the corresponding supervisory authority.

Only parent company in scope

- The subsidiary is not obliged to carry out due diligence obligations.
- The parent company should cover operations of the subsidiary as part of its own due diligence obligations. For which the parent company may need information from the subsidiary.

Only subsidiary in scope

- The subsidiary is responsible for fulfilling the due diligence obligations.
- The parent company can assist by sharing resources and information.

Exception for ultimate parent companies

- An ultimate parent company may request for exemption from due diligence obligations if its main activity is the holding of shares and does not engage in management, operational or financial decisions.
- The ultimate parent company must have a designated EU subsidiary with sufficient authority and resources, to fulfil its obligations.
- The ultimate parent company remains jointly liable with the designated subsidiary for compliance failures.

Indirectly in scope

- Companies indirectly in scope are not required to comply with due diligence obligations and are not subject to liability. If a company does business with a company in scope, it is that business partner in scope which is responsible for complying with due diligence obligations.
- Companies indirectly in scope may be impacted – as business partners of companies in scope – by the policies and due diligences processes of the companies in scope, such as with (contractual) requests for information or collaboration to mitigate impacts. See Section 2.5 for more information.

This information is relevant to gain a better understanding on how the allocation of responsibilities may apply according to the corporate group structure of companies. However, whether an ultimate parent company fulfils the due diligence obligations for a subsidiary in scope or is exempted by designating a subsidiary to fulfil those obligations, all companies in scope remain accountable for the due diligence obligations to their corresponding Member State.

3.3 Transposition allows for further clarification of the legal text and might result in different national interpretations of the law

Two years after the CSDDD enters into force, on 26 July 2026, all 27 EU countries need to have the Directive transposed into national law. Transposition allows for a further specification of the legal text and different national interpretations of the law within the EU that might affect implementation. It is up to the individual Member States to decide how to implement the legislation while meeting the minimum requirements that are formalised in the Directive.

3.3.1 The CSDDD builds upon the UNGPs, OECD Guidelines and ILO MNE Declaration but is misaligned or ambiguous on important topics

The CSDDD explicitly mentions the further specification of Due Diligence in UNGPs (2011), OECD Guidelines (2011/2023), OECD Due Diligence Guidance (2018) and ILO MNE Declaration (2022) (European Parliament, 2024:2.) This research concludes that even though there is substantial alignment between the UNGPs, OECD Guidelines and the CSDDD at the level of the legal text, yet there are some elements that are clearly misaligned or ambiguous. The CSDDD is less extensive and therefore allowing for possible different interpretations of the text. The current legal text differs from the provisions in these international standards on some crucial themes. The most important difference concerns the scope of the Directive. Whereas the due diligence duty in the OECD Guidelines applies to all companies irrespective of their size or sector, the CSDDD only covers the largest companies headquartered or operating in the EU. On top of this, the CSDDD excludes most downstream relationships and impacts. A third crucial difference concerns the material scope of the Directive: the CSDDD definition of human rights and environmental impacts are based on a limited list of human rights conventions and environmental agreements. This creates uncertainty about which rights and impacts are covered and this contrasts the OECD's broad framing of covered impacts. Furthermore, climate change is excluded from the due diligence duty, instead the CSDDD requires the design of transition plans for climate change mitigation. Other areas that are misaligned or ambiguous concern: management-level oversight; stakeholder-engagement; usage of multi-stakeholder initiatives; and the 'involvement framework' (the role of companies in providing or encouraging remediation) (see for instance Ingrams & Vanpeperstraete (2024) for a detailed discussion on the alignment of the CSDDD with the OECD Guidelines).

3.3.2 The transposition phase might affect how the Directive is implemented across Europe

The transposition phase allows each of the Member States to resolve or clarify some of the ambiguities that are to be found in the current text and could enable a better alignment with international standards. All interviewees agreed upon the need for additional clarification to explain the legislation and to provide guidance on implementation. They also agree that this guidance should be aligned with international standards such as the OECD Guidelines and UNGPs. Many EU governments, including the Netherlands, still have an international commitment to the UNGPs and OECD guidelines. Some experts see the transposition

phase as an opportunity to bring the legal text closer to the international standards (especially regarding the companies in scope), while others emphasise the importance of a harmonised European framework without differences in the texts between Member States.

In general, the transposition phase is not expected to create big differences between the Dutch law and the Directive on a content level but it might provide some additional guidance for the companies in scope. There might be small differences between different Member States that might affect the implementation of the law, e.g. the transposition of civil liability in 27 different civil codes.⁴ Further alignment with international standards could take place in the periodic reviews of the legislation, starting in July 2030 and every three years thereafter. In addition, a specific review clause on the inclusion of financial and investment services will take place no later than July 2026. Interviewees emphasise the importance that the Dutch government provides a timely and clear perspective on its transposition process to set the scene for the companies in scope and support them in the implementation of the Directive: what will be transposed, who will be the regulator and what will be the focus of its supervision? Different EU countries have different economies and might therefore have different focus sectors. The agri-food sector has been mentioned as being a logical candidate as a focus sector in the Netherlands, considering its economic importance, potential adverse impact and the considerable experience in public-private sector collaboration for responsible business conduct.

3.4 Additional guidance on implementation is urgently needed to decrease the burden on companies in scope and clarify responsibilities of value chain actors and other stakeholders

Additional guidance for the implementation of the CSDDD is crucial to decrease the burden on companies in scope, their suppliers, SMEs (including farming families) and producing countries while allowing for the positive impact that is in the spirit of the Directive (expert interviews). The Directive gives the EU commission, in consultation with Member States and stakeholders, the task to develop general and sector-specific guidelines for companies and Member State authorities in order to provide support on practical due diligence compliance (EU Parliament, 2024: article 19). The experts stress that these guidelines are crucial to effectively and efficiently implement the Directive and to ensure the Directive will achieve its desired impact.

3.4.1 Without clearly defined responsibilities there is a risk of shifting the burden of the CSDDD to value chain actors and producing countries

How the companies in scope will roll out their due diligence regime will have important consequences for the effectiveness of the Directive, and which value chain actors will need to put in most efforts to ensure compliance. Even though the spirit of the Directive follows the OECD guidelines, this research finds that ambiguities in the text and a lack of guidance might lead to unintended results that go against the Directive's objectives. Experts emphasise the risks of shifting the burden to companies that are indirectly in scope (including SMEs, farming families and actors in the countries of production), as well as the risk of disengagement of high-risk countries or high-risk suppliers instead of a genuine effort to address impacts.

'The worst way that the law could be rolled out is that big business says "I now have to meet this level. So you have to meet this level. You have six months". Or the business goes to a whole bunch of suppliers and says "I can only work with two of the ten of you, whichever two are the best in complying will stay". That would be the worst way. It creates negative competition about people trying to undercut each other to a certain extent, a high reason to lie or mislead to get a nice proposal on the page. Whereas they [the big businesses] should be engaging with them [their suppliers] and actually say "I have the primary responsibility but you obviously have the problems. How do we work on this together?"' (Richard Gardiner Head EU Public Policy, World Benchmarking Alliance).

⁴ Member States tort laws differ considerably. Therefore integrating the CSDDD's Civil Liability into national laws in a harmonised way is expected to be challenging.

The due diligence process requires the involvement of a multitude of actors beyond those companies that are directly in scope of the CSDDD. One of the most crucial points of feedback has been about creating more clarity about the responsibility of companies under the CSDDD and those that are part of their chain of activities ('indirectly affected companies'). On paper, only those companies in scope can be held legally liable for their role. However, these companies will integrate due diligence expectations into their processes and management systems and hereby set standards for their suppliers. As such, the processes that are being developed and the kind of information that will be asked from value chain actors will have an impact those companies that are directly or indirectly supplying to EU companies. These value chain actors are not legally liable and are not expected to have a full due diligence regime but are asked help other actors to comply in order to maintain access to companies in the EU market. So, there is an urgent need understand their 'obligations' and find ways to produce information relevant for the company in scope.

3.4.2 Prioritisation should prevent over-bureaucratisation and enables a focus on the most severe and likely impacts

Experts emphasise the possibility to prioritise certain business operations, suppliers, business partners and impacts based on the severity and likelihood of an adverse impact. Companies do not need to fully assess all their suppliers. There is no need to involve all direct and indirect business partners but only those that are connected to (prioritised) adverse impacts (European Parliament, 2024: 11; OECD, 2011; 2018; 2022a; 2023; United Nations, 2012). This should prevent an over-bureaucratisation of the due diligence processes that would pose serious burdens upon all value chain actors. Companies are in need of a clear guidance on the criteria of prioritisation in relation to questions of compliance to allow for an efficient and effective implementation of the CSDDD.

3.4.3 Value chain actors need additional support for CSDDD implementation

Both the companies in scope and other stakeholders such as EU governments, NGOs, CSOs, Investors and knowledge institutes should provide actors in the chain of activities (especially SMEs and companies and suppliers including farming households in producing countries) with additional support for their role in CSDDD compliance to guarantee their future access to EU market. In order to achieve meaningful impact, due diligence would mean sharing responsibility. As one cannot solve these issues without the involvement of other stakeholders. However, the current scope of the CSDDD lack the guidance on how this responsibility should be shared between value chain actors and other stakeholders.

Similarly, a clarification of the rules of disengagement could prevent companies in scope disengaging from 'high risk countries' or 'high risk suppliers' without an attempt to collaborate to assess and address impacts.

'The reality shows that responsibilities will cascade and companies under scope will want information from their suppliers to be shared back to them on how they are doing, and to show proof. The CSDDD has implications for companies that are not directly under scope' (Linda Kromjong, President of Amfori)

'Due diligence should go all the way back [and will affect actors operating upstream the value chain] as that is where a lot of the impact occurs' (Manon Wolfkamp, Independent Expert on Responsible Business Conduct)

'It is the question how the company in scope will address due diligence compliance. They could not just include provisions in their contract with their suppliers to fulfil their obligations. Contractual cascading will not be, and should not be, a good story for the supervisory authority. The ultimate goal of the CSDDD is to change circumstances on the ground and improve outcomes for people and the environment. Accordingly, companies should be able to demonstrate how they address impacts. The company should be able to demonstrate how they have worked together with their business partners and how do they have interrogated their own business model and purchasing practices.' (anonymous expert on UNGPs and Mandatory Due Diligence).

3.4.4 No need to reinvent the wheel: build upon existing guidance

The experts also emphasise that there is no need to reinvent the wheel, as a lot of *guidance* is already available in the international standards referenced in the CSDDD. Most European governments⁵ formally adhere to these international standards, as such these international standards provide a logical starting point to further specify the topics set out in the CSDDD that are not clear or not well elaborated. For various sectors there are sector guidances available (including the agri-food sector) and sectoral good practices might help value chain actors in the development of processes and action plans to assess and address adverse impacts. However, these guidelines are not explicitly referred to in the CSDDD and vital support tools might not yet be available to help different supply chain actors implementing the CSDDD. The European Commission's Guidance provides the opportunity to connect good practices and create a coherent narrative. However, the development of the European Commission's Guidance will take 2 to 3 years. While companies already started to prepare themselves for implementation.

3.4.5 Collaboration and mutual learning is central to the CSDDD

The CSDDD emphasises the need to facilitate collaboration to increase leverage. Experts emphasise the need to include other entities beyond value chain actors, such as the governments, NGOs, CSOs, investors and knowledge institutes to collaborate with value chain actors to give them a safe space for implementation and match efforts with investments. Richard Gardiner (Head EU Public Policy at World Benchmarking Alliance) states

'our data says that if the companies have the support, so if they're transparent with information and that information is engaged with by investors, financier, supervisors and others and civil society, the chances are they will engage longer because there's a spirit of communication, there is a spirit of openness, transparency [...] We are showing that the more transparent companies are also correlates with more sustainable behaviour'.

The CSDDD, as an obligation of means (not results) asks for this type of environment, enabling companies to start and learn and improve along the way. However, this has to be matched with a supporting environment to create the right structures to achieve impact. Due diligence allows for a learning approach, this has been built into the CSDDD and is also central in the OECD guidelines. Experts emphasise the possibility to prioritise and that there are plenty of good practices that could be used. The supervisory authority should build this learning approach into their supervision and communicate clearly on how compliance will be assessed. To reach the Directive's objective experts stress the role of non-value chain actors in assessing, addressing and remediating impacts. The EU, member state governments, NGOs, CSOs, knowledge institutes and investors all have a role to play in creating the supportive environment (spaces for pre-competitive interaction and sector collaboration, tools, frameworks, intervention plans) in which due diligence can be effective and intervention strategies achieve the desired results. Collaboration and learning should therefore be extended beyond value chain actors and affected stakeholders and rightsholders but also engage with a broader set of stakeholders to achieve the desired positive impacts. Furthermore, CSDDD compliance would not mean that all human rights and environmental issues will be solved. Therefore, non-value chain actors should still be invested in addressing the root causes of the different potential and actual impacts.

'There's still a lot of work to do in the guidance and in shaping the mandates of the supervisory authorities to really make sure that the buyer will be responsible for a comprehensive and holistic implementation of due diligence' [...] 'Simplistic approaches, such as contract cascading, is not how due diligence is operationalised' (anonymous expert on UNGPs and Mandatory due diligence).

3.4.6 The material scope of the Directive should be clarified

Experts further stress that the status of the human rights and environmental impacts that concern the material scope of the Directive should be further clarified to take away the ambiguous status of the different international conventions and agreements listed in the annex of the Directive.

⁵ E.g. 25 EU Member States formally adhere to the OECD Guidelines.

3.4.7 Additional guidance on the interrelatedness of the EUDR, CSRD, Forced Labour Regulation and CSDDD is needed

The need to provide additional guidance on how the EUDR, CSRD, Forced Labour Regulation and CSDDD interrelate and overlap is further stressed by the experts interviewed for this research. This would help to decrease the burden upon companies and to facilitate meaningful and effective implementation of these different legislations. 'I think we would serve the companies in the agribusiness best if we have a coherent message on all the sustainability legislations and how you can combine these. It makes it easier for companies to implement' (Joseph Wilde-Ramsing, Director of Advocacy at the Centre for Research on Multinational Corporations (SOMO)). Wilde-Ramsing highlights that it would facilitate implementation by ensuring a standardised way of reporting, that is aligned with international standards and the CSRD. The CSRD has a bigger scope compared to the CSDDD. The CSRD companies need to report on their due diligence, hereby following the OECD guidelines as standard. This could further facilitate reporting under the CSDDD. At the same time, this also means that a broader group of companies might start undertaking actions because of their CSRD reporting without being legally liable under de CSDDD.

Manon Wolfkamp stresses that this would mean that the government should ensure these three legislations are more aligned than they are now: e.g. in the CRSD a company needs to report on the whole value chain but in the CSDDD one needs to report on the 'chain of activities'. This is a different concept allowing for different interpretations of the scope of both directives. Similarly, while the CSDDD talks about the six steps of due diligence and follows the OECD guidelines, the EUDR is talking about four steps.

'Combine it and make it one, and that's way easier. [...] Now you have companies that are developing six different systems. For each law they develop a new system. I think that's makes it really big and overwhelming for companies and in terms of what they need to do. If you can view it from a single viewpoint and say, OK, it's all OECD guidelines and all derived from there. So start implementing the OECD and the rest will follow' (Manon Wolfkamp, Independent Expert on Responsible Business Conduct).

3.5 Every company that is linked to a company in scope might be affected by the CSDDD

While the ultimate responsibility for implementing the various due diligence steps is with the company in scope, they would need to collaborate with actors in the chain of activities to comply with the CSDDD. The following table gives a short overview of the type of responsibilities that are expected from the various value chain and non-value chain actors in each due diligence step. The table firmly draws upon the information derived from an analyses of the CSDDD and various international standards (particularly, the OECD Guidelines (2011/2023), OECD Guidance (2018), UNGPs (United Nations, 2011; 2012), but see reference list for complete overview). This analysis has been verified by and complemented with information derived from the expert interviews. This table should give some practical insight into what kind of activities might be expected in each of the six due diligence steps.

Table 3.1 Overview of due diligence roles and responsibilities for different actors

Due diligence steps	Responsibilities of companies in scope	Responsibility of companies indirectly in scope	Role of other stakeholders	Experts' recommendations
1. Integrating due diligence into policies and management systems	Integrate due diligence expectations in policies, management systems and communicate these expectations to suppliers, clients, stakeholders.	All companies that are not in scope are not required to have policies and management systems in place. However, they will be affected by the policies, management systems and expectations that are developed by companies in scope (e.g. contract requirements, trainings).	Involvement of stakeholders in development of company policies and implementation plans.	Need for additional clarification and guidance on responsibilities, and guidance on good practices.
	Develop policies in consultation with employees and their representatives.		Create supportive environment for collaboration and learning.	Need for additional support to create the supportive environment for collaboration and learning (spaces for pre-competitive interaction and sector collaboration, tools, frameworks, intervention plans). Collaboration should be extended beyond value chain actors and includes EU governments, governments in producing countries, knowledge institutes, NGOs, investors
	Update policies at least every 2 years. e.g. invest in processes and infrastructure; develop a human rights and environmental policy; integrate policy expectations in contracts, system of controls and transparency along supply chain; strengthened engagement with business partners (incl. financial and practical support for business partners); if needed adjust the company business plan or strategy,		Engage with stakeholders in every step of Due Diligence.	
2. Identifying and assessing adverse human rights and environmental impacts	High level overview of areas of operations and types of relationships.	<i>Only applies to prioritised operations, suppliers and business relationships.</i>	Consult with stakeholders and experts on information gaps in risk and impact assessments.	Need for additional clarification and guidance on responsibilities, guidance on good practices and tools.
	High level risk assessment of adverse impacts.	Provide information to the company in scope to identify and assess the nature and extent of actual and potential adverse impact of <i>prioritised operations, suppliers and business relationships.</i>	Development of tools, frameworks and methodologies for impact assessment	Need for guidance on prioritisation of operations, suppliers and business relationships and responsibilities (the burden of information) of actors in 'chain of activities'
	In depth risk assessment of prioritised operations, suppliers and business relationships.		Facilitate spaces for cooperation and learning	Need for spaces for cooperation and learning (sector-level)
Use sufficient and appropriate resources.		Consultation of impacted and potentially impacted rights holders.		
Provide support and guidance to (prioritised) operations, suppliers and business relationships for risk and impact assessments for CSDDD compliance.	Use leverage to motivate prioritised operations, suppliers and business relationships to assess and (possibly) address potential and actual impacts.	<i>Only applies to prioritised operations, suppliers and business relationships.</i>	Development of tools, frameworks and methodologies for impact assessment	Need for additional support of collaborative efforts and mutual learning within Due Diligence process.
		Receive support and guidance to engage in risk and impact assessments to assist company in scope to comply with the due diligence obligations.	Provide support to 'value chain actors' for their role in CSDDD compliance	Particularly, SMEs, companies and farming households in producing countries would need additional support for their role in CSDDD compliance.
			Facilitate spaces for cooperation and learning	
			Consultation with stakeholders and experts on information gaps in risk and impact assessments	

Due diligence steps	Responsibilities of companies in scope	Responsibility of companies indirectly in scope	Role of other stakeholders	Experts' recommendations
	<p>Assess company's own involvement with actual or potential adverse impact according to the 'involvement framework' to determine appropriate responses (incl. consultation with business relationships, impacted stake- and rights holders and external experts)</p> <p>Drawing upon the information obtained identify which potential or actual impacts to be addressed immediately. Where necessary prioritise the most significant impacts for action following the involvement framework.</p>	<p><i>Only applies to prioritised operations, suppliers and business relationships.</i></p> <p>Provide information to determine the responsibility of the company in scope according to the 'involvement framework'</p>	<p>Provide support to 'value chain actors' for their role in CSDD compliance</p> <p>Facilitate spaces for cooperation and learning</p> <p>Consultation with stakeholders, rightsholders and experts to assessment of 'involvement framework' for prioritised adverse impacts.</p>	<p>Need for additional clarification and guidance that clarifies the role and responsibilities of different actors in prioritising and addressing impacts.</p> <p>Conflict of interest might arise for a company to assess involvement without (legal) liability. Provide support and incentives to value chain actors to participate in Due Diligence.</p>
	Consult with business relationships, other relevant enterprises and impacted or potentially impacted stakeholders and rightsholders on prioritisation of decisions	Engage with business relationship on prioritised impacts.	<p>Consult with stakeholders on prioritisation of decisions</p> <p>Facilitate spaces for cooperation and learning</p>	
3. Preventing, ceasing or minimising actual and potential adverse human rights and environmental impacts	<p>Based on the prioritisation of impacts, develop and implement plans with defined timelines and measures to seek, prevent, mitigate actual or potential impacts in collaboration with other stakeholders.</p> <p>Use leverage to prevent adverse impacts</p> <p>Provide support and resources to actors in 'chain of activities' for their role in CSDDD compliance (especially SMEs and companies in producing countries).</p>	<p>For prioritised impacts: assist the company in scope to implement plans to seek to prevent, mitigate actual or potential impacts that are connected to the company.</p> <p>Direct business partners from a company in scope may be subject to contractual due diligence responsibilities.</p>	<p>Different stakeholders may play a substantial role in the development and implementation plans to address impacts (e.g. direct stakeholders, rightsholders, governments, knowledge institutes, NGOs).</p>	<p>Need for additional support of EU governments and producing countries (incl. non-state actors and knowledge institutes) to develop and execute effective implementation plans to address impacts.</p> <p>SMEs and companies in producing countries need additional support on their role in CSDDD compliance.</p> <p>Need for additional clarification and guidance on the role and responsibilities of different actors (including governments and investors) in addressing impacts. This includes guidance on criteria for (responsible) disengagement, as a last resort.</p>
4. Monitoring and assessing the effectiveness of measures	Track implementation and effectiveness	For prioritised impacts: provide company in scope with information to track implementation and effectiveness.	Provide company in scope with information to track implementation and effectiveness.	Need for additional clarification on how the legislator will assess effectiveness of measures and CSDDD compliance.
5. Communicating	<p>Communicate on impacts.</p> <p>CSRD provides a legal starting point for sustainability reporting</p> <p>For human rights issues: ensure appropriate communication with (potentially) impacted rights holders.</p>	<p>No requirement from CSDDD.</p> <p>For those under the CSRD: this can be part of CSRD reporting.</p>	Monitor impacts and interventions	Provide additional guidance on legislative alignment EUDR/ CSRD/ CSDDD reporting to decrease the burden upon companies.
6. Providing remediation	Depending on involvement framework: provide remedy to impacted	(voluntary) cooperation in remediation		Provide additional guidance on 'involvement framework'

4 Conclusion

The CSDDD obliges companies in scope to identify and address actual and potential adverse human rights and environmental impacts connected with companies' own operations, operations of their subsidiaries and of their business partners in the chains of activities, and requires companies to create and implement a transition plan for climate change mitigation. The CSDDD provides companies in scope with an obligation of means, implying that a company needs to give its best effort to reach the intended result. It is about showing credible policies, process and steps to identify human rights and environmental issues and solving, mitigating and preventing them from happening (again). The CSDDD follows the six steps of Due Diligence as specified in the OECD Guidelines and allows the company to adapt them to the companies' circumstances.

At an EU level, an estimated 6,000 EU-based companies and 900 non-EU companies fall within the scope of the Directive. This research estimated that 415 Netherlands-based companies are in scope of the Directive, of which 54 companies are part of the Dutch agri-food sector (including horticulture). The group of Dutch companies that are indirectly in scope are numerous and would in theory concern all companies that maintain direct or indirect business relationships with one of the 6,900 companies that are in scope. In addition, there are also huge numbers of companies (including SMEs and farming households) which are indirectly in scope, but are located outside of the Netherlands or the EU.

The prime difference in 'responsibility' between the companies in scope versus the companies indirectly in scope concerns the legal liability. Only the companies in scope are legally liable under the Directive. However, they depend on other value chain actors to be able to comply. The companies in scope need information on the nature and extent of actual and potential impacts related to (prioritised) operations, suppliers and business relationships. This means that if a company doesn't fall under the CSDDD but belongs to a prioritised operation, supplier or business relationship, it will be asked to participate by providing information for risk and impact assessments and possibly assist a company in scope to implement plans to prevent, mitigate and address actual or potential impacts. Furthermore, these types of due diligence expectations will become part of pre-qualification requirements, contracts and written agreements, and therefore will directly affect the terms of access to the EU market.

Due diligence is not a static process, it is adjustable to the company's circumstances, flexible to the prioritisation of risks and impacts and based on the notions of 'collaboration' and 'learning' to effectively address potential and actual impacts. However, this flexibility inherent to the due diligence norm, ambiguities in the institutional text and certain misalignment with international standards leads to some 'grey areas' that leave room for interpretation, which complicates the (coherent) implementation of the Directive across the 27 Member States. This particularly impacts the question of how the due diligence requirements of the companies in scope affect other value chain actors.

It is crucial that the transposition of the text and additional and timely guidance for its implementation decreases the burden on companies in scope, their suppliers, SMEs, farming households and producing countries; and further clarifies specific elements of the text to allow for a coherent implementation, avoid excessive bureaucratisation and burden-shifting to other value chain actors. Ultimately, with the aim of ensuring that the Directive reaches its desired impact. This additional guidance concerns (amongst others) a clarification of the responsibilities of those 'companies in scope' and those 'companies indirectly in scope' (including rules for disengagement, clarification of the material scope, further specification of the 'involvement framework') and the terms and manners in which they are expected to collaborate in order to effectively implement the Directive and achieve meaningful impact. In addition it should include a clarification of the responsibilities of government and investors as they also have a role to play in addressing persisting sustainability challenges beyond the influence of companies. Furthermore, the way in which the Supervisory Authority will interpret and supervise CSDDD compliance (including the 'learning approach' that is built into Due Diligence) will be essential for companies comply efficiently.

There is already a lot of guidance in the international standards referenced in the CSDDD. Most European governments have an international commitment to these standards, including the Dutch government. These types of guidance (including good practices) are also available for the Food and Agriculture sector. However without an explicit recommendation from the European Commission, Member States or Supervisory Authorities, companies do not know which guidance will be leading and corresponds with the expectations of the Supervisory Authority.

A point of concern is the lack of harmonisation, alignment and guidance of the different types of supply chain legislation that are currently being implemented (EUDR, CSRD, CSDDD). Additional guidance addressing this would significantly reduce the burden upon companies in scope of these three directives and facilitate effective and efficient implementation.

Companies in the Dutch agri-food sector will be directly and indirectly affected by the CSDDD, and how the Directive will be operationalised has crucial implications for how the Directive will affect different value chain actors in the Netherlands and abroad. The Dutch agri-food sector, including governments, companies, NGOs/CSOs, investors and knowledge institutes is well placed to provide its stakeholders with additional guidance on specific elements of the institutional text, since different (international) guidance documents have been written for the agricultural sector and the Dutch agri-food sector has considerable experience in collaborating with stakeholders on issues related to Responsible Business Conduct (e.g. covenants). Furthermore, taking a sector lens enables for a focus on the risks and impacts that are particular to the agricultural sector. In this case, experience gained within specific commodity sectors by working on specific impacts (e.g. living income or child labour in the cocoa sector) can be leveraged. The Dutch Government can take the lead in driving change related to the CSDDD by providing conceptual clarity on key elements of the Directive, taking a leading role in developing the guidance and supportive learning environment for an efficient and effective implementation of the Directive.

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Appendix 1 Methodology

Three different research methods form the basis of this report.

Literature research

Scrutinising the institutional text, supporting publications and good practices (UNGPs, OECD Guidelines and supporting publications) enabled an informed interpretation of the Directive and create an overview of the crucial aspects of the transposition and implementation process for different value chain actors.

Orbis

The Orbis database is a commercial database that collects detailed information on companies worldwide, including financial, operational and corporate structure data. Orbis combines data from various sources of information, such as official company registers like the Dutch Chamber of Commerce (KvK), financial statements and other public and private databases. Due to its extensive information and search flexibility, Orbis was used to obtain a broad and approximate overview of agri-food companies in The Netherlands falling under the scope of the CSDDD. For this, we used five filters: status (active companies), country (Netherlands), operating revenue / turnover (>€450m), number of employees (>1,000) and NACE primary codes.⁶ The search criteria applied to the last available financial year and the preceding one. Limitations in data reporting did not allow to specifically search for non-EU companies in scope of the CSDDD. This was due to the inability of differentiating net worldwide turnover, and turnover generated in the EU. It was also not possible to search specifically for franchisors or licensors. However, the results may have included some franchisors/licensors or non-EU companies in the list provided in Appendix I, resulting from the Orbis search we performed.

To understand the search limitations in detail, it is important to be aware of the most common interpretation of the Orbis of the region/country filter and the turnover filter.

- Region/country filter: it generally identifies companies with a registered office or headquarters in the country as well as branches and subsidiaries with operating presence in the region/country. The filter may also include companies that have reporting obligations in the region/country due to their operations or revenue-generating activities.
- Turnover (operating revenue) filter: it generally identifies worldwide turnover, in other words, the total global turnover of all the company' operations. However, when filtering for a specific country, such as The Netherlands, the turnover may refer to the revenue generated within that specific country, but not necessarily. The same occurs if you select the EU-region as a filter, the turnover may refer to the EU-region or likely to the worldwide turnover. For our search, this means that the filter does not allow for a differentiation of the turnover between worldwide, EU-base or country based.

Expert interviews

Five expert interviews enabled an informed interpretation of how the Directive might be transposed and implemented in the upcoming years and the implications this might have for different value chain actors. One of the interviewees preferred to remain anonymous.

⁶ 01 - Crop and animal production, hunting and related service activities, 011 - Growing of non-perennial crops, 012 - Growing of perennial crops, 013 - Plant propagation, 014 - Animal production, 015 - Mixed farming, 016 - Support activities to agriculture and post-harvest crop activities, 017 - Hunting, trapping and related service activities, 03 - Fishing and aquaculture, 031 - Fishing, 032 - Aquaculture, 10 - Manufacture of food products, 101 - Processing and preserving of meat and production of meat products, 102 - Processing and preserving of fish, crustaceans and molluscs, 103 - Processing and preserving of fruit and vegetables, 104 - Manufacture of vegetable and animal oils and fats, 105 - Manufacture of dairy products, 106 - Manufacture of grain mill products, starches and starch products, 107 - Manufacture of bakery and farinaceous products, 108 - Manufacture of other food products, 109 - Manufacture of prepared animal feeds, 11 - Manufacture of beverages, 4611 - Agents involved in the sale of agricultural raw materials, live animals, textile raw materials and semi-finished goods, 4617 - Agents involved in the sale of food, beverages and tobacco, 462 - Wholesale of agricultural raw materials and live animals, 463 - Wholesale of food, beverages and tobacco, 4711 - Retail sale in non-specialised stores with food, beverages or tobacco predominating, 472 - Retail sale of food, beverages and tobacco in specialised stores, 4781 - Retail sale via stalls and markets of food, beverages and tobacco products, 642 - Activities of holding companies.

Appendix 2 List of agri-food companies in scope

List of agri-food companies operating in the Netherlands (including horticulture) with over €450m turnover and over 1,000 employees in the last two consecutive financial years. Results are derived from the Orbis database.

Company name	Country	Industry category (by authors)	NACE core code	Description	NACE core code	Year	Turnover €m (year)	Turnover €m (year - 1)	# employees (year)	# employees (year - 1)	Entity type	Country - ultimate parent	# companies in corporate group	# subsidiaries
2 SISTERS EUROPE B.V.	NL	Food Manufacturing	4632	Wholesale of meat and meat products		2023	1,015	872	1,109	1,087	Controlled subs.	GB	51	2
ACOMO N.V.	NL	Trade	4617	Agents involved in the sale of food, beverages and tobacco		2023	1,266	1,423	1,151	1,191	Ultimate parent	NL	54	53
ALDI DEVENTER B.V.	NL	Retail	4711	Retail sale in non-specialised stores with food, beverages or tobacco predominating		2022	453	488	1,058	1,234	Independent co		0	0
ASTARTA HOLDING N.V.	NL	Agriculture, Livestock and Food Manufacturing	1081	Manufacture of sugar		2023	678	588	7,233	5,027	Ultimate parent	NL	103	102
AUSNUTRIA B.V.	NL	Food Manufacturing (dairy)	6420	Activities of holding companies		2022	855	777	2,304	2,605	Controlled subs.	CN	165	17
AVIKO HOLDING B.V.	NL	Food Manufacturing (potato-based prod.)	1031	Processing and preserving of potatoes		2023	1,688	1,318	2,861	2,694	Controlled subs.	NL	76	16
BACARDI-MARTINI B.V.	NL	Beverages	4634	Wholesale of beverages		2023	4,867	5,032	8,278	8,170	Controlled subs.	n.a.	74	33
BANKIVA B.V.	NL	Food Manufacturing (meat)	6420	Activities of holding companies		2023	3,083	2,803	6,237	5,821	Ultimate parent	NL	61	60
BARENTZ HOLDING B.V.	NL	Food Ingredients Distribution	6420	Activities of holding companies		2022	2,507	1,704	2,267	2,008	Controlled subs.	GB	126	10
BIDFOOD B.V.	NL	Food Manufacturing	4639	Non-specialised wholesale of food, beverages and tobacco		2022	738	450	2,341	1,599	Controlled subs.	ZA	317	9
BRACAMONTE B.V.	NL	Food Manufacturing	6420	Activities of holding companies		2023	3,730	4,108	1,079	1,083	Ultimate parent	NL	71	73
BUNGE LODERS CROKLAAN GROUP B.V.	NL	Food Ingredients (oils and fats)	6420	Activities of holding companies		2023	1,960	2,459	1,762	1,621	Controlled subs.	BM	279	12
COOPERATIE KONINKLIJKE COSUN U.A.	NL	Agriculture and Food Manufacturing	1081	Manufacture of sugar		2023	3,705	3,239	4,613	4,558	Ultimate parent	NL	76	75

Company name	Country	Industry category (by authors)	NACE core code	Description NACE core code	Year	Turnover €m (year)	Turnover €m (year - 1)	# employees (year)	# employees (year - 1)	Entity type	Country - ultimate parent	# companies in corporate group	# subsidiaries
COOPERATIE PLUS U.A.	NL	Retail	6420	Activities of holding companies	2023	3,333	3,256	4,147	4,281	Ultimate parent	NL	11	10
CORBION N.V.	NL	Food Ingredients	1082	Manufacture of cocoa, chocolate and sugar confectionery	2023	1,444	1,468	2,727	2,601	Ultimate parent	NL	85	87
DAVIDE CAMPARI-MILANO N.V.	NL	Beverages	1101	Distilling, rectifying and blending of spirits	2023	2,924	2,702	4,933	4,350	Controlled subs.	IT	74	59
DIAGEO HOLDINGS NETHERLANDS B.V.	NL	Beverages	6420	Activities of holding companies	2023	15,673	8,978	16,453	10,697	Controlled subs.	GB	397	19
DILON COOPERATIEF U.A.	NL	Food Manufacturing (meat)	6420	Activities of holding companies	2020	701	850	3,846	3,800	Controlled subs.	n.a.	2	0
DSM B.V.	NL	Feed Manufacturing and Food Ingredients	1091	Manufacture of prepared feeds for farm animals	2023	13,625	10,577	29,301	20,682	Controlled subs.	CH	479	348
DUTCH FLOWER GROUP B.V.	NL	Wholesale	4622	Wholesale of flowers and plants	2023	2,171	2,253	1,879	3,640	Ultimate parent	NL	45	46
EUROSPECIALITIES FOODS B.V.	NL	Food Ingredients Distribution	1089	Manufacture of other food products nec	2023	7,575	2,574	26,001	25,280	Controlled subs.	NL	233	134
FORFARMERS N.V.	NL	Feed Manufacturing	0149	Raising of other animals	2023	2,978	3,316	2,269	2,468	Ultimate parent	NL	40	42
FORTENOVA GROUP TOPCO B.V.	NL	Retail/Wholesale and Food Manufacturing	6420	Activities of holding companies	2023	5,876	5,444	44,286	43,993	Controlled subs.	NL	67	1
GOEDHART HOLDING B.V.	NL	Food Manufacturing (meat)	6420	Activities of holding companies	2023	700	590	1,706	1,668	Controlled subs.	NL	30	17
HEINEKEN N.V.	NL	Beverages	1105	Manufacture of beer	2023	30,403	29,026	89,732	86,390	Controlled subs.	NL	293	195
HENDRIX GENETICS B.V.	NL	Agriculture and Livestock	0147	Raising of poultry	2023	638	608	2,661	2,827	Controlled subs.	NL	28	11
HENDRIX GENETICS HOLDING B.V.	NL	Agriculture and Livestock	0162	Support activities for animal production	2023	638	468	2,661	2,827	Ultimate parent	NL	28	29
HOOGVLIET SUPER B.V.	NL	Retail	4711	Retail sale in non-specialised stores with food, beverages or tobacco predominating	2022	848	823	2,876	2,991	Controlled subs.	NL	11	7
JDE PEET'S N.V.	NL	Beverages	1089	Manufacture of other food products nec	2023	8,191	8,151	20,001	19,986	Controlled subs.	LU	279	60
KONINKLIJKE AHOLD DELHAIZE N.V.	NL	Retail	4711	Retail sale in non-specialised stores with food, beverages or tobacco predominating	2023	89,149	87,846	402,000	414,000	Ultimate parent	NL	490	492
KONINKLIJKE FRIESLANDCAMPINA N.V.	NL	Food Manufacturing (dairy)	1089	Manufacture of other food products nec	2023	13,075	14,088	21,308	21,715	Controlled subs.	NL	138	99

Company name	Country	Industry category (by authors)	NACE core code	Description NACE core code	Year	Turnover €m (year)	Turnover €m (year - 1)	# employees (year)	# employees (year - 1)	Entity type	Country - ultimate parent	# companies in corporate group	# subsidiaries
KONINKLIJKE JUMBO FOOD GROEP B.V.	NL	Retail	6420	Activities of holding companies	2023	8,858	8,319	16,017	15,756	Controlled subs.	NL	21	15
KONINKLIJKE ZEELANDIA GROEP B.V.	NL	Food Manufacturing (baking ingredients)	1089	Manufacture of other food products nec	2023	607	557	2,570	2,521	Controlled subs.	NL	29	10
KRAMER FOOD FAMILY B.V.	NL	Food Manufacturing	1089	Manufacture of other food products nec	2023	613	489	2,260	1,521	Ultimate parent	NL	19	18
KRAMP GROEP B.V.	NL	Agricultural Equipment	6420	Activities of holding companies	2023	1,146	1,093	3,248	3,142	Controlled subs.		0	48
LOUIS DREYFUS HOLDING B.V.	NL	Trade & Food Manufacturing	6420	Activities of holding companies	2023	45,814	56,189	18,492	17,733	Controlled subs.	IT	90	61
MARS NEDERLAND B.V.	NL	Food Manufacturing	1082	Manufacture of cocoa, chocolate and sugar confectionery	2022	1,361	1,205	1,134	1,089	Controlled subs.	n.a.	1047	23
MEATPOINT B.V.	NL	Food Manufacturing (meat)	4632	Wholesale of meat and meat products	2023	594	608	1,419	1,580	Controlled subs.	n.a.	53	28
METRO DISTRIBUTIE NEDERLAND B.V.	NL	Wholesale	4639	Non-specialised wholesale of food, beverages and tobacco	2022	936	797	2,072	2,354	Controlled subs.	DE	334	4
NUTRECO N.V.	NL	Feed Manufacturing	1013	Production of meat and poultry meat products	2023	8,545	9,037	11,077	11,864	Controlled subs.	NL	730	155
ORANGINA SCHWEPES HOLDING B.V.	NL	Beverages	6420	Activities of holding companies	2022	1,506	1,287	2,695	n/a	Controlled subs.	JP	235	5
OSI NETHERLANDS HOLDINGS B.V.	NL	Food Manufacturing (meat)	6420	Activities of holding companies	2023	891	819	19,545	20,592	Controlled subs.	n.a.	199	1
PERFETTI VAN MELLE GROUP B.V.	NL	Food Manufacturing (confectionery)	1082	Manufacture of cocoa, chocolate and sugar confectionery	2023	3,540	3,067	16,301	14,888	Controlled subs.	LU	59	50
PICNIC INTERNATIONAL B.V.	NL	Retail	6420	Activities of holding companies	2022	918	719	2,665	1,809	Ultimate parent	NL	6	5
RIJK ZWAAN TOP HOLDING B.V.	NL	Agriculture (seeds)	0161	Support activities for crop production	2023	658	592	3,626	3,480	Controlled subs.	NL	4	2
RIJK ZWAAN ZAADTEELT EN ZAADHANDEL B.V.	NL	Agriculture (seeds)	0113	Growing of vegetables and melons, roots and tubers	2023	657	592	3,617	3,472	Controlled subs.	NL	29	23
ROYAL SWINKELS N.V.	NL	Beverages	6420	Activities of holding companies	2023	992	917	1,865	1,714	Controlled subs.	NL	36	26
SLIGRO FOOD GROUP N.V.	NL	Wholesale	4639	Non-specialised wholesale of food, beverages and tobacco	2023	2,865	2,500	4,579	4,017	Ultimate parent	NL	13	18
UPFIELD GROUP B.V.	NL	Food Manufacturing (plant-based products)	6420	Activities of holding companies	2023	3,275	3,434	4,668	4,859	Controlled subs.	NL	64	23
VAN DRIE HOLDING B.V.	NL	Livestock and Food Manufacturing (meat and dairy)	6420	Activities of holding companies	2022	3,530	2,812	2,553	2,493	Ultimate parent	NL	64	65

Company name	Country	Industry category (by authors)	NACE core code	Description NACE core code	Year	Turnover €m (year)	Turnover €m (year - 1)	# employees (year)	# employees (year - 1)	Entity type	Country - ultimate parent	# companies in corporate group	# subsidiaries
VAN LOON GROUP B.V.	NL	Food Manufacturing (meat)	6420	Activities of holding companies	2023	1,061	997	1,429	1,408	Controlled subs.	NL	4	3
VOMAR HOLDING B.V.	NL	Retail	6420	Activities of holding companies	2023	1,111	951	3,335	3,123	Controlled subs.	CW	21	1
ZUID-NEDERLANDSE SUPERMARKTEN B.V.	NL	Retail	4711	Retail sale in non-specialised stores with food, beverages or tobacco predominating	2023	548	463	5,361	5,028	Controlled subs.	NL	6	1
ZUIVELCOOPERATIE FRIESLANDCAMPINA U.A.	NL	Food Manufacturing (dairy)	1051	Operation of dairies and cheese making	2023	13,076	14,095	20,928	21,715	Ultimate parent	NL	138	141

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