



To the Minister for Foreign Trade & Development Cooperation  
H.E. Mrs. Liesje Schreinemacher  
Ministry of Foreign Affairs  
P.O. Box 2006 I  
2500 EB The Hague

Amsterdam, April 15, 2022

Your Excellency,

The American Chamber of Commerce in the Netherlands (AmCham) would like to use this opportunity to provide input for the new policy document for Foreign Trade and Development Cooperation. AmCham represents roughly 320 companies, the majority of them U.S. headquartered multinational corporations with operations and/or European headquarters in the Netherlands. Many of our Members have offices in several European countries, operate globally and have international supply chains.

We fully support the idea that the private sector can play a major role in tackling some of the greatest challenges the global community faces. We endorse the idea that public-private and public-private-academic partnerships are crucial and hold great potential for finding solutions that work. Current geopolitical developments present us with complex dilemmas and collaboration with nations that hold similar values is more important than ever for an open and internationally oriented economy like that of the Netherlands. On multiple fronts, the transatlantic relationship has mutual benefits, not the least in the enduring contribution to the Dutch economy of American companies who have chosen the Netherlands as their preferred location to roll out their European or EMEA operations. Such longstanding bonds that are based on shared values and mutual benefits, should be cherished in an evermore complex landscape.

When preparing the new policy document, we propose to take into account a number of recommendations relating to Corporate Due Diligence that can strengthen the ambitions of the Dutch Government, yet more importantly: their successful implementation.

### **I. Aim for a European Level Playing Field and Prevent Internal Market Fragmentation**

Companies have been facing a growing number of different national rules on mandatory due diligence across the EEA. While many companies are willing and actively improving on their corporate responsibility, this trend is concerning and - in practice - unworkable for business. It is the

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main reason why we advocate for common rules on mandatory human rights and environmental due diligence (MHREDD) *at European level* so that there is a level playing field and advantage of scale. The new Commission proposal for a directive on corporate sustainability due diligence (CSDDD) does not adequately address these concerns. It is a directive as opposed to a regulation and there is a risk that Member States have different interpretations of the requirements and introduce different rules. This was the case under the non-financial reporting directive (now the Corporate Sustainability Reporting Directive CSRD) which was challenging for business. Despite the fact that Member States will have to bring their national laws into line with the CSDDD once adopted and that the intention is to have strong cooperation between national supervisory authorities, the CSDDD proposal seemingly allows Member States to not only keep in place their laws but also introduce new ones. *We recommend striving for and implementing an EU regulation on MHREDD as a more appropriate legislative tool. While regulation on the EU level may take more time to be finalized, we foresee its implementation can be much more powerful and focused.*

## 2. EU Policy Coherence

Over recent years the EU has introduced or is in the process of introducing mandatory due diligence with sometimes differing requirements in a number of sectoral laws including minerals, batteries, deforestation and eco-design. The understanding is that the CSDDD would seek to achieve policy coherence with these pieces of sectoral legislation. However, the CSDDD proposal does not adequately address this. For example, the relationship between the Responsible (“conflict”) Minerals Regulation which covers four minerals and its accompanying measures such as the European Partnership for Responsible Minerals (EPRM) and the CSDDD is unclear. *We recommend to promote policy coherence at the EU level.*

## 3. Clear Definitions

Unclear definitions make it difficult for companies to determine the level of engagement, accountability and transparency in company supply chains. For example, the introduction of a term like “established relationship” (CSDDD) is unclear and runs against the principle of the OECD and UNGP. *We recommend using clear definitions in policy, and engaging in dialogue with the private sector during the legislative process, to identify such unclarity beforehand.*

## 4. Need for Guidance

We recommend looking at what sectors have already done on supply chain due diligence, what they need to do to comply with the legislation and encouraging them to go beyond, also on a sectoral basis.



## 5. International Frameworks

All stakeholders agree that international frameworks such as the UN Guiding Principles on Business and Human Rights and the OECD Guidelines for Multi-National Enterprises (MNEs) must govern laws and voluntary initiatives. These frameworks have undergone or are subject to stocktaking and will be upgraded to be fit for purpose for the next 10+ years. *We recommend taking into account the UN and OECD international frameworks.*

We see great energy around sustainability and responsible business conduct among our Members. We are convinced that together, the public and private sector can find workable pathways to achieve a better future. Therefore, it is important that we understand each other's dilemma's through dialogue. We are at all times available to facilitate the conversation with our Members and actively discuss the above mentioned in more detail with you.

Yours sincerely,  
On behalf of the Board of Directors,  
The Executive Director  
American Chamber of Commerce in the Netherlands