



STATEMENT

UPR Pre-session on The Netherlands

Geneva, August 29th 2022

Delivered by: Milieudefensie (Friends of the Earth Netherlands) on behalf of IUCN National Committee of the Netherlands, and Stand up For Your Rights

1- Presentation of the Organizations

This statement is delivered on behalf of IUCN National Committee of The Netherlands, Milieudefensie (Friends of the Earth Netherlands) and Stand up For Your Rights, all not-for-profit, independent, non-partisan, research and advocacy organizations set up to advance and protect human rights in The Netherlands.

Stand up For Your Rights has contributed previously to (UPR and other) reporting cycles and UN reports and it's part of a coalition of Dutch NGOs that address human rights violations and environmental impacts by Dutch companies within The Netherlands. This report however, focusses on the negative impact Dutch companies have all over our planet.

2- National consultations for the drafting of the national report

The Ministry of the Interior and Kingdom Relations, department of Constitutional Affairs, organized a meeting with Civil Society Organizations on 21 april 2022 to present their views on the human rights situation in The Netherlands and listen to their recommendations.

3- Plan of the Statement

This statement addresses three issues: (1) Dutch corporate links to human rights violations and environmental damage (2) The link between climate change and human rights (3) Access to justice and remedy.

(1) Dutch corporate links to human rights violations and environmental damage

A. Follow-up to the first review

During the previous review, several countries (*Egypt, Honduras, Peru, South Africa, the Philippines and the State of Palestine*) gave recommendations regarding Dutch companies and their negative effect on human rights and the environment abroad.

Unfortunately, Dutch companies are still being linked to human rights violations in their value chain.

B. New developments since the first review

Shortly before the UPR Cycle in 2017 The Netherlands introduced agreements between Dutch companies and other stakeholders to commit to the UNGPs. Governmental evaluation in 2020 showed that these agreements are not effective enough. The Government concluded that mandatory legislation is needed to ensure that Dutch companies respect human rights and the environment in their global value chains.

Early this year the European Commission proposed a Directive on Corporate Sustainability Due Diligence. However, this Directive is not in line with the UNGPs. It only applies to one percent of the European companies, consultation rights for stakeholders are not guaranteed and access to justice and remedy is not sufficiently covered.

Based on this Directive the Dutch government is drafting national due diligence legislation. Consequently, the risk is that this legislation will have the same flaws as the Directive. Moreover, it will take years to tune it to the Directive.

As mentioned Dutch companies are still linked to human rights violations and environmental damage in their value chain. In our report we give several examples within various industry sectors, such as fossil fuel, agro commodities (like palm oil, soya and meat & dairy), dredging and the financial sector. In some of these cases The Netherlands even provided an insurance through its Dutch Export Credit Agency.

Concluding: The Netherlands hasn't done enough to follow up on the recommendations.

C. Recommendations

1. Implement, monitor and enforce Dutch mandatory human rights and environmental due diligence legislation at least in line with the UNGPs and the OECD Guidelines to prevent any negative impact from public and private actors, including companies and financial institutions, on human rights in relation to their health, wellbeing and their natural environment throughout their whole (international) value chain including accountability clauses for damages in case of infringements.

2.Design mandatory independent human rights, including indigenous rights, and environmental impact assessments with the clear aim and responsibility for Dutch companies to respect human rights and the environment globally and make these assessments part of the Dutch mandatory human rights and environmental due diligence legislation as set out under recommendation 1 above.

(2) Climate and Human Rights

A. Follow-up to the first review

No Recommendation has been given in this regard.

B. New developments since the first review

It is clear that climate change and human rights are interrelated. Just now the General Assembly of the UN has declared the right to a clean, healthy and sustainable environment as a Human Right. States have climate obligations, and companies too. Companies are also duty-bearers and are essential to prevent dangerous climate change. Therefore, they should bring their operations in line with the Paris Agreement.

At the moment, Dutch companies are not taking sufficient responsibility and are not performing proper due diligence into the climate impact of their operations in their entire value chain.

C. Recommendations

- 1.Ensure all public and private actors are legally obliged to set concrete climate plans of action to bring their activities in line with the 1.5-degree scenario of the Paris Agreement and specify criteria (by sector) for corporate climate targets (short-, medium- and long-term) for greenhouse gas emission reductions in their entire value chain (scope 1, 2 and 3) in absolute percentage.
- 2.Ensure climate impact is part of the previously mentioned Dutch mandatory human rights and environmental due diligence legislation, the EU Directive Corporate Sustainability Due Diligence and the UN Binding Treaty for transnational companies and human rights.

(3) Access to justice and remedy

A. Follow-up to the first review

No Recommendation has been given in this regard.

B. New developments since the first review

Victims of human rights violations and environmental damages by Dutch companies are faced with practical and judicial barriers when litigating at Dutch courts, such as unequal information position, a heavy burden of proof and high costs of litigating.

C. Recommendations

1. Ensure enforcement and effective remedies and remove legal and practical obstacles to holding accountable companies domiciled in the Netherlands, for violations of human rights, resulting from their operations in the Netherlands or abroad, such as reversal of the burden of proof, transparency regarding corporate information, making Dutch law the applicable law in the Dutch mandatory human rights and environmental due diligence legislation, and establishing a financial fund to support victims for the costs of legal proceedings.