

Submission of **WO=MEN to the UNWG on BHR**
Gender lens to the UN Guiding Principles
Focus on policies and practices in the Netherland
info@wo-men.nl

Introduction

This document contains the submission of WO=MEN to the gender lens consultation of the Working Group on the issue of human rights and transnational corporations and other business enterprises. It presents an overview of policy focus and practice in the Netherlands, and also briefly looks at extraterritorial impact of Dutch corporations and policies. It doesn't profess to be complete or exhaustive. It is beyond the scope of a brief submission such as this to comprehensively discuss the full range of issues and policies relevant for gender equality in the economic realm. We fully recognise the social relevance of a comprehensive analysis of gender equality issues in Dutch society. But for the purposes of this submission, we, by necessity, limit ourselves to a select number of, in our view, key areas. As such, it also does not include entries for all guiding questions provided by the WG.

Gender equality, business and human rights in the Netherlands

In this section we have not limited ourselves to direct human rights abuses by companies but focus on topic areas that are relevant to the business and human rights agenda and the duty to protect and respect.

Women in the Dutch labour market

As in many countries around the world, women have a disadvantaged position vis-à-vis men in the Dutch labour market. According to The Global Gender Gap Report 2017, researched and published by the World Economic Forum, the gender gap in the Netherlands is worsening and getting wider.ⁱ The Netherlands dropped 16 places in the 2017 report. Recent research by McKinsey corroborates that the Netherlands scores relatively low or even lowest in Western Europe on a number of criteria,ⁱⁱ including on the number of paid working hours, average monthly income, representation in management positions, and the number of female students in STEM education (science, technology, engineering, and mathematics):

- **Participation and working hours:** In the Netherlands, the overall labour force participation is 70.0%, 65.1% for women and 74,9% for men.ⁱⁱⁱ Almost half of the Dutch workforce (men and women) work fewer than 35 hours per week. 74% of the women work part-time, less than 35 hours a week. 75% of the men work full time. On average, women work 27 hours per week, ten hours fewer than men, and four hours fewer than the Western European average for women, who work 31 hours. In recent years, the increase in female participation rate in the labour market has stagnated. Part-time work has become an institutionalized way to reconcile work and private life.^{iv} Underlying factors appear to include the relatively high cost of childcare which encourages part-time use, as well as the short duration and unpaid character of parental leave.

- **Pay gap:** Due to the gender pay gap of 16.1 percent, women in the Netherlands effectively work unpaid for around two months per year.^v The Netherlands ranks 20th on the list of 30 EU countries when it comes to the differences in pay between men and women.^{vi}
- **Representation in different industries:** Women in the Netherlands are overrepresented in sectors with low pay levels such as teaching and health care.^{vii}
- **Women in executive and supervisory boards:** Of all 90 companies listed on the stock exchange, 77 companies in the Netherlands have no female executive directors and 22 have no female non-executive directors.^{viii}
- **STEM:** Although the percentage of new female STEM students has increased over the past ten years, the overall share of women in STEM education (science, technology, engineering, and mathematics) in the Netherlands is the lowest within Western Europe.^{ix}
- **Care:** Paid work and unpaid care tasks continue to be unequally shared between men and women, with women still taking on the lion's share of unpaid care tasks.^x Dutch women spend almost four hours per day on unpaid household and care duties, which is around one-and-a-half times as much as men.
- **Sexual harassment and violence:** Nearly half of the employees, often women, have had to deal with a form of sexual harassment.^{xi} Usually these are sexually oriented jokes, but also more serious forms of intimidation occur.

Corporate impact on women in the Netherlands

The gendered impact of corporate activity in the Netherlands is rarely measured or taken into account. Although gender, certainly among listed companies, often receives attention as part of diversity policies, companies rarely assess the gender impacts of their activities outside the workplace. Companies mainly measure the numbers of women in higher management positions, also because this is encouraged by the government. Other impacts barely receive attention. Implementation of a social impact assessment as a tool, as for example per the model of the IFC, is neither widespread nor obligatory for projects over a certain size.

Gendered human rights impact of Dutch companies operating abroad

Activities of Dutch companies have impact on women employed in their international supply chains or living in the communities where these corporations operate. This is, amongst other things, shown in the KPMG CSR risk analysis.^{xii} In 2014, KPMG was commissioned by the Dutch government to analyse 86 business sectors. The goal was to gain insight into which industries have an increased international (corporate social responsibility) risk and what business sectors are doing to take responsibility to keep these risks under control. Risks related to gender and women's rights were identified in the garment and electronics sector, extractives and in food processing and production. Violations of women's rights were also mentioned as a general risk. There is no recent or ongoing assessment of the overall impact of Dutch corporations abroad on women's rights and gender equality.

In general, we assumed that Dutch companies operating and sourcing abroad face all risks related to violations of women's rights that exist. A good, complete and current overview is provided by the Danish Institute for Human Rights in their *'Women in business and human rights: A mapping of topics for state*

attention in United Nations Guiding Principles on Business and Human Rights implementation processes Consultation Draft, September 2018.^{xiii}

Laws and policies to impede or advancing women’s integration into economic activities and public life generally

The Netherlands has extensive legislation on equal treatment and antidiscrimination. The Ministry of Education, Culture and Science is overall responsible for the development and implementation of emancipation policies. While the Ministry of ECS takes a coordinating role, other ministries are responsible for emancipation in their respective policy fields. Current policy focus is on increasing women’s financial independence, increasing the number of women on boards and in higher management and decreasing the gender wage gap.^{xiv} Gender budgeting is not mainstreamed in Dutch policies. In terms of the representation of women in higher management and on corporate boards, a statutory target for the 5,000 largest businesses in the Netherlands to have at least 30 percent women and 30 percent men on supervisory boards and executive teams was instituted on 1 January 2013.^{xv} A ‘comply or explain rule’ applies—if a company fails to achieve the target, it is under an obligation to justify this in its annual report. Regardless, women remain underrepresented.

Regarding regulation of the international dimension of gender equality: In May 2018, the Dutch Minister for Foreign Trade and Development Cooperation, Sigrid Kaag, presented her new policy document ‘Investing in Global Prospects’.^{xvi} The Sustainable Development Goals (SDGs) for 2030 are central to guiding the policy. SDG-5 on women’s rights and gender equality is presented as cross-cutting for all policies of the trade ministry, with a special focus on women and education, land rights, employment, working conditions, career perspectives, entrepreneurship, climate action, security and conflict. Initiatives relating to gender and international trade launched by the Ministry include support for the inclusion of gender chapters in trade agreements; organisation of a conference on trade and gender (in collaboration with the World Bank and the WTO); and increasing the percentage of female participants in Dutch trade missions. However, mainstreaming integration of women’s rights and gender equality goals and activities throughout the Ministry’s various policies is not (yet) systematic, nor comprehensive.

Regarding corporate accountability, the Netherlands are committed to implementing the UNGPs through both its 2014 National Action Plan (NAP) and its broader 2013 responsible business conduct policy entitled ‘Corporate Social Responsibility pays off.’^{xvii} Both policies refer to the UNGPs and the OECD Guidelines and largely rely on stimulation measures and corporate self-regulation. There is no explicit attention for women’s rights or gender equality. The government continues along this chosen path with the implementation of the voluntary RBC (responsible business conduct) covenants that were initiated in 2014.^{xviii} This process brings together representatives of businesses, NGOs, labour unions, knowledge institutions and the government (as a partner). These parties negotiate sectoral agreements on a voluntary basis that are, in general, not legally binding and enforceable, but do include mechanisms to ensure compliance. The government facilitates the development of these sectoral covenants and acts as a participant that can use its legislative, political (diplomatic) and economic power (e.g. in procurement) to promote the policy’s objectives. The former minister of foreign trade and development indicated in a letter to Parliament that women’s rights and a gender impact assessment would be included in the negotiation of the covenants. So far, however, the covenants that have been concluded,

show a rather mixed result. In the textile agreement, gender was included in an action plan, but the specified gender activities have yet to be undertaken. In several other agreements, gender or women's rights were included in the analyses, but not in the action plan itself. In the remainder, there is no or only a minimal reference to women's rights or gender equality. The RBC agreements policy will be evaluated at the end of 2019. After the evaluation, the government will consider whether to adopt more binding measures.

Access to justice

The Dutch government's policies and practices related to access to judicial and non-judicial remedies for business-related human rights abuses do not explicitly challenge multiples obstacles faced by women to access judicial and non-judicial mechanisms for remedies and are, as such, gender-blind. Grievance mechanisms should minimally take robust action to address this and strengthen their sensitivity to gender risks.

Currently, the Netherlands does not support the negotiation on the international legally binding instrument on Transnational Corporations and Other Business Enterprises with respect to human rights.^{xix}

The extent to which businesses currently apply a gender lens in conducting human rights due diligence, including social or environmental impact assessment?

There is no empirical study or data available that provides insights in the extent to which companies in the Netherlands apply human rights due diligence (HRDD) to their business operations and their supply chains. As such, systematic information on the application of a gender lens within such processes is as yet absent. Plan Nederland and Accenture B.V conducted, in July 2017, a survey on gender policies and practices of Dutch-based international operating companies.^{xx} The online survey was sponsored by the Dutch Ministry of Foreign Affairs. With regard to supply chain responsibility, 5% of respondents were confident that their suppliers pay attention to gender equity; 36% said their suppliers had introduced "some" women-friendly initiatives; while 50% were unsure. More generally, the results show that 50% of the respondents said they were aware of the business case for including women in their supply chain, 27 % were not aware of the benefits, while the rest were unsure. With regard to actions already taken to empower women in the workplace, 55% of respondents said they are involved in skills development, job creation and economic empowerment programs for girls and women (41% said they did not have special programs, while 4% were unsure). Questions regarding gender due diligence were not explicitly included in the above survey. Recently, the OECD released new Due Diligence Guidance for Responsible Business Conduct, which includes language on gender and women's rights and part of the annex highlights the need to identify and remove potential barriers to effective engagement of women.

In general, corporate CSR reporting in the Netherlands shows a lack a gender focus. The Dutch Transparency Benchmark, launched by the government to enhance transparency in corporate social reporting among the largest companies in the Netherlands, includes a score for companies that implement a diversity policy.^{xxi} ^{xxii} However, the benchmark does not provide any specific guidelines for the inclusion or measuring of gender impacts in its corporate due diligence framework. Neither does the level of detail provided by companies allow for insights in individual company scores on due diligence and/or diversity. With the transparency benchmark, the Netherlands implements the European rules on

disclosure of non-financial and diversity information by large companies.^{xxiii} With the implementation of the European directive, the Netherlands commits to its minimal requirements. Several other European countries use the policy space provided by the directive to apply more stringent requirements.^{xxiv}

WO=MEN (Dutch Gender Platform) is an network of development organizations, gender and women's rights organizations, businesses, educational institutions and activists located in the Netherlands. The platform is committed to equal rights for women and men in the Netherlands and abroad. We do this by enhancing cooperation, knowledge sharing and joint lobby & advocacy targeted at politicians and policymakers. We work on the following themes: gender, peace and security, sustainable economic development, Dutch policies and gender justice at the United Nations

ⁱ WEF, 2017, The Gender Gap report 2017, <http://www3.weforum.org/docs/WEF_GGGR_2017.pdf>

ⁱⁱ McKinsey, 2018, Capturing the potential: Advancing gender equality in the Dutch labor market, <<https://www.mckinsey.com/~media/McKinsey/Featured%20Insights/Europe/The%20power%20of%20parity%20Advancing%20gender%20equality%20in%20the%20Dutch%20labor%20market/MGI-Power-of-Parity-NL-English-version-September-2018.ashx>>

ⁱⁱⁱ CBS, Arbeidsparticipatie Naar Leeftijd en Geslacht, <https://www.cbs.nl/nl-nl/achtergrond/2018/07/arbeidsparticipatie-naar-leeftijd-en-geslacht>

^{iv} J. PLANTENGA and C. REMERY, 2018, Utrecht University School of Economics, the Netherlands The Policy on Gender Equality in the Netherlands, <[http://www.europarl.europa.eu/RegData/etudes/IDAN/2015/519227/IPOL_IDA\(2015\)519227_EN.pdf](http://www.europarl.europa.eu/RegData/etudes/IDAN/2015/519227/IPOL_IDA(2015)519227_EN.pdf)>The duration of (paid) leave to care for children in the Netherlands is relatively short, primarily aimed at mothers and most commonly used by mothers. From January 1, 2017, partners of mothers who have just given birth are legally entitled to two days of paid paternity leave, and three days of (unpaid) parental leave. Unfortunately, in the Dutch debate on childcare, little attention has been paid to the potential benefits for parents' work-life balance but instead on parents' participation in the labour.

^v ExpertMarket, 2018, Gender pay Gap in Europe, <<https://www.expertmarket.co.uk/focus/gender-pay-gap-in-europe>> Expert Market used the latest pay gap statistics from European statistics office Eurostat for this study.

^{vi} OECD, 2017, How does the Netherlands compare, <<https://www.oecd.org/netherlands/Gender2017-NLD-en.pdf>>

^{vii} Ibid

^{viii} TIAS, 2018, Female Board Index, 2018, <<https://www.tias.edu/docs/default-source/Kennisartikelen/female-board-index-2018.pdf>>

^{ix} McKinsey, 2018, Capturing the potential: Advancing gender equality in the Dutch labor market, <<https://www.mckinsey.com/~media/McKinsey/Featured%20Insights/Europe/The%20power%20of%20parity%20Advancing%20gender%20equality%20in%20the%20Dutch%20labor%20market/MGI-Power-of-Parity-NL-English-version-September-2018.ashx>>

^x Ibid

^{xi} FNV, 2018, FNV wil strengere aanpak seksuele intimidatie, <<https://www.fnv.nl/over-fnv/nieuws/nieuwsarchief/2018/februari/FNV-wil-strengere-aanpak-seksuele-intimidatie/>>

^{xii} Rijksoverheid, 2014, KPMG MVO Sector Risico Analyse, <<https://www.rijksoverheid.nl/documenten/rapporten/2014/09/01/mvo-sector-risico-analyse>>

^{xiii} Danisch Institute for Business and Human Rights, 2018, Project Page, Gender in business and human rights, <<https://www.humanrights.dk/projects/gender-business-human-rights>>

^{xiv} Rijksoverheid, 2017, Emancipatie Nota 2018-2021, <<https://www.rijksoverheid.nl/onderwerpen/vrouwenemancipatie/documenten/kamerstukken/2018/03/29/emancipatienota-2018-2021>>

^{xv} McKinsey, 2018, Capturing the potential: Advancing gender equality in the Dutch labor market, <https://www.mckinsey.com/~media/McKinsey/Featured%20Insights/Europe/The%20power%20of%20parity%20Advancing%20gender%20equality%20in%20the%20Dutch%20labor%20market/MGI-Power-of-Parity-NL-English-version-September-2018.ashx>

^{xvi} Rijksoverheid, 2018, Investing in Global Prospects <<https://www.government.nl/documents/policy-notes/2018/05/18/investing-in-global-prospects>>

^{xvii} Rijksoverheid, 2013, CSR pays off, <<https://www.government.nl/documents/policy-notes/2013/06/28/csr-pays-off>>
^{xviii} https://www.imvoconvenanten.nl/?sc_lang=en

^{xix} Rijksoverheid, 2018, kamerbrief over verdrag mensenrechten en bedrijfsleven, <<https://www.rijksoverheid.nl/binaries/rijksoverheid/documenten/kamerstukken/2018/10/15/kamerbrief-over-stand-van-zaken-vn-verdrag-mensenrechten-en-bedrijfsleven/kamerbrief-over-stand-van-zaken-vn-verdrag-mensenrechten-en-bedrijfsleven.pdf>>

^{xx} Plan International, 2017, report 2017 Investing in Girls & Women: a good business <<https://www.planinternational.nl/uploaded/GAA-Report-Investing-in-Girls-and-Women-prt.pdf>>

^{xxi} https://www.transparantiebenchmark.nl/sites/transparantiebenchmark.nl/files/afbeeldingen/transparency_benchmark_criteria_2017_english.pdf

^{xxii} Ministerie van Economische Zaken, 2017, Criteria Transparency Benchmark 2017,

<[https://www.transparantiebenchmark.nl/sites/transparantiebenchmark.nl/files/afbeeldingen/transparency_benchmark-
criteria_2017_english.pdf](https://www.transparantiebenchmark.nl/sites/transparantiebenchmark.nl/files/afbeeldingen/transparency_benchmark_criteria_2017_english.pdf) >

^{xxiii} Directive 2014/95/EU lays down the rules on disclosure of non-financial and diversity information by large companies. This directive amends the accounting directive 2013/34/EU. Companies are required to include non-financial statements in their annual reports from 2018 onwards.

^{xxiv} PBL, 2018, Transparantie verplicht. Verwachtingen over het instrument transparantie om maatschappelijk verantwoord ondernemen te stimuleren PBL-publicatienummer: 1827

<[https://www.transparantiebenchmark.nl/sites/transparantiebenchmark.nl/files/afbeeldingen/beleidsstudie_transparantie_verplicht_planbur
eau_voor_de_leefomgeving.pdf](https://www.transparantiebenchmark.nl/sites/transparantiebenchmark.nl/files/afbeeldingen/beleidsstudie_transparantie_verplicht_planbureau_voor_de_leefomgeving.pdf)>