VNO-NCW AND MKB-NEDERLAND

European Outlook

Europe: For better business opportunities

Topical issues for Europe in 2015

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February 2015

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Preface

Every year VNO-NCW and MKB-Nederland, confederations of Dutch Industries and SMEs, present their view on relevant European issues. This brochure presents a short summary with our comments on what is on the agenda for 2015. ‘European Outlook’ is published by the Brussels office with input of policy advisers working at the headquarters in The Hague.

Current developments will be described and discussed in our monthly digital newsletter ‘Blik op Europa’ and will be processed in the specific dossiers on our websites: www.vno-ncw.nl and www.mkb.nl.

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Introduction

Europe: For better business opportunities

2014 was an exciting year for Europe: elections for the European Parliament, the formation of a new Commission and a new President of the Council.
In December the new Commission presented its work programme for 2015. So this year is the real start of this Commission. It will focus on the ‘big things’, things that really matter, like jobs and growth, in line with the ten priorities of President Juncker’s Political Guidelines.

Essential for all of us is also how the get the economy growing again. There are encouraging signals that growth is slowly starting to take hold, but a lot still has to be done. It is crucial that companies start to invest again, therefore they need to see business opportunities. The potential of Europe as a market is immense (with 500 million inhabitants, 10% of the world’s population and a GDP of more than € 13 billion, it exceeds that of the USA). The cultural diversity and its superior knowledge and innovation structures render our continent a highly attractive investment destination.
We have to keep it that way: therefore we have to work on a deeper and fairer internal market with a strengthened industrial base. Combating protectionism and creating a real level playing field, coupled with effective enforcement, are crucial in this respect. To strengthen the industrial base, a coherent industrial strategy, integrated in all EU policies to support competitiveness is crucial.

We should also liberalise the market for services and really develop an internal digital market.
We need flexible, well-functioning European labour markets. Labour mobility needs to be improved and Europe should invest in attracting talent from outside Europe, but at the same time we should invest in the quality of our own young people.

Better regulation, a strong governance are accompanying elements to reach this goals. This is essential for all businesses, big and small. The Small Business Act is a good instrument to facilitate and promote the growth of SMEs.

For the competitiveness of our business that operates within Europe but also more and more outside Europe, a level playing field at a global level is essential. Therefore we need an energy and climate policy that balances sustainability, a secure and diverse supply of energy and affordable prices in a global context.
We need a strong Europe to play its part in the world: we need access to raw materials, we need good trade relations with our partners in the world.

We will judge the work programme of the new Commission and the work in progress in the European Parliament and Council, with these priorities in mind. You will find our more detailed opinion in the following chapters. Our monthly electronic newsletter ‘*Blik op Europa’* will give you regular updates.

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1. Strengthening the internal Market for Goods and Services

European citizens and companies can gain the most in terms of wealth from the European internal market. However, this internal market is not yet utilised to its full extent and national preferences stand in the way of far-reaching economic integration. In short, we have not yet achieved a fully-fledged domestic European market. Research has shown that the full internal market can lead to an additional € 800 billion in wealth. The internal market for goods, for example, has in no way achieved the level of integration similar to the US, whereas precisely this market is of great importance to the characteristically open Dutch economy. Similarly, the second of the four freedoms in the European internal market, services, is underutilised. A fully liberalised European market for services will give economic growth a significant boost. Services represent 70% of the EU economy and the benefits of and open market for services are estimated to be capable of increasing GDP by 2.3%[1].

In order to remove barriers for companies on the internal market the employers' organisations call on the European institutions and Member States:
- to come up with harmonised EU regulation where this is not yet in place;
- most importantly, to strengthen the implementation and maintenance of EU regulation which is already in place, since most of the problems are caused by different implementation of existing EU regulation in various Member States;
- to aim for high quality of consistent regulation, which is focused at solving the core issue and is not contradictory with any other related existing regulation.

VNO-NCW and MKB-Nederland will publish a brochure 'When will it really be 1992?, part 3' in March 2015, consisting of concrete examples of impediments in the internal market for business and how these could be solved.

European market for services

VNO-NCW and MKB-Nederland believe that the European market for services does not stop at full implementation of the existing Services Directive. Concretely, the Commission should look for further harmonisation in the areas of safety, health and consumer protection and if this is not feasible, aim for mutual recognition. Currently, the European Commission is doing stakeholder exercises to bring together all relevant stakeholders (representatives of consumers, service providers and competent authorities) to discuss the non-discrimination principle (article 20.2 Services Directive) for the first time since its entry into force. The objective is to discuss together with stakeholders the current state of play concerning the non-discrimination principle and challenges inherent in its application. This principle is important for both the digital single market and the classical single market.

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[1] Percent point

Retail

It is important that the European Union and the Member States get to grips with the sector's bottlenecks. Retail is the final link in the supply chain and retailers are in direct contact with the end user, the consumer. Because of this unique position in the retail chain, retailers are often disproportionately responsible for implementing measures. A just and proportionate allocation of responsibility in the implementation of such measures between the supply chain retailers and consumers should be the point of departure. Moreover, European policy-makers should develop a retail reflex: in the case of a modified or new legislation, a thorough assessment must be made of the impact of the proposed legislation on the different distribution channels, both large and small. If it appears that the impact on retail is disproportionate, the proposal should be amended or even withdrawn. Furthermore national trade laws may hinder business in the way they do business. Often these laws hamper competitiveness of the sector, are protectionist and undermine business models that are genuine and legal business models in other Member States. National requirements may also hinder the free movement of goods. Member States do not always notify new national technical requirements according to the procedure laid down in Directive 98/34/EC, do not apply the principle of mutual recognition in non-harmonized areas and often gold-plate directives.

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Internal market for transport

Transport is a key pillar of the single market, allowing for free movement of goods and people across borders. The costs and efficiency of transport services and the quality of Europe’s infrastructure networks directly affect trade flows, mobility and the competitiveness of European companies. The EU should therefore strengthen the internal market for transport by removing the remaining cross border regulatory, administrative and technical barriers in all modes of transport as much as possible. Secondly, the European Commission shall ensure that introduction of new restrictions and/or policies that distort the functioning of the internal market are being avoided.

The Trans-European Transport (TEN-T)

A key challenge for effectively realising free movement of goods is the realisation of the the Trans-European Transport (TEN-T) network corridors. These nine corridors should raise the cross border infrastructure to premium quality, by improving road, train and inland waterways alike. These investments are necessary, because the cross border connections are the weak spot in the European infrastructure. So, it is vital that the European budgets, that are available for TEN-T and related instruments, will effectively be spent on this program.

VNO-NCW and MKB Nederland support the focused deployment of European budgets to raise the quality of cross border infrastructure in Europe.

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Fourth Railway Package

The costs and efficiency of transport services, the interoperability between networks, and the quality of Europe's infrastructure directly affect trade flows, mobility and the competitiveness of European companies as users of these services. To this end – and to improve the implementation of previous packages - the European Commission published the 'fourth railway package' in 2013.

The fourth railway package contains important proposals that can improve quality, provide more choice and reduces costs of railway services in Europe. The package roughly exists of two pillars: a 'technical pillar' increasing interoperability which will lead to greater cross border efficiency; and a 'political pillar' aimed at opening up to cross-border competition and the award of public services contracts.

The European Parliament has decided upon its position. However, negotiations both within the Council and between the Council and the European Parliament have not run as smoothly. Although progress is being made on the technical pillar, some member states are taking a more hesitant position in the discussions on political pillar.

As the implementation of both pillars of the fourth railway package, will strengthen the internal market for transport and reduce the costs of transport, Dutch business express full support for the objectives of the European Commission. VNO-NCW and MKB-Nederland urge the EU and the member states to make progress on both pillars of the package and therewith further unlock the potential of the European rail sector.

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Resting time truck drivers

Dutch business is concerned about national rules adopted by France and Belgium last year, which prohibit truck drivers from taking their weekly rest in the cabin of their vehicles. This not only has a direct impact on road hauliers, but also affects the wider functioning of the European single market, as it obviously favours the operation of national drivers. In addition, the gravity of the penalties for not complying (in France: €30000 and possibly one year in prison) are perceived as not being proportionate.

While European legislation explicitly authorises rest in cabins for daily rest periods and reduced weekly rest periods when the necessary conditions are met, it neither forbids nor authorises rest times in cabins for regular weekly rest times. Hence, it leaves room for diverse national interpretation.

VNO-NCW and MKB-Nederland would like the European Commission to clarify whether the French and Belgian rules comply with European provisions. Furthermore, the Commission should issue a clear interpretative opinion or guidance document on where one is allowed to spend obligatory resting time, including its enforcement. Thirdly, Dutch business would like to ask the Commission to give some guidance on which penalties could still be regarded as proportionate.

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Maximum authorized dimensions and weights for road vehicles in international traffic
In the next few months the European Parliament is expected to vote on a compromise text for a directive amending the existing directive laying down the maximum authorized dimensions and weights for road vehicles in international traffic.

One of the key issues this directive addresses is whether the restrictions on cross border traffic with regard to weights should be adapted and that heavier trucks should be allowed. At this moment, EU regulation on cross border weight and dimension does hamper efficient road transport. European regulations tops the weight for cross border operations off at 40 tons. In several member states heavier trucks are allowed, like 44 tons or even 50 tons (e.g. the Netherland). Free movement of longer and heavier vehicles provide better environmental and safety performances: the EU present legislation does hamper sustainable road transport. The compromise text allows bilateral agreement between member states for heavier trucks to cross their mutual border. Dutch businesses are strongly in favor of cross-border circulation of heavier trucks, as long as this is in accordance with the rules of the Member States involved. As the current compromise seems to accommodate this - at least not explicitly restrict border crossings - VNO-NCW and MKB-Nederland would like the European Parliament to vote in favor of the proposal

In addition, VNO-NCW and MKB Nederland urge the commission to continue to work on proposals to raise the weight and dimensions of cross border operations on EU level Bilateral agreement should not develop in a new infringement of the internal market. This could arise when the given bilateral agreement only allows for the drivers of the two countries involved to cross the border with that heavier truck. If two countries agree on heavier trucks to cross their borders, above EU level, this should be possible for all EU based drivers.

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Lifting bottleneck for Innovative sustainable road transport (European Modular System / Ecocombi)
The European Modular system, also known as Ecocombi is an innovation in sustainable roadtransport. Two Ecocombi's pull the load of three regular trucks and allow because of their special design, up to 30% fuel savings. A few member states, the Netherlands and Nordic states, do allow the eco-combi in regular transport. Other countries do pilots with the Ecocombi: e.g. Germany and Belgium. The pilots rapport positive results.

VNO-NCW and MKB Nederland urge the Commission to embrace the European Modular system. The Commission could consider to investigate the economic and environmental effects of Ecocombi's being granted permission to cross borders on the trans-European Transport Network. The example in the Nordic states and the Netherlands already show that this is both possible and profitable. Obviously, the specifics of the Ecocombi is especially suitable for transport between big distribution centres, so the potential would really be gained when employed on longer distances.

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Impact of German minimum wage law on transport operations

In August 2014 Germany adopted a new minimum wage law, which entered into force on 1 January 2015. The new minimum wage law also applies to all transport operations whether domestic or international, thus also in transit situations. This means that a foreign hauler has to pay the driver the German minimum wage for the hours spent working (or resting) in Germany when carrying out an international transport operation. In order to comply fully with the new regulations, foreign companies are obliged to inform the German customs authorities ahead of a transport operation. The requested details must be provided in German and can only be submitted via fax. VNO-NCW and MKB-Nederland urge the European Commission to look into the law's negative impact on free movement and how it fits in with existing EU policies. Furthermore, Dutch business is concerned about the additional administrative burdens, enforcement, the lack of information and the level of penalties for non-compliance. VNO-NCW and MKB-Nederland like to point out that minimum wage in the Netherlands is higher than in Germany; however, the administrative burdens resulting from the procedures are considered to be redundant red tape. Lastly, VNO-NCW and MKB-Nederland urgently request the German government to provide more and better information on how foreign companies should cope with this law.

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Single European Sky (SES 2+)

European competitiveness is seriously hampered by inefficiencies in European air transport operations. The European airspace remains fragmented and the resulting inefficiencies add 42 km to the distance of an average flight, bringing extra costs of about € 5 billion a year. Effective coordination and management of European airspace is key to ensure the safe and cost-efficient flow of air traffic, thereby minimising fuel usage and costs, carbon emissions and flying times. Previous European policies, formulated in earlier Single European Sky (SES) packages fail to deliver. In order to accelerate implementation of the SES packages and hence integration of the European airspace, the European Commission presented the SES 2+ Package. March 2014 the previous European Parliament determined its position and voted on the proposal. However, the discussions in the Council have been difficult and are progressing slowly. Although a 'general approach' has been reached, a couple of Member States remain very hesitant to act. They argue that SES 2+ is 'too much, too soon' and feel there is no real urgency. VNO-NCW and MKB-Nederland criticize this lack of urgency and state that time to act is running out.

As air traffic is going to rise in Europe there is a need to act quickly. Enhancing the efficiency of air transport will stimulate trade flows and has positive effects on European competitiveness. An efficient and sustainable Air Traffic Management (ATM) System should be put into place. Furthermore, effective and independent national supervisory authorities will improve air traffic oversight and will enhance safety. VNO-NCW and MKB-Nederland therefore urge the EU and the Member States to speed up their efforts to realise a Single European Sky. The faster the SES packages will be implemented, the quicker the expected returns will materialise.

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Transport and energy

Europe is critically examining the possibilities to reduce carbon and other emissions from transport. The European institutions are considering a wide variety of measures, which aim to reduce these emissions and make transport more energy-efficient and sustainable.

VNO-NCW and MKB-Nederland support European efforts and policies to reduce carbon emissions from transport. Cornerstones should be policies that drive innovation in efficiency of means of transport, efficiency of logistics and deployment of renewable energy. CO_2 emission standards, ecological and economical responsible production and use of biofuels should be part of these. Considering the biofuels, bottom line should be that these do not compete with food production and/or encourage deforestation.

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Market Surveillance and Product Safety Directive

Although VNO-NCW and MKB-Nederland would welcome new product safety regulation that aims to clarify and simplify the current legal framework and strengthen market surveillance, but unfortunately this is not the case with the Product Safety Package the EP has approved. Therefore we advise withdrawal of this proposal or its revision. It needs revision on the scope. Products that fall under specific EU legislation should be excluded, as well as second-hand products. In general the scope needs to be limited to be workable. The requirement to print the name/address of the manufacturer, distributor and/or importer on the product (unless this is not possible) is disproportionate. VNO-NCW and MKB-Nederland also regard the mandatory ‘made in’ labelling as disproportionate. Additionally, the country of origin marking does not provide any information to consumers pertaining to product safety and traceability.

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Acquisition fraud

Over the past few years acquisition fraud has evolved into organised crime which yields billions of euros to criminals. National police and justice often do not take action because criminal organisations frequently operate across borders. Only a better information position and a common cross-border approach with clear rules applying to all Member States will help to discourage, and preferably dismantle, these organisations. Therefore VNO-NCW and MKB-Nederland strongly advise the European Union to take action to tackle this problem.

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2. Towards a Connected Digital Single Market

The digital aspects of the internal market influence all parts of the economy. On the one hand it creates more opportunities for cross-border trade, the most notable example of this is e-commerce, and on the other hand it enables the streamlining of work processes. A significant number of Dutch shops are increasingly making use of online possibilities. This might lead in turn to increased cross-border trading. Also, industry and services can benefit from digital innovation, a good example the 'smart industries'. This is why leading independent industry associations and business organisations from G20 countries have outlined strategies of the global business community for 2015. It is clear that coordinated application of digital technologies is essential to drive innovation, competitiveness and economic growth. There is an urgent need to assess all aspects of this new industrial revolution and create robust systems through which risks are minimised and benefits maximised. These systems range from good arrangements on cyber-security to enabling the international data flows through a good safe harbour agreement between the USA and the EU.

Data Protection Regulation

The new Data Protection Directive has mainly been an exercise of adding onto the existing Directive, instead of the much needed rethinking of the free flow of data and their protection. The choice of instrument actually is a major change: it has become a Regulation. Looking back, this incremental approach does not fit the enormous, fast and differentiated changes that have occurred in the field of data protection. The flexibility of the Directive offered room for several different situations. The proposed Regulation, though, needs a much more detailed description in order to encompass all possible situations and exceptions. So although more uniformity and a level playing field for the entire EU is positive, the much needed flexibility for the enormous changes in different sectors, markets and companies is not taken into account. Over recent years, we believed that this would be worked out. However, almost every step that has been made by the Parliament and the Council has turned out to confirm or worsen the Commission's proposal.

Substantial problems are most notably the obligations for entrepreneurs. The obligations are insufficiently attached to the actual risks for data subjects. Obligatory detailed documentation of all information processes, costly impact assessments, data breach notifications and a required data protection officer are too prescriptive. The prospect of huge fines would tend to impede the European market rather than stimulate it. As a consequence, Europe would start lagging behind other continents, in particular those that acknowledge that more innovation with, for example, 'big data', is possible and crucial. The consumer will pay the price as well: in the end, higher compliance costs for companies lead to more expensive products and services for European consumers.

Companies that operate internationally might benefit (less compliance cost) from the instrument of a Regulation because of its harmonising effect. These companies experience low additional burdens, because they already have mitigation measures for high risks situations in place of or are already strictly regulated per sector. Companies involved with less risky processes though, with a wide array of processes, or parties that simply do not operate internationally, do not benefit from European harmonisation, but need deep pockets to pay for all the costly add-ons the Commission proposes. For them the Regulation is nothing but a harbinger of disproportionate burden.

Because of these different angles, Dutch business organisations VNO-NCW and MKB-Nederland urge for a way of maintaining the idea of an EU-level playing field and of rigorously improving the connection between costly measures and actual risks. Subsequently, the Commission should act pro-actively, by establishing a core Regulation for example, which would offer a level playing field and promote a free flow of data. This way, the Commission would preserve and use the momentum created. Then specific data processing in specific situations, markets or domains could be captured into separate pan-European frameworks. That way, the level playing field is in order and swift adaptation to new developments (such as market convergence, new players in a domain or an unexpected new technology or application) will be facilitated.

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Cyber-security

The proposal for a Directive for network and information security (NIS), presented in February 2013, aims to ensure a common level of NIS in the EU. The proposal includes, among other things, the obligation for companies within the critical infrastructure to take adequate measures to manage risks and to report serious incidents to national authorities. Furthermore, the proposal obliges Member States to have a national cyber-security strategy and a well-functioning computer emergency and response team. The Directive is currently the subject of negotiations in the Council working group while the European Parliament has concluded its position on this dossier. VNO-NCW and MKB-Nederland endorse the importance of a high, common level of NIS. This is essential for a well-functioning single market. Business considers a European level playing field of the utmost importance. The upcoming legislation should be proportionate. Preferably, only incidents having a ‘significant impact’ should be reported. This is necessary to avoid over-reporting. The notion of ‘significant impact’ should therefore be clearly defined. Multinationals should be required to report to one authority only and unnecessarily specific sectors should be excluded (such as cloud services). VNO-NCW and MKB-Nederland continue to emphasise the importance of an approach in cyber-security whereby public and private parties work closely together.

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Copyright

Because of ICT developments, the number of options to disclose a copyright-protected product has increased substantially over the last decades. This has resulted in ambiguity and discussion about ‘disclosure’ versus ‘new disclosure’ and additional payments. This is also hindering the application of technological opportunities. Whereas the judicial interpretation of the term ‘disclosure’ was straightforward during the sixties, with the current economic and technological reality it can rather be seen as obsolete. Moreover, it counteracts modern developments. Therefore, VNO-NCW and MKB-Nederland argue that there is an urgent need for:

- A clear separation between ‘profit use’ and ‘non-profit use’. The latter refers to situations taking place in the personal atmosphere, and in the replaceable personal atmosphere (hospitals, day-care centres, retirement homes).
- A clear definition of copyright (disclosure) which replaces the limited definition. The improved definition must enable the current technological opportunities, and not hinder them (as is the case with e.g. combined PC-TV because of the duties on storage capacity and duties on every new opportunity to disclose). Commissioner Ansip has already announced that he will come with a paper on this complex issue in the coming months.

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Telecoms package

In September 2013, the European Commission presented its proposal on the Telecommunications Single Market or ‘Connected Continent’ package. The proposal consists of various measures to promote realisation of the European internal telecommunications market. Key components of the proposal are pan-European services, net neutrality, roaming charges, consumer rights and frequencies. The proposal aims at boosting the development of pan-European telecoms services by allowing providers to offer their services in all EU Member States after authorisation by only one telecoms authority. Clarified, harmonised consumer rights across Europe, more consistency and coordination of spectrum allocation and use in EU telecommunications markets should put in place a level playing field, lowering the threshold for accessing new markets. Moreover, the proposal aims at ending roaming costs for incoming calls, resulting in lower call and texting costs outside national borders within the EU. The proposal also advocates open Internet, with open and full access. According to the proposal, a precondition for guaranteeing open Internet is net neutrality. Currently, net neutrality is a sensitive topic and net neutrality laws are implemented in only a few countries, only in the Netherlands and Slovenia. However, to avoid an uneven playing field, net neutrality must be regulated at European level. The proposal is currently discussed within the Council. VNO-NCW and MKB-Nederland are watching the developments on this dossier closely.

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Stimulate Omnichannel business

The increase in scale and the rise of e-commerce (internet) and m-commerce (smart phones and tablets) offer growth opportunities for European businesses to grow and do more cross-border business. This growth requires appropriate policy at European level to remove existing trade barriers: regulation should be made e-commerce proof to prevent unequal competition. This should include consumer rights, VAT processing, labelling and packaging requirements, environmental legislation and an affordable package delivery system.

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3. European Labour market

The social dimension of EMU

The previous European Commission adopted a Communication on ‘strengthening the social dimension of the Economic and Monetary Union’. It focuses on three areas:

– Reinforcing (surveillance of) employment and social challenges under the European Semester and the scoreboard relating to the macro imbalances procedure (MIP) by adding additional ‘social’ indicators.
– Reinforcing job mobility and enhancing solidarity within the EMU. In enhancing solidarity the Commission has two proposals. One for the short term and one for the long term. For the short term the proposal is to create a new instrument (Convergence and Competitive Instrument (CCI)) to support structural reforms in Member States. Financial support would be granted for agreed reform packages in the interest of the Member State involved and for the well-functioning of the EMU. In the long term a stabilisation tool should be introduced to overcome asymmetric shocks. This tool requires an autonomous Euro area budget. The Commission refers to an EMU unemployment benefit system that complements a national system. The Commission also indicates that this proposal would require a fundamental overhaul of the Treaties, which makes it very unrealistic, to say the least.
– Strengthening social dialogue, also in the process of economic governance.

The work programme of the Juncker Commission is in accordance with these three areas.

VNO-NCW and MKB-Nederland are of the opinion that employment and social aspects should be taken into account in the surveillance of the macroeconomic imbalances of countries in the Eurozone. The same applies for the European Semester comprising all EU Member States. Both processes should primarily be focussed on structural reforms in the interest of sound public budgets and a competitive business climate. This is the main road to economic growth, more jobs, less unemployment and less poverty.
VNO-NCW and MKB-Nederland welcome the strengthening of social dialogue. They regard the role of social partners, both national and European, as essential.

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Posting of workers: review of Directive

The Commission will launch a Labour Mobility Package in 2015. The package aims at supporting labour mobility and tackling abuse by means of better coordination of social security systems, the targeted review of the Posting of Workers Directive and an enhanced EURES.

The Posting of Workers Directive will not be revised, but reviewed to ensure that social dumping has no place in the European Union. The prevention of social dumping is for example to fight exploitation of workers, to ensure decent health and safety conditions and to fight bad-faith private employment agencies, in other words: create the conditions for decent work.

In 2014, the European Parliament adopted the compromise reached in the trilogue on the Posting of Workers Enforcement Directive. BUSINESSEUROPE supported the objectives of the Enforcement Directive which are to facilitate cross-border services provision, while ensuring posted workers' rights are well protected and abuses effectively sanctioned. The Directive has the potential to improve the situation on the ground through better cooperation between national authorities, more transparency for companies regarding applicable rules and control measures applied by Member States, as well as improved cross-border enforcement of penalties.

VNO-NCW and MKB-Nederland underline that there has been a long-standing European debate on the Posting of Workers Directive. This debate has come to an end with adoption of the compromise on the Enforcement Directive. They are not in favour of a revision of the Posting of Working Directive. For the well-functioning of the European labour market labour mobility is needed as well as redressing and sanctioning illegal behaviour.

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Directive concerning occupational pension funds (IORP)

The European Council agreed on a General approach on the IORP directive on occupational pensions. The general approach is to make the proposals less prescriptive and detailed. IORP is more accurately defined as pension institutions with a social purpose rather than pure financial service providers. The important role of social partners in the management of pension funds is also better recognised.

VNO-NCW and MKB-Nederland welcome this decision of the European Council. It is a good compromise for the Dutch pension sector. We are glad that there are no solvency rules in this text and that there is a 6 years' time of no revision of the text. With the original text of the European Commission, we see especially problems with regard to the Information provisions, cross-border activities and the depositary function. We do not think that there is a need for any further European rules with regard to investment. This is up to the social partners to decide per fund and the investment policy must be fit for purpose with regard to the profile of the fund. We would be in favour of regulating all the relevant aspects of the directive on level 1 and skip delegated acts.

However, there is still a risk that a framework for further EU-level quantitative solvency requirements for pension funds may be introduced in the future. Such requirements are unwanted. They would be detrimental to the provision of occupational pensions across the EU.

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Health and Safety

Pursuant to the Framework Directive 89/391/EEC, health and safety is worked out in 24 EU OSH Directives. The European Commission has started to evaluate the implementation of all 24 Directives. This large-scale operation will culminate in a Commission report, based on the one hand on reports on the practical implementation of the 24 Directives concerned from all Member States (including the views of the social partners), and on the other hand on a report by an independent external contractor. The evaluation will be completed by the end of 2015.

Under the Action Programme for Reducing Administrative Burdens in the European Union, three Health and Safety Directives have been selected in the area of working environment: 89/391/EEC (Framework Directive); 92/57/EEC (Construction) and 2004/37/EEC (Carcinogenic Agents).

The European Commission published an EU Strategic Framework on Health and Safety at Work for 2014 to 2020. This is based on an evaluation of the previous EU Strategy and on the results of a public consultation in 2013.

VNO-NCW and MKB-Nederland welcome the focus of the new Strategic Framework on better implementation, compliance and simplification of existing EU and national legislation in this field. The exchange of best practices, data collection and development of tools are the best way for the EU to facilitate sectors and companies. Good safety and health performance can help business competitiveness. But this can only be maintained as long as the benefits outweigh the costs and administrative burdens of health and safety measures at the workplace.

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Investing in knowledge

Europe’s ageing society will face increasing shortages of highly skilled labour in engineering, construction, trade and repair industries, business services and healthcare. Shortages on the labour market are not a quantitative matter but qualitative. Hence, Europe’s defensive immigration policy should be transformed into a proactive policy, welcoming scarce and well-educated workers from non-European countries. Europe should play a more prominent role in ‘the battle for talent’. Inter alia, this means adapting the current European Blue Card approach. But there should also be constant attention to the education of young people at every level. Policy can be developed at Member-State level, while best practices could be exchanged at the European level.

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4. Economic Governance

The European debt crisis and the credit crisis have revealed that the financial sector and public finances are closely interrelated and interdependent. And with a relatively big banking sector Dutch companies benefit from the legislative and supervisory steps which came into place under the new banking union legislation. This approach should be and remain to be a balanced one. While aiming for a more robust financial system, the focus should now be on establishing a capital markets union. While providing the appropriate framework for this aspect of the internal market, one of its aims should be to increase the capital flows in order to unlock further market potential and achieve a crucial aim: growth and jobs.

Bank structural reform

On 29 January 2014, the European Commission adopted a proposal for a regulation to stop the biggest banks from engaging in the risky activity of proprietary trading. The new rules would also give supervisors the power to require those banks to separate certain potentially risky trading activities from their deposit-taking business if the pursuit of such activities compromises financial stability.

According to VNO-NCW and MKB-Nederland the additional value of the Commission proposal for structural reform of the European banking sector in the current context has not been proven. Currently many proposals, as a result of the European financial reform agenda with the aim of reducing risk-taking, have been implemented or are currently being implemented by European banks.

The important Bank Recovery and Resolution Directive (BRRD) has the aim of splitting banks without involving taxpayer’s money. According to article 17(5) of BRRD, supervisors will get the tools, via the recovery and resolution assessment process, to ask individual banks that are deemed to have impediments to resolution to take steps to address them, including by the separation of certain activities if needed. This is why VNO-NCW and MKB-Nederland urge for a different approach in order to reduce risks: raise capital requirements and improve the ‘quality’ of equity as provided by the Basel committee.

Additionally, a good framework for crisis management, including recovery and resolutions plans, provide good safeguards for the resolution and separation of banks. The proposal goes against the Commission’s strategic agenda for growth and jobs and its related aim of a Capital Markets Union. It will result in the exact opposite of what is intended by implementing a Capital Markets Union, i.e. to reduce the cost of capital and to deepen European capital markets. The mandatory separation of activities such as market-making will also have a negative effect on SMEs’ access to capital markets-based funding. The Commission’s impact assessment, which makes clear that structural reforms will lead to increased funding costs for banks, is just a first step as it does not sufficiently analyse the full consequences of the proposal.

The Commission also acknowledges in its impact assessment that the proposal has a negative impact on the European GDP because these increased funding costs will result in higher interests for households and higher costs for capital for SMEs and other businesses.

VNO-NCW and MKB-Nederland support the universal banking model where a bank provides a broad range of services to both businesses and consumers. Universal banks tend to be more stable because they diversify their operations which leads to spreading the risks.

Nevertheless the Commissioner responsible has continued the proposal and the Latvian Presidency has the ambition to achieve in the Council a general approach, this is a final collection of standpoints for negotiations with the European Parliament around May. Whereas the lead ECON committee in the Parliament will vote on this proposal in March.

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Investment plan for Europe and a capital markets union

Recently, the Commissioner for jobs, growth and investments, Jyrki Katainen, published his plans for the European Investment Funds (EFSI). This funds is based on € 21 billion it relocates from the EU budget and existing EIB resources. Through a multiplier, the Commission estimates it can open up an investment package of € 315 billion. € 240 billion is earmarked for long-term investments and € 75 billion will have to go to SMEs and mid-cap companies. The aim of this fund is to stimulate private investments with modest resources.

Member States can also take part in the EFSI, just like third parties, private parties and - under specific circumstances - investors from outside of the EU. A steering board, with representatives of the European Commission and the EIB will prepare risk profiles, risk-based policy and targets. Any investments will be made independent of geographical indicators.

Additionally, the Commission will create a hub where information can be shared and new instruments and structures of financing requests can be created. This hub will be a platform where investors, investment projects and national authorities can come for questions and advice.

The first set of proposals (2000) for investment projects also contains input given by VNO-NCW and MKB-Nederland. It should be underlined that this is not a final list and that VNO-NCW and MKB-Nederland are very closely connected with this process and the most current developments.

The European Commission expects that the Council and the Parliament will come to an agreement swiftly and before June this year, this way the first project could theoretically be financed out of this fund at the first half of this year.

VNO-NCW and MKB-Nederland regard this investment project as a catalyst for investment and growth in the European Union. We believe that there are definitely possibilities for Dutch projects but this plan in itself is not good enough to achieve more growth, jobs and competitiveness in Europe. More has to be done to make Europe a more attractive place to invest. In order to achieve significant structural improvements, with regards to financing business, a real capital markets union is necessary ‘Green Paper from Jonathan Hill on the Capital Markets Union. In this way we can get a better picture of the action plan he is due to come up with in September this year.

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Common Consolidated Corporate Tax Base (CCCTB)

The Common Consolidated Corporate Tax Base (CCCTB) is a proposal developed by the European Commission for an optional additional new tax code to be adopted across the European Union. On 16 March 2011 the European Commission proposed a common system for calculating the tax base of businesses operating in the EU. Since then, a lot of technical work has been done on the proposal by the Council Working Group, but the important political questions regarding minimum rates, the allocation of profits through formulary apportionment and the optional character of the CCCTB have been put off. It seems unlikely that there will be any kind of consensus on all of these aspects of the CCCTB soon. However, the recent work regarding tax planning and tax avoidance by both the European Commission and the OECD have given the proposal some new momentum.

VNO-NCW and MKB-Nederland have taken the position that they cannot support the CCCTB unless the proposal meets four conditions. These conditions are (i) that the CCCTB has to be optional, (ii) that consolidation of profits and losses throughout the EU has to be possible, (iii) that Member States maintain their full sovereign right to set their own corporate tax rate and (iv) that companies benefit from a ‘one-stop-shop’ system for filing their tax returns to lessen the administrative burden.

The Dutch Parliament has been very critical regarding the CCCTB proposal. Since the rules for the allocation of profit in the proposal focus on capital, labour and sales, smaller, open economies in particular stand to lose a significant part of their corporate income tax revenue to the larger economies in the EU, such as Germany. In the case of the Netherlands this could amount to a loss of about a third of total corporate income tax revenue.

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EU Action Plan to strengthen the fight against tax fraud and tax evasion

The OECD has put a lot of work in developing the 15 separate work streams of the action plan against Base Erosion and Profits Shifting (BEPS) to combat the legal, but artificial segregation of taxable income and the underlying economic activities. The work streams have to result in a holistic set of recommendations by the end of 2015.

Parallel to this process the EU has put forward an Action Plan to fight tax fraud and tax evasion. Belying its name, the EU Action Plan does not only address illegal activities, but also focuses on legal activities such as tax planning and tax avoidance. In this context, a Commission Recommendation on aggressive tax planning and the Commission Recommendation regarding measures intended to encourage third countries to apply minimum standards of good governance in tax matters have been attached to the EU Action Plan. A great deal of focus of the EU Action Plan lies on improving the automatic exchange of information. In 2014, the Commission has adopted a proposal recently to amend the Parent-Subsidiary Directive so that it includes a General Anti-Abuse Rule (GAAR) and disallows the Directive's privileges where hybrid instruments are used. Additionally, the European Commission has indicated that they will release a proposal for an EU Anti-BEPS Directive before the summer of 2015.

VNO-NCW and MKB-Nederland are of the opinion that to secure both public trust and incentivise long-term investments, job creation and growth, a holistic approach and globally coordinated action based on international consensus are necessary. Without global coordination and consensus the end result might be that there is increased double taxation and increased uncertainty about the tax treatment of cross-border business investments and activities. This may also lead to new, if not more, frictions and gaps between different countries' tax systems. The EU initiatives therefore cannot stand alone or apart from BEPS. The EU has to refrain from developing rules or regulations that are not in full accordance with BEPS conclusions. This also means that the EU has to follow the OECD timetable rather than make its own. In any case, both BEPS and the EU initiatives should conclude that tax competition is beneficial to Member States and therefore has to be preserved. Also, both should confirm that the 'arm's length' principle must be maintained as the norm and that any additional measures to combat unintended double non-taxation should always remain within the 'arm's length' standards.

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Financial Transaction Tax

The EU Financial Transaction Tax (EU FTT) was proposed by the European Commission in September 2011. The aim was to introduce a financial transaction tax within the 27 Member States of the European Union by 2014. In 2012 it became apparent that consensus between all Member States on the FTT was impossible. For that reason it was proposed to bring the FTT under the enhanced cooperation procedure. Eleven EU Member States have consequently declared they want to implement a FTT. However, the formal agreement on the details of the EU FTT still needs to be decided upon. If there will be an agreement to formally propose EU-11 FTT, this would likely mean that the tax is payable in the European country where the financial institution is established. The tax would impact on financial transactions between financial institutions at the rate of 0.1% on exchange of shares and bonds and 0.01% on derivative contracts. If there are two financial institutions connected to the transaction, the tax will be due from both of the financial institutions. Effectively, financial transactions would therefore be taxed at 0.2% and 0.02%. The proposal has far-reaching extraterritorial effects due to the residence and issuance principle in the FTT. This means the EU-11 FTT would cover all transactions that involve a single European firm, no matter whether these transactions are carried out in the EU or elsewhere in the world. Because of the extraterritoriality it is unclear whether a financial transaction tax is compatible with European law.

VNO-NCW and MKB-Nederland vehemently object to the FTT proposal. The FTT is proven to be detrimental to economic growth and job creation. This is the case both in the participating Member States and in the non-participating Member States due to the fact that the tax ultimately will not be paid by financial institutions, but will be passed on to the end-users, i.e. businesses and individuals, and because it will encourage the financial sector and businesses to try and move their operations as much as possible beyond the reach of the FTT.

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Platform for Tax Good Governance

As a spin-off of the EU Action Plan to strengthen the fight against tax fraud and tax evasion The Platform for Tax Good Governance has been established. The Platform will assist the European Commission in developing initiatives to promote good governance in tax matters in third countries, to tackle aggressive tax planning and to identify and address double taxation. It brings together expert representatives from business, tax professional and civil society organisations and enables a structured dialogue and exchange of expertise which can feed into a more coordinated and effective EU approach against tax evasion and avoidance. The Platform will also assist the Commission in preparing its report on the application of its Recommendations regarding measures intended to encourage third countries to apply minimum standards of good governance in tax matters and on aggressive tax planning.

In the view of VNO-NCW and MKB-Nederland, the focus of this Platform should be on preventing double taxation and on ensuring that EU proposals are in line with international (OECD) agreements.

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Value-Added Tax (VAT)

After the presentation by the European Commission of the Green Paper on the future of VAT (2010), progress has been made. Firstly it was decided that the destination system will be the definitive system. Various options of this system are subject to consultation in the VAT Expert Group. Both this group (new legislation) and the VAT Forum (implementation issues) are established by the European Commission. VNO-NCW and MKB-Nederland are represented in both groups. Topical in the VAT Forum is among others a discussion on a voluntary correction of VAT returns (business: no large fines). The discussion between Member States on an EC proposal, presented in 2013, for a standard EU VAT return is difficult because of the different views on the function of a return. For Dutch business necessary conditions are a. uniform contents (no different interpretations by Member States) and b. one format to be used by all Member States. In January 2015 new legislation regarding the place of supply of B2C telecommunications, broadcasting and electronic services entered into force. The place of supply for these services will always be taxed in the country where the customer belongs. VNO-NCW and MKB-Nederland agree with the general principle that VAT should be taxed in the country of destination - no more competitive distortions - but is of the opinion that implementation problems of small businesses caused by the new B2C rules deserve serious attention.

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Shareholders Directive

In April 2014, the European Commission presented a proposal to revise the Directive on shareholders' rights. Goal is to improve corporate governance of listed companies by reinforcing shareholder engagement and ultimately strengthen the competitiveness and long-term sustainability of these companies. The Commission proposes to harmonise rules on shareholder identification as well as to strengthen reporting obligations of certain company stakeholders (institutional shareholders, asset managers, proxy advisers). It also introduces for the first time at EU level a shareholder 'say on pay' and additional shareholder oversight on related party transactions.

VNO-NCW and MKB-Nederland appreciate the European Commission's initiative to improve the corporate governance of registered companies. However, they feel that corporate governance is an area where legislation should be kept to a minimum and a principle based approach with the adherent flexibility is indicated, whereas the Commission focusses on a rule based approach. Such one-sized fits all approach should be avoided as it ignores the differences in the existing frameworks of laws and of self-regulation in the various Member States. The proposal is being discussed in the European Parliament and is scheduled for voting in March.

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Societas Unius Personae (SUP)

In April 2014 the European Commission published, as part of its package on corporate governance and company law, a proposal for a directive on single-member private companies with limited liability, the Societas Unius Personae (SUP). Its main objective is to make it easier and less costly to set up companies across the EU and facilitate cross-border trade.

The proposed Directive will replace the existing 1989 Twelfth Directive on single member companies which related only to the possibility to establish a single member company and the obligation to register the sole shareholder in a publicly accessible register. According to the proposal, a SUP will have only one share and one shareholder, and Member States will be obliged to provide for its online registration, enabling a SUP founder to incorporate and register a SUP from his or her computer without the obligation to travel to the country of registration. In addition, to set up a SUP would require a minimum capital requirement of 1 euro.

VNO-NCW and MKB-Netherlands welcome the possibility of a simple online creation of a single member company. They believe that this meets the need of both SMEs and large enterprises. Not only because of the simplicity and speed of creation, but especially in terms of cost. However, they feel that the proposal lacks sufficient safeguards to verify the identity of the founder of the SUP. The proposal further contains an obligation to register not only the identity of the sole shareholder, but also that of the 'beneficial owner'. This compulsory registration means that the identity of the latter also becomes public. To VNO-NCW and MKB-Nederland that is highly undesirable. The proposal is being discussed in the European Parliament and is scheduled for voting in May.

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5. Better Regulation

European legislative proposals can contribute to an important extent both to reducing regulatory pressure and to strengthening the single market by harmonising national rules or replacing them with European rules. However, the current practice shows that many legislative initiatives which are oriented on strengthening the single market go hand in hand with unnecessary increases in administrative burdens and compliance costs. This not only worsens the competitiveness position and innovation capacity but also corrodes the belief of citizens and companies in the European project.

Better Regulation

In the current European legislative process, European Commission, European Parliament and Council still pay limited attention to the deleterious effects of regulation on competitive strength and innovation capacity of companies. The outcome is often a detailed compromise which is difficult to understand and which in turn is elaborated in even more detailed decisions before being differently implemented and enforced in Member States.

Hence, for an effective approach to reducing regulatory pressure, a policy goal that is supported by Commission, EP and Council, and which can be measured and enforced is essential. That does not mean that the European project is closed down; quite the reverse. Because European regulation can make national rules redundant, or harmonise them at the right level, with the result that regulatory pressure is reduced. The approach must target on both new and existing legislation, and be embedded throughout the legislative procedure of Commission, EP and Council. The approach must be led by demand from business, with consideration of sector-specific problems. VNO-NCW and MKB-Nederland have written a letter to the new Commission outlining several recommendations The eight criteria are:

– A net quantitative objective for the reduction of regulatory pressure for businesses, expressed in euros, to be achieved over the coming five years.
– Quality criteria for new regulation.
– Extra regulatory pressure should be compensated.
– Independent impact assessments throughout the legislative procedure.
– Better consultation of stakeholders.
– Reduce regulatory pressure from existing rules in a demand-driven way.
– Prevent national discrepancies, stimulate light-touch implementation and good enforcement.
– Ex-post evaluations to determine whether the intended reduction of regulatory pressure has also actually been realised by companies on the ground, and that the reduction has not taken place only on paper. Evaluations are also carried out regarding the level of compliance with EU requirements in the Member States in order to promote a level playing field in the EU.

Innovation

In the interest of its global competitiveness, the EU will have to regain the innovation leadership and capture more added value from innovation through an investment-friendly environment, as well as by scaling up investments in R&D and especially in close-to-market innovations.

In our view the following items are essential:

- As a complement to the Precautionary Principle, the EU should foster an 'Innovation Principle' by which enterprises and people are enabled to develop ideas, technologies and services while ensuring that related risks are properly managed rather than avoided. The introduction of the 'Innovation Principle' in the EU policy-making process scan be started with the European Commission Work Programme. As a complement to the 'Precautionary Principle', it would imply analysing and addressing the impact a proposed piece of legislation could have on innovation.

- Ensuring a smart implementation of Horizon 2020:

– To monitor the balance between research and innovation and the participation of industry we suggest introduction of a yardstick for adequate involvement of the business sector to at least 35% of total funding in Horizon 2020. The fact is that business participation has declined in the last decade. It is therefore essential to preserve the attractiveness of the programme for industry supporting innovation, providing adequate reimbursement and reducing the bureaucracy and the administrative obligations as much as possible.

– Ensuring appropriate balancing of the Horizon 2020 evaluator teams with adequate involvement of industry experts, in particular for the proposals with higher Technology Readiness Levels,

– Addressing concerns of the intellectual property rights (IPRs) regime during the forth-coming interim evaluation of Horizon 2020. The actual IPRs regime is still favouring academia over industry (e.g. with its actual joint ownership regime) and is also supporting a protectionist 'in Europe First or Only' approach (e.g. via its Affiliate Clause).

– Minimising oversubscription to an appropriate level of competition, e.g. through an appropriate programming and description of the funding topics.

– Ensure that the budget of horizon 2020 used for the European Investment Fund (EFSI) is geared and leveraged towards innovation. Focus should be put on close- to the market initiatives like for instance (large scale) pilot plants and advanced manufacturing initiatives.

– Industry, regions and Member States must work closely together to capitalise on the available European Structural and Investment Funds (ESIF), in particular in view of their reinforced focus on innovation. Allowing projects to be co-funded - within certain boundary conditions - from Horizon 2020 and ESIF, in order to achieve better synergies between EU, national and regional funding levels, is, in principle, something positive. However it is important to ensure that ESIF co-funding of H2020 projects would remain facultative and never become a pre-condition or additional selection criterion for funding from Horizon 2020, because of uneven availability of ESIF funds across Member States and the complexity of combining different funding mechanisms (centralised vs decentralised).

- The EU manufacturing sector is challenged by strong global competition and changes due to the digitalisation of the economy. Leveraging advanced manufacturing technologies and other key enabling technologies (KETs) through the whole value chain and promoting the adoption of such technologies within and across sectors would help to meet these challenges and profit from them. This requires a greater attention to the interplay between services and products, new manufacturing techniques, digitalisation and the role of new innovative business models in at least two out of the three main pillars of Horizon 2020.

- Ensure smart implementation of the revised state aid rules for R&D&I and the General Block Exemption Regulation and make use of the new state aid evaluation tools to consider possible improvements in due time. Also it essential that the length of the clearance procedure is shortened, as it strongly influences the time-to-market of the results from research and innovation efforts.

Small Business Act

The Small Business Act is the key initiative of the European Union to support small and medium-sized enterprises. In 2014, the European Commission launched a public consultation on the Small Business Act (SBA) on how to support SMEs and entrepreneurs better for the period 2015-2020. The public consultation closed on 15 December 2014.

A first look at the outcome of the public consultation shows that individual companies as well as business organisations responded. Failure to find finance seems to be the highest on the scoreboard. The SBA will not be part of the work programme of the European Commission in 2015. In view of the upcoming Inter-Institutional Agreement on better law-making, which is presented in the work programme 2015, it is necessary for more binding implementation of ‘The Think Small First Principle’ to be established. At the start of the Small Business Act in 2008 all European institutions agreed to apply this principle for new legislation, but an effective implementation is still far away.

DG Growth publishes every year SBA Factsheets on every Member State of the European Union. In 2014 the problems of the Dutch economy continued to be marked by stagnating aggregate demand. This is due to a high level of private household indebtedness in combination with a still distressed housing market. These problems weighed on SMEs, as SMEs are generally more dependent on local demand than larger firms. The European Commission concludes that the outlook for 2015 is positive, pointing to a recovery also in terms of job creation.

Around May 2015, the results of the public consultation will be published. On the basis of those results, the European Commission will propose improvements for the implementation of the SBA. Access to finance, think small first, cutting administrative burdens and access to markets should be the priorities in an improved implementation.

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6. External markets

Possibilities to export and import goods and services largely depend on the degree of openness of international markets. Consequently, promotion of international trade is of paramount importance to fuel economic growth and for the creation of jobs. This is particularly true for the Netherlands. As the Dutch economy has traditionally been very open, trade is - and has always been - of vital importance to Dutch business.

The potential of liberalising world trade is also illustrated by the changes in the way people live and how business is done. The digital revolution made the world smaller and more connected, and new markets have emerged. Production is organised to an increasing extent by international or global value chains. Goods and services are not produced in a single location, but are the result of a combination of tasks executed in different countries. This change puts additional pressure on the EU, as well as other trading partners, to finding ways of supporting global value chains. The worldwide elimination of tariffs and non-tariff barriers, and facilitation of trade and investments are the right answers to this new international trading environment.

Trade is the exclusive competence of the European Union. This means that the Member States, including the Netherlands, no longer have the competence to conclude trade or investment agreements with third countries. The European Commission is the institutional body officially representing all 28 Member States in negotiations with third countries on trade and/or investment agreements and within the WTO. Above that, with the entry into force of the Lisbon Treaty, no trade agreement or EU trade legislation can come into being without the explicit consent of the European Parliament.

VNO-NCW and MKB-Nederland are staunch supporters of world trade liberalisation and therefore encourage the European Commission to continue to show leadership in the liberalisation of world trade at the multilateral as well as the bilateral level. Opening up new markets, removing trade barriers and reducing other impediments to trade, are the cornerstones upon which future European trade policy should be built. The EU will have to improve access to worldwide markets and accelerate its external trade agenda in a spirit of reciprocity. This will boost competitiveness, stimulate job creation and investment, and strengthen the European industrial and services base. International trade and open markets are an essential precondition to enhance the earning capacity of the Netherlands.

Trans-Atlantic Trade and Investment Partnership (TTIP)

Following the adoption of the mandate in June 2013 by both the Council and the European Parliament, the European Union and the United States started negotiations on a comprehensive Transatlantic Trade and Investment Partnership (TTIP). Numerous studies indicate that an ambitious deal with the US – Europe's largest trading partner - will bring substantial economic advantages to the EU. According to conservative estimates TTIP could lead to a 0.48% increase in Europe's GDP, a 28% rise in exports to the US and an added European income of € 86 billion.

By February 2015, eight negotiation rounds between the EU and the US had taken place. The first rounds were merely used to determine ambitions, settle approaches and identify areas of common ground. However, with the 8th round negotiations on the substance of the agreement are starting to get underway.

VNO-NCW and MKB-Nederland strongly support an ambitious and comprehensive TTIP as it will provide an unprecedented opportunity to integrate EU and US markets. This will not only foster economic growth, but also boost competitiveness and generate jobs. To this end TTIP should eliminate tariffs where possible; liberalise movement of services; remove non-tariff barriers; ensure procurement bids are treated on a non-discriminatory basis; harmonise competition rules to guarantee a level playing field; and provide for solid investment liberalisation and protection, including a state of the art updated Investor to State Dispute Settlement mechanism (ISDS).

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CETA (Comprehensive Trade and Economic Agreement; EU-Canada)

In September 2014, the EU and Canada concluded negotiations on the Comprehensive Economic and Trade Agreement (CETA). As CETA covers a wide array of issues - ranging from the elimination of around 98% of the tariffs, to protection of investments, and commitments regarding public procurement - the agreement is of great importance to the European and Dutch economy.

Although negotiations have been concluded, CETA still has to be formally ratified by both the European Parliament and the European Council and possibly, the EU Member States. This ratification is scheduled for 2015, after which the agreement will take effect in 2016. Reopening of the negotiations should be avoided at all costs, as this would destroy the balance in CETA that took 5 years to achieve. Moreover, such a decision would also be detrimental to the image of the EU as a reliable and credible negotiating partner.

As CETA will provide Dutch business with new and significantly improved opportunities to access the Canadian market, VNO-NCW and MKB-Nederland urge the European Parliament and the Member States to ratify the agreement by the end of this year.

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Investor-to-State Dispute Settlement (ISDS)

Foreign investors need to be protected against arbitrary behaviour (expropriation, nationalisation) of host states. In many cases domestic courts in host states are not independent from the authorities or biased towards foreign investors. That is why most bilateral investment treaties (BITs) contain an international extrajudicial arbitration mechanism that protects foreign investors against arbitrary behaviour of host states and guarantees them a fair process, the Investor-to-State Dispute Settlement mechanism, ISDS.

For VNO-NCW and MKB-Nederland, it is essential that ISDS is also included in the TTIP. As the rights for foreign investors included in BITs such as the TTIP cannot be directly invoked by foreign investors before US domestic courts, companies need ISDS to guarantee them full respect of these rights.

The inclusion of ISDS in the TTIP is a subject of widespread debate and criticism throughout Europe. VNO-NCW considers that the factual basis for these debates is often fundamentally flawed. To identify possible ways to improve the design of ISDS in TTIP, the European Commission launched a public consultation on the possible improvements in the design of ISDS. This initiative resulted in an unprecedented number of around 150.000 responses. However, a lot of these replies showed striking similarities and were manifestly organised by a limited group of NGOs. Business input in the consultation was relatively small in numbers, but representing large numbers of companies. The input of VNO-NCW alone represents 130.000 companies. BUSINESSEUROPE represents millions of them.

In the societal debate, a number of very useful proposals for improvements of the existing ISDS system has been made, e.g. in the fields of transparency, appeal of decisions, code of conduct for arbitrators and the balance between policy freedom for host countries and investor protection. VNO-NCW is convinced that the TTIP provides an opportunity to develop a state of the art ISDS system for the 21st century, incorporating societal concerns and providing investors with a good and balanced protection.

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Free-trade agreement between the EU and Japan

The European Union and Japan started negotiations on a bilateral free-trade agreement (FTA) early 2013. Although initially, the European Commission was hesitant whether Japan would be willing to make sufficient concessions, in particular with regard to eliminating non-tariff barriers, after the first years of negotiations the EU and the Member States assessed there was a sufficient base to continue the negotiations.

As the Netherlands has an open economy with a relatively large logistics sector, the FTA between the EU and Japan provides considerable potential for Dutch business. VNO-NCW and MKB-Nederland therefore encourage the European Commission to speed up the negotiations in order to conclude the FTA by the end of 2015.

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Multilateral trade liberalisation in the World Trade Organisation (WTO)

From 2001 onwards, WTO members have been negotiating a broad package of multilateral trade liberalisation measures (elimination of industrial tariffs, reduction of agricultural support, liberalisation of services, etc.) in the Doha Development Agenda (DDA, also called the 'Doha Round'). The ultimate goal of the DDA is to agree on a variety of measures aimed at regulating and liberalising world trade. As reaching an agreement on the complete DDA turned out to be very difficult, the WTO Member States decided in 2011 to initially focus their efforts on a limited package of relevant topics.

The new approach has worked out well. In December 2013 the 159 WTO Member States met in Bali and - inter alia - reached agreement on 'trade facilitation' (the removal and simplification of custom procedures). This agreement is now being implemented.

The Bali Trade Facilitation agreement is important for Dutch business. It will lead to lower costs of international trade and provides Dutch businesses with new trading opportunities. The agreement is especially of value to SMEs: on average 4 to 5 percent of trade transaction costs are related to these customs procedures. Moreover, it underlines and strengthens the role of the WTO. As the WTO establishes rules for world trade on a multilateral level, strives to restrain protectionism, forms a platform for managing the implementation of trade agreements and provides a unique and binding system of disputes settlement, this is of particular benefit for trading nations like the Netherlands.

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7. Energy and Industry

A strong and thriving industry is a prerequisite for sustainable economic growth in the EU. As European industrial production accounts for around one sixth of the total economy, the sector is of vital importance to the EU. Not only does it provide a large share of European expenditure on innovation, it also creates jobs in related sectors. In order for industries to invest in Europe, the EU should provide for competitive business and investment climate. This should address the high energy prices in Europe, but also include policies to stimulate innovation, an ambitious and competitive climate policy, strengthening security of supply of resources, and aim at reducing administrative burdens and development of cost-efficient policies.

Energy Union

In reaction to the crisis in Ukraine and the consequent concerns over dependence on Russian gas, several European leaders started publicly advocating the formation of a European Energy Union. Although views on what such a Union should encompass widely diverged, the idea did get a certain degree of support in the European public debate and within some Member States. Ultimately, this resulted in the appointment of a Commissioner dedicated to the Energy Union.

The European Commission plans to publish a non-legislative strategic framework for the Energy Union in the second half of February 2015. This framework will most probably discuss how security of supply can be enhanced, while taking into account the impact on competiveness and sustainability - the two other cornerstones of European energy policy. It is to be expected that the communication gives broad directions of future work and provides a list of forthcoming concrete initiatives in the areas of energy and climate change. These will most likely range from security of supply, a competitive and completed internal energy market, energy efficiency, CO_2 reduction, and research and innovation.

VNO-NCW and MKB-Nederland support the integration of different policy instruments into one coherent structure. The three objectives of EU energy and climate change policy - affordability, sustainability and security of supply - cannot be viewed in isolation, as they are so closely interlinked. The EU should focus on the following initiatives in particular:

The role of the European Emission Trading System (EU ETS) as cornerstone of the decarbonisation of European industry should be confirmed and reinforced. As a market-based instrument, the EU ETS has the best potential to reduce GHG emissions in the lowest-cost way, and create market signal to drive low-carbon investment across Europe. However, CO_2 reduction and competitiveness have to be better balanced through implementation of the system of dynamic allocation (see below).

VNO-NCW and MKB-Nederland support the completion of the internal energy market through full implementation of the Third Energy Package and stronger efforts (e.g. financial support, risks coverage, administrative burden, etc.) are need foster the development of energy infrastructure as well as cross-border electricity and gas interconnections. This will foster reducing dependence on third-country energy suppliers, have a positive impact on the competitiveness of European energy prices, and play a facilitating role in the decarbonisation of Europe's economy.

However, the EU internal energy market cannot function properly with complementary governance of this market at EU level. Therefore the European Commission should enlarge its role in this respect, by building on the Energy and Environment State Aid Guidelines and remove distortive subsidies.

Internationally, the EU should develop a more assertive and coherent European external energy policy in order to diversify its energy supplies. It has an opportunity to do so in the West; an energy chapter in the potential TTIP agreement would end up lifting existing export restrictions for oil and gas from the USA. On the East (e.g. cancellation of South Stream project), South and North fronts the EU should intensify its efforts to ensure strong relationships with existing suppliers and develop relations with new suppliers and routes.

Lastly, there is the much-debated vision of the collective purchasing of gas. VNO-NCW and MKB-Nederland consider such an approach to be not feasible, nor desirable in the current context.

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European Emissions Trading System (EU ETS)

The EU Emissions Trading System (EU ETS) sets a cap on the total amount of greenhouse gases that can be emitted by factories, power plants and other installations. The cap is reduced over time so that total emissions fall. In 2020, emissions from sectors covered by the EU ETS will be 21% lower than in 2005. Currently, the future design of the EU ETS is under discussion. On the one hand it is seen as providing too little protection against carbon and investment leakage, and on the other hand it is deemed to provide too little incentive for the reduction of CO_2 emissions because of the volatility of CO_2 prices.

Early 2014, the European Commission presented a proposal for introduction of a market stability reserve (MSR) in the EU ETS. This mechanism aims at reducing price volatility of ETS allowances. Additionally, stakeholders are being consulted about options to change the way the ETS works and the competitiveness of internally competing industries. It is foreseen that a legislative proposal for reform of the emission trading system will be published after agreement on the MSR is reached.

VNO-NCW and MKB-Nederland believe that the EU ETS should be maintained as the main incentive over the long term to reduce emissions by industry and other covered sectors and to promote investments in low-carbon technologies. However, protection against carbon and investment leakage should be strengthened and the structural flaw (a constant supply of allowances coupled with fluctuating demand) that causes volatile CO_2 prices should be corrected.

In the Dutch Energy Agreement for Sustainable Growth, the Dutch Government, environmental NGOs and VNO-NCW and MKB-Nederland have committed themselves to the following package deal to improve the EU ETS for the period for after 2020. These are the underlying principles of the so-called ‘Dynamic Allocation Model’:

- Tightening of the reduction path for the ETS cap aimed at achieving the long-term goal of an 80 to 95% reduction in greenhouse gases for the whole economy by 2050;
- Securing the position of internationally competing energy intensive companies (‘carbon leakage companies’) by a 100% free allocation of rights based on realistic benchmarks and actual production, based on the best performance in the sector, and;
- Compensation for the indirect (electricity) costs, based on the best performance in the sector. This package of solutions has the potential to solve both the problem of volatile carbon prices and that of the lack of protection against carbon leakage.

The MSR-proposal should not be discussed in isolation, but as a part of a thorough and broader reform. As the introduction of a MSR will drive up the price of ETS allowances, this should be coupled with measures to safeguard competiveness of the most CO2-efficient companies. Only such a comprehensive approach will sufficiently resolve the structural flaw in the current design of the EU ETS.

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International Climate Negotiations (COP21 in Paris)

In order to stand a chance of limiting global temperature rise to 2°C, greenhouse gas (GHG) emissions must be at least halved by 2050 compared with 1990 levels. This means nothing less than revolutionising the way the world produces and uses energy. As the EU only accounts for around 11% of the world’s total emissions, an international climate agreement is of utmost importance.

At the beginning of December this year, representatives of 165 countries and numerous interest groups will gather in Paris for the 21st yearly session of the ’Conference of the Parties’ of the United Nations Framework Convention on Climate Change (COP21). The objective of the meeting is to reach an international agreement on how to combat climate change. Previous negotiations on an international deal (inter alia in Kyoto and Copenhagen) have not yet been very successful. However, omens are better this time. During the preparatory conference in Lima at the end of last year, pivotal players committed to put forward pledges before the start COP21.

Business not only has a responsibility to tackle climate change, it is key to the solution if the global framework gives confidence and security it needs to invest and innovate. VNO-NCW and MKB-Nederland have committed to the ambition of limiting global temperature rise to 2°C in 2050 and are consequently strongly in favour of a balanced international climate agreement.

This agreement should mobilise all major economies; establish an international level playing field for industry; ensure that all cost-efficient climate technologies are deployed and developed; and strengthen global market mechanisms to reduce emissions. Introduction of a mechanism through which support for developing countries could be established is also seen as very positive.

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Air Quality - National Emission Ceilings (NEC Directive)

As public concern about the links between air quality and public health rises, governments have been asked to review their air quality policies. In December 2013, the European Commission presented a proposal for the so-called EU Clean Air Policy Package. Inter alia, the package includes a revision of the NEC Directive, which updates national emission ceilings for six key air pollutants (PM, SO2, NOx, VOCs, NH3 and CH4).

The Netherlands is a densely populated country, which faces pollution from industrial areas in neighbouring countries and has relatively large industrial and transportation sectors. Therefore, EU policies aimed at improving air quality are of great importance to Dutch society and significantly influence Dutch business. VNO-NCW and MKB-Nederland support a health- and environment-based approach of the revision of EU air quality policy. However, the current proposals to amend the NEC Directive are not fit for purpose and should therefore be reassessed as was indicated in the Commission work programme.

A study commissioned by the Dutch government assessed the costs and the benefits associated with the proposal. Results show that total costs for the Dutch economy might be as much as eight times higher than assessed by the Commission. When the current proposal will pass into legislation without sufficient modifications, this will place a heavy burden on the Dutch economy as a whole and industry in particular.

As States have only very limited instruments available to reach the targets, they are compelled to realise their emission reductions objectives largely via the process of licensing. Consequently, companies that need a licence for their operations will most probably be forced to make a disproportionate contribution to the reductions. This will distort the level playing field and is not cost-efficient. The Commission should therefor alter its approach to emission standards for installations and ensure that the Industrial Emissions Directive (IED) will be the leading framework for industry to reduce emissions. In addition, VNO-NCW and MKB-Nederland urge the EU to focus on proper implementation and enforcement of current legislation right across Europe in order to create a level playing field. Lastly, the relationship between reducing CO_2 emissions (e.g. by the introduction new fuels) and other emissions should be taken into account.

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8. A European Policy for Resources

Economic security and Raw materials

In the decades to come, the world will be facing a period of increasing resource stress. The growth of the world economy will cause demand for raw materials to rise, while geopolitical tensions, climate change, the growing world population and government interventions are likely to put security of supply under pressure. This is true not only for minerals or energy resources; organic resources will also be affected.

As the Dutch economy is resource-intensive, security of supply of resources against competitive prices is of great importance to Dutch business. Consequently Dutch business is concerned by the above-mentioned developments and is following them carefully. Dutch business urges the EU to develop a strategic agenda to strengthen security of supply of raw materials in order to sustainably enhance European economic security.

Over the last years, the European Commission has launched several initiatives to address the issue of security of supply against competitive prices; the Raw Materials Initiative is the most renowned. Although VNO-NCW and MKB-Nederland fully support this initiative, they feel it this is not enough. More comprehensive, fact-based and decisive policies should be developed.

First of all the scope of the initiative should be widened to encompass all resources that are of vital importance to the European economy. Next, analysis and intelligence gathering should lay down the foundations of a European strategic agenda on resources. Only when Europe has solid knowledge of the potential supply risks of the critical resources, well-targeted policies can be developed. These policies should encompass developing a stronger diplomacy aimed at sustainably enhancing security of supply; a trade policy consistent with the objective of minimising supply risks; creating the conditions needed for extracting/producing in Europe; and stimulating a true circular economy and focused innovation to the end of reducing resource dependence.

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Circular Economy Package

At the very end of his mandate, in June 2014, Commissioner for Environment Janez Potočnik presented his Circular Economy Package. As well as a Communication titled ‘Towards a circular economy: A zero waste programme for Europe’, the package contained legislative proposals on waste, recycling and landfilling.

After publication of the package, debate on the proposals progressed slowly. Although this was largely due to a new European Parliament taking over, there were other restraining factors; some Member States thought of the ambitions of the legislative proposals as being too high; civil society raised critical comments; and a new European Commission took office.

As the new European Commission has committed to critically assess pending legislation, the Circular Economy proposals were looked at as well. In the final version of its 2015 work programme, the Commission announced that it will withdraw the package from the legislative procedure and come up with an improved and ‘more ambitious’ proposal later this year.

VNO-NCW and MKB-Nederland are very much support the progress towards a more circular economy. A higher degree of resource efficiency in Europe is important both from an environmental and a business perspective. This is also the reason why Dutch business welcomes the decision to temporarily withdraw and improve the current proposals. VNO-NCW and MKB-Nederland consider the package to be too narrowly focused on limiting the environmental impact of waste - as is already indicated by the subtitle of the Communication – via hard rules, while the merits of positive incentives for business seem to be overlooked.

Alongside environmental objectives, the new proposals should include the notion of the economic necessity of resource efficiency and the need to reduce dependence on resource imports. VNO-NCW and MKB-Nederland believe that a more pragmatic approach based on stimulating new resource efficient business models; facilitating innovation, creating economies of scale, and facilitating cooperation within supply chains, should be taken. This is also why DG Growth should actively involve itself in the process of improving the proposals. Naturally VNO-NCW and MKB-Nederland are very prepared to think along with the Commission. The re-tabled proposals can only be ambitious and effective if they are drafted in a way that positively encourages business to create a more resource-efficient Europe that benefits both the environment and the economy.

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Responsible sourcing of minerals originating in conflict-affected and high-risk areas

In March 2014, the European Commission presented a proposal for the establishment of an EU self-certification system for importers of tin, tantalum, tungsten and gold originating in conflict-affected and high-risk areas. The proposal is based on codes of conduct in this field developed by the OECD in close co-operation with business. With the proposed Regulation the Commission aims to promote responsible sourcing of EU companies and to ultimately reduce the financing of armed groups and security forces through minerals proceeds. Both the European Parliament and the European Council have started discussions on the proposals.

VNO-NCW and MKB-Nederland support the objectives of the proposed Regulation and therefore welcome the initiative in its current form. An essential feature for business is the voluntary nature of the proposed certification scheme. However, they have some concerns regarding its practical implementation. The comprehensive nature of the initiative should be reaffirmed through concrete actions on the ground, effectively integrating trade with development, security and good governance policies. This means also ensuring full coherence with other plurilateral initiatives such as the OECD Due Diligence guidance on conflict minerals. Next to that, to achieve viable solutions it is essential to improving cooperation with other trading partners that play an important role in the mineral supply chain. It is understandable that the measure seeks to boost the uptake of the EU initiative by importers. However, this constitutes an extremely complex and costly product-based approach that requires the origin of minerals to be retracted over the entire supply chain and any sourcing country due to the unclear definition of ‘conflict zone’.

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REACH and SME’s

The European Regulation on the Registration, Evaluation, Authorisation and Restriction of Chemicals (REACH) entered into force in 2007, with a phased implementation up to 2018. REACH was adopted to improve the protection of human health and the environment from the risks that can be posed by chemicals, while enhancing the competitiveness of the EU chemicals industry.

VNO-NCW and MKB-Nederland support the objectives of REACH, but are concerned about the burdens it imposes on business - especially on SMEs (in terms of administrative burdens, complexity, costs). A study commissioned by the Dutch government estimates that the current REACH provisions will cost Dutch SME’s between € 300 million and € 550 million every year. Therefore, Dutch business asks the European Commission to look eventually into the possibilities of a more ‘risk based approach’. The current approach is ‘hazard driven’. However, after 2018 all substances will be registered and the database will be complete. At this stage a more risk-based approach should be considered, so a number of burdensome obligations could be eased.

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