

INVESTORS' AGENDA OF PRIORITY POINTS 2013

American Chamber of Commerce in the Netherlands



THE 2013 PRIORITY POINTS: FOR A STRONG, INNOVATIVE AND COMPETITIVE NETHERLANDS.

To continue to succeed in a globalizing economy, the Netherlands – an open economy confronted with an aging population and a desire to remain competitive as a regional focus point for foreign investment – needs to maintain an attractive corporate tax system and institute a more flexible labor market that can allocate this increasingly scarce resource to its most optimal use.

This is a challenge facing many western countries – and in a time when their economies and consumer confidence are depressed. Those best up to this challenge will be the economic leaders of the coming decades. Freeing businesses from red tape and instituting needed structural reforms – with the necessary fiscal support – offer governments a powerful tool to boost economic growth, encourage innovation, create jobs and bring about a strong and balanced economic recovery. The 2013 Priority Points are AmCham’s template for a strong, innovative, and competitive Netherlands.

CLOSING THE SKILLS GAP – A COORDINATED AND STRATEGIC APPROACH FOR FUTURE NEEDS

The availability, flexibility and dependability of employees are important considerations for USA-based firms to locate and maintain operations in the Netherlands. AmCham therefore recommends a constructive employability strategy that is driven through a proactive approach. Focus on making the work-force more employable in order to support social cohesion, company results and the Netherlands as the preferred location for future investment. Tactics could include transition budgets, schooling, job mediation, and tax facilitation.

1. Align and invest in education, talents and skills.

The single, most effective industrial policy – and stimulus for innovation – a government can adopt is to

ensure that citizens gain and maintain the skills necessary for a fully competitive first world economy through life-long learning.

Deploy a joint focus of government, education and business. Collaborate to achieve a better fit to business needs – language skills, labor agility/mobility and, in particular, technical needs. Recognize the importance of manufacturing and logistics based industries. Take into account both in-country demographics and international competitiveness.

AmCham further recommends: Further stimulate employee initiative and employer facilitation for continued learning. Consider the build-up of a personal transition / (re)education fund which can be taken from employer to employer. AmCham also encourages a positive dialogue and attitude regarding the talent opportunity presented by ensuring

broad diversity – gender, age, nationalities – in the workplace.

2. Implement a strategic EU approach to scarce human resources

Increase coordination to ensure that workers with needed skills – both within and outside the EU – are aware of opportunities and facilitated in coming to the Netherlands.

The government has indicated that it will strive to focus EU immigration policy (via a points system for non-EU citizens) more on skills and less on reuniting families beyond the core family. It has also taken steps in supporting company sponsorship and accompanying partner policy. AmCham supports these initiatives.

STIMULATE FLEXIBILITY AND PARTICIPATION

1. Ease employment protection legislation for regular contracts. Reform the unemployment and disability benefit systems.

Dismissal procedures are complex and costly, especially for longer term employees, hindering labor turnover. The high level and duration of unemployment benefits reduce job-search incentives.

The coalition agreement stipulates a shortening and simplification of dismissal procedures by closing the judicial route (except for appeals) and a cap on severance pay. AmCham supports this initiative but notes the need to take parallel measures to boost older workers’ reemployment prospects.

The coalition agreement also stipulated a reduction in the maximum duration of unemployment benefits from 36 to 24 months. AmCham supports this initiative and notes that the delay of

this structural reform imposed by the agreement of social partners should not lead to its abandonment.

AmCham further recommends:

As initially envisaged, reduce unemployment benefit duration and make benefits decline more rapidly throughout the unemployment spell. Lower the cap on unemployment benefits to further enhance job-search incentives for the highly skilled. Tighten regulations regarding “long term illness.” Enhance monitoring mechanisms and phase-in the tightened entry criteria introduced in 2009 to existing disability benefit recipients. Decouple benefits from past earnings over the disability duration and exclude new wage agreements.

2. Stimulate dialogue and policy on different (life-cycle) career path patterns.

The traditional expectation is to retire “at the top.” Taking a step aside, or moving to a job with less responsibility and less pay, is generally considered an unacceptable loss in status.

AmCham recommends: Engage in social dialogue and offer fiscal stimulation to encourage different career path expectations. This could positively impact keeping older workers employed, increase the opportunity for work/life balance, bring experience closer to the line and open opportunities for younger employees.

TAXATION: TOGETHER WE STAND TALL

The Netherlands is one of the most open economies in the world. Dutch companies traditionally rank high in the top 10 of foreign direct investors. The country receives relatively more foreign direct investment than almost any other nation. These

in- and outgoing investments are critical for the open Dutch economy: they provide a stable source of finance, enhances productivity, and fosters innovation and employment.

It is evident that the Netherlands’ open economy is supported by the country’s corporation tax regime. By not taxing profits from foreign operations a second time, a Dutch entrepreneur competes in a local market at the local tax rate. Double taxation is mitigated through an extensive network of tax treaties that have been concluded with the country’s foremost current and future trading partners. And entrepreneurs are provided with certainty in advance on the tax consequences of their investments by the APA / ATR team of the Tax Authorities. Efficient, friendly and transparent, the APA / ATR team is a billboard for how business is done in the Netherlands.

However, every open economy is sensitive to competition from neighboring countries. The ongoing globalization of the world economy, and accelerating advance of the digital era, causes just that: fierce competition. The Netherlands no longer is the manifest choice to establish a new European logistic distribution center, or a digital warehouse. Neighboring countries have copied the Dutch corporate tax regime – and made improvements. These are times of fiscal convergence, where the smallest details in a country’s tax code can make the difference. AmCham calls for permanent evaluation of the corporate tax regime between the Dutch government, the corporate tax payers and their advisors. Acting together they can stand tall to enhance the Dutch fiscal climate.

With a focus on the Priority Points below, the Dutch govern-

ment can further improve the Dutch fiscal investment climate.

1. Stability, consistency, predictability and simplicity of the tax legislation

There is no doubt that the Dutch fiscal investment climate benefits most from stability, consistency, predictability and simplicity of the tax legislation. AmCham is pleased that the Dutch government has largely succeeded in the past year to introduce new legislation in line with these principles. By adopting the provision that restrict the deduction of interest expense related to participations (in line with the advice of the Top Team Headquarters), entrepreneurs are not hampered in their legitimate business dealings. The thin-cap provisions were subsequently abolished – mitigating a factor of unneeded complexity in favor of simplicity.

AmCham does signal a high level of dismay in regard of the crisis tax on higher salaries. AmCham requests the Dutch government to revoke this crisis tax soonest, and to resist introducing legislation with retroactive effect. The adverse impact of retroactive legislation cannot be underestimated.

2. OECD ‘BEPS’ discussion requires multilateral approach and unanimity

The action plan to the OECD report “Base Erosion and Profit Shifting” will be published in June 2013. This plan – whose subject has gained considerable public interest – is likely to arrest the currently accepted framework for international taxation that is fully in line with current OECD models. On the horizon dawns a discussion on how to reposition this framework and how

this revised framework interacts with the Dutch corporate tax regime.

AmCham fully supports the position of the Dutch government in this matter. It is of the utmost importance that the Dutch government persists in its view that the recommendations can only be adopted on the basis of multilateral and unanimous agreement. Unilateral action would result in direct and significant damage to the open Dutch economy, with a direct adverse impact to employment. Neighboring countries would not follow any unilateral Dutch action.

3. Abolish dividend withholding tax for qualifying treaty residents

Neighboring countries (including the United Kingdom and Ireland) do not levy a withholding

tax on dividends paid to non-residents. Belgium and Luxembourg have in recent years introduced an exemption for dividends that are paid to qualifying corporate recipients that are resident in a treaty state. The Dutch dividend withholding tax rate is still 15%.

AmCham proposes that the Netherlands government introduces a dividend withholding tax exemption for corporate recipients that reside in a tax treaty state which, had they been Dutch residents, would benefit from the participation exemption. To avoid abuse, it could be considered to impose conditions on the ultimate beneficiary of the interest in the dividend paying entity. It may also be considered to introduce the exemption for new profits only. That way the exemption likely can be introduced in a budget neutral

fashion. It would be an intermediate step to full abolishment of the dividend withholding tax over time.

4. Unrestricted tax loss carry-forward

The tax loss carry-forward and tax loss carry-back terms were limited in 2007. As a consequence, Dutch entrepreneurs may now pay tax over profits that they economically never earned. For many years the unlimited loss carry-forward and three year carry-back, were much appreciated features of the Dutch corporate tax regime. The less restrictive terms of the past are dearly missed in the current economic climate. AmCham calls on the Dutch government to reintroduce the unlimited loss carry-forward term and three year carry-back.

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. American direct investment (stocks and capital flows involving about 2,000 companies) in the Netherlands amounts to

some \$600 billion. American companies directly employ about 225,000 people in this country.

AmCham is concerned with matters affecting the investment climate in the Netherlands. We actively promote increased US investment in the country by emphasizing the well-known advantages of the Netherlands:

- » *The Gateway to Europe with Schiphol Airport and the Ports of Rotterdam and Amsterdam;*
- » *A workforce with impressive language skills, trained at excel-*

lent schools and universities;

- » *An environment that stimulates and supports innovation;*
- » *A stable and safe political, economic, labor relations, taxation and monetary environment.*

Our *Investors' Agenda of Priority Points* are policy suggestions and initiatives to make the country more attractive to foreign investors. We seek open dialogue and debate regarding the Priority Points with political parties, social partners and Government.

American Chamber of Commerce in the Netherlands
Schiphol WTC, D-tower, 6th floor
Schiphol Boulevard 171, 1118 BG Schiphol

☎ 020-7951840
✉ office@amcham.nl
🏠 www.amcham.nl



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