

Presentation Dutch national action plan on business and human rights

Thank you for the invitation to speak here today about our experiences in drafting our national action plan.

During my presentation I will focus on both the process leading to the action plan and the content of the plan.

Implementation UNGP's priority

Putting the UN Guiding Principles into practice is an important priority for the Netherlands and part of our human rights agenda ('respect and justice for all') and CSR agenda.

Besides a call from European Commission in its Communication on CSR in October 2011 to EU Member States to develop a plan for national implementation of the UN Guiding Principles, there was a clear request from the Dutch parliament to take the national implementation of the UNGP's forward.

Mid 2012 an interministerial working group was formed that was chaired by the MFA with participation of the ministry of Economic Affairs, ministry of Finance, ministry of Security & Justice and the ministry of Social Affairs & Employment. From the MFA several departments were represented (Department for Sustainable Economic Growth, Legal Department, Department for Internal Market and Department for Human Rights).

The working group started with an introduction of UNGP's and comparison of the UNGP with the current policy. This was useful because it made clear on what fields of the UNGP's the Netherlands is already very active (like public procurement) and the more empty spots.

Current policy

The Netherlands already pursues an active policy to promote respect for human rights by the business community and to prevent companies from abusing human rights either directly or in their supply chains.

In the governments' policy document on aid and trade (called 'A World to Gain') International CSR is a prerequisite for sustainable, inclusive growth. In our view, companies bear a social responsibility for what goes on in their supply chain and for ensuring fair work under satisfactory conditions of employment.

In its policy letter on CSR ('CSR pays off') the government identifies its tasks in relation to International CSR. It is about clear frameworks, promoting level playing field, promoting transparency and stakeholder dialogue, holding other governments to account for their responsibilities and to set the good example. The letter also focuses on promoting business responsibility to respect human rights, the second pillar of the Ruggie framework.

Process

The working group decided to do stakeholder consultation by interviewing representatives of the business community, civil society organisations, implementing organisations (export credit agencies) and

other experts to identify most important viewpoints and ideas on the action plan and to gain support for the NAP amongst stakeholders.

27 interviews with 50 representatives were done. To ensure that they could provide their input as independently as possible, the interviews were done by an external expert. The aim was to acquire a balanced overview, reflecting the opinions of all relevant stakeholders. The WG agreed on an interview protocol to ensure that the same questions were posed to all interviewed stakeholders but also with space for the interviewed persons to bring in their own issues.

After the interviews 3 consultation meetings were organized at the MFA. Separate meetings with business, cso's and implementing organisations to present outcomes of the interviews and discuss possible options for the action plan. Our feeling was that separate meetings were most useful for us since opinions on implementation UNGP's and priorities differ. And stakeholders might not have been speaking openly if we would put them all together in 1 consultation meeting.

The people attending the consultation meetings were clearly interested and committed to the subject and there was broad consensus about the importance of the UN Guiding Principles and the national implementation.

Content of the action plan

In our action plan we've set out the existing policy, the most significant results of the consultations and the government's response to them and the additional steps the government is taking or plans to take.

From the consultations five main points emerged that are addressed in our action plan:

1. Active role of the government
2. Policy coherence
3. Clarifying due diligence
4. Transparency and reporting
5. Scope for remedy

Broad consensus about points 1-3, but opinions differ on 4-5. We've build our plan around these points instead of the three pillars which was our original idea.

1. Active role of the government

The consultations led to the conclusion that the government should take more responsibility for implementing the Ruggie Framework and that the government should adopt a more proactive stance in order to fulfil its Duty to Protect. Views differed though on how this should be done.

The challenge in the next few years will be timely identification of risks in Dutch companies supply chains. In the action plan the government commits itself to work on structural solutions within international chains, not incident management.

2. Policy coherence

It became apparent from the consultations that the government sometimes conveys conflicting messages about CSR and human rights.

In the plan the government recognises that it must be consistent on the subject of human rights and business and in pursuing and implementing policy at both national and International level. Amongst others an e-learning course will be developed for both civil servants operating at International level and implementing organisations to provide clear and reliable information on business and human rights.

3. Clarifying due diligence

A point raised during the consultations was that the government should clarify the UN Guiding Principles, using language companies understand. Companies feel that the government has failed to say what it expects of them in terms of due diligence.

It is essential for companies to have access to all available information on due diligence. Embassies play an important role because they bring Dutch and local entrepreneurs and civil society organisations together and are active in providing information.

A Sector Risk Analysis is introduced to identify the sectors that present the greatest risk of diverse social impacts and where priority should be given to strengthen company policy in relation to them. Workshops on human rights due diligence have been organised in January by the Dutch Social Economic Council and SHIFT to help companies.

4. Transparency and reporting

During the consultations, various parties pointed out that companies should be encouraged and/or required to report on their human rights policy and the results achieved.

Transparency and stakeholder dialogue are essential elements of CSR and the government sees it as its task to promote both. The CSR agreements which will be reached with the sectors selected through the Sector Risk Analysis project will focus on transparency, dialogue with stakeholders and monitoring of agreements.

5. Scope for remedy

The consultations showed that the government has a major role to play in creating scope for remedy to implement the 3rd pillar of the Ruggie Framework, and providing information on the matter. For example by providing more information on existing access to remedy, by promoting complaint mechanisms at company level and by encouraging dialogue between companies and communities.

For this reason, the government has provided start-up funding to Access Facility for knowledge building and improving access to effective dispute settlement between companies and communities either in or out of court. The Dutch National Contact Point may be requested to carry out a sector-wide investigation into CSR issues.

Back to the process

Council of ministers adopted NAP on dec 20st which means that it took us in total 1,5 years to draft our plan. It was sent to the parliament by our minister of foreign trade and development, minister of foreign affairs and minister of economic affairs. Joint effort.

NAP's take time, process is important - also for awareness raising within government and support amongst stakeholders.

First weeks/months of this year we've focused on presentation through our embassies and multilateral fora like the EU, Council of Europe and also here today to see where we can work together with other governments, business and organisations during the implementation.

The interministerial working group is still active, we've been very busy the last 2 weeks responding to 95 written parliamentary questions that our Minister received about the plan in preparation of debate about the NAP in parliament first week of March.

In NL NAP was very much influenced by the political debate about CSR and human rights. Every country might have its own dynamic in this regard.

Our lessons learned can be useful for other governments and we're open to share our experiences and/or assist other states in whatever way possible. Developing an action plan takes time but it is worth investing time to get and give a clear perspective on the governments priorities in the implementation of the UNGP's.