

# A 10-POINT ROADMAP FOR EUROPE

## ON THE ROLE OF THE PRIVATE SECTOR IN DEVELOPMENT

**CONCORD**  
European NGO confederation for relief and development





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## ABOUT THIS PAPER

European governments and the European Commission have been increasingly supporting a greater role for the private sector in their development cooperation. With new EU policies and instruments such as the European External Investment Plan, it was deemed important for CONCORD members to agree on a common position, common messages and priorities regarding the role of the private sector in contributing to sustainable development. To write this paper, CONCORD Europe's specific work stream on the private sector collaborated with all of CONCORD's membership, but also with other civil society organisations and CSO confederations.

Keywords: SDG, Agenda 2030, business enterprise, MSME, cooperative, tax, multinational, companies, human rights, environmental standards, safeguards

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# EXECUTIVE SUMMARY

How can the private sector<sup>i</sup>, understood as organisations engaging in profit-seeking activities, contribute to realising the 2030 Agenda for Sustainable Development globally? In different ways, the private sector has already led many voluntary initiatives which contribute to sustainable development. However, to realise our collective transition towards a system that offers people worldwide a dignified life and respects our planet, both companies and governments must take further action.

This paper highlights what the European Union (EU) and its Member States should do to create an environment that maximises the potential of the wide range of private sector actors to contribute to the implementation of Agenda 2030. Recommendations cover diverse interconnected policy areas: development, trade and investment, taxation, financial regulation, competition, justice, access to remedy and how decisions are made in Europe.

This may seem like an overambitious shopping list – it is not. It is a ten-point roadmap that needs to be considered seriously and will require concerted action if the EU wants to play its full part by 2030. This paper gives specific recommendations for each of the following ten areas for action, calling on the EU and its Member States to:

1. **Abandon the “one-size fits all” approach to the role of the private sector** in development, and focus on micro, small and medium enterprises (MSMEs) and social economy enterprises in local and regional value chains and trade.
2. **Adopt mechanisms to avoid the corporate capture** of decision-making processes, among others: legally binding lobby registers and stronger ethics regulations.
3. **Align the financial system with social and environmental agendas**, integrating environmental, social and governance factors in policy and regulatory frameworks on public and private finance.
4. **Ensure the public delivery of essential services** and acknowledge that private finance cannot be a substitute for gender-responsive public investment.
5. **Ensure companies pay their fair share of tax** where they operate by creating greater transparency and better reporting systems.
6. **Ensure the sustainability chapters of investment treaties** are as enforceable as the provisions protecting investors.

7. **Ensure business enterprises operating outside the EU respect** human rights and the environment and contribute to sustainable development.
8. **Reform EU competition law** and set guidelines to allow for initiatives that increase sustainability collectively per sector without breaching EU competition law.
9. **Ensure the respect of development effectiveness principles** in consultation with local communities and civil society organisations; integrate the principles in development finance institutions’ processes and approaches.
10. **Ensure transparency and accountability when public finance is used** to leverage private investments in developing countries.

<sup>i</sup> The title of this paper and the paper itself generally refer to the “private sector” because this term is used by the EU in its policies and tools. We however unpack this notion, showing that it is too broad and to avoid misunderstanding and “one-size-fits-all” policies, the EU should favour a more precise terminology. Area for action n°7 of this paper refers to “business enterprises” because that is the terminology used in the UN Guiding Principles: the universally adopted standard for corporate responsibility in human rights.

# INTRODUCTION: THE EU AND THE PRIVATE SECTOR IN DEVELOPMENT

Business enterprises themselves not only have a role to play in development, they have legal obligations under international and European law that they must respect. But CONCORD urges them to go above and beyond existing obligations: voluntary commitments are needed to complement regulation and may pave the way for upcoming regulation. There is no more time to lose.

A range of thriving private sector actors that provide decent jobs and generate prosperity for all is an essential component of a successful sustainable development strategy. Since 2011, the European Union (EU) and its Member States have been promoting a growing role for various categories of the private sector in development policy.<sup>1</sup> The EU aims to support a stronger local private sector in developing countries. It also seeks to leverage private investments for development projects in partner countries, while promoting an enabling business environment through policy dialogue.

The EU is devoting an increasing proportion of its development assistance to achieve these aims. For example, the European External Investment Plan integrates existing blending<sup>ii</sup> facilities with technical assistance and policy dialogue and establishes a new fund: the European Fund for Sustainable Development (EFSD), which offers guarantees for risky private investments in developing countries. This plan has been criticised by civil society organisations (CSOs) including CONCORD, because we believe it is based on flawed assumptions. Indeed, it may end up benefiting European investors more than local micro, small and medium enterprises (MSMEs) and cooperatives in partner countries. The EU's strategy towards the private sector cannot be effective unless it acknowledges and acts on the very different private sector interests and business models, from small-scale producers and MSMEs to large business enterprises and corporations.

Despite increased attention on responsible business conduct at the international level over the last decade, corporate human rights abuses are reported on all continents. Violations range from operations in conflict situations to supply chain issues. They include extra-judicial killings, detentions, repression of social protests, child labour, environmental pollution, land grabbing and violations of labour rights, including exploitation of women. Access to justice remains very difficult for the majority of the victims.<sup>2</sup>

Yet business enterprises have an obligation to behave responsibly, as reaffirmed by the UN Guiding Principles on Business and Human Rights, regardless of their size, sector, location, ownership and structure. The UN Guiding Principles and the OECD Guidelines on Multinational Enterprises clearly state that business enterprises have the obligation to respect human rights and the environment and ensure remedy and redress. The responsibility of all business enterprises, wherever they operate, to respect human rights exists over and above compliance with national laws and regulations protecting human rights.<sup>3</sup>

Over the past decade, voluntary standard-setting initiatives and sustainability certification schemes have proliferated, in large part as a result of sustained civil society advocacy for environmental and social sustainability in commodity production.<sup>4</sup> While some CSOs believe voluntary initiatives are necessary, important and should be encouraged, it is clear that they should be guided and complemented by public policy and regulatory measures, as detailed in this paper.<sup>5</sup> The former UN Special Representative on business and human rights, John Ruggie, recently deplored the fact that the “Commission’s papers on the SDGs seem divorced from any understanding of the central role that the respect for human rights must play in the private sector’s contribution to that agenda.”<sup>6</sup> The EU approach has indeed mainly focused on encouraging voluntary private sector initiatives. For private investments and economic development to effectively contribute to the implementation of Agenda 2030, governments too must take action.

This paper explores the role of the private sector in contributing to sustainable development globally and outlines ten areas for action for the EU and its Member States, each with specific recommendations. The primary audience of this paper is European decision-makers at the regional (EU) and national (Member States) levels.

*ii Blended finance projects involve the use of grants to mobilise larger amounts of financing from partner financial institutions (which may or may not be private sector actors). It is assumed that this will enhance the development impact of investment projects. There are five financing instruments in the blending ‘family’: (i) direct investment grants; (ii) interest subsidy grants; (iii) risk capital; (iv) guarantees; and (v) technical assistance. Source: European Commission (2016), Evaluation of Blending - Final Report, Volume 1, [https://ec.europa.eu/europeaid/sites/devco/files/evaluation-blending-volume1\\_en.pdf](https://ec.europa.eu/europeaid/sites/devco/files/evaluation-blending-volume1_en.pdf)*

# TEN AREAS FOR ACTION FOR THE EU AND ITS MEMBER STATES

For companies to effectively contribute to the implementation of Agenda 2030, the EU and its Member States must play their part, guided in any case by the principle of Policy Coherence for Sustainable Development. This commitment is enshrined in Agenda 2030 and in the Lisbon Treaty (Article 208). It means that the EU should take into account the impact of its policies on the economic, social, environmental and governance dimensions of sustainable development and avoid negative impacts on people in developing countries and the environment.

In particular, the EU and its Member States should:

## 1 ABANDON THE “ONE-SIZE FITS ALL” APPROACH TO THE ROLE OF THE PRIVATE SECTOR IN DEVELOPMENT

The OECD defines the private sector in development cooperation as organisations that engage in profit-seeking activities and have a majority private ownership (i.e. not owned or operated by a government). This definition includes financial intermediaries, multinational companies, MSMEs, cooperatives, individual entrepreneurs and farmers who operate in the formal and informal sectors. It excludes actors with a non-profit focus, such as private foundations and CSOs.<sup>7</sup> The private sector thus encompasses organisations of multiple forms and sizes, ranging from those whose purpose is to create shareholder value to more people-centred social businesses and cooperatives.<sup>8</sup>

While all these private actors have a crucial role to play in delivering Agenda 2030, they are extremely diverse. Governments should take tailored and differentiated approaches to engage private actors and ensure they contribute to sustainable development, depending on their business size and governance model. This is acknowledged by the European Commission communication *A Stronger Role of the Private Sector in Achieving Inclusive and Sustainable Growth in Developing Countries (2014)*.<sup>9</sup>

### Micro, small and medium enterprises (MSMEs)

Diversification and higher value-added production, processing and distribution are central to generating more qualified and decent jobs in developing countries. However, this does not happen automatically. Assisting local companies to add more value to products and train the people who operate within them is important but insufficient. Smaller and growing enterprises in developing countries must be supported through sound public policies, which may involve setting preferences for the local private sector over foreign (European) investors. In sub-Saharan Africa, 85% of people are involved in small businesses, including home-based and smallholder farming enterprises, yet many lack access to business services and capital, with women being most left behind.<sup>10</sup>

UNCTAD's research<sup>11</sup> demonstrates that global value chains have contributed to lifting people out of poverty in many countries, but do they offer a reliable pathway to development and structural transformation today? Too often, global value chains drive a race to the bottom in terms of wages and lead to weaker demand in developed countries; weak productive linkages with the rest of the local economy; value-added remaining in developed countries; and increasing reorientation of profits to financial investment or repatriation by transnational corporations.<sup>12</sup> UNCTAD concludes that countries need to combine production for global, regional and domestic markets. They must also build strong, participatory and sustainable industrialisation policies to develop thriving local companies.

### The informal economy

The informal economy comprises half to three-quarters of all employment in developing countries and interacts closely with the formal economy. It provides livelihoods and employment for a critical segment of the population, in particular women: 60% of working women in the developing world are in the informal sector. In sub-Saharan Africa, this figure rises to 84% of employed women.<sup>13</sup> The EU initiatives seeking to incentivise the role of the private sector in development should better capture this essential dimension and aim to support the informal businesses which are often the most important for marginalised people.

### Cooperatives and other self-organised forms of associations

Cooperatives, associations, employee-owned businesses, mutual societies and social enterprises are not new. Known as actors of the 'social economy', they provide a wide range of products and services across the European market and generate millions of jobs.<sup>14</sup> In the EU, social economy enterprises represent 10% of all businesses. They seek profit, but use benefits differently, based on their social objectives.<sup>15</sup>

The European Commission communication on the role of the private sector in developing countries<sup>16</sup> argues that the EU will seek to support local cooperatives. It acknowledges that cooperatives, social enterprises and other forms of people-centred business often lead the way in providing decent jobs, sustainable livelihoods and inclusive solutions to social problems. The new European Consensus on Development recognises cooperatives as key actors in development and their impact on local communities, but without mentioning explicitly the particular role they play as compared with other forms of business enterprises.

Most companies primarily serve their shareholders' interests. While some investors take a long-term stance on business strategy, too often a short-term view prevails. CONCORD calls on the EU and its Member States to pay greater attention to the development and strengthening of business models that serve a wider range of stakeholders, such as cooperatives.<sup>17</sup> The 2003 Regulation on the Statute for a European Cooperative Society sets



the rules for cooperative enterprises willing to extend their action beyond national borders. The European Economic and Social Committee recently adopted an opinion on the external dimension of the social economy. This report examines how EU external policies can be used to promote the development of social economy enterprises and organisations in third countries and includes a set of recommendations for the European Commission.<sup>18</sup>

**Whatever the legal form of a company or the kind of private sector,** doing business with a long-term perspective requires more than just creating economic value. It is now broadly accepted that business enterprises should be governed with respect for society and the environment. Profit maximisation and sharehold-

ers' primacy at the expense of workers, governments, communities and the environment is neither sustainable nor compliant with Agenda 2030. It has been demonstrated that there is great unexplored potential in current company law regimes for business enterprises to shift away from the path of business as usual towards one of sustainability. This means adopting practices ranging from involving a broader set of stakeholders in governance arrangements to linking existing executive remuneration to the sustained achievement of long-term goals.<sup>21</sup> Policy-makers can and should facilitate these changes by amending corporate law; by adopting regulations that allow business enterprises to differentiate in their engagement with types of shareholders; and by clarifying the content of fiduciary duties.

## SPICING UP THE NUTMEG VALUE CHAIN, INDONESIA

In North Moluccas, for many years up to 1999, more than half of the population had been involved in traditional nutmeg production. Nutmeg had been the main source of income for about 52,000 farmer families. The high demand on the international nutmeg market had helped farmers to improve their livelihoods.

However, the ethnopolitical conflict in 1999–2003 changed the situation radically. The infrastructure was damaged and this scared away companies. The quality of nutmeg in the region also deteriorated over the years, because of high levels of aflatoxin (toxic metabolites produced by fungi). The lack of knowledge of good agricultural practices, good harvest handling and market standards for quality and traceability, had a negative impact on the inclusion and positioning of North Moluccan farmers in the nutmeg value chain.

A multi-sector partnership was then put in place, consisting of ICCO Cooperation South East Asia and Horti Chain Center, supported by the Indonesian Netherlands Association and Financial Access. Supporting partners from the private sector were: Agripro Tridaya Nusantara in Jakarta, Multi Rempah BV in Manado, Indonesia and LenersanPoortman in the Netherlands. A memorandum of understanding with the local government was signed.

The multi-stakeholder programme – with the support of IDH (the Dutch Sustainable Trade Initiative) – spiced up the North Moluccan organic and aflatoxin-free nutmeg sector by building the capacity of farmers in organic nutmeg production and including them in the (international) value chain. Farmers now organise themselves in registered associations and agribusiness units. These associations and cooperatives are strongly positioned in the nutmeg market and are able to provide training to the farmers. At the same time, a community development

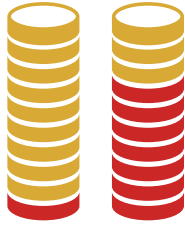


*This photo of a female worker sorting nutmeg was taken in 2015/2016 by Augusto Camba, in Multi Rempah Sulawesi, BV factory in Bitung, North Sulawesi.*

programme promotes intercultural dialogue to improve social and economic relations in the programme area.

The programme has had positive results, impacting on the lives of 4,980 small-scale producers by December 2015. After only a year, the programme had already reached 3000 farmers whose increase in income was 80%. Standards and certifications for internal control and good agricultural production have been put in place. Partner trading companies increased their income by 10% and created hundreds of new jobs.<sup>19</sup>

This example shows the benefits on the ground of focusing efforts on the local private sector in a country like Indonesia, where small-scale farmers were given an opportunity to build their own capacity and organise themselves in associations and cooperatives.



### Profit distributed to shareholders in the UK:

In 1970, £10 of every £100

Today, £70 to every £100



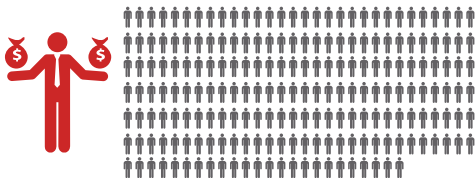
### US public listed companies 2004 - 2013

51 % use of net income for stock buybacks

35 % for dividends

14 % for other purposes

- R&D, salaries, innovation...



CEO pay was **204 times**

that of an average worker in 2004

### FAIRTRADE COOPERATIVES: A SYNERGY AMONG PARTICIPATIVE ECONOMIC MODELS – THE SOPACDI COFFEE COOPERATIVE

The Congo region in Central Africa has suffered from years of civil war and unrest. Even today, the people in the east of the country are still terrorised by marauding militias. Many were forced to leave their lands, especially coffee growers from the highlands around Kivu Lake. They were compelled to smuggle their coffee across into Rwanda as there were no market outlets in the Congo. There, it could be sold avoiding high government tariffs and the payment of extortionate bribes.

Sopacdi Cooperative is working to improve livelihoods by bringing Congo-grown coffees into global markets. Set up in 2001 with 274 members, the cooperative now has 3,600 members from different ethnic groups, 20% of whom are women – and mainly widows. With support from the international Fairtrade movement, in 2011 Sopacdi Coffee gained Fairtrade certification. The benefits of the money from the first Fairtrade premium have been felt by the cooperative members through their improved housing conditions and the construction of a new coffee washing station. Members' capacity in sustainable agricultural practices is being built. Women benefit from a special price premium for their coffee. To date this has raised around US\$15,000 to support a women's committee and small women-led business ventures. This allows the women to have a stronger voice at the cooperative level and an indicative representation on the cooperative's Board. Basembe Muembwa, a member of Sopacdi, reports "We are together, we are a group ... We now know we exist, we have a voice, we are listened to".<sup>20</sup>

Source: Frank Bold, "Purpose of the Corporation", <http://www.purposeofcorporation.org/pocket-guide-to-corporate-governance.pdf>

## THE EU AND MEMBER STATES SHOULD:

- Support an environmentally and socially sustainable development in developing countries cutting across the rural/urban divide, with a strong focus on local MSMEs, social dialogue and women's economic empowerment, instead of further incentivising the global value chains model.
- Ensure EU trade and investment policies do not limit the policy space of developing countries needed to foster development and the emergence and retention of high value-added, diversified and profitable production and manufacturing sectors. In the longer term, that will imply reforming the international investment regime.<sup>iii</sup>
- Where global value chains exist, promote responsible sourcing and contractual arrangements through a mix of binding and voluntary measures, as well as awareness raising among European consumers.
- In their policies for development cooperation and private sector engagement, prioritise the strengthening of small producers, cooperatives and MSMEs in local and regional value chains, over global value chains – given the fact that more than 80% of the produce of local enterprises and farms is not destined for export, but for local and regional markets.
- Adopt policies encouraging and supporting social economy enterprises, and taking into account the specificities of cooperatives and other self-organised associations to allow them to thrive, in particular in the sectors where they can best respond to ongoing challenges.
- Adopt policies encouraging alternative corporate governance models that incentivise the integration of social and environmental considerations in business operations for the benefit of a broader range of stakeholders - which encompass but go far beyond shareholders.<sup>22</sup>
- Make sure aid is untied in order not to offer a competitive advantage to European companies over companies from developing countries.

<sup>iii</sup> One way this can be done is by using performance requirements from foreign investors and government procurement contracts for that kind of businesses or for domestic MSMEs. See: RUTH Kelly (2016), *What a way to make a living - Using industrial policy to create more and better jobs*, ActionAid, [https://www.actionaid.org.uk/sites/default/files/publications/what\\_a\\_way\\_to\\_make\\_a\\_living\\_pdf.pdf](https://www.actionaid.org.uk/sites/default/files/publications/what_a_way_to_make_a_living_pdf.pdf)

## 2 ADOPT MECHANISMS TO AVOID THE CORPORATE CAPTURE OF DECISION-MAKING PROCESSES

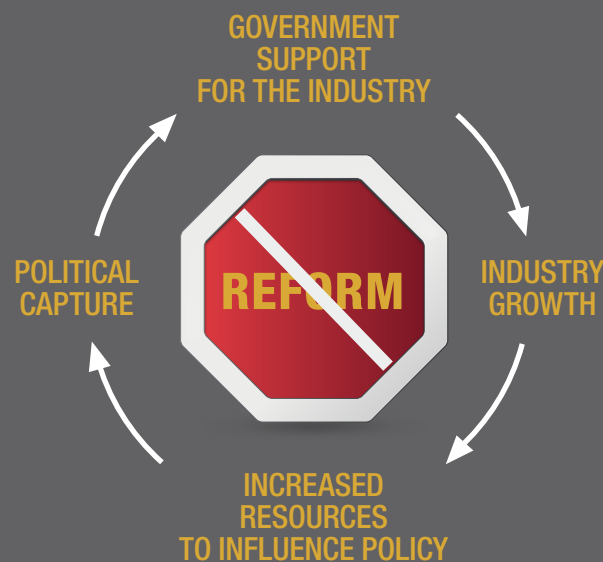
Corporate engagement in, and influence on, the EU decision-making processes entails considerable risks and side effects. There are often areas of tension between commercial interests and sustainable development. It has been shown that, left unchecked, political institutions become undermined and governments overwhelmingly serve the interests of economic and political elites to the detriment of people affected by the policies or projects under debate.<sup>23</sup> Resisting such 'corporate capture' is hence a necessity for the EU and its Member States.

### THE EU AND MEMBER STATES SHOULD:

- Adopt a legally binding lobby register for the EU as demanded by more than 100 CSOs.<sup>25</sup>
- Adopt stronger ethics regulations that require adjustments to the current Codes of Conduct for Commissioners and MEPs and do more to block revolving doors by introducing longer cool-off periods. Through these, top EU officials would have to wait for a certain amount of time after leaving their EU job before starting to work for large companies.<sup>26</sup>
- Ensure that the Commission's advisory groups are composed in a balanced way to make sure public interest is well represented. What 'balance' means may differ for each expert group, and balance can also be reached by looking at how voting and report writing is managed in those groups.<sup>27</sup>
- Ensure effective participation of marginalised people, including people in developing countries, in EU processes or projects that affect them or are supposed to deliver for them.
- Strengthen our representative and participatory democracy, with distinct space for people's civic participation beyond elections.
- Keep support to independent civil society at the core of EU values and approach; and make sure private companies cannot put pressure on the European Commission to suspend support to projects by CSOs.<sup>28</sup>

### THE EXAMPLE OF THE EU'S BIOENERGY POLICY

A recent study<sup>24</sup> by Oxfam shows the harm caused by the EU's current biofuel policy to people in developing countries, the climate and Europe's own sustainable development. The EU biofuels policy generates opportunities for the biofuels industry by creating a market (targets) and offering subsidies. Reforming this policy would stop it leading to higher food prices and land grabbing and environmental degradation in developing countries. However, the Oxfam study identifies corporate capture as the main obstacle to such reform. To subsist and expand, the biofuels industry needs the targets and subsidies to be maintained. The study also shows that over 75% of members of expert groups advising the European Commission on bioenergy policy represent the private sector, compared with just 10% representing civil society. From November 2014 to March 2016, the Commission's top officials met 38 times with actors of the biofuel value chain and only eight times with NGOs. This reflects the weight of private interests in decision-making processes, and the risk that concerns for people and environmental protection in developing countries may be side-lined.



Source: HERMAN M.-O., MAYRHOFER J. (2016), *Burning land, burning the climate - The biofuel industry's capture of EU bioenergy policy*, Oxfam, <https://www.oxfam.org/en/research/burning-land-burning-climate>

# 3

## ALIGN THE FINANCIAL SYSTEM WITH THE SOCIAL AND ENVIRONMENTAL AGENDAS

While public finance is vital to achieving Agenda 2030 and the Paris Climate Agreement, a reform of the financial system is urgently needed to help deliver the Paris Agreement and the Sustainable Development Goals (SDGs), and to ensure an orderly and just transition to a sustainable economy.

The integration of environmental, social and governance (ESG) factors in the EU policy and regulatory framework on public and private finance is a crucial starting point for this transition. For example, the regulatory initiatives under the Capital Markets Union (CMU) should include sustainability as a core element. The Mid-term Review of the Capital Markets Union Action Plan published recently by the Commission is a step in that direction.<sup>29</sup> It acknowledges that the financial system needs to be re-engineered for investments to become more sustainable. Among other measures, the Commission will clarify that fiduciary duties of asset owners and asset managers, rating methodologies and verification systems include ESG factors. It will ensure that sustainability is more central to corporate governance. Crucially, this reform process must not be dominated by vested interests. There should be space for dialogue with civil society so that the views of consumers, savers and the wider public are factored into the policy process.

Rather than focus on short-term horizons, the financial sector should pay more attention to long-term environmental and social challenges such as climate transition, demographic transition, economic and gender inequalities, sustainable production and consumption and the grabbing of natural resources.

While the private sector can take part in development projects with substantial impact (see the section on “Increasing formal financial inclusion”), this does not exonerate financiers from behaving responsibly across the whole of their business. Nor can it be a substitute for sound public policies to regulate the financial sector.

### TRIODOS, A BANK THAT PUTS SUSTAINABILITY AT THE CORE OF ITS APPROACH

Triodos connects savers and investors who want to make their money work for positive change with entrepreneurs and sustainable companies. These range from organic food businesses to pioneering renewable energy enterprises, recycling companies, nature conservation projects, microfinance banks in developing countries, social housing providers and cultural projects.

Triodos Bank offers banking services such as savings accounts and lending for personal and business customers, while Triodos Investment Management’s solutions include Socially Responsible Investment (SRI) funds – which select listed companies with an above-average ESG performance, in compliance with the UN Principles for Responsible Investment. The funds span a broad range of sectors including energy and climate, arts and culture, sustainable food and agriculture, emerging markets and sustainable real estate.

Beyond ethical considerations, the rationale is that the most successful businesses will be those that achieve the right balance between their social, environmental and economic performance. So when it comes to investing in the stock market, investing in these companies makes sense from a financial, as well as a sustainability, perspective.

Triodos aims to be transparent on the projects and companies it invests in, and engages with them during the selection process and after they have been selected. It aims to use its voting rights to further influence company behaviour and encourage them to improve their sustainability.

### THE EU AND MEMBER STATES SHOULD:

- Adopt an integrated sustainable finance strategy, including setting minimum ESG standards that all financial companies would have to fulfil, thus preventing the provision of services to companies that engage in socially or environmentally unsustainable activities.
- Impose binding due diligence and transparency requirements on the financial industry, i.e. ensure financial institutions that do not exercise adequate ESG due diligence are held to account and liable to civil lawsuits and/or criminal prosecution.
- Ensure that future legislative proposals such as the Personal Pensions proposal and Alternative Investment Funds Managers Directive integrate ESG issues – including a definition for these issues.

### INCREASING FORMAL FINANCIAL INCLUSION

The CARE International, Barclays and Plan International 'Banking on Change' project broke barriers to financial inclusion and improved the quality of life of 758,000 people (73% of whom are women) living on less than \$2 a day. This was done by forming 35,000 savings groups (of 15-30 members) across 11 countries in Africa, Asia and South America. The programme gave people the skills to save and manage their money and then linked them to formal financial institutions. This was the first partnership of its kind between a global bank and international NGOs to link savings groups to the formal banking sector. The results showed a statistically significant increase of spending on health, education, housing, food and businesses. The project also resulted in:

- Four banking products co-created in five African markets (Uganda, Kenya, Ghana, Tanzania, Zambia). Barclays Uganda made savings and loans groups part of their target market segment.
- Increased savings: Banking on Change helped savings group members mobilise more than US\$34 million between 2013 and 2015.
- Rise in formal financial inclusion: 5,000 groups (around 125,000 people) opened low-cost savings accounts with no minimum deposits.
- Rise in empowerment: In 2016, women and youth members reported an increase in feeling respected and able to influence community and household decisions, which two thirds attributed to their savings group.
- Created businesses: Group members used their funds to start 116,000 businesses between 2013 and 2015.



# 4 ENSURE THE PUBLIC DELIVERY OF ESSENTIAL SERVICES AND ACKNOWLEDGE THAT PRIVATE FINANCE CANNOT BE A SUBSTITUTE FOR PUBLIC INVESTMENT

Private investment cannot be a substitute for public investment in essential services such as health, education, social protection, water supply or environment protection because these areas are not compatible with the quest for financial returns.<sup>30</sup> According to the OECD<sup>31</sup>, “the general rule is that government and the private sector should work together when it is clear that shared value can be realised — better development outcomes from profitable business and investments”. In practice, however, there are trade-offs between development and for-profit objectives.

Health, education and social protection are at the core of the social contract, and privatising these services can have devastating impacts on human rights. Strong quality social services for all are an important driver to develop just societies and reduce inequalities. While private actors, especially non-profit actors, may play a role in filling temporary gaps or adding value to quality public services if adequately regulated, this role cannot be a substitute for public social services.

Public-private partnerships (PPPs) are the financing modality used to bring private finance into social sectors. Initially PPPs were focused on economic infrastructure, but they are increasingly used as a vehicle to deliver social infrastructure and services as well. This generates a number of risks and challenges. It has been shown that PPPs are, in most cases, the most expensive method of financing, significantly increasing the cost to the public purse. PPPs also face important challenges when it comes to reducing poverty and inequality. Implementing PPPs poses important capacity constraints on the public sector, particularly in developing countries. On top of this, PPPs suffer from low transparency and limited public scrutiny, which undermines democratic accountability.<sup>32</sup>

PPPs are increasingly common means of financing in many different sectors where they may pose specific challenges and are not necessarily free of controversies (for example in the energy and transport sectors). However, the following section focuses on two sectors – health and education – which we believe are two key public goods for which the government is responsible and accountable.

It has been shown, for example, that health PPPs can be extremely high risk and costly. In low-income countries, they may constitute a threat to the entire health system because of low-capacity contexts.<sup>33</sup> While there may be positive examples of PPPs in the health sector, private sector involvement may lead to the proliferation of private health providers that are unregulated and unaccountable, providing health services which are not available for the poorest populations.

## BRIDGE INTERNATIONAL ACADEMIES: A STRIKING EXAMPLE

A particularly problematic development is that of commercial chains of low-fee private schools. Supported by global actors, these multinational providers of education aim at generating profit by delivering standardised low-quality<sup>iv</sup> education developed in the Global North to poor and middle-class children in developing countries. One of these chains, Bridge International Academies, a Delaware-based company developing early childhood and primary education, has received, among others, the support of the European Investment Bank.<sup>37</sup> This is despite the concerns raised by 120 CSOs worldwide,<sup>38</sup> the criticisms of a UK parliamentary inquiry,<sup>39</sup> concerns about its transparency<sup>40</sup> and impacts on human rights,<sup>41</sup> and the fact that both the Governments of Uganda and Kenya are trying to close the schools of the franchise over failure to meet basic standards.<sup>42</sup>

*iv There has been no independent evaluation of the education provided in those schools, teachers are not trained, courses extremely standardised, learning conditions poor. See more here: AUBRY Sylvain (2017), The Bridge International Controversy: Bridge Schools ‘Undermine the Rule of Law, Transparency and Fundamental Rights’, <http://bit.ly/2kngEw>*

In the education sector, there are many forms of non-state actors' interventions, ranging from community initiatives in rural areas where the state fails, to PPPs.<sup>34</sup> This section relates only to the profit-seeking private sector, as per the OECD definition (see Introduction). This profit-seeking private sector has indeed played an increasing role in the delivery of education in developing countries over the last decade. See "Bridge International academies; a striking example". The share of private (for-profit) schools multiplied by up to ten times in certain countries, supported both by private (the Gates Foundation, the Chan Zuckerberg Initiative, the Omidyar network and private equity enterprises, etc.) and public finance (the World Bank, the UK Department for International Development, etc.). The resulting privatisation of education has generated concerns about growing socioeconomic segregation and discrimination, commercialisation of the content of education away from its humanistic nature, declining parents' and communities' involvement, and failing regulatory frameworks. This situation has led the former UN Special Rapporteur on the right to education to reflect that "privatization in education cripples the universality of the right to education as well as the fundamental principles of human rights law by aggravating marginalisation and exclusion in education and creating inequities in society".<sup>35</sup> UN and regional human rights bodies have also raised concerns about the human rights impacts of privatisation in education.<sup>36</sup>

#### THE EU AND MEMBER STATES SHOULD:

- Directly channel scarce public resources to programmes with high social returns in the areas of health, education and social services, rather than blending them with private finance.
- Make sure their interventions in the field of social services play an equalising role in society and not the opposite.
- Re-commit to oppose the commercialisation of social services, as France has recently done in the context of education.<sup>43</sup>



# 5 ENSURE COMPANIES PAY THEIR FAIR SHARE OF TAX WHERE THEY OPERATE

A major contribution of the private sector to development is through taxes paid in developing countries – a crucial source of funding for gender-responsive public services. Corporate taxes are an important contribution to national budgets and developing countries on average rely on them more than OECD countries do, where this kind of tax makes up for a smaller share of the overall tax revenue.<sup>44</sup> The global problem of corporate tax avoidance affects developing countries particularly strongly. When combined with international tax standards which favour richer countries in the division of taxing rights, and irresponsible use of tax incentives, these cost developing countries more than US\$100 billion in estimated lost revenue every year.<sup>45</sup>

Drivers of the problem go well beyond national tax policies of developing countries and relate to international tax standards and tax policies of high-income countries. The EU and Member States' taxation policies must not undermine and, where possible, should support developing countries' fight against corporate tax avoidance. EU policies promoting a greater role for private companies in developing countries (development, trade and investment policies) should also translate into greater domestic resource mobilisation.

## FOR DEVELOPING COUNTRIES TO EFFECTIVELY BENEFIT FROM PRIVATE SECTOR INVESTMENTS:

- The EU should ensure greater transparency in tax payments by multinational companies in various countries. Obligations in the extractives and banking sectors should be expanded to all sectors through the introduction of a public country-by-country reporting (CBCR) requirement with no exceptions.<sup>46</sup>
- The EU and Member States should undertake further in-depth analyses of spill-over effects of the national tax systems on developing countries in order to identify and improve this policy area.
- Member States should revise tax treaties they have with developing countries if these excessively restrict developing countries' taxing rights.<sup>47</sup>
- The EU should actively support the establishment of an intergovernmental tax body under the auspices of the UN, to achieve a more inclusive and coherent global tax system in the long term.<sup>48</sup>
- Development finance institutions should adopt responsible taxation policies ensuring that they do not condone corporate tax avoidance.<sup>49</sup>

## TREATY SHOPPING FOR A LOWER TAX BILL

Malawi, one of the poorest countries in the world, lost out on US \$43 million in revenue over a six-year period from a single company – the Australian mining company Paladin Energy. The money was lost through a combination of harmful tax incentives from the Malawian government, and tax planning by Paladin, which used Dutch tax treaties.

The Netherlands-Malawi treaty which allowed for this arrangement has since been renegotiated, but many other tax treaties containing harmful clauses are still in place. Opacity in international corporate taxation makes identifying such structures and loopholes very difficult.

In previous reports, *Calling Time – Why SABMiller should stop dodging taxes in Africa* and *Sweet Nothings – the human costs of a British sugar giant avoiding taxes in southern Africa*, ActionAid has shown the development effects of tax dodging by multinational companies in countries such as Ghana and Zambia. These reports demonstrate that this is a systematic problem and not isolated cases – rather, it is business as usual.

# 6 ENSURE THE SUSTAINABILITY CHAPTERS OF INVESTMENT TREATIES ARE EQUALLY AS ENFORCEABLE AS THE PROVISIONS PROTECTING INVESTORS

Investment agreements or ‘investment chapters’ in free trade agreements require states to treat investors in a fair and equitable manner and to pay compensation for direct and indirect expropriation. They also prohibit discriminatory measures distinguishing between foreign investors and local business entities.<sup>50</sup> Those provisions favourable to investors are enforced by out-of-court dispute settlement mechanisms that allow investors to sue governments in case the above-mentioned provisions are not respected.

So far, investment tribunals have resisted taking human rights and public interest considerations into account, trade and investment law prevailing over other considerations in their rulings. If investment tribunals award large sums of compensation to investors, this may constrain public budgets and limit funds available to fulfil human rights and implement Agenda 2030. A recent example is the 2015 ruling against Ecuador by the arbitration tribunal of the World Bank (International Centre for Settlement of Investment Disputes – ICSID), to pay one billion dollars to the US oil company Occidental Petroleum Corporation (OXY), for early termination of an exploitation contract. That amount represented 3.3% of the 2016 national budget of the country.<sup>51</sup>

While provisions protecting foreign investors are binding upon partner countries signing free trade agreements with the EU, the sustainability chapters of free trade agreements lack an effective enforcement mechanism. Their respect is sought via voluntary approaches such as dialogue and financial support. In addition, investors themselves are not subjected to any binding obligation under such agreements, which means that they may benefit from the protective provisions in the agreement even if their operations hamper the realisation of human rights and Agenda 2030.

In addition, international trade and investment rules may prevent the protection of infant industries in developing countries and should instead allow for local content requirements, i.e. obligations for foreign investors to procure locally and employ local labour. Excessive protection of intellectual property rights in trade and investment agreements may also be an obstacle to technology transfer.<sup>52</sup>

## THE EU AND MEMBER STATES SHOULD:

- Limit the scope of investment protection by carrying out a deep reform of investment dispute settlement mechanisms and ensuring that investor state dispute settlement provisions are not included in free trade agreements<sup>53</sup> that the EU makes with counterparties who clearly have existing suitable publicly available dispute settlement mechanisms under normal judicial system. The recently proposed Multilateral Investment Court (MIC) is not satisfactory in many ways.
- Reduce and clarify the standards of protection for investors.
- Make the sustainable development chapters as binding and enforceable as the other provisions in EU free trade agreements<sup>53</sup>, and provide technical and financial support to assist in their effective implementation.
- Reform the international investment regime to ensure that it does not limit developing countries’ abilities to industrialise and to further protect human rights, including labour rights.

# 7 ENSURE BUSINESS ENTERPRISES OPERATING OUTSIDE THE EU ARE HELD ACCOUNTABLE FOR THE IMPACT OF THEIR OPERATIONS ON HUMAN RIGHTS AND THE ENVIRONMENT

The UN Guiding Principles (UNGPs) have put forward human rights due diligence (HRDD) as the principal tool that business enterprises should use to identify the potential and existing human rights and environmental risks related to their activities and business relationships, and to set out the necessary steps for prevention and accountability. Human rights due diligence should be implemented by all companies, no matter what sector or size – although what due diligence means in practice of course depends on the size, sector and context (conflict situation, etc).

There are significant gaps in the legal framework and mechanisms in place to hold companies accountable for the impacts of their actions. The European Commission and most Member States prefer to take a voluntary approach to corporate compliance with the UN Guiding Principles and the SDGs, providing companies with the opportunity to opt out of aligning with environmental and human rights standards.<sup>54</sup> This governance gap constitutes a serious obstacle to the realisation of the SDGs and human rights for all. As the section “Wage increase in Myanmar” explains, voluntary initiatives may improve regulatory frameworks, even if they do not necessarily solve all problems.

Back in 2011, the EU and its Member States sought to position themselves as frontrunners in the business and human rights agenda, endorsing the UN Guiding Principles and promising to make them a centrepiece of their strategies. However, 6 years after their adoption, only 11 Member States<sup>v</sup> have adopted a “National Action Plan” to implement the UN Guiding Principles. Additionally, those released so far have not put forward the much-needed “smart mix” of voluntary and regulatory approach that would meet Member States’ obligations to protect human rights from corporate abuse. The European Commission has so far failed to deliver its own Action Plan, a fact which has been recently denounced by the Former UN Special Representative on business and human rights, John Ruggie.<sup>56</sup>

The EU should strengthen accountability mechanisms to ensure companies operating abroad respect human rights and the environment and contribute to sustainable development and responsible global value chains. Such EU legislation should impose a legal obligation on business enterprises to adhere to a standard of reasonable care (identify, prevent, mitigate and put an end to human rights violations for which they are directly or indirectly responsible). Human rights due

<sup>v</sup> The United Kingdom, the Netherlands, Denmark, Finland, Lithuania, Sweden, France, Italy, Germany, Poland and Belgium.



Picture from the ILO, under Creative Commons.

## WAGE INCREASE IN MYANMAR

In June 2015 Myanmar’s government announced a new minimum wage of 3,600 Kyat (approximately \$3.21/day), following a year of consultation with unions and employers. The proposed rate represented a compromise between what industry groups were calling for (2,500 Kyat) and what unions were calling for (4,000 Kyat). However, Myanmar’s garment factory owners unanimously voted against the proposed minimum wage, which had been broadly welcomed by trade unions.

The Ethical Trading Initiative (ETI), on behalf of its member companies who were then sourcing from Myanmar, wrote to the Myanmar government. They wished to counter the claims of Myanmar’s garment manufacturers and employers’ associations that higher wages will dissuade foreign investors. Rather, they argued, a minimum wage that has been negotiated by all parties will attract rather than deter international companies from buying garments from Myanmar – particularly companies such as ETI members that have committed to upholding international labour rights standards in their global supply chains.

The letter argued that decent working conditions and stable industrial relations are key conditions that would allow ETI member companies to build long-term trade relations with Myanmar. An exemption would mean garment workers, most of whom are young women, being unfairly denied a wage that meets their basic needs, could lead to work stoppages and industrial unrest. Such conditions are far more likely to see international brands reconsider their investment in Myanmar than payment of a national minimum wage. The minimum wage of 3,600 Kyat went into effect for workers, including the garment sector, from September 2015.<sup>55</sup>

While the intervention of the ETI companies helped ensure a better result for workers in this instance, what’s happened since has highlighted why ensuring workers’ rights needs constant attention from business. Myanmar garment workers have complained about factory owners depriving workers of other benefits to make up for the introduction of the minimum wage. The workers have also demanded that the minimum wage be lifted to 5,600 Kyat to meet rising inflation and to approximate more closely to a living wage.

diligence<sup>vi</sup> is the process to proactively examine these issues; it is well-accepted and increasingly used by business enterprises. Creating a corporate duty of care that obliges companies to exercise human rights due diligence would offer a strong prevention and accountability mechanism. It would also level the playing field for business, as responsible companies are currently competing with less scrupulous ones.

The EU should build on positive developments taking place in a number of Member States (see section on “Legislative progress in various EU Member States”). Eight national parliaments from EU member countries sent a ‘green card’ to the European Commission in June 2016, requesting a legislative proposal on corporate accountability. This signal adds to other calls from the European Parliament<sup>57</sup>, the European Council<sup>58</sup>, the Council of Europe<sup>59</sup> and the EU Agency for Fundamental Rights<sup>60</sup> for the Commission to take action.

An EU legislative initiative could be cross-sectoral, without prejudice for sector-specific legislation, as a starting point or complementary approach. The European Parliament has called for both a general binding regulatory framework and sector-specific regulations to ensure that all agricultural commodity importers’ supply chains are traceable back to the origin of the raw materials. This may also prevent the sale of socially and environmentally unsustainable raw commodities in the EU – as for timber and conflict minerals.<sup>62</sup> The European Parliament has been issuing similar recommendations in the

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*vi Human rights due diligence is “an ongoing risk management process that a reasonable and prudent company needs to follow in order to identify, prevent, mitigate and account for how it addresses its adverse human rights impacts. It includes four key steps: assessing actual and potential human rights impacts; integrating and acting on the findings; tracking responses; and communicating about how impacts are addressed UNGP Reporting Framework”. Source: UN Guiding Principles (2015), <https://www.ungpreporting.org/reporting-framework/>*

garment sector.<sup>63</sup> Regulation is crucial to make production and consumption in Europe more sustainable (SDG 12). In addition to improving its own legal framework, the EU should actively contribute to the elaboration of a UN binding treaty on business and human rights. The EU initially publicly opposed the drafting of such an international legally binding instrument when the decision was made in the UN Human Rights Council in 2014, and refrained from engaging in the discussions. But since then public pressure across Europe has been intense and it seems the EU is now ready to engage in discussions about what should be included in such a binding instrument. CONCORD believes that at a time when the EU and Member States’ development policy is emphasising the contribution of business enterprises to development, and they are devoting increasing resources to support private investments in partner countries, engaging in good faith in an international legally binding instrument aimed at preventing and punishing corporate abuses is more urgent than ever.

#### THE EU AND MEMBER STATES SHOULD:

- Adopt a mandatory human rights due diligence regulatory framework at EU level, backed with adequate monitoring and enforcement mechanisms, in order to complement and build on the rising number of voluntary initiatives. Legislative initiatives by Member States should also be encouraged.
- Contribute proactively and constructively to the process for the elaboration of a binding UN treaty on business and human rights.

## LEGISLATIVE PROGRESS IN VARIOUS EU MEMBER STATES

In France, after two years of relentless efforts driven by committed MPs and a coalition of CSOs, a law on the corporate “duty of vigilance” was adopted in February 2017. This law sets a legally binding obligation for parent and subcontracting companies to develop plans to identify and prevent adverse human rights and environmental impacts resulting from their own activities, and those of companies they control and of their subcontractors and suppliers. The largest French companies will assess and address the risks of serious harm to people and the planet under annual public vigilance plans. Interested parties can ask judicial authorities to order a company to establish and make public the vigilance plan and account for its effective implementation. Victims of businesses failing to comply with their vigilance plan can seek damages.<sup>61</sup>

In the UK, the Modern Slavery Act (2015) seeks to address the role of businesses in preventing modern slavery from occurring in their supply chains via transparency obligations. In the Netherlands, the House of Representatives has passed a law on child labour due diligence. If adopted by the Senate, the law will enter into force and require companies to examine whether child labour occurs in their production chain and, if so, to develop a plan of action. On the basis of a complaints system, companies that continue to violate the stipulations in the law can be fined. In other countries, the door is open for future legislative initiatives. For example, a legislative proposal inspired by the French duty of vigilance law is about to be presented to the Spanish Parliament. The National Action Plans on business and human rights recently adopted in Germany and Italy also include some openings for future due diligence legislation.

# 8

## REFORM EU COMPETITION LAW

Competition law was conceived to protect consumers from private sector misconduct, such as companies agreeing among themselves to set higher prices for consumers to pay. But since then, competition law has become an obstacle to introducing more sustainability in trading relations<sup>64</sup> – particularly through recent changes by the European Commission.<sup>65</sup>

Today's interpretation of “consumer welfare” is about ensuring cheap prices for consumers, rather than ensuring sustainable supply chains. The EU Treaty provisions on competition policy are therefore seen as prohibiting collaborations between businesses that result in higher prices for consumers for *any* reason. As a result, companies are dissuaded from participating in multi-stakeholder initiatives to agree on *collectively* increasing sustainability in a sector which they fear could result in competition law infringements and hefty fines.

Competition law also relates to market structures. Nowadays, supply chains are characterised by a heavy imbalance of power that has detrimental effects on very small producers as well as on workers in developing countries.<sup>67</sup> This trend will intensify as a result of the upcoming megamergers in the agricultural sector, for example, *Baysanto*.<sup>68</sup> In recent years, the influence of wider “public interest” criteria in merger law has become increasingly marginalised.<sup>69</sup> Concentration of power in the supply chain is an obstacle to sustainable development.

### SUSTAINABILITY EXEMPTION TO COMPETITION LAW IN THE NETHERLANDS

Is it possible for private sector actors to agree to phase out chickens grown in tiny boxes in a coordinated way? Shouldn't the Dutch consumer have a right to more sustainable products? These are questions that have been debated in the Dutch Parliament following a multi-stakeholder initiative that was aiming at eliminating the worst forms of chicken production from the Dutch shelves, also known as the ‘Chicken of Tomorrow’ (Kip van Morgen) case.<sup>66</sup>

Political pressure on the competition authority in the Netherlands resulted in guidelines given on when to exempt multi-stakeholder initiatives from cartel investigations under competition law, i.e. in cases where sustainability gains would outweigh the short-term price increase for consumers.

Other countries and ultimately the EU should start debating this topic too.

#### THE EU AND MEMBER STATES SHOULD:

- Issue general guidelines to clarify under which conditions the private sector can come together to agree on *collectively* increasing sustainability in a sector without breaching competition law.<sup>70</sup> The EU could thereby prevent the chilling effects on multi-stakeholder initiatives.
- Mandate that mergers be tested for their impacts on sustainability, including their impacts on workers and producers in developing countries.
- Reassess the definition of dominant market positions, considering maximum market shares and as a last resort breaking up conglomerates that have become too large.



# 9

## ENSURE THE RESPECT OF THE BUSAN DEVELOPMENT EFFECTIVENESS PRINCIPLES

### IN ALL PROGRAMMES AND PROJECTS

Donors seeking to leverage private sector investments in developing countries integrate the development effectiveness principles set out in Paris (2005), Accra (2008) and Busan (2011) to a varying degree. Most donors have separate policies on aid effectiveness and only a few EU Member States, such as Spain, make specific reference to Paris or Accra in their policies on the private sector.

The EU and its Member States must ensure they comply with Busan development effectiveness principles when they promote an increased role for the private sector in development. Citizens and organised civil society's participation, transparency and accountability must be at the heart of their engagement with the private sector in development. So too must be the principles of ownership, alignment, harmonisation and mutual accountability. Effective consultation of people and groups who will be impacted, either positively or negatively, is also crucial to respect their rights, including their right to land and natural resources.<sup>71</sup>

Recent research by the International Trade Union Confederation-Trade Union Development Cooperation Network (ITUC-TUDCN) into the practice of nine development finance institutions (DFIs) has shown that they are ill-equipped to manage aid flows in line with existing best practices on aid effectiveness.<sup>72</sup> These DFIs do not have adequate systems in place to guarantee the ownership of development projects by developing country governments and stakeholders. This study shows a general bias towards donors' economic interests and businesses, which is an outcome of one or a number of the following factors: an explicit mandate to support national enterprises, a biased overarching policy framework (namely the tendency to operate in less risky countries) and, in some cases, the co-ownership of the DFI by private sector actors. Moreover, DFIs are under no obligation to consult with developing country governments or actors (such as social partners and CSOs) in order to align projects with national development strategies and priorities.<sup>73</sup>

#### THE EU AND MEMBER STATES SHOULD:

- Set priorities for their development cooperation in consultation with CSOs and local communities, so that projects supported meet their needs and aspirations for development.
- Integrate development effectiveness commitments in DFIs' processes and approaches.

### SOCIAL HOUSING IN SENEGAL: TARGETING THE RIGHT ACTORS, BUT MISSING THE POOR

The public-private partnership between the French Development Agency (AFD) and a Senegalese bank, the *Banque de l'Habitat du Sénégal* (BHS) aimed to expand access to affordable housing in Dakar. While addressing a pressing issue, the project failed to achieve its objectives due to design flaws, most notably that of failing to involve local actors in the planning phase of the project. A total of CFA 8,500 million (€13 million) in concessional loans has been provided by the AFD to BHS in the form of credit lines since 2008 to address a pressing housing problem in Dakar which faces a yearly deficit of 150,000 housing units. The choice of a local partner and a socially sensitive sector was a positive element: partnering with a Senegalese bank allowed the project to benefit from local knowledge and trickle-down effects in the local context from both the financial and capacity-building point of view.

However, the way the project was implemented has limited its impact on the targeted social group – i.e. low and middle-income workers, many of whom work in the informal economy. Under the project, access to the constructed housing is limited to workers earning over CFA 350,000 a month (€530), almost eight times the minimum wage of CFA 45,000 (€66). The project also fails to consider that most workers are employed in the informal sector, making it difficult for them to prove their income and limiting their access to loans. Moreover, there is very little transparency around the conditions on which the housing units are allocated, which creates an environment favouring nepotism and political clientelism.

The actors responsible for the project should have sought a greater level of local ownership and, consequently, better outcomes for the people truly in need of affordable housing in Dakar. This could have been achieved through multi-stakeholder consultations during the design phase of the project and greater transparency throughout the project's implementation phase, with clear and adequate benchmarks for the allocation of the social housing built.<sup>74</sup>

# 10 ENSURE TRANSPARENCY AND ACCOUNTABILITY WHEN PUBLIC FINANCE

## IS USED TO LEVERAGE PRIVATE INVESTMENTS IN DEVELOPING COUNTRIES

Where the EU and its Member States use public funds to leverage private investments in developing countries, CSOs have raised concerns around the lack of transparency, the underdemonstrated development impact and the unclear financial additionality. CSOs have also highlighted the potential for human rights violations such as land grabbing or labour rights violations, the exacerbation of food insecurity and gender and other forms of inequality, and the privatisation of essential public services.<sup>75</sup> The ability of private investments to reach people living in poverty, especially in least developed countries has also been questioned – including in the most recent evaluation of the EU blending.<sup>76</sup> Those concerns have been repeatedly raised by a large coalition of CSOs in the framework of the adoption of the European External Investment Plan and its related European Fund for Sustainable Development (EFSD).<sup>77</sup>

Another concern where public funds are used to leverage private investments in developing countries is that DFIs tend to support companies domiciled in donor countries rather than in developing countries.

Blended finance tends to be much less transparent and accountable than pure public concessional funding, as shown by the experience of the EU's blending facilities.<sup>80</sup> This threatens the quality of aid and makes it difficult to assess whether objectives are being met.<sup>81</sup> However, there are also success stories in this field.<sup>82</sup> The evaluation of EU blending facilities has shown that blending, whether or not it involves private companies, can be very successful – in particular for large infrastructure projects in middle-income countries. However, it is important to incorporate the development aims more explicitly in the objectives, intervention logic and results matrix of the projects to ensure they effectively contribute to poverty alleviation and women's empowerment and rights.<sup>83</sup>

## THE RETURN OF TIED AID?

Bilateral DFIs<sup>vii</sup> often support companies domiciled in donor countries rather than in developing countries. Research conducted by Eurodad in 2010<sup>78</sup> revealed that the lion's share of International Finance Corporation (IFC) investments, namely 63%, went to OECD-based companies and unfortunately, not much has changed since then. Of the European Investment Bank (EIB) projects where beneficial ownership could be traced, 35% (€1.5 billion) went to OECD-based companies. Hence a large portion of investments made by the International Finance Corporation and the European Investment Bank ends up supporting enterprises headquartered in developed countries. This puts into question their ability to engage as development institutions and their contributions to poverty eradication and actual development impact.<sup>79</sup>

*vii* Bilateral DFIs are either government owned or the government is the majority shareholder. There are only a few exceptions – usually smaller DFIs – such as the Austrian Development Bank (OeEB) that is owned by a private bank but given a public mandate by the Austrian government.

## THE EU AND MEMBER STATES SHOULD:

- Use blending only when it has a comparative advantage compared with other development tools to reach the specific development objectives identified (mostly on large-scale infrastructure projects).
- Set safeguards and concrete criteria when leveraging private investments in partner countries, building on and expanding the criteria included in the 2014 Communication on a stronger role of the private sector in development. This scoreboard of criteria should apply both ex ante and ex post – to guide the decision on whether to fund a project and to assess its impact.
- Put in place monitoring and evaluation systems to make sure that projects funded through blended finance instruments generate the expected development results. Local communities, including CSOs, should be involved in such monitoring and evaluation systems.
- Ensure a common standard of reporting for all providers using blended finance instruments.

This common standard should ensure data is timely, comparable, accessible and disaggregated enough to be used for tracking blended finance to the destination country and receiving entity, and reporting its impact. It is also important to agree on a way of reporting information on investee companies (such as their jurisdiction and size) to understand whether official development assistance (ODA) used in blending complies with established standards of ‘untied aid’, or whether it is causing any distortions to local markets.

- Ensure full reporting of the new European Fund for Sustainable Development to the International Aid Transparency Initiative (IATI) to ensure full transparency – whether it is using some or all ODA.
- Ensure all procurements under the European External Investment Plan and other similar initiatives respect the highest possible standards of transparency, accountability and efficiency such as the Open Contracting Global Principles.



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# OUR MEMBERS

 <p>NATIONAL PLATFORMS</p>	 <p>Global Responsibility</p>	 <p>BELGISCH PLATFORM PLATE-FORME BELGE <b>CONCORD</b> CNCD-11.11.11 11.11.11 ACODEV ngo-federatie</p>	 <p><b>BPID</b> Bulgarian Platform for International Development</p>	 <p>Platforma za međunarodnu građansku solidarnost Hrvatske Croatian Platform for International Citizens Solidarity <b>CROSOL</b></p>	 <p><b>CYINDEP</b> Cyprus Island wide NGO Development Platform</p>	 <p><b>FORS</b> České Fórum pro rozvojovou spolupráci Czech Forum for Development Co-operation</p>
 <p><b>GLOBAL FOCUS</b> British CRNs for Development Cooperation</p>	 <p><b>KEHYSRY</b></p>	 <p><b>Coordination SUD</b> Solidarité Urgence Développement</p>	 <p><b>VENRO</b> ASSOCIATION OF GERMAN DEVELOPMENT AND HUMANITARIAN AID NGOs</p>	 <p><b>Hellenic Platform for Development</b></p>	 <p><b>HAND</b></p>	 <p><b>Dochas</b> The Irish Association of Non-Governmental Development Organisations</p>
 <p><b>CONCORD ITALIA</b></p>	 <p><b>LAPAS</b> WWW.LAPAS.LY</p>	 <p><b>LITDEA</b> Lithuanian Development Education and Awareness Raising Network Lithuanian National Non-Governmental Development Organisation Organisations Platform</p>	 <p><b>Cercle de Coopération</b> des ONG de développement</p>	 <p><b>SKOP</b> Solidarjetät u Koperazzjoni</p>	 <p><b>PARTOS</b></p>	 <p><b>ONGD</b> PLATAFORMA PORTUGUESA</p>
 <p><b>ONGD</b> PLATAFORMA PORTUGUESA</p>	 <p><b>FOND</b> Federacia Organizacii ne-Profesioniste pentru Dezvoltare din Romania</p>	 <p><b>MVRO</b> Macedonian Development Education and Awareness Raising Network Macedonian National Non-Governmental Development Organisation Organisations Platform</p>	 <p><b>SLOGA</b> SLOVENIAN DEVELOPMENT ACTION</p>	 <p><b>COORDINADORA ONG PARA EL DESARROLLO ESPAÑA</b></p>	 <p><b>CONCORD</b> Sweden &amp; European NGOs for development Sweden</p>	 <p><b>bond</b></p>
 <p><b>actalliance eu</b> formerly ARODEV</p>	 <p><b>act:onaid</b></p>	 <p><b>ADRA</b></p>	 <p><b>care</b></p>	 <p><b>caritas europa</b></p>	 <p><b>cbm</b> together we can do more</p>	 <p><b>ChildFund Alliance</b></p>
 <p><b>CIDSE</b> together for global justice</p>	 <p><b>eucord</b> European Network of Civil Society Organisations for Relief and Development</p>	 <p><b>GNDR</b> Global Network of Gender Organisations for Disaster Reduction</p>	 <p><b>Habitat for Humanity</b> Europe, Middle East and Africa</p>	 <p><b>HANDICAP INTERNATIONAL</b></p>	 <p><b>IPPF</b> International Planned Parenthood Federation European Network</p>	 <p><b>ISLAMIC RELIEF</b></p>
 <p><b>OXFAM International</b></p>	 <p><b>PLAN International</b></p>	 <p><b>Save the Children</b></p>	 <p><b>solidar</b></p>	 <p><b>SOS CHILDREN'S VILLAGES INTERNATIONAL</b></p>	 <p><b>Terre des Hommes International Federation</b></p>	 <p><b>World Vision</b></p>
 <p>ASSOCIATE MEMBERS</p>	 <p><b>ALDA</b> European Association for Local Democracy</p>	 <p><b>ea ea</b> EUROPEAN ASSOCIATION FOR THE EDUCATION OF ADULTS</p>	 <p><b>WWF</b></p>			

