

NETHERLANDS

Overview

With 15.5 million people living in an area about the size of the state of Maryland, the Netherlands is one of the most densely populated and affluent countries in the world. Despite its relatively small size, the Netherlands is the United States' eighth largest export market. In recent years, the U.S. has had its largest bilateral trade surplus with the Dutch, more than US \$10 billion in 1995.

Since 1991, substantial budget and personnel reductions coupled with new investment have transformed the Dutch military into a more mobile and flexible force. The subsequent dissolution of the Soviet Union and increasing instability in Eastern Europe occasioned a further reassessment of Dutch forces in 1993. This evaluation prompted a call for an accelerated transition with greater emphasis placed on crisis management operations. The need to be able to deploy forces out of area (Dutch practice restricts out-of-area deployment of conscripts) led to a decision to abandon conscription and move toward an all-volunteer force by 1996.

To date, the Netherlands has made considerable progress toward these objectives. The spearhead unit of the all-volunteer Army, the elite airmobile brigade, has been assembled and one battalion has been deployed to guard safe areas in Bosnia. Dutch participation in U.N., NATO, and WEU peacekeeping activities has been extensive.

Over the years, American defense companies have been very successful in selling their products, systems and services to the Dutch Ministry of Defense (MOD). With the advent of European unification, the Dutch consider themselves as "good Europeans" which translates into "buy European" when it comes to major government procurement in the defense area. American companies are increasingly having to work harder and smarter to stay competitive where there is European competition. In addition, the Dutch now insist on offset requirements, which call for foreign bidders to offer offset packages equal to at least 100 percent of the contract value of procurement valued over 5 million guilders (approximately US \$2.9 million). A company's offset package may now carry equal weight to price and product or service performance considerations.

American companies interested in the Dutch defense market are strongly encouraged to contact embassy officials early in the procurement process for counseling and advocacy support.

Defense Industry Environment

The downsizing of the Dutch Armed Forces is in full swing. By the end of 1995, the Dutch Armed Forces reduced force structure to about 95,000 (a 27 percent reduction over the 1990 total). This translates to a 15.5 percent reduction of Naval personnel, a 32.8 percent reduction of Army personnel, a 19.8 percent reduction of Air Force personnel, a 7.6 percent reduction in the Merchant Marines, and a 16.6 percent reduction in Armed Forces headquarters staff.

Despite its relatively small size, the Dutch defense industry is able to supply systems, subsystems, components, and services in a number of areas including:

- Naval ships and subsystems
- Aircraft, avionics, and aerospace products
- Radars, command/control communications equipment
- Optical, electro-optical equipment
- Armored and specialized vehicles and trucks
- Ammunition, components, and packaging
- Semi-manufactured metal products
- Special purpose tooling and equipment

A complete listing of Dutch defense related companies and associated organizations entitled "Catalogue of Netherlands Defense Related Industries" can be obtained from:

Ministry of Economic Affairs
Commissariat for Military Production
Bezuidenhoutseweg 2
P.O. 20101
2500 EC The Hague
Tel: 011-31-70-379-6270
Fax: 011-31-70-379-7318

Eleven Dutch industrial organizations, fully or partly focusing on the defense market, cooperate under the acronym of the NIDAG (Netherlands Industrial Defense Associations Group) to promote their interests in defense material matters. This includes national defense equipment programs and offset programs with foreign suppliers. The changes in the defense market and the growing need for high technology systems to support the new operational requirements have led to this cooperation. It is a premise of this association that national concentration of know-how and experience will promote business in this sector. The organizations participating in the NIDIG represent over 9,000 enterprises of which about 300 are active in the defense sector.

The Netherlands Defense Manufacturers Association (NIDD) is one of the sector organizations within the NIDIG focusing exclusively on defense matters and has a general coordinating role within the NIDIG. The NIDD acts as the primary point of contact between the Dutch Ministries of Defense and Economic Affairs and offers assistance to foreign companies looking for Dutch partners to fulfill Dutch offset requirements.

For more information on the NIDAG or the NIDD, contact:

NIDAG/NIDD
19 Prinsessegracht
2514 AP The Hague
The Netherlands
Tel: 011-31-70-364-4807

Fax: 011-31-70-365-6933

Other member agencies of the NIDAG include the following (contact addresses can be provided by the NIDD):

AKT (Aanbieders Kennis Technologie) - Promotes the use of artificial intelligence in general, and the application of knowledge based systems in particular.

CWM - An employers association which represents the interests of small and medium sized enterprises in the metal, electrical, electronic, and optical industry.

HE (Holland Elektronika) - The sector organization of the Dutch association of industrial enterprises, FME, and focuses on electronics, industrial automation, and telecommunications.

Metaalunie - An employers organization in the metal industry. Business activities include production, installation and maintenance of steel, and machinery construction.

MN (Mikrocentrum Nederland) - The Dutch center for precision technology. Its activities include technology related training, education, quality assurance, and seminars.

NAG (Netherlands Aerospace Group) - Promotes the interests of its member companies in the aerospace sector and supports export activities.

NEVAT (Dutch Association of Subcontracting Industries) - Acts as a platform for the Dutch subcontracting industry and stimulates cooperation between subcontractors.

NFK (Nederlandse Federatie Voor Kunststoffen) - The sector organization for the synthetic material producing, processing, recycling, and collection industry.

NNIG (Netherlands Naval Industry Group) - Coordinates the export activities of Dutch industries working on the development and manufacture of maritime products.

Defense Opportunities

Despite its size, the Netherlands offers a wide variety of trade opportunities in the defense sector for U.S. firms. The chart below lists selected major planned MOD capital procurement from 1994-2005.

Program	Approximate Cost (\$ Millions)	Time frame
<i>Navy</i>		
P-3 Capabilities Upkeep Program (CUP)	130	1998-2002

Air Defense Command Frigate	934	1995-2003
NH-90 Helicopter	587	1994-2005
<i>Army</i>		
Automation	230	1994-2003
Trucks/Jeeps	80	1994-1998
Combat Radio	223	1994-2003
Radio Access (SCRA)	203	1994-2003
Stingers	66	1994-1998
<i>Air Force</i>		
F-16 Midlife Update	936	1994-2003
Air-to-Air Missiles	200	1995-2000
Attack Helicopters	800	1994-2003
Command and Control	539	1994-2003

In addition to the programs mentioned in the chart above, future upgrades are planned for a number of systems, including: electromagnetic countermeasures (ECM) and advanced air reconnaissance, MDS mine clearing; integrated reconnaissance, Patriot and antitank missiles, short-range air defense, continuing Apache developments, night time navigation and forward looking infrared (FLIR), and stand-off weapons capability. Early notice of new system procurement requires good in-country Dutch representation and/or close contact with the U.S. Embassy's Department of Defense/Office of Defense Cooperation; the Department of Commerce/U.S. & Foreign Commercial Service, and Dutch government defense agencies and associations.

Defense Procurement Process

The procurement of material with an estimated value of five million guilders (approx. \$2.86 million) or more follows the Defense Material Selection Process (DMP). The DMP begins once the nature, scale, quality, and time frame of the operational requirement have been established. There are four stages to this process:

- The first stage is the preliminary study stage which examines the various alternatives that may result in the requirement being met (e.g. buying off-the-shelf or in-house development).
- A preliminary selection then takes place of products and manufacturers eligible for the

following step of the selection process.

- At stage three, the remaining alternatives are examined, sometimes by carrying out comparative trials. The final choice of product and producer is then made.
- The fourth stage involves evaluation of the project. On many projects, the Minister and/or State Secretary make the decision themselves at each stage. These projects are announced to Parliament each year. The evaluation criteria is the financial commitment, the political significance, the importance of the project for Dutch industry as well as the potential for international cooperation on each project. This is the procedure used, for example, for the construction of frigates for the Navy, tracked vehicles for the Army, and aircraft for the Air Force. The decision making on all other projects is delegated to the individual services.

A simpler procedure is followed for projects which do not come under the DMP. They are the responsibility of the contracting authorities. The Dutch MOD contracting process is briefly described below.

- *Submitting Tenders*

A company needs to be aware of MOD requirements to be able to submit a tender. Generally speaking, companies included in the index of suppliers receive a request for proposal (RFP). This RFP includes, in addition to specifications, the delivery conditions and sometimes the criteria for the contract award.

- *Contract Award*

In the event of competition, the tenders submitted are evaluated by the relevant contracting authorities. The usual commercial aspects such as quality, price, delivery time, quality control, and previous achievements are assessed. Based on this, the contract either is, or is not, awarded. All bidding companies receive notice of the decision on the tender.

- *Payment*

Generally, the MOD will pay invoices within 30 days of the delivery and approval of the goods and services.

In addition, another layer of rules, regulations, and conditions may also come into effect in the procurement process including those stipulated by not only the Dutch Government, but also the EU and NATO.

- *Dispute Settlement Procedure*

There may be recourse for any supplier who considers itself to have been unfairly disadvantaged in any particular aspect in the tender invitation or source selection procedures.

U.S. Embassy Officials/The Hague should be notified immediately if there appears to be any irregularities in the procurement process, particularly if there are “level playing field” issues involved.

Potential Barriers to the Contracting Process

There are no formal barriers to American suppliers seeking to compete in the Dutch defense market. However, superior price and performance offers from American companies will not always win the deal. There is a growing tendency on the part of the Dutch to "buy Dutch" or "buy European" when possible. "Buy European" political pressures are particularly high in certain big ticket purchases. In addition, in a number of recent cases, offset packages are given equal weight to price and performance of the bid package in the final procurement decision. If the competition has a better offset package, it may be awarded the contract, even if all things are not equal.

American companies looking to compete in this increasingly politicized environment should meet with U.S. Embassy officials early in the process for counseling and advocacy support.

Offsets

The Ministry of Economic Affairs/Commissariat for Military Production and Crisis Management (CMPC) is part of the Directorate-General for Industry of the Netherlands Ministry of Economic Affairs and is responsible for the Netherlands policy on military offsets. According to the CMPC, its activities aim to help maintain and improve branches of Dutch defense related industries. This entails getting Dutch companies cooperative, co-production, and offset business as part of the defense procurement process.

The CMPC is also actively involved in stimulating industrial participation in international defense programs, industrial coordination of defense technology projects, as well as support and coordination of defense exports.

Offsets are required in those cases where a foreign supplier obtains an order from the Netherlands Ministry of Defense for the delivery of defense material to the value of, or exceeding five million guilders. The foreign supplier is obligated to give offset for the full contract value. Offset priorities established by the Ministry of Economic Affairs are:

- The technological-innovation effect
- The transfer of production and management know-how
- The establishment of long-term relationships between foreign and Dutch companies

Specific areas of offset interest are:

- Information Technology
- Environmental
- New Materials (i.e. composites, ceramics, etc)

- Simulation
- Structures

Depending on the extent to which an offset program meets these priorities, the CMPC has the option to grant extra offset credit. For further information on Dutch offset regulations contact the CMPC:

Ministry of Economic Affairs
The Commissariat for Military Production and Crisis Management (CMPC)
30, Bezuidenhoutseweg
2594 AV The Hague
Tel: 011-31-70-379-7128
Fax: 011-31-70-347-4081
Contact: Mr. C. Van Rein

American companies bidding on Dutch military procurement which have offset requirements are strongly advised to contact U.S. Embassy officials listed at the end of this chapter for guidance.

Procurement agencies and decision makers within the Defense Ministry and Armed Services

The focal point for defense procurement in the Netherlands is:

Ministry of Defense
Directorate-General of Material
DMLB/MVB/WEAG Focal Point
Attn: TH. J. De Grood
P.O. Box 20701
2500 Ex The Hague
Tel. 011-31-70-318-6748
Fax: 011-31-70-318-8145

For more detailed information with regard to specific procurement announcements, the issuing branches of the Armed Forces can be contacted directly at these addresses:

Directorate of Material
Royal Netherlands Navy
Attn: Chief Procurement Division
P.O. Box 20702
2500 ES The Hague
Tel: 011-31-70-316-2676
Fax: 011-31-70-316-3577

Directorate of Material
Royal Netherlands Army

Attn: Chief Procurement Division
P.O. Box 90822
2509 LV The Hague
Tel: 011-31-70-316-4115
Fax: 011-31-70-316-9239

Directorate of Material
Royal Netherlands Air Force
Attn: Chief Acquisition Support Division
P.O. Box 20703
2500 EX The Hague
Tel: 011-31-70-349-2869
Fax: 011-31-70-349-2830

When a response to an invitation to tender requires access to classified data, U.S. firms must submit clearance information to the Director of Military Intelligence Service, within the Ministry of Defense, to establish the level of access. A NATO security clearance up to the level of access required by the invitation to tender must be presented and documented. To establish eligibility to respond to classified invitations to tender, clearance information should be provided to the following address:

Ministry of Defense
Director of Military Intelligence Service
Attn: Chief Industrial Security
Kalvermarkt 28
P.O. Box 20701
2500 EX The Hague
Tel: 011-31-70-318-8431
Fax: 011-31-70-345-9189

The defense ministries of the Western European Armaments Group (WEAG) each publish military requirements and awarded contracts in nationally issued bulletins. The Dutch Bulletin is entitled "Contract Bulletin for Military Requirements." Subscriptions for this publications can be obtained for HFL 250 (approx. \$140) (excluding value added tax) from:

NIDD
19 Prinsessegracht
2514 AP The Hague
Tel: 011-31-70-364-4807
Fax: 011-31-70-365-6933

The Dutch Ministry of Defense does not assign special identification codes to its suppliers. However, it screens or pre-qualifies its potential bidders. The MOD requests certain information about a company before it will be registered as a potential supplier. A company's reputation, financial status, and capabilities may be verified. If a foreign company has or had contracts with

its own country's defense department or MOD, inquires may also be made about the company's past performance and capability to perform the type of work or contract under consideration. To be registered as a potential supplier, a company must send a request to one of the military issuing branches listed above.

Diversification/Commercial Opportunities

Most of the defense-related investment activity between Dutch and American defense firms is centered around cooperative agreements to fulfill procurement contracts to the Dutch Ministry of Defense (MOD) or activities related to satisfying the increasingly stringent Dutch "offset" requirements. There are few commercial opportunities in the Netherlands associated with privatization of defense industries, as virtually all Dutch manufacturers of defense equipment are privately controlled and the Dutch Government has withdrawn most of its ownership stakes in the aerospace company Fokker, and its subsidy support for the truck manufacturer DAF. Although Fokker has gone into receivership, large parts of the company continue to operate, and are expected to be taken over by other commercial organizations. American companies competing on Dutch defense contracts will be encouraged by Dutch private and public sector officials to look for joint venture, co-production, and other cooperative opportunities with Dutch companies to make their bid offers more attractive as well as ensuring that Dutch offset requirements can be met.

The Netherlands is home to many industries where there is a significant cross-over of products and technology. Dual use sectors include: vessels and vessel accessories; instruments and electro-optical equipment; chemicals, oils and greases; communication and computer equipment; machine tools and workshop equipment; and medical equipment.

In a country that has prospered from shipping and trade for centuries and boasts the world's largest and busiest port, Rotterdam, state-of-the-art products involved in maritime radio communication, navigation aids, port management, and logistics are also in demand. In addition, billions of dollars of public and private sector money will be invested in the port and city of Rotterdam over the next fifteen years in infrastructure projects in an effort to maintain the port's competitive edge as the major maritime transportation hub for Northern Europe. Likewise, hundreds of millions of dollars will be invested in Amsterdam's Schiphol Airport to improve its already excellent reputation as one of the world's most efficient passenger and cargo airports.

Points of Contact at Key Non-defense Ministries:

Ministry of Foreign Affairs
Bezuidenhoutseweg 67
2594 AC The Hague
Tel: 011-31-70-348-6486
Fax: 011-31-70-348-4848
Contact: H.J. De Vries or Drs. K.
Klompshouwer

Ministry of Transport and
Waterways
Plesmanweg 1
2500 EX The Hague
Tel: 011-31-70-351-6171
or 351-7250
Fax: 011-31-70-351-7895
Contact: Ms. P. Reynearse

Ministry of Economic Affairs
Bezuidenhoutseweg 30
2594 AV The Hague
Tel: 011-31-70-379-7128
Fax: 011-31-70-347-4081
Contact: C. Van Rein

Ministry of Agriculture
Bezuidenhoutseweg 73
2594 AC The Hague
Tel: 011-31-70-379-3911
Fax: 011-31-70-381-5153

Ministry of Interior Affairs

Schedeldoekshaven 200
2500 EA The Hague
Tel: 011-31-70-302-6302
Fax: 011-31-70-363-9153

Rotterdam Port Authority
Galvanistraat 15
3029 AD Rotterdam
Tel: 011-31-10-489-6911
Fax: 011-31-10-477-8240

Schiphol N.V.
P.O. Box 7501
1118 ZG Schiphol Airport
Tel: 011-31-20-601-9111
Fax: 011-31-20-601-3123
Contact: H.N.J. Smets

Doing Business in the Netherlands

The Dutch market continues to be an outstanding business arena for American firms, both as an end market and as a means of entry into the rest of Europe (including Eastern Europe and the CIS). The Netherlands is a nation of traders and Europe's single most important distribution center. Over 50 percent of American exports into the Netherlands are transhipped to the rest of Europe and beyond. The Dutch and European markets are receptive to a very wide range of American products. American industrial goods, as well as consumer goods, are popular and possess a reputation for quality.

Cultural Norms and Procedures

Dutch business culture closely parallels the American business culture. The Dutch seek to get down to business quickly. They can be very direct, blunt, and honest, and also very practical. A handshake can seal an agreement. Dutch business persons can be tough negotiators, but once a deal is made, it almost always is kept, preferably on a long-term basis under "win-win" conditions for them and their business partners. They are generally conservative, seeking to develop a close, personal business relationship on a gradual basis.

Obstacles to Doing Business

Relatively few trade complaints are registered by American firms against Dutch firms. The Dutch tendency to support a level playing field in trade matters and their depth of experience in trade positions them as the genuine "neutral" traders of Europe. American companies looking to do business in the Netherlands, however, will come up against a complex business culture, in which companies, trade unions, government bodies, and industry associations engage in constant and close consultations. This comes, in part, from the traditional Dutch emphasis on achieving consensus and avoiding conflict in this small and densely populated country.

As mentioned above, there is also a growing trend, particularly in larger government procurement, to "buy European" if not Dutch. This has been especially true in recent defense procurement where there has been true Dutch or European competition. The Dutch consider themselves to be good Europeans and, from a practical point of view, they see political advantages in buying European, especially when all else is relatively equal in a bid competition. In this regard, local representation is almost essential for American companies hoping to have a real chance to win major government contracts. A joint venture with a Dutch or European partner may, in some cases, improve the U.S. company's competitive position. U.S. firms looking to compete on Dutch government procurement are again reminded that they should contact the commercial section at the U.S. Embassy early on in the process for guidance, particularly if there are political or level playing field issues which might arise.

Export Control Issues

For information on export control issues, contact the U.S. Embassy or the following Dutch ministry.

Ministry of Economic Affairs
Division for Strategic Trade and Sanctions
Directorate General for Foreign Economic Relations
30, Bezuidenhoutseweg
2500 EC The Hague
Tel: 011-31-70-379-6209

Import Licenses

Only a small number of goods of U.S. origin require import licenses, including some arms and munitions products. Licenses are generally rapidly granted for goods of U.S. origin. However, while licenses are not transferable, they may be used to cover several shipments within the total quantity authorized. In general, the goods involved are indicated on the license by the harmonized system classification number and the corresponding wording of the tariff position. Merchandise may be examined by the importer before customs clearance for the purpose of making an inventory. Goods cannot clear customs without shipping documents and payment of any customs duty, applicable value added taxes, and any excise taxes. These formalities must be undertaken by the importer at the time of clearing customs. Import licenses, if required, should be presented by the importer within the period for which they were issued.

Shipments to the Netherlands require one copy each of the bill of lading (or air waybill) and the commercial invoice for customs clearance. There are no consular requirements, but certificates of origin may be required.

Temporary Entry

Goods may clear customs with an EU transit procedure that provides for the issuance of a single transit document under which the goods may be easily shipped across frontiers of the EU member states. These transit documents are completed by the importer for a freight forwarder engaged for the purpose. The transit document provides the basis for a single, comprehensive procedure covering the goods within the Union. Since this is an EU procedure, the European importer, Customs House Broker, Freight Forwarder, or Shipper must prepare these documents at point of entry.

Teaming with Local Firm or Representative

American companies looking to do business in the defense sector in the Netherlands need a local representative, agent or distributor or a local presence to be successful. This statement is true almost without exception. Since the Netherlands represents a compact market, foreign firms customarily have one exclusive representative for the entire country, but it is common for the representative to appoint subagents to cover certain sectors of the market if sales volume and profit margin warrant.

While it is important to obtain specific legal advice on appointing an agent or distributor, there are some general guidelines that should be followed. All agent agreements should be in writing and state if it is an exclusive arrangement. Termination of the relationship is the single main area that most frequently causes problems for American exporters. Generally, the civil codes protect the interests of the representative. In the absence of termination provisions in a written agreement, the law provides for a minimum notice of termination of four months. Parties may agree to other terms, provided the notice of termination is not less than one month and up to 6 months, depending on the duration of the agency relationship. An agreement with a definite period terminates on the agreed expiration date. If the parties continue to operate under the agreement after that date, the agreement is usually deemed extended for a further identical period but not for more than a year. If the American principal wants to terminate the relationship, notice

of termination should be given even with definite term contracts.

The termination of an agreement without the required notice makes a principal liable for compensation. The agent could seek to claim the amount of the commissions that would have been earned during the termination period or for the amount of actual damages suffered. In exceptional cases, and only for just cause (such as competition or fraud), an agreement may be terminated without notice provided the other party is immediately advised of the reason. In such cases, the courts may be requested to terminate the contract.

At the expiration or termination of an agreement, by whatever means, an agent who has increased the value of the business is entitled in principle, to an adequate remuneration which cannot exceed the average of the commissions in one year. Such claims by agents are subject to an expiration term of one year. Before entering into any agreement with a partner, the American principal should first review the provisions of Dutch law with a qualified attorney. The legislation regarding unilateral termination of distribution agreements is designed to provide the local distributor with some degree of protection and monetary compensation when an agreement is terminated by the grantor, for reasons other than cause. The legislation will apply regardless of any clause in the agreement itself, and the parties may not deviate from the legislation as long as the distribution agreement is in force.

Intellectual Property Protection

The Netherlands has legislation for the protection of patents, trademarks, and industrial designs. It is a member of the Paris Union, which adheres to the international convention for the protection of industrial property. Detailed information and applications for patents, registration of trademarks, and for design protection should be obtained from:

European Patent Office
Patentlaan 2
2288 EE Rijswijk (ZH)
Tel: 011-31-70-340-2040
Fax: 011-31-70-340-3016

The Netherlands is also a signatory to the European Patent Convention, which provides for a centralized European-wide patent protection system. The European Patents Act of 1977 provides increased legal protection, a patents court, and guidelines for compensation of an inventor. The European Patent Convention has simplified the process for obtaining patent protection in the EU member states. Under the European convention, an applicant for a patent is granted a preexamined 15-year, nonrenewable European patent that has the effect of a national patent in all 16 countries that are signatories of the convention, based on a single application to the European Patent Office. This procedure should expedite the granting of patents. However, infringement proceedings remain within the jurisdiction of the national courts, which could result in some divergent interpretations. For information, write to:

The European Patent Office

Motorama-Haus
Rosenheimer Strasse 30
Munich, Germany.

U.S. Government Points of Contact

Listed below are helpful U.S. points of contact for U.S. firms interested in the Dutch market.

U.S. Embassy

Commercial Counselor
U.S. & Foreign Commercial Service
American Embassy
Lange Voorhout 102
2514 EJ The Hague
Tel: 011-31-70-3109-417
Fax: 011-31-70-363-2985

Col. Ronnie Lewis
Office of Defense Cooperation
American Embassy
Lange Voorhout 102
2514 EJ The Hague
Tel: 011-31-70-3109-282, Fax: 011-31-70-364-8330