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Social and Economic Council - SER
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Sent by email (to [confidential])

The Hague, 26 March 2025

Our reference : ACM/UIT/618133
Subject : Informal guidance Alliance on Sustainable Garments, Textile, and Shoes

Dear [confidential],

Under the guidance of the Social and Economic Council (SER), parties in the garments and textile sector have initiated a sectoral agreement regarding international corporate social responsibility, also called the Alliance on Sustainable Garments, Textile, and Shoes (the Alliance). The Alliance is a collaborative initiative between undertakings that are active in the Netherlands in the clothing, shoes, leather, and textiles (including home textiles) sectors, unions and trade associations, whereby also civil society organizations can join. The purpose of the Alliance is to improve due diligence with regard to human rights, the environment, and animal welfare in the chains of clothing and textile companies. The secretariat of the Alliance which is hosted by the SER (hereafter: the secretariat) has asked the Netherlands Authority for Consumers and Markets (ACM) whether the Alliance is consistent with the competition rules.¹ ACM has informally assessed the Alliance in accordance with its Policy Rule regarding ACM's oversight of sustainability agreements (the Policy Rule).² On the basis of the information that it received from the secretariat, ACM is of the opinion that the Alliance is consistent with the competition rules, because it does not (appreciably) restrict competition.³

In the below sections, ACM will first describe the Alliance, after which ACM will explain its informal assessment of the Alliance. ACM sees no reason to conduct a further investigation. ACM does have several points of attention for the secretariat when implementing the Alliance.

The Alliance

The Alliance is an agreement between undertakings that are active in the clothing, shoes, leather, and textile (including home textile) sectors (hereinafter also referred to as 'participants'⁴), unions and trade associations. Within the context of the Alliance, participants make arrangements regarding due diligence and international corporate social responsibility. International corporate social responsibility means that businesses combat human rights violations and environmental damage within the entire chain, also outside the Netherlands. Think of promoting freedom of trade association, preventing forced labor, and reducing greenhouse gas

¹ Email from the SER of 21 November 2023 with reference ACM/IN/849673.

² ACM, 4 October 2023, [Policy Rule regarding ACM's oversight over sustainability agreements](#).

³ Policy rule, recital 32.

⁴ The Alliance can also be signed by unions and trade associations, and any other supporting market participants. ACM's informal assessment only concerns the arrangements between the undertakings that are signatories to the Alliance.

emissions. The arrangements in the Alliance are based on the Guidelines for Multinational Enterprises on Responsible Business Conduct of the Organization for Economic Co-operation and Development (OECD), the Tripartite Declaration of Principles concerning Multinational Enterprises and Social Policy of the International Labor Organization (ILO), and the Guiding Principles on Business and Human Rights of the United Nations (UN). The Alliance is meant to help businesses with regard to the due diligence requirements (or in the preparation thereof) that follow from national and European human rights rules, such as the Corporate Sustainability Due Diligence Directive (CSDDD), the Forced Labour Regulation and the Corporate Sustainability Reporting Directive (CSRD).⁵ The Alliance applies to the period of 2025 up to and including 2029. The Alliance is the successor to the Dutch Agreement on Sustainable Garments and Textile.⁶

The Alliance consists of a base agreement and several risk modules. The base agreement contains arrangements on, for example, the organization of the Alliance, the dispute-settlement procedure, reporting requirements for participants, and the requirement to join a complaints mechanism. At the moment, the participants have worked out one risk module: the risk module on freedom of trade association. The participants will work out the other risk modules during the duration of the Alliance. Potential topics for risk modules are mentioned in the Alliance, which are: forced labor, materials, wages, health & safety in the workplace, and climate change & greenhouse gas emissions.

ACM's informal assessment: restriction of competition not plausible

The Alliance is a collaboration between undertakings that are active in the Netherlands in the clothing, shoes, leather, and textile (including home textile) sectors, and is therefore an agreement between competitors. As such, the cartel prohibition is applicable. There may be a potential cross-border effect. That is why the European competition rules also apply to the Alliance.⁷

ACM has assessed whether the Alliance is a sustainability agreement⁸, and whether there is a risk of an appreciable restriction of competition.

Sustainability agreement

ACM agrees with the secretariat that the Alliance is a sustainability agreement. The Alliance is about improving due diligence with regard to human rights, the environment, and animal welfare, and, as such, pursues a sustainability objective within the meaning of the Policy Rule.

No (appreciable) restriction of competition

In its self-assessment, the secretariat comes to the conclusion that the Alliance does not (appreciably) restrict competition.⁹ On the basis of the information of the secretariat, ACM agrees with that conclusion. ACM finds the following circumstances to be of importance, which apply at the time of writing of this informal assessment:

- (i) The Alliance is open to all undertakings that are active in the clothing, shoes, leather, and textile (including home textile) sectors, and that wish to make their chains more sustainable.

⁵ [Directive \(EU\) 2024/1760](#) of the European Parliament and of the Council of 13 June 2024 on corporate sustainability due diligence and amending Directive (EU) 2019/1937 and Regulation (EU) 2023/2859. [Regulation \(EU\) 2024/3015](#) of the European Parliament and of the Council of 27 November 2024 on prohibiting products made with forced labour on the Union market and amending Directive (EU) 2019/1937. [Directive \(EU\) 2022/2464](#) of the European Parliament and of the Council of 14 December 2022 amending Regulation (EU) No 537/2014, Directive 2004/109/EC, Directive 2006/43/EC and Directive 2013/34/EU, as regards corporate sustainability reporting.

⁶ The [Dutch Agreement on Sustainable Garments and Textile](#) had been in effect until December 31, 2021.

⁷ Article 101 of the Treaty on the Functioning of the European Union (TFEU). See also section 9 of the [Guidelines on the applicability of Article 101](#) of the Treaty on the Functioning of the European Union to horizontal cooperation agreements, 17 July 2023, C/2023/4752.

⁸ Policy Rule, recital 14.

⁹ Self-assessment of the secretariat of March 1, 2024 with reference ACM/IN/849518.

- (ii) The Alliance mandates its participants to make their *own* production chain more sustainable. Each participant themselves determines how they will implement the Alliance in their own chain, for example:
 - a. The Alliance mandates participants to join one (or more) complaints mechanisms in production countries. Interested parties (stakeholders) are able to for example file complaints with a complaints mechanism about working conditions, trade union rights, human rights, climate effects, or buying practices in the chains of the participants. Participants decide themselves what complaints mechanism they wish to join. However, such a mechanism must comply with the requirements that the Alliance sets. Those requirements are objective, transparent, and non-discriminatory, thus preventing complaints mechanisms from being excluded in an anticompetitive manner. In that light, ACM does not see any (major) anticompetitive risks.
 - b. As part of the implementation of the Alliance, participants can decide not to do business (anymore) with certain suppliers or buyers. In principle, participants do not make any collective arrangements about this. If participants wish to do so anyway, they will determine on a case-by-case basis whether this is allowed under the competition rules.
 - c. At the sector level, a collective double materiality assessment is made for the “value chain” part. This means that an overview is made of the value chain’s most-important impacts, risks, and opportunities in the entire sector on/for society *and* vice versa (impact materiality and financial materiality). Participants can use this collective materiality assessment as a tool. There is no obligation to use it. Also, the collective double materiality assessment does not relieve participants of the obligation to check for themselves how the assessment works out in their own, individual, specific situations. Each participant determines that for themselves.
- (iii) The arrangements in the Alliance act as a minimum, which means that each participant remains free to make (individual) sustainability efforts that go beyond that minimum.
- (iv) No illegal exchange of information takes place. In that context, ACM looked at the following:
 - a. Governance

It may be necessary for a participant to share competition-sensitive information as part of its efforts to comply with the Alliance. For example if a participant wishes to be exempted from an obligation laid down in the Alliance or if a participant submits a request for support in the handling of a complaint, for which the costs, volumes or strategic plans need to be shared. In such situations, the Alliance’s governance offers sufficient safeguards to prevent any exchange of competition-sensitive information between competitors. For example:

 - The basic principle is that individual participants send information to the Alliance’s independent secretariat. This secretariat consists of SER employees. The information from participants comes in a shielded, digital environment to which only the secretariat has access. The secretariat subsequently aggregates and anonymizes this information, and renders it non-traceable. Only after that step will the secretariat share the information with the steering group, which oversees compliance with the Alliance.
 - The steering group consists of representatives from unions and trade associations, and no individual participating companies (or direct representatives thereof).
 - The dispute settlement committee consists of an independent chair and two individuals that are familiar with the sector (for example representatives from unions or trade associations, and no participants or representatives thereof). The dispute settlement committee shares its decision only with the company that is involved in the dispute, with the Alliance’s secretariat, and, if a company fails to comply with a decision of the dispute settlement committee, with the steering

group. A dispute may involve several companies. In such cases, the dispute settlement committee will have to assess whether additional measures are necessary to prevent the exchange of competitively sensitive information.

b. Transparency regarding production locations

The Alliance mandates participants to publish their production locations through the third-party platform Open Supply Hub. This platform offers insight into what production locations a company has and uses, and, as such, helps increase transparency in the supply chain. By extension, that transparency helps in the compliance with, for example, human rights, because, in the event of wrongdoing at a production facility, consumers and other stakeholders are able to see what companies buy from that location. In the secretariat's opinion, insight into just the production locations without any further information about, for example, volumes, conditions, costs, and product types is usually not competition-sensitive. Only in some situations may this be different, for example, when niche products are involved. Niche products are, for example, products that are (or can be) manufactured at only a few locations and/or of which there are only a few manufacturers. In that case, the Alliance offers participants the possibility to apply (supported with reasons) for an exemption from the publication obligation.¹⁰ Assuming that each participant makes use of that possibility in that specific situation, ACM agrees with the secretariat that there is no major risk of exchange of competition-sensitive information.

c. Collective handling of complaints

The Alliance encourages participants to be transparent regarding complaints that they receive in their supply chain. If more participants receive a complaint about the same production location, they will be stimulated to handle that complaint collectively. The objective thereof is to find common solutions and to learn from these complaints. Collective handling of complaints is not mandated. When handling complaints collectively, participants may gain access to competition-sensitive information of competitors and/or make arrangements that may be at odds with the cartel prohibition. At the same time, the secretariat indicates that this information or arrangement will be limited to what is necessary for handling the complaint properly. On the basis of the secretariat's information, ACM thus sees no reason to assume in advance that this will result in a (appreciable) restriction of competition. It goes without saying that, in the implementation of the Alliance, participants must remain alert to this, and, if necessary, make their own competition assessment.

Elaboration of the risk modules

In the risk modules, participants in the Alliance make additional arrangements regarding several topics. At the moment, participants have worked out a single risk module: freedom of trade association. In this risk module, participants agree to improve freedom of trade association and collective bargaining in their supply chains. For example, they make arrangements about identifying unions and employer organizations in production countries, and about the measurability of the degree to which freedom of trade association is respected in those countries. Considering the nature of the topic of freedom of trade association as well as the contents of the arrangements made, ACM does not see any (major) anticompetitive risks for this risk module.

With regard to the other risk modules (forced labor, materials, wages, workplace health & safety, and climate change & greenhouse gas emissions), it is currently unclear what arrangements participants will make. They will have to determine on a case-by-case basis whether any further competition-law analyses (self-assessments) are necessary. For example with regard to arrangements about paying a living wage, ACM does not, in principle, see any anticompetitive risks if each undertaking continues to set their own wages and prices (including purchase prices) and determine how costs (including salary costs) are passed on.¹¹

¹⁰ Minutes of meeting of 4 April 2024 with reference ACM/UIT/618340, p. 4.

¹¹ ACM refers to the guidance of other competition authorities, concerning paying a living wage (among other topics). See, for example: The Belgian Competition Authority, 30 March 2023, initiative of IDH-Transforming Markets and retailers for the promotion of [living wages in the banana sector \(Belgian Competition Authority\)](#) (in Dutch); Bundeskartellamt, 18 January 2022,

Conclusion

ACM finds it plausible that, at this point, the Alliance does not (appreciably) restrict competition. That is why ACM will not launch a further investigation into the Alliance. ACM does point out that, when implementing the Alliance, participants must comply with the competition rules.

ACM's assessment has an informal character. ACM's assessment is based on the information submitted by the secretariat, and ACM assumes that this information is correct. ACM did not conduct an investigation of its own.

ACM may still decide to investigate the Alliance in greater detail at some point in the future, for example, if ACM receives a complaint about the Alliance. After such an investigation, ACM may come to the conclusion that the Alliance is, in fact, at odds with the competition rules. In that case, ACM will not impose a fine because the secretariat did request an informal assessment prior to the implementation of the Alliance. This is on the condition that the secretariat informed ACM in good faith, and would cooperate with a subsequent adjustment process to bring the Alliance in line with the competition rules.

Your sincerely,

The Netherlands Authority for Consumers and Markets,
on its behalf,

drs. D.I. Bos
Director Competition Department