THE RELATIONSHIP BETWEEN GOOD GOVERNANCE AND ENVIRONMENTAL COMPLIANCE AND ENFORCEMENT

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Let me take one minute of my time to make some general remarks. This year, Morocco and the Netherlands are commemorating their 400-year relationship. Although this conference is not part of the official celebrations, I am pleased and honoured to be participating in it.

The Dutch government is deeply concerned about the enforcement of environmental regulations, not only in the Netherlands but also throughout the European Union and on a global scale. That is why we support and participate in the EU Network for the Implementation and Enforcement of Environmental Law (IMPEL) and the International Network for Environmental Compliance and Enforcement (INECE).

We feel this is necessary to protect our environment for our generation and – more importantly – for future generations. But we also need to create a level playing field for companies so they can comply on equal terms.

The need to promote enforcement and compliance was recognised by the participants in the Rio Earth Summit back in 1992. The Summit established an international mandate, in Chapter 8.21 of Agenda 21, identifying compliance and enforcement capacity as essential elements of environmental management.

We participate in activities organised by INECE, which began in 1990, fulfilling the mandate established at the Rio Earth Summit.

How do the Rule of Law and Good Governance help us achieve environmental compliance and enforcement?

Let me begin by saying that international organisations like the European Commission, the United Nations Environment Program, the World Bank, the United Nations Development Program and the Asian Development Bank have stressed the importance of Good Governance and Rule of Law.

I realise definitions may differ slightly, but in general this is what we mean when we talk about the Rule of Law and Good Governance.

— The Rule of Law means having independent, efficient and accessible judicial and legal systems, and a government that applies fair and equitable laws equally, consistently, coherently and prospectively to all its citizens.

— Good Governance is characterised by accessibility, accountability, predictability and transparency.

— Good Governance:
  — promotes accountability, openness and transparency, citizen participation, efficiency, and other aspects of the Rule of Law in public institutions at all levels;
  — includes clear decision-making procedures for all public authorities, civil society participation in decision-making processes, and the ability to enforce rights and obligations through legal mechanisms; and
  — allows for sound and efficient management of human, natural, economic and financial resources for equitable and sustainable development.

Good Governance and the Rule of Law are essential conditions for achieving sustainable development.

Weak legal and judicial systems,
where non-compliance is the norm, undermine the Rule of Law and cause environmental degradation and slow progress to sustainable development. This not only affects sustainable development, but also carries severe economic consequences. Weakness in the Rule of Law has devastating consequences for the confidence of economic actors and hinders investment. Lack of investment slows economic growth, which in turn deprives governments of resources to invest in education, social safety nets and sound environmental management.

These are the negative effects.

What can we do to strengthen the Rule of Law?

— To date, most efforts to strengthen the Rule of Law concentrate on developing new laws and creating new institutions, rather than building capacity for ensuring compliance with existing rules and making sure that they are clear and not contradictory.

— It is not enough merely to point out the elements of the Rule of Law and to invest in institutional reforms, if a culture of compliance is not developed to replace the culture of non-compliance or corruption.

— International capacity-building assistance should expand efforts aimed at the deeper goal of increasing government compliance with laws. INECE has a critical role to play here; it is the only global network of professionals dedicated to improving compliance with environmental law.

— Increased focus on compliance, along with better coordination and increased support, will improve the success of efforts to strengthen the Rule of Law, which in turn will improve the success of efforts to improve Good Governance, and help us move towards Sustainable Development.

— However, we cannot expect to build a culture of compliance overnight. The process is often a gradual one, involving changes to long-standing practices, entrenched interests, cultural habits and social and even religious norms.

We, the Dutch Government, are committed to these developments and to increasing focus on compliance and enforcement. This has to be done in a flexible way, taking advantage of the activities of government and industry to achieve our goals. Industry has to be encouraged to be part of the compliance process through compliance assistance schemes, self-regulation and voluntary environmental performance agreements.

Allow me to return to where I started. The Dutch Government is in favour of capacity-building, good governance and using networks like INECE to achieve our goals of sustainable development on a level playing field. That is why we support activities like INECE and why it is important that I am participating in this conference with so many people who are truly engaged in their work as enforcement activists. I look forward to discussing this and other points with my fellow panellists and the conference participants. Thank you.