

Report on consultations with stakeholders in (high risk) production countries on the future of the Dutch Responsible Business Conduct policy.

July 7th - 9th , 2020

Summary

- **The Ministry of Foreign Affairs organized three (online) sessions: one with representatives of civil society, one with suppliers of Dutch enterprises and one with local embassies on the future of Dutch Responsible Business Conduct policy.**
- **A total of 39 participants (12 from CSOs, 11 from enterprises, 15 from missions, and one from RVO) contributed actively in an interactive session. The participants were very diverse in the number of countries where their organizations were based and the sectors in which they were active.**
- **They discussed about 13 propositions that were based on the draft smart mixes which are currently under consideration by the Socioeconomic Council (SER) and the Dutch Advisory Board on Regulatory Burden (ATR). These propositions concerned the current Dutch RBC policy, options for future RBC policy, and dove deeper into the related topics of gender and access to remedy in RBC policy.**
- **All participants shared their views on the proposed 5 elements of the new policy mix: ‘informing, facilitating, enticing, settings conditions and obliging’.**

Consultation with CSOs

The first consultation took place on July 7th with CSOs.

The CSOs seemed to agree that EU RBC measures would be preferential over national ones; however, as EU measures could take longer to establish, the organizations urged the Netherlands to already start taking national measures. The respondents believed that mandatory Dutch policy would have a large influence on local trading partners, but several respondents urged the Dutch government to ensure that the local communities would not be harmed by the measures.

Several respondents also mentioned the importance of involving the local government, for example to help develop local information materials on RBC and monitor whether local companies follow the local and international standards. Monitoring, several respondents found, was primarily the role of the government. They found that CSOs often don't have the capacity to do this. They can, however, play a role in informing companies. Most respondents saw obliging as the most impactful measure, followed by enticing, informing and setting conditions. Facilitating companies was seen as the least impactful.

The comment that received the most support from other respondents was a reaction to the statement: *The new Dutch RBC policy should include an obligation for all companies in the supply chain to have a policy around access to remedy for people who have been negatively affected by their business practices.* The response that six people agreed with was: "This is so important because in many cases, local laws are quite limited, enforcement is lacking and local institutions have very little motivation to act. In the interest of local communities that are affected by operations of local companies, such an obligation in the RBC will be very necessary. In fact, it helps the companies themselves because when they fail to do that, communities cause a lot of agitation and can halt company operations".

Several respondents also mentioned that whilst policies existed, for example on gender-based violence, the implementation remains a challenge.

Finally, it was mentioned that the costs of RBC measures should be shared among the supply chain actors. They stressed this as there was a risk that the burden of any RBC measures would be

put on local companies and communities, which should be avoided. A comment that received much support from other participants in this area was “I do not have data on the actual impact but from the small farmers perspective, the farmer organizations need that human rights due diligence implementation is supportive to them, taking into account their needs, capacities, local contexts and not adding additional burden on them, avoiding to put the pressure of compliance at the bottom of the supply chain (which is the weakest part of the supply chain). The RBC policy could have a positive impact or negative impact according to how it is being implemented: positive = supporting and contributing to solve the fundamental causes behind HR violations; negative = proliferation of requirements and obligations to small holders that they are unable to comply with”.

Consultation with private sector

The private sector respondents mentioned several cases in which the Dutch RBC policy had stimulated the private sector to change certain aspects of their business conduct, for example in the floriculture sector in Kenya. Respondents stated that the Dutch government could (continue to) support local companies by capacity building and providing information and tools, tailored to the local context.

Similar to the CSOs, private sector respondents preferred EU measures over national measures, stating for example that “if the new policies are only national then it will create a greater inequality for the businesses and make it harder for them to operate”.

Several respondents agreed that “rules and laws can help ensure proper adherence”, however, it was mentioned that it is important to help companies see the business case in RBC. A comment that received much support was: “ideally responsible business conduct can be considerate of business requirements and can allow for better business outcomes. But as far as it goes for a garment exporter based in India, we understand that when working with European buyers this is a requirement their partners must follow. We have planned for this in our budgeting and believe the proper adherence to it gives us a business advantage. However, it would be important for buyers to commit to long term partnerships with suppliers based on these commitments, in addition to the other factors affecting buying decisions”.

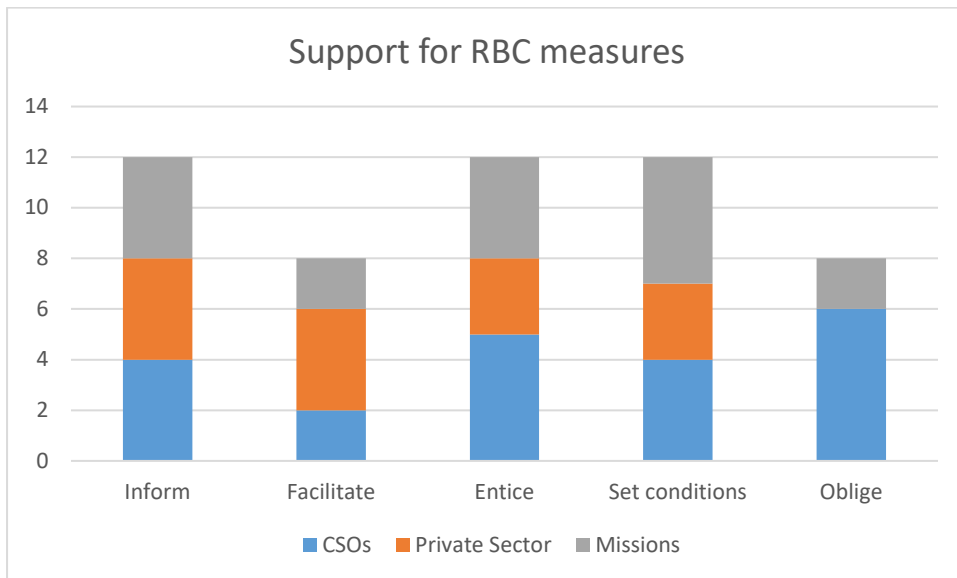
Most respondents preferred RBC measures that informed or set conditions, followed by facilitate and entice, while no respondents voted for measures that oblige companies to conduct RBC. As one respondent stated: “In my opinion and market, there should be rules, conditions and obligations as the lack of clarity or common understanding is negative for the achievement of RBC purposes. This comment was supported by several participants.

Consultation with missions

The last stakeholder consultation was held with employees from various Dutch missions around the world. In this discussion, one of the comments with most support from other participants stated that while Dutch RBC policy might only have limited impact on the countries they work in, (large) Dutch multinationals can and do function as role models when they take the lead in RBC in production countries. It was also mentioned that for an increased impact, RBC policy should be coordinated at EU level. Additionally, the mission in Geneva emphasized the importance of engaging on RBC in a multilateral setting.

With regard to the type of RBC measures, most respondents advised a mix of measures for a “carrot and stick” approach. As stated by a respondent from Portugal: “This very much depends on the sector and countries we are dealing with. Realities and restrictions vary a lot. A blend of both carrot and stick seems to make sense for me”. When asked which type of RBC measures would create most impact in their country, most respondents voted for setting conditions, followed by informing and enticing. Additionally, several respondents mentioned that when deciding upon measures, it should be made sure that they do not disproportionately hurt smaller businesses, which they saw as a risk.

The level of engagement of the missions in RBC differed largely, with some missions already highly involved with RBC and others currently looking for ways to increase their engagement in this area. Most respondents agreed with the statement that missions should have an active role in the monitoring of the new RBC policies, and it was mentioned several times that continuous streams of information about RBC to the missions are necessary to keep them up to date and equipped for this task.



Gender and access to remedy

On the statement on whether gender was high on the agenda of the private sector, the responses of the CSOs differed. However, all CSO respondents agreed that the Dutch government could do more to make RBC on gender easier for companies operating abroad. The missions highlighted the need for local legislation on gender equality, and it was stated that binding Dutch RBC legislation on this topic would be hard to implement if it wasn't in line with the national laws. Multilateral pressure on local governments was mentioned as the most appropriate way to influence this.

CSOs stated that grievance and complaint mechanisms for people negatively affected by business conduct seemed to be rare. Additionally they mentioned that even if such policies existed on paper, the implementation remained a challenge, and it was unlikely that those who have been negatively affected know such mechanisms and have the capacity to access them. Therefore, all CSO respondents agreed with the statement that the new Dutch RBC policy should include an obligation for all companies in the supply chain to have a policy around access to remedy for people who have been negatively affected by their business practices.

Three private sector respondents stated that they do have a type of complaint system, although one respondent noted that due to the Covid epidemic they are not able to handle all negative effects on people and complaints have increased. Also a company based in the Netherlands explained that because of the Covid epidemic and a lack of flights that social audits to production countries had to be halted.

While several respondents from the missions stated that they knew what to do in case of a complaint about a Dutch company or its suppliers, others stated that additional information, for example on the NCP mechanism, would be appreciated.

Annex 1: List of participating organizations

CSO's

Unicef Ivory Coast, Sustainable Inclusive Business, Workers Right Watch, Cividep India, CLAC, Solidaridad, Haki Mashinani, COLANDEF, Asantemama, FIDA-Kenya, ARM Europe, ARAVALI

Private Sector

Keyna Flower Council, Seedforth Agro, Meris Textile, Tanzania Horticulture Association, Fashion Panda, Karachi, Equatorial Nut, Krosaki Harima Corp,

Missions

Tirana, Brasilia, Shanghai, Lisbon, Tel Aviv, Santiago, Addis Abeba, Wellington, Genève, Doha, Beirut, Mumbai, Colombo, RVO