



Foundations for our future

a through cycle perspective 2009

INVESTORS' AGENDA OF PRIORITY POINTS

SUMMARY OF THE 2009 PRIORITY POINTS

A. Stimulate Labor Flexibility

1. Review termination laws

Ease employment protection legislation (EPL), notably on permanent contracts, and ensure termination laws are easy to understand and consistently applied.

2. Increase participation of the Dutch workforce

Shift severance funds towards ‘work-to-work’ programs and tap into the value of the senior workforce.

B. Unlock the potential of innovation

3. Disseminate technology through innovation

Increase the success of translating technology into stronger economic performance by adopting the recommendations of the Innovatieplatform.

4. Increase mobility through innovation

Employ innovations in the virtual infrastructure to reduce congestion and increase mobility.

C. Reduce the Administrative Burden

5. Ensure simplicity and competitiveness of tax legislation

Simplify the participation exemption; simplify the interest deductibility rules; abolish dividend tax.

6. Give “red carpet” treatment to foreign investors

Show Government receptiveness towards foreign companies with a one-stop shop and good inter-agency coordination.

THE 2009 PRIORITY POINTS

After long stagnation during the first half of the present decade, the Dutch economy made a successful comeback. Growth strengthened, unemployment dropped and the fiscal position was brought into balance. This recovery was built on a robust medium-term performance, which has helped to maintain living standards among the highest in the OECD. There is now a solid foundation for growth, in spite of the present economic crisis.

Government's focus on policy initiatives to structurally improve the country's competitive position and attractiveness for foreign investment are to be commended. This is an ongoing process – increasingly one that must combine the need for improved economic welfare and growth with good stewardship of scarce resources and the environment. AmCham therefore supports the Government's energy diversification and sustainability program, which aims to safeguard access to reliable and affordable energy for future investors. It is this long-term view that interests foreign investors. Accordingly, we look beyond the present downturn in the 2009 priority points. Many of our recommendations are basic steps towards a healthy entrepreneurial environment, in which new business initiatives are encouraged. This is necessary for an economic climate conducive to wealth creation and economic dynamism – now and after the downturn. AmCham recommends three broad measures for creating this environment:

A. STIMULATE LABOR FLEXIBILITY:

Ease, simplify and align termination laws, and increase participation of the Dutch workforce by shifting severance funds towards 'work-to-work' programs and by tapping into the value of the senior workforce.

B. UNLOCK THE POTENTIAL OF INNOVATION:

Increase the success of translating technology into stronger economic performance by adopting the recommendations of the Innovatieplatform; and employ innovations in the virtual infrastructure to reduce congestion and increase mobility.

C. REDUCE THE ADMINISTRATIVE BURDEN:

Continue the present program, with emphasis on simplicity and competitiveness in tax legislation, and show receptiveness towards new foreign investors with "red carpet" treatment, e.g., via a one-stop shop.

A. STIMULATE LABOR FLEXIBILITY

Labor flexibility continues to occupy a prominent place in all discussions related to economic and social reform. It reflects the ability of companies and the workforce to adjust to sudden changes in economic conditions, such as the present downturn.

AmCham has two recommendations in this regard: Reform termination laws by easing EPL on regular contracts, and take further steps to increase participation of the Dutch workforce.

1. Review termination laws

Employment protection legislation (EPL) – notably for permanent contracts – remains complex and strict by international comparison. This restricts the resilience of the Dutch economy, as it gives employers little scope to adjust employment levels to economic conditions. It also seriously inhibits innovative start-ups in their early growth stage.

AmCham has welcomed the debate on the termination laws, but regrets that Government has not taken the step towards introducing legislative measures for reducing procedural

inconveniences related to dismissal. Recent modernization of the cantonal court formula was not agreed to by Government itself, but is a one-sided cantonal courts practice agreement. Compared to clear codification, this may result in limited impact, as only the specific cases that are brought before court will be subject to this practice. Already unions have announced in public that collective agreements between employer and employees need not be subject to this new formula and old practice will continue to exist. Proposals for reducing severance costs at lower salary levels remain under study by Government. The details of these proposals have not been made public yet, but can be expected to spark much political debate. AmCham strongly advises Government to ensure that the outcome is an EPL system that is understandable for all stakeholders and executed consistently. Where individual or collective agreements, court decisions, or other dismissal procedures apply, it should be clear to employer and employee what the procedure, positions and severance cost consequences are. The Netherlands should not need third-party approval of terminations. If a termination follows well-defined and transparent criteria and provides the employee with reasonable compensation and/or access to unemployment insurance, this should be sufficient to proceed with the payment of unemployment insurance benefits (WW).

2. Increase participation of the Dutch workforce

Increases in labor utilization have been a major source of growth in the Netherlands. Since 1995, the general employment rate has increased by ten percentage points to around 75%. It is to be expected that companies going through difficult times right now will look to increasing redundancy levels. But, looking beyond the present crisis and as pointed out in the *Commissie Arbeidsparticipatie*, the Dutch economy is facing long-term shortages in the labor market due to an aging population and weak labor market participation of several groups (totaling some 900,000 persons).

In the medium- and long-term, the Netherlands will remain a human resource constrained environment that will need a well educated and innovative workforce. Even now, various sectors continue to struggle to find qualified employees.

AmCham therefore believes that the Netherlands should look beyond the downward cycle and actively invest in measures that would:

- Accelerate redeployment through education (work-to-work principle)
- Engage the experienced senior workforce to bridge the practice gap

Accelerate redeployment through education (“work-to-work” principle)

All actions should aim to avoid that employees are inactive in our society or become unemployed for long periods. Our labor force needs to be informed about and supported in finding new opportunities. Currently, generous severance payments and unemployment benefits leave little financial incentive to search vigorously for a job early in a spell of unemployment. If these funds could be redirected towards increasing their skills base, it would increase people’s labor flexibility, their ability to adapt to changing working situations.

AmCham therefore recommends that employers, unions and Government collaborate on a significant shift towards using severance funds for funding employment training and reemployment support. Companies should be willing to commit funds in lieu of severance payments to support measures aimed at increasing reemployment, e.g., retraining and outplacement (work-to-work). Such education programs can be within the industry but should also facilitate mobility between sectors in the economy.

Government should do more than just facilitate the termination process. It should advise employers that the best return on investment of severance is, in fact, a new job. Labor law should be more than a process for calculating a justified severance package. It should give clear direction to both employer and employee on schooling and redeployment.

This would encourage employers to rethink their termination strategies and ask themselves: What do we achieve by taking short-term cost-cutting measures? How can we gear our resources towards innovation and medium- and long-term investment rather than making employees redundant? What is the value destruction when people leave? Can we bring our employees into work-to-work programs and can we accelerate redeployment and educational programs to occur before termination of employment contracts?

Tap into the value of the senior workforce

The 55–64 age group in the Netherlands still accounts for more than 40% of the total inactive population of working age – the highest percentage of all EU Member States. Effective measures for stimulating them to remain part of the workforce can be the differentiator for the Netherlands, both for sustainable future growth and for savings costs related to an ageing society.

Unfortunately, the senior workforce is perceived as expensive and, in a cost-focused environment, they are often the victims of cost-cutting efforts. In reality, the Netherlands and its companies depend on this experienced and qualified workforce for medium- and long-term growth. Employees who are willing to continue working are generally very motivated and have much to offer. Transfer of knowledge and coaching of junior staff can go a long way towards bridging the gap between our schooling system and practice within companies.

Present initiatives facilitate working longer, but do not make it more attractive. Pension (AOW) increases are actuarially neutral. Also in this respect Government and employers should look through and beyond our current crisis to see the situation that will arise in the upward cycle.

B. UNLOCK THE POTENTIAL OF INNOVATION

Innovation is one of the enablers of a stable, flexible and competitive economy that can weather downturns. Moreover, innovative, well-managed, knowledge-rich companies are more attractive alliance partners for foreign-based strategic investors. The Netherlands should therefore continue to create a healthy entrepreneurial environment in which innovation can thrive. Specifically, AmCham recommends that Government takes steps to:

- Disseminate technology through innovation, by adopting measures identified by the *Innovatieplatform*
- Solve the persistent problem of reduced mobility that results from traffic congestion, by employing the latest innovations in the virtual infrastructure.

3. Disseminate technology through innovation

The Netherlands continues to rank favorably on parameters related to knowledge creation. However, the OECD expresses concern that “R&D intensity is below the OECD average and has fallen substantially since the 1990s”.

Most industrial R&D activity is concentrated in a limited number of multinational companies and disproportionately little activity is found in SMEs. In both industrial and service-oriented businesses there is considerable room for an innovation impulse, for working smarter and making organizational changes that would facilitate process innovation. Added value by foreign-owned companies

in the Netherlands was some four times greater than that of Dutch-owned companies in the period 2001–2005 (source: *Innovatieplatform*). More than a third of national added value by companies in this period came from foreign-owned companies. Foreign-owned companies also have a higher R&D intensity (2.7% of added value in 2004, according to the *Innovatieplatform*) than their Dutch counterparts (2.1%).

One of the weaknesses in the innovation process is the low success in turning knowledge into stronger economic performance. AmCham therefore recommends that Government adopts the measures listed in the Knowledge Investment Agenda (KIA) of the *Innovatieplatform*. These measures include further stimulation of R&D and innovation initiatives geared towards broader dissemination and valorization of technology, especially in the key areas that the *Innovatieplatform* has identified: flowers & food (agro), high-tech systems and materials, water, creative industries, as well as chemistry and sustainable energy. With the ICT sector defined as innovation enabler (*Innovatie-as*), we should focus on business and services innovation to maintain the sustainable competencies of this sector.

4. Increase mobility through innovation

One of the leading attractions of the Netherlands as a place to invest is its transport hub facilities. Traditionally, it offers inland water, road, air, rail and sea transport modes as well as the logistics skills and services to coordinate these efficiently. A severe bottleneck, however, is the road infrastructure in the Randstad area and, increasingly, beyond. This impacts not only costs for companies, but also labor flexibility: The longer the commute time, the less willing a potential employee will be to take on a job and the smaller the geographical radius in which a business can look for personnel.

AmCham supports the streamlining of the planning and permitting procedures surrounding new and existing infrastructure projects, as well as the plans for increased investment in public rail transport. These actions are part of the broad palette of infrastructural investments that is needed to increase mobility and reduce congestion. Other investments include increasing road capacity; utilizing road capacity differently through, amongst others, dynamic traffic management and special lanes for cargo; and maintaining Schiphol as a major transportation port by improving road access and reducing handling delays and security-related costs.

But increased stimulation for applying the newest developments in the virtual economy – wireless and mobile communications – perhaps holds the most promise for increasing mobility and reducing congestion. The better the wireless and mobile communications infrastructure, the better one can manage the physical infrastructure. Truck routing and loading can be more optimally planned. More people can work from home or at locations other than the central office environment. Using the virtual infrastructure to manage the utilities infrastructure would create a possibility for ‘smart grids’, which can help bring about much more productive energy distribution and stimulate green energy creation.

An important innovation project in the virtual infrastructure is the ambitious road pricing scheme announced in 2007 – “A different way of paying for mobility” – which AmCham regards as essential for reducing congestion in the country. If performed with the full involvement of the available market competencies, it will be recognized as a highly innovative project with export capabilities. We would like to add here that the impact of road pricing will be maximized by pricing on cars, which account for 85% of the traffic, and not by pricing on trucks, whose behavior

is largely price inelastic (there is little or no alternative). AmCham recommends that Government frees the transportation industry from this additional burden.

C. REDUCE THE ADMINISTRATIVE BURDEN

The Government's program for administrative simplification (cutting red tape) is held as a role model by the OECD, for other member countries to follow. AmCham encourages the Dutch Government to take advantage of the momentum and broad political support for public sector reform by deepening and widening the current program for administrative burden reduction. In particular, we recommend a number of measures to simplify tax legislation and make it more competitive. We also recommend programs for improving Government receptiveness towards foreign newcomers.

5. Ensure simplicity and competitiveness of tax legislation

In an increasingly competitive EU environment, a consistent, predictable tax system, combined with an efficient ruling/APA system, is essential for an attractive foreign investment climate. With respect to taxation, AmCham recommends the following:

Simplify the participation exemption

The Dutch system of the participation exemption has been copied by most of our EU partners in the last ten years. During this time, the Netherlands has only limited the scope of the Dutch participation exemption: what used to be a quite simple set of rules has become overly complicated. Whether one qualifies for the exemption has become a complicated day-to-day test. This results in too much uncertainty and administrative burden to make participation exemption rules of the Netherlands attractive to foreign investors.

Simplify the interest deductibility rules

The current limitations for the deductibility of interest have become overly complicated. Introducing a single concept under which the deduction of interest is limited would prevent excessive erosion of Dutch-based profits and make the system more predictable.

AmCham has serious concerns about new legislation that is being considered by the Ministry of Finance in the taxation of group interest. Especially where it would be a new and unique system, questions arise about the sustainability of such legislation. This element of consistency and predictability is of great importance to foreign investors.

Abolish the dividend tax

In a number of judgments, the EU court ruled that the levy of dividend tax may be considered unlawful. Since the dividend tax may have to be abolished anyway in a number of EU countries, it would be a very positive sign for the Dutch investment climate if the Netherlands took the lead in this respect, ahead of EU countries like Luxembourg. It would also ensure competitiveness with the UK, which does not levy any dividend withholding tax.

In light of the current economic climate, two measures in the tax area, if implemented rapidly, would be effective in stimulating new investment and the economy:

Introduce flexible depreciation

The introduction of flexible depreciation rules has proven to be very effective as a driver for new investments.

Relax limits on loss compensation

The present limitations on the compensation of losses are still

considered an unreasonable measure. Especially in the present economic environment, such limitations should be relaxed considerably.

6. Give “red carpet” treatment to new foreign investors

Various sources and surveys reveal that foreign-owned companies highly value red carpet treatment when contemplating “setting up shop” in a country for the first time. Public authorities behaving as active business partners and inter-agency coordination are considered important elements of the ease of doing business and signs of Government’s receptiveness to foreign companies.

In the Netherlands, foreign-owned companies still have to deal with an impractical number of national and local governments and agencies to establish and operate their business. Moreover, these different entities are often perceived as fragmented or not connected.

AmCham is therefore pleased with the excellent and constructive work being done by the Netherlands Foreign Investment Agency at national level to promote more inter-agency coordination in attracting and facilitating foreign investment. Another welcome development, and one that other large municipalities should consider, are the expat desks opened in Amsterdam and Rotterdam to streamline registration of knowledge migrants.

Encouraging initiatives like the Holland Gateway at Schiphol further contribute to the perception of the Netherlands as welcoming to foreign investors. However, these initiatives will have maximum effect only if they represent the entire geography of the Netherlands, i.e. they should not represent a regional or local interest. Companies that are contemplating a substantial investment in the Netherlands should immediately be assigned a high-level ministerial contact who is able to free his/her agenda

for a meeting with the potential investor. The designated contact person should have a mandate to speed up necessary permissions/procedures and should have excellent contacts with national and local public authorities. This would raise the profile of the Netherlands as an active and effective business partner.

Prior (AmCham Survey 2005) and recent surveys confirm that foreign companies would highly value a one-stop shop, including account management for the establishment phase and “after sales” for existing investor accounts. Decision power should, as much as possible, be centralized within the one-stop shop. A prerequisite is that a policy is developed to provide an integrated approach to foreign investors, with all agencies coordinating to effectively identify and implement the steps necessary to facilitate new business development and the expansion of existing business in the Netherlands. Moreover, training to civil servants should focus on understanding of rules and regulations and their consistent application.

CONCLUDING REMARKS

A society wishing to maintain and raise living standards needs to be productive and innovative. Only high value-add processes, usually associated with innovation, can sustainably support our cost structures. The above Priority Points can energize the Netherlands to regain its position as a competitive leader among Europe’s knowledge-based economies. Flexibility and innovation in labor markets, in the tax system, in marketing of goods and services, and in policy-making are needed to stimulate an entrepreneurial renaissance and keep up with global economic development.

ABOUT THE INVESTORS' AGENDA OF PRIORITY POINTS

The first US investor came to the Netherlands in 1891. The firm – the American Petroleum Company, later called Standard APC, then Esso, and now ExxonMobil – is still here and is now the oldest hydrocarbons company in the Benelux. What attracted APC in 1891 still holds true for investors today: the Netherlands has a liberal attitude towards foreign trade and investment. This has contributed significantly to the country's past and present prosperity.

It is in the best interest of all parties to ensure that American and other foreign investors continue to have good – or even better – reason to come, to stay, and grow in the Netherlands. A study (July 2007) commissioned by the Ministry of Economic Affairs (*Buitenlandse Investeerders zijn Groeiversnellers voor de Nederlandse Economie*) noted that foreign investors are catalysts for growth in the Dutch economy – are more successful, create more employment, hire more skilled workers and outsource more locally than their Dutch counterparts. Attracting more of these catalysts is good for the Netherlands' growth and welfare ambitions.

AmCham annually publishes the *Investors' Agenda of Priority Points* – policy suggestions and initiatives for making the country more attractive to (foreign) investors. We see the Priority Points as a tool for motivating change and informing the process of policy making. AmCham seeks open dialogue and debate regarding the Priority Points with political parties, social partners and Government.



ABOUT AMCHAM

The American Chamber of Commerce in the Netherlands (AmCham) is a non-profit, non-governmental, non-political, voluntary organization of companies and individuals involved in investment and trade between the United States of America and the Netherlands. The Netherlands is one of the most important destinations for US direct investment in Europe. US business is the Netherlands' leading foreign investor. In 2007, American direct investment in the Netherlands amounted to over \$370 billion with about \$950 billion in assets. Majority and minority-owned American companies directly employ some 225,000 people in this country, increasingly in knowledge intensive businesses.

AmCham is concerned with matters affecting the investment climate in the Netherlands.

We actively promote increased US investment in the country. We make sure that potential investors understand the well-known advantages of the Netherlands, which should be built upon:

- The Gateway to Europe with Schiphol Airport and the Ports of Rotterdam and Amsterdam;
- A workforce with impressive language capabilities, trained at excellent schools and universities
- A stable and safe political, economic, labor relations, taxation and monetary environment



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