

March 2013

Contribution of the Dutch social partners to the National Reform Programme within the context of the EU 2020 Strategy

Foreword

The EU 2020 Strategy, which the European Union (EU) agreed in 2010, focuses on the promotion of sustainable, inclusive and smart growth, i.e. growth that is driven by knowledge and innovation. The aim of this strategy is for the European Union to emerge from the economic crisis stronger and to achieve a high level of employment, social cohesion and productivity.

The objectives of Europe 2020 are summarised in five headline targets and ten guidelines. Using the agreements, the Member States are required to set their own national targets that must ensure that the agreed strategy is achieved in 2020.

When the guidelines were adopted, the Commission decided that the guidelines should remain stable until 2014 to ensure a focus on implementation. Starting in 2014, the guidelines will be established annually.

The five headline targets for 2020 are:

- increasing the employment participation rate from 69% to 75%;
- increasing R&D expenditure from 1.9% to 3% of GDP;
- 20/20/20 targets: greenhouse gas emissions, energy from renewables and energy efficiency;
- reducing school drop-out rates to 10% and increasing the percentage of 30-40 year olds completing third level education to 40%;
- reducing the number of people in or at risk of poverty by at least 20 million.

Each year, the EU Member States prepare their own National Reform Programmes (NRPs), in which they set out their strategy for meeting the EU 2020 targets. Every two years, each Member State prepares a National Social Report (NSR). As a matter of practice, the Dutch government has decided to discuss a draft version of the NHP and NSR with the social partners each year. The government, however, will bear full responsibility for the final content of the NHP and NSR.

At the government's request, the Labour Foundation [*Stichting van de Arbeid*] prepares an annual report entitled *Contribution of the Dutch Social Partners* regarding achieving

these shared European goals. This report is added as an appendix to the NRP and NSR. The report contains the social partners' main contributions towards meeting these goals as a result of consultation by the Labour Foundation and the Social and Economic Council (SER). Contributions that the social partners have made separately to achieving these targets are outside the scope of this report.

This report clusters guidelines for each theme on the basis of the European Commission's ten-point plan for growth analysis and indicates the measures the social partners undertook between April 2012 and March 2013. Of course, many of the social partners' recommendations and advisory reports pertain to several headline targets and guidelines. Where this is the case, the contribution concerned is not included in respect of several guidelines but has been placed with the most suitable guideline.

Finally, it should be stressed that the central and local social partners are responsible for interpreting the EU 2020 Strategy mainly through their policy on conditions of employment in which recommendations and advisory reports of the Labour Foundation and the SER are incorporated.

1 Macro-economic and financial stability

- 1. Guideline 1: Ensuring the quality and the sustainability of public finances**
- 2. Guideline 2: Addressing macro-economic imbalances**
- 3. Guideline 3: Reducing imbalances in the euro area**

The government in particular is responsible for complying with these three guidelines, with the social partners playing a role in this primarily with regard to the development of contract wages and pensions.

Rises in negotiated wages

The Netherlands Bureau for Economic Policy Analysis (CPB) has calculated a 1.6% movement in negotiated wages for the market sector for 2012 and expects a 1.75% movement in wages for 2013. The derivative inflation for 2012 was 2.1%, with the prognosis for 2013 being 1.75%¹.

Consultation with the government

The official introductory talk between the administration [*cabinet*] and the Labour Foundation took place on 19 December 2012. The administration reported the conclusions it drew from this talk that same day in a letter to the Lower House [*Tweede Kamer*] of the Dutch Parliament. The talk was both substantive and exploratory in nature. The subjects for discussion included – in addition to the poor situation in the construction sector and the need for promoting participation of older and very young job seekers – the possibility for arriving at permanent adjustments to the provisions on protection against dismissal [*ontslagsbescherming*], unemployment benefit [*WW*], flexible employment, the Participation Act [*Participatiewet*], quotas for the occupationally disabled and the tax-related aspects of pensions. The administration and the social partners agreed to discuss all of these themes in the coming months in the hope that they will arrive at a joint agenda by the end of March.

Pensions

- ***Reforming the pension system***

Specifics of the Pension Agreement

As reported previously, the social partners' primary responsibility for the content of supplementary employment pensions has kept them very busy in recent years with efforts to create a new, realistic pension contract – and to amend current nominal contracts – that will be accessible, solidarity-based, sustainable and affordable and will result in adequate pension benefits. The primary features of this new contract were laid down in the Pension Agreement of June 2010 [*Pensioenakkoord*], with the Labour Foundation reach-

¹ CPB, Core Data 2011-2014 for the *Draft Central Economic Plan 2013* dated 28 February 2013 [*Kerngegevens 2011-2014 voor het concept Centraal Economisch Plan 2013*].

ing agreement on the details in a Memorandum [*Uitwerkingsmemorandum*] dating from June 2011.

A key part of the Pension Agreement relates to the basic statutory pension, the Dutch State Pension [*AOW*], referred to below as *AOW*. The social partners have proposed raising the *AOW* retirement age (the age at which one is eligible to receive *AOW* benefit) in 2020 from 65 to 66 years, and to 67 years in 2025, with the flexible alternative of moving that date forward or postponing it on a case-by-case basis in such a way that it would have no actuarial consequences. The *AOW* benefit must also be increased to compensate for the gradual downward development when compared to earned incomes. A framework for these changes was agreed with the Rutte I administration on 10 June 2011. In September 2011, the Lower House also agreed to this necessary but carefully considered process of adjustments to the *AOW* laws and the supplementary pensions system.

After the governmental crisis in the spring of 2012, the outgoing administration decided, with the support of five opposition parties from the Lower House, to discontinue its support for the Pension Agreement. Although a legislative proposal passed by the Lower House was introduced in the Upper House [*Eerste Kamer*], the decision was taken to draft a new proposal providing for a more rapid, step-by-step increase of the *AOW* retirement age starting in 2013. The aforementioned extra 0.6% increase of the *AOW* benefit and the flexibility regarding start date were scrapped. In addition, the decision was taken to scrap several other far-reaching tax measures relating to pension accrual, bonuses for working at older age, and mobility bonuses for over 55s. The Labour Foundation drafted a letter dated 13 June 2012 in which the social partners expressed their concern about these developments².

The government agreement from the Rutte-Asscher administration, which took office in November 2012, further restricts the deviations from the Pension Agreement. The *AOW* retirement age will be increased more rapidly after 2014 and the tax framework for supplementary pensions will be further limited: there will be no more tax incentives for pension accrual by those with annual incomes exceeding EUR 100,000 and the fiscal facilitated pension accrual will be limited to 70% of the average salary over 40 accrual years.

Despite the fact that the balance sheet contained in the agreements made in the Pension Agreement and the Policy Agenda [*Beleidsagenda*] 2020 (which regards the promotion of the job market participation of over 55s) was obviated by the abrupt and radical change in government policy, the social partners realise that the process that has already been started towards a new contract for supplementary pensions must be continued. The most important elements of the new, realistic pension contract are:

1. Increased life expectancies will not result in an automatic increase in the target pension or the cost increases that would entail. Increased life expectancies in the future will have to be absorbed by the contract itself and will no longer result in an increase of pension contributions and/or a decrease of pension fund solvency.

² This letter can be downloaded at www.stvda.nl.

2. The new pension contract will have to be better able to withstand financial shocks. This is necessary because, as a result of the ageing of the population, increasing contributions for many industrial and company pension schemes has been insufficient to increase these schemes' ability to recover their solvency in the event of a financial shock. For that reason, the new pension contract provides only for a realistic target pension but no nominal guarantees³.

For many pension schemes, a transition to the new contract will only go smoothly if not just the new pension accruals can be integrated into the new contract but also the current pension scheme benefits already accrued, and pensions that are already being paid out ("active pensions"). This operation, which is referred to as "collective transfer", may entail legal risks for pension funds.

In May 2012, the Dutch Ministry of Social Affairs and Employment [*ministerie van Sociale Zaken en Werkgelegenheid*] (SZW) published a report entitled "Collective transfer of accrued pension benefits and pension rights to the new pension contract" [*Collectief invaren van pensioenaanspraken en pensioenrechten in het nieuwe pensioencontract*]. The key point is that collective transfer should be possible. The government must facilitate this through statutory amendments. Social partners at decentralised level and pension fund boards are responsible for decision-making and implementation. In early 2013, the Ministry of SZW and the national supervisory authority, the Dutch Central Bank [*De Nederlandsche Bank*] (DNB) will be starting a "pilot transfer" with one pension fund that is well into the transition process.

Familiarity with the new financial assessment framework (FAF) will be of crucial importance to decentralised parties who are considering transitioning to the new, realistic pension contract. The main points of this FAF are being developed under the authority of the Ministry of SZW, DNB and the Central Planning Bureau (CPB), along with input from the social partners. The memorandum on the FAF is published mid-2012, although the details that will eventually be translated into an amendment of the Dutch Pensions Act [*Pensioenwet*] will be delayed; the statutory amendment cannot enter into effect before January 2014⁴. Partly as a result of these conclusions and the continued absence of any definitive conclusions regarding the potential legal risks entailed by collective transfer, the overarching atmosphere in the pension world (both the decentralised social partners and pension fund boards) is one of anticipation.

Amendment of governance rules – Draft Improved Governance for Pension Funds bill

On 24 February 2012, the Minister of SZW submitted the broader Improved Governance for Pension Funds bill [*wetsvoorstel Versterking bestuur pensioenfondsen*], which had been announced earlier, to the Lower House. With this proposal, government wishes to:

- improve expertise and internal supervision of pension funds;

³ The CPB's assessment of the financial implications that generational effects will have on this new pension contract also indicate that it will have more nominal stability than the current contract because the new control mechanism will prevent large nominal reductions.

⁴ Letter dated 11 December 2012 from the Deputy Minister of SZW to the Lower House.

- provide for adequate representation of all risk bearers within the fund;
- streamline the tasks and organisational structure of industrial and other pension funds.

The Labour Foundation's initial response to the Improved Governance for Pension Funds bill that was introduced is laid down in a letter dated 12 March 2012 to the Lower House⁵. The Foundation was left with no choice but to conclude that careful consideration of a number of crucial points seemed to be lacking in the bill. The bill unilaterally focuses on governance as such and affords little consideration to the pension fund governance that is needed to implement pension schemes that are the subject of negotiations for collective agreements.

As a consequence of the Pension Agreement, responsibilities will have to be allocated differently between parties to collective agreements and pension fund boards, a fact which the bill fails to take into account. The Foundation will also discuss a number of specific issues such as control over the governance model, substantiation for possible governance models, the scrapping of the combined governance model, the employer's position and the focus on balanced representation of interests. The Lower House and the Dutch Pension Federation [*Pensioenfederatie*] were also critical of the bill.

In response to this criticism, the administration presented a draft memorandum of amendment and requested an advisory report from the Dutch Social and Economic Council (SER). In the advisory report it issued on 7 September 2012⁶, the SER discussed the proposed amendments to the bill:

- The SER was positive about the one-tier model. The SER believes that the needs of the parties involved can be made with a model entailing non-executive (supervisory) board members appointed from the parties in question.
- The SER supports reducing rights of approval. This will ensure a clearer demarcation of duties between the management and supervisory boards. The SER is therefore advocating that the bill should include a provision directing supervisory boards to determine only whether there has been a balanced representation of interests and not to involve themselves in how this balanced representation is arrived at.
- The SER does not believe that contribution maximisation is an adequate method for reducing the number of employers' seats on the board. The SER is an advocate for the position that the agreements that social partners make about seat allocation between employers and employees should be consistent with the pension contract.
- The SER suggests a number of additions. These regard:
 - adequately monitoring governance of the fund while circumstances are changing;
 - a deciding vote for parties to collective agreements (social partners) in the fund's governance model;

⁵ The letter, bearing reference S.A.12.04.55 K/JS, can be downloaded from www.stvda.nl.

⁶ SER, *Improved Governance for Pension Funds bill* [Wetsvoorstel versterking bestuur pensioenfondsen], 2012.

- limiting the number of governance and supervisory functions each person may undertake;
- making the choice between supervision by a review committee and internal supervision dependant on the size of the fund;
- including a possibility to extent the term (to two years) in the transitional law.

The Deputy Minister of SZW responded to the SER's advisory report on 21 December 2012, adopting a number of the latter's key recommendations. The Ministry of SZW did not, however, agree on the choice of governance model, which was important to the social partners. In its advisory report, the SER advocates for including a provision either in the statute itself or in the notes to the final memorandum of amendment that directs that the social partners – who are directly involved in agreeing to and positioning the pension contract – should have a deciding vote on the choice of governance model. This could be accomplished by arranging it so that, formally speaking, the choice would be up to the board, but that that choice would have to be consistent with the social partners' decisions. The Deputy Minister did not wish to adopt that proposal because the fund's board chooses the model by specifying it in its articles of incorporation; a legal entity's board is responsible for determining that legal entity's structure. Allocating a right of veto to a third party (such as the social partners negotiating the collective agreement) would infringe that responsibility.

On 4 February 2013, the Foundation wrote the Deputy Minister of SZW, stating that while the Foundation understood the procedural aspects of this position⁷, the Foundation considered it a mistake to conclude from the SER's advisory report that the social partners are advocating for parties to collective agreements to have a veto right regarding the choice of governance model. The Foundation's position is that the draft bill should impose a heavy duty of consultation on both pension funds and the social partners who are responsible for the content of the relevant pension scheme if one of those parties wishes to change the fund's governance model. This consultation would be legally defined as "consultation intended to reach agreement".

- ***The financial situation of the pension funds***

Throughout the summer, the pension funds' financial situation was unfavourable and highly volatile. At the end of May, the average pension fund coverage ratio was 99.3%, a full percentage point higher than it had been the month before. The increase was the result of the upward boost provided by interest rate averaging; the sharp drop in interest rates has not yet fully affected the value of the pension obligations, but it has definitely made itself felt in the fixed-rate securities that jumped in value as a result. The result was an increase in the coverage ratio, with some funds being affected more strongly than others. DNB expected the upward effect to exhaust itself in June, after which long-term interest rates will would remain low.

⁷ The letter, bearing reference S.A. 13.007.17 K/JS, can be downloaded from www.stvda.nl.

Although the interest rate rose somewhat in June, the average coverage ratio dropped to 95.5%, increasing the number of funds that had to implement cutbacks. Given this situation, the social partners will consult with the Ministry of SZW to determine whether DNB can assist with formulating a crisis package that will absorb the predicted negative developments to some degree.

September Package 2012

On 24 September 2012, the Deputy Minister of SZW published the September Package [*Septemberpakket*] formulated in consultation with the social partners, DNB and the Dutch Pension Federation. Given the worsening financial position of many pension funds, the Deputy Minister – also keeping in mind the economy, employment opportunities and purchasing power – put together a policy package for 2013. Retaining confidence in the pension system is an important goal. This package will prevent more comprehensive cuts than necessary being made in 2013 and, to the extent possible, prevent another increase in pension contributions. At the same time, it would be unwise to reduce pension contributions given the financial situation of the pension funds. The central criterion is that none of the measures taken will be permitted to shift the problem onto the shoulders of younger job market participants and/or future generations.

The September Package primarily focuses on the transitional year, 2013, during the transition to a new Pensions Act and a new FAF. In 2013, the reductions can remain limited to the percentage announced by the pension funds in early 2012, and contribution increases will be prevented to the extent possible; meanwhile, at the end of 2013 – when the recovery period ends – the pension funds will again have the minimum required equity and pension schemes will be more future proof. This is the result of a balanced package comprising a suspension of contribution increases, a forward spread of reductions, the introduction of an ultimate forward rate (UFR) for actuarial interest that is consistent with the approach applied to insurers, and an incentive for several structural improvements to pension schemes. The package will not result in an unfair advantage or disadvantage to any particular group of interested parties. DNB has assessed the financial effects this will have on pension contributions in 2013, the coverage ratio and pension reductions. The CPB has analysed the generational effects of the package.

The Labour Foundation responded with a press release stating that, while the Foundation was glad that fewer comprehensive pension reductions would have to be made in the short term, more action would need to be taken for the longer term. The Foundation would therefore like to make sound agreements with the Lower House and the administration on a number of key points.

Status of announced pension fund reductions for 2013

On 22 January 2013, DNB announced that, based on the monthly reports for December 2012, approximately 70 pension funds would have to announce a reduction to take effect on 1 April 2013. It is estimated that these reductions, which will regard both active pensions and accrued pension rights, will affect 2 million active participants, 1.1 million pensioners and 2.5 million deferred members. Based on these estimates, the reduction will be 1.9%. This does not mean that pensioners will see their income reduced by the same percentage, because pensioners receive their pension benefits in addition to their

AOW benefits.

In addition to the approximately 70 pension funds implementing reductions in 2013, five pension funds had already implemented a reduction by the end of 2012. The reductions at these funds affected approximately 4,000 active participants, 5,000 pensioners and 6,000 deferred members.

Both the number of funds that must implement a reduction and the average reduction itself are lower in comparison to the previously announced reductions⁸. This was partly attributable to the increase in the coverage ratio at the end of 2012 (102%) over 2011 (98.2%). Moreover, this recovery of more than 3 percentage points was attributable to a new method of calculating long-term obligations: the UFR included in the September Package.

The pension funds that will have to implement reductions in April 2013 will have to have informed their participants and pensioners of that fact by no later than 1 March 2013. The preliminary figures take into account funds that indicated they would avail themselves of the opportunity to maximise the reduction as of 1 April 2013 at 7%. Any residual reductions for these funds will be postponed until next year.

According to these same provisional figures, it is expected that some 40 pension funds will have to announce a conditional reduction by 1 April 2014. According to estimates, this reduction will affect 1.3 million active participants, 700,000 pensioners and 1.1 million deferred members. The weighted average reduction for these funds will be 1.6%. These reductions, which are being announced this spring, have not yet been finalised and are partly dependent on the pension fund coverage ratio as of year-end 2013.

- ***The Labour Foundation's response to the February 2012 White Paper on Pensions***

On 6 September, the Foundation wrote a letter to EU Commissioners Barnier and Andor about the White Paper on Pensions and the related proposed revision of the IORP Directive⁹. Although the social partners agree with many of the White Paper's recommendations, that is not the case regarding the proposed revision of the IORP Directive. The social partners are extremely concerned about the proposal to level the playing field between insurers and pension funds by having the higher Solvency 2 pension buffers that apply to insurers apply equally to pension funds. The Foundation believes that it would be a fundamental error to level the playing field for pension products that differ greatly from one another and are unequal in terms of degree of certainty. Raising the buffer requirements for pension schemes administered by pension funds would seem to be in the interests of employment pension members, but that would actually not be the case in the Netherlands. No matter how you structure it, more certainty will lead to either higher costs or lower pension benefits. This would translate into a significant impact on busi-

⁸ In June 2012, it looked as though 103 pension funds would be unable to avoid implementing a reduction; the weighted average reduction was estimated at 2.3%.

⁹ Letter bearing reference S.S.12.066.10 K/JS.

ness' economic position, particularly in this period of economic recession.

EU Commissioner Michel Barnier responded on 9 November 2012, writing that the revision was intended to simplify pension funds' cross-border activities in the EU and to implement risk-based supervision. The internal market has the potential to save costs through economies of scale, risk diversification and innovation. The Netherlands is an open economy and is known all over the world for its exemplary pension system. This puts Dutch interested parties in a prime position to fully profit from the advantages offered by Europe's internal market. The European solvency rules governing the activities of institutions providing occupational pensions (IORPS) must be revised because the current rules are based on an outdated legislative framework for insurers. Given this, it is crucial that the playing field between IORPS and insurance companies should be levelled only in so far as they offer comparable products. The Netherlands is also playing a pioneering role in this respect. The FAF ensures consistent supervision of the two financial sectors, while IORPS are eligible for risk-based supervision that takes full account of the specific features of the Dutch pension system. Barnier concludes his letter by expressing his confidence that the new European framework for IORPS will build on the expertise and experience acquired by the Dutch sector for pension funds. It is not his intention to punish a system for being one of the best in the world.

- ***Reconsidering the system for accrued benefits transfer***

On 13 February 2012, Minister of SZW Henk Kamp requested the Foundation's advisory report about the system for transferring accrued pension benefits. He requested the Foundation to research whether the current system for transferring accrued pension benefits still provided added value or whether it should be revised. Minister Henk Kamp indicated that his viewpoint was that there were five recent developments and practical problems that led him to believe it would be wise to revise the system.

The Labour Foundation prepared this advisory report in a working group that included representatives from the Dutch Pension Federation and the Dutch Association of Insurers [*Verbond van Verzekeraars*]. The result was the Advisory Report Outline that was presented to Deputy Minister of SZW Jette Klijnsma on 17 December 2012¹⁰.

The Labour Foundation, the Pension Federation and the Association of Insurers all agreed with the Ministry of SZW that there was good reason for revising the current system of transferring accrued pension benefits. The original objective of the statutory right to transfer accrued pension benefits – which was to prevent loss of pension under final pay schemes after changing jobs – no longer exists because of the mass transition to average pay schemes. There are also problems in implementing these transfers, the most obvious of which is the problem of additional payments [*bijbetalingsproblematiek*]. The transition to a new, entirely conditional and realistic pension contract will make it even more difficult to decide whether or not to transfer accrued pension benefits and, moreover, it will necessitate a major overhaul of the calculation rules applied to those trans-

¹⁰ The Advisory Report Outline bearing reference S.A. 12.085.97 K/JS can be downloaded from www.stvda.nl.

fers.

Because these organisations want to honour employees' individual freedom of choice to decide, when they change jobs, whether or not they wish to transfer accrued pension benefits to their new employer's pension scheme, they want to investigate whether the right to transfer accrued pension benefits can be maintained. The question is whether changing the transfer system – so the financed value of the claim could be bought off or purchased based on a statutory right – would resolve the problems that have been identified without creating new ones. The new system would have to be tailored to the new FAF that will serve as the foundation for the new type of pension contract. One important element of the new system to be researched is that the buy-offs and purchases would be based on the rates applicable at the relevant pension administrators, meaning that the current statutory calculation rules could be scrapped. This research must be completed in 2013 so that the Pensions Act can be amended along with the implementation of the new transfer system.

2 Growth capacity, sustainability and innovation

- 4. Guideline 4: Optimising support for R&D and innovation, strengthening the knowledge triangle and unleashing the potential of the digital economy**
 - 5. Guideline 5: Improving resource efficiency and reducing greenhouse gas emissions**
 - 6. Guideline 6: Improving the business and consumer environment and modernising and developing the industrial base for optimal operation of the internal market**
- *2013 Spring Meetings with top EU officials*

On 26 February 2013, Minister of Economic Affairs Henk Kamp consulted the SER, which is chaired by Mr Wiebe Draijer, in preparation for the meeting with top European officials scheduled to be held in Brussels on 14 and 15 March 2013. At this top-level meeting, the European Council establishes the socio-economic policy priorities for the EU and its Member States. These priorities, along with the Stability and Convergence programmes and the Member States' national reform programmes, constitute the basis for the country-specific recommendations that will be made in 2013.

The Minister referred to several positive aspects of the current Dutch economy, such as the fact that exports by technology companies rose by 5% in 2012 and that this upward trend is expected to continue in 2013. He also pointed out the intensive cooperation between a number of large multinationals and SMEs that resulted in spin-off effects and innovative developments, and he emphasised the importance of fundamental research in which technical universities deliberately strengthen their bonds with businesses. Internationally speaking, the Netherlands is one of the top five countries in terms of economic competitiveness, and there are plenty of opportunities to promote growth in a European context as well. The Dutch contribution to the Spring Meetings will focus on eliminating obstacles to developing the internal market (particularly the services market), stimulating competitiveness by investing in innovation, and reducing the regulatory burden. The goal is to make agreements that are specific as possible on these issues.

Through the chairpersons of the employers' and employees' organisations, the social partners are emphasising how important the EU and the euro zone are to the Netherlands. They want attention devoted to the crumbling support for the EU amongst the Dutch population. They believe that education and explanation regarding Europe's relevance for the Netherlands and enforcement of the rules to prevent social abuses are indispensable to restoring confidence in the EU and the euro zone.

The employers emphasise that strengthening the internal market will be crucial for businesses. SMEs are responsible for 60% of the country's exports, which emphasises the importance of a well-functioning internal market. This should be accompanied by an open job market where businesses practice sound employership. They also note the ways in which businesses profit from bilateral trade agreements. They would like to see this policy intensified as long as there are no possibilities for a more comprehensive multilat-

eral agreement.

The trade union movement is requesting the Minister to devote more attention to the pillars underlying European policy. European policy is all about people and it is these people whose confidence is being eroded by all the crisis measures. An intelligent budget policy is needed, but that will also require a short-term perspective on finances. The employees believe that it should be possible for individual countries to deviate from the 3% standard. There is also a need for perspective on work and income, and special attention needs to be devoted to vulnerable groups of unemployed people, such as young people.

- *Advisory report on the energy agreement*

In its advisory report “Towards an Energy Agreement for Sustainable Growth” [*Naar een Energieakkoord voor duurzame groei*]¹¹, the SER makes an offer to the new administration to facilitate a process designed to arrive at an Energy Agreement for sustainable growth. The SER has undertaken to arrive at a broadly supported Energy Agreement within six months, with the government, citizens and companies/agencies to agree on issues such as saving energy, clean technology, reducing emissions and renewable, sustainable energy. These efforts will be important to the environment, climate policy, reducing expensive energy imports and increasing the chances of economic recovery. It will take decades to complete the transition from our current energy supply to a sound and future-proof energy supply that is reliable, affordable and clean. If this process is to be expedited, problems must be identified and solutions implemented.

The Energy Agreement will be drafted based on four distinct themes:

- Built environment: energy savings and local, renewable energy generation;
- Industry, large-scale energy production and an Emission Trading System (ETS) for trading CO₂ emission rights;
- Innovation, clean energy technologies and commercialisation;
- Mobility and transport.

A consultation roundtable will be set up for each theme, where the participants can enter into a dialogue with one another to achieve agreement on their theme. Other organisations can be involved in the process through a sounding board group. Everyone will be able to contribute ideas through the online facilitation network, NederlandKrijgtNieuweEnergie.nl (NKNE). Experts will assess the ideas contributed.

Consultations on the Energy Agreement

On 12 December 2012, Ministers Henk Kamp (Economic Affairs) and Stef Blok (Housing and the Central Government Sector) and Deputy Minister Wilma Mansveld (Infrastructure and the Environment) met with the SER committee that initiated the Energy Agreement. The SER delegation comprised social partners, representatives from the na-

¹¹ SER advisory report, *Towards an Energy Agreement for Sustainable Growth* [*Naar een Energieakkoord voor duurzame groei*], The Hague, November 2012.
An English abstract is available at www.ser.nl.

ture and environment movement, and Crown appointees led by Chairperson Wiebe Draijer. Expectations were discussed, with the Ministers and Deputy Minister expressing their appreciation for the initiative and SER's option for striving to achieve the agreement by taking a broad approach, both in terms of themes and the parties who will be involved. They promised their full support. The key issues for the administration are the possibilities for stimulating growth, particularly sustainable and "green" growth. In addition, the agreement will have to set out a consistent, long-term policy that provides clarity to both citizens and businesses while always keeping the budgetary limits in mind.

The social partners thanked the three departments responsible for furnishing the administration's broad support. They emphasised that they were striving to achieve an agreement that would offer long-term clarity on the policy to be implemented, motivate businesses to invest in sustainability, and create new jobs. The employers would like to see clear guidelines implemented for businesses that operate locally, nationally and internationally in an internationally competitive environment. The trade union movement would like the Energy Agreement to contribute to achieving ambitious climate-related targets and to offer consumers insight into expected energy prices. The nature and environment movement would like to see the objectives relating to renewable energy and energy savings met. In addition, the coming years will require the use of clean fossil fuels.

- *Advisory report on the shifting balance of economic power*¹²

The task of ensuring the country's overall future welfare at a time when the balance of economic power is shifting towards emerging economies will require a broad, multi-level approach. Even in times of continuing globalisation, there is some leeway at the national policy level for contributing to EU policy and participating in global organisations. The resulting agendas are too broad and all-encompassing to be dealt with in a single SER advisory report. They form an overarching programme for various advisory reports and projects.

The national policy takes a two-pronged approach: reinforcing the comparative advantages and the climate encouraging businesses to establish themselves here and easing the adjustment processes by reducing feelings of uncertainty. The latter, according to the SER, will require embedding that goes some way towards alleviating the concerns of those involved: citizens need an adequate form of temporary income protection, young people want adequate and accessible education, employees want to stay employable and businesses want an adequate and stable climate in which to do business. Embedding provides handholds that enable those involved to adapt to changing circumstances. Given that circumstances are always changing, embedding is not static, but dynamic.

The international policy agenda is focused on the governance gap: how can European and global institutions be structured and run so that they ensure a fairer, more sustainable and safer globalisation process. Like some other EU Member States, the Netherlands is

¹² SER advisory report, *The Shifting Balance of Economic Power* [*Verschuivende economische machtsverhoudingen*], publication no. 2012/04, The Hague, June 2012.
An English extract is available at www.ser.nl.

too small to be able to influence or author rules governing the globalisation process itself, such as those regarding international trade. The EU, however, does have the weight to substantially influence the globalisation process and thus to steer it towards the sustainable improvement of societal welfare.

In his first response, former Minister of ELI (Economic Affairs, Agriculture and Innovation) Maxime Verhagen indicated that he agreed with the broad view being taken by the employers, employees and Crown appointees on the SER. In his view, it would be a significant challenge to obtain public support for an open, international attitude on the part of the Netherlands. Other, emerging economies were increasingly taking over the global economy. According to Minister Verhagen, the key was to be able to adequately anticipate changes in the balance of economic power. Feeding feelings of intimidation would do nothing to help the Netherlands' global competitiveness. He was pleased with the recommendations in the areas of sustainability, innovation and the reference to the policy for the top sectors. He also believed that the administration should devote more attention to easing access for knowledge migrants.

- ***SER reports on International Corporate Social Responsibility***

In various industries, businesses and agencies, environmental and social working conditions issues in the supply chain are now at the top of the International Corporate Social Responsibility (ICSR) agenda. ICSR never ends and evolves in tandem with the developments in international society. In December 2008, the employers' and employees' organisations in the SER committed themselves to promoting these issues through their ICSR Declaration. Between 2008 and 2012, the social partners undertook various activities to promote the implementation of ICSR. In June, the SER published a final evaluation¹³ of the ICSR initiative for this period. The final evaluation takes stock of the initiatives and assesses their results.

In a letter dated 25 October 2012 to the Lower House, former Deputy Minister of ELI Henk Bleker concurred with the ICSR final evaluation. He wrote that the work of this SER committee contributed to the support for ICSR in the Netherlands and to the continuing attention to this topic. He also concurred with the social partners' renewed commitment to continuing this initiative. He took a positive view of both the fact that the initiative's framework is based on the OECD guidelines and that the committee intended to promote the preparation of more thematic reports. This would benefit the partnerships with specialised organisations, which would increase support for ICSR and enable experts to contribute their knowledge to solving ICSR problems. In addition, it would serve to bolster the SER's ability to act as a platform.

The SER's December progress report contained an overview of ICSR-related activities and progress during the second half of 2012. Based on the reports it had received from businesses, the committee noted that the trend towards steady improvement was continu-

¹³ *International Corporate Social Responsibility: Final Evaluation [Eindevaluatie SER-initiatief Internationaal Maatschappelijk Verantwoord Ondernemen]*, The Hague, June 2012.
An English abstract is available.

ing. The Netherlands is striving to become a leader in the field of ICSR. Although measures must be taken to ensure that the followers in the field do not fall even farther behind.

- ***Consultations about ICSR, trade and development cooperation***

Minister of Foreign Trade and Development Cooperation Lilianne Ploumen has met with the SER's ICSR Committee on the memoranda that the administration has prepared on trade and development cooperation as well as on corporate social responsibility (CSR). This meeting also served as an opportunity to get to know the Minister.

The Committee considers CSR to be a crucial element of the globalisation process. The OECD guidelines on this point are embedded at Dutch employers, as well as at employers', governmental and social agencies. While the committee's reports indicate positive development towards more sustainability amongst businesses, there is room for improvement. The committee's working programme primarily focuses on advancing the implementation of due diligence (risk analysis) as an important new element of the OECD guidelines.

Minister Ploumen sees ICSR primarily as a way of promoting cohesion between aid and trade. She is pleased that she can concur with the ICSR committee's working plan and vision. The promotion of trade is getting her full attention during this crisis period. In her view, ICSR gives Dutch businesses a competitive edge. Aid continues to be needed, primarily as a contribution to weak links in certain countries. She indicated that the Ministry was planning to develop an analysis tool to better identify risks.

The representatives of the employers' and employees' organisations responded that they favour having a single Ministry develop the policies on trade, development cooperation and ICSR, and that they intend to support the Minister's work with this committee. The committee raised several issues that will have to be dealt with in this policy, such as the link between trade and investment agreements and fundamental employment rights. The committee hopes that businesses will gain enough confidence to achieve their sustainable approach and that the supervision of that approach will remain proportional.

- ***Advisory report on alternative consumer dispute resolution***¹⁴

The SER Committee on Consumer Affairs (CCA) believes that, subject to certain conditions, the Netherlands can agree to the European Commission's proposed directive on alternative consumer dispute resolution in cross-border transactions. This proposal would enable consumers and businesses to resolve their disputes quickly, simply and effectively without resorting to court intervention. This could help bolster consumer confidence, thereby promoting the internal market effect.

The Committee agrees with the Dutch government that – in contrast to many other EU

¹⁴ SER advisory report, *Alternative Consumer Dispute Resolution in the EU* [*Alternatieve geschillenbeslechting in de EU*], publication no. 2012/03, The Hague, June 2012.
An English abstract is available at www.ser.nl.

Member States – the Netherlands already has a highly effective system of extrajudicial dispute resolution in place. This system is primarily based on the concept of self-regulation. The European Commission is also positive about the Dutch system and cites it as an example for other Member States. The Directive is only more comprehensive on a few aspects of the system, such as the obligations to provide information and the term for settling disputes.

The SER considers the Directive's incorporation of the Dutch system of self-regulation to be of fundamental importance. The Directive must be amended to that effect, and it must specifically provide for a minimum level of harmonisation so that Member States can offer farther-reaching protection to their consumers than that afforded by the Directive.

Under these conditions, the SER recommends that the administration should implement the Directive with all due speed, paying particular attention to the establishment of a back-up committee that could directly assist consumers and businesses in the absence of a sector-specific dispute resolution committee.

On 3 October 2012, the administration responded that it would adopt the main concepts of the advisory report. Minister of Security and Justice Ivo Opstelten wrote that the advisory report was very valuable to the Dutch contribution to the negotiations in the European Commission regarding the Alternative Dispute Resolution Directive and the Council Regulation on Online Dispute Resolution.

3 Operation of the job market, employment and social inclusion

7. Guideline 7: Increasing job market participation for both men and women, reducing structural unemployment and promoting job quality

Job market policy

- ***Policy Agenda 2020: Investing in Participation and Employability***

With Policy Agenda 2020 [*Beleidsagenda 2020*]¹⁵, an extension of the Pension Agreement, employers and trade unions have taken joint responsibility for offering older employees an employment future. They have agreed that, in ten years, there should be no difference between the average labour-market participation figure of over 55s and that for under 55s. It must again be considered perfectly normal that employers and employees themselves do everything to continue to stay healthy, motivated and employed until they reach the age at which they may begin receiving their State Pension (AOW age). In order to succeed in making these changes, the social partners have agreed a large number of specific measures that will result in employees, both young and old, consciously taking charge of their own careers.

In February 2012, as one of its first measures in this context, the Foundation has issued an advisory report to the Ministry of SZW regarding a new career incentive for co-financing inter-sector training and “From Work to Work” (VWNW) schemes. The advisory report resulted in the administration being prepared to provide incentives for inter-sector training and VWNW. Because the collapse of the Rutte I administration left no time to draft a separate scheme, the administration decided to withhold EUR 300 million from the employers’ contributions under the Unemployment Benefit Act [WW] for that purpose. A more recognisable scheme will be drafted for 2014.

To draw the attention of the decentralised social partners to Policy Agenda 2020, the Labour Foundation organised six debate forums at the well-attended SZW conference entitled *Leadership and Dialogue: Foundations for Sustainable Employability [Leiderschap en dialoog: fundamenteën voor duurzame inzetbaarheid]* held on 26 March 2012.

With the same goal in mind, the Foundation and SZW jointly hosted a meeting on 13 February 2013 between collective agreement negotiators and the policymakers for the employers and trade unions. The theme of this meeting was the question of how collective agreements can help achieve the goals of Policy Agenda 2020. The campaign logo and a special page were published on the Foundation’s website the same day.

One of the agreements in Policy Agenda 2020 is to ensure that, starting in 2012, the progress towards the primary goal regarding job market participation (and the related sub-goals) are monitored each year. The first monitoring report was supplied in October 2012 by Ecorys, on assignment from SZW. The report indicated what efforts companies

¹⁵ Policy Agenda 2020 can be downloaded in English at www.stvda.nl.

in certain sectors had made to promote job market participation and sustainable employability. The majority of the companies reported that they had implemented multiple instruments designed to promote participation and sustainable employability. As it turns out, many companies are trying out all sorts of tools for promoting sustainable employability. Sometimes these tools are part of an explicit policy, sometimes they are stand-alone activities that employers have not specifically labelled as being related to “sustainable employability”.

Policy regarding terms of employment and employment relationships

- ***Reconsidering collective agreement provisions regarding prohibitions and restrictions on hiring temporary agency workers***

Directive 2008/104/EC regarding temporary agency work entered into force on 6 December 2011, with one of its effects being that, from that date onwards, collective agreement conditions that prohibit or restrict the employment of temporary agency workers may only be justified on grounds of the general interest. These grounds particularly relate to the protection of temporary employees, the requirements of health and safety at work and the need to ensure that the job market functions properly and that abuses are prevented.

On 2 February 2012, the Foundation requested decentralised parties to collective agreements to examine, in accordance with the Foundation’s advisory report, any collective agreement provisions that they believed might have a restrictive effect and to report the results of this examination. This request generated very little response. On 14 January 2013, the Foundation therefore requested that the decentralised parties to collective agreements take this issue into consideration when negotiating the next collective agreement.

- ***Payrolling***

11 May 2012, the Labour Foundation sent Minister of SZW Henk Kamp a report entitled *The Social Partner’s View of Payrolling, Partly in Light of its Effects on Employees in Cases of Dismissal* [*De visie van sociale partners op payrolling, mede in het licht van de gevolgen voor werknemers als het gaat om ontslag*]. In a payrolling arrangement, a fairly new phenomenon on the job market, a payroll company is often the legal employer of the employees who work for one of the payroll company’s clients.

This extensive memorandum contained a joint analysis by employers and trade unions and legal clarification of the payrolling concept. It also discusses the specific policy rules of the Employees’ Insurance Agency (UWV) in cases of dismissal, after which the employers and employees added their viewpoints on this issue. The conclusion of this advisory report indicates that the social partners’ discussion of payrolling has not yet come to an end. Payrolling is one of the topics that will play role in the possible formulation of the Social Agenda for 2013.

- ***Dispensation in collective agreements***

On 8 June 2012, the Labour Foundation sent its advisory report entitled *Dispensation in Collective Agreements [Dispensatie in de cao]* to Minister of SZW Henk Kamp. This memorandum was the Labour Foundation's response to the Minister's intention to amend the dispensation policy. The Foundation also discussed the concerns expressed in motions made by several members of the Lower House concerning the question of whether, and if so to what extent, the current collective agreement system offers sufficient leeway for customisation by individual employers. Naturally, in discussing these issues, the Foundation also addressed its recommendations to the decentralised parties to collective agreements regarding being granted dispensations under the collective agreement system. The Foundation concluded that this recommendation needed to be updated, particularly with regard to the transparency of the dispensation option itself.

For that reason, the Foundation issued a recommendation dated 12 July 2012 to the decentralised central partners regarding the transparency of the dispensation rules of the collective agreement system. The Foundation requested these parties to take the opportunity of their next collective agreement negotiations to investigate whether the dispensation provisions in their collective agreements were sufficiently transparent.

- ***The Labour Foundation's comments on the proposed amendment to the Working Hours Amendment Act [Wet aanpassing arbeidsduur], which is designed to promote flexible working hours***

GroenLinks (Green Left) and CDA (Christian Democratic Alliance) introduced a bill to convert the Working Hours Amendment Act (WAA) into the Flexible Working Hours Act [*Wet flexibel werken*] (FWHA). According to the proposing MPs, the rationale underlying the introduction of the bill is to provide effective support to employees combining their work and personal lives.

The Foundation has established that technological developments have made it increasingly possible to separate work from a specific workplace. This offers new possibilities for combining work and care-giving or one's work life and private life. Both employers and employees see many benefits to be reaped from this new way of working. The Labour Foundation, however, questions whether a law is necessary to get employers and employees together to make agreements in this regard. If the Lower House elects to convert the WAA into the FWHA, then the Foundation has proposed altering certain parts of the bill. This bill has not yet been debated in the Lower House.

- ***Evaluation of special regulations for a reduction in working hours (WTV) and partial unemployment benefits***

On 25 June 2012, the Labour Foundation informed the Lower House that the Foundation did not share Minister of SZW Henk Kamp's conclusions regarding WTV and partial unemployment benefits. The Foundation disagrees with the Minister that these measures have not contributed much to job retention. The Foundation's letter requested the Lower

House to take a critical look at the question of whether there will be a place for this type of crisis measure in the future.

- ***Temporary employees' access to education and training***

On 14 January, the Foundation asked the decentralised social partners to take the opportunity of their next collective agreement negotiations to discuss the education and training of temporary employees working in their sectors. Prompted by the implementation of the EU Directive on temporary agency work, the Foundation wishes to promote temporary employees' use of the training opportunities for which they are eligible.

- ***Comments on the Home for whistleblowers bill [Huis voor klokkenluiders]***

The Labour Foundation and the Council for Public Sector Personnel Policy [*Raad voor het Overheidspersoneelsbeleid*] wrote a letter to the Lower House in response to the *Home for whistleblowers* bill. On the one hand, the letter points out the bill's lack of clarity and inconsistencies and, on the other, proposes that the bill should be amended to increase the protection afforded to the employer and employee involved in whistleblowing incidents.

Both organisations have long advocated for adequate arrangements that would ensure that potential whistleblowers – as well as the companies, agencies and governments involved – would be offered clarity, protection and support in cases of whistleblowing. They therefore endorse the legislative goal of clarifying all of the issues surrounding whistleblowing.

Working conditions and vitality

- ***Health and Safety Catalogues***

One goal of the social partners is to promote companies' implementation of a responsible health and safety policy, including by encouraging companies and industries to assemble health and safety catalogues. Since the Dutch Working Conditions Act was amended in 2007, employers and employees have been able to prepare health and safety catalogues that describe how the goals of that Act can be achieved in their own sectors.

With the Health and Safety Catalogues Project (2007-2010), the Labour Foundation, with a subsidy from the Ministry of SZW, stimulated industries and companies to draft, implement and enforce compliance with health and safety catalogues, and to update those catalogues as needed with priority risks. In the meantime, approximately 150 of the 250 industries in the Netherlands have prepared a health and safety catalogue that has been evaluated by the government.

After the project was completed, the social partners decided to follow it up. In 2012, the Ministry of SZW granted the Labour Foundation the subsidy requested for that purpose. On 1 November 2012, a project leader was appointed to work 3 days a week for 18 months on carrying out this follow-up project.

The emphasis of this follow-up project lies on promoting the implementation of existing health and safety catalogues. The project plan also includes updating several health and safety catalogues with priority risks as well as the development of new health and safety catalogues. Several guidelines are also being developed on such topics as multilingualism in the workplace, while existing guidelines, such as those on internal emergency procedures, are being updated. Industries and companies can use the guidelines to draft or supplement their own health and safety catalogues.

- ***Vitality Policy***

In the field of sustainable employability, the promotion of a healthy lifestyle is a key component of keeping employees fit and able to work longer. In this context, the Labour Foundation and the Healthy Weight Covenant [*Convenant Gezond Gewicht*] organised the fourth symposium entitled The Healthy Shop Floor [*De Gezonde Werkvloer*] at the SER building.

More than 150 people participated in the symposium on 2 October, the theme of which was: Vitality in SMEs. Various questions were posed during the meeting, such as: would a mandatory medical examination for employees be desirable, and how can an employer embark on health and lifestyle discussions with employees.

- ***RI&E Centre***

Employers use a Risk Inventory and Evaluation (RI&E) to outline the risks for employees that are entailed by the work they perform. In the plan of approach that constitutes part of an RI&E, the employer describes all of the measures being taken to minimise these risks. The result must be verified by an occupational specialist.

Employers are required by law to prepare an RI&E. Since 1 April 2011, companies employing no more than 25 employees need no longer obtain this approval as long as the employer uses an RI&E instrument that has been registered with the RI&E Centre [*Steunpunt RI&E*].

At the request of the Ministry of Social Affairs and Employment, the Labour Foundation is responsible for the RI&E Centre. The Centre handles the digitisation of branch-specific RI&E instruments and makes these available to all businesses via its website www.rie.nl. In this way, the Centre intends to increase knowledge about RI&E and to promote both the development and recognition of industry-specific RI&E instruments as well as their use. The use of RI&E by small businesses is one of its priorities.

- ***Advisory report on occupational health and safety***

A well-functioning occupational health and safety system is the key to keeping workers sustainably and productively employable on the job market. Prevention is crucial – people's jobs and working conditions should not harm their health and lead to their inability to work. Prevention benefits everyone: employers, employees and society as a whole.

The SER's advisory report *Occupational health and safety system* [*Stelsel voor gezond en veilig werken*] discusses such issues as company health care, reporting occupational illnesses and the supervision and enforcement activities of the SZW Inspectorate¹⁶. The draft advisory report advocates exploring a long-term policy for company health care.

The research shows that there are problems in this field, including those relating to the accessibility of company doctors, their independence and the fact that prevention is often neglected. There is also an increasing shortage in company doctors. This specialisation must be made more attractive by varying the practitioners' duties to include implementing preventive measures in addition to managing absenteeism.

The timely reporting of occupational illnesses and proper record-keeping could be important contributions to preventing occupational illnesses and developing prevention policies. The occupational health and safety system cannot function without supervision and enforcement that is both qualitatively and quantitatively adequate. Sectors, industries and companies that run major health and safety risks should be inspected often enough that the frequency "forces" compliance with health and safety standards. Instead of having inspectors with the more generalised knowledge that is common today, specialists with sector- and industry-specific should be appointed as inspectors.

This advisory report supports policy aimed at developing more target requirements in combination with reducing means requirements. The decentralised social partners can use health and safety catalogues to specify the means and methods to be used in meeting target requirements. The SZW Inspectorate should eliminate any ambiguity regarding the assessment of health and safety catalogues.

Social security and health care

- *UWV second opinion*

On 7 November 2013, the Labour Foundation notified the Lower House that it had grave objections to the raise in the rate for second opinions from UWV. To better cover the costs of these second opinions, the administration has proposed raising the fee with effect from 1 January 2013: the fees would increase from EUR 50 to EUR 175 for employees, and from EUR 50 to EUR 350 for employers. The Lower House has been asked to ensure that this fee increase is not passed. The Foundation believes that this increase would result in such serious financial obstacles that second opinions would be sought far too infrequently. This was one of the reasons the administration had previously set the fee at EUR 50.

The Foundation expects that this fee increase will cause stagnation in employee reintegration, thus undermining the success the Permanent Invalidity Benefit (Restrictions) Act [*Wet Verbetering Poortwachter*] has had in limiting absenteeism due to illness and occupational disability. The Foundation advocates keeping the fees the same – save for

¹⁶ SER advisory report *Occupational health and safety system* [*Stelsel voor gezond en veilig werken*], The Hague, December 2012. An English extract is available at www.ser.nl.

adjustments for inflation – for both employees and employers. There should be no threshold, particularly when a second opinion is mandated by law.

This Minister of SZW set the fee with effect from 1 January 2013 at EUR 100 for employees and EUR 400 for employers. He has offered, however, to assess whether another fee can be negotiated.

- ***Limiting absence due to illness and occupational disability by “Safety Netters” (modernising the Dutch Sickness Benefits Act [Ziektewet])***

With the Act on Limiting Absence Due to Illness and Occupational Disability by Safety Netters [*Wet beperking ziekteverzuim en arbeidsongeschiktheid vangnetters*] (“Bezava Act”) – “Safety Netters” being unemployed persons who report that they are ill, temporary employees who are ill and employees who were on sick leave when their temporary employment contract ended – the administration aims to get temporary employees, unemployment benefit recipients and temporary employees who are ill back to work faster and to reduce the number of claims granted under the Work and Income (Fitness for Work) Act (“WIA”).

This means, amongst other things, that the employers’ premium differentiation that will be implemented with effect from 1 January 2014 will require employers to pay a higher premium if more temporary employees file claims under the Sickness Benefits Act or the WIA. As a result of the amendment of the Sickness Benefits Act, employees are assessed by UWV after being on sick leave for one year (instead of two) to determine whether they can perform other work even if they are unable to perform the work they did previously. The implementation of an employment history requirement has made the amount and the payment period of Sickness Benefits Act benefits dependent on the number of years the person in question has worked.

The Labour Foundation has expressed its opposition to the Bezava Act. On 7 December 2011 and 6 September 2012, letters were presented to the Lower House and Upper House, respectively, expressing the Foundation’s view that the usefulness, necessity and effectiveness of the proposed measures had not been demonstrated. The letters also stated that the effects on employment opportunities, the chances on safety netters returning to work and the reduction of new claims under the Sickness Benefits Act and the WIA had not been explained sufficiently.

The Foundation sees its position echoed in the Council of State’s objections to the Bezava Act:

- Amending the Sickness Benefits Act and implementing an employment history requirement will worsen the position of those who do not have permanent employment. This will only serve to increase the gap between “insiders” and “outsiders” on the job market. Given the requirements the job market will already be imposing in the coming years, this would be undesirable.
- Because employers are dependent on how UWV fulfils the role of arbiter for occupational health and safety under the Sickness Benefits Act, the question is

- whether financial incentives aimed at employers will be sufficient to tackle the issues of absence due to illness and occupational disability amongst safety netters.
- Closer attention will have to be paid to the special characteristics of safety netters and the differences amongst them. Because safety netters are more distant from the job market, the guidance by UWV would be more effective if it were intensified.

Despite the request for a complete rejection of the Act, it was passed by the Upper House on the understanding that the social partners would be afforded the opportunity to submit an alternative for the employment history requirement before 1 January 2014. This is consistent with the governmental agreement by the Rutte-Asscher administration, that allowed a period of one year for identifying an alternative for reducing the high influx of claims under the Sickness Benefits Act by flex workers (i.e., workers without permanent employment).

In response, the Labour Foundation decided to hold round table discussions with those affected to reach practical solutions for reducing absenteeism due to illness and occupational disability by sick employees with temporary contracts and those receiving unemployment benefits. The goal is to be able to submit alternatives to the measures outlined in the Bezava Act and to demonstrate these alternatives' effectiveness in pilot programmes.

On 22 and 29 January 2013, the Foundations held discussions with UWV, researchers from Aarts de Jong Wilms Goudriaan Public Economics (Ape), AStri policy research and consultancy group and TNO, the Dutch Association of Insurers and the Organisation for Vitality, Activation and Career (OVAL; formerly Boaborea), managers from the agriculture and horticulture industry (STIGAS), education (the secondary vocational education council [*MBO-Raad*] and General Education Association of the Netherlands Trade Union Confederation [*AOb FNV*]), professional services (KLM), retail trade and supermarkets (Christian Trade Union Federation [*CNV Dienstenbond*]), the hotel and catering industry (KHN and FNV Horecabond) and transport sector (TLN and FNV Bondgenoten). These discussions provided a better understanding of how practical solutions can be identified. The discussions also included an exploration of the question of how the various sectors believe they can prevent or reduce absenteeism due to illness or occupational disability by safety netters in their sectors. The participants were also asked whether they would be prepared to carry out a pilot programme and what that programme would have to entail. The details of four sector-wide pilots began being worked out in February 2013. An extensive report of the round table discussions has been prepared.

- ***Simplification of UWV rules***

With the Simplification of UWV Rules Act [*Wet vereenvoudiging regelingen UWV*] the administration wishes to simplify certain laws and regulations in the interests of improving effectiveness, greater comprehensibility of the rules and reducing the government's implementation costs, as well as the administrative burden borne by employers and employees.

On 27 August 2012, the Foundation informed the Lower House by letter that the Foundation had carefully examined whether the proposed statutory amendments would entail undesirable consequences on policy-related matters, whether the amendments would make certain schemes and individual activities impracticable, and whether the amendments were inconsistent with the rest of the Act. The Foundation also pointed out the undesirable consequences of amending the employment history requirement, the daily wage guarantee, the notional termination period, the starters' scheme under the Unemployment Benefit Act [WW] and the proposed emergency scheme (a combination of the Unworkable Weather Scheme [*Regeling onwerkbaar weer*] and the Reduced Working Hours Scheme [*Werktijdverkortingsregeling*] contained in the Unemployment Benefit Act).

The Foundation specifically has serious objections to the emergency scheme, which provides that the Unworkable Weather Scheme cannot be invoked for the first four weeks [of the unemployment benefit period] instead of for the first two weeks. The social partners will no longer be able to deviate from this scheme in their collective agreements. In the case of a long-term hard frost, this scheme would result in a great loss of employment opportunities.

The Foundation has requested the Upper House to add a two-week waiting period and to afford the construction sector an opportunity to come up with a specific solution. The Minister of SZW has promised the Upper House that he will consult the Foundation regarding the emergency scheme before its planned implementation on 13 September 2013. These consultations are now underway.

- ***Advisory report on affordable health care***

In October, the SER issued an interim advisory report on adequate, accessible and affordable health care¹⁷. Naturally, increasing expenditures will increasingly affect the accessibility and quality of health care. The increase in expenditure is also increasing costs for households and employers, which could negatively impact the economy and employment opportunities. The SER considers a fundamental adjustment to long-term care and improvements to the health care system necessary. The SER intends to issue more extensive follow-up advisory report in the spring of 2013.

In this advisory report, the SER will emphasise the fact that the Dutch health care system has provided enormous benefits. People are living longer and healthier. They can participate in society better, their earning capacity has increased and they can continue working longer and more productively.

The term “market effect” has led to misunderstandings. It obscures the fact that both the government and private sector parties play an important role in health care, just as they have in the past. That makes it desirable to have increased entrepreneurship in health care that focuses on quality and customised care. This would promote the positive aspects of competition, such as improved effectiveness and increased innovation, while

¹⁷ SER advisory report, *Towards qualitatively adequate, accessible and affordable health care: interim advisory report in outline* [Naar een kwalitatief goede, toegankelijke en betaalbare zorg: een tussentijds advies op hoofdlijnen], The Hague, October 2012.

simultaneously curtailing the negative aspects, such as the drive to render as much billable care as possible.

Not all the care being provided is customised, however. The emphasis should not lie on rendering as much treatment as possible, but on the consequences for the patient's quality of life, social environment and societal participation. Patients must take as much charge of their care as possible, which will mean that more of their care will be rendered closer to home.

The SER believes that the Exceptional Medical Expenses Act [AWBZ] should be limited to the costs of care. It would be preferable to have people bear as much of the cost for their residence, accommodation, welfare and food as much as possible, even if they live in an institutional setting. That would both enable them to choose the types of care and services that best suit their own preferences and act as an incentive for innovations in the areas relating to living accommodation, health care, welfare and participation.

In the field of elderly care, a distinction needs to be made between levels of care. The need for low-level care is generally consistent with lower costs and the patient's retention of control. Nursing, treatment and higher-level personal care and supervision must continue to be collectively financed. The government must define the boundaries between the different levels of care.

In the field of curative health care, the SER would like to see the reinforcement or introduction of incentives and tools that would promote improved health and quality of life and increase the patient's level of control and responsibility. To that end, the current cost structure must be replaced to the extent possible by a cost structure based on treatment outcome. Health insurers must also make more efforts than they currently do to selectively purchase care based on quality and cost. They must encourage those they ensure to visit contracted health care providers who have the highest success rates in providing customised care.

Increasing patients' cost-consciousness and effectively structuring patients' payments (of their excesses and their portion of the cost of treatment) will be key to preventing the provision of unnecessary care. Patient-borne expenses must also not hinder access to health care; having patients share expenses to reduce unnecessary care can sometimes shift the balance too far in the other direction, with the result being restricted access to necessary health care for those with lower levels of disposable income.

8. **Guideline 8: Developing a skilled workforce responding to job market needs and promoting lifelong learning**
9. **Guideline 9: Improving the quality and performance of education and training systems at all levels and increasing participation in tertiary or equivalent education**

Professional education and training

- *Low literacy skills*

Concluded in September 2007, the covenant on a structural approach to low literacy skills [*Convenant Laaggeletterdheid*] contains arrangements between the social partners and the Ministries of Education, Culture and Science, Social Affairs and Employment and the former Youth and Family Department to combat low literacy levels in industry. The Labour Foundation is making every effort to bring this issue to the attention of local parties to collective agreements, mainly by encouraging them to set out in their collective agreements an approach to low literacy levels.

The Labour Foundation does not consider low literacy to be an isolated issue, but rather views it as a part of its goal of encouraging the training of employees and promoting sustainable participation and employability. Those who need language skills to work (or to continue working or to find a new job) or to remain employable need language training. Education in the area of language skills forms the basis for improving employees' position on the job market.

In partnership with the Reading and Writing Foundation [*Stichting Lezen & Schrijven*], the Labour Foundation developed a web service point that was launched in September 2012. The website, which can be found at www.taalwerkt.nl, is intended for employers seeking information about the problem of low literacy and how to approach it, as well as for employees that have problems with reading and writing or know a colleague who does. Employers and employees are not the only ones who can benefit from the website: industry-wide organisations, trade unions, employee representation bodies and training and development funds [*Opleidings- en Ontwikkelingsfondsen*] can also use the website to find the information they need.

- *APL*

An APL certificate [*Ervaringscertificaat*] is conferred to prove that one has received "Accreditation of Prior Learning" [*Erkennen van Verworven Competenties*]; it is a labour-market tool that employees can use to prove their competencies in the skills they have acquired. The APL may or may not lead to further training.

In June, the Labour Foundation and the government (Ministries of Education, Culture and Science [*OCW*], SZW and Economic Affairs [*EZ*]) signed a new APL covenant. The basic principle of the new covenant is that APL must be a job market instrument used to strengthen the position of employees on the job market in terms of their career and the

possibilities for workers and jobseekers in terms of recruitment and career path. Through the covenant, the government, employers and employees undertake to make their best efforts to promote APL as a job market instrument. The covenant stipulates that the Labour Foundation will be responsible for evaluating and approving industry standards such as the APL standard.

Various reports issued in 2012, including that issued by the Education Inspectorate [*Onderwijsinspectie*], show that problems relating to quality, quantity and the effectiveness of the APL often crop up in practice. The parties to the covenant are currently working on making the APL system future-proof. The expectation is that this fundamental consideration involving all of the parties will be completed in the spring of 2013.

- ***Advisory report on the training market for employees***

The market for post-initial training generally functions well and comprises a large number of mostly private suppliers. The greying population, globalisation and technological innovations demand more future-oriented efforts that devote extra attention to sectors where labour shortages are expected, such as the healthcare, education and technology sectors. Realising the well-supported ambition to become one of the world's top five knowledge economies will also require extra efforts.

The SER has established that the training programmes on offer must be made more transparent and that the quality of the offerings should be subject to checks¹⁸. Given the expected need for further training and retraining of employees, including flex workers and self-employed persons, as well as job seekers, both public and private suppliers of training programmes will have to make efforts to ensure that the desired training programmes are available. To the extent that training can be linked to accredited degrees – degrees in secondary and higher vocational education and university education – regional education centres, polytechnics and universities can play a greater role, for example, by deploying their expertise and infrastructure more efficiently.

It is important to the SER that industry organisations and training and education funds continue to emphasise the value of education. They can offer, or continue to offer, a platform for collaborations between businesses in the area of training. Companies can also use industry organisations and training and education funds to better organise their training needs. The government can contribute to this by offering incentives for these activities.

On 10 July 2013, the administration responded that it endorsed the SER's conclusion that, overall, the current market for post-initial training functions well. The administration shared the SER's opinion that employers and employees are primarily responsible for financing education and that the government's role is an auxiliary one.

¹⁸ SER advisory report, *Working on training: advisory report on the post-initial training market* [*Werk maken van scholing, advies over de postinitiële scholingsmarkt*], The Hague, April 2012. An English abstract is available at www.ser.nl.

With regard to the SER's view on the government's responsibility for those with a low level of education and job seekers, the administration referred to the mobility bonus that can be used to provide job-specific training for people who are far from the job market and to offer those with a low level of education the opportunity to obtain a secondary vocational qualification. Like the SER, the administration considers APL to be a key instrument in achieving both educational and career goals. There must be no dispute as to the quality of the APL. Partly in response to the findings of the Education Inspectorate and the Education Council [*Onderwijsraad*], the administration is conducting an in-depth analysis designed to identify any additional measures that need to be taken. The administration will handle quality assurance by including informal trainings in the Dutch national qualification framework.

In the detailed memorandum that will be issued in response to the letter on part-time higher education, the administration will discuss the SER's proposals for improving access to higher education for students aged 30 and over. Finally, the administration shared the SER's view that there was room for improving the cooperation between public and private education and called on those involved to take action in this respect.

10. Guideline 10: Promoting social inclusion and combating poverty

- *Disabled young people*

In 2008, the Labour Foundation issued recommendations to the decentralised parties to collective agreements for promoting disabled young people's participation on the job market. At the end of 2008, the Labour Foundation published *Explanatory Memorandum on the Recommendation Regarding Disabled Young People's Participation in the Dutch Business Community* [*Toelichting bij de Aanbeveling Wajong*], which contained information on how parties to collective agreements could make agreements to assist disabled young people with finding work and identifies the facilities they could use to that end¹⁹.

The SZW's reports on collective agreements show that an increasing number of collective agreements contain provisions regarding disabled young people. In order to monitor this process, and to adjust it if necessary, the Labour Foundation periodically consults UWV²⁰. At the end of 2012, UWV job market participation monitor reported that at the end of 2011, nearly 54,000 disabled young people held jobs, an increase of 7% over 2010. Another positive development that occurred in 2011 was that, for the first time, there were more disabled young people working for traditional employers than for sheltered workshops.

¹⁹ Labour Foundation, *Explanatory Memorandum on the Recommendation Regarding Promoting Disabled Young People's Participation in the Dutch Business Community* [*Toelichting bij de Aanbeveling gericht op de bevordering van de participatie van jonggehandicapten in het Nederlandse bedrijfsleven*], 4 December 2008.

²⁰ UWV is the Employees' Insurance Administration Agency [*Uitvoeringsinstituut Werknemersverzekeringen*]. UWV ensures the national administration of employee insurances such as unemployment benefit [WW], disability benefit [WIA], benefit for disabled young people [Wajong], occupational disability benefit [WAO], sickness benefit [Ziektewet] and provides labour-market and data services as an independent administrative body working under the supervision of the Ministry of SZW.