



Ministry of Foreign Affairs

Market Consultation Document

Ministry of Foreign Affairs

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Request for Information

for

**Expert support for training, educate and share
knowledge in the
Dutch ICSR covenants process**

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1. Introduction

By means of this Market Consultation, the Ministry of Foreign Affairs invites interested parties to answer the questions in chapter 5. This market consultation does not form part of any possible future selection process. The information provided by interested parties will be handled confidentially.

1.1. *Ministry of Foreign Affairs*

The Ministry of Foreign Affairs is responsible for coordinating and implementing Dutch foreign policy. The Netherlands is represented in a large number of countries and in many international organisations, and this is reflected in an extensive network of embassies, permanent representations and consulates-general. These missions represent the Kingdom of the Netherlands and therefore all branches of its government. For more information, see www.rijksoverheid.nl/ministeries/bz.

1.2. *Structure of this document*

This document is structured as follows:

- Chapter 2 describes the services to be provided.
- Chapter 3 describes the requirements and wishes for the services;
- Chapter 4 describes the procedural conditions to this marketconsultation;
- Chapter 5 describes the questions.

1.3. *Background*

The Dutch government is interested in supporting the development of **sector-based International CSR (ICSR) covenants** with 10-13 sectors over the next 2 years. At a general level, the covenants will represent commitments by sector-based industry associations, their member companies and other parties such as trade unions, civil society organizations and the government to undertake collaborative approaches to identify and address key human rights, environment and other Corporate social responsibility (CSR) risks within their respective industries, following the OECD guidelines for Multinational Enterprises (MNE). These sector-based commitments are intended to help meet the government's expectation that companies give practical effect to the expectations of key international frameworks for human rights and other CSR risks, such as the OECD Guidelines for Multinational Enterprises and the UN Guiding Principles on Business and Human Rights.

The covenants are envisioned as an outgrowth of multistakeholder engagement processes with relevant sector associations, companies, civil society organizations, trade unions and the Dutch government. Sector associations are anticipated to initiate the process and play a coordinating role, at least in the early stages. The process may also be supported by intermediary organizations with relevant expertise.

While the process for arriving at covenants is intended to allow for flexibility in approach, each covenant is expected to reflect the guidance included in the Advisory Report on ICSR covenants by the Social and Economic Council of the Netherlands (SER), both the substance of the covenants and the process for developing them. This guidance provides the basis for the commitments by the confederations of employer organizations and unions in the Netherlands to engage in this process.

In addition to the SER Advisory Report, the context for the covenant process is also shaped by the Dutch government's commitment to undertake a sector risk analysis, outlined in the 2011 policy paper 'CSR pays off'. The Sector Risk Analysis prepared by KPMG was recently

submitted to the Dutch Parliament, with an accompanying letter from the Minister for Foreign Trade and Development Cooperation and the Minister of Economic Affairs. The KPMG report explores risks in 13 sectors: Agriculture, Food, Electronics, Metals, Construction, Chemicals, Retail, Energy, Finance, Wholesale, Wood and Paper Products, Oil and Gas, and Textiles/Apparel.

1.4. Objectives of the Expert Support

The Dutch government requires expert support to the process of developing the covenants, with a focus on initial capacity-building. The support need broadly to aim to achieve several key objectives:

- To better prepare key actors to be able to participate effectively in, and help shape, multistakeholder engagement processes that should lead to sector-specific ICSR covenants;
- To refine and apply a common methodology to help generate a shared understanding of key risks in each sector and ways to create and use leverage to prevent, mitigate and address these risks;
- To provide advisory support to the Dutch government in navigating its various roles in guiding, facilitating, supporting and reviewing the process;
- To further support the Dutch government by providing targeted support, where appropriate, to multistakeholder engagement processes and/or covenant negotiations to address key issues that may emerge;
- To enable cross-sector learning at the conclusion of the process;
- To assist the participants in the process to ensure that any covenants, and the multistakeholder engagement that precedes them, are to the greatest possible extent aligned with leading international frameworks for managing human rights and other CSR risks, specifically the OECD Guidelines and the UN Guiding Principles.

1.5. Summary of the expert Activities and Deliverables

(for consideration as part of a Terms of Reference):

As described in this concept note, the expert would undertake the following activities and provide the following deliverables in providing support to the Dutch government with regard to the ICSR covenants process:

- Design and deliver three (3) initial capacity-building workshops for sector associations and expert stakeholders as described above;
- Design and deliver two (2) initial workshops for (a) government representatives and (b) CSO, trade union and other stakeholders;
- Assist in the process of identifying participants and expert stakeholders for the initial capacity-building workshops;
- Conduct preparatory interviews with select participants for the various workshops;
- Prepare brief written reports from each of the three initial capacity-building workshops for sector associations;
- Provide expert ongoing advice and support to the Dutch government regarding its various roles in the ICSR covenants process;
- Provided targeted support on a cross-sector basis to the multistakeholder engagement processes that should lead to ICSR covenants, as agreed with the Dutch government, including but not limited to: additional tailored workshops, comparative research and analysis, compilation and analysis of leading practices;
- Help to shape and participate in the concluding conference in late 2016;
- Consult with the Dutch government on a regular basis on all project activities and deliverables.

Further details about the services can be found in chapter 2.

2. Description of the services to be provided

2.1. Preliminary Capacity-Building Workshops for Stakeholders

Multi-stakeholder engagement processes, and the covenant negotiations that may follow, are more likely to succeed if the key actors are prepared to participate effectively in, and help shape, these processes. Sector associations, businesses, civil society organizations (CSOs), trade unions, intermediary organizations and government are all anticipated to play important but distinct roles in these processes. Each brings different levels of initial understanding of the leading international frameworks that shape current understanding of responsible business conduct, of the human rights and other CSR risks facing different sectors, and of the opportunities that may exist for potential collaborative action to address those risks.

In a preliminary phase, prior to the sector-specific multistakeholder engagement processes getting underway, the expert will design and deliver capacity-building workshops for different stakeholders to help prepare them to participate effectively in these processes.

- Sector associations are anticipated to initiate and coordinate these processes, at least in the early stages, and will likely play an important leadership role on behalf of their member companies. These processes will be better positioned for success if sector associations approach them with an initial understanding of: the key human rights and other CSR risks facing their sector, stakeholder expectations of business in addressing those risks, and potential collaborative strategies to prevent and mitigate those risks by creating and using leverage.
- Government representatives will need to be positioned to help steer the dialogue processes, help reconcile divergent perspectives among the parties, and identify other support that the government might provide throughout the process and in reaching agreement on the covenants.
- CSOs and trade unions will need to be prepared to contribute critical insights into the perspectives of affected stakeholders on the ground regarding the relevant human rights and other CSR risks in specific sectors, as well as their global experiences preventing and addressing such impacts.
- Intermediary organizations will need to be able to bring knowledge about specific impacts, underlying causes, and leading business practices, in order to provide expert support to the sector-based dialogues.

At an initial informational session, the expert will introduce the capacity-building workshops for different stakeholders, share ideas about their design and seek feedback from stakeholders about what would make them most valuable.

- The Dutch government signaled its desire to have such a workshop for representatives from various government ministries that are likely to participate in specific sectoral processes.
- Several sector associations have also expressed their interest in initial capacity-building and training prior to the covenant processes getting underway.
- Similar capacity-building workshops would also be offered to CSOs, trade unions and intermediary organizations, depending on their level of interest. Any such workshops would need to be designed in close consultation with these stakeholders, recognizing that many already have significant understanding of and experience with the global frameworks, human rights and other CSR risks, and leading practices in preventing and addressing these risks that will be the subject of the multistakeholder engagement processes.

Given the needs already identified by the government on the part of sector associations, the following outlines the potential shape and design of capacity-building workshops for those organizations in particular.

Preliminary Capacity-Building for Sector Associations: Sector associations are expected to play an important role in initiating and shaping the multistakeholder engagement processes that should lead to sector-based covenants. To be positioned to play this role effectively, sector associations will need to be able to understand and assess the key human rights and other CSR risks facing their industries, explore potential collaborative strategies for preventing and addressing those risks, including in consultation and collaboration with stakeholders, and understand the role and potential value of an ICSR covenant. These initial 2-day capacity-building workshops are not a substitute for the multistakeholder engagement processes upon which covenants should be based. Rather, they are a preliminary step that should equip sector associations with the necessary tools and understanding to participate in and play a leadership role in those multistakeholder engagement processes, in line with the Dutch government's expectations.

The workshops will draw on the model of the SER workshops on human rights due diligence, in terms of their methodology and proposed participants. In particular:

- During the workshop, sector associations would be guided through a step-by-step process of identifying potential human rights and other CSR risks facing their industries, appropriately prioritizing those risks, devising strategies for preventing and mitigating those risks, and building and using leverage in order to do so, including through collaborative approaches within industries and on a multistakeholder basis.
- Sector associations would be supported in this exercise through the participation of expert stakeholders with experience in the sector, including representatives from CSOs, trade unions, government, and intermediary organizations. The expert stakeholders would act as a sounding board, providing input into the sector association's analysis and understanding of the leading human rights and other CSR risks facing the sector and opportunities for preventing and addressing them.
- In addition, each participating sector association might include one or two representatives from leading business enterprises in the sector. They would play two valuable roles: helping to create ownership among the sector association's members of the subsequent covenant process, and providing additional input into how businesses in the sector understand the challenges and opportunities they face in preventing and addressing ICSR risks. Their participation also offers the potential to test any practical limitations on proposed approaches.

A final module in these initial capacity-building workshops could focus on process design options and key lessons for effective multistakeholder engagement. This would be intended to help stimulate thinking among the participants about how to design credible sector-based engagement and negotiation processes going forward. This should help sector associations begin to navigate the nuances of playing a key role in driving these covenant processes forward, while being mindful of the need to create a multistakeholder process that is perceived as credible by all parties.

As with the previous SER workshops, these capacity-building workshops would build in similar preparation with sector associations, including, where appropriate, through initial engagement with expert stakeholders. This preparation would enable the expert and the sector associations to work collaboratively to:

- Tailor the existing methodology (designed for individual companies) to a sector-based analysis of risks;
- Start to apply the methodology to each sector, stimulating initial thinking by the sector associations and supporting them in maximizing the opportunity to dialogue with expert stakeholders, before, during and after the workshops;
- Support each sector association after the workshop to refine their sector-based risk analysis, based on workshop dialogue with stakeholders, as part of their preparation for the multistakeholder engagement processes and covenant negotiations that will follow.

The key outputs of these initial workshops would include:

- Sector associations would have a clearer picture of the leading human rights and other CSR risks facing their industries, and possible avenues for preventing and addressing those risks by companies, both individually and collectively, including how to build and exercise leverage;
- Sector associations and expert stakeholders would have a clearer picture of the added value of a covenant on international CSR;
- That understanding of risks would be aligned with key international frameworks (the OECD Guidelines and the UN Guiding Principles) and reflect input from expert stakeholders;
- Sector associations would have a better understanding of their role in, and key process considerations for, effective multistakeholder sector-based dialogues.

The workshops would be delivered in a staged manner. A first workshop (spring 2015) would target 4-5 sectors that are well-positioned and willing to launch sector-based engagement and negotiation processes. A second and third round of workshops could take place several months later, as other sectors become ready to participate.

2.2. Advisory Support to the Dutch Government

The Dutch government will play several important roles in helping to help navigate the ICSR covenant process, including:

- Providing guidance to sector associations on the design of credible multistakeholder engagement processes;
- Encouraging various parties, where necessary, to participate constructively in the process;
- Facilitating dialogue among parties and stakeholders where necessary;
- Monitoring and reviewing progress across the sector-based engagement processes, and identifying effective interventions where necessary, both process-based and substantive, to maintain momentum or help discussions move forward;
- Identifying emerging challenges and good practices across the sector-based engagement processes, both process-based and substantive;
- Ensuring consistency across sectoral approaches and alignment with key international frameworks, particularly the OECD Guidelines and UN Guiding Principles.

The Dutch government needs to be able to call on advisory support from the expert as it plays these various roles, in light of the expert's substantive expertise regarding specific impacts that cut across sectors and process-based expertise in designing and facilitating credible multistakeholder dialogue processes.

It is estimated that such advisory support will involve 12 days during the course of the ICSR process (0.5 days per month). The expert is expected to anticipate reviewing this together with the Dutch government to see how this estimate compares with actual support needed as implementation progresses.

2.3. Targeted Support During the Multistakeholder Engagement and Covenant Processes

It is difficult to anticipate exactly what support might be needed, given the flexibility about how the sector-based dialogues might be structured and how they might proceed.

However, by way of example, types of support could include:

- Additional analysis or summaries of existing research to better understand a particular human rights risk identified by one or more sectors, such as respect for freedom of association, or land-related rights of local communities;
- Analysis of leading practices by individual companies, alone or together with CSOs or trade unions, or from sector-based or multistakeholder initiatives, that reflect innovative approaches to managing certain risks in practice;
- A targeted workshop focused on a common challenge faced by several sectors, which may be an issue arising in the multistakeholder process (such as getting member companies involved) or a particularly challenging substantive point (such as moving “beyond audit” with a company’s many suppliers).

The amount of support that might be required is therefore also difficult to predict. For the purposes of this terms of reference, it is estimated that 5 such interventions are likely, each of which might require 4 days of staff time. However, it is anticipated to review this together with the Dutch government to see how this estimate compares with actual support needed as implementation progresses. Collaboration with other consultants supporting sector associations in this process may also be necessary in preparing these interventions.

2.4. Cross-Sector Learning

The final phase of support would involve participation in and support for the preparation of a concluding conference envisioned by the Dutch government in December 2016 to take stock of the ICSR covenants process. This conference would provide an important opportunity to enable cross-sector learning and, if necessary, to ensure alignment across different sectors in terms of meeting the criteria and expectations of the Dutch government and the SER Advisory Report.

Analysis across the covenants would look to identify common themes, challenging areas, strategies that different sectors have developed, and lessons to be drawn. The conference will also provide an opportunity to look ahead towards implementation modalities and potential challenges for each of the sector covenants that are reached. It is estimated that this would involve 5.5 days of support in the preparation and delivery.

3. Requirements and wishes

Requirement 1:

The Expert conducts the activities in line with the OECD Guidelines and the UN Guiding principles and have a thorough understanding and broad experience with implementing this framework;

Requirement 2:

In possession of the necessary professional and technical qualifications, professional and technical competences, managerial capability, reliability, and the personnel, to satisfy the services as mentioned in this document;

Requirement 3:

The Expert has the necessary experience and reputation to satisfy the services as mentioned in this document and can provide proof thereof in the form of:

- a common methodology in line with the OECD Guidelines and the UN Guiding Principles to help generate a shared understanding of key risks in each sector and ways to create and use leverage to prevent, mitigate and address these risks and can provide proof thereof;
- experience facilitating workshops in which participants are guided through a step-by-step process of identifying potential human rights and other CSR risks facing their industries, appropriately prioritizing those risks, devising strategies for preventing and mitigating those risks, and building and using leverage in order to do so, including through collaborative approaches within industries and on a multistakeholder basis;
- experience facilitating effective multistakeholder dialogue, in which representatives from CSOs, trade unions, government, and intermediary organizations were present.

Requirement 4:

The Expert has the knowledge and experience in guiding governments, businesses and stakeholders put the OECD Guidelines and UN Guiding principles into practice.

Requirement 5:

The Expert has the knowledge and experience to work with key international organizations, industry and multi-stakeholder groups, to develop collaborative responses to, and public guidance on, specific challenges in implementing the OECD Guidelines and the UN Guiding Principles.

Requirement 6:

The Expert has broad and high-level international experience inside and outside the EU and UN processes, including multistakeholder processes in a developing country context.

4. Conditions for participation in the market consultation

A number of procedural conditions are attached to this market consultation. These conditions are identified and explained below.

4.1. Consent

Your participation in this market consultation entails that you consent to the terms of these conditions.

4.2. Objective of conditions

The objective of these conditions is to ensure that we receive the information in such a way as to be able to process it effectively.

4.3. Objective of market consultation

The Ministry of Foreign Affairs will decide on the requirements and/or wishes it will stipulate in any tendering procedure it may hold after the market consultation, in observance of applicable law. The Ministry is not obliged to draft requirements and/or wishes for the ultimate tendering procedure which can be met by each party that participated in the market consultation.

4.4. Public Consultation

This market consultation is a public consultation, in the sense that it is being announced publicly. Any market party that so desires may participate in the market consultation.

4.5. Not a call for tenders

This market consultation is explicitly not a call for tenders. No rights can be derived from this consultation.

4.6. Use of information

The Ministry of Foreign Affairs will use the information obtained in the context of this market consultation to prepare the tender document for the planned tendering procedure.

4.7. Contact person

During the market consultation, a single contact person will act on behalf of the Ministry of Foreign Affairs: Richard Brabers, Senior Procurement Consultant, Ministry of Foreign Affairs.

All communication concerning this market consultation must be addressed to the contact person for the Contracting Authority. Participants may not approach other officials of the Contracting Authority directly or in any other manner.

Contact person			
<i>Contact person</i>	Richard Brabers	<i>Function</i>	Senior Procurement Advisor
<i>Mail</i>	3W-tender@minbuza.nl		

4.8. Format for response

Your response should be supplied in Word MS Office and PDF format.

4.9. Language in which data must be supplied

The working language for this consultation is English. All documents are written in the English language. Questions from market parties must be submitted in English.

Market parties may also submit their responses to the questions in section 5 in English.

4.10.Reference

On all communication, please state the following reference: '3W-IMH/ Market consultation Dutch ICSR covenants process.

4.11.Questions and problems with documents

All supplier questions concerning this market consultation must be submitted exclusively to the contact person.

In the event of any contradictions/problems in the documents, please inform the contact person.

4.12.No expense reimbursement

No participants in the RFI will be reimbursed for expenses incurred through participation in this market consultation under any circumstances.

4.13.Timeline (indicative)

The intended timeline for the market consultations is as follows (the Ministry of Foreign Affairs reserves the right to make changes to this timeline):

Timeline	
<i>Publicate of market consultation</i>	Wednesday, 18 February 2015
<i>Submit questions</i>	12:00 CET on Friday, 27 February 2015
<i>Send information notice</i>	Tuesday, 03 March 2015
<i>Close of respond period</i>	12:00 CET on Thursday, 12 March 2015
<i>Forwarding of report of participants</i>	Thursday, 02 April 2015

4.13.1. Publication date

This market consultation was sent for publication on 18 February 2015 to TenderNed and the Tender European Daily (TED), the publication medium for government contracts falling under EU Directive 2004/18.

4.13.2. Close of respond period

The term within which responses to the questions will be accepted ends on 12 March 2015. Submissions received after this date will not be accepted.

4.13.3. Reporting

After completion of the consultation, the responses will be compiled into a report.

5. Questions

The Ministry of Foreign Affairs has set up a market consultation, and invites interested parties to answer the questions:

A. Questions concerning interest in the contract	
A.01	Are you interested in acquiring this contract? (please answer 'Yes' or 'No')
A.02	What reasons may you have for not participating in the tendering procedure for this contract?
A.03	What information that you would need to make the best possible tender is missing?
A.04	Chapter 3 sets out the requirements. Do you meet the minimum requirement, and could you please provide us with a short explanation?
B. Questions about the process and the substance of the contract	
B.01	In your opinion, what information needed to make the best possible tender is missing?
B.02	Do you have any other ideas, suggestions or comments?
C. Experience	
C.01	Have you carried out similar contracts before? Could you please provide us with a number of references and description?
D. Conclusion	
D.01	We would appreciate receiving your response concerning any matters that have not been raised in other questions.