



Permanent Representation of the  
Kingdom of the Netherlands to the  
United Nations Office and other  
International Organizations in Geneva

REF: GEV-MR 84/2023

The Permanent Mission of the Kingdom of the Netherlands to the United Nations and other International Organizations in Geneva presents its compliments to the Office of the High Commissioner for Human Rights and, with reference to the joint communication of March 3, 2022 (ref. **AL NLD 3/2022**) of the Working Group on the issue of human rights and transnational corporations and other business enterprises; the Special Rapporteur on the issue of human rights obligations relating to the enjoyment of a safe, clean, healthy and sustainable environment; the Special Rapporteur on the right to food and the Special Rapporteur on the implications for human rights of the environmentally sound management and disposal of hazardous substances and wastes, has the honor to inform the Office as follows.

The Kingdom of the Netherlands first wishes to reiterate its full support and appreciation for the mandates of the Working Groups and Special Rapporteurs. It gives serious consideration to their views. The Kingdom will always seek to respond and actively engage with UN mandate holders and has extended a standing invitation to all UN special procedures. The Kingdom is open to dialogue with its international partners on the protection of human rights in the Netherlands, in a spirit of self-reflection and with a view to improving the implementation of human rights. In this context, the Kingdom appreciates the opportunity provided by the Working Group and the Special Rapporteurs to respond to their concerns and questions regarding the oil spills on the Callao maritime coastline and wishes to extend its regret for its belated response.

The Permanent Mission of the Kingdom of the Netherlands to the United Nations and other international organizations in Geneva avails itself of the opportunity to renew to the Office of the High Commissioner of Human Rights the assurances of its highest consideration.

Geneva, 31 May 2023



Office of the High Commissioner for Human Rights  
[ohchr-registry@un.org](mailto:ohchr-registry@un.org)

## **Response to communication AL NLD 3/2022 of 3 March 2022**

1. Please provide any additional information or comments in relation to the allegations mentioned above.

*The government of the Netherlands is writing in reply to the Communication of 3 March 2022 (AL NLD 3/2022). While seeing this matter as the primary responsibility of La Pampilla S.A.A., the Kingdom of the Netherlands takes the information presented in the communication seriously. In this respect, we are pleased to explain our policy to promote Responsible Business Conduct (RBC).*

2. Please provide information on the measures that your Excellency's Government has taken, or is considering taking, to protect individuals from human rights abuses by companies domiciled in the Netherlands and operating in other countries, including Repsol Peru B.V., including through the implementation of its National Action Plan on business and human rights and other measures.

*The government of the Netherlands expects all Dutch companies to apply the OECD Guidelines for Multinational Enterprises on Responsible Business Conduct and the United Nations Guiding Principles on Business and Human Rights. These guidelines and principles require businesses to map and address the risks in their value chains. The government of the Netherlands supports Dutch companies in this due diligence process via multiple ways (for the broad policy and support of the government of the Netherlands on RBC, please see answers to question 3 and 4). Furthermore, embassies may advise companies about the local context, including the potential impacts to human rights and refer to available information. In addition, during trade missions, the Dutch Enterprise Agency actively points to the importance of RBC.*

*The government of The Netherlands promotes RBC in a variety of ways, which are explained below. In 2022, The Netherlands published a revised National Action Plan on Business and Human Rights which outlines actions to be taken in each of the three pillars: duty to protect, responsibility to respect and access to remedy. These too are further explained below.*

3. Please provide information on concrete progress in requiring or encouraging companies domiciled in your territory and/or jurisdiction to implement human rights due diligence processes.

*The government of the Netherlands expects Dutch companies to respect human rights, wherever they do business. They are expected to conduct due diligence in line with the OECD Guidelines for Multinational Enterprises on Responsible Business Conduct and the United Nations Guiding Principles on Business and Human Rights. This includes engaging in meaningful stakeholder consultation and providing remedy when applicable.*

*In accordance with the Dutch coalition agreement, the government of the Netherlands will continue to promote RBC legislation in the EU (the Corporate Sustainability Reporting Directive and Corporate Sustainability Due Diligence Directive) and will enact national RBC legislation that takes into account a level playing field with neighboring countries and the implementation of possible EU legislation.*

*The Dutch RBC policy further consists of a mix of mutually reinforcing measures that together should lead to effective behavioral change in companies. The core element of this is a broad due diligence obligation for companies, preferably at a European level. Other elements of the policy mix are, inter alia, an RBC support center for companies (a 'one-stop shop' for companies that wish or have to get started with RBC), a financial stimulus for sectoral cooperation in the field of RBC, and setting further RBC conditions for businesses that request support from the government or take part in government procurement. The government aims to ensure that these measures provide optimum incentives for businesses to apply RBC in a coherent manner.*

*The possible link of Repsol's subsidiary in Peru with the Dutch BV was not known to the government of the Netherlands and this was never brought to the attention of our embassy in Peru. The Spanish embassy in Lima took an active mediation role in the case from the beginning, as the de facto company is Spanish.*

4. Please provide information on the measures that your Excellency's Government is taking or considering taking to ensure that persons affected by activities occurring outside your territory by business enterprises domiciled in your jurisdiction have access to remedy in your country, through State judicial or extra-judicial mechanisms.

*As mentioned, the government promotes RBC in a variety of ways. In 2022, the Netherlands published a revised National Action Plan on Business and Human Rights which describes actions to be taken in each of the three pillars: duty to protect, responsibility to respect and access to remedy.*

*Ideally, human rights abuses, including violations of labor rights, should be addressed where they take place and effective remedy is offered locally. Yet in some circumstances a mechanism in the Netherlands may be the best resource, for example when there is no effective local mechanism or when a Dutch enterprise is involved in the violation. The revised National Action Plan on Business and Human Rights describes the actions the government of the Netherlands will take to ensure access to remedy, including publishing information about existing mechanisms, information on how they work and the support available to access them.*

*In relation to this, actions of the third pillar of the Dutch National Action Plan are, among others: develop and actively disseminate an accessible digital guide for rightsholders, in several languages, with the aim to improve information on the options for access to remedy in the Netherlands.*

*To promote RBC in the second pillar, the government of the Netherlands applies a smart policy mix of mutually reinforcing measures, the cornerstone of which is legislation. Through the voluntary policy measures, the government promotes compliance with the OECD Guidelines for Multinational Enterprises on Responsible Business Conduct and the United Nations Guiding Principles on Business and Human Rights including their provisions on grievance mechanisms. The sectoral RBC agreements that the government concluded with eleven sectors since 2016, also had several participating companies that committed on to setting up or participating in grievance mechanisms. However, a broad binding measure to ensure participation in or setting up of grievance mechanisms is not yet in place. Bound by the coalition agreement, the government is working on such binding measures.*

*Elements of the due diligence methodology that the policy mix aims to promote are in accordance with the above-mentioned international standards. This includes recommendations on how businesses should and can behave responsibly when it comes to global environmental priorities (along with addressing climate change, biodiversity-loss and pollution), as well as protecting human rights defenders and protecting the rights of indigenous peoples.*

*The government of the Netherlands recognises the need to take action against human rights violations committed by or with the involvement of companies and to offer victims easy access to redress and compensation when such violations occur. Ensuring access to redress and compensation and exercising due care are also major themes of the above-mentioned National Action Plan. The government remains committed to putting this National Action Plan into practice.*