NATIONAL FOREIGN TRADE COUNCIL, INC.

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H.E. Wouter Bos
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The Netherlands

H.E. Jan de Jager
State Secretary for Finance
Ministry of Finance
P.O. Box 20201
2500 EE The Hague
The Netherlands

BY FAX AND MAIL

Dear Finance Minister Bos and State Secretary de Jager,

The National Foreign Trade Council, organized in 1914, is an association of some 300 U.S. business enterprises engaged in all aspects of international trade and investment. Our membership covers the full spectrum of industrial, commercial, financial, and service activities, and our members have for many years been significant investors in many foreign countries, amongst which one of the most significant is the Netherlands. The Netherlands has been a particularly favored destination for inward investment because of its stable tax regime; because of the understanding shown by the tax authorities of legitimate business needs; and because of a consistent effort by Dutch lawmakers to provide an attractive environment for investment and holding companies. However, we have recently heard from reliable sources that the government is considering legislation which could overturn all of those advantages. Were this to occur, it would undoubtedly have a very serious effect on inward investment into the Netherlands.

We understand that in the next few months the government will consider introducing rules restricting interest deducibility, which would be similar to those introduced by Germany last year (limited to30% of EBITDA on all debt). Given the experience that our members have already had with the complexity and restrictiveness of the German rules, we believe that the introduction of such rules would make many of our members reconsider any additional (and possibly even current) foreign direct investment in the Netherlands. We understand that at least part of the reason for this potential law change is a perception that corporations are using excessive amounts of debt to reduce their corporate tax payments.

We believe that a country is entitled to protect its tax base, specifically from artificial stripping of that base. However, a country's tax system needs to take into account the importance of debt to the growth of both national and multinational companies. Also, decisions should only be taken on the basis of hard evidence of what is occurring. A recent US Treasury Department study showed that, contrary to expectations, companies were not (apart from a very small category of specific types of companies) using interest to reduce the US tax base. We do not believe the situation in the Netherlands is any different from that in the U.S.

Debt funding is a legitimate way of growing a business. Many companies simply cannot raise the capital necessary for substantial growth. Many businesses borrow from banks and other third parties to fund expansion, or to more efficiently distribute funds throughout a group (particularly foreign groups which raise funds in their home country). This is particularly true of financial services companies (and not just banks, but also finance, factoring and leasing companies), which need to leverage highly to achieve sufficient volume. Furthermore, many businesses also rent or lease property that they could not afford to buy outright. That is a simple feature of leverage – not an economic distortion – and the one which makes it such an engine of economic expansion. If you were to restrict the deductibility of payments in the way that Germany has, that would almost certainly result in raising taxes on any company that was not largely equity funded, and which did not own outright all of its plant and equipment. Restriction leads to higher capital costs for debt funded expansion, hinders start-ups and greenfield investments, and decreases the all-important financial flexibility necessary to achieve a competitive financing mix. An overly tight and burdensome restriction on debt, therefore, does not seem to be a desirable result for the future growth of the Dutch economy.

As recent developments in the UK have shown, corporations – and their location – are becoming ever more sensitive to tax. While a number of our members would wish to maintain their connections with the Netherlands the fact remains that alternative regimes for holding companies and intra-group financing regimes in neighboring countries such as Belgium will become much more attractive if the Netherlands introduces overly restrictive conditions on interest deductibility.

We would urge you not to risk your hard-won reputation as a stable, welcoming environment for multinational business and investment, developed over decades. You would do this by a hasty adoption of an interest restriction regime which, in the German case, has already proved complex and discouraging. Our members would be more than happy to meet with you and your officials to discuss this further.

Sincerely,

William Reinsch
President