

STATEMENT BY THE CENTRAL EMPLOYERS' ASSOCIATIONS AND TRADE UNIONS REPRESENTED IN THE LABOUR FOUNDATION

The central employers' associations and trade unions represented in the Labour Foundation [*Stichting van de Arbeid*] named hereafter;

- * *having taken cognisance* of the changes in the Cabinet's policy in the area of the Dutch Occupational Disability Insurance Act [*Wet op de arbeidsongeschiktheid, "WAO"*] as set forth in the Government Policy Statement dated 5 November 2004;
- * *being of the opinion* that the broad outlines of the advisory reports issued by the Social and Economic Council [*Sociaal-Economische Raad*] on the amendment of the WAO dated 22 March 2002 and 20 February 2004 have been sufficiently adopted;
- * *with due observance* of the policy documents prepared by the Labour Foundation on limiting the number of new cases of employees receiving WAO benefits dated October 1999 and preventing absence due to illness and new cases of employees receiving WAO benefits through the collective agreement policy dated 20 February 2004, as well as the Council's advisory report on occupational safety and health services provided under the Dutch Working Conditions Act [*Arbeidsomstandighedenwet*] dated 20 February 2004; and
- * *recalling* that the Dutch Continued Payment of Salary (Sickness) Act [*Wet uitbreiding loondoorbetaling bij ziekte, "WULBZ"*] also started applying to the second year of illness on 1 January 2004;

emphasise that the Council's aforementioned advisory reports and policy documents prepared by the Labour Foundation are based on the considerations that:

- for social and economic reasons, absence due to illness must be prevented, participation in the labour market by persons with occupational disability owing to health problems must be promoted, and the reliance on occupational disability schemes must be curbed substantially;
- employers and employees jointly bear primary responsibility at the local level for making the best possible use of the work capacity of employees with occupational disability;
- the Government bears responsibility for protecting the incomes of employees who are fully and permanently disabled;
- a comprehensive approach to policies in the areas of prevention, working conditions, monitoring of absence, reintegration and income must be promoted;

- it is the employer's responsibility to pursue proper social policies in consultation with its employees, including a proper policy on working conditions, in order to recognise the signs of any future absence due to illness on time and to take preventive measures in response, while individual employees obviously also bear responsibility in this connection; and
- all the schemes taken together must be set up in such a way that they encourage employees to work and to continue working to the best of their ability and with due account being taken of their occupational disability, and that they encourage employers to continue employing or to hire employees with occupational disability; and

in that light, also on behalf of their members, agree as follows.

1. In so far as such is not yet the case, it is desirable that - during local negotiations between employers and employees - additional initiatives are taken and investments are made with a view to improving working conditions, converting existing occupational safety and health agreements into collective agreements, preventing occupational disability or absence due to illness, and reintegrating employees with occupational disability. Against the backdrop of the Council's advisory report dated February 2002, such initiatives and investments should involve contracting [*opdrachtgeverschap*], the quality and co-ordination of occupational safety and health services, reintegration companies, care providers and institutions implementing loss-of-income insurance policies.
2. Open negotiations will be held at the local level about supplementing the statutory payment of 70% of an employee's wages during his or her first and second years of illness, in conjunction with the statements made in section 1. These negotiations will be geared to the effects on prevention, reintegration, participation and income protection. The total sum of sick pay issued to an employee will not exceed 170% of his or her last-earned wages calculated for the two years of illness taken together, without prejudice to the option of agreeing on additional, specific employment conditions aimed at stimulating accelerated reintegration and participation effects. Where necessary, existing employment conditions will be revised accordingly.
3. Local bargaining structures will be required to arrive at arrangements or to adjust existing arrangements to the new system with respect to:
 - A. any supplements, whether temporary or otherwise, to benefit payments pursuant to the Dutch Act on Work and Income Based on Work Capacity [*Wet werk en inkomen naar arbeidsvermogen, "WIA"*];
 - B. excess-of-loss schemes;
 - C. the accrual of supplementary pension in the event of occupational disability; and/or
 - D. sector-specific schemes to insure against occupational hazards.

4. For employees with minor occupational disability (35% or less disabled), it is up to the employing organisation to produce tailor-made solutions.

The Labour Foundation intends to monitor the implementation of the aforementioned arrangements.

This Statement replaces the Statement by the Labour Foundation dated 22 March 2002.

The Hague, the Netherlands

5 November 2004

Confederation of Netherlands Industry
and Employers
[Vereniging VNO – NCW]

Netherlands Federation of Trade Unions
[Federatie Nederlandse Vakbeweging]

J.H. Schraven

L.J. de Waal

Royal Dutch Association of Small and
Medium-Sized Enterprises
[Koninklijke Vereniging MKB-Nederland]

Netherlands Federation of Christian Trade
Unions
[Christelijk Nationaal Vakverbond]

L.M.L.H.A. Hermans

D. Terpstra

Dutch Organisation for Agriculture
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*[Land- en Tuinbouw Organisatie
Nederland]*

Trade Union Federation for Intermediate
and Higher Employees
*[MHP Vakcentrale voor Middengroepen en
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G.J. Doornbos

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STATEMENT BY THE CABINET dated 5 November 2004

Further to the negotiations conducted with the Labour Foundation [*Stichting van de Arbeid*] on 5 November 2004, and considering the Statement by the Labour Foundation dated 5 November 2004, the Cabinet will amend its intended policy as follows.

Preamble

In part in connection with the Lisbon Strategy, it is important for the Netherlands to boost economic growth, employment and the competitiveness of industry on a sustainable basis. In the light of demographic, international and technological changes, Dutch society faces important challenges. Long-term satisfactory results will be achieved only if these challenges are tackled together with the social partners and if their specific responsibilities are recognised. In this connection, the Cabinet will seek an advisory report from the Social and Economic Council [*Sociaal-Economische Raad*] covering the medium term, which will in any case include the following topics.

1. The knowledge economy: investing in the knowledge and skills of people as the key to increasing productivity and participation;
2. Social innovation: equipping the labour process (training, flexibility and job security) and social security arrangements to allow for such trends as the ageing of the population, the increasing prosperity, heterogeneity, solidarity and individuality of people, and new career patterns;
3. Bearing and sharing responsibilities: redesigning the labour market, industrial relations and institutional frameworks to make them flexible enough to meet the needs of the future.

A. Early retirement, prepension and life-span leave¹

1. The "life-span leave" scheme [*levensloopregeling*] will be made more attractive by granting a tax credit when employees withdraw the balance of the scheme. This tax credit, which will be indexed annually by the table adjustment factor, will be related to the balance to be withdrawn and will be subject to a maximum of EUR 183 for each year of participation. The cap in respect of the life-span leave scheme will be fixed at 210% in lieu of 150%. The annual maximum accrual percentage will remain 12%.

¹ Any reference in this section to pension schemes administered by pension funds will include direct schemes administered by insurers.

If the options referred to in sections A1 and A4 are used to their fullest extent, employees with 40 years of participation can retire at the age of 60 with 70% of their final pay.

2. The life-span leave scheme will be tax exempt on condition that: (1) in granting their contribution, employers will refrain from setting any further requirements as to the exact time that employees may make use of the scheme; and on condition that (2) employers' contributions in respect of employees not participating in the scheme will be payable to those employees. In the latter case, the employers' contributions will be taxed in the usual manner. The tax-exempt nature of life-span leave schemes will be achieved by applying the deferred taxation rule [*omkeerregel*] (and by granting parental leave [tax] credit and the tax credit included in this Statement). The tax-exempt nature of the scheme will be lifted by no longer declaring the deferred taxation rule applicable to the entire life-span leave scheme and by no longer being eligible for the parental leave [tax] credit and the said tax credit when withdrawing the balance available in the life-span leave scheme. The Cabinet realises that, on the basis of their freedom to contract, the social partners may make arrangements that will result in non-tax-exempt life-span leave schemes². However, the employer's permission will continue to be required to take any leave other than on the basis of statutory leave entitlements or arrangements laid down in collective agreements.
3. The social partners may agree by collective agreement that a contract for a life-span leave scheme will be entered into with a provider. Subsidiaries of pension funds or pension administrators may also offer such contracts. These parties will be subject to the same statutory obligations as those applying to other providers (level playing field). Employees may authorise their pension fund to make their data available to third parties (including providers of life-span leave schemes).
4. The social partners may include a provision in pension schemes to the effect that employees of 63 or older who have accrued 40 years of participation with the pension fund may take up an old-age pension of 70% of their last-earned wages, even if an actuarial recalculation of their accrued old-age pension would result in a pension of less than 70% of their final pay as from the age of 63. Pension schemes containing such a provision will qualify for tax exemption.

² Contrary to the bill on early retirement, prepension and life-span leave, any non-tax-exempt supplementary arrangements will in any case be declared generally applicable in respect of employees who, despite sections A1 and A4, have not accrued sufficient pension entitlements to retire at the age of 60 with 70% of their final pay after 40 years of work.

5. Within the Witteveen framework, the Cabinet will offer pension funds two additional options with respect to the standard taxation criteria applying to pension schemes. The current provisions with respect to the allowance for pension purposes of EUR 11,400 and the accrual percentages of 2.0% and 2.25% for final-pay and average-pay schemes, respectively, will in any case be maintained. The following options will be added.
- An allowance of EUR 10,400 with an accrual percentage for a final-pay scheme of 1.9%
 - An allowance of EUR 10,400 with an accrual percentage for an average-pay scheme of 2.15%
 - An allowance of EUR 9,400 with an accrual percentage for a final-pay scheme of 1.8%
 - An allowance of EUR 9,400 with an accrual percentage for an average-pay scheme of 2.05%
6. On the grounds of the existing tax rules and regulations, pension funds may offer participants the option of purchasing an additional old-age or dependant's pension in connection with tax-credit options not used in the past. This may either pertain to periods during which a pension was accrued, but the options were not fully used, or to periods during which the participant worked, but did not accrue any pension whatsoever. In addition, in rules and regulations based on the Dutch Pension and Savings Funds Act/Dutch Pension Act [*Pensioen- en spaarfondsenwet, "PSW"/Pensioenwet*], the Cabinet will provide for the option of setting up the relevant agreement between employers and employees in the form of a commitment which may be funded during a period of no more than 15 years, possibly on a time-proportionate basis. In this connection, only the actually funded years will subsequently qualify as an unconditional pension commitment. Such an agreement does not fall under the early retirement schemes referred to in the bill on early retirement, prepension and life-span leave, as this concerns the purchase of old-age pension entitlements.
7. The consequence of the foregoing for existing arrangements (including job-related early retirement [*Functioneel Leefstijdsontslag, "FLO"*]) is a matter of negotiation between the employers and employees in the various sectors of industry.

B. The Dutch Occupational Disability Insurance Act

1. Fully disabled employees with no or only a minor chance of recovery will receive benefits under the Income Provision (Fully Disabled Employees) Regulation [*regeling Inkomensvoorziening Volledig Arbeidsongeschikten, "IVA"*]. Employees with a minor chance of recovery will be reassessed every year during a 5-year period while they

receive IVA benefits. Should such employees, after a medical examination, be deemed partially fit for work, they will transfer to the Resumption of Work (Employees Partially Fit for Work) Regulation [*Werkhervattingsregeling gedeeltelijk arbeidsgeschikten*, "WGA"]. Should they not transfer to the WGA within the said five years, the regular IVA examination regime will apply. Lists, a final decision rendered by a separate body, as well as a milestone plan to determine whether the employee in question has a "minor chance" of recovery, will be used to assess an employee's full and permanent occupational disability, in line with the Council's advisory report. When transferring from the IVA to the WGA, a wage-related period will apply, from which the period during which IVA benefits were received will be deducted. Upon transferring to the WGA, the wage-related period will be at least one year.

2. The benefits paid to fully disabled employees (under the IVA) will amount to 70% of their last-earned wages. Accordingly, the "hiatus" under the Dutch Occupational Disability Insurance Act [*Wet op de arbeidsongeschiktheid*, "WAO"] will lapse. The extra costs will be covered by higher IVA contributions.
3. Once the wage-related benefits have ended, the supplement to the wages of employees partially fit for work will be made contingent upon their using a minimum of 50% of their remaining earning capacity. The supplement will amount to 70% of the difference between their old pay and the pay earned when fully using their remaining earning capacity. This structure does justice to the principle that it should be favourable for employees to work more.
4. The bill on limiting the wage supplement during the second year of illness [*wetsvoorstel Beperking loonaanvulling tweede ziektejaar*, "BALTZ"] will not be submitted, as the Cabinet has taken cognisance of the Statement on the WAO dated 5 November 2004 by the central employers' associations and trade unions represented in the Labour Foundation.
5. The benefits paid to fully and permanently disabled employees in the new system will be increased by five percentage points, calculated on the basis for the statutory benefit payment, with retroactive effect to 1 January 2006, and the Dutch Contribution Differentiation and Market Forces (Occupational Disability Insurances) Act [*Wet premiedifferentiatie en marktwerking bij arbeidsongeschiktheidsverzekeringen*, "Pemba"] will lapse with retroactive effect to 1 January 2006 in the event that:
 - a. the number of new cases of employees receiving benefits under the new scheme for fully and permanently disabled employees has actually been

curtailed to 25,000 on a 12-month basis since 1 January 2006³ (to be determined in August 2007 on the basis of the figures available in July 2007); and

- b. the intention of the central employers' associations and trade unions represented in the Labour Foundation, as set forth in section 2 of the Statement dated 5 November 2004 referred to above, has actually been implemented by the parties to collective agreements.
6. In reassessing existing cases of employees receiving WAO benefits, the age limit will be lowered by reducing the age limit set forth in the Dutch Assessment Decree [*Schattingsbesluit*] from 55 to 50. If, upon a reassessment, an employee's occupational disability percentage is lowered and the employee in question has not yet found a new job, he or she will be entitled to participate in a reintegration programme. For existing cases above the age of 50, the old regime will continue to apply: if they are reassessed, the old Assessment Decree will apply. The outcome of the reassessment operation, including the resumption of work by those who have been reassessed, will be monitored together with the social partners. Within that framework, participation-stimulating measures, including specific reintegration means and no-risk schemes, may also be discussed. The Cabinet consented to the arrangement dated 5 November 2004 between the central employers' associations and trade unions represented in the Labour Foundation with respect to people who have been declared more fit for work in the reassessment operation; being that if these people have a formal employment relationship with an employer, they will, in principle, be reintegrated with that employer.
 7. The Cabinet will take over an arrangement agreed within the Labour Foundation on the allocation of the WGA charges between employers and employees.

C. The Dutch Unemployment Insurance Act

1. The Cabinet will defer discussion of the bills on anti-cumulation under the Dutch Unemployment Insurance Act [*Werkloosheidswet*, "WW"] and Short-Term Benefits [*Kortdurende Uitkering*] until 1 April 2005⁴. The Council will issue its advisory report on the financial viability of the WW before 1 April. An advisory report that - according to estimates by the Netherlands Bureau for Economic Policy Analysis [*Centraal*

³ In assessing the figures on the number of new cases of employees receiving benefits, any administrative start-up problems will be considered.

⁴ The Parliamentary discussion of the changes proposed by the Cabinet to the WW reference requirements will be continued. Any definitive decision about their introduction will in part be made in the light of the Council's advisory report. The Council will be free to suggest any alternatives before 1 April 2005 in the same way as in respect of anti-cumulation and Short-Term Benefits.

Planbureau, "CPB"] - is based on the same reduction in WW volume as the Cabinet intends to implement will be of great influence on the Cabinet. During today's negotiations, the central employers' associations and trade unions represented in the Labour Foundation agreed that this advisory report on the WW should fit in with the future agenda set forth in the preamble.

D. Wage trends

1. On the grounds of the social partners' intentions, the Cabinet expects the increase in negotiated wages to be very restrained in 2005. Against this backdrop, the Cabinet is willing to withdraw its measure to declare only selected collective agreements providing for negotiated wages generally binding.
2. The same restraint is expected in respect of income rises not stipulated in collective agreements.

E. Childcare

1. In line with the Labour Foundation's advisory report dated 28 October 2004, the Cabinet calls upon businesses and the parties to collective agreements to create an employers' contribution scheme in respect of child care where such has not yet been introduced. The Cabinet will allow balances in salary savings schemes to be released to be spent on childcare, though up to no more than the employee's own contribution on the grounds of the Dutch Childcare Act [*Wet kinderopvang*].

The 2004 Autumn Agreement

The Statements by the Cabinet and the Labour Foundation [*Stichting van de Arbeid*] ensue from the Agreement concluded by the Cabinet with the central employers' associations and trade unions in the night of 5 November 2004. They agreed on early retirement, the "life-span leave" scheme [*levensloopregeling*], an overhaul of the occupational disability schemes ("WAO"), the Dutch Unemployment Insurance Act [*Werkloosheidswet, "WW"*], wage trends and child care.

The Agreement was concluded after months of labour unrest. After the breakdown of negotiations between the Cabinet and the social partners on 18 May, the trade unions organised demonstrations and strikes. At the time, the parties failed to agree on the pace and method of phasing out early retirement schemes and the introduction of a new life-span leave scheme.

Prior to 5 November, various parties representing the trade unions, the employers' associations and the Cabinet met for informal talks on many occasions. These talks eventually led to increased mutual trust. In addition, all parties involved turned out to be willing to compromise, laying a proper basis for the Agreement of 5 November.

The main points of the Agreement

- The Cabinet will persist in abolishing the tax deductibility of contributions for early retirement in 2006.
- The scope of the life-span leave scheme, pursuant to which employees can save for different types of leave, will be expanded considerably as compared to the Cabinet's initial plans, so that employees with an employment record of 40 years or more may retire at the age of 60.
- The Cabinet will adopt the advisory report on the WAO by the Social and Economic Council [*Sociaal-Economische Raad*] almost in its entirety.
- The Cabinet will defer discussion of the bills on deducting dismissal compensation from WW benefits (anti-cumulation) and abolishing short-term WW benefits until 1 April 2005. The Council will issue its advisory report on the financial viability of the WW before that same date. The advisory report will influence the Cabinet if it results in the same savings as the Cabinet's own WW plans.
- The Cabinet will seek an advisory report from the Council on social and economic policies covering the medium term. The topics of "the knowledge economy", "social innovation" and "bearing and sharing responsibilities" will in any case be addressed in the report.
- Wage movements will be very restrained in 2005.
- The Cabinet calls upon the parties to collective agreements to create an employers' contribution scheme in respect of child care where such has not yet been introduced. In this connection, the Cabinet refers to an advisory report on the subject by the Labour Foundation (dated 28 October 2004).