

THE DUTCH DIAMOND DYNAMIC
DOING BUSINESS IN THE CONTEXT OF THE NEW
SUSTAINABLE DEVELOPMENT GOALS

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Members of the Advisory Council on International Affairs

Chair	Professor Jaap de Hoop Scheffer
Vice-chair	Professor Alfred van Staden
Members	Professor Tineke Cleiren Professor Joyeeta Gupta Professor Ernst Hirsch Ballin Dr Elly Plooij-van Gorsel Professor Mirjam van Reisen Lieutenant-General (ret.) Marcel Urlings Professor Joris Voorhoeve
Executive Secretary	Tiemo Oostenbrink

P.O. Box 20061
2500 EB The Hague
The Netherlands
telephone + 31 70 348 5108/6060
fax + 31 70 348 6256
e-mail aiv@minbuza.nl
www.aiv-advice.nl

Joint Committee on the Role of the Private Sector

Chair Dr Bernard Berendsen

Members Frans Baneke
Jack van Ham
Professor Nicola Jägers
Mirella Visser

Expert member Professor Rob van Tulder

Executive secretary Pim de Keizer

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Foreword

On 1 January 2015, the government asked the Advisory Council on International Affairs (AIV) for advice on how the private sector could optimise its contribution towards achieving international sustainability goals. The government stated that businesses play an increasingly significant and influential role, which has increased their opportunities to focus on sustainable development goals.

Given the context of the request for advice, the AIV has interpreted this question as how the Dutch government can support businesses in their efforts to contribute to the sustainable development goals agreed by the international community in September 2015. The importance of this distinction is explained later.

The request for advice pertains solely to Dutch businesses that operate internationally (in import, export and investment). The government asks that close attention be paid to public-private partnerships and whether they offer added value in terms of increasing global sustainability. It also asks what obstacles legislation, and competition law in particular, can create for businesses aiming to achieve sustainability (understood in this advisory report as sustainable development).

On 1 May 2015, a joint AIV committee chaired by Dr B.S.M. Berendsen (Development Cooperation Committee) began addressing the government's questions. The members of the committee were F.A.J. Baneke and J. van Ham (Development Cooperation Committee), Professor N.M.C.P. Jägers (Human Rights Committee), Professor R.J.M. van Tulder (Erasmus University and the Partnerships Resource Centre) and Ms M.C.B. Visser (European Integration Committee). The executive secretary was P. de Keizer, assisted by trainees Ms J. Schonewille and M. Lommers. The civil service liaison officer from the Ministry of Foreign Affairs was Dr H.F. Massink.

Besides a literature review, the committee conducted interviews with experts and representatives of Dutch businesses, public authorities, civil society organisations and knowledge institutions that are closely involved in formulating policy on sustainable growth and investment (see annexe III). The committee is grateful to them for their insights on the opportunities and obstacles that businesses meet with in their efforts to increase the sustainability of their production methods and in their cooperation with government.

The AIV adopted this report at its meeting on 29 January 2016.

I Introduction

In the same week that the international community set the new agenda for sustainable development in New York, Volkswagen came under fire for manipulating emissions tests, Unilever was accused of having a 'Bono complex' after irregularities on tea plantations in India, clothing giant H&M also hit the headlines for violating human rights and not complying with fire and safety regulations in Cambodia and Bangladesh, and DSM and Praxis jointly launched a range of bio-based paint, closer to home there was little attention for apparently less important news: on 29 September 2015, a spokesperson of the Ministry of Infrastructure and the Environment admitted that the ministry had known for years about discrepancies between diesel emissions on the road and in the laboratory, based on practical tests conducted by the Netherlands Organisation for Applied Scientific Research TNO.¹

What do these reports tell us? First of all, that sustainable development enjoys considerable interest and covers a wide range of areas, from environment and climate to welfare and human rights. They also show that sustainable development requires international coordination – and not only by governments. Many actors are involved in the agenda and that calls for close cooperation. In addition, the reports show that solving sustainability issues cannot be left to self-regulation by businesses and other actors. Legislation and effective monitoring of compliance are indispensable. These observations are the starting points of this advisory report.

This is not the first time that the AIV has advised the government on the contribution of businesses to sustainable development. In 2006, it argued in favour of a pro-poor growth policy aimed at reducing discrimination and the exclusion of the poor and offering them greater opportunities.² In addition, in a 2012 advisory report on inequality and poverty, the AIV called for instruments to be introduced that would encourage businesses to go further than complying with legislation and look beyond maximising their market share and short-term profits. It was observed that companies could potentially make an important contribution to economic development, growth and

1 See, for example, the following reports, which appeared in the media in the last week of September 2015: <<https://sustainabledevelopment.un.org/?page=view&nr=971&type=230&menu=2059>>; 'Verbruik nieuwe auto's veel hoger dan opgegeven', NOS, 28 September 2015, <<http://nos.nl/artikel/2060079-verbruik-nieuwe-auto-s-veel-hoger-dan-opgegeven.html>>; 'Unilever gaat gebukt onder Bono-complex', *Financieel Dagblad*, September 2015, <<http://fd.nl/ondernemen/1118426/het-bono-complex-van-unilever>>; <<http://business-humanrights.org/en/cambodia-hm-suppliers-linked-to-illegal-use-of-short-term-fixed-duration-contracts-hm-responds>>; <<http://www.ft.com/cms/s/0/7a3822e6-6804-11e5-a155-02b6f8af6a62.html#axzz3nncCehEW>>; and <<http://www.cleanclothes.org/news/press-releases/2015/10/01/h-m-fails-to-make-fire-and-building-safety-repairs-in-bangladesh>>; Patrick Niels, President of DSM Resins & Functional Materials, quoted in a press release on 1 October 2015: <https://www.dsm.com/content/dam/dsm/dsmnl/nl_NL/documents/DSM%20en%20Praxis%20introduceren%20plantaardige%20kwaliteitsverf_persbericht%2001-10-2015.pdf>; and <<http://www.volkskrant.nl/economie/ministerie-wist-al-jaren-van-geknoei-met-dieseluitstoot~a4151705/>>.

2 AIV, Private Sector Development and Poverty Reduction, advisory report number 50, The Hague, October 2006.

redistribution as long as they complied with standards, agreements and guidelines for corporate social responsibility.³

Companies' added value was also addressed in the AIV's 2013 advisory report on actors in international cooperation. The report advocated inclusive business models developed jointly by businesses and civil society organisations in order to reach the poor and other groups excluded from society. It also addressed the rise of public-private partnerships, a trend that received a significant boost in June 2007 with the Schokland Agreement.⁴

That same year (2013), the AIV also published an advisory report on sustainability in the context of international environmental cooperation. The report observed that – partly in response to shareholders concerned with the growing pressure of public opinion – companies are paying greater attention to corporate social responsibility and to human rights. The latter has been encouraged by the Voluntary Principles on Security and Human Rights and the UN Guiding Principles on Business and Human Rights (the 'Ruggie Principles'). The report called for our society to be reorganised on a sustainable basis, taking account of social, economic and human rights considerations.⁵

The reports show a gradual shift from a defensive approach and a limited interpretation of the concept of sustainability towards the acknowledgment that a society based on sustainability is the only way to ensure prosperity in the future. Sustainable development is increasingly understood in terms of the ecological, economic and social dimensions of growth and welfare, including the possibility of trade-offs between these components.⁶ Clearly, such trade-offs will bring their own dilemmas.

While drawing up this report, the AIV was aware of the scope of the theme, the wealth of publications on the subject, and the wide variety of initiatives being undertaken by Dutch businesses. That forced the AIV to make choices.

First of all, it was necessary to delineate the types of businesses the report would focus on. The request for advice referred to 'Dutch businesses operating internationally'. The AIV chose to include in this category a broad group ranging from small and medium enterprises operating abroad to multinational companies that use the Netherlands as their base. A chain-based approach was also chosen, as companies often produce their products by working together and with an international division of labour. That makes the distinction between national and international activities less important – and more difficult to establish.

3 AIV, *Unequal Worlds: Poverty, Growth, Inequality and the Role of International Cooperation*, advisory report number 80, The Hague, October 2012.

4 AIV, *Interaction between Actors in International Cooperation: Towards Flexibility and Trust*, advisory report number 82, The Hague, February 2013, pp. 40-41.

5 AIV, *New Paths to International Environmental Cooperation*, advisory report number 84, The Hague, March 2013.

6 H.F. Massink, *Blijvend thuis op aarde*, Delft: Eburon, 2013.

A further refinement was made in relation to the question whether legislation created obstacles within the chains. The committee focused on the various roles of government, examining the issue of competition law separately, partly at the minister's request and also given the importance of the current broad public debate on this topic.

This report is structured as follows. Chapter II provides a short explanation of the terms sustainability and sustainable development, as they are used in the report. It then outlines the sustainable development goals (SDGs) agreed by the international community in September 2015. The chapter also examines the complexity of sustainability issues, which require new forms of management and multi-actor consultation.

Chapter III contains a brief analysis of how Dutch businesses that also operate abroad approach sustainable development. On the basis of interviews with experts, the report describes practical experiences and establishes that businesses are by and large still in a transitional phase.

Chapter IV looks at the dilemmas and challenges facing businesses, for example in making chains more sustainable, and the lack of a level international playing field. It emphasises that financial institutions play an important role and that taxation is an equally important component of sustainable development. Results in the field of human rights are observed to still be lagging behind.

Chapter V examines the various roles that the government plays in supporting businesses and describes the changes in Dutch foreign policy in recent years. In response to the request for advice, the chapter focuses on the rapid rise of public-private partnerships and the importance of the voluntary agreements now being prepared, which aim to promote international corporate social responsibility in high-risk sectors.

Chapter VI describes possible ways to further increase government support. These include a stronger focus on cooperation with relevant actors, encouraging the financial sector to move towards sustainable development and especially more international coordination of agreements on respect for human rights.

Chapter VII presents the report's conclusions and recommendations.

II Sustainability and sustainable development

II.1 The international agenda for sustainable development

For a long time, sustainability was popularly a synonym for preservation of the environment and the management of natural resources. Later, the concept was broadened to embrace human rights, economic development and welfare. In effect, the broader interpretation of sustainability has been in existence for a long time. In 1987, the Brundtland report 'Our Common Future' distinguished between the ecological/environmental, economic and social pillars. These were soon renamed 'people, planet, profit (later: prosperity)' or 'the triple bottom line', with human rights categorised under the 'social' pillar ('people').

Despite being so ubiquitous, the concept of sustainability is difficult to pin down. It is a property that derives its meaning from the object it is used to describe. It is easier to conceive of sustainable management of natural resources than of sustainable agriculture or sustainable urban development. Sustainability touches on ethical issues like equal opportunities for development within or between generations. Equal opportunities make a society fairer and thus, as the reasoning goes, more sustainable. A 'strong' interpretation of sustainability is that it aims to preserve the world's natural capital in an absolute sense, while a 'weaker' perspective is that it aims to maintain the present level of reserves.⁷

If sustainability is the ultimate goal, the road towards it is often referred to as 'sustainable development'. This concept, too, has been revised repeatedly in recent decades.⁸ In September 2015, it was given a new meaning when the United Nations General Assembly set the international agenda for sustainable development. The agenda contains 17 sustainable development goals (SDGs) grouped around core values like human dignity, justice and global solidarity. Six elements can be spotlighted in particular (see figure 1 and annexe IV):

- *People-planet-prosperity*: this is the modern variant of the triple bottom line referred to above. Prosperity is seen as having a broader meaning than the original profit dimension, and plays an important role in the discussion on corporate social responsibility;⁹

7 J.B. Opschoor, 'Sustainability', in chapter 69 of *Handbook of Economics and Ethics*, Jan Peil and Irene van Staveren (eds.), Edward Elgar (2009).

8 At the United Nations Conference on Environment and Development in Rio de Janeiro in 1992, for example, a number of principles for sustainable development were agreed, in which environmental considerations were linked to the right to economic and other forms of development and to a productive life 'in harmony with nature'. Developing countries had already called for a broader interpretation of the concept of sustainable development at the first UN environmental conference in Helsinki in 1972 (on the basis of the 1971 Founex report).

9 Far-reaching agreements were made on one of the sustainable development goals (climate action) at the UN summit in Paris in December 2015. See, for example, <<http://www.c2es.org/international/negotiations/cop21-paris/summary>>.

- *Dignity-justice*: this includes ambitions in the field of human rights and extends further than application of the Ruggie framework, moving towards empowerment;
- *Partnership*: this is a central principle for achieving the SDGs and respect for human rights and, as such, recognises that none of the traditional actors (governments, companies and civil society organisations) is capable of achieving these goals alone: they not only have to walk the path towards achieving the goals together, they also have to jointly set out the course.

Figure 1: **The six core themes of the international agenda for sustainable development**



Source: *Sustainable Development Goals*, UN, September 2015

It will be a challenge to achieve this agenda of seventeen goals and 169 targets in a coherent way. Unlike the Millennium Development Goals that preceded them, which could be achieved more or less independently from each other, the SDGs impact on each other and require a process of transformation worldwide.¹⁰ One cause for concern, however, is that economic goals have not been defined in purely sustainable terms, and

¹⁰ 'If the post-2015 agenda is to be successful in achieving the adopted SDGs, it needs to encompass all of the following elements: economic transformation, employment creation, the generation of fiscal resources and a favorable global economic environment, also called structural transformation, a necessary condition for long-term growth of per capita income.' (Ocampo et al., 2009).

thus leave scope for trade-offs and making concessions.¹¹

Another cause for concern is the fact that, although the SDGs refer to international conventions and universal declarations, the human rights component is not elaborated in detail. It is not clear to what extent the international agenda for sustainable development should be considered legally binding or (only) as a set of goals or a concept.

More than the Millennium Development Goals, the SDGs apply not only to developing countries but equally to the developed countries of the West.¹² That is why it is important to waste no time in making goals measurable and drawing up concrete benchmarks, so that agreements can be made on results that have to be achieved in the short term, on which countries have to report and can be held to account. This applies, for example, to the goal of reducing inequality in the world, which is defined in general terms. As Professor Rolph van der Hoeven has observed, a more precise formulation of the ambitions relating to this goal may be expected by involving civil society organisations in future consultations on progress.¹³

It would however be inadvisable to define purely quantitative benchmarks. Knowledge on the value and necessity of certain indicators and of processes to achieve goals as effectively as possible is an important factor in the process of monitoring the SDGs. How partnerships can best be organised and facilitated, for example, is an important point for attention in achieving the goals.¹³

It is striking that the West, too, including the Netherlands, still has much work to do to achieve the SDGs. A 'stress test' conducted in 2015 shows that the Scandinavian countries and Switzerland ('the fit five') are in a good starting position. The Netherlands also scored well in a number of areas, ranking in the top three on half of the indicators. This positive image is, however, cancelled out in three areas: (i) the high percentage of water (96.5%) withdrawn from its total renewable freshwater resources for all produced and imported goods, (ii) the heavy environmental burden from agriculture, and (iii) the fact that only 3.6% of its energy is generated from renewable sources.¹⁴ To this can be added that the Netherlands is heavily dependent on natural resources imported from

11 Frances Stewart, Emeritus Professor of Development Economics at the University of Oxford and former Chair of the United Nations Committee for Development Policy, in the Guest Blog on *The Elders*, 17 September 2015: 'One flaw in the Sustainable Development Goals may make the difference between success and failure.'

12 Christian Kroll in *Sustainable Development Goals: Are the Rich Countries Ready?*, Bertelsmann Stiftung (p. 4, 2015): 'If the Millennium Development Goals were the telescope through which the high-income countries looked at the developing world, the Sustainable Development Goals are the mirror in which they see their own policies and performance reflected.'

13 The Dutch government has also recognised this by playing an active role – as co-chair – in the Global Partnership on Effective Development Cooperation, which aims to exchange knowledge and experience on multisector en multistakeholder partnerships. A Promoting Effective Partnering consortium of prominent international partnering organisations has also been set up to establish a knowledge and learning platform to support the SDGs (and, for example, to facilitate brokering where possible).

14 Ibid. Christian Kroll, p. 39.

other countries, meaning that a proportion of its environmental burden is deposited elsewhere.¹⁵

II.2 Increased complexity calls for new forms of cooperation

The concept of sustainability has not only become broader over time, it has also become more complex and more comprehensive. This is logical, given that technologies, economies and social systems are also becoming more and more interwoven. Achieving the SDGs poses new challenges for governance. Governance is no longer automatically a role played by governments alone; it now requires interaction with businesses, civil society organisations and knowledge institutions.

To draw a parallel with environmental issues: in the past, the main focus was on political responses to local problems that posed a threat to people's daily lives (e.g. soil pollution), conducting quick clean-up operations to stop the situation from becoming worse – essentially the equivalent of sending the fire service to put out a fire. Today, however, environment and sustainability policy is equally concerned with big global issues like preserving biodiversity or the impact of human activity on the climate. The effects of some measures will only become visible over a longer period, but that does not mean that action should not be taken now. In addition, action is no longer a matter of relatively simple clean-up operations, but calls for radical changes in our collective behaviour.¹⁶

Forty years ago, the government introduced environmental legislation to compel businesses to clean up their production processes. The government clearly had primacy for formulating policy and it based its choices on scientific analyses that enjoyed broad public support. But experience showed that businesses took a defensive approach: they complied with what was required of them, but hardly took the initiative themselves.¹⁷

Times have changed. Governing sustainability is no longer a matter for government alone. Solving such complex issues requires an active contribution not only from government, but also from the private sector and organised citizens. No quick fix, but a tailored process of change. The government continues to hold primary responsibility for formulating the public vision and social goals. But to achieve this, in addition to traditional policy instruments like legislation and economic incentives, it also uses other measures. By means of stimulation, facilitation and targeted management, the

15 Statistics Netherlands, Sustainability Monitor of the Netherlands 2014: Indicator Report, The Hague, 2014. See: <<http://www.cbs.nl/en-GB/menu/themas/dossiers/duurzaamheid/publications/publications/archief/2015/monitor-duurzaam-nederland-2014.htm>>.

16 See discussion paper by Henk van Latesteijn on the design requirements for the relationship between knowledge and sustainability, WP 11, Scientific Council for Government Policy, 2015.

17 This is succinctly described by Nico Hoogervorst and Frank Dietz in *Ambities in het Nederlands milieubeleid toen en nu*, WP 3, Scientific Council for Government Policy, 2015. In this working paper, the authors argue that the context within which environmental policy operates in the Netherlands has changed radically in the past 40 years.

government ensures that other actors can implement the proposed policies.¹⁸

Knowledge has an increasingly prominent place in this new situation, giving research and knowledge institutions a more and more decisive role. They are expected to be more pro-active in finding answers to sustainability issues.¹⁹ In 2012, Shiroyama *et al* argued for the involvement of as many actors as possible in consultations and for knowledge to be generated and shared by various policy regimes, to ensure a certain perspective does not dominate (framing).²⁰

II.3 Corporate sustainability

That the private sector can make an essential contribution to sustainable development was acknowledged at the UN World Summit on Sustainable Development in Johannesburg in 2002. That led to public-private partnerships being put on the agenda. Ten years later, at the United Nations Conference on Sustainable Development (Rio+20), businesses were explicitly given even greater responsibility for achieving sustainable development and reducing poverty, which was emphasised again in a 2013 UN report on a new global partnership.²¹

Businesses play a crucial role as, besides creating jobs and introducing innovation, they can also cause harm to people and the environment. Regulations on sustainability often lag behind what is being done in the field, are minimalist, ambiguous and offer little direction. Consequently, they can sometimes be a burden for companies wishing to move forward more quickly. Sustainable development demands that businesses develop strategies that go further than the legal requirements and which presents sustainability as the guiding principle for the whole organisation. In the international context, there is an additional problem in that the statutory requirements vary from one country to another.

In business terms, sustainable development is often equated with corporate sustainability. As the term suggests, it refers to both the company's survival and to enhancing the sustainability of operational management. Businesses draft their ambitions relating to ecological, economic and social sustainability and report on them themselves, for example, by publishing the impact of their activities on the

18 'Governance van duurzaamheid vraagt om samenwerking overheid, bedrijfsleven en NGO's', blogpost by former minister Jacqueline Cramer, Utrecht Sustainability Institute, 4 June 2012.

19 Miller, Muñoz-Erickson and Redman: 'Transforming Knowledge for Sustainability: Towards More Adaptive and Engaged Academic Institutions', *International Journal of Sustainability in Higher Education* (12) 2, cited by Henk van Latesteijn in WP 11, Scientific Council for Government Policy, 2015.

20 Shiroyama, Yarime, Matsuo, Schroeder, Scholz and Ulrich, 'Governance for Sustainability: Knowledge Integration and Multi-actor Dimensions in Risk Management', *Sustainability Science*, 7 (1), 2012, pp. 45-55.

21 'We call for a quantum leap forward in economic opportunities and a profound economic transformation to end extreme poverty and improve livelihoods. This means a rapid shift to sustainable patterns of consumption and production-harnessing innovation, technology, and the potential of private business to create more value and drive sustainable and inclusive growth', in: 'A New Global Partnership: Eradicate Poverty and Transform Economies through Sustainable Development', Report of the High-Level Panel of Eminent Persons on the Post-2015 Development Agenda, 30 May 2013.

environment.²² To provide them with concrete guidelines, the UN Global Compact has drawn up ten principles for corporate sustainability which incorporate financial, social, ethical and environmental aspects (see annexe V).²³ These principles mainly embrace the following five activities and responsibilities:

- *Principled Business*: companies should operate with integrity. This means that they respect the principles of human rights, labour, environment and anticorruption. Simply complying with such principles ('ticking the boxes') is not enough; they need to possess moral awareness.
- *Strengthening Society*: Companies are active stakeholders in every society. Poverty, conflict, an uneducated workforce and resource scarcity are only a few examples of social issues on which companies have influence. By being pro-active, companies can contribute to a better society.
- *Leadership Commitment*: Effecting this change begins with companies' leadership. The executives and directors should commit themselves to corporate sustainability. They have to send a strong signal throughout the organisation that sustainability is a key factor in the interests of the company.
- *Reporting Progress*: Reporting on progress is an important part of the process of implementing corporate sustainability. It gives insight into what has been achieved and changes that are still ongoing.
- *Local Action*: Every country presents unique challenges in terms of sustainability. Companies have to take account of this by adapting to local ambitions and complying with local legislation. They should be aware of this when implementing their corporate sustainability strategy.²⁴

The principles thus require that businesses go further, ensuring that they fulfil their responsibility to respect. They must develop moral awareness, to support sustainable development. The principles underscore that companies have universal responsibilities,

22 The term was defined as followed as early as 1993: 'Corporate sustainability means that a service or product does not compete in the marketplace only in terms of its superior image, power, speed or packaging. Additionally, your business must deliver products or services to the customer in a way that reduces consumption, energy use, distribution costs, economic concentration, soil erosion, atmospheric pollution, and other forms of environmental damage' (Paul Hawken, *The Ecology of Commerce: A Declaration of Sustainability*, HarperCollins, 1993). It is defined as follows for the purpose of the Dow Jones Sustainability Index: 'Corporate sustainability is a business approach that creates long-term shareholder value by embracing opportunities and managing risks deriving from economic, environmental and social developments.' That the voluntary nature of corporate sustainability does not mean it is without obligation is shown by the Breakthrough Energy Coalition, set up by Bill Gates, Mark Zuckerberg, Richard Branson and other entrepreneurs in Paris on 30 November 2015.

23 United Nations Global Compact, 'Global Corporate Sustainability Report 2013', New York, 2013. See: <https://www.unglobalcompact.org/docs/about_the_gc/Global_Corporate_Sustainability_Report2013.pdf>.

24 United Nations Global Compact, 'Guide to Corporate Sustainability: Shaping a Sustainable Future', New York, 2015, pp. 7-9.

which includes paying taxes in countries where they operate. Calls for more transparency by companies in their annual accounts, reports and other documentation are becoming increasingly insistent.²⁵ Paying taxes is an integral part of the OECD Guidelines for Multinational Enterprises, and the importance of fair taxation was once again stressed at the UN Conference on Financing for Development in Addis Ababa in July 2015.²⁶

II.4 The importance of human rights

Despite an explicit reference to the UN Guiding Principles,²⁷ civil society organisations (CSOs) and parties within the UN have voiced criticism of the disregard for the private sector's responsibilities regarding human rights in the international sustainable development goals. There are strong calls for policy coherence on this issue.²⁸

Experience shows that it is easier to incorporate environmental issues into a business model than human rights. Progress is also being made on human rights, but proves more difficult to implement in practice. Many businesses associate human rights issues with abuses and legal liability, leading them to adopt risk-avoidance behaviour. Human rights are not yet seen as an opportunity to achieve social impact.

In terms of policy implementation, there have been many changes for the better. In 2008, the UN adopted the Protect, Respect and Remedy Framework for Business and Human Rights, which led to a set of guidelines for states and businesses. The framework is based on three pillars:²⁹

- the state's duty to protect people against human rights abuses by businesses;
- companies' responsibility to respect human rights;
- people's right to access to judicial and non-judicial remedy if their human rights are violated.³⁰

25 Thomas Scheiwiller and Susan Symons, 'Corporate responsibility and paying tax', *OECD Observer*, 9 December 2015. See: <http://www.oecdobserver.org/news/archivestory.php/aid/3132/Corporate_responsibility_and_paying_tax.html>.

26 See pages 19 and 60-63 of the 'OECD Guidelines for Multinational Enterprises', 2011 edition and the Addis Ababa Action Agenda of the Third International Conference on Financing for Development, 27 July 2015. See: <<http://www.un.org/esa/ffd/publications/aaaa-outcome.html>>, endorsed by the UN General Assembly in its resolution of 27 July 2015.

27 UN General Assembly, 'Draft outcome document of the United Nations summit for the adoption of the post-2015 development agenda', A/69/L.85, 12 August 2015.

28 See, for example, the report of the UN Commissioner for Human Rights, A/HRC/29/28, 28 April 2015.

29 For a more detailed examination of the legislation on economic cooperation that is becoming increasingly cross-border and international in nature, see Steenvoorde, R., *Regulatory Transformations in International Economic Relations*, Oisterwijk: Wolf Legal Publishers, 2008.

30 Office of the UN High Commissioner for Human Rights, 'Protect, Respect and Remedy: a framework for business and human rights', A/HRC/8/5, 7 April 2008; and 'Guiding Principles on Business and Human Rights: implementing the United Nations "Protect, Respect and Remedy" framework', Report of the Special Representative of the Secretary-General on the issue of human rights and transnational corporations and other business enterprises, A/HRC/17/31, 21 March 2011.

From this perspective, on the basis of the principle of due diligence, businesses have the social responsibility to identify and reduce human rights risks. This means that they must constantly analyse the current and potential effects of their activities on human rights, take action where necessary, monitor the impact of that action, and be transparent about their approach. This applies not only to their own activities, but to the whole chain in which they operate.

Although the Protect, Respect and Remedy framework is not legally binding, it enjoys broad support and is seen worldwide as the universal standard for human rights and business.³¹ The guidelines have been adopted by the OECD and form the basis of the Sustainability Policy and Performance Standards of the International Finance Corporation (IFC). Nevertheless, as shown in chapter IV.7, it may be noted that the actual observation of human rights is still a serious challenge, particularly with regard to access to judicial remedy to address human rights violations.³²

II.5 Conclusion: policy coherence gaining in importance

This chapter has examined the growing universality and complexity of the international sustainability agenda. It has shown that sustainability goes further than observing principles, and calls for new forms of regulation, action and cooperation. In addition, experience shows that the policy process is becoming less linear. Elaborating the international agenda for sustainable development requires new solutions and new roles for public authorities, including the Dutch government. It is a matter of responding as effectively as possible to changing circumstances and opportunities, maintaining flexibility and staying realistic.

It is important to involve all stakeholders in consultations and policymaking – at all levels, not only national but also, increasingly, international. Involving these parties requires government to fulfil a wider range of roles, and to do so in a coordinated way. This can be referred to more succinctly as ‘flexible policy coherence’, and means supporting relevant stakeholders and the cooperation between them as effectively as possible. This advisory report distinguishes five types of stakeholders and related activities:

- **Companies:** both large and small companies that operate in the real economy are the primary target group for contributing to sustainable development. They can add (or destroy) value by the way they organise the flow of goods and services nationally and internationally. In a less sustainable economy, many of these flows are essentially linear, with no regard for possible negative effects upstream or downstream and/or outside the chain. The first challenge is therefore to make these flows of goods and services circular. But distributing profits more equally among the actors in the chain would also be a step in the right direction. By ensuring that each actor receives fair remuneration, the whole chain would become more socially and economically

31 In the words of Professor Ruggie, the architect of this framework: ‘The UN Guiding Principles have become firmly embedded in the regulatory ecosystem for business and human rights’, closing plenary remarks, 3rd UN Forum on Business and Human Rights, Geneva, 3 December 2014.

32 As Professor N.M.C.P. Jägers puts it: ‘In many countries where corporate abuse takes place, access to a judicial remedy is illusive’, cited in: ‘Access to Justice for Victims of Corporate-Related Human Rights Abuse’, *Netherlands Quarterly of Human Rights*, vol. 33/3, pp. 269-273, 2015.

sustainable. Another challenge is to ensure, by means of sustainable innovation, that profits generated within the chain benefit organisations that create the most social value.

- Financial institutions: add no value themselves, but are important actors in creating conditions that facilitate the establishment of sustainable chains. How to finance sustainable development, direct national and international finance flows to the most sustainable applications and stop money from being used for less sustainable initiatives (such as bonuses and tax avoidance) are increasingly urgent issues in a world of speculative, international (hot) capital flows. In addition, sustainability initiatives are by no means always financially feasible in the short term, making grants and other financial constructs important sources of funding.
- Civil society organisations: sustainability cannot be achieved without calling on the wider public to assume their responsibility – as citizens, consumers and/or voters. That, however, requires that people can make informed choices and that CSOs represent the sustainability interests of citizens – including those of future generations – effectively in the public debate. People often do not have the same interests in common. Globalisation has made the movement of people more dynamic, through migration and through financial transfers within families. People use social media to communicate with each other and exert pressure. Because of all this, the agenda for sustainable development is becoming widely accepted.
- Knowledge institutions: progress towards sustainable development depends heavily on progress in the development of knowledge, including technological know-how, knowledge on achieving transitions, and organisational insights. Sustainability issues increasingly call for specific knowledge that has to be tested and finetuned in an ongoing process of trial and error. The challenge is to arrive at the optimum combination of general and specific (local) knowledge and determine how this knowledge should be financed.
- Government: some of the activities described above can be facilitated by government. Although regulation remains government's primary task, there is increasing recognition that fulfilling this task is not always effective in a rapidly changing and globalising world. A logical solution would be to call on companies, financial and knowledge institutions and citizens to regulate themselves and assume their share of responsibility, but this is no guarantee of success. A good mix of regulation and self-regulation would appear to produce the best outcome. How effective this mix proves to be will depend to a large extent on how and when governments deploy the various instruments at their disposal (see in particular chapter V).

Companies play a vital role in achieving the sustainable development goals, a role in which they interact closely with at least four other social stakeholders. Before this report looks in greater detail at the various roles of government policy, it is important to paint a picture of how Dutch businesses that are active abroad contribute to sustainable development. This is the substance of the next chapter.

III Sustainable development in practice

This chapter gives an impression of how a number of Dutch businesses that are also active abroad try to put the concept of sustainable development into practice. They are large companies, small and medium enterprises (SMEs) and social entrepreneurs that are involved in other countries through sourcing, investment or marketing. Their ambitions relating to sustainable development are framed by significant dilemmas and challenges that force them to make strategic choices.

These choices can often best be understood from a chain perspective, i.e. from an awareness that the various stages in the making of a product or service (from raw materials to finished or partly finished products, and finally disposal as waste) are spread over more and more countries. These global value chains can be demand- or supply-driven, local or international, linear or circular. There is an impression that most gains in terms of sustainable development are to be made at the beginning of the chain.

As a consequence of globalisation, Dutch businesses have to increasingly compete with businesses that operate within other legal frameworks and often have a different view of sustainable development. How a business can deal with this depends on many factors, such as the nature of the company's activities, its internal organisation, its position in or alongside an international chain, and the international regulatory environment in which it operates.

Internationally, Dutch businesses are increasingly confronted with questions like: Does it pay to be a pioneer in this area or is it better to adopt a wait and see attitude? Is it advisable to operate alone or to make agreements with competitors? Are they operating in an environment where business interests weigh more heavily than sustainability, or is economic activity being curbed (a race to the bottom or a race to the top)?

A distinction can also be made between large and small companies, regardless of whether they operate in or outside international value chains, or have or have not made the transition from a defensive to an offensive sustainability policy, and financial institutions, which have a supporting role.

III.1 A few large companies as trailblazers

Large companies often play a leading role in international chains and are therefore better able – especially through their investment decisions – to define their own sustainability strategy. A number of Dutch multinationals are international pioneers in this area. Dutch companies are the largest subgroup among the supersector leaders of the Dow Jones Sustainability Index (DJSI), a leading international benchmark for corporate sustainability.³³

³³ The Dow Jones Sustainability Index focuses mainly on aspects of corporate sustainability and provides, for example, insight into a company's environmental and human resources policies but not necessarily the actual effects of those policies. It is therefore not a yardstick for companies' contributions to the SDGs.

This position at the head of the pack is relative, however. None of the businesses in this segment of the DJSI can boast that their operations are fully sustainable.³⁴ They have, however, made important steps in their transition, so that sustainability is slowly but surely becoming an integral part of their competition strategy, and which they use to distinguish themselves fundamentally from their national and international competitors. As emphasised later in this report, trailblazing companies attach great value to clear frameworks and legislation. They are capable of complying with stricter requirements. More importantly, clear rules and inspiring goals that apply to all players results in a more level playing field – and that is where these companies stand to gain.³⁵

The companies' intrinsic motivation to embrace sustainability frequently emerged in the interviews that the AIV conducted. Unilever, for example, started making its business model sustainable ten years ago. That was in the company's own interests, to guarantee a sustainable supply of raw materials, build up a good reputation and create a solid support base. Sustainable development was thus no longer the concern only of a separate division or of the company's legal and financial departments, but the guiding principle for the entire company and the foundation of its continued existence.³⁶

While Unilever may have previously adopted the philosophy of 'implement first, then communicate', this was reversed in 2010 with the publication of its Sustainable Living Plan. The plan sets out more than 60 goals that have to be achieved by 2020, without there being conclusive evidence for their feasibility. Consequently, the company is keen to enter into partnerships with CSOs and knowledge institutions. Progress reports are published every year, although results sometimes prove difficult to verify and tend to be worded in general terms.

AkzoNobel has made a similar change in its corporate philosophy and culture. Where sustainable development in the first instance appeared to consist mainly of 'complying with statutory requirements' and 'avoiding risks', just over ten years ago the company began incorporating sustainability into its production processes. The emphasis was on increasing efficiency within the chains, in keeping with the slogan 'Doing More with Less'. Since 2007, the focus has been on innovation: developing new products and making existing ones more sustainable (e.g. a new coating on seagoing vessels that achieves considerable savings on fuel).

The company developed a future vision called Planet Possible, which serves as a guide for its business model. The vision focuses on a number of issues including accommodation and construction, transport and mobility, and food and agriculture.

34 See *Duurzaam ondernemen waarmaken* (Van Tilburg *et al*, 2012) which positions leading companies in relation to the different phases of developing sustainable business practices. Even the trailblazers are still in the transition phase. Fully sustainable business models have not yet been achieved.

35 In the run-up to the Climate Conference in Paris, DSM CEO Feike Sybesma, appearing in the Dutch current affairs programme *Buitenhof* (22 November 2015), called on the government to set a higher price on CO₂ emissions.

36 One interviewee described it as follows in June 2015: 'To the outside world, it can be claimed that sustainability is supported on ethical grounds, but in business terms the strategy is determined by the company's interests. Securing the supply chain for raw materials, for example, is vital for large businesses.'

AkzoNobel expects that, significant progress in achieving sustainability in the future will depend on political will, the feasibility of funding, cooperation and technical innovation.

Strikingly, the company is increasingly open to initiatives that are not by definition profitable in the short term. A good example is the Human Cities Coalition, in which AkzoNobel is playing the role of facilitator, coordinator and convening party. The coalition works together with businesses, CSOs and local authorities in, for example, Ghana and India, to make cities more sustainable. Based on the assumption that urbanisation will continue worldwide, the company has invited other actors to join forces, without this serving any direct commercial interest for AkzoNobel.

Ahold, too, has become increasingly interested in sustainability, although it must be weighed against other factors, such as consumers' willingness to pay more for a sustainable product. Ahold observes a tentative trend in this direction, but the effects of the economic crisis can still be felt. For food products in particular, Dutch (and American) consumers are reluctant to pay a premium. Ahold employees, however, are increasingly held to account for working sustainably. It is a key performance indicator, and includes respect for human rights.³⁷

One strategy for Dutch retail and clothing branches, for example, could be to increase turnover of sustainable products through economies of scale, which could ultimately lead to lower prices for consumers. This would require periods of transition during which agreements between competitors on internal cross-subsidies or coordinated procurement strategies would ultimately result in businesses being able to market more sustainable products at competitive prices.

It has proved difficult to introduce sustainably procured products on a large scale. This is partly because there is little transparency on and coordination of sustainability quality marks, as the various quality marks for fair trade illustrate. Consumers have difficulty seeing the wood for the trees, making it difficult for large companies to profile themselves and reach consumers interested in sustainability.³⁸

III.2 Small and medium enterprises: followers or examples?

Companies with up to 250 employees have a not insignificant share in the international activities of the Dutch private sector. According to a study by ING, they account for two-thirds of Dutch exports,³⁹ compared to about a third in many other countries. The lion's share of the international activities of Dutch small and medium enterprises (SMEs) take place in neighbouring countries in a radius of up to 600 kilometres from the Netherlands. Some activities are part of international trade chains, with or without the involvement of other Dutch companies, but there are also SMEs that invest in local markets or governments alone.

37 This is somewhat easier for Ahold, as 90% of its products come from Western Europe and the United States, where it also sells all its products.

38 See the 2009 Max Havelaar lecture 'Chains for Change', in which the fragmentation of quality marks is seen as a major obstacle to the achievement of a level playing field, causing the distribution of sustainable products to grow much less quickly than it potentially could.

39 ING Economisch Bureau, *Internationale Groeikansen voor het MKB*, August 2014.

Statistics Netherlands (CBS) looks only at Dutch-owned SMEs.⁴⁰ Their share of Dutch exports is still as high as 27%, and 26% for imports. Their share in Dutch investment (capital value) abroad, however, is no more than 1%. In 2011, 645 Dutch SMEs invested in the 66 developing countries eligible for support from the Dutch Good Growth Fund (DGGF). The government set up the DGGF in 2014 to support Dutch SMEs investing in developing countries (see annexe VI.3 for a short description of the fund and similar initiatives). The value of these investments was EUR 300 million, on average 45% of the total capital invested in the foreign companies concerned, which had a combined turnover of around EUR 900 million. Most investments were made in low- and middle-income countries in Africa and Asia, including Ethiopia, Kenya, Tanzania, India, Indonesia and Vietnam.

Trade with developing countries thus plays a greater role for Dutch SMEs than investment.⁴¹ However, experience shows that, in the long term, investment is an important precondition for acquiring a better competitive position and also facilitates the transition to sustainability.⁴² According to the Netherlands Enterprise Agency (RVO.nl), businesses that are open to and actively invest in developing countries have a higher than average motivation to engage in corporate social responsibility, including social policy. These businesses often display an extra degree of entrepreneurship and engagement.

Besides well-known sectors like horticulture (e.g. rose-growing in East Africa) and wholesale (supermarket suppliers), there is also a growing number of small start-up businesses run, for example, by innovative entrepreneurs who have developed ideas at one of the Dutch universities (e.g. Wageningen, Twente, Eindhoven or Delft) that are suitable for application in developing countries. In 2012, the Netherlands scored 6.3 on the Young Firm Entrepreneurial Activity Index – which indicates the number of people who own or are responsible for running companies less than 3½ years old in relation to the total adult population (age 18-64) – compared to 3.7 in Germany and 4.1 in the United States.⁴³

There are also a growing number of social entrepreneurs in the Netherlands who finance sustainable activities in developing countries through crowd-funding and other forms of impact investment. Many of these activities take place within local chains and with local partners. Dutch social entrepreneurs develop innovative products and services in various areas. They are mostly characterised by cooperative forms of organisation and financing. A number of the larger Dutch NGOs, such as ICCO and Cordaid, are actively repositioning themselves as social enterprises.

40 Statistics Netherlands, *Internationalisering MKB in handelsprioritaire landen en in DGGF-landen*, April 2014.

41 It was not possible to determine directly if this also applies to SMEs from other European member states.

42 In *Doing Business in Africa: a strategic guide for entrepreneurs* (Utrecht: Berenschot, 2013), for example, Lem, Van Tulder and Geleijnse observe that the trade orientation of Dutch companies in Africa will have a detrimental impact on their competitive position in the long term. Investment strategies call for greater inclusiveness in networks of companies that supply each other with goods and services, which therefore also calls for a degree of corporate sustainability. That applies in particular to market and sourcing strategies.

43 Economic Institute for Small and Medium Enterprises, 2012.

According to a survey by CSR Netherlands, a knowledge and networking organisation that promotes corporate social responsibility, in 2011 30% of Dutch SMES said that they were not (yet) taking action in the area of CSR. More than half of the companies that took part in the survey indicated that they expected consumer demand for responsibly produced goods and services to increase, and three-quarters said that they needed help in achieving their CSR ambitions.

Dutch SMEs and social enterprises thus still make only a modest contribution to sustainable development in other countries. The number of companies that see sustainability as an interesting business case remains limited, and activities as yet focus more on trade than investment. Dutch companies do, however, recognise the growing importance of increasing the sustainability of chains and international activities.

III.3 Conclusion: businesses still in transition

As stated at the beginning of this chapter, according to the Dow Jones Sustainability Index, a small number of large Dutch companies are among the international leaders in their sectors.⁴⁴ But how significant is this? The companies do not always keep their pledges regarding corporate sustainability and sustainable development and their leading position also generates resistance.⁴⁵ The practical examples mentioned in the introduction show that steps taken towards corporate sustainability do not automatically take root.

Trailblazing companies themselves are still in transition too. For large companies, as for SMEs and financial institutions, the greatest challenge is to make the transition from a defensive approach that essentially responds to sustainable development as a threat, to a proactive approach in which it is embraced as an opportunity (and a good business case).

This transition can be supported by linking up explicitly with the recently adopted international agenda for sustainable development, so that businesses' own goals for corporate sustainability are aligned with the SDGs. To achieve this, it is necessary to articulate at national level by what means the Netherlands' contribution to the SDGs can be achieved, particularly by businesses. Not all the SDGs are equally applicable to the private sector and, as explained in chapter VI, it depends on the top sectors in which Dutch businesses can deliver added value.

Stakeholders and government policy have considerable influence on this transition process. Businesses face many obstacles, some of which are real and some primarily illusory. The following chapter describes some of these real or imagined obstacles, such as making chains sustainable, the lack of a level international playing field, competition law, and support from financial institutions.

44 For example, ING is one of the leading financial institutions.

45 See, for example, the article referred to earlier 'Unilever gaat gebukt onder Bono-complex', *Financieel Dagblad*, September 2015, <<http://fd.nl/ondernemen/1118426/het-bono-complex-van-unilever>>.

IV Dilemmas and challenges

IV.1 Making chains sustainable: an international challenge

In the previous chapter, the chain approach was suggested as a promising means of pursuing sustainable development. The focus is on the interaction within the chain, such as the purchase of raw materials to make a certain product, bringing it to market and, finally, its disposal as waste.⁴⁶ Chains should not only be seen in a vertical sense, but also horizontally, for example, in terms of relations between groups of producers.⁴⁷ Measures to improve sustainability are more effective if chains are divided into their various components, so that each can be examined to determine where sustainability gains are possible. Better oversight of the whole chain can ensure that gains in one component do not have detrimental effects elsewhere in the chain.⁴⁸

Larger businesses have a leading role to play in chain management, effectively acting as 'chain directors'. The Dutch Sustainable Growth Coalition, made up of leading Dutch companies, propagates this in terms of a three-stage rocket.⁴⁹ In the first stage, described as 'shape', the large companies make joint agreements on standards or on adopting a certain approach, for example, by offering knowledge on sustainable production methods to groups of farmers in developing countries. In the second stage ('share'), they try to get SMEs on board, for instance, by entering into partnerships with them or by publishing information on sustainable business models or creating a circular economy. The third and final step ('stimulate') relates to applying sustainable economic models.

This strategy brings with it a number of dilemmas. Firstly, it often leads to the introduction of quality marks that suppliers have to comply with. This may improve the social and ecological sustainability of the chain, but will not necessarily improve suppliers' economic position in the long run. They will in fact encounter greater barriers when they want to switch to other buyers who may apply other quality marks or sustainability criteria. Inclusive then becomes 'locked-in'. Since, for some suppliers, economic sustainability means a transition from specialisation to diversification, quality marks can also create barriers ('switching costs'). The Social and Economic Council of the Netherlands (SER) drew attention to this effect in its memorandum on sustainable chains.

46 A chain can be described as the 'full range of activities which are required to bring a product or service from conception, through the different phases of production (involving a combination of physical transformation and the input of various producer services), delivery to final consumers, and final disposal after use'. See: R. Kaplinsky and M. Morris, 'Handbook for Value Chain Research', International Development Research Center, September 2000.

47 Described by one of the interviewees as the 'landscape' approach (May 2015).

48 Social and Economic Council, 'SER unaniem over advies IMVO-convenanten', press release, The Hague, 2014. See: <<https://www.ser.nl/nl/actueel/nieuws/2010-2019/2014/20140425-ser-unaniem-over-advies-imvo-convenanten.aspx>>.

49 As the name suggests, the coalition focuses mainly on sustainable *growth*, which is not necessarily the same as sustainable *development*.

Another dilemma that emerged during the interviews relates to the Dutch Sustainable Growth Coalition itself: the success and legitimacy of such a coalition of frontrunners depends on the level of involvement of the weakest partner and on the effect that the coalition has at home (in the Netherlands). Some major leading companies said that their ambitions to operate sustainably at international level are hampered to a certain extent because they have to reach compromises within the coalition and are called to account internationally for the Netherlands' dilatory policy (especially on the environment).

A challenge of a completely different order is to make the chains more transparent. The role of small producers in developing countries – the so-called 'back of the chain' – is particularly opaque. There is increasing pressure from public opinion to increase transparency. The criticism aimed at Apple because of bad working conditions at one of its suppliers in China, or at the toy industry, which has faced allegations that plastic toys contain substances that can be harmful to children, is a case in point.

Chains can only be made more sustainable through an international effort. The Aid for Trade initiative, led by the World Trade Organisation (WTO), has been trying to achieve this for many years.⁵⁰ Within the EU framework, too, much more is possible. At an international conference in Amsterdam on 7 December 2015, also attended by European trade commissioner Cecilia Malmström, the Dutch government strongly advocated elaborating a European agenda for international CSR. This proposal will be discussed further at a combined meeting of European trade and development ministers on 2 February 2016.⁵¹

IV.2 The advantages and disadvantages of rankings

The Ministry of Economic Affairs has been using a transparency benchmark since 2004 to assess the extent to which businesses account for their CSR-related activities in their annual reports. An evaluation of this benchmark in 2013 concluded that transparency has improved in social reporting, especially since 2010.

It is difficult to say to what extent this can be attributed to the benchmark, given that other stakeholders also increased their transparency requirements in the same

50 The Fourth Global Review of Aid for Trade, for example, was devoted to the question of how development funds could help the least developed countries in particular gain better access to production chains. WTO, 8-10 July 2013. See: <https://www.wto.org/english/tratop_e/devel_e/a4t_e/global_review13_e.htm>.

51 'Sustainable development is a cornerstone of the EU's internal and external policies. And sustainable business is a driving force behind it. Today we concluded that all European stakeholders will join forces to put policy into practice. Stimulating sustainability in global value chains should be central to the external policies of the EU, and to its trade and development agenda in particular. This is in line with the G7 Leaders' Declaration of June 2015, which highlights responsible supply chains for sustainable development.' This was one of the conclusions of the international conference 'The EU and Global Value Chains', held in Amsterdam on 7 December 2015. See: <<http://www.euandgvc.nl/documents/publications/2015/december/7/conclusions-by-the-host>> and <<https://www.rijksoverheid.nl/ministeries/ministerie-van-buitenlandse-zaken/nieuws/2015/12/08/eu-volgt-nederlandse-aanpak-duurzame-handel>>.

period.⁵² In addition, businesses have been working more closely with stakeholders on their sustainability policies, making transparency and communication more important. Nevertheless, more than half of the Dutch businesses assessed by the benchmark show little interest in transparency.⁵³

The Dutch Association of Investors for Sustainable Development (VBDO) has devised a 'responsible supply chain benchmark' specifically for chains, which it has published nine times to date. In 2014, the VBDO decided to change the methodology of the benchmark, as it was becoming less effective. This was because companies were 'playing the ranking game', i.e. manipulating benchmarks so as to achieve a relatively high score – which is easier to do if the criteria do not evolve – without making real progress in their sustainability strategies.

Furthermore, scoring low in the rankings is not always an incentive for companies to try and do better. It depends on how the ranking affects their reputation. The VBDO wants to encourage companies to engage in a 'race to the top', and the publication of the new-style ranking in 2014, the supply chain management benchmark, was the first step in this direction.⁵⁴ Four companies scored higher than 75% in their sectors: Philips, Inditex, Heineken and Royal BAM Group. The benchmark remains a snapshot, however, and even a 100% score is no more than an indication of a relative lead in the transition to sustainable development.

In principle, the Ministry of Foreign Affairs endorses the use of indices and supports their further development, such as the Access to Seeds Index introduced this year.⁵⁵ Like the Access to Medicine Index, it aims to provide positive encouragement to companies by 'naming and faming' (rather than naming and shaming). The Access to Medicine Index, introduced in 2008 and published every two years, ranks this aspect of the sustainability of pharmaceutical companies' business models. When the fourth index was published in 2014, however, there seemed to be a kind of 'fatigue effect': the results did not sufficiently encourage either high-scoring or low-scoring companies to step up their sustainability activities. One problem with such indices is that they do not sufficiently tie in with the whole business model of the companies they rank. Consequently, management's willingness (and ability) to do more than respond defensively to a low score is limited.

52 See, for example, Directive 2014/95/EU on non-financial reporting. Under this directive, all companies with more than 500 employees must disclose information on non-financial matters, such as the environment, corruption, human rights and diversity. See: <<http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:32014L0095>>.

53 These are part of a fixed group of 'inconvertibles'. See the 2013 evaluation of the transparency benchmark by the Ministry of Economic Affairs.

54 VBDO, 'Responsible Supply Chain Benchmark 2014: a comparison of responsible supply chain practices of global multinationals'.

55 See Access to Seeds Index: <<http://www.accesstoseeds.org/>>.

IV.3 The lack of a level international playing field

How should companies respond when faced with competitors from countries with less stringent requirements for sustainable production? How can they take account of all the policy changes in the countries where they invest, and also here in the Netherlands? How can companies deal with unfair competition if they are relatively small actors in a chain and have hardly any influence?

These questions came up frequently in interviews with experts. The rise of emerging economies in Asia in particular makes it difficult to create a level international playing field for businesses. Europe and China set different standards for sustainability and for transparency within chains. Chinese businesses make up an increasingly large share of many international chains. A good example is the influence of China's state bank on the production of palm oil in Indonesia. Production standards in this chain can only be raised through international agreements and coordination but, as a small actor, the Netherlands can only exert limited pressure. Moreover, the political context is very complex.

An unequal playing field for businesses can also result from free riding, where countries – and businesses – benefit from others' achievements in terms of sustainable development without making a substantive contribution themselves. Australia, for example, was accused of free riding after it abolished the CO₂ tax and emissions trading.⁵⁶ One solution for this would be to make international treaties legally binding so that countries and businesses are obliged to cooperate; at the risk, of course, that treaties are not signed or their substance is watered down. Sharing costs can also reduce free riding. If it becomes cheaper or easier to address climate change or abide by human rights principles, countries and businesses will be more likely to do so.⁵⁷

Despite these challenges, there are indications that an uneven playing field is less of a threat to businesses than is often believed. First, demand for foreign investment is high in developing countries and European companies are often preferred to businesses from emerging economies, even though rates may be higher. Conversely, it is sometimes European businesses that are insufficiently interested in working with a local partner, as was recently the case with a mining project in Uganda, in which only a Chinese company was eventually prepared to invest.

Second, the belief that sustainable development raises production costs and therefore makes a company less competitive proves to be unfounded in practice. This is certainly the case for environmental policies; Tomasz Kozluk has shown that the burden of environmental costs on a company's competitive position is often overestimated. The cost of implementing environmental measures usually accounts for only a few percent of total production costs.⁵⁸

56 Africa Progress Panel, 'Power, People Planet: Seizing Africa's Energy and Climate Opportunities. Africa Progress Report 2015'.

57 Presidential address to the American Economic Association by William Nordhaus, 'Climate Clubs: Designing a Mechanism to Overcome Freeriding in International Climate Policy', 4 January 2014.

58 T. Kozluk, 'The Indicators of the Economic Burdens of Environmental Policy Design: Results from the OECD Questionnaire', *OECD Economics Department Working Papers*, no. 1178, 4 December 2014.

The costs of measures to protect the environment are not static. The more frequently they are applied, the cheaper they become. Furthermore, sustainability often encourages companies to review and restructure their production processes, which may lead to a more efficient use of natural resources and energy, and thus to cost savings. A recent comparison of OECD countries showed that a stricter environmental policy often does not diminish the competitive position of countries or business sectors. Although productivity at national level fell in the year in which environmental policy was stepped up, this effect had been offset within three years. In business sectors, stricter environmental policy led to a short-term increase in productivity, especially in technologically advanced sectors. This effect was also observed in individual companies, with only the least productive businesses experiencing productivity decline as a result of more stringent environmental policy.⁵⁹

An additional dimension that is relevant here is the degree of turbulence and insecurity about the direction regulation will take. Although some companies respond adroitly to changes in legislation, the majority benefit more from regulations that are strict but constant, rather than lenient but fickle. Stability and predictability of legislation and grants policies are more important for companies than the strictness of the rules. In the strategies of multinational corporations, such considerations play an increasingly important role in investment decisions.

All this means that, with regard in any case to environmental policy, there is scope for raising national ambitions without putting the future of sectors or businesses at risk. To take advantage of these opportunities, the government must have sufficient knowledge to anticipate the economic implications of a stricter environmental policy, which can vary from sector to sector. In the fields of social and economic policy (on tax regimes, the minimum wage, etc.), however, there is still fierce international competition and companies face greater challenges (and temptations).

IV.4 Competition law: the challenge of a broad concept of prosperity

To what extent does competition law impede private sector efforts to achieve sustainable development? When competition legislation does not permit businesses to cooperate, society may miss out on the 'sustainability dividend'. In 2010, the SER concluded that there is little evidence to support the claim that competition law frustrates sustainability initiatives on the ground.⁶⁰ And yet, the media regularly reports otherwise.

Competition law is based on article 101 of the Treaty on the Functioning of the European Union. Most European member states and the European Commission have their own

59 On the basis of a comparative study, Silvia Albrizio, Enrico Botta, Tomasz Koźluk and Vera Zipperer concluded that 'the tightening environmental policies have had little effect on aggregate productivity, spurring primarily short term adjustments. Nevertheless, they have led to various effects within the economy – the most technologically advanced industries and firms have seen a small increase in productivity, possibly being in the best position to adapt. Least productive firms have seen their productivity fall.' In: 'Do Environmental Policies Matter for Productivity Growth? Insights from new Cross-Country Measures of Environmental Policies', *OECD Economics Department Working Papers*, no. 1176, 3 December 2014.

60 SER, 'Making Sustainable Growth Work', advisory report, 2010.

competition authorities.⁶¹ In the Netherlands, the Authority for Consumers and Markets (ACM) is tasked with enforcing the law. As article 101 has direct effect, businesses themselves are responsible for ensuring that any agreements they intend to enter into do not violate the ban on cartels.

The Competition Act has no special provisions for cooperation agreements concerning sustainable development. A policy rule was, however, introduced on 8 May 2015 containing further implementation provisions that the ACM should use when assessing whether agreements that restrict competition are permitted. The policy rule states that a sustainability initiative may only restrict competition if it meets the following four criteria:

- it contributes to economic or technical progress;
- a relatively large proportion of the benefits fall to consumers;
- the agreement does not extend beyond what is strictly necessary;
- sufficient scope remains for competition ('residual competition').

These conditions must be considered together and for each case. The net effect of the agreements must be positive: they must lead to better products (in terms of innovativeness or quality) than would have been possible without cooperation. This also applies to initiatives to promote sustainable development. The agreements must lead to improvements in efficiency that are noticeable for consumers.

This narrow economic interpretation has been criticised by academics like Professor Tom Ottervanger, who says that 'short-term "efficiency" as the sole justification to allow restrictive cooperation between competing companies, is dangerous. Society is not served by the efficient depletion of raw materials for the benefit of a consumer for whom price is still the main criterion'.⁶²

In June 2015, a group comprising employers, trade and industry organisations, the environmental movement, human rights organisations and the CSR platform again expressed their concerns to the Minister of Economic Affairs. The core of their criticism is that the ACM presents a serious obstacle to agreements between businesses on more sustainable production, because it applies the rules too strictly and makes an incorrect appraisal of what is in society's interests. The ACM's response is that it must operate within the frameworks laid down in Dutch and European legislation on competition. It says that it is up to politicians to expand these frameworks if there is a need to do so. The academic literature points to the normative nature of sustainability ambitions.⁶³ Normative considerations and debates should be conducted by politicians and not by an organisation that should operate independently from political influence.

These criticisms had some effect. On 23 December 2015, the Minister of Economic Affairs announced amendments to the policy rule and invited stakeholders to respond to

61 For the European Commission, the Directorate-General for Competition, which since 2014 falls under European Commissioner Margrethe Vestager of Denmark.

62 Professor T.R. Ottervanger in his inaugural lecture on being installed as Professor of European Law and Competition Law at Leiden University, 'Socially Responsible Competition: Competition Law in a Changing Society', 19 March 2010.

63 J. Mulder, 'Op het snijvlak van onafhankelijkheid en openheid: wat is de rol van de ACM in een duurzame maatschappij?', *SEW Tijdschrift voor Europees en economisch recht*, 2014.

the changes through an internet consultation.⁶⁴ One of the amendments concerns the definition of the term 'consumers'. In assessing whether sustainability agreements are permissible, the ACM can now also consider their impact on society in a broader sense rather than solely how they affect the users of a product or service.

The new policy rule assumes that non-users (i.e. wider society) can also benefit from an agreement that, for example, produces positive environmental effects. In assessing whether an agreement will generate sufficient improvements in efficiency, the ACM may now consider not only future benefits, but also the avoidance of future costs (e.g. the fact that reduced CO₂ emissions will benefit consumers in the future because they will have to spend less on combating the negative impact of higher emissions). The policy rule also responds to another point of criticism on the ACM's current practice: it provides more clarity on what information businesses themselves can submit to the ACM as part of the assessment of sustainability agreements. Finally, the cases cited in the policy rule as examples will be updated to reflect the new situation.

For example, one case is described as follows: 'A current issue of discussion in the clothing industry is payment of a living wage to factory workers in third countries, such as Bangladesh. When the step from the current wage to a living wage is small, and the wage is only a small part of the price of the finished garment, this measure will have only a limited impact on the price and therefore on the company's competitive position. This is especially the case when businesses retain the freedom to compete on other parameters. In such a case, a collective agreement to increase pay to the level of a living wage would not directly lead to cartel formation'.

The AIV finds this an interesting case, but notes that the interpretation of 'a broad concept of prosperity' in this example is still fairly limited, in that it interprets consumer interests solely in terms of price (which may increase only minimally or not at all). It could also take account of, for example, the impact on market creation (rather than distortion), or use a broader interpretation of pre-competitive cooperation, international coordination and, especially, take account of the interests of the chain as a whole. It is now a matter of waiting for stakeholders' input in the internet consultation. In any case, the new policy rule will give the ACM more room for manoeuvre on a number of essential components in assessing sustainability initiatives.

IV.5 The importance of taxation of international business activities

Any assessment of how internationally operating businesses can optimise their contribution to sustainable development cannot ignore the elephant in the room: the widespread efforts of multinational companies in particular to minimise the payment of taxes on their international activities. As a consequence, governments – especially those of developing countries and emerging economies – continually miss out on significant revenues.

This is illustrated by the following data:

- According to calculations by the UN and the OECD, tax avoidance by multinationals costs governments worldwide USD 240 billion annually. Although the G20 in 2009

64 See: <<https://www.internetconsultatie.nl/mededingingenduurzaamheid>>.

called for an end to banking secrecy, the amount of money that large companies park in tax paradises has risen by a quarter.⁶⁵

- In 2014, pharmaceutical giant Pfizer saved USD 1 billion of a tax bill of USD 3.5 billion in the US through smart foreign constructions.⁶⁶
- In 2010, Global Financial Integrity estimated that developing countries missed out on an average of USD 107 billion a year between 2002 and 2006 as a result of tax avoidance, including trade mispricing.
- In 2013, Oxfam Novib estimated the losses to developing countries through tax avoidance by companies through the Netherlands at EUR 460 million a year.
- Recent research commissioned by the European Parliament shows that tax avoidance costs the EU EUR 50-70 billion a year. To put a stop to this, on 28 January 2016, European Commissioner Pierre Moscovici announced a package of measures to combat tax avoidance by multinational companies.⁶⁷

The AIV believes that this problem is highly relevant in the context of this advisory report. Sustainable development is not possible without well-functioning public authorities that can fulfil the various roles described in this report effectively, and that is only possible if they generate sufficient revenues from tax. Companies themselves also benefit in many ways from well-functioning public authorities. There is, nonetheless, still a long way to go.⁶⁸

The fact that a large share of tax avoided is done legally (through smart constructions and agreements with tax authorities) leads to the conclusion that governments themselves must share part of the blame. That also applies to the Netherlands which, with its comprehensive system of international agreements to avoid double taxation, is regularly referred to as being at the hub of a network of constructions to avoid paying taxes. The AIV notes here that the Dutch government has already started critically reviewing its international tax agreements, partly in light of the impact of tax avoidance on developing countries.

IV.6 The financial sector: promoting sustainable development?

In recent years, Dutch financial institutions have been increasingly investing in the development and application of business models for clients that devote attention to sustainable development. Nevertheless, the traditional incentive for financing – estimating risks, including reputational risk, and setting prices accordingly – still predominates.

65 W. Swan, 'Tax avoidance impoverishes us all: Fighting it requires challenging the powerful', *The Guardian*, 11 January 2016.

66 'Social saints, fiscal fiends', *Economist*, 2 January 2016, p. 48. This article spotlights the Netherlands and Ireland, mentioning standard constructions like Double Irish and the Dutch Sandwich.

67 T. van der Heijden and S. Alonso, 'Die handige trucs werken straks niet meer', *NRC Handelsblad*, 29 January 2016.

68 'Unless there is concerted global action to protect the revenue bases of both developed and developing economies, the Sustainable Development Goals developed by the United Nations are unachievable. There is going to be a long and difficult road for the UN to travel between its current Sustainable Development Goals aspirations and implementation of practical policy over the next 15 years.' *ibid.*, W. Swan in: *The Guardian*, 11 January 2016.

Performance in terms of sustainability is, however, increasingly a factor determining satisfaction for customers and employees, especially younger members of staff. A good score on national and international indices or rankings lowers the real or potential risk, reducing the costs of financing and supporting share prices.

According to a sector risk analysis of corporate social responsibility, banks and large investors like pension funds are involved in all conceivable CSR-related risks, including those of activities they have cofinanced in developing countries.⁶⁹ The institutions themselves emphasise that this is only 'indirect' and acknowledge responsibility only for their own local offices. They also point out that their influence on the businesses they have cofinanced depends on their relative share in the financing.

A recent report by the VBDO shows that the market for sustainable and responsible investment is expanding. In 2013, investments by Dutch individuals in sustainable savings products and investment funds grew by 11% to a total value of EUR 25 billion. According to the VBDO, that growth is encouraged to a significant extent by an increase in the number of sustainable investment products.⁷⁰

Impact investment is a new development in responsible investment, which involves providing credit to young businesses in developing countries, which contribute to sustainable development. A number of investors have committed themselves to the Principles for Investors in Inclusive Finance and have joined forces in a network set up by the Netherlands Development Finance Company (FMO) and the Netherlands Platform for Microfinance (NPM). The Dutch government supports projects by providing grants and seed capital through the FMO and Triple Jump.⁷¹ Private investors can choose from impact funds operated by banks like Triodos Bank or ASN Bank. ABN Amro recently launched a non-public Social Impact Fund that aims to invest EUR 10 million in companies that generate proven social returns. In addition, there are an increasing number of platforms for crowdfunding that are specifically aimed at sustainable development.⁷²

Financial institutions' policies on sustainable development are founded on two pillars: (i) formal, statutory, binding rules and (ii) voluntary self-regulation:

- The formal rules are based on the supervision by the Dutch central bank (De Nederlandsche Bank, DNB), on the basis of the Financial Supervision Act and the Old

69 KPMG, 'MVO Sector Risico Analyse: Aandachtspunten voor een dialoog', September 2014.

70 VBDO, 'Duurzaam sparen en beleggen', November 2014. See: <<http://www.vbdo.nl/report/Duurzaam-sparen-en-beleggen-in-2013>>.

71 A good example of impact investment is the Waka Waka Foundation, which provides people in Africa and elsewhere with solar-powered lamps. The Investment Fund for Health in Africa is a pioneer in attracting capital for investments in health care (pharmaceutical distribution, insurance, infrastructure, clinics). The investments supplement the Health Insurance Fund developed with the support of PharmAccess. This model aims to help Africans bear the costs of catastrophic health expenditures. In addition, a Medical Credit Fund has been set up which, with a guarantee from the Dutch government (through the FMO), attracts private investors to establish a credit guarantee fund for SMEs in the health sector. See also: <<http://www.inclusivefinanceplatform.nl/members/fmo>>.

72 E.g. the 1% Club, the Put Your Money Where Your Meaning Is Community (Pymwymic), Enviu and internationally Kiva and Toniic.

Age Pensions Act. These acts, and the decrees based on them, are regularly updated and modified in light of European and other international agreements (such as the Basel guidelines), by order of the Ministers of Finance and of Security and Justice.

The DNB's supervision of banks has two aims: to protect creditors (such as account holders and savers) and ensure financial stability. These two tasks are referred to as micro and macro supervision. The latter aim of supervision focuses on risk avoidance, and has gained considerably in importance since the crisis of 2008. The primary instrument is the annual stress test that banks perform themselves, the results of which are then assessed by the DNB. The test does address sustainability aspects, but mainly in terms of the extent to which they can be seen as risk factors.⁷³

A second institution supervising the operation of the financial markets is the Netherlands Authority for the Financial Markets (AFM). The AFM ensures that information provided to clients is fair and transparent (duty of care) and conducts evaluations. Information relating to sustainable development must therefore also be correct. In extreme cases, the AFM can impose bans directly under the provisions of the Financial Supervision Act, for example, the ban on financing activities at home and abroad relating to the production of and trade in cluster munitions.⁷⁴

- In the field of self-regulation, there is clear movement towards sustainable development. The ABP pension fund, for example, recently announced that, in the coming five years, it will liquidate all investments in businesses that do not meet the criteria for corporate sustainability. Financial institutions generally pursue an environmental and social risk policy, and increasingly apply the Equator Principles to investments. Since 2010 these principles have been developed under the auspices of the UN by 80 large financial institutions and banks (including a number from the Netherlands), in dialogue with knowledge institutions and NGOs. Although initially they focused primarily on climate and environment, the latest version (2013) also devotes considerable attention to human rights. The reporting does not include a ranking, but does note whether an institution complies with the principles on the basis of its own reports. Not surprisingly, all the institutions that have adopted the principles comply with them.⁷⁵

73 Unfortunately, sustainability initiatives are generally seen as more high-risk, as everything that deviates in some way from the existing, known world is considered complex or risky. That even puts financial institutions that specialise in sustainability at a disadvantage. In a different context, Triodos Bank CEO Peter Blom noted that, as a consequence of legislation introduced after the crisis in 2008, financial institutions are forced to be less innovative and that it would be 'unthinkable to start a bank now in the way we did in the 1980s'. *Financieel Dagblad*, 12 October 2015. See: <<http://fd.nl/ondernemen/1121893/peter-blom-banken-moeten-geen-protocol-machines-worden>>.

74 Article 21a of the Market Abuse Decree pursuant to the Financial Supervision Act, 12 October 2006, based on article 2 of the Convention on Cluster Munitions, 30 May 2008, Dublin.

75 Financial institutions endorse many other international agreements and quality marks to a greater or lesser extent, including the Carbon Disclosure Project and the Transparency Benchmark described in the previous section.

In the Netherlands, several organisations including Oxfam/Novib, Amnesty International, FNV, Pax and Friends of the Earth Netherlands, developed the *Eerlijke Geldwijzer* (Fair Finance Guide), a portal where consumers can compare the scores of financial institutions on aspects of corporate sustainability, including transparency. Bank scores are shown in the *Eerlijke Bankwijzer* and those of insurance companies in the *Eerlijke Verzekeringwijzer*. This leads to 'naming and shaming'. Some banks, however, are less motivated by this initiative, arguing that they have not been given sufficient opportunity to explain their actions, as a result of which the guide contains factual errors.

The above portrayal shows that, with a few important exceptions, financial institutions' sustainability policies are overwhelmingly passive, do not initiate action, and primarily driven by the desire to avoid risks. Often, they do little more than assess an investment proposal submitted by a client. On the positive side, financial institutions noticeably contribute to the development of innovative products that promote sustainable development, such as the provision of microcredit in developing countries and the development of mobile payment systems, health insurance, local life insurance, pension funds and cooperative credit institutions. However, they still have only limited capacity for assessing the financial sustainability of business models and partnerships.

The institutions are increasingly interested in financing social enterprises, but have difficulty determining what makes a good, sound business case. They have problems, for example, financing small companies that wish to grow. This results in a 'missing middle' of medium-sized businesses. They could also generate more financing for sustainable development by reducing the costs of remittances and other international payments by private individuals.⁷⁶

IV.7 Human rights: still a world to gain

Unlike ecological aspects, businesses still only take social and economic factors into account to a limited extent in their operational management. Too often, they do not take action until problems come to light. Despite the fact that many businesses and civil society organisations acknowledge the importance of addressing human rights, for many companies it is clearly still a step too far to do so proactively.⁷⁷

There is every reason to insist that businesses respect human rights. This can be seen as part of the Netherlands' duty to protect people from human rights violations. There are now sufficient instruments that support businesses in fulfilling their responsibilities in this respect. Examples are the Principles for Responsible Contracts,⁷⁸ which provide guidelines for negotiations on investment, or the recently developed UN Guiding

76 See AIV, 'Improving Global Financial Cohesion: The Importance of a Coherent International Economic and Financial Architecture', advisory report number 89, The Hague, July 2014.

77 An international questionnaire with 700 respondents shows for the sixth consecutive year that human rights is among the top three priorities for companies aiming to achieve corporate sustainability. See the 'Global Scan State of Sustainable Business Survey 2014', BSR.

78 See UN Doc. A/HRC/17/31/Add. 3.

Principles Reporting Framework, which provides comprehensive guidance for companies to report on how they respect human rights.⁷⁹

Reluctance in respecting human rights partly stems from businesses themselves. In his inaugural lecture at Erasmus University Rotterdam, Professor of International Business and Human Rights Cees van Dam devoted attention to the role of companies' legal departments, which regularly erect internal barriers to the implementation – together with other stakeholders – of more active strategies. The Dutch government's policy (as well as training programmes for company lawyers, for instance) should devote greater attention to such internal obstructive forces within businesses.⁸⁰

The Netherlands was one of the first EU member states to respond to the European Commission's appeal to draw up a National Action Plan on Business and Human Rights. The plan describes how the Netherlands intends to fulfil its obligation to provide protection against business-related human rights violations.⁸¹ Another innovative initiative is the development of voluntary agreements on international corporate social responsibility (ICSR) with the private sector and relevant institutions, aimed at identified risk sectors.⁸²

A good example is the agreement currently under negotiation in the textile and garment industry. Respect for human rights, especially by means of a living wage, better working conditions and strengthening trade unions and labour inspections, are the main focus of the agreement. The agreement is a direct response to the disaster in the Rana Plaza clothing factory in Bangladesh in 2013, which killed 1,100 people, mainly female workers, and injured thousands more. On 4 September 2015, negotiations began between trade organisations, government, civil society organisations and trade unions. The aim is a voluntary agreement for the textile industry, to be signed by all stakeholders in the spring of 2016, with a view to introducing far-reaching improvements in working conditions and terms of employment within the textile and garment chain. As the chain extends worldwide, implementation of the agreement will require coordination at regional level (including but not only in Asia, as Africa is also an emerging centre of the industry) and global level.⁸³

IV.8 Conclusion: still serious challenges despite promising developments

The practical experiences described above paint a mixed picture. A number of large Dutch companies score well on international indices for corporate sustainability. There is

79 See: <www.ungpreporting.org>. A large number of Dutch companies, including ABN and Unilever, already apply this form of reporting.

80 Professor C.C. van Dam in his inaugural lecture at the Rotterdam School of Management, 18 September 2015.

81 'Knowing' and 'showing' in the National Action Plan on Business and Human Rights, December 2013.

82 Chapter V.3 examines this in greater detail.

83 See SER, 'Kleding- en textielsector werkt aan convenant over internationaal MVO', 14 September 2015: <<https://www.ser.nl/nl/actueel/persberichten/2010-2019/2015/20150914-imvo.aspx>>, and letter from Minister for Foreign Trade and Development Cooperation Lilianne Ploumen to the House of Representatives on developments in the textile sector, 13 November 2015.

also a middle group of businesses that approach corporate sustainability primarily from a defensive angle, to prevent damage to their reputation. These companies introduce codes of conduct, guidelines and quality marks in order to manage and mitigate risks. The general impression that the AIV obtained from the interviews it conducted is that a large group of Dutch businesses at the tail end of the peloton is still performing below par on sustainability.

Experience shows that all enterprises – large, small and medium businesses and financial institutions – generally find it easier to incorporate ecological aspects into their business models than social aspects, especially human rights. Progress is being made in the latter domain, but with considerably more difficulty and through a process of trial and error. The interviewees pointed out that, at both national and international level, there is still insufficient linkage between the discourse and the instruments for promoting the private sector's contribution to human rights in the context of the sustainable development goals.

Even large companies considered to be international pioneers in their sectors have not succeeded in making their operations fully sustainable. It is a recurring challenge for them to coordinate their internal and external operations towards sustainable development. This is further aggravated by the fact that, internationally, there are still large differences in legislation, encouraging companies to push the limits. According to Pieter Leroy, Professor of Political Sciences of the Environment at Radboud University Nijmegen, the recent fraudulent practices at Volkswagen revealed the lack of justification for 'eco-modernistic' theories: as if 'the market' could solve our environmental problems through a combination of smart technology on the supply side and environmentally-aware and well-informed citizens on the demand side. In Leroy's words, 'the case of Volkswagen shows how illusory these assumptions are, and point to the need for independent expertise'.⁸⁴

It is up to government to uphold minimum standards through the right mix of legislation and, at the same time, to encourage businesses to transition towards corporate sustainability. This will be explored in the next chapter.

84 P. Leroy, 'Mark Rutte sloeg bij de VN de plank pijnlijk mis', *De Volkskrant*, 29 September 2015.

V Support by the Dutch government

V.1 Four roles

The previous chapters described some challenges for Dutch policy in supporting the sustainability ambitions of Dutch enterprises. Alongside its primary task of regulation, the government has a wide range of interventions at its disposal. Four roles are described below,⁸⁵ which in any case need to be increasingly coordinated at European level as well as with international actors.

Experience shows that phasing and coordinating interventions is more important than their scale. A varied approach has proven to be most effective, with interventions being coordinated and implemented in parallel or sequentially, or sometimes even in competition with each other to promote learning experiences and test what works best.

The government performs the following four roles:

- **Regulation:** besides permitting, this task includes drafting legislation and regulations, for example, to prevent pollution. The government can use legislation as a corrective and regulatory tool. Internationally, the scope for legislation and coordination is limited. Experience shows that, generally speaking, legislation leads to reactive sustainability strategies.
- **Facilitation:** governments can facilitate sustainability measures through grants, supportive legislation, knowledge institutions, and support channelled through embassies. Facilitation mainly serves to help organisations invest in new technologies and organisational forms for which there is no feasible business case in the short term. If it has the net effect of generating social added value, this is a generally accepted form of public intervention.
- **Encouraging partnerships:** the government can develop joint initiatives in the form of public-private partnerships. Such partnerships can help companies to embed their corporate sustainable development strategies in society. A grant-based relationship is insufficient if, for example, multiple actors are necessary to create the institutional preconditions for success. Partnerships come in a variety of forms, from formal to informal, from contractual relationships (public-private partnerships) and voluntary agreements to stakeholder dialogues.
- **Endorsement:** this includes promoting transparency in markets or publishing best practices. It is the lightest form of government intervention, yet it is seldom used. The role of government here is that of a 'market manager' striving actively or less actively to create sustainable markets. If the government introduces criteria and quality marks itself, it does so on the basis of its legislative and facilitating roles. The disadvantage of this strategy is that it may support erroneous or insufficiently ambitious practices (i.e. corporate sustainability from a defensive viewpoint). By taking an active approach to its role as market manager, the government can address the problem of information asymmetry in the markets it finds important, for example by ensuring transparency in quality marks. This can have the effect of creating a level

⁸⁵ This categorisation is based on studies by the World Bank, the OECD and others (see also the publication by Rob van Tulder, 2013). A fifth role could be added, namely the government acting as 'launching customer' or as a market party, for example in procuring goods. The following chapter shows how the government could set a more effective example than it does at present.

playing field and initiating a race to the top, without the need for legislation. It does, however, require transparency to be accompanied by clear minimum requirements and a classification of 'best-in-class' initiatives.

A 2013 study by the Policy and Operations Evaluation Department (IOB) used the same classification of government roles to explore what impact existing instruments had on the degree to which companies fulfilled their social responsibilities (which in this case can be equated with sustainability).⁸⁶ The study found that exceptionally little research had been conducted into this question. From the literature, the IOB concluded that internationally oriented government policy in the area of sustainable development can generally be divided equally over the four forms of intervention. It ascribed the most positive effects to facilitation and entering into partnerships. The other two roles, regulation and endorsement, showed mixed and even negative results. It should be noted, however, that endorsement was often used on such a moderate scale that the intended effect was not achieved.

What the IOB study also revealed was that the different roles and interventions reinforce each other: legislation is the 'stick', and facilitation, partnerships and endorsement the 'carrot' (to varying degrees). In addition, interventions proved to have a greater effect when the government was not the only actor, with businesses, civil society organisations, research institutes and local communities also involved in decision-making.

One aspect pointed out to the AIV was that in practice these roles are often performed in specific phases. For example, the pre-competitive phase is aimed at facilitating and subsidising initiatives. A flywheel is set in motion and the government acts primarily as a catalyst. In the competitive phase, the government focuses mainly on compliance, ensuring that the partners deliver what they promise, financially and qualitatively, and on conducting impact assessments.

V.2 Changes in foreign policy

In 2010, the Ministry of Agriculture, Nature and Food Quality (the most international sectors of the Dutch economy) and the Ministry of Economic Affairs were merged to form the Ministry of Economic Affairs, Agriculture and Innovation, which was renamed the Ministry of Economic Affairs in 2012. In that same year, a Minister for Foreign Trade and Development Cooperation was appointed and the Directorate-General for Foreign Economic Relations was moved from the Ministry of Economic Affairs to the Ministry of Foreign Affairs.

The aim of restructuring the ministries in this way was to achieve greater coherence in the Netherlands' foreign policy and establish a clearer link with the private sector. At the same time, there were cutbacks on many budget items, the government's relationship with both the private sector and civil society was defined more clearly and new policy instruments were introduced, including a separate facility to support public-private partnerships (PPPLab). Changes are still taking place within the ministries, but they are less drastic than in the past decade.

⁸⁶ IOB, 'Corporate Social Responsibility: The role of public policy. A systematic literature review of the effects of government supported interventions on the corporate social responsibility (CSR) behaviour of enterprises in developing countries', study no. 377, Ministry of Foreign Affairs, The Hague, April 2013.

There was little criticism of this restructuring of policy areas. Criticism focused mainly on the austerity measures that were being introduced at the same time and the lack of an overall vision. Supporters of the reforms pointed to the need to modernise policy, while opponents spoke of capital destruction because of the dismantling of knowledge and networks that had taken many years to build up. Both sides, however, called for elaboration of the 'big picture'.⁸⁷ There seemed to be general agreement on the need for a thorough revision of Dutch foreign policy and the instruments it used.

The greatest changes are taking place in the Netherlands' relationship with developing countries. The overarching aim of the changes is to achieve greater synergy between aid and trade. This is in the first instance described as 'economic diplomacy', an approach based on the need for a clear interest for the Netherlands and for realistic opportunities for the Netherlands to exert some influence.⁸⁸

Economic diplomacy has a principled and an economic component. The concept was launched in 2011 on the previous website of the Ministry of Economic Affairs under the motto 'more economic diplomacy, fewer grants'. In a letter to parliament on 8 April 2011 on the modernisation of Dutch diplomacy, the government expressed the ambition that policy would become 'more modern, more flexible and cheaper'.⁸⁹ Development cooperation, for example, would focus on fewer partner countries (ten) and fewer sectors (concentrating mainly on water and food supply). In the government's words, 'we will focus on what we do and choose the most fertile setting in which to do it'.

The main challenge now is to integrate policy areas like trade, foreign relations, supporting Dutch companies abroad, and development cooperation. This requires effective use of the missions (embassies, consulates and Netherlands Business Support Offices).

Decisive steps have already been taken in implementing economic diplomacy, both institutionally and in terms of introducing policy instruments. However the AIV still sees scope for strengthening the link between trade, development cooperation and top sectors policy. This would require the development of a common framework for the various policy components, preferably jointly with a concrete plan of approach on how the Netherlands intends to contribute to the SDGs in the years to come. The Netherlands' national policy would also benefit from an explicit link to the international agenda for sustainable development, as it would promote the much-demanded shift

87 Major changes always cause unrest. When embassies in a number of countries (including Zambia) were closed, for example, Dutch employers protested fiercely through their umbrella organisation the VNO-NCW. More recently, the four largest cofinancing organisations (MFOs) protested against the fact that they are being forced to dismiss between a quarter and a half of their staff, because – since 1 January 2016 – they no longer receive institutional funding from the Ministry of Foreign Affairs. The new rule has affected the smaller MFOs differently (see a forthcoming report by the Partnerships Resource Centre, 'The State of Partnership Report 2015: Development CSOs under Siege', Rotterdam).

88 Van Dooremalen and Quadvlieg, 'Nederlandse economische diplomatie heeft overkoepelende visie nodig', *Internationale Spectator*, 64 (2), 2010, pp. 77-80.

89 Letter of 8 April 2011 from the Minister of Foreign Affairs to the House of Representatives on modernising Dutch diplomacy. Parliamentary Papers, House of Representatives, 2010-2011 Session, 32 734, no. 1.

towards a reinvigorated and thriving Dutch economy.⁹⁰

V.3 Voluntary agreements on ICSR under preparation

The AIV is following with interest the progress of the discussions on the voluntary agreements on international corporate social responsibility (ICSR) that are being concluded with businesses active in 13 sectors identified as high risk. The initiative follows an advisory report published in 2014 by the SER.⁹¹ The report observed that, as a consequence of globalisation, Dutch businesses operating abroad are increasingly confronted with complex or unacceptable working conditions, such as child labour, the illegitimate seizure of farmland, or damage to vulnerable ecosystems.

That is why the Dutch government, representatives of employers' and employees' organisations, consumers and CSOs have been urged to join forces and tackle these problems in a structured manner. The process of naming and shaming can then be replaced by a more constructive approach of 'naming and faming' (or 'knowing and showing').

The voluntary agreements on ICSR aim to help businesses implement the OECD Guidelines for Multinational Enterprises and the UN Guiding Principles on Business and Human Rights.⁹² In concrete terms, the parties involved examine together where ICSR risks are greatest within the selected sectors, and seek to resolve them in the medium term (three to five years) for groups that suffer the negative consequences. The Netherlands has taken the lead in implementing voluntary agreements on ICSR and the previously mentioned international conference in Amsterdam on 7 December 2015 aimed to initiate a similar policy development in Europe.⁹³

According to the government, it is up to businesses in the first instance to take the initiative to conclude voluntary agreements. If they fail to do so, other stakeholders can encourage them to take on this responsibility. Voluntary agreements on ICSR are drafted on the basis of mutual trust and a constructive attitude among the various parties involved. There is no legislation to enforce compliance with the agreements.

In response to the above-mentioned SER advisory report, the government has laid down a target of concluding ten voluntary agreements with at least ten Dutch firms and sectors

90 This could result in interesting dilemmas, given the fact that the Netherlands still lags behind on sustainable, local energy generation and the transition to sustainable agriculture (as noted in chapter II.1).

91 SER, 'Agreements on International Responsible Business Conduct', advisory report, April 2014.

92 Voluntary agreements offer the government the opportunity to fulfil its duty to protect through various roles. Firstly, it is involved as the convening party, bringing together the various parties, from companies to trade unions. A second role is to develop knowledge on ICSR. This helps the parties to develop strategies for dealing with ICSR risks. A third role for the government, as formulated in the letter to parliament on interim reporting on voluntary agreements on ICSR, is to enter into dialogue with sectors on chain responsibility. The fourth role is to spread the concept of voluntary agreements on ICSR abroad, partly with a view to promoting a level playing field globally.

93 Several European countries are making clear efforts to translate sustainability into concrete policy, including 'the fit five' (the Scandinavian countries and Switzerland) already mentioned in chapter II.1.

by 2017. The agreements should enjoy broad support and set out concrete measures. An interim report published on 10 July 2015 showed that voluntary agreements are under preparation in the banking and textile sectors, and negotiations are under way in six sectors. Five sectors are in the exploratory phase and three (pension funds, agriculture and horticulture, and oil and gas) have not yet taken any action.

The voluntary agreements on ICSR are a potentially powerful instrument to support companies' sustainability strategies, especially in the field of respecting human rights, which proves so difficult to realise in practice. The pace will, however, have to be increased if the target of ten voluntary agreements is to be achieved by 2017. In addition, the criteria used to select the 13 high-risk sectors need to be thoroughly re-examined. The number of indicators may need to be increased.

With regard to implementation of the voluntary agreements, there is a danger that they will be driven primarily by risk and compromise, so that consultations may ultimately result in little more than a 'lowest common denominator'. That would hardly challenge those lagging behind, while likewise offering frontrunners little benefit and possibly even hampering them. This will especially be the case when stakeholders enter into voluntary agreements for defensive reasons. Government should therefore manage voluntary agreements carefully, and strike a good balance between its roles as legislator and facilitator.

The main point of concern for the AIV is whether the agreements made – even if they are formulated in realistic terms – will be sufficiently complied with in practice. Recent examples show that even companies that are taking the lead in their sectors have great difficulty in putting their corporate sustainability strategies into practice, especially when it comes to respecting human rights. It is thus important to continually ask to what extent the initiative can lie with companies or whether the government should play a stronger regulatory role.

For that reason, it will be necessary to monitor the progress made under the voluntary agreements, partly to see whether they genuinely encourage companies and civil society organisations to make the transition to corporate sustainability, on their own or in a joint effort. The voluntary agreements must not, in any case, present an obstacle to that process. One benchmark of success could be the extent to which voluntary agreements on ICSR lead to innovative partnerships.

V.4 The rise of public-private partnerships

Partnerships have a central role to play in the Dutch government's new foreign policy. It not only tries to encourage partnerships between companies and civil society organisations through grant programmes, but has itself increasingly become a partner. Its efforts have focused primarily on sectors like food security and water, in which the Dutch private sector has a strong presence. Since 2007, 54 widely varying partnerships have been set up in the Netherlands in the context of the Schokland and Millennium agreements.

NGOs, companies and donors (including the Netherlands and Switzerland) work together in the Sustainable Trade Initiative (IDH) to make resource chains more sustainable. The Dutch government co-funds the IDH with a grant of more than EUR 100 million. The initiative has adopted a mainly top-down approach aimed at developing quality marks. Another large-scale chain initiative is 2SCALE, which takes a more bottom-up approach. The government also finances Access to Medicine, a not-for-profit organisation

that publishes an index to encourage pharmaceutical companies to improve access to medicine for the poor.

Under foreign trade and development minister Lilianne Ploumen and her predecessor Ben Knapen, more policy instruments have been initiated to create more specific, closer links between strong Dutch sectors and the needs of developing countries. These instruments primarily facilitate public-private partnerships (PPPs) in the fields of water and food security, with more than EUR 300 million being invested to date (see annexe VI for brief descriptions of some of these initiatives).

The parties to a partnership must complement each other and encourage each other's contribution. A partnership in which one partner mainly provides the money while the others implement the partnership's activities soon tends to resemble a client/contractor relationship. PPPs can have strategic value for companies and provide a measure of stability, making them less dependent on the policy environment and more flexible in their response. This certainly holds true for international partnerships. Partnerships create institutional links that can help fill the institutional vacuum in developing countries.

Partnerships enable a small country like the Netherlands to make a difference through targeted interventions. For a forthcoming publication, Rob van Tulder and Ton Dietz examined more than 60 PPPs in Africa – multi-stakeholder projects that primarily take place in countries where there is a Dutch embassy. One striking feature is the participation of a wide range of actors, including companies, civil society organisations, public and semi-public institutions and knowledge institutions. Additionally, most of the projects are bilateral, with only a few involving multiple countries. The researchers investigated whether it was possible to conclude from this rapidly expanded portfolio of activities that Dutch diplomacy in Africa is focused on sustainable development. They found that initial steps have been taken, but policy is as yet insufficiently integrated.⁹⁴

V.5 Conclusion: moving towards diplomacy focused on sustainable development

The challenge for the Dutch government is to fulfil its various roles in relation to businesses as well as possible and develop the instruments it needs to do that. Effectively combining these four roles – legislator, grant provider, partner and market manager – makes high demands on coordination. This applies, for example, in government's relationship with Dutch businesses, which do not always feel that their strategies – even when they are aligned with the government's sustainability ambitions – are supported by a consistent and well-organised government. In this regard, it would appear that the transition has not yet been completed.

In the opinion of the AIV, the policy of economic diplomacy as pursued in recent years has not taken full advantage of the opportunities to advance sustainable development. The economic interests of Dutch companies needs to be linked more explicitly to the sustainable development goals. There is a need for a common agenda that expresses how the Netherlands, and especially the Dutch private sector, aims to contribute to achieving the SDGs. The instruments to support the endeavours of Dutch companies in this area should be adapted accordingly.

94 A.J. Dietz and R.J.M. van Tulder (forthcoming), 'Duurzame Diplomatie Gevraagd', African Studies Centre, Leiden.

VI Stepping up government support

VI.1 Working more closely with other actors in the ‘Dutch Diamond approach’

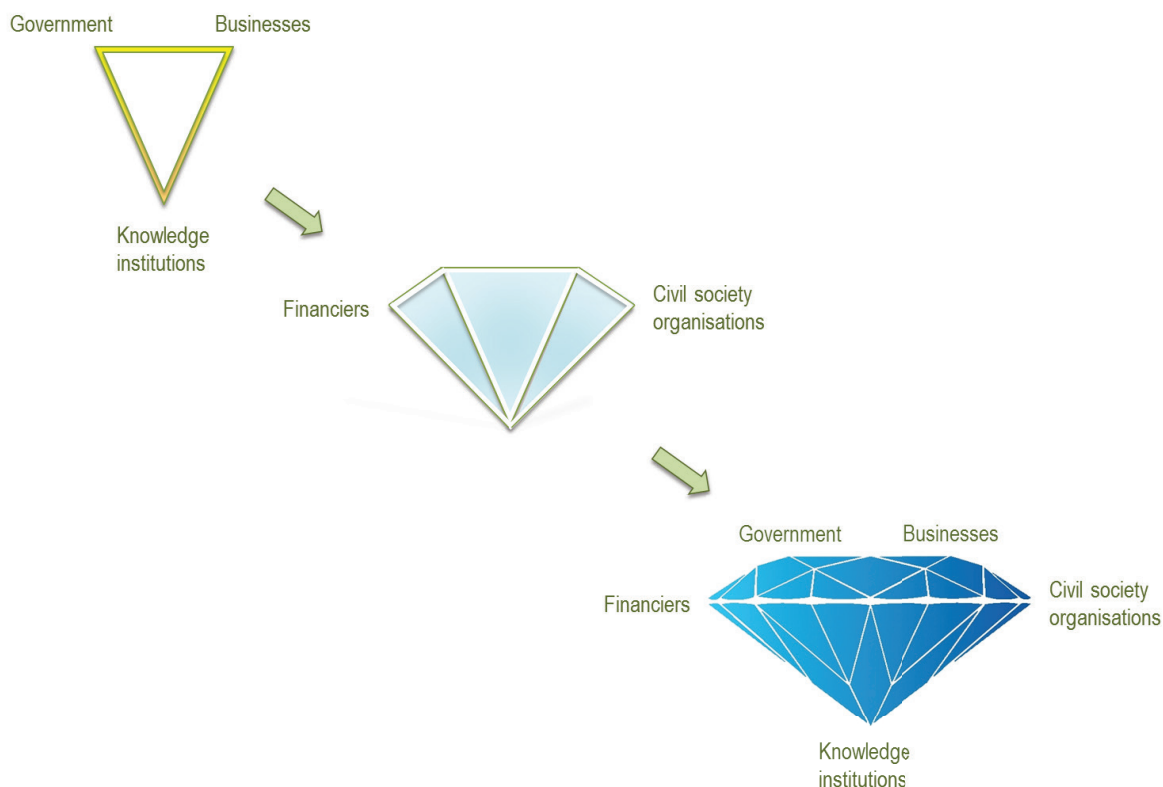
As mentioned in the previous chapter, the main challenge for Dutch foreign policy is to integrate the policy areas of trade, foreign relations, development cooperation and support to Dutch companies. This requires effective use of the missions abroad (embassies, consulates and Netherlands Business Support Offices).

Dutch policy on mobilising and stimulating businesses to embrace sustainable development is based on the premise that economic diplomacy focused on sustainability can strengthen the competitive position of the Dutch private sector in areas for which there is considerable demand in developing countries. Here there are opportunities for Dutch companies vis-à-vis, for example, businesses from emerging economies. The Confederation of Netherlands Industry and Employers (VNO-NCW) calls for a form of ‘sustainable development cooperation’, using the strengths of businesses, knowledge institutions *and* civil society organisations in areas in which the Netherlands has expertise, to promote developing countries’ self-reliance.

There is widespread agreement within the government that solving sustainability issues demands close cooperation with partners and good internal cooperation. In practice, however, working methods sometimes vary considerably. While the Ministry of Foreign Affairs talks about a ‘Dutch Diamond approach’ and focuses its efforts on wide-ranging cooperation between government, companies, CSOs and knowledge institutions, the Ministry of Economic Affairs and its policy on the top economic sectors refer not to a diamond but to a ‘golden triangle’, an alliance between knowledge institutions, public authorities and the private sector. Civil society organisations are not automatically part of this triangle and have to fight for recognition of their role, especially in discussions at national level.

This situation needs to be clarified. Given the complex nature of sustainability issues and the great variety of circumstances in which sustainability initiatives are deployed internationally, the AIV recommends the participation of the broadest possible range of stakeholders. Not in a triangle – in an alliance between the government, businesses and knowledge institutions – nor in a rectangle – comprising CSOs and representatives of employers, employees, and trade and industry – but in a true five-point diamond formation, with financial institutions also included in the consultations. They, like the government, are to a large extent accountable for the conditions in which the activities of companies, citizens and knowledge institutions take place (see figure 2):

Figure 2: **The complex nature of sustainability issues demands a multi-actor approach**



As the example of the forthcoming voluntary agreement on ICSR in the textile sector shows, the importance of such a multi-actor approach goes further than the need to involve all the relevant stakeholders. This is because of the networking function of the whole, the creation of lateral bonds that strengthen the capacity to solve sustainability issues and contribute to policy coherence. These relationships, as well as innovative solutions, will be necessary in order to achieve the SDGs.

The AIV points out that the intended Dutch Diamond strategy will come under pressure if its most important carriers – and especially civil society organisations, which fulfil an important advocacy role in calling for change – cannot respond adequately to new policy, either because of severe budget cuts or because they are unable to adapt quickly enough to diplomacy focused on sustainable development. Further institutional deepening within the Ministry of Foreign Affairs and the missions will also be required to enable greater policy coherence.

In 2015, for example, a new Inclusive Green Growth Department was set up to better manage ‘nexus’ projects involving interrelated policy areas, such as water, climate, food security and energy. One of the main challenges for this department will be to effectively deploy and coordinate the government’s main roles and ensure that there are sufficient internal competencies to bring the various actors together.

This is partly a procedural role, but also calls for considerable competencies in the policy areas concerned and a good command of various partnership techniques. Another important condition for effective policy is the way the policy and the associated long-term goals are framed – in consultation with *all* relevant actors that can make or break

sustainability (see the concluding section of chapter II). Financial contributions play a less decisive role; predictability and vision are more important.

In what area the Netherlands offers the greatest (diplomatic) added value in international terms in implementing the SDGs is still a point of discussion. With a view to establishing a close link between the Netherlands' top sector policy and the international agenda for sustainable development, the AIV would propose that CSOs and financial institutions be actively involved in formulating and making policy.

Looking ahead, the government's roles in this multi-faceted Dutch Diamond will increasingly be those of broker, partner and facilitator, in close consultation with the other partners in the diamond. That is why there are lateral bonds between all five sides of the diamond, so that the government will less often be steering developments on its own.

VI.2 Encouraging the financial sector to embrace sustainable development

In response to the financial crisis of 2008, the regulatory pressure on financial institutions has increased strongly, so much so that the CEO of Triodos Bank, which presents itself as a pioneer of corporate sustainability, has stated publicly that regulation is in danger of going too far and is, on balance, obstructing innovative financial institutions and services.⁹⁵ The AIV observes the following dilemma:

- on the one hand, there is impatience with the slow pace at which sustainable development principles are being adopted by the financial sector, leading to the realisation that criteria for the SDGs and companies' contribution to them are not matters for self-regulation;
- on the other hand, there are doubts whether supplementary legislation for the financial sector will boost contributions to sustainable development and not have unintended negative consequences. This uncertainty is fuelled by the awareness that far-reaching transitions are taking place in the financial sector (such as crowdfunding and the sharing economy). The legislative process is by definition slow and sometimes lags behind these developments and, even worse, may 'fossilise' obsolete structures and systems and frustrate innovation.

Currently, the Dutch government is not a professed supporter of tighter regulation, preferring to encourage more self-regulation. In the context of ICSR, it is working with the financial sector on a voluntary agreement that will contain provisions on sustainability policy with regard to financial services. The AIV understands this standpoint, but at the same time urges the government:

- to ensure that the provisions in the voluntary agreement on transparent reporting are as concrete as possible with regard to both the direct and indirect activities of the various kinds of financial institution, and for both domestic and international activities;
- to continue to advocate, as a party to international and European legislative processes, that sustainability criteria are included and tightened in supervision arrangements, and to beware of the possible unintended negative consequences of excessive regulatory pressure;
- to continue to use its authority to lay down binding decisions under the Financial Supervision Act to combat particularly distressing practices;

95 Interview with Peter Blom, CEO Triodos Bank, *Financieel Dagblad*, 12 October 2015.

- to press internationally for exploration of the scope for rewarding institutions that finance sustainability measures by reducing their risk profile.⁹⁶

With regard to international tax avoidance, tax evasion and illegal transfers, further tightening of international and national legislation is unavoidable. The AIV has previously called for the Netherlands to voice its support for the further operationalisation in respect of transfer pricing of ECOSOC's Committee of Experts on International Cooperation in Tax Matters.⁹⁷

VI.3 The importance of venture capital

In another context and with a view to the way grants are awarded, the Netherlands Environmental Assessment Agency (PBL) recently focused attention on what it called 'the valley of death for eco-innovation in the Netherlands'.⁹⁸ By this, the PBL meant the phase between the development of knowledge and market acceptance of a product. There are some grant programmes available for the first phase and commercial financing is usually feasible for the third, but financing problems are most severe in the middle phase.⁹⁹

Eco-innovations are at a disadvantage as long as no cost is attached to the negative environmental impacts of other technologies and cleaner technology is not rewarded more generously (progressive norm-setting). The PBL therefore states that it would help if the government were to formulate 'a clear long-term ambition for greening the economy, support this ambition with predictable policy, and provide for more venture capital aimed at eco-innovation'.

This applies equally to investment by Dutch businesses in developing countries aimed not only at eco-innovation but also social innovation. As mentioned previously, the Netherlands scores relatively high on the Young Firm Entrepreneurial Activity Index and innovative start-ups with plans in developing countries are relatively highly motivated. A number of Dutch civil society organisations are also increasingly focusing on business-based social investment projects. This presents an opportunity.

However, government programmes to encourage this kind of desirable investment in developing countries contain the same 'valley of death' as programmes to support innovation in the Netherlands. In addition, not all innovations fit the existing programmes for partnerships and chains. The three sub-programmes of the Dutch Good Growth Fund do not provide venture capital. The DGGF is a revolving fund and therefore has a conservative risk profile. The same applies to the Emerging Markets Facility and to support provided through Finance for International Business. It is therefore worth

96 At European level, for example, the way in which the risk of property and capital is assessed (Risk Weighted Assets) under the Capital Requirements Directive (CRD IV) was recently changed to encourage banks to finance more infrastructure projects. The risk assessment criteria have been adjusted downwards so that banks do not need to retain as much capital for this form of credit provision.

97 AIV, Financing the International Agenda for Sustainable Development, advisory letter no. 27, April 2015.

98 Netherlands Environmental Assessment Agency, 'De vallei des doods voor eco-innovatie in Nederland', March 2015.

99 The 'valley' becomes visible if the chances of success and survival are shown as a curve on a timeline.

considering developing a special facility aimed at making venture capital available for start-ups delivering products and services that promote sustainable development in low- and middle-income countries.

VI.4 Further encouraging the human-rights dimension of sustainable development

In this area, too, the AIV sees opportunities – and a need – for the Dutch government to raise its ambitions to a higher level.

Legislation: experience shows that few governments are as yet willing to play a more active regulatory role in the areas of human rights and corporate sustainability. Yet it must be noted that, when it comes to respecting human rights, there are certain limits to self-regulation. Governments, in developing countries too, are compelled to establish a clear baseline through legislation and ensure that it is complied with.

There are more and more examples of good practices. The California Transparency in Supply Chains Act, for instance, requires businesses to report on their actions to combat human trafficking in their supply chains. Another example is the duty of care imposed on businesses in the United States by the Dodd-Frank Act.¹⁰⁰ France is preparing legislation that will make due diligence in the field of human rights compulsory for French businesses. In the Netherlands, Utrecht University is currently conducting a study for the Ministry of Foreign Affairs into the situation with regard to the duty of care of businesses in the Netherlands.

It is also encouraging that the Dutch government intends to ratify the Protocol to ILO Convention no. 29 on forced labour. This will commit the Netherlands to support due diligence by businesses and ensure support for the victims of human rights violations.

Internationally, the effort to achieve a legally binding agreement on human rights and corporate sustainability is important. In July 2015, a working group set up under the auspices of the UN met for the first time. EU member states are acting jointly in this initiative. At the start, the EU formulated a number of conditions to be met, including the caveat that a future agreement must apply to all businesses and not only to transnational companies. Another point that certainly needs to be emphasised is improving access to justice for victims of business-related human rights violations. The negotiations are expected to be protracted and require a lot of coordination, but the first steps have been taken.¹⁰¹

Endorsement and facilitation: Here, too, the Dutch government is not yet making full use of the available possibilities. According to the UN Guiding Principles, governments should use their procurement policies to help improve the human rights situation in both national and international supply chains: when entering into contracts, they should

100 The Dodd-Frank Act requires that companies conduct a due-diligence review when using certain 'conflict minerals' from Central Africa. Similarly, the European Timber Regulation requires that companies determine the origin of timber that they use.

101 First meeting of the UN Open-Ended Intergovernmental Working Group, which has a mandate to formulate a legally binding instrument on transnational corporations with respect to human rights, *ibid.*, Professor N.M.C.P. Jägers, 'Access to Justice for Victims of Corporate-Related Human Rights Abuse'.

ensure that the contracting businesses respect human rights.¹⁰² The Dutch government spends some EUR 60 billion per year on procurement and central government alone has more than 70,000 suppliers.¹⁰³

Not only can public procurement policy set a good example, it can also encourage businesses to respect human rights. Since 2013, public procurement must meet with a number of social criteria. This also applies to government support in the form of grants. Such criteria are a powerful instrument for the government to encourage sustainable development.

In 2014, the policy of imposing social criteria on government procurement was evaluated.¹⁰⁴ The evaluation showed that the criteria are still only being applied somewhat summarily and non-committally and are only partly in line with the OECD Guidelines. In addition, the complex rules for implementation negatively affect their application.¹⁰⁵ It is recommended that procurement policy and all forms of government support be subject to clear and unambiguous CSR conditions based on the UN Guiding Principles.¹⁰⁶

Similarly, the Netherlands Institute for Human Rights stated in 2014 that there is a need for greater uniformity in the conditions for government support for international activities. The institute called for standard assessment of businesses' compliance with the OECD Guidelines and clear communication to the businesses concerned when and how these assessments take place.¹⁰⁷

There is also room for improvement in the area of awareness-raising and education. The human-rights dimension of sustainable development is a challenge for many businesses. Many are still unfamiliar with instruments that can help them, like the UN Guiding Principles and CSR Netherlands' risk checker, and with organisations like Global

102 UNGPs, Principles 5 & 6.

103 CSR Netherlands.

104 See *Evaluatie Sociale Voorwaarden Rijksinkoopbeleid*, Berenschot, October 2014.

105 Minister for the central government sector Stef Blok has pledged to explore how the recommendations of the policy evaluation can be taken up. He has set a deadline for this study to be completed by April 2016.

106 In August 2015, a representative of CSR Netherlands speaking on *BNR Nieuwsradio* described a procurement procedure for the delivery of carpeting for government buildings. In the points system used to compare the different quotes, the aspect of fully recyclable carpets was worth 50 points, compared to 600 points for the price. In other words, the government felt that a low price for the product was 12 times more important than its sustainability. This places companies that have integrated sustainability into their business models and therefore have to charge a slightly higher price in a very disadvantageous position.

107 See section 4.1 of the Netherlands Institute for Human Rights' advisory report on the National Action Plan on Business and Human Rights, 28 February 2014, <www.mensenrechten.nl>.

Compact and CSR Netherlands.¹⁰⁸ The AIV recommends that the government step up its role of providing information in this area.

VI.5 Further development of public-private partnerships

Support for partnerships appears to be growing slowly but surely and a substantial policy and assessment framework has been built up for the various partnership facilities. Organisations like RVO.nl, various embassies, the Ministry of Foreign Affairs and assessment committees play a constructive and professional role in the whole. Some participants still see these procedures as part of a learning experience, but they are learning very quickly. Many of the organisations involved still work according to the old grant-driven paradigm, as result of which the majority of project proposals are rejected.

Since they were introduced, the PPP facilities have generated hundreds of proposals, some 15-20% of which have ultimately proved eligible for support on the basis of fairly detailed criteria. This 'partnership and project check' addresses such issues as the business case, a full partnership between the participating parties, the extent to which they pursue common goals, demand in the recipient country, and the quality of the intervention logic. Embassies play an indispensable role in selecting proposals – sometimes as initiators of a project, and almost always a co-assessor of the feasibility of those proposals that meet the threshold criteria. In the Netherlands, RVO.nl also plays an important supporting role.

From the companies' perspective, the following points deserve to be addressed:¹⁰⁹

- the approval procedure can be further improved; there is a need for greater clarity about the feasibility of projects in an earlier phase of the procedure;
- partnerships that most closely tie in with the core activities of the participating parties score better; in order to better differentiate between more and less committed partners, government should have more of the competency required in-house to assess the business models of the intended partners and the partnership;
- companies involved in partnerships often find the Dutch government's FIETS criteria, which comprise the five dimensions of sustainability,¹¹⁰ difficult to work with. In practice, however, they offer an important guarantee that the partnership will achieve the intended sustainability target;
- by no means all Dutch parties that could potentially participate in the intended partnerships register their interest;
- by no means all countries with which the Netherlands would like to establish sustainable relations in the areas of water and food security are reached by the PPP instrument. The AIV recommends conducting a gap analysis of countries that could

108 Global Compact has developed guidance for companies on integrating sustainability into their business models.

109 This section is partly based on interviews with the AIV and partly on evaluations conducted by the Partnerships Resource Centre to assess the first round of PPP facilities: the Sustainable Water Facility (FDW) and the Facility for Sustainable Entrepreneurship and Food Security (FDOV). See 'The Applicant's Perspective: Survey Results of the FDOV and FDW Facilities' and 'The People's Perspective: Making Communities a Success Factor for Partnerships', Partnerships Resource Centre, both published in 2014.

110 FIETS = Financial, Institutional, Ecological, Technical and Social.

be better reached. The successful Ghana Wash Window initiative, a separate water facility in cooperation with the government van Ghana, deserves to be reproduced in other core countries;

- the role of the ministry (or the embassy) remains somewhat ambiguous, especially if it is the only 'public' partner in the partnership – a situation in which its roles of applicant, assessing body and implementing body converge. In addition, local authorities are rarely partners in the projects, which may have a negative impact on the long-term feasibility of partnerships;
- the PPP facilities devote increasing attention to an adequate risk analysis. What appears to be important is that the analysis is based on not only ICSR criteria,¹¹¹ but especially on a combination of strategic and sustainability criteria;
- a final important point of attention for partnerships is market distortion. This touches on the issue of competition discussed in general terms in chapter IV. Partnerships can distort markets, but are nevertheless important to ensure that sustainability initiatives are maintained. An important condition is that the partnership is innovative and effectively creates a 'new' market, either for a new product or for a new need (i.e. more sustainable development). In the AIV's opinion, these questions can best be answered in the context of international chains. There should be different arrangements for chains that are internationally oriented and for those that are more nationally oriented.¹¹² The same distinction could be made between chains that are more or less sustainable. In a partnership strategy, some degree of market distortion may be justified, for example because international actors with large financial resources enter domestic markets, but this should be explicitly stated when legitimising the partnership.

VI.6 Conclusion: the government's roles need to be strengthened

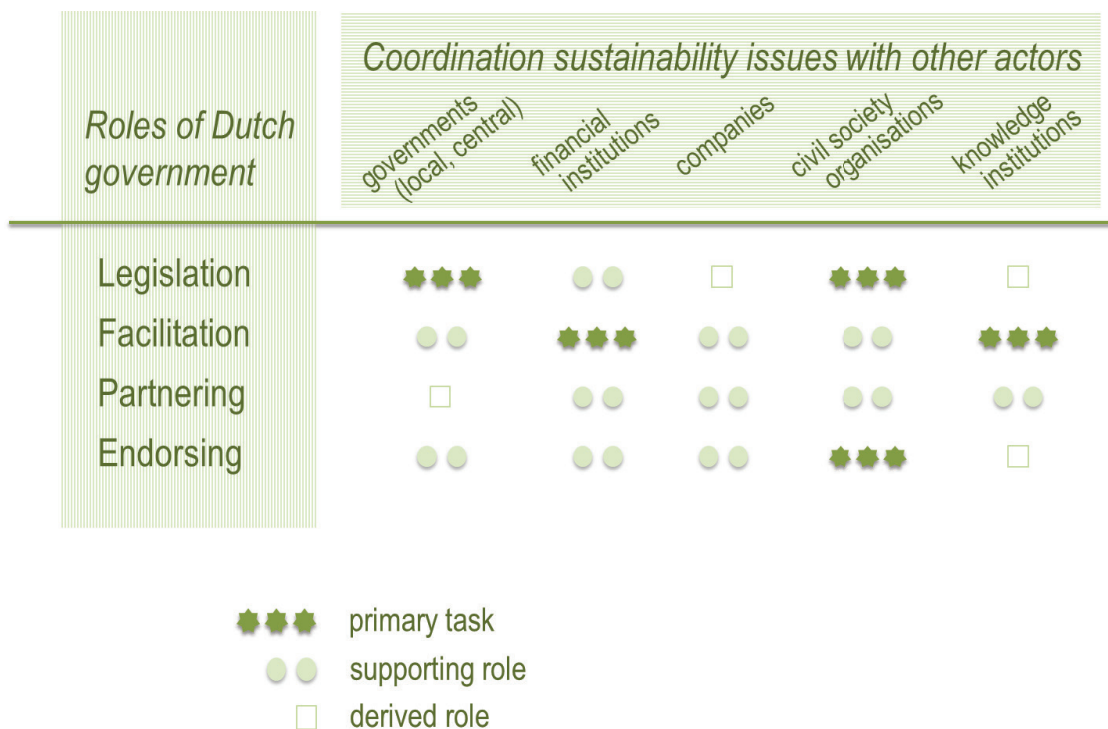
The Dutch government has set itself the goal of responding as effectively and efficiently as possible to the diverse needs of Dutch companies operating abroad. It is clear that wearing the four different caps of legislator, partner, grant-provider and market manager is not always easy and raises dilemmas. Nevertheless, it can be concluded from the experiences noted by the AIV that many interesting initiatives have been set in motion and that the contours of a convincing policy on sustainable development are in place. It is understandable that problems of adjustment arise.

Figure 3 shows the primary and secondary roles of the Dutch government and where coordination with other actors is required. It would probably be expedient to formulate the different policy initiatives along these lines. Gains can be expected from close coordination and especially from combining roles.

111 The facilities and Dutch policy in general lay heavy emphasis on these criteria: see, for example, CSR Netherlands' CSR risk checker and the KPMG risk analysis that provided the basis for identifying 13 risk sectors and the setting up of voluntary multi-actor groups to address them.

112 That would, however, raise other questions, such as what criteria apply in cases that fall under national or international competition law and what body decides what legislation is applicable. After all, the competition authorities in individual EU member states, like the ACM in the Netherlands, only have jurisdiction in their own national territory. One option would be to consider establishing a European authority for sustainable development.

Figure 3: Support by the Dutch government demands close coordination



More specifically, the various roles can be strengthened as follows:

- **Regulation:** it is vital to seek to join forces at EU level in pursuit of a more level international playing field. On its own the Netherlands can only exert limited pressure in this area, so it needs to cooperate in international forums. Promoting sustainable development is one of the main priority areas of the European Commission's Work Programme for 2016. In bilateral agreements, the Netherlands' credibility will be in jeopardy if they do not contain sufficient provisions on the sustainability of public goods (human rights, environment, fair trade). The renegotiation of double taxation agreements is therefore an important test case for the Netherlands' legitimacy in other areas.¹¹³ Another key issue is that adequate consideration be given in TTIP to the sustainability agenda. The government is right to actively pursue this point.
- **Facilitation:** it is not the scale of grant flows that is necessarily decisive, but their direction and nature. All points of the proposed five-point diamond need to be strengthened. After all, the civil society organisations involved may also be expected to fulfil their roles effectively. It would also be advisable to link the top sectors policy explicitly to the international agenda for sustainable development and the SDGs. The role of the embassies needs to be strengthened where necessary, especially in institutionally weaker countries.

113 Double taxation treaties (DTTs) play a role in the Netherlands' position and reputation as an alleged tax haven. Developing countries have become increasingly critical about the role of DTTs in allowing companies to divert tax money to low-tax regimes. Using Malawi as an example, the Ministry of Foreign Affairs is currently renegotiating DTTs with 23 other countries. With sustainability playing an increasingly important role in the talks, they are essentially an example of sustainable diplomacy.

- Partnerships: the AIV observes that the combination of the roles of grant-provider (facilitation) and partner could be improved. In practice, they are too often mixed together. In addition, more emphasis should be given to the recent trend to link partnership projects with each other. Here, too, an explicit link to the SDGs would be a logical step.
- Endorsement: in the AIV's opinion, the Dutch government still makes insufficient use of endorsement. More could probably be achieved through market management and identifying sustainability initiatives nationally and internationally, as well as by creating a sufficiently ambitious level playing field in various sectors so that companies are supported in their race to the top. The government could play an important role in ensuring, through funding and knowledge flows, that voluntary agreements on ICSR do not result in weak compromises that only set minimum sustainability requirements. Of another order is a critical look at the government's own procurement policy. As stated earlier, this policy should devote greater attention to human rights, and there seems to be scope for weighing sustainability more heavily in public procurement. This would enhance the government's credibility. In relation to sustainability quality marks, the AIV believes that the government could pursue a stronger role as domestic market manager. It should especially focus on making the market for sustainable products more transparent and combating market-distorting initiatives such as the introduction of misleading quality marks by companies themselves.

VII Conclusions and recommendations

VII.1 Conclusions

In September 2015, the UN General Assembly adopted a comprehensive agenda for sustainable development, with related goals on a better environment, climate action and improving well-being and human rights. The new agenda applies to all countries and achieving the SDGs will require close coordination, nationally and internationally.

The complexity of the agenda calls for new forms of cooperation. Its implementation will depend on the participation of a wide range of actors. Besides central and local authorities and international institutions, major efforts will be asked of companies, civil society organisations, knowledge institutes and financial institutions. Together, they form the public domain that is responsible for achieving the SDGs. In other words, governance is no longer the sole prerogative of public authorities, but takes place in interaction between all those involved.

The AIV acknowledges that a number of large Dutch companies are international pioneers in their contribution to sustainable development. Their intrinsic motivation to incorporate sustainability in all parts of their operations reflects a transition that is also taking place in society at large: from a defensive approach to sustainable development as side issue, to awareness that a society based firmly on sustainability is the only way to safeguard prosperity and economic development now and in the future.

However, these pioneering companies still run up against stiff restrictions. None of them can boast a fully sustainable business model. Their good intentions are hampered by the reality of competition and the market. For these companies, too, it is an ongoing challenge to reconcile their internal business interests with sustainable development. The AIV also observes that small and medium enterprises, social entrepreneurs and financial institutions still contribute little to sustainable development outside the Netherlands.

Especially in respect of human rights, companies fail to fulfil their responsibilities in important areas. They may be showing a greater interest in the working conditions and terms of employment of their own employees and, increasingly, of other companies in the supply chain, but that attention seems to be driven mainly by defensive considerations. Fear of reputation damage and liability risks are important incentives. The UN Guidelines may have acquired the status of a 'regulatory ecosystem for business and human rights',¹¹⁴ but compliance by companies is still voluntary. The AIV therefore welcomes the steps that have been taken internationally to create a legally binding agreement on human rights and corporate sustainability.

In the AIV's view, another point that merits attention is the financial sector's 'wait-and-see' attitude regarding the financing of initiatives promoting sustainable development. With the exception of certain pension funds (e.g. ABP) and institutions like the FMO, Triodos Bank and ASN Bank, the sector is still giving little priority to sustainable

114 According to Professor John Ruggie at the 3rd UN Forum on Business & Human Rights, Geneva, 3 December 2014.

development. Particularly undesirable is the large-scale tax avoidance by multinational companies. This costs governments worldwide, and especially those in developing countries, billions of dollars every year. The AIV calls on the government to give its full support to the measures recently proposed by the European Commission in this regard.

Now that the international agenda for sustainable development and the SDGs have been laid down, Dutch policy needs to be aligned to the agenda in terms of what the Netherlands is to achieve domestically and through its foreign policy. Devoting attention to the expected contribution of Dutch businesses will encourage them to mirror their corporate sustainability strategies to the sustainable development agenda.

The Dutch government has launched a number of interesting initiatives to support Dutch businesses that are active abroad in making the transition to corporate sustainability. Two prominent instruments are public-private partnerships and voluntary agreements on ICSR in high-risk sectors. Nevertheless, the AIV is of the opinion that the government is not yet tapping the full potential of its economic diplomacy policy. The link between trade and development cooperation and the top sector policy, for example, could be made more robust.

The government's fourfold role as legislator, partner, grant-provider and market manager makes high demands on coordination – not only within the Ministry of Foreign Affairs but also in its relations with other ministries and actors. Experience shows that the timing and coordination of interventions is more important than their scale. A varied approach proves to have the greatest effect.

With regard to partnerships as instrument, the AIV observes that it is difficult for the government to combine the role of grant-provider (facilitation) and partner. It is important to prevent government's role as partner from negatively affecting its other roles and responsibilities. In a partnership, other actors may cease to see the government as standing above all the parties involved. The partner role can also negatively affect the government's motivation to tighten up legislation. The AIV considers that this demands constant vigilance and action.

The role of market manager also needs to be further developed. The AIV notes that current competition policy (legislation) is currently inadequately linked to the tasks of facilitation and, perhaps, endorsement of partnerships. This calls for a wider concept of prosperity (see chapter IV.4) and, as experience of partnerships shows, a different assessment and perhaps also a different definition of 'market distortion'. A partnership intended to contribute to sustainable development may distort the market in the short term but can also create a new market in the long term and thus prevent a race to the bottom.

In response to the specific questions in the request for advice, the AIV concludes as follows:

- **Lack of a level playing field:** This situation, caused by globalisation and the economic emergence of Asia, presents an extra challenge for Dutch companies which find themselves faced with competition from businesses that work under other legal frameworks and have a different perspective on sustainable development. And yet it also presents opportunities. Experiences in relation to the environment have shown that the absence of a level playing field can also work as an incentive to use innovation to acquire a better competitive position. Sooner or later, all countries will have to play the sustainability card. Imposing increasingly strict requirements

encourages companies to adapt and innovate so as to remain both sustainable and competitive. The better businesses benefit from this. But it does not change the fact that action must be taken to create a level playing field, which will only be possible if legislation and monitoring of compliance are harmonised internationally.

- Public-private partnerships: Promising experiences disguise the fact that many partnerships are still a work in progress when it comes to sustainability. A positive aspect of the Dutch approach is that the government supports and initiates a wide range of initiatives. That may have led to fragmentation, but also offers good scope for experimentation. At the moment, programmes' internal focus is mainly on the efficiency and effectiveness of individual partnerships. What is missing is a regular, systematic (internal) study of possible gaps across the board – a study addressing all the components of the agenda for sustainable development.
- Competition law: the request for advice assumes that current legislation on competition is a stumbling block for many sustainability initiatives. That is not always the case. The interviews conducted by the AIV show that the restrictive nature of competition law can be seen partly as an 'emotional factor'. More is possible than businesses are aware of or prepared to admit. It is important that a clear distinction is made between what is and what is not permitted. The AIV expresses its appreciation for the fact that the government has entered into consultations on this issue with the market parties concerned. The AIV would also note, however, that the broad concept of prosperity used is still relatively limited and that more scope could be provided for weighing aspects such as market creation (rather than market distortion) and for a broader understanding of pre-competitive cooperation, international coordination and especially the interests of the chain as a whole.

VII.2 Recommendations

On the basis of these findings, the AIV advises the Minister for Foreign Trade and Development Cooperation as follows:

To provide regulation where self-regulation is inadequate, nationally and internationally

- Given the importance of sustainable development for society at large and the fact that companies are served by clear legislation, the AIV advises the Dutch government to (continue to) give priority to its regulatory task in its efforts to achieve the SDGs over its other roles of facilitating, stimulating partnerships and acting as market manager.
- This regulatory role demands international coordination, starting at EU level. The AIV calls on the government to continue to advocate common frameworks with European partners, UN bodies like the Human Rights Council and international financial institutions, in at least three areas:
 - Making international chains more sustainable and creating a level playing field: as a follow-up to the international conference 'EU and Global Value Chains' and the joint meetings of European ministers for development cooperation and trade (on 7 December 2015 and 2 February 2016 respectively, both in Amsterdam), the AIV strongly urges the Dutch government to work towards an EU action plan by, for example, initiating a broad discussion with European partners (companies, trade and industry organisations, and experts on sustainable development and competition law) on the legislative obstacles reported by those in the field, with the aim of making legislation more transparent and creating the conditions for a level playing field. Further harmonisation of competition law at European level is a special point for attention.

- Respect for human rights: Given the observed limitations of self-regulation in this area, the AIV advises the government to give its unreserved support to the creation of an international legally binding agreement on human rights and corporate sustainability.
- Combating tax avoidance: The AIV also advises the government to give its full support to implementation of measures recently presented within the EU to curb tax avoidance by multinational companies. A special concern here is further harmonisation of certain elements of competition law.

To use the Dutch Diamond and actively involve the relevant actors

- The AIV advises the government to ensure that, besides companies and knowledge institutions, civil society organisations and financial institutions are also actively involved in formulating and implementing policy. This will help optimise the effectiveness of the Dutch Diamond approach.
- The AIV urges the government to closely monitor progress on the voluntary agreement on ICSR in the financial sector to ensure that it includes concrete provisions on transparent reporting.
- The AIV advises that other layers of the public sector also be actively involved in the plans for implementing the agenda van sustainable development. The authorities in large cities have internationally relevant expertise on, for example, urban agglomerations in delta and coastal areas threatened by climate change.

To ensure that diplomacy is more focused on sustainable development

- Businesses and the wider public should be made more aware of the international agenda for sustainable development and of what contribution the Netherlands is expected to make, in what areas and by whom. The AIV notes that it is worth considering drawing up a vision document that stands above political and other parties and explains how the Netherlands will contribute to achieving the SDGs in the years ahead.
- Linked to this, the AIV calls for the international agenda for sustainable development to be explicitly taken into account in foreign policy alongside economic interests, and for policy instruments to be aligned with this agenda. The social aspects of sustainable development, especially human rights, should be emphasised.

To take more account of its own role in setting an example

- Demanding that companies and the wider public make every effort to contribute to sustainable development is only credible if the government itself sets a good example. In the opinion of the AIV, the government still falls short in this regard. It must address major issues, like pressure on the environment (through energy generation, water management, etc.) and the government's own procurement policy. The AIV recommends that the government take more serious account of the role it plays in setting an example in the area of sustainable development and show initiative by taking coherent action.

Annexes

Request for advice

Professor Jaap de Hoop Scheffer
Chairman of the Advisory Council
on International Affairs (AIV)
P.O. Box 20061
2500 EB The Hague

Date 31 December 2014
Re Request for advice on the private sector's role in achieving sustainable development goals

Dear Professor De Hoop Scheffer,

The government is writing to ask the AIV's advice on how the private sector can optimise its contribution towards achieving international sustainable development goals.

The question is an important one, because the private sector has become an increasingly significant and influential partner in development cooperation. Of the world's 100 largest economic entities, 40 are companies – not countries – and for governments, achieving sustainable development goals is difficult without private sector knowledge and expertise. The increasingly significant and influential role played by businesses has correspondingly increased their opportunities to focus on sustainable development goals, and a number of businesses have recognised and shouldered this responsibility. They are motivated not only by a desire to act in the public good, but also by enlightened self-interest; for instance if the secure supply of raw materials is threatened. The public's demand for more transparent production processes is also encouraging businesses to adopt a more sustainable approach.

Dutch businesses operating internationally are contributing in many ways towards the achievement of sustainable development goals. Moreover, they are expected to exercise due diligence by complying with the OECD Guidelines for Multinational Enterprises, which incorporate the UN Guiding Principles on Business and Human Rights, to prevent poor working conditions, child labour, damage to the environment, corruption and human rights violations in their supply chains as much as possible. Interestingly, an increasing number of businesses are showing a deeper commitment to corporate social responsibility. They are developing innovative business models to ensure they proactively contribute to increasing global sustainability, for instance by reducing poverty and protecting the environment. In light of the above, the government asks the AIV to draw up an advisory report on how companies doing business internationally can optimise their contribution towards achieving sustainable development goals. This principal question can be divided into three sub-questions:

1. What opportunities and obstacles does the business community face when seeking to increase or optimise its contribution towards achieving sustainable development goals? This could include issues like the lack of a level playing field or insufficient market power in production and marketing chains. What can the Dutch government do to encourage and assist the private sector in this regard?
2. What role do public-private partnerships (PPPs) play in achieving sustainable development goals? Can PPPs sufficiently ensure sustainable development goals are achieved?

3. What obstacles can legislation, and competition law in particular, create for businesses aiming for more sustainable production processes? Please see the explanatory notes (Annexe 1) for greater detail.

The government looks forward to receiving your report.

Yours sincerely,

Lilianne Ploumen
Minister for Foreign Trade and Development Cooperation

Explanatory notes

The World Summit on Sustainable Development (WSSD), held in Johannesburg in 2002, gave a major boost to the role played by the private sector in achieving sustainable development goals. Public-private partnerships (PPPs) came into the picture as a way of better defining this role. Ten years later, at the UN Conference on Sustainable Development (UNCSD/Rio+20) in Rio de Janeiro, the responsibility of the private sector – along with other players – was even more clearly recognised. It was decided that business needed to shoulder its responsibility of achieving greener growth, with a focus on sustainable development and poverty reduction. PPPs are an important instrument in making this a reality.¹

The Rio conference also noted that the private sector requires government support to carry out this task. Government must devise policies and enact legislation that enable business to promote sustainable development, for instance by making it easier to invest in clean energy technologies.

In recent years, increasing attention has been paid in the Netherlands to the role the private sector could play in helping solve societal problems. The EU research and innovation programme Horizon 2020, with its ‘grand challenges’, serves as a good example of what the Netherlands could do. The way the Netherlands looks at societal challenges is shaped mainly by the government’s top sector policy, in which government, the private sector and knowledge institutions work closely. The Advisory Council for Science and Technology Policy (AWT) believes that government must demonstrate even more vision and commitment in charting a course for the other parties involved.²

Public-private partnerships are a specific instrument allowing the private sector to work together with other partners to achieve sustainable development goals. PPPs are cooperative undertakings between government and business for which both parties assume the risk and responsibility, and where both sides provide resources and expertise. In the Netherlands, this form of cooperation has existed since the 1980s.

The general focus of the type of PPP that has existed since the 1980s has been on creating or improving public or social infrastructure. The type of PPP proposed at the World Summit on Sustainable Development in Johannesburg in 2002 was different, with a focus on broader development goals. The Dutch government has played a strong role in encouraging this type of PPP.

The government’s policy of creating synergies between trade and aid was a new stimulus for establishing PPPs, especially for the food security and water priorities. In 2014 the Ministry of Foreign Affairs, together with a number of external parties, created the PPPLab, a project which aims to increase understanding of how PPPs work and the role they play.³ These efforts to increase expertise around PPPs are in keeping with a recommendation made by the Policy and Operations Evaluation Department (IOB) in

1 For more information, see: <<http://www.un.org/en/sustainablefuture/>>.

2 AWT, Waarde Creëren uit Maatschappelijke Uitdagingen [Create Value from Societal Challenges], The Hague, 2013.

3 PPPLab Food & Water, Public-Private Partnerships: a Brief Introduction, The Hague 2014, p. 25.

2013.⁴ Two concerns raised in the IOB evaluation are relevant to the question of what contribution the private sector can make to towards achieving sustainable development goals. The first is the need to measure the impact of PPPs on pre-agreed goals, as current information on PPP effectiveness is rather sparse.⁵ The second is the need for a sustained involvement in PPPs on the part of the Dutch government to protect the public aspect of such partnerships. In the IOB's view, this involvement must above all be expressed through establishing and maintaining systems (including safety, quality and accessibility standards, etc.).⁶

However, even when the private sector is encouraged to contribute towards achieving sustainable development goals by improving production processes, legislation can still stand in the way. One example is competition law, intended to prevent cartels, abuse of dominant market position by individual companies, and unwanted market concentration created through mergers and takeovers. Cartels come about when businesses enter into agreements with one another on production levels and prices; preventing such agreements is in the consumer's interest, as prices are kept lower.

However, the ban on agreements can sometimes conflict with attempts to improve production methods in the interest of corporate social responsibility. Corporate social responsibility means, by definition, setting standards that go beyond those legally required. For businesses, this means it is more attractive for entire sectors – rather than individual companies – to commit to higher standards.

This leads to the question of whether there can be exceptions to competition law for agreements between businesses to make production more sustainable. In competition law, the question is to what extent non-economic interests constitute grounds for such an exception. In recent years, demonstrably more attention has been paid in the Netherlands to the role of non-economic interests when applying this law.⁷

However, there is still insufficient scope for businesses to enter into agreements on greater sustainability in various areas. These include more transparency on the origin of raw materials, preventing child labour and increasing the sustainability of food production.⁸

4 That is, 'Systematic analysis of PPP performance could provide more insights in the success and failure factors underlying PPP effectiveness.' IOB, *Public-Private Partnerships in Developing Countries: A Systematic Literature Review*, The Hague, 2013, p. 13.

5 *Idem*, p. 45.

6 *Idem*, p. 39.

7 See Social and Economic Council (SER), *Making Sustainable Growth Work*, 2010. For more on this issue, see Tom Ottervanger, 'Socially Responsible Competition: Competition Law in a Changing Society'.

8 For this last topic, see the parliamentary committee meeting on food of 9 December 2014.

List of abbreviations

ACM	Authority for Consumers and Markets
AIV	Advisory Council on International Affairs
CSR	Corporate social responsibility
DNB	De Nederlandsche Bank
EU	European Union
ICSR	International corporate social responsibility
IOB	Policy and Operations Evaluation Department
SME	Small and medium enterprise
NGO	Non-governmental organisation
OECD	Organisation for Economic Co-operation and Development
PBL	Netherlands Environmental Assessment Agency
PPP	Public-private partnership
RVO.nl	Netherlands Enterprise Agency
SER	Social and Economic Council of the Netherlands
UN	United Nations
VBDO	Dutch Association of Investors for Sustainable Development
VNO-NCW	Confederation of Netherlands Industry and Employers

List of experts consulted

Experts consulted	Organisation
Ms L. van Beek	VNO-NCW
R. Bierens	FMO
Dr K. Boone	Sustainability Consortium
H. Byrnes	VP Product Integrity, Royal Ahold
P. d'Angremond	CEO of the Max Havelaar Foundation and member of the Global Operations Team of Fairtrade International
R.G. Dijksterhuis	Manager of the International Cooperation Department, Netherlands Enterprise Agency
Ms A. Heilen	Global External Affairs Manager, Unilever Nederland
Ms R. van Heiningen	AkzoNobel
P. Hupperts	Partner at The Terrace
J.A. de Koning	Economic Adviser / Head of External Relations, Unilever Nederland
Professor S. Lavrijssen	University of Amsterdam
Dr H.F. Massink	Directorate-General for Foreign Economic Relations (DGBEB), Ministry of Foreign Affairs
T. van der Put	Sustainable Trade Initiative
J.J. Roodenburg	Ambassador for Business and Development Cooperation, Ministry of Foreign Affairs
V. van Spengler	Consultant
A. Veneman	Corporate Director, Sustainability & HSE, AkzoNobel
Ms S. Vermeulen	Consultant, Human Cities Coalition, AkzoNobel
M. Vernooij	Member of Management Team / Strategic Policy Adviser, Sustainable Economic Development Department, Ministry of Foreign Affairs
J. de Visser	Senior Category Manager, Ahold
M. Visser	VNO-NCW
M.F. van Wissen	Lawyer, Linklaters LLP

Annexe IV **The international Sustainable Development Goals**



1 NO
POVERTY



2 ZERO
HUNGER



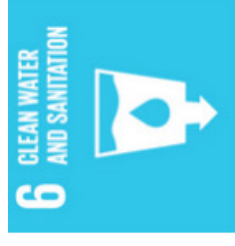
3 GOOD HEALTH
AND WELL-BEING



4 QUALITY
EDUCATION



5 GENDER
EQUALITY



6 CLEAN WATER
AND SANITATION



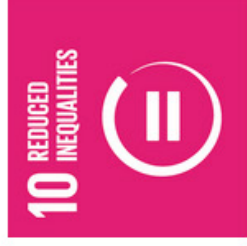
7 AFFORDABLE AND
CLEAN ENERGY



8 DECENT WORK AND
ECONOMIC GROWTH



9 INDUSTRY, INNOVATION
AND INFRASTRUCTURE



10 REDUCED
INEQUALITIES



11 SUSTAINABLE CITIES
AND COMMUNITIES



12 RESPONSIBLE
CONSUMPTION
AND PRODUCTION



13 CLIMATE
ACTION



14 LIFE
BELOW WATER



15 LIFE
ON LAND



16 PEACE, JUSTICE
AND STRONG
INSTITUTIONS



17 PARTNERSHIPS
FOR THE GOALS



The basic principles of corporate sustainability**Definition:**

Corporate sustainability relates to the delivery of long-term value in financial, environmental, social and ethical terms. This embodies the dual approach of respecting and supporting universal principles. It means that businesses must avoid causing or contributing to harm, for example, in the form of adverse human rights impacts or environmental degradation. In addition to this minimum responsibility to respect, businesses are encouraged to take additional supportive actions through their core business, philanthropy, collective action and public policy advocacy – which is done as a voluntary complement and not a substitute or trade-off for the requirement to respect universal principles. Thus, corporate sustainability is effectively rearticulating the concept of responsible business, with an orientation towards the ‘sustainability’ in sustainable development.

Principles:Human Rights:

- Principle 1: Businesses should support and respect the protection of internationally proclaimed human rights
- Principle 2: make sure that they are not complicit in human rights abuses

Labour:

- Principle 3: Businesses should uphold the freedom of association and the effective recognition of the right to collective bargaining
- Principle 4: the elimination of all forms of forced and compulsory labour
- Principle 5: the effective abolition of child labour
- Principle 6: the elimination of discrimination in respect of employment and occupation

Environment:

- Principle 7: Businesses should support a precautionary approach to environmental challenges
- Principle 8: undertake initiatives to promote greater environmental responsibility
- Principle 9: encourage the development and diffusion of environmentally friendly technologies

Anti-Corruption:

- Principle 10: Businesses should work against corruption in all its forms, including extortion and bribery

Source: ‘The Role of Business and Finance in Supporting the Post-2015 Agenda’, UN Global Compact White Paper July 2014, retrieved on 13-10-2015 from: <<http://sd.iisd.org/news/un-global-compact-highlights-role-of-business-in-post-2015-agenda/>>, and: <<https://www.unglobalcompact.org/what-is-gc/mission/principles>>.

Experience with partnerships

Interim regional situation: partnerships in Africa

In a forthcoming publication, Rob van Tulder and Ton Dietz examine over 60 PPPs in Africa. The PPPs are part of two successive tranches of the Sustainable Enterprise and Food Security Facility (FDOV), and the Sustainable Water Fund (FDW) (which has a separate tranche in Ghana known as the Ghana Wash Window). They are multistakeholder projects that mainly take place in countries where there is a Dutch embassy. There was no embassy involved only in Burkina Faso and Malawi and in one case there was also no consulate. A striking feature of the projects is the wide variety of actors involved – companies, NGOs, public and semi-public bodies and knowledge institutions. Also notable is that most projects are bilateral, with only a few involving more than two countries.

The role of lead party in the projects is mainly taken by companies and NGOs. Half of the 66 partnerships initiated are led by companies, with civil society organisations leading 24 of the others. Public authorities and knowledge institutions thus take the lead in PPPs significantly less frequently. There is also an observable trend in which Dutch NGOs profile themselves as ‘social entrepreneurs’ and try to increase their impact by entering into partnerships with, often, large Dutch companies. PPPs appear to be an exceptionally suitable instrument to achieve this.

Geographically, the projects are focused on three countries: Ethiopia, Kenya and Ghana. In these countries, the embassy often played an active role.¹¹⁵ PPPs in the field of food security are often linked to markets and business cases, and focus on making international chains sustainable and fair. Governments play a relatively small role in these partnerships, which are usually led by NGOs like Solidaridad.

It has proven more difficult to set up sustainable water projects, as can be seen from the limited number of proposals submitted and approved. Water, more than food, is a ‘public good’, for which governments will always have to provide a share of project funding. Projects of a more ‘private’ nature supported by the Sustainable Water Fund, such as those in the area of sanitation and hygiene, are easier to organise privately. In the case of water, semi-public organisations like Vitens Evides International play a significant role.¹¹⁶

115 The example of Ethiopia is examined in depth in IOB evaluation 389, ‘In Search of Focus and Effectiveness: Policy Review of Dutch Support for Private Sector Development 2005-2012’, The Hague, Nederland, 2014.

116 A.J. Dietz and R.J.M. van Tulder (forthcoming), ‘Duurzame Diplomacy Gevraagd’, African Studies Centre, Leiden.

Is this portfolio of activities indicative of sustainable diplomacy in Africa? First steps have been taken, but there is as yet no integrated policy. The AIV observes that there are still gaps both geographically and in the chains. There are countries where a greater effort could be made, but where interesting coalitions do not yet appear to be possible between knowledge institutions, financiers, companies and civil society organisations. That is not necessarily due to the presence of some organisations in these countries, but to inadequate coordination between their activities. The AIV recommends drawing up a clear political, economic and sustainability map of Africa and using it to develop priorities in terms of sectors, SDGs and partnerships. Africa could be a testing ground for sustainable diplomacy. Many embassies have insufficient capacity to facilitate partnerships properly or ensure continuity of support.

Examples of partnerships based in the Netherlands¹¹⁷

Sustainable Trade Initiative: top-down partnerships

The Sustainable Trade Initiative (IDH) has been successful in making international trade sustainable, according to an IOB evaluation. It is even referred to as a key actor in forming coalitions to make raw material chains sustainable. It also has a positive, if modest, effect on standards and certification. The Dutch government, which already contributes EUR 100 million to the IDH, has pledged a follow-up grant up to 2020, while the Swiss and Danish governments are now also contributing to the initiative.

There are, however, less positive views on the IDH. The initiative focuses strongly on pioneers, which are often large companies. As stated in chapter IV, certification can have negative consequences for smaller local businesses. Greater attention should therefore go to designing programmes and instruments for SMEs. There are also problems in the area of human rights. The impression is that the IDH could step up efforts in this area, for example by more forcefully advocating better grievance mechanisms in the textile industry. It could also do more in terms of European coordination. In addition, the initiative is criticised for having insufficient focus and expanding its activities beyond its mandate. The IOB evaluation noted that, while the IDH has helped scale up sustainability initiatives through certification on standards, the effects of this on poverty, working conditions and environmental degradation 'on the ground' have mostly been somewhat modest. As yet there has been no sustainable market transformation, the IDH's primary ambition.

2SCALE: bottom-up partnerships

The Dutch government supports a similar initiative in the context of the 2SCALE project, investing more than EUR 40 million in making international and local agriculture chains in ten African countries more inclusive. Special attention is given to small farmers and businesses that lead the way in this area. The 2SCALE project avoids the levelling effect of the IDH by explicitly addressing the effectiveness of partnerships from two directions: top-down (but then from the perspective of the whole business model of the company directing the chain) and bottom-up from the perspective of small participating businesses. 2SCALE seems to have overcome the shortcomings of the IDH, since it takes the partnership's success in local markets as its benchmark. That also calls for a different approach by the Dutch core businesses than when success is measured by the introduction of quality marks in international chains.

117 Observations largely based on interviews with experts in June-August 2015.

Sustainability Consortium

The Sustainability Consortium was set up in 2009 on the initiative of two American universities and is affiliated to Wageningen University. The Consortium of more than 100 businesses, universities and NGOs aims to develop science-based methods for measuring the sustainability of consumer products. It identifies the greatest sustainability problems in every product category or chain and then develops performance indicators that can be used by wholesalers in the procurement process. Buyers, after all, are a crucial link in the chain between suppliers and consumers.

The development of this system is progressing well but needs to be qualified. It is very difficult, for example, to measure social indicators, particularly on human rights, yet it is crucial that international standards are agreed in this area. A second problem is the sometimes inadequate integration between businesses in the United States and Europe. The two continents have different norms and values, working methods and business cultures, which complicates cooperation. The same problem applies worldwide with regard to legislation. The Sustainability Consortium is trying to merge the various 'fragmented' systems, but the multiplicity of systems and differences in legislation between countries makes this problematic.

Dutch Sustainable Growth Coalition

The Netherlands has a strong and unique position in the area of sustainability, with a number of large businesses breaking the way. The idea for the Dutch Sustainable Growth Coalition came from AkzoNobel, DSM, FrieslandCampina, Heineken, KLM, Philips, Shell and Unilever. The coalition's goal is to promote the Netherlands as a 'sustainability valley' at international events. The ambition is to put the Netherlands on the map as a predominantly sustainable country and give substance to the image of sustainability as a Dutch 'top sector'. It is also a platform for bringing together trailblazers and other businesses, for instance, to exchange knowledge and experiences.

The sustainable image of the coalition partners varies. Shell's sustainability, for example, is more ambiguous than that of other partners. Its Sustainability Report for 2014 shows that Shell is taking steps to improve its sustainability, but there is still a long way to go and its instruments to promote sustainability could be expanded. This begs the question whether Shell merits a place in a coalition that is the figurehead of sustainability in the Netherlands.

Dutch Good Growth Fund

The Dutch Good Growth Fund was set up in 2014 to support Dutch SMEs doing business in developing countries and emerging markets. Its goal is to step up development-related investment in and trade with low- and middle-income countries.

The DGGF has not been in existence long enough to make hard judgments about its value. However, the experience of the first year shows that there is growing demand for this kind of support, though it would be a good idea to promote awareness of this instrument among SMEs. As the Minister for Foreign Trade and International Cooperation wrote to parliament on 1 October 2015, the mid-term review shows that the total economic impact of the DGGF is EUR 650 million and that it has created some 11,000 jobs in the Netherlands and in the countries in which investments have been made.¹¹⁸

118 Letter of 1 October 2015 from the Minister for Foreign Trade and Development Cooperation to the House of Representatives, Parliamentary Paper 33 625, number 180.

A point for attention is the conditions for obtaining support, which come over as overly complicated and can be difficult to fulfil in practice. Banks sometimes apply different standards and the requirement to conduct an annual due diligence study of projects in countries like Ghana or the Democratic Republic of the Congo increases costs considerably. The support provided by embassies varies widely. There are a number of positive examples, but there are also missions that have indicated that they only have limited capacity available for the Fund. Although the DGGF has a lower risk profile than previous Private Sector Investment (PSI) programmes, it also appears to be less innovative. In addition, the export financing component is not transparent. Atradius Dutch State Business, for example, does not publish its annual accounts, according to the Max van der Stoep Foundation, which also suggests that the DGGF represents a return to tied aid.¹¹⁹

Ambiguity leads to fragmentation or lower ambitions. The DGGF, for example, is divided into three more or less independent policy pillars, which are managed separately and are not yet linked. The PPP facilities demand a completely different approach to financing from the cofinancing organisations (MFOs) than they are used to. This would appear to benefit smaller organisations with a stronger focus on the private sector, such as Solidaridad, Aqua4All or Woord and Daad, more than the big four MFOs (Oxfam-Novib, Hivos, Icco, Cordaid).

Human Cities Coalition

This coalition works together with businesses, NGOs and local governments to make cities more sustainable and give greater exposure to the 'human factor'. AkzoNobel fulfils the role of facilitator, coordinator and convening party. Based on the mega-trend of advancing urbanisation and on the belief that urban authorities are best equipped to address urban problems, including those relating to sustainability, Akzo acts as 'thought leader' in bringing together a coalition of the willing. The project was launched only recently and it is still too early to assess its progress. There has, as yet been no interaction with the Sustainable Urban Delta initiative, which also addresses urban problems.

119 Max van der Stoep Foundation, 'Hulp en handel samen in het Dutch Good Growth Fund?', 18 November 2013. See: <http://www.foundationmaxvanderstoel.nl/nieuws/nieuws_item/t/hulp_en_handel_samen_in_het_dutch_good_growth_fund>.

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