

Public Risk Analysis and Action Plan for Cargo Flows

Commissioned by Branche Organisatie Zeehavens (BOZ) - The Dutch Seaports Association- and the Taskforce for Responsible Commercial Supply Chains (Werkgroep Verantwoorde Handelsketens)

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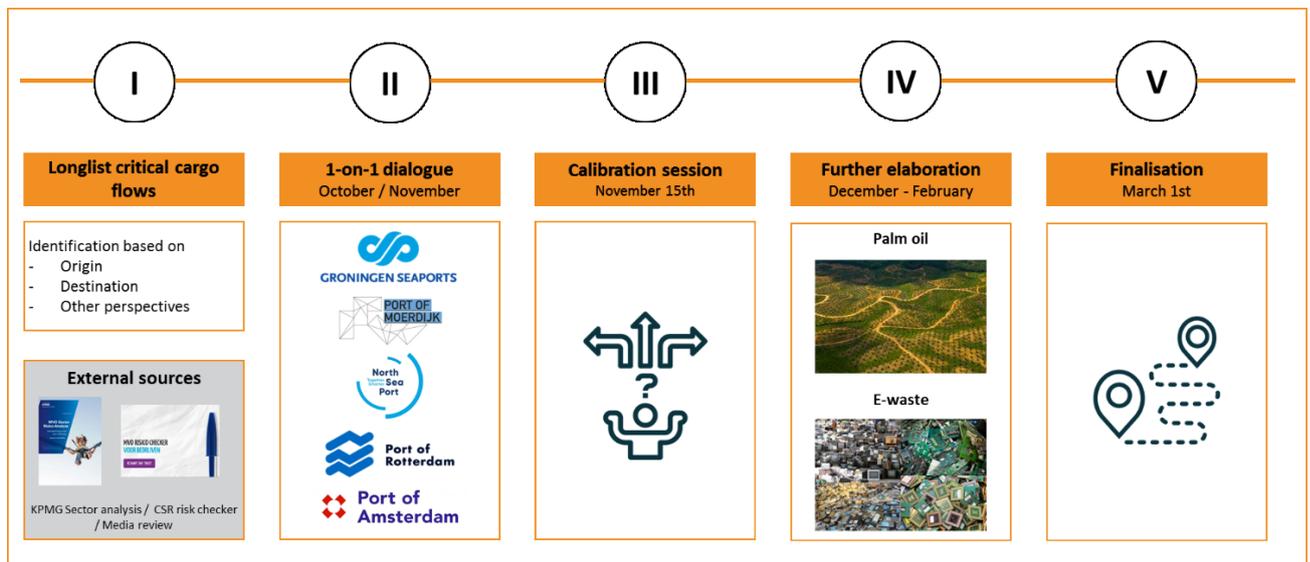
PUBLIC RISK ANALYSIS AND ACTION PLAN FOR CARGO FLOWS

BACKGROUND

In 2017, BOZ (an industry association for the Dutch port industry), acting on behalf of the various seaports in the Netherlands, assessed the relevance of collecting data on the public risks associated with cargo flows handled by, and operations carried out in, Dutch seaports. The outcome of their study is that the Dutch seaports seek to improve their understanding of these substantive risks for the main cargo flows and to use these insights to be able to manage these risks.

This document details the steps taken in gaining insight into the main public risks associated with current and future maritime cargo flows in Dutch seaports (i.e. awareness of trends and developments) and in order to determine which cargo flows bear the most substantial public risk (i.e. which are prioritised). In addition, the seaports were in need of a set of procedures/guidelines/an action plan and sought to learn how they can manage and mitigate these risks and, in doing so, fulfil the OECD guidelines within the scope of action set. Based on joint sessions, interviews and desktop research, we implemented these guidelines based on the pre-requested activities specified below.

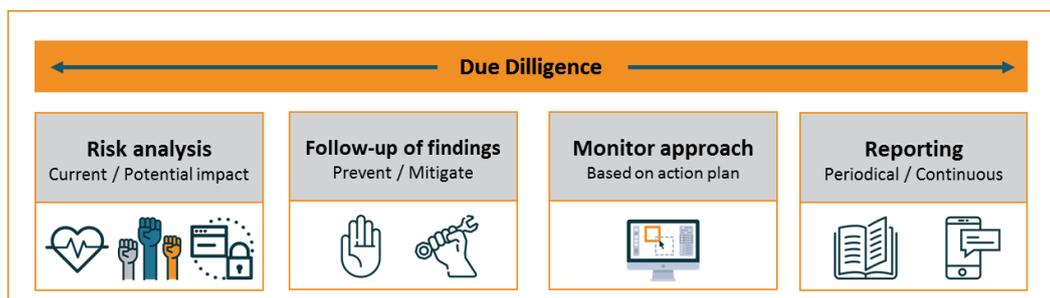
1. Making an inventory of current and (potential) future maritime cargo flows in Dutch seaports;
2. Performing a Public Risk Scan of the cargo flows passing or to be passed through Dutch seaports;
3. Determining a method to prioritise for which cargo flows Dutch seaports should partner first in order to achieve the most positive impact in countries of origin or mitigate their own business risks;
4. Developing a joint strategy and action plan based on the OECD guidelines in order to make a positive impact on the origin of cargo flows involving public risks. And developing an action plan for a cargo flow to be specified.



Before summarising the various types of operations, we provide a brief outline of the implementation of the OECD guidelines in order to describe the correct context. The summary is supported by various PowerPoint documents, which were used during the sessions; you can open these documents by double-clicking the icons.

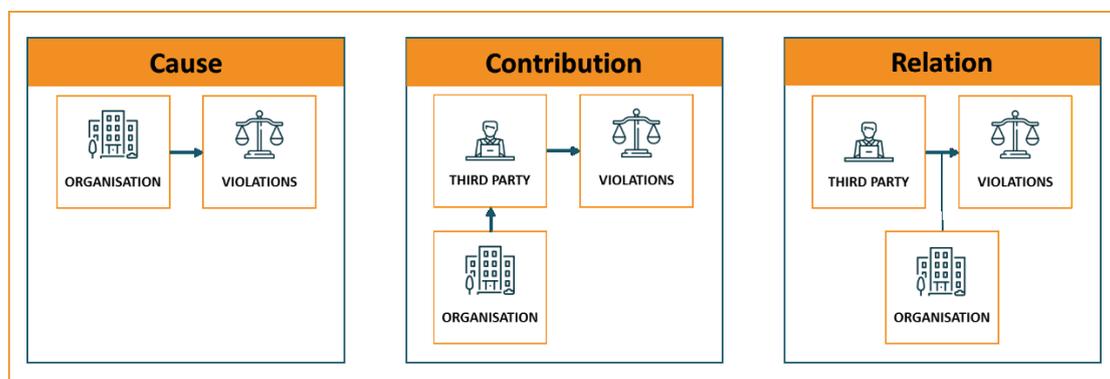
DUE DILIGENCE

Due diligence is a key element of organisations’ risk management processes. In the context of the environment, corruption and labour & human rights, the focus of due diligence is on providing insight into, and mitigating the risks associated with, non-legal (or considered to be non-legal) and legal complicity in potential violations (based on OECD, 2018¹/UN, 2011²). Due diligence is an ongoing process, the purpose of which is to identify any negative consequences and subsequently preventing, reducing, restoring and/or compensating these. The process consists of four elements, shown in the figure below.



INVOLVEMENT

Owing to complex supply chains and group structures, ways in which companies become involved in violations may vary. The OECD guidelines identify three different levels:



1. *Violations can be caused directly by organisations.*
In this case, the organisation in question is responsible for discontinuing the operations or modifying them in such a way as to prevent future violations. In addition, the organisation must endeavour to compensate victims.
2. *A more common scenario is for an organisation to contribute to violations (either alone or through third parties).*
In this case, the organisation in question is responsible for discontinuing the operations or modifying them in such a way as to prevent future violations. If this is not immediately possible, the

¹ OECD (2018), Due Diligence Guidance for Responsible Business Conduct

² UN (2011), Guiding Principles on Business and Human Rights

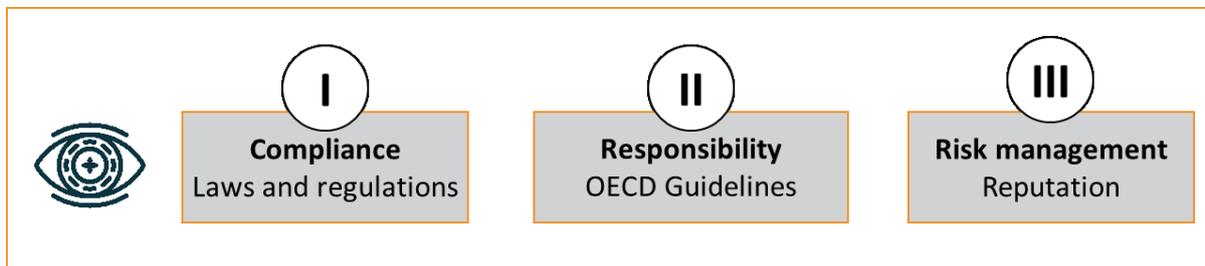
organisation must use its influence to achieve the same result. In addition, the organisation must endeavour to compensate those affected.

3. *Without any direct contribution, there may be a correlation with the violation through operations, services or products.*

In addition, the organisation must endeavour to compensate those affected.

MANAGING IMPACT

There are numerous – often hefty – publications and guidelines available to determine impacts and how to manage them. It is often not easy to find a clear-cut answer, particularly when it comes to determining the level of severity involved. Negative impacts tend to be the result of complex circumstances, in which multiple stakeholders have divergent interests and hold varying positions of power. During the sessions with the seaports, three perspectives were revealed which can help to make sense of this complexity; these are briefly described below and further set out in the action plan contained on the following pages.



Compliance

Assuming responsibility is first and foremost the duty of government authorities, as they (in principle) hold the right to establish laws and regulations. This provides for the option to issue licences, exercise supervision and, if necessary, enforce laws and regulations.

Responsibility

The focus on the role of the government was dominant until the 1970s; ever since this time, attempts have been made to describe the responsibilities of businesses/the private sector. The responsibility related to labour rights and human rights, in particular, turned out not to meet the requirements, and it was only in 2008 that it resulted in a framework which could be accepted by the United Nations. This framework, which was drafted by Harvard University Professor John Ruggie, consists of three basic elements: Protect/Respect/Remedy. Businesses are responsible for taking proactive action by means of due diligence and for implementing the necessary measures where necessary. The framework was incorporated into the OECD guidelines in 2011.



Risk Management

The last perspective to be used is risk management, aimed at business reputation and the repercussions of reputational damage. The probability of occurrence of reputational damage has increased in recent years, mainly due to the emergence of social media. It is difficult to find reliable ways to integrate reputational risks into risk management, although this tends to require a combination of expert judgement and strategic environmental management.

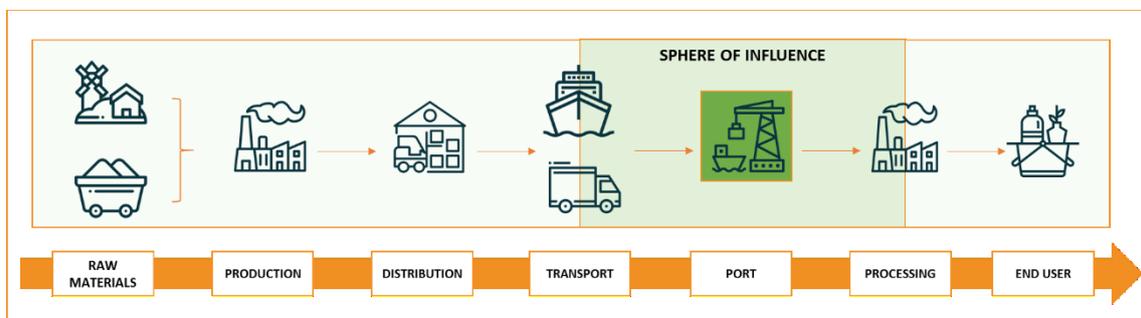
ACTION PLAN

Based on the OECD guidelines, insights acquired in 2017 and the operations conducted in 2018/2019, an action plan for maritime cargo flows was drafted for the Dutch seaports. On the following pages, we describe, based on the first two elements of the due diligence process, the risk analysis and the implementation of findings. The elements related to monitoring and reporting depend to a large extent on the measures chosen and are therefore difficult to estimate in advance. We have therefore provided only a general description of these elements.

STEP 1 – RISK ANALYSIS

Determining position and scope

The figure below provides a simplified picture of this value chain, in which we indicate the scope of operation of various seaports. This scope of operation is strongest in the port's immediate area, due to the responsibility of facilitating safe and efficient ship handling (among other duties). As early as 2017, TheRockGroup concluded that, where the cargo flows passing through the seaports are concerned, the commitment on the part of these seaports can be classified as a 'relationship'.³



Prioritising cargo flows

This scope essentially covers all cargo flows. Once a longlist has been drafted, there are several filters which can be used:

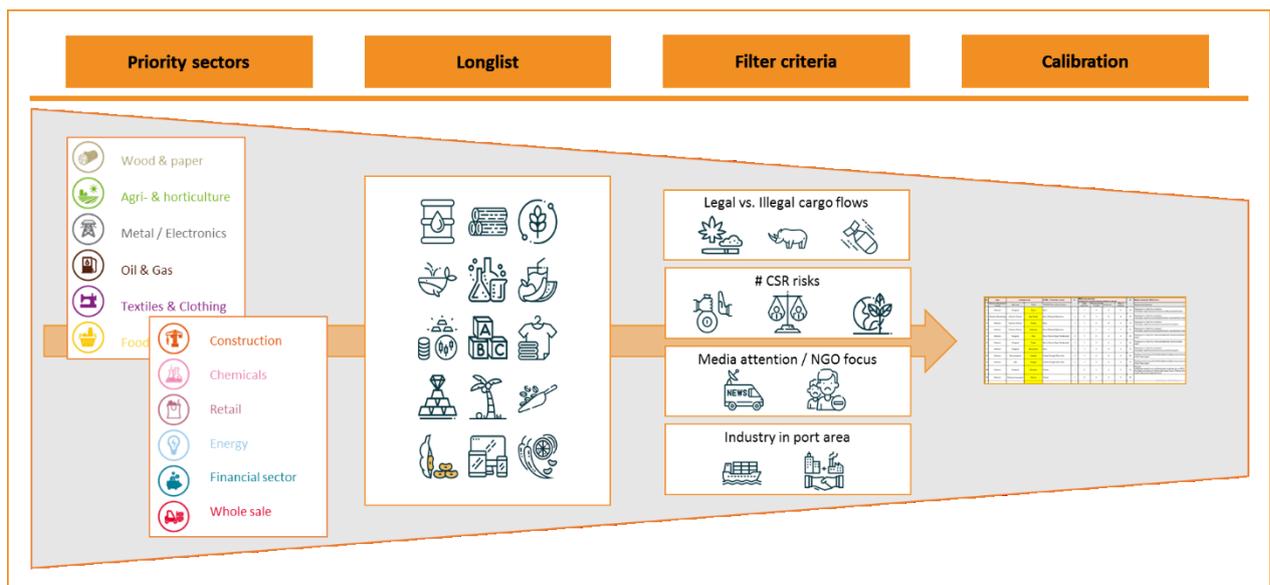
- Legal versus illegal cargo flows
The cargo flows passing through Dutch seaports are not always legal, with examples including drugs, illegal immigration, human trafficking and various types of environmental crime. Cargo flows of an illegal nature must be given the highest priority.
- #CSR (Corporate Social Responsibility) risks

³ Cargo flows are of a different nature than purchases made on the buyer's own terms, e.g. dredging work. This type of purchasing is regarded as a 'contribution' to which other responsibilities are linked

Using the CSR (Corporate Social Responsibility) Risk Checker (<https://www.mvorisicochecker.nl/nl>), it is possible to make an assessment of the number and types of impacts. The tool reveals the risks involved for each product and, possibly for each country, classified into one of the following categories: 'fair business', 'human rights & ethics', 'labour rights' and 'natural and built environment'. The tool provides a description for each type of risk, a recommendation for action where possible, and the various sources used. Cargo flows involving a larger number of risks must be given a higher priority.

- Industrial activity in the port area
Many of the cargo flows only pass through the seaports and remain in the port area for only a limited amount of time. However, a portion of the cargo flows is processed by businesses operating within the port and industrial complex; these cargo flows must be given a higher priority.
- Media coverage/NGO focus
Some cargo flows receive more media coverage than others, depending on the type of impact and the focus of NGOs. Cargo flows that routinely receive greater media coverage or focus from NGOs may be assigned a higher priority level.

The results can be calibrated during a final session, after which the priority levels are confirmed. This exercise can be carried out once a year in order to ensure everything is up to date.



STEP 1 – EXECUTION

During the risk analysis, we used the CSR Sector Risk Analysis (KPMG, 2014⁴) in order to roughly define the parameters. This resulted in an initial longlist, which was further refined based on interviews and a joint session. The eventual longlist contained more than 60 types of cargo and can be reduced and further specified for individual seaports by scheduling a session with the relevant departments.

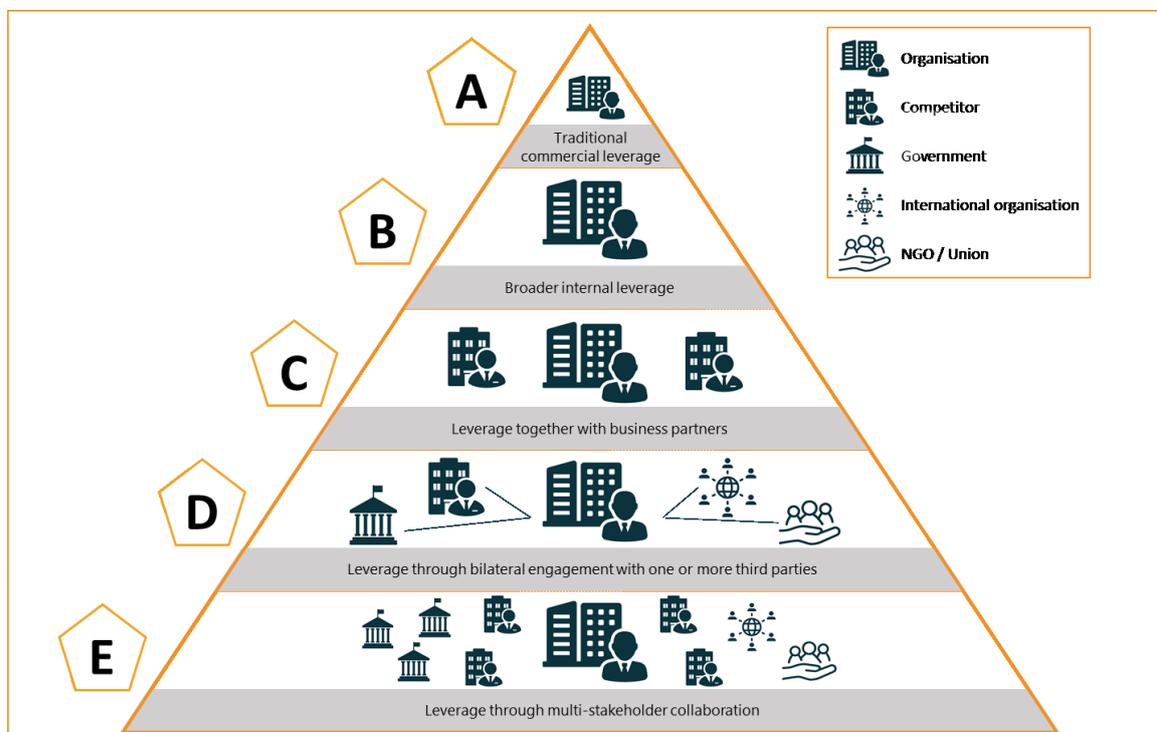
⁴ <https://www.rijksoverheid.nl/documenten/rapporten/2014/09/01/mvo-sector-risico-analyse>

STEP 2 – INCORPORATING FINDINGS

Risk management is subject to the theory that, irrespective of the level of involvement, if the organisation can exert influence, it should do so. However, the reality tends to be more complex and is strongly related to the ability to exert influence on a supply-chain partner. In the context of the seaports, the supply chains of the cargo flows passing through Dutch seaports are generally long and complex, involving a number of shifting risks and negative impacts. These simply cannot all be addressed and/or addressed simultaneously.

When controlling potential risks, setting priorities is therefore essential. This prioritisation depends on the severity of the impact, the extent to which it is repairable/irreparable, the probability of the risk occurring, and the level of control the seaport can exercise over the risk. The fact that certain cargo flows are prioritised does not mean that other cargo flows are less important or less serious than others; this is intended mainly to focus the operations and divide them into stages. This involves a process of ongoing improvement, in conjunction with a supply-chain partner. Prioritisation therefore does not mean a policy of excluding these cargo flows. The purpose of implementing findings must be to encourage improvement.

On account of the seaports' position, implementation will always need to occur in conjunction with third parties, e.g. working with supply chain partners by discussing any risks identified and expected improvements. Another option is to contact vulnerable or affected parties, non-profits such as NGOs and unions, and other seaports in order to create a joint action plan. A 2013 publication by Shift provides an overview of possible measures to be taken depending on the role of the supply chain partners and their influence/level of control. These measures are summarised in the enclosed PowerPoint file and visualised in the figure below.



STEP 2 – EXECUTION

During the November meeting, we discussed an initial overview for each individual seaport. Since each port has its own individual dynamic, prioritisation varied by port. It was agreed at the meeting to conduct an in-depth analysis of two cargo flows: palm oil and e-waste. A diagram charting the evolution of these cargo flows is shown in the enclosed PowerPoint files. The 'quick and dirty' due diligence is made up of several different components, and the information used is obtained from external sources:

- Facts & Figures
- General information on cargo flows
- Main impacts
- Supply-chain flow
- Stakeholders' activities
- Potential action to be taken by seaports, both specific and generic

STEP 3 & 4 – MONITORING APPROACH/REPORTS

Under the OECD guidelines, organisations are required to examine whether the implementation of the findings genuinely has an effect. This requires continuous monitoring; this monitoring can help to modify the policies and strategy in the meantime, for example if there are few noticeable improvements or if new risks are identified. Measuring effects depends to a large extent on the objective set, the available resources and the activities being carried out. Sustainability reports often use a combination of quantitative and qualitative indicators.

Organisations have recently also been performing impact measurements. The difference between effect and impact is summarised in the figure on the right. Our experience is that the focus must first be on drafting a practical action plan and that we must be prepared for any unforeseen challenges during the implementation of this plan. This process often take several years to complete.

