

Government and corporate accountability

Proposing better policies

Companies should exercise greater social responsibility and be accountable for their activities. The MVO Platform believes the government should play a major role in ensuring this. It can both encourage and require companies to be more socially responsible, through policies and through regulation. The government should also intervene to protect victims of corporate abuses, which may arise during the production of goods or extraction of raw materials.

The Dutch Government has put a great deal of effort into developing a number of international standards and guidelines to show how responsible companies should behave. These standards now need to be put into practice and embedded in national policy. The MVO Platform has the following proposals for improving these policies:

Clear expectations

Within most companies, the international guidelines for corporate accountability are not well known. Even where companies know that the guidelines exist, they do not necessarily understand what they mean in practice.

The Dutch Government has to make it clear to companies what is expected from them. This means clarifying what is expected as a minimum standard, and explaining how companies can raise their ambition. These expectations should be set out in the form of a tool or implementation guidelines. These should be made available to the general public and should form the heart of all government corporate policy. Extra attention should be paid to the need for 'due diligence', which has been part of the OECD Guidelines since 2011. Due diligence means that companies must actively seek out any corporate abuses or risks of abuse in their own activities and in their supply chain. If they identify any such risks, they must act to prevent those abuses from taking place. Any wrongdoing identified must be mitigated or resolved.

Transparency

Transparency is central to and a necessary condition for corporate accountability. Society – consumers, employees, inhabitants or investors – needs the right information to make choices, to be able to raise issues with companies or to anticipate the consequences of certain business activities.

The success of the government's own corporate accountability policy (for example sustainable procurement or prescribing corporate accountability criteria for government aid) also depends on corporate transparency. Following the example of other countries, the Netherlands should make reporting on corporate social responsibility activities a legal duty for a wide group of companies, with reporting based on international corporate accountability guidelines and standards. Besides reporting on corporate policy, companies should report on their actual impact on the environment and on their due diligence process.

Companies should also become more transparent in other ways, for example by providing clear information for consumers and for anyone who has been adversely affected as a result of the company's activities. The government can improve transparency in a number of ways, as highlighted in the *MVO Platform's position paper Active government, transparent companies* (2013, only available in Dutch).



Conditional support for companies

The government currently provides support for companies in the form of subsidies, loans, and export credit guarantees as well as in less tangible ways, for example involving companies in trade missions or providing companies with advice from embassies. This support should be conditional on companies complying with certain levels of corporate accountability.

In the case of financial support, the Dutch government requires companies to meet the standards set out in the OECD Guidelines. However this requirement is not watertight. Whether or not it is implemented, varies from case to case. Companies that have received financial support are regularly linked to serious violations of the Guidelines. The MVO Platform argues that in the case of financial support, these requirements should be more consistently followed, creating less ambiguity. Furthermore, clearly defined corporate accountability requirements should be applied to all forms of government support. This should be reinforced by monitoring compliance with the required standards, and companies should face consequences when they fail to comply.



Sustainable public procurement

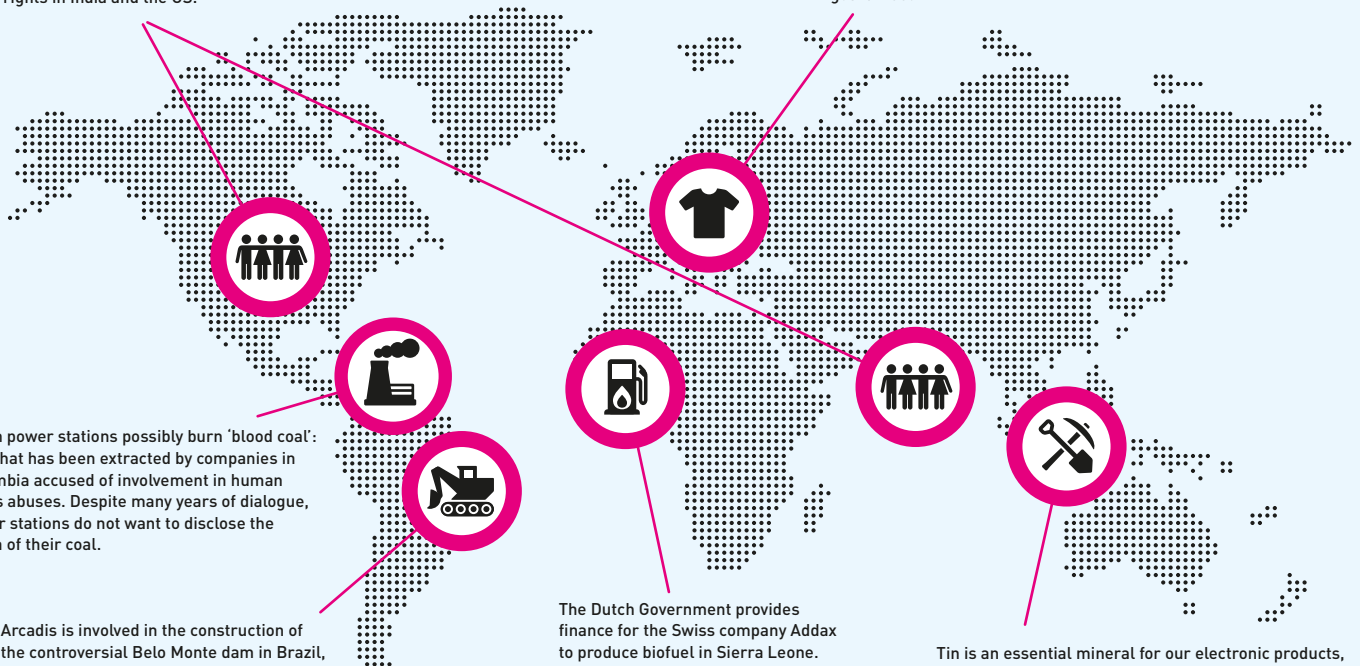
The government is itself a major customer and buyer, and as such, has considerable purchasing power over companies. Government procurement in the Netherlands accounts for almost € 60 billion per year.

The Dutch national government has opted for a sustainable procurement approach. While that might sound good, putting it into practice appears to be difficult. Some aspects of sustainability, such as supply chain impacts overseas (e.g. working conditions), are rarely considered in the purchasing process. The Dutch government should be more ambitious in its approach and ensure greater social responsibility. They should also encourage local government authorities – including cities, provinces and district water boards – to adopt sustainable public procurement practices. The criteria for sustainable public procurement must be brought in line with corporate accountability standards and guidelines, such as the OECD Guidelines. These criteria should serve to drive companies' corporate accountability ambitions and due diligence practices.

Corporate social responsibility: still a long way to go

In spite of the reputations of companies such as Unilever and Ahold for taking a sustainable approach, serious complaints have been made against them, including the abuse of trade union rights in India and the US.

A lot of the clothing in Dutch shops is produced in factories where workers' safety or a living wage cannot be guaranteed.



Dutch power stations possibly burn 'blood coal': coal that has been extracted by companies in Colombia accused of involvement in human rights abuses. Despite many years of dialogue, power stations do not want to disclose the origin of their coal.

Arcadis is involved in the construction of the controversial Belo Monte dam in Brazil, which has resulted in large scale deforestation and human rights abuses of the indigenous people.

The Dutch Government provides finance for the Swiss company Addax to produce biofuel in Sierra Leone. Research shows that this is at the expense of the food security for the local community.

Tin is an essential mineral for our electronic products, some of which originates from Indonesia. Tin mining in parts of Indonesia is causing serious damage to the environment and to public health, as well as affecting other sources of income, such as fish- and farmland.

Corporate accountability in the financial sector

Through their investments, financial institutions play a major role in economic and social development. This means they have a particular responsibility for the impacts of these investments on society.

The financial crisis demonstrated how devastating these impacts can be. Governments were forced to make extensive interventions to prop up the financial systems. While sector-led sustainability initiatives exist, the government has to monitor and regulate the financial industry to ensure that it serves the real economy and contributes to a sustainable society. A specific government policy for corporate accountability in the financial sector is urgently needed. Where the government has become the co-owner of particular financial institutions through state aid, it has an extra level of responsibility. Government involvement can be used to introduce strong corporate accountability policies and to lead the way for others in the sector.



Binding agreements

Sectors or companies that are known for their poor corporate accountability record (or which face a higher risk of environmental pollution or human rights impact), should face more formal monitoring from the government. Not only when examples of corporate wrongdoing reach the news.

The Dutch government should make a binding agreement with the sector or company about improvements, based on international standards. These agreements should be transparent, with clear time frames for action, and they should be monitored for compliance. They should also be drawn up with

the involvement of stakeholders and should include details of compensation for any possible victims.

Financial institutions and shareholders should also be involved in drawing up these agreements. If no improvement is made, the companies should feel the consequences. This could be, for example, by excluding the offending companies from access to licenses, subsidies or other forms of state aid or by imposing penalties. Just as the government publishes the names of companies that are performing well, it should also publish the names of companies that are not.



Access to remedy

Where companies are involved in corporate abuses, it is important that support is available for victims. They should be able to get both judicial and non-judicial redress.

The United Nations (UN) underlines this in their Guiding Principles on Business and Human Rights. It is currently possible for victims in the Netherlands to file a complaint with the National Contact Point for OECD Guidelines (NCP). But the NCP can only negotiate between the parties concerned, provided all parties are willing.

This is not always the case. Victims should have other options, including the option to take legal action. This is currently very difficult for victims to pursue, due to the barriers they face both financially and in terms of knowledge and information. The government can rectify this disadvantage to some extent by extending the right of access, improving the requirements for transparency regarding company structure – so victims know who they should sue – and by providing victims with judicial assistance. The obligations of companies and directors should also be established in law.

What is corporate accountability?

Companies should take responsibility for the social, environmental and economic consequences of their activities throughout the entire value chain. Important agreements detailing this responsibility are:

- The OECD Guidelines for multinational enterprises (revised in 2011), which state what national governments expect from companies concerning transparency, anti-corruption and tax payment.
- The UN Guiding Principles on Business and Human Rights (2011), in which the UN explains the role of governments and companies in protecting and respecting human rights.
- The International Labour Organisation declaration (1977), which sets out agreements about working conditions as established by national governments, industry and trade unions.
- ISO 26000 (2010), a global standard for social responsibility for organisations, which sets norms and guidelines for implementation.

These guidelines complement each other. the MVO Platform describes what corporate accountability should cover in the frame of reference for corporate social responsibility.



Promoting corporate accountability overseas

Embassies and ministers can promote corporate accountability through their missions abroad, by putting it repeatedly on the agenda when dealing with local contacts.

Both companies and local governments should be included. In cases where there are many violations of corporate accountability standards, the Netherlands can offer aid and co-operation by, for example, improving monitoring and enforcement. Corporate accountability should be an integral part of all of the Netherlands' economic and diplomatic relations. Where possible, the Netherlands should encourage the European Union to also promote corporate accountability.



A supervisory body

The implementation and further development of corporate accountability policies would be enhanced by establishing an ombudsman or supervisory body, who could investigate complaints or reports. This body should also arrange compensation for victims and ensure agreements are honoured.

The ombudsman should be able to monitor the corporate accountability requirements for state aid. The office of the ombudsman should become a central point for expertise and knowledge about corporate accountability, and this could be drawn on to help ensure corporate accountability is implemented coherently in all Dutch policy. The office should also support the further development of corporate accountability criteria and practice.



Policy coherence

Policy that acts as a barrier to corporate accountability should be changed. Far more policy could be used to support greater corporate accountability.

Examples of policies that act as a barrier include: trade and investment partnerships, competition and tender rules, fiscal policy and the 'corporate governance code'. In reality, co-operation within a sector or within a supply chain is often necessary for due diligence and responsible management. This can result in a conflict with competition rules. In such cases, adjustments should be considered. The government could use fiscal policy to reward good corporate behaviour and to penalise poor performances.

Adjustments should also be made to the Dutch fiscal system so that international companies operating elsewhere cannot avoid paying tax in the Netherlands. These are just a few examples, but eventually all aspects of policy relating to industry should contribute to corporate accountability.

Colophon

The MVO Platform is a network of civil society organisations and trade unions, active in the field of international corporate accountability. The MVO Platform is founded to support the co-operation between civil society organisations and to raise our collective voice to politics and the industry.

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