



## **CONTRIBUTION OF THE INTERNATIONAL DEVELOPMENT LAW ORGANIZATION (IDLO)**

### **ONLINE CONSULTATION ON THE NEW POLICY NOTE ON FOREIGN TRADE AND DEVELOPMENT COOPERATION OF THE NETHERLANDS**

#### **1. How can we increase the involvement of Dutch companies in the twin transitions in low- and middle-income countries?**

The International Development Law Organization (IDLO) is the only global intergovernmental organization exclusively devoted to promoting the rule of law to advance peace and sustainable development. The Netherlands has been a Member Party since IDLO was founded in 1989, with the Organization maintaining an office in The Hague since 2014.

In IDLO's experience, robust legal and policy frameworks can improve the climate for international investment in digital innovation and the green economy, while ensuring that such investment is responsive to both local needs and the social and environmental dimensions of sustainable development. Furthermore, effective trade and investment frameworks promote climate-friendly growth by facilitating access to green technologies, supporting the transition to a low carbon economy, and incentivising green investment, including in renewable energy, digital solutions, and climate-resilient infrastructure.

Incorporating a whole-of government approach is crucial to ensure that social and environmental concerns are considered throughout the decision-making process for projects attracting climate finance, and that venues are established for affected communities to address issues of concern and resolve disputes regarding those projects. It is essential to ensure that transparency mechanisms are in place, and that actors involved in climate adaptation and mitigation projects demonstrate accountability. This can help to increase Dutch private sector confidence in investing in climate action abroad.

Climate finance mechanisms themselves should respect international human rights standards, such as the right to participation, access to information, and prior and informed consent. Legal capacity development can help to strengthen coordination within and between different sectoral institutions while protecting human rights, avoiding some of the unintended side effects of climate action that might increase social tensions and conflict risks.

Supporting inclusive, human rights-based and non-discriminatory approaches to digital innovation, particularly in the justice sector, can empower people and groups who traditionally lack access to electronic platforms to claim their rights and help narrow a growing digital divide.

#### **2. How can government, the private sector and knowledge institutions work together better to achieve the Sustainable Development Goals?**

The achievement of the Sustainable Development Goals will require strengthened partnerships between States, as well as with civil society, the private sector, youth, and academia. Multilateral frameworks grounded in rule of law principles are essential to facilitate such cooperation and generate the political will, governance mechanisms, and resources needed for faster and more ambitious policy implementation.



In addition, Dutch public-private partnerships can support least developed and developing countries in meeting their development targets. Many low and middle-income countries require technical and legal advice and assistance from governments and private sector entities on investment-related matters, including negotiations and dispute settlement.

International, multistakeholder legal capacity building efforts, such as IDLO's Investment Support Programme for Least Developed Countries, can help to ensure that LDCs derive maximum benefit from existing investment opportunities, increase sustainable investment flows, and promote greater economic diversification.

### **3. How can the Netherlands' efforts to achieve policy coherence for development be further strengthened or enhanced?**

Building on existing strengths, the Netherlands could increase policy coherence, strengthen the impact of Dutch investment and donor funding, and protect those most at risk of being left behind by applying a rule of law lens to development.

The rule of law is both an outcome as well as an enabler of development. This dual role is key to helping catalyze progress on a broad range of goals and targets across the entire 2030 Agenda. Many SDGs implicitly draw on the principles of inclusivity, equity and nondiscrimination and require the creation of new regulatory and legal frameworks and institutional capacity for their implementation.

The SDG 16+ framework links progress on the rule of law to 36 targets related to peace, justice and inclusion across the 2030 Agenda. Rule of law is also a cross-cutting enabler for all 17 SDGs as it advances the type of institutional mechanisms and fair, rule-based processes needed to promote the integrated "whole of society" approaches required for sustainable development.

This point is made even more emphatically in the Secretary-General's Our Common Agenda Report, which calls for a "new vision for the rule of law" to help renew the social contract and tackle global challenges.

A rule of law lens can help increase the coherence between the development cooperation and foreign trade strands of the new policy on the one hand, and help to ensure that priority areas including public health, climate action, and human rights are addressed in a more coordinated, synergistic and context-sensitive way.

### **6. How can the government better support companies (and SMEs specifically), that are doing or wish to do business abroad?**

Support is needed for companies that are doing or wish to do business in low- and middle-income countries. These are contexts where the goods and services offered by Dutch companies are perhaps most valuable, but where delivery of these goods and services may be complicated or obstructed by the poor state of policy, legal, and regulatory systems. Especially on matters of corporate, commercial, competition, intellectual property, insolvency, and financial law, support must be extended to developing countries – and to companies wishing to do business in these countries – so as to surmount the elevated costs of trade.

Clear and effective statutes and regulations are especially important in novel industries powered by digital innovation, where the regulatory environment may not have had time to adapt to new market



developments. There is particular scope for the Netherlands to invest in the regularisation of policy governing such industries, since this would provide a regulatory environment more conducive to digitalization and sustainable growth in low- and middle-income countries.

The Netherlands may also wish to explore the formation of a “Corporate Forum” convened by development corporations that would discuss matters of relevance to the corporations within the scope of each Forum member’s corporate social responsibility commitments. Such communication would help all parties to identify areas of common interest where collaboration might be most fruitful.

**7. In your opinion, what are the Netherlands’ strengths when it comes to development cooperation? In which policy themes could the Netherlands play a leading role?**

The Netherlands is home to robust academic and civil society institutions and is viewed as a strong supporter and advocate of issues related to peace, justice, human rights, and the rule of law. Increased political and financial support in these areas is very much needed at a time when they are under pressure globally.

Justice for women and girls, and in particular gender-based violence and protecting women, are instances where the Netherlands, along with the EU, already leads and should continue to play a key and innovative role.

**8. In what other ways and areas could Dutch development cooperation innovate more?**

To achieve the three goals of Dutch development cooperation policy, the Netherlands may consider further investment in people-centred justice including innovations aimed at preventing disputes and ensuring their peaceful and fair resolution, protecting the rights of the poorest and most vulnerable members of society, and working at the intersection of law, development and human rights to promote a more peaceful, just and sustainable recovery from the pandemic and other global crises.

**9. In what ways or areas could the Netherlands, as a donor, be even bolder?**

The Netherlands may wish to consider streamlining its priority areas by championing a multi-donor “Sustainable Justice Fund” as a complementary mechanism that would ensure that each area of priority to the Dutch government – such as food security, health, human rights, and gender equality – is sufficiently resourced according to a legal “underpinning” or formal commitment. This would provide reliability and operational confidence by further ensuring each investment has the framework and resources it needs to make a lasting impact.

The Netherlands might also consider expanding its current commitments on health issues through the framework of the Social Determinants of Health, so as to ensure policy coherence in addressing inequalities and to advance sustainable development.