American Chamber of Commerce
in the Netherlands

2016 Investors' Agenda of Priority Points & Study Investment Climate

AmCham
THE NETHERLANDS

Introduction

Each year, the American Chamber of Commerce in the Netherlands (AmCham) publishes the Investors' Agenda of Priority Points (Priority Points). The Priority Points form the basis for AmCham's dialogue with the Dutch government, employer organizations, legislators and other important stakeholders.

Priority Points 2016: a new perspective

The Dutch investment climate is generally considered as strong. Factors contributing to an attractive Dutch investment climate include – among others – a favorable tax regime, a generally skilled and bi-lingual workforce, a good infrastructure and a reliable government. AmCham's recent study[1] on the Dutch investment climate, however, shows that it is becoming less favorable in comparison to other EU countries, for establishing US-origin headquarters. This is likely caused by – for instance – lower tax rates in other countries and their efforts to attract foreign investments by favorable special programs. AmCham feels it is important to turn around such development. There is no doubt that new investments in the Netherlands will bring new jobs, whilst a standstill in the development of the Dutch investment climate as compared to other countries, may potentially cause a loss of jobs due to re-location to more competitive countries.

For the 2016 Priority Points, AmCham strives to:

SECURE and SUPPORT the great elements of the Dutch investment climate;

DEVELOP and IMPROVE outdated elements of the Dutch investment climate in order to keep up with new (technological) developments and the fierce competition of other countries;

ATTRACT new (US) investors, talent and business;

SUPPORT entrepreneurship, innovation and a competitive regulatory framework.

AmCham's Standing Committees[2] play a vital role in establishing the Priority Points. The AmCham Standing Committees will, in close collaboration with the AmCham Board, address specific issues and act on certain developments by way of presenting position papers, sending letters and by creating media attention in order to reach the relevant stakeholders.

Taxes: an attractive and competitive fiscal climate as important basis for the Dutch investment climate

The competition for international direct investments is fierce. AmCham believes it is important that the Netherlands continues to attract new investments to support incremental employment and innovation in the Netherlands, for the benefit of both current and future generations. It is therefore paramount that the Dutch government constantly monitors and shapes the Dutch fiscal investment climate as to retain its competitive edge in attracting foreign investments. If harmonization of tax rules to stop aggressive tax planning eliminates

1 AmCham study, March 2016, executed in close conjunction with Bain & Company.
2 http://www.amcham.nl/committees.

our edge, the Dutch government needs to reduce its profit tax rate to the lowest level of its key competitors. Faced with a plethora of directives and missives from Brussels, AmCham believes it is critical that the Dutch government is ready and alert in order to safeguard the continued economic development of the Netherlands. AmCham strongly believes that opportunities lost by ill-considered policy choices will not easily be recouped in today's competitive environment, if ever.

Human Capital: attract talent; invest in development of the workforce and ease employment protection

The availability of employees with the right skill sets together with the cost and mobility of labor, remain topics of attention that affect the Dutch investment climate. It is important to secure, attract and retain talent and to invest in a skilled, agile and flexible Dutch workforce. Innovation and increasing digitalization require that the workforce can adapt to new developments. If the right profiles are not sufficiently available on the Dutch market, it should be easy for companies to attract foreign talent. Simultaneously, easing employment protection and simplifying procedures can reduce the cost of labor for companies and increase mobility in the Dutch labor market. Increasing and maintaining a high level of labor mobility allows for a more efficient allocation of resources and has proven to be a forceful driver of innovations.

Industry: support entrepreneurship and innovation; limit EU regulation costs and avoid national gold-plating

AmCham supports measures that improve and secure the competitiveness of the Dutch industry. The Dutch government should ensure that its industry is not put in a position where it becomes uncompetitive internationally. Furthermore, the Dutch government must proactively influence and support (the implementation of) a competitive regulatory framework in order to avoid high industry costs. Innovation and sustainable growth of the industry should be supported. Entrepreneurship must be supported and may result in successful Dutch start-ups or attract the establishment of start-ups and headquarters from abroad.

Data Privacy: closely monitor new developments

The recent judgement of the EU Court of Justice to declare the Safe Harbor data transfer agreement that has governed EU data flows to the US for years invalid, as well as a new EU-US Privacy Shield to replace it, require special attention as they impact (technology) businesses and investments in, and between, the EU and the US. AmCham further continues to closely monitor developments around the new EU General Data Protection Regulation (Regulation), which will replace the aging 1995 Data Protection Directive and which will impact a large group of AmCham members. European Officials finally reached agreement on the language for the Regulation mid December 2015. It is expected that the Regulation is approved early 2016 and that the regulation will come into force in 2018, giving organizations sufficient time to prepare for the changes required by the Regulation. The Regulation differs from the Directive in a number of significant ways and includes possible fines up to 4% of the annual global turnover. Some companies will have to appoint a data protection officer.

Transatlantic Trade and Investment Partnership (TTIP)

AmCham continues to fully support TTIP, which aims to reduce the transatlantic barriers in trade and investment.

The Investment Climate in the Netherlands

AmCham Study, March 2016

AmCham would like to recognize and thank the Amsterdam office of Bain & Company for their valuable analysis that helped make this study possible.

Key points

- Foreign Direct Investment (FDI) is important to the Dutch Economy. The Netherlands has historically been strong in attracting FDI, but it has recently been losing FDI share to other countries, primarily the UK.
- Foreign multinational enterprises (F-MNEs) account for ~20% of jobs in the Netherlands. One F-MNE provides on average 82 jobs, ~30 times more than a domestic enterprise. Furthermore, F-MNEs have proven to be a more stable job provider than Dutch (multinational) enterprises, and the jobs are generally higher paid.
- Base Erosion and Profit Shifting (BEPS) regulations aim at leveling the tax playing field amongst countries. When implemented strictly, BEPS will limit the tax flexibility, in turn affecting the influx of FDI and foreign multinationals. The Netherlands is likely to implement BEPS stringently, likely making it a less attractive location for foreign investment. This would also put more emphasis on 'ease of doing business' and to a lesser extend on corporate tax rate.

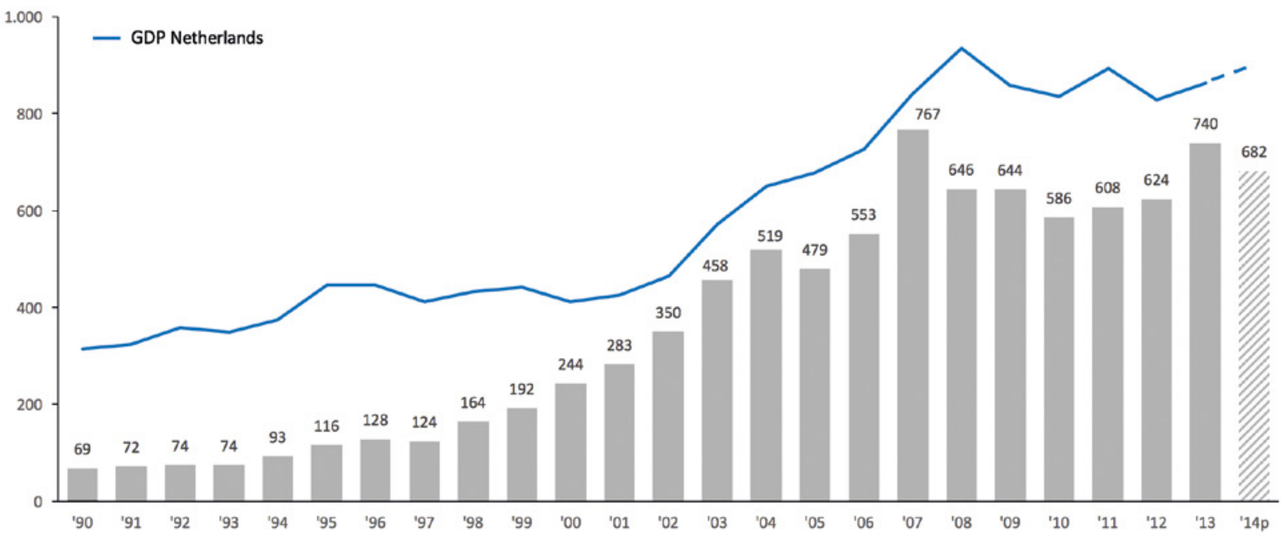
Observations

Foreign Direct Investments

Foreign Direct Investment (FDI) is an important driver of the Dutch economy as it is strongly correlated with labor growth, tax generation and innovation. Continuing the trend seen in last year's report, The Investment Climate in the Netherlands, the global inward FDI stock in the Netherlands continues to grow at a slow 1% p.a., compared to 15% p.a. in '90-'07 **(see figure 1)**. The inward FDI stock correlates positively with GDP, which also experienced a steep growth until '07 and then flattened out.

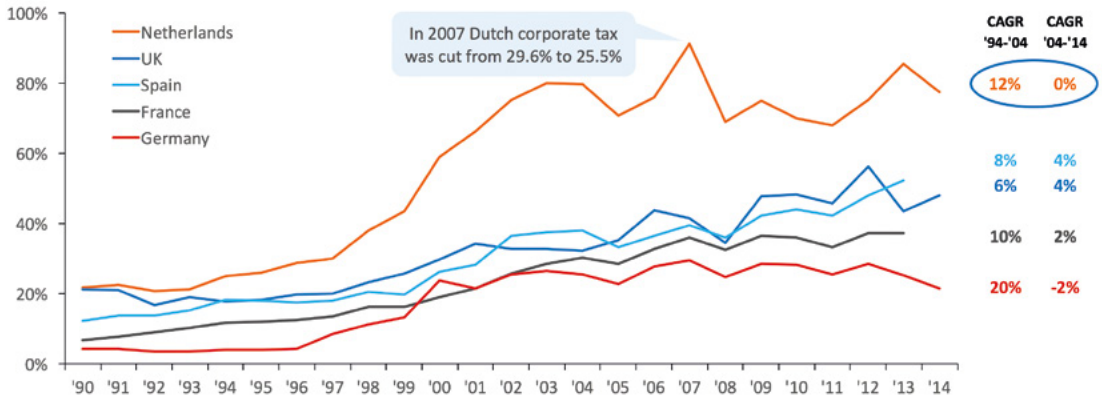
When comparing the global inward FDI stock of European countries, which is done by taking the FDI stock as a percentage of GDP, it becomes apparent that although the Netherlands receives the most FDI stock in relative terms, the growth has stagnated since 2004. The UK, Spain and France, however, all report a growing global inward FDI stock since 2004 **(see figure 2)**. When zooming in specifically on the inward FDI stock from the US, we see that the Netherlands went from fast growth (9% p.a. in '02-'08) to steep decline (-6% p.a. in '08-'14), whereas the UK has experienced a more stable growth of 3% and 4% p.a. over the same time period **(see figure 3)**.

Figure 1 Global inward FDI position and Dutch GDP



(Data source: OECD)

2 Global inward FDI stock as a % of GDP



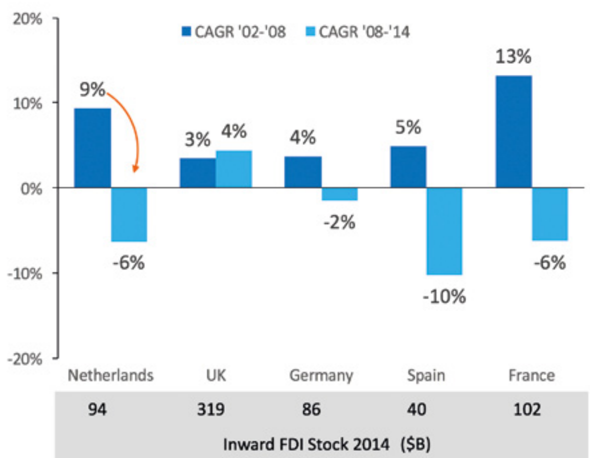
(Data source: OECD)

Employment

Foreign and Dutch multinational enterprises are key drivers of employment. While the combined foreign and Dutch multinational enterprises make up only 2.5% of the companies in the Netherlands, they provide 42% of Dutch jobs. Foreign multinational enterprises, accounting for only 1% of the number of companies, provided ~20% (900k) of total Dutch business economy jobs in 2013. With an average of 82 jobs per enterprise they are an important driver of Dutch employment. During '08-'13, foreign multinationals were the only type of company that grew their number of jobs, from 800k to 900k jobs. In that same period, Dutch multinationals experienced a decline of 200k jobs, and domestic enterprises a decline of 100k jobs **(see figure 4)**. Not only did foreign MNEs show growth in their number of jobs in the last five years, their job offerings are also more resilient, showing less fluctuation than Dutch MNEs or domestic enterprises **(see figure 5)**. Furthermore, the jobs foreign multinationals provide are on average higher paid than the jobs at their Dutch or domestic counterparts **(see figure 6)**.

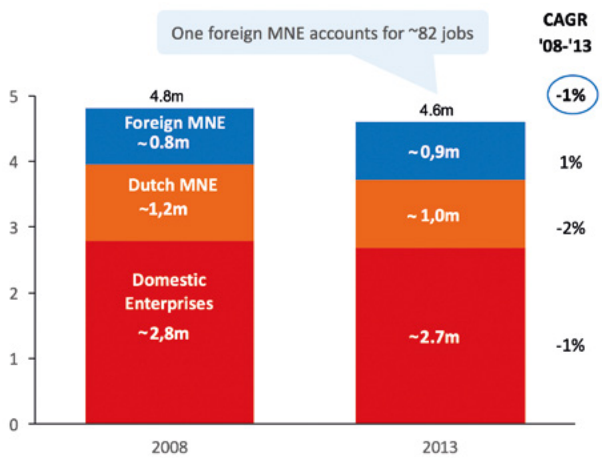
When looking into newly registered multinational headquarters in European countries during '03-'15, we see that only 6% of those are European relocations, while the other 94% are newly established European headquarters. None of the headquarters that relocated during that period, relocated more than once. This means that once a country loses a headquarter, it would be exceptional if it would return to that country within the next 12 years, stressing the importance of retaining headquarters.

3 Growth of inward FDI stock from the US



(Data source: OECD)

4 Jobs in the Netherlands by company type



(Data source: CBS)

Base Erosion and Profit Shifting regulations

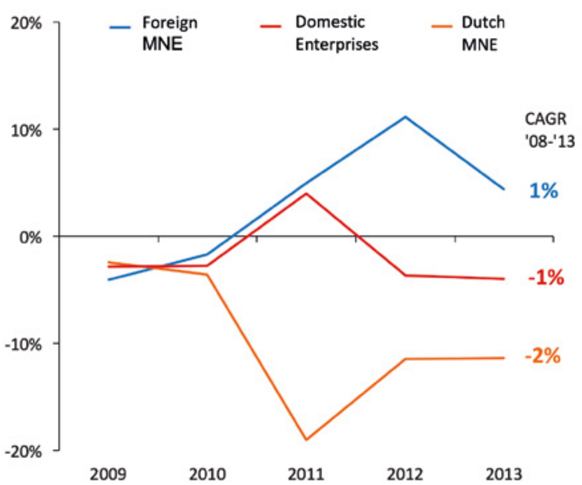
As a reaction to the increased public scrutiny towards tax optimization over the last few years, the OECD (Organization for Economic Co-operation and Development) has developed the Base Erosion and Profit Shifting (BEPS) regulations. The goal of BEPS is to increase transparency and to align tax exposure with the location of economic activities in a similar way across countries, thereby leveling the tax playing field. All OECD members have committed to implementing legislation in line with the BEPS Action Plan, and ~80 non-OECD countries (including China) have promised to participate as well. BEPS is already underway, and will continue to be implemented step-wise in the coming 3-5 years.

While the regulations are meant to be implemented similarly across countries, the BEPS Action Plan is not fully prescriptive. As the regulations need to be implementable in different tax law regimes, there are provisions in the regulations which have not been fully detailed, leaving considerable room for interpretation. It is therefore expected there will be differences in the strictness of implementation between countries; experts predict that Luxembourg, for example, will apply the rules leniently, while the Netherlands, who aims to take a leadership position in implementing BEPS, will likely implement the regulations more stringently.

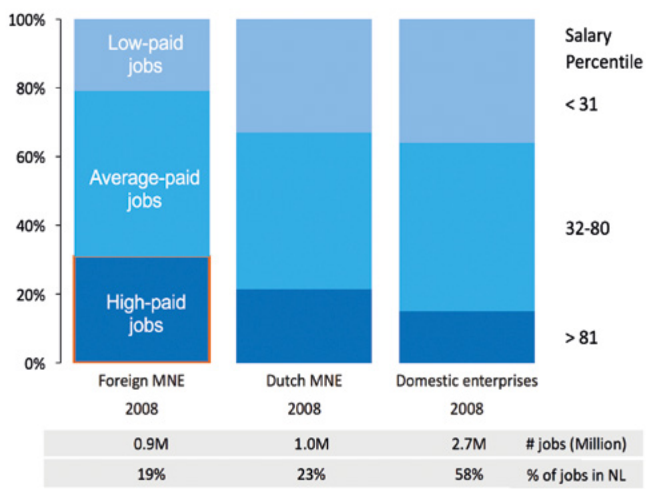
Once BEPS is implemented, the corporate tax rate will become somewhat more important than before. Although most industry experts do not believe there will be a 'race to the bottom' for corporate tax rates - as companies would not want to risk reputational damage by being perceived to pick a location just for its tax rate – the fixed corporate tax rate will likely become more important as there will be less leeway for special tax rulings. The corporate tax rate of the Netherlands is currently 25% which is at the lower end of the spectrum in Europe. However, it is 5% and 12.5% higher than the UK and Ireland, respectively, who also score better on 'ease of paying taxes' **(see figure 7a,b)**.

While the corporate tax rate will gain only slightly more emphasis, the 'ease of doing business' will get a much stronger focus once BEPS is implemented **(see figure 7c)**. If the Netherlands ends up taking the lead in BEPS implementation, the business-friendliness will become an important driver of investment. The Netherlands scores fairly well on educated workforce and infrastructure, but scores poorly on important factors as labor regulations, and high government bureaucracy, especially compared to UK and Ireland **(see figure 8)**. This stronger focus on the ease of doing business would put pressure on the competitiveness of the investment climate in the Netherlands.

5 Percentage job change per year per company type

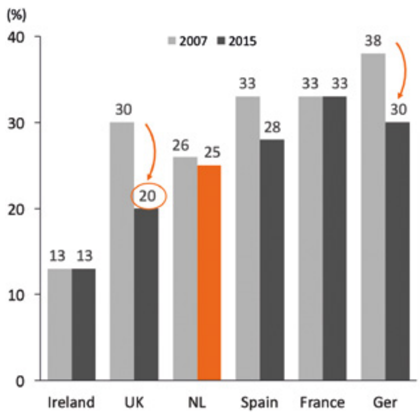


6 Salaries per company type

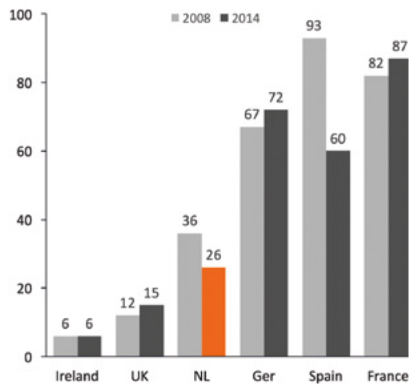


(Data source 5 & 6: CBS)

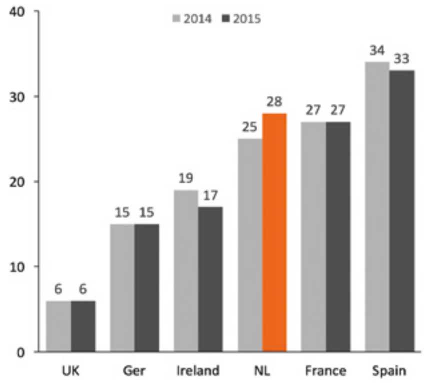
7a Corporate tax rates



7b Ease of paying corporate taxes

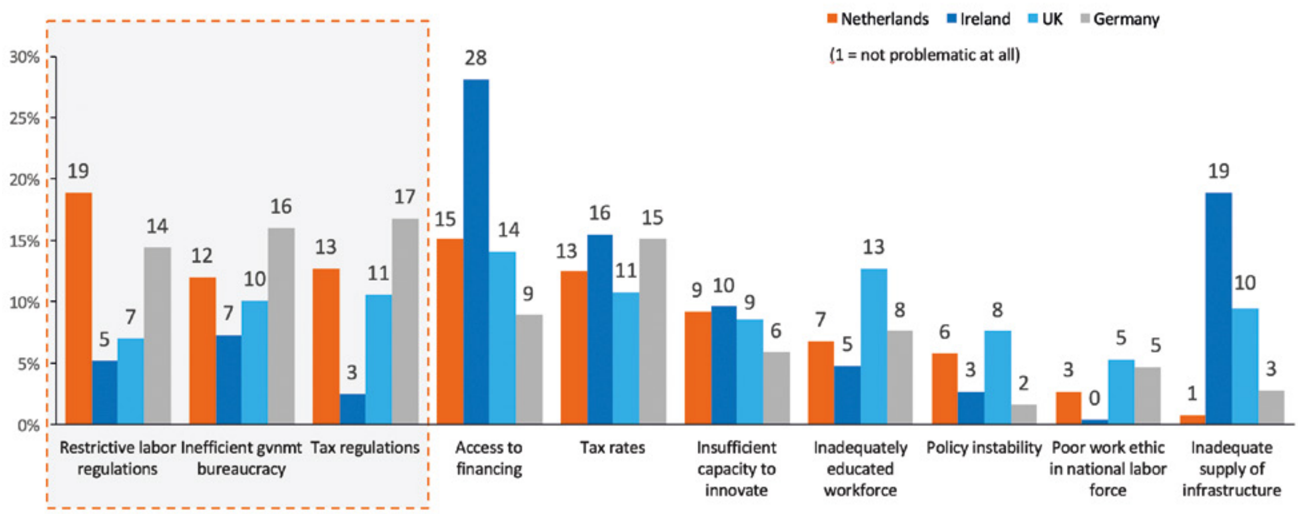


7c Ease of doing business



(Data source 7a,b,c: World Bank)

8 The most problematic factors for doing business



(Data source: World Economic Forum)

Appendix A: Foreign Direct Investment (FDI) definitions

General definitions for FDI:

- FDI reflects cross-border investments aimed at a lasting interest
- Ownership of 10% or more of voting power of the foreign company defines this lasting interest
- FDI statistics include equity (10% or more shares), reinvestment of earnings and inter-company debt
- FDI statistics are directional (inward or outward) and relate to FDI stock and FDI flow

FDI stock:

- FDI stock is the stock of investments at a given point in time
- FDI stock also reflects price changes of assets, and changes due to foreign exchange rates

Note: In this report FDI excludes Special Purpose Entities (holding companies)

FDI flow:

- FDI flows are cross-border financial transactions within a given time period

Appendix B: Sources

Topic	Source	Source details / method / definition
Global FDI stock into NL	OECD	Most recent FDI statistics for OECD and G20 countries: http://www.oecd.org/investment/statistics.htm Click on "FDI positions", "by partner country" Note: There has been a change in definition (BMD) which affects the way FDI is calculated. For some countries this means the data between BMD3 and BMD4 are not comparable. Not comparable countries are (not exhaustive): Spain, France, Belgium. Comparable countries (not exhaustive): UK, Sweden, Netherlands, Italy, Germany
Global inward FDI stock as a % of GDP	OECD	Calculate per country: Global FDI (see above) divided by GDP (see below)
GDP	OECD	OECD database: http://stats.oecd.org/ Go to "National Accounts", "Annual National Accounts", "Main Aggregates", "Gross domestic product (GPD)"
FDI flow from US into EU-27	OECD	OECD database (http://www.oecd.org/investment/statistics.htm) Separately downloaded the inward flow data for each of the EU-27 countries except for Bulgaria, Cyprus, Latvia, Lithuania, Malta, and Romania (This method is the best way to exclude Special Purpose Entities, and is better than the US outward flow to the EU-27 countries)
Inward FDI stock from the US as % of receiving country GDP	OECD	Calculate per country: US FDI divided by GDP
Number of companies and number of jobs in the Netherlands by type of company	CBS	Enterprises registered with ABR (Algemeen Bedrijven Register), sections SBI B-N, excluding K (ie excluding enterprises active in agriculture, government, education, healthcare and financial services) Foreign multinational enterprise (F-MNE): companies under foreign control; Domestic multinational enterprises (D-MNE): Dutch companies with foreign affiliates
Percentage job change per year	CBS	Non-public data Microdataset on number of jobs provided by domestic enterprises, F-MNEs and D-MNEs, 2008-2013
Salary classification per job provider	CBS	Only jobs provided by enterprises registered with ABR (Algemeen Bedrijven Register), and excluding enterprises active in agriculture, government, education, healthcare and financial services are included Jobs with a salary above the 81st percentile are defined as a high-paid job, jobs with a salary lower than the 31st percentile are defined as a low-paid job
European headquarter relocation	fDi Markets	Non-public data
Ease of doing business index	World Bank	Metric takes into account the following factors: Starting a business, dealing with construction permits, getting electricity, registering property, getting credit, protecting minority investors, paying taxes, trading across borders, enforcing contracts and resolving insolvency
Most problematic factors of doing business	World Economic Forum	From a list of factors, respondents were asked to select the five most problematic factors for doing business in their country and to rank them between 1 (most problematic) and 5. The score corresponds to the responses weighted according to their ratings The list of factors consists of: Restrictive labor regulations, access to financing, inefficient government bureaucracy, tax rates, insufficient capacity to innovate, tax regulations, inadequately educated workforce, policy instability, poor work ethic in national labor force, inadequately supply of infrastructure, inflation, government instability / coups, foreign currency regulations, crime and theft, corruption, poor public health
Ease of paying taxes index	World Bank	Metric takes into account the following factors: Steps: the number of tax payments, Time: the number of hours to comply with the company's tax obligations, Cost: the Total Tax Rate (TTR)

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 who invest in 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 and a major hub of American professionals living and working abroad. Since 1961, AmCham is the main voice of US business in the Netherlands and strives to improve the investment climate in the Netherlands.

American Chamber of Commerce in the Netherlands
P.O. Box 15783, 1001 NG Amsterdam, The Netherlands
T +31(0)20 795 1840 E office@amcham.nl I www.amcham.nl