

Labour and Environmental Sustainability

Dutch Report

by
Miriam Kullmann

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Executive summary

Despite the doctrinal emphasis on the need to create synergies between labour and environmental sustainability, the dominant interest is social-economic sustainability rather than environmental sustainability. This interest is also represented, to some extent at least, by the tripartite body, the Social-Economic Council, in which the social partners and independent (academic) members have a seat and advise the government and the parliament on social-economic questions.

The Council is an institutionalised form of what is known as the generic approach for collaborative and consultative decision-making between relevant stakeholders, also referred to as the (socio-economic) Polder Model, which was seen as the Dutch miracle in the late 1970s. Issues on sustainability are explored and developed, always, however, on the basis of consensus among the represented stakeholders (social partners and independent (academic) members). Nevertheless, even though in its reports and advice the SER refers to sustainability and the environment, it usually refers to social-economic sustainability rather than environmental sustainability, the latter seemingly reserved for environmental organisations and associations.

Viewing the legal framework based on which industrial relations in the Netherlands is organised and given form, the scope of collective bargaining agreements is generally not limited to employment and working conditions interpreted in a narrow way, i.e. the more traditional areas dealt with in individual and collective agreements. Rather it could be argued that employment and working conditions, through health and safety, decently paid jobs, and the idea of facilitation a just transition, could cover also those topics that, so far at least, have been left outside of collective agreements.

Exploring the role of social partners and addressing the question to what extent collective agreements contain provisions on sustainability (not only social-economic, but environmental as well), it can be concluded that there are hardly provisions that can be framed in terms of promoting sustainability. But apart from the outcomes of collective bargaining, social partners engage with their members and beyond as well as the businesses where they work in order to focus attention on environmental issues. Nevertheless, clearly, employment is still a crucial cornerstone of a trade union's business, even though the environment is particularly important where industries or sectors are causing (long-term) health problems (and with some time delay) for workers.

Overall, however, looking at the role of social partners makes clear that caring for the environment is possible and is necessary. But it takes quite some effort and a convincing strategy. It can also be a way to increase the trade union's legitimacy by increasing member numbers.

While a lot is already being done by social partners on the environmental side, the question though remains whether linking environmental sustainability with economic and social sustainability is enough without rethinking and redesigning the current economic model key of which is to promote economic growth and social and environmental protection are subordinated to that.

1. Introduction and research design

This project is aimed at discussing and analysing how and why (environmental and social) sustainability as a universal goal can become relevant to (collective) labour regulation. With this in mind, this national report aims to shed light into the role sustainability, and in particular social and environmental sustainability, may and does have in the context of collective bargaining in the Netherlands. Viewing the overall policy development, where social partners actively contribute to policy-formation through tripartite consultation bodies, sustainability, especially the past years, has gained increasing attention. This report looks into the relation between work or employment and environment and whether that link can be found not only in the policy strategies of the social partners, but also whether there are collective agreements in which environmental provisions and thus sustainability have been integrated. In particular, it addresses the trade-off between labour and the environment.

Against this background, section 2 of the national report starts with providing policy perspectives on social, economic, and environmental sustainability, reviewing some of the Dutch literature relevant for the nexus labour-environment. For the academic debate in the Netherlands addressing the linkages between labour and environment has not (yet) been established, the main focus will be on systematising the regulatory framework and the public and private institutions that shape policies at national level in particular. Sustainability, so far, has not been incorporated as a legal principle that has to be taken into account when regulating work.

Section 3 then will briefly continue with an overview of the key characteristics of collective bargaining in the Netherlands. While collective bargaining is, following its legal regulation, not necessarily linked to a strict interpretation of employment and working conditions, the practice has developed to interpret the role of collective bargaining to everything that is related to labour and work in a narrow meaning. Only through the environmental ‘crisis’, that has been heavily debated over the past years, and the fear of job losses and environmental damages for the health of the workers as citizens, the largest Dutch trade union realised the necessity to also look into environmental concerns more closely.

For labour regulation in the Netherlands is silent on environmental sustainability in the context of labour and work, the question is to what extent, in the practice of the

social partners, it has become a key feature when defining policies and collective bargaining strategies. Therefore, section 4, will present the results of semi-structured interviews with social partners, and in particular with the largest trade union federation and some of their sectors in the Netherlands, and will provide some provisions found in collective agreements that are displayed to show how ‘green’ working and employment conditions may look like.¹ This serves to complement the report so far with further information. While the interviewees included both employers’ and workers’ representatives, the key employers’ association was not available, hence a related organisation has been interviewed. The interviews were conducted between April 2019 and January 2020 by the author and three student assistants. Annex 2 provides the list of people interviewed. Unlike the Italian report notes, no focus group discussion has taken place to gain in-depth understanding of the research topic. However, the early results have been shared and discussed with social partners individually, whose input resulted in adding and reshaping the draft report’s content.

The last section recaps the main findings of the report and concludes.

¹ I would like to thank Rik van den Beukel, Ingeborg de Koningh, and Dion Bulk (all from Leiden University) for excellent research assistance.

2. Policy Perspectives on Social, Economic, and Environmental Sustainability

This section starts with providing theoretical (legal) perspectives on labour and environmental sustainability, reviewing some of the Dutch literature relevant for the nexus labour-environment. Notably, the academic debate in the Netherlands addressing the linkages between labour and environment has not (yet) been established. Research for literature in various national databases and having contacted scholars that could be aware of literature in different disciplines led to the conclusion that, as interrelated areas of interest, labour and environmental sustainability has not yet entered Dutch labour law and industrial relations research. Therefore, the main focus will be on systematising the regulatory framework and the public and private institutions that shape policies at national level in particular. Sustainability, so far, has not been incorporated as a legal principle that has to be taken into account when regulating work.

One can only speculate about the exact reasons why the linkages between labour and environmental sustainability have not yet received proper attention. Possible explanations for this ‘gap’ could be that:

- the labour and environment are treated as different areas, with labour law on one side of the realm and environmental law on the other; and/or
- labour law scholars, for instance, very much focus on the doctrinal analysis of applicable labour regulations (focusing on the personal scope and thus the employment contract as an entrance ticket to labour law, social security, and pension protection). Within this group, only a few scholars address the statutory and collective regulation of occupational health and safety (as part of working conditions);² and/or
- social partners (that is trade unions and employers’ representatives) are part of the Social-Economic Council, a tripartite body, and through that engage in discussions and policy-making that addresses issues relating to labour and environmental sustainability. Scholarship therefore might think that this is

² See, e.g., H. VAN DRONGELEN, *Arbeidsomstandighedenrecht: Deel 1 – Een introductie* (Zutphen, Uitgeverij Paris, 2010); H. VAN DRONGELEN AND N.H. VEENDAM, *Arbeidsomstandigheden: Deel 3 – Certificering op het terrein van de arbeidsomstandigheden, een introductie* (Zutphen, Uitgeverij Paris, 2012); H. VAN DRONGELEN AND J.H. HOFSTEENGE, *Arbeidsomstandighedenrecht: Deel 5 – De Arboret geschetst* (Zutphen, Uitgeverij Paris, 2019).

more of a practical rather than theoretical concern, albeit there is much to say for labour law scholars to engage with environmental sustainability.³

Given the lack of academic research spanning the topic labour and environmental sustainability,⁴ we decided to provide some background information on the institutions that deal with socio-economic concerns, including labour regulations and bodies involved in collective bargaining and policy-making that are relevant for agreeing on working and employment conditions. In addition, we add a brief paragraph on the institutions that address environmental concerns. What can be said at this stage is that particularly at policy-level where the links between labour and environmental sustainability have been strongest.

With this in mind, this section is structured as follows. Providing background rules, the section starts with giving an overview of the main vision on labour and environmental sustainability at national policy level. This is relevant to understand the current Dutch position in the climate crisis and, related to this, where social partners play a role. In a next step, tripartite and bipartite institutions dealing the role of the tripartite and other institutions and how they relate to one another, among which the Social-Economic Council (*Sociaal-Economische Raad*), the Labour Foundation (*Stichting van de Arbeid*), the Federation of Dutch Trade Unions (*Federatie Nederlandse Vakbeweging*), the Federation of Netherlands Industry and Employers (*VNO-NCW*), and the works councils.

2.1. The National Policy Context

The ongoing climate crisis, and the Paris Agreement in all this, has led the Dutch government to take action at various levels and with regard to different topics. One

³ See, e.g., A. ZBYSZEWSKA, *Regulating Work With People and “Nature” in Mind: Feminist Reflections*, in *Comparative Labor Law & Policy Journal*, 2018, vol. 40, n. 9, 9-28; M. KULLMANN, *Promoting Social and Environmental Sustainability: What Role for Public Procurement?*, in *Comparative Labor Law & Policy Journal*, 2018, vol. 40, n. 109, 109-29.

⁴ Except where it concerns social and environmental clauses in public procurement (T.A. TERLIEN, D. SANTURIO GONZÁLEZ, *Duurzaam aanbesteden: hoe te komen tot een ‘groen werk’ in bouwteners?*, in *Bouwrecht*, 2018, n. 46, 229; S.J. PETIET, E. VERWEIJ, *Duurzaamheid en maatschappelijk verantwoord ondernemen bij aanbestedingen*, in *Bedrijfsjuridische berichten*, 2018, n. 30, 131; N. KOEMAN, A. KOEMAN, *Klimaatbeleid en mededinging*, in *Nederlands Juristenblad*, 2016, n. 93, 2372) and Corporate Social Responsibility (G.I.J.M. ZWETSLOOT, *Duurzaam werken en ondernemen in de kenniseconomie*, in TNO, *Kwaliteit van Leven*, 2008, 151-161).

body that has been playing an important role here is the Climate Council, the coordinating consultative body for reaching a national climate agreement. It consists of the chairpersons of the so-called sector tables⁵ and civil society organisations, and non-governmental organisations (NGOs).⁶ The core of the Climate Council is supported by workers'⁷ and employers' representatives,⁸ associations addressing environmental concerns or aimed at created sustainable energy supply,⁹ and public authorities and interests represented in associations.¹⁰ Not only is the Climate Council responsible for monitoring progress and cohesion and ensuring that cross cutting issues such as the labour market and training, innovation, funding and spatial integration are addressed, it also can make proposals for laws and regulations.

With a view to work, the Climate Agreement, presented to the House of Representatives on 28 June 2019,¹¹ refers to the Social-Economic Council's Report on 'Energy Transition and Employment' (2018),¹² containing seven guidelines for a future-oriented education and labour market, addressing:

- integrated human capital agendas (eg, the Technology Pact in the healthcare sector);
- translating national and sectoral agreements into regional economic agendas;
- modular and responsive education;

⁵ The sector tables brought together organisations and companies to make a concrete contribution to CO₂ emissions, to actively encourage others to participate and also by emitting less CO₂ and coming up with solutions. The following sector tables exist: electricity, built environment, industry, agriculture and land use, and mobility. See www.klimaataakkoord.nl/organisatie/hoe-het-klimaataakkoord-tot-stand-kwam/sectortafels.

⁶ See www.klimaataakkoord.nl/organisatie/klimaatberaad.

⁷ Christian National Trade Union Confederation (CNV, *Christelijk Nationaal Vakbond*), Federation of Dutch Trade Unions (FNV, *Federatie Nederlandse Vakbeweging*).

⁸ Federation of Netherlands Industry and Employers (VNO-NCW). As industry association, MKB-Nederland (Royal Association SMEs) represents the interests of SMEs.

⁹ Dutch Renewable Energy Association (NVDE, *Nederlandse Vereniging Duurzame Energie*), Greenpeace, Young Climate Movement (*Jonge Klimaatbeweging*), Friends of the Earth Netherlands (*Milieudefensie*), Nature and Environment (*Natuur en Milieu*).

¹⁰ Interprovincial Consultation (*Interprovinciaal Overleg*), Association of Dutch Water Boards (*Unie van Waterschappen*), and Association of Dutch Municipalities (VNG, *Vereniging van Nederlandse Gemeenten*).

¹¹ For an English version of the text see: www.klimaataakkoord.nl/documenten/publicaties/2019/06/28/national-climate-agreement-the-netherlands.

¹² See on the potential effects of the energy transition: PLANBUREAU VOOR DE LEEFOMGEVING, *Effecten van de energietransitie op de regionale arbeidsmarkt - een quickscan*, 21 March 2018, www.pbl.nl/publicaties/effecten-van-de-energietransitie-op-de-regionale-arbeidsmarkt-een-quickscan.

- an all-inclusive approach to make better use of available labour potential (eg, increasing workforce participation among women, people with a disability, others that are distanced from the labour market);
- good and fair employment conditions;
- improving information on regional and sectoral labour markets to prepare for the future needs of the labour market; and
- compensating for job losses.

Reading how the parties have specified the seven guidelines, it becomes clear that emphasis is put on making sure that individuals are well-equipped to participate in the labour market (with a particular view to the effects of the energy transition) and that the future labour market can host economically active individuals. This must be understood against the background of the Climate Agreement's ambitions for specific sectors, such as the built environment, mobility and industry, to improve sustainability (*duurzaamheid*). The focus therefore is much on the labour supply side rather than on the climate aspects involved in labour and the labour market, resulting in sustainability becoming to mean sustainable employability.¹³

In the most recent Government's Coalition Agreement from 2017, the idea of a sustainable future for the Netherlands is expressed and explored,¹⁴ referring to the following subjects: climate and energy, transport and mobility, gas extraction, agriculture, food, nature, fisheries and animal welfare, and the quality of the environment. Aiming for an ambitious climate policy, the Government's plans are, in line with the Paris Agreement, to reduce CO₂ emissions, and by making the built environment, i.e. making housing more sustainable, and transport more sustainable by introducing a greener tax system and tapping new sources of energy. Notably, regarding the CO₂ reductions, the Dutch state has been sued in court for the environmental organisation Urgenda asking the Dutch court to rule that the current reduction efforts do not go far enough, at least until the end of 2020, and demands that the State be ordered to limit Dutch greenhouse gas emissions in such a way that the total volume of these emissions by the end of 2020 will be reduced by 40%, or at least 25%, compared to the year 1990. The court in the first instance, upheld in appeal, ordered the State to reduce greenhouse gas emissions at least 25% by the

¹³ Climate Agreement 2019, 216.

¹⁴ Coalition Agreement 2017-2021, *Confidence in the Future*, 41-51.

end of 2020.¹⁵ Urgenda's claims were based on Articles 2 and 8 ECHR in conjunction with Article 6:162 Dutch Civil Code on tort.

Measures that have an impact on the market and most likely also the employment situation of many workers concern, e.g., the phasing out of coal-fired power plants by 2030 while designating more sites for offshore wind power, exploring new forms of building-specific finance that makes energy-saving measures an attractive option for individual homeowners encouraging the construction sector to develop innovative ways to make housing more sustainable. In the context of passenger transport, a measure that most likely has an impact on employment is the use of autonomous vehicles in combination with the development of new mobile applications and route planners. In addition, the goods transport sector will face limitations by requirements that induce the use of quieter goods trains. With regard to the maritime and inland shipping sectors, a sectoral Green Deal has been drafted.¹⁶ Within the agricultural sector, sustainable food supply is an aim to achieve, likely having an impact on current farming strategies.

Apart from that, at state level, sustainability has been made an issue that is dealt with by the Netherlands National Institute for Public Health and the Environment (RIVM), as part of the Ministry of Health, Welfare and Sport.¹⁷ RIVM has developed a tool to assess sustainability for a diverse group of stakeholders. The 'sustainability method selection tool' contains a palette of 17 topics that indicate sustainability in a holistic way: no poverty and zero hunger, good health and well-being, quality education, gender equality, clean water and sanitation, affordable and clean energy, decent work and economic growth, industry, innovation and infrastructure, reduced inequalities, sustainability cities and communities, responsible consumption and production, climate action, life below water, life on land, peace, justice and strong institutions, and partnerships for the goals.¹⁸

¹⁵ Only available in Dutch: <https://uitspraken.rechtspraak.nl/inziendocument?id=ECLI:NL:GHDHA:2018:2591>. Here a summary in English: www.urgenda.nl/en/themas/climate-case/climate-case-explained.

¹⁶ See on this Green Deal: www.greendeals.nl/green-deals/green-deal-zeevaart-binnenvaart-en-havens. Other Green Deals can be found here: www.greendeals.nl/green-deals.

¹⁷ See on the organisation's website: www.rivm.nl/onderwerpen. See what they do with the idea of sustainability: www.sustainabilitymethod.com/themes and www.metenvanduurzaamheid.nl.

¹⁸ See www.sustainabilitymethod.com/themes.

2.2. The Principle of Sustainable Development

The ongoing climate crisis, and the Paris Agreement in all this, has led the Dutch government to take action at various levels and with regard to different topics. One body that has been playing an important role here is the Climate Council, the coordinating consultative body for reaching a national climate agreement. It consists of the chairpersons of the so-called sector tables¹⁹ and civil society organisations, and non-governmental organisations (NGOs).²⁰ The core of the Climate Council is supported by workers'²¹ and employers' representatives,²² associations addressing environmental concerns or aimed at created sustainable energy supply,²³ and public authorities and interests represented in associations.²⁴ Not only is the Climate Council responsible for monitoring progress and cohesion and ensuring that cross cutting issues such as the labour market and training, innovation, funding and spatial integration are addressed, it also can make proposals for laws and regulations.

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¹⁹ The sector tables brought together organisations and companies to make a concrete contribution to CO₂ emissions, to actively encourage others to participate and also by emitting less CO₂ and coming up with solutions. The following sector tables exist: electricity, built environment, industry, agriculture and land use, and mobility. See www.klimaataakkoord.nl/organisatie/hoe-het-klimaataakkoord-tot-stand-kwam/sectortafels.

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²⁷ Climate Agreement 2019, 216.

²⁸ Coalition Agreement 2017-2021, *Confidence in the Future*, 41-51.

appeal, ordered the State to reduce greenhouse gas emissions at least 25% by the end of 2020.²⁹ Urgenda's claims were based on Articles 2 and 8 ECHR in conjunction with Article 6:162 Dutch Civil Code on tort.

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²⁹ Only available in Dutch: <https://uitspraken.rechtspraak.nl/inziendocument?id=ECLI:NL:GHDHA:2018:2591>. Here a summary in English: www.urgenda.nl/en/themas/climate-case/climate-case-explained.

³⁰ See on this Green Deal: www.greendeals.nl/green-deals/green-deal-zeevaart-binnenvaart-en-havens. Other Green Deals can be found here: www.greendeals.nl/green-deals.

³¹ See on the organisation's website: www.rivm.nl/onderwerpen. See what they do with the idea of sustainability: www.sustainabilitymethod.com/themes and www.metenvanduurzaamheid.nl.

³² See www.sustainabilitymethod.com/themes.

Social Dialogue: the Social Economic Council

The Social Economic Council of the Netherlands (SER), founded in 1950 pursuant to the Dutch Industrial Organisation Act (*Wet op de bedrijfsorganisatie*)³³, consists of representatives of employers and employees as well as independent (academic) experts. The SER is an independent body that advises the government and parliament on the outlines of (inter)national social and economic policy and on important legislation in the social and economic sphere³⁴. The SER is an institutionalised form of what is known as the generic approach for collaborative and consultative decision-making between relevant stakeholders, i.e. employers' and employees' representatives and the government (Dutch neo-corporatism). This is also referred to as the (socio-economic) Polder Model which became known in the context of the Dutch transition in the late 1970s from being a problem child to a 'miracle',³⁵ receiving international attention. While it is contested whether the Polder Model as such provides an explanation of the economic success in the Netherlands, it can be said to (still) provide a constructive platform to discuss and find workable solutions which are supported by the various stakeholders involved.³⁶

This consensus approach has served as an example for creating what in the literature became known as the 'Green Polder Model', a platform where environmental policies are addressed by other actors, than those participating in the traditional socio-economic Polder Model³⁷, including environmentalist organisations. Yet, even though officially there is no Green Polder Model, the SER comprises of employers' representatives³⁸ and employees' representatives³⁹ and the government, and, in addition, of environmental organisations,⁴⁰ advisory members,⁴¹ the

³³ See for the Dutch text: www.ilo.org/dyn/natlex/natlex4.detail?p_lang=en&p_isn=69194&p_classification=02.

³⁴ SOCIAAL-ECONOMISCHE RAAD, *Sociale ondernemingen: een verkennend advies*, 2015, 2.

³⁵ L. KARSTEN, K. VAN VEEN, A. VAN WULFFTEN PALTHE, *What Happened to the Popularity of the Polder Model? Emergence and Disappearance of a Political*, in *International Sociology*, 2008, n. 23, 35. One key incident that is often referred to as 'the beginning' of the Polder Model is the Agreement of Wassenaar from 24 November 1982 in which employers' and employees' representatives agreed – although non-binding – on stimulating employment growth, wage moderation and job creation, whereas the government took action by agreeing on tax cuts.

³⁶ P. GLASBERGEN, *The Green Polder Model: Institutionalizing Multi-Stakeholder Processes in Strategic Environmental Decision-Making*, in *European Environment*, 2002, 303, 306.

³⁷ *Ibid.*, 307-308.

³⁸ VNO-NCW / MKB Nederland.

³⁹ FNV, VCP (*Vakcentrale voor Professionals*, Trade Union federation for Professionals), and CNV.

⁴⁰ *Milieudefensie* (Friends of the Earth Netherlands),

⁴¹ e.g., Topsector Energie, Energy Research Center The Netherlands (ECN).

Netherlands Environmental Assessment Agency,⁴² and ministerial representatives⁴³. Therefore, *de facto* it can be said that the current practice in the Council reflects a ‘green socio-economic polder model’.

Although socio-economic issues have been dominating the Council’s agenda, the impact and role of the environment, including issues in relation to sustainability, started to increase with its Advice on the report ‘Our Common Future’, published on 17 March 1989. Reacting to the 1987 Brundtland Report, the Government wanted the SER to provide answers to the question what ‘sustainable development’, as defined in the Brundtland report, would mean for the Dutch production and consumption pattern, how Dutch businesses can assume its responsibilities for sustainable development in their international activities (e.g., raw materials, trading activities, development cooperation and the EC’s internal market).⁴⁴

At this stage, it is helpful to briefly summarise how the Council, as follows from its advice and reports, (implicitly) defines the notion ‘sustainability’. We only refer to a few selected pieces of advice produced by the Council (through its committees) between 1989 and 2018.

Acknowledging that the market mechanism (in 1989) does not lead to a societally optimal result, the Council argues that it is not only the state bearing responsibility of the environment, but that this is for businesses (i.e., employers and employees) and consumers.⁴⁵ Sustainability (*duurzaamheid*) in the 1989 Advice is explored with a view to changing the quality of economic growth and reorienting technology⁴⁶ whereas merging environment and economics in decision-making⁴⁷ will provide a main thread. The Council stresses that an objective such as maintaining the balance in the ecological system is of a higher order and takes precedence over socio-economic policy.⁴⁸ Consequently, the Council proposes to

⁴² PBL is the national autonomous research institute for strategic policy analysis in the fields of the environment, nature and spatial planning. It is part of the Dutch Government organisation, more specifically, the Ministry of Infrastructure and Water Management. See: www.pbl.nl/en/about-pbl.

⁴³ Ministry of Economic Affairs and Climate Policy (EZK) and Ministry of Social Affairs and Employment (SZW).

⁴⁴ This report was prepared by the Working Group Brundtland and the Working Group International Social-Economic Affairs. SER, *Our Common Future*, March 1989, Publication n. 6, www.ser.nl/-/media/ser/downloads/adviezen/1989/beleid-milieu.pdf, 7.

⁴⁵ Id. 10-11.

⁴⁶ Referring to strategic imperatives 2 and 6 of the BRUNDTLAND REPORT.

⁴⁷ Referring to strategic imperative 7.

⁴⁸ SER, *Our Common Future*, cit., 53.

integrate economic and ecological concerns, emphasising that without changing the current policy, environmental problems in Western and in developing countries will increase.⁴⁹ Therefore, the Council sees sustainable development as sustainable economic growth within the meaning of ecologically sound or adaptable growth (*ecologisch verantwoorde of inpasbare groei*).⁵⁰ Achieving this depends not only on appropriate statutory and administrative regulation, but also on employers and employees. The Council basically refers to sustainable employment (*werkgelegenheid*) which it assumes only will be possible through sustainable economic development in a sustainable living environment (*leefmilieu*).⁵¹ The SER notes that it is unable to say something specific about the effects of sustainable development on the production and consumption patterns, for some environmental quality objectives (*milieukwaliteitsdoelstellingen*) have not been formulated yet and it sees itself not in the position to evaluate these objectives.⁵²

A similar tone can be detected in the Council's Advice on 'Nature for People, People for Nature', published in 2001, emphasising that the main objective is to preserve, restore, develop, and make sustainable use of nature and landscape as an essential contribution to a liveable and sustainable society.⁵³ It justifies policies addressing the state of nature and places it within the framework of the socio-economic objectives, which includes promoting balanced economic growth, within the framework of the pursuit of sustainable development. The latter means that future generations are offered sufficient opportunities to achieve prosperity in the broadest sense of the word. Social welfare consists of the total benefit that people (individually and/or collectively) derive from dealing with scarce resources that can be used in an alternative way. There is a need for a different relationship between economic and ecological components; only then will sustainable development really come into the picture.⁵⁴

More recently, in April 2018, the Council explicitly addressed the impact of the energy transition (*energietransitie*)⁵⁵ on employment and the employability of

⁴⁹ Id. 98.

⁵⁰ Id. 99.

⁵¹ Id. 105.

⁵² Id. 106.

⁵³ SER, *Natuur voor mensen, mensen voor natuur*, Advies 01/05, 2001 www.ser.nl/-/media/ser/downloads/adviezen/2001/natuur-mensen.pdf, 5.

⁵⁴ Id. 21.

⁵⁵ See on this also: SER, *Energieakkoord voor duurzame groei*, Rapport, September 2013 <https://www.ser.nl/-/media/ser/downloads/overige-publicaties/2013/energieakkoord-duurzame-groei.pdf>.

employees.⁵⁶ Given that coal-fired plants will close over the next few years, and there will be less labour demand in the oil and gas sector, the question is how to ensure that the workers currently employed in these sectors (the majority of which are aged 45-plus and male). This is in particular pertinent where the newly emerged and emerging sectors taking part in the energy transition do not have a collective agreement, are paying less, are using fixed-term employment contracts, and are lacking training budgets.⁵⁷ The question thus is why employees currently employed in the ‘old’ sectors should make a transition to the ‘new(er)’ sectors. To change this, businesses in the offshore wind industry are in a social dialogue with FNV,⁵⁸ to ensure new quality jobs in the energy transition, particularly guaranteeing quality employment conditions (remuneration, employee participation, development opportunities) and quality working conditions (working environment, safety and health requirements).⁵⁹ This requires a targeted social policy for the labour market,⁶⁰ focusing in particular on establishing and, as also referred to in the Climate Agreement mentioned earlier, offering regional training possibilities.⁶¹ Starting from the idea of sustainable energy supply, sustainability here comes to mean socio-economic sustainability, linking making the energy transitions with the employability of staff.

Moreover, in September 2019, the SER issued an Advice on the relationship between the United Nations’ Sustainable Development Goals (SDGs) and

⁵⁶ SER, *Energietransitie en werkgelegenheid: Kansen voor een duurzame toekomst*, Advies 18/03, April 2018 www.ser.nl/-/media/ser/downloads/adviezen/2018/energietransitie-werkgelegenheid-publieksversie.pdf.

⁵⁷ Id. ch. 3-7.

⁵⁸ Id. 20. See also: www.fnvwaterbouw.nl/2018/07/10/fnv-waterbouw-fnv-havens-en-itf-inspectors-willen-intensievere-samenwerking-in-offshore-wind; www.fnv.nl/nieuwsbericht/algemeen-nieuws/2019/10/maatschappelijk-relevant-werk-profileringskans-voor, with a link to www.nvde.nl/wp-content/uploads/2019/10/Motivacion-Aantrekkelijk-werkgeverschap-resultaten-B5042.pdf on becoming an attractive employer through concluding collective agreements.

⁵⁹ SER, *Energietransitie en werkgelegenheid: Kansen voor een duurzame toekomst*, Advies 18/03, April 2018 www.ser.nl/-/media/ser/downloads/adviezen/2018/energietransitie-werkgelegenheid-publieksversie.pdf, 50.

⁶⁰ See on this also SER, *Governance van het energie- en klimaatbeleid*, Advies 17/05, 2017, 15 www.ser.nl/nl/adviezen/energie--en-klimaatbeleid.

⁶¹ SER, *Energietransitie en werkgelegenheid: Kansen voor een duurzame toekomst*, Advies 18/03, April 2018 www.ser.nl/-/media/ser/downloads/adviezen/2018/energietransitie-werkgelegenheid-publieksversie.pdf, ch. 7.

International Corporate Social Responsibility (IMVO).⁶² The basic tenor is that companies can make an important contribution to many SDGs, for example by encouraging sustainable production, striving for living wages and developing relevant new products and services, ultimately leading to global sustainable development. Ownership of companies to improve the situation of people and the environment is possible via International Corporate Social Responsibility (CSR).⁶³ Complying with the UN Guiding Principles and the OECD guidelines is a precondition for receiving financial government support for international trade and investment activities and for participation in trade missions.⁶⁴ According to the Council, all companies should take their responsibility to comply with the UN Guiding Principles and OECD guidelines, which in turn offer opportunities to develop sustainable business models and successful entrepreneurship.⁶⁵ Sustainability here is framed as making economic models sustainable and ensure sustainable business models.⁶⁶

Besides in the SER, the Dutch social partners come together in the Labour Foundation (*Stichting van de Arbeid*), a national consultative body in which the three peak trade union federations and three peak employers' associations in the Netherlands take part.⁶⁷ Basically, it is a forum for its members to discuss labour and industrial relations issues and to prepare memorandums, statements or other documents where recommendations for the collective bargaining procedures. Like the Social-Economic Council, also the Labour Foundation can be asked to give advice. Given the Foundation's narrow field of action, it does not deal with labour and environmental issues unless the two topics are or become explicitly part of the bargaining on employment conditions.

⁶² SER, *Kansen pakken en risico's beheersen: Over de samenhang tussen de SDG's en IMVO*, Advies 19/13, September 2019 www.ser.nl/-/media/ser/downloads/adviezen/2019/sdg-imvo.pdf.

⁶³ Id. ch. 2 and 3. See also: SER, *Ontwikkeling door duurzaam ondernemen*, Advies 11/10, September 2011 www.ser.nl/-/media/ser/downloads/adviezen/2011/ontwikkeling-duurzaam-ondernemen.pdf.

⁶⁴ Id. 8.

⁶⁵ Id. 13.

⁶⁶ Id. 62.

⁶⁷ VNO-NCW, the Koninklijke Vereniging MKB-Nederland, the Federatie Land- en Tuinbouworganisatie Nederland (LTO), the Federatie Nederlandse Vakbeweging (FNV), the Christelijk Nationaal Vakverbond (CNV), Vakcentrale voor Professionals (VCP).

3. Characteristics of Dutch Industrial Relations

3.1. The Social Partners

In general, it can be said that the Dutch system of industrial relations is characterised by a rather harmonious relationship between the employers' and employees' representatives, preferring a climate of industrial peace by adopting a strategy of conflict avoidance.⁶⁸ In order to do so, different discussion forums have been established to foster exchange, cooperation and collaboration between the social partners: at cross-sectoral level, the bipartite Labour Foundation (*Stichting van de Arbeid*) and the tripartite Social-Economic Council (*Sociaal-Economische Raad*), as described with in section 2 above, and, at sectoral level, other joint bodies and collective bargaining practices, as well as works councils (*ondernemingsraden*) at company level.

At a more institutional level, industrial relations are characterised by social partner involvement in various organisations. The Labour Foundation was established on 17 May 1945 as a national consultative body organised under private law. It consists of three peak employers' associations, which are the Confederation of Netherlands Industry and Employers (VNO-NCW)⁶⁹ as the largest employers' organisation in the Netherlands), the Federation of Agriculture and Horticulture Organisation of the Netherlands (LTO)⁷⁰, and the Royal Association SME-Netherlands (*Koninklijke Vereniging MKB-Nederland*)⁷¹. On the employees' side, the following three peak trade union federations are represented: the Federation of Dutch Trade Unions (FNV)⁷², the Christian National Trade Union Confederation (CNV)⁷³, and the Trade Union Federation for Professionals (VCP)^{74,75}. Established in 1950, the Social-

⁶⁸ A. JACOBS, *Netherlands*, in *International Encyclopaedia for Labour Law and Industrial Relations*, Wolters Kluwer, 2015, 38. Following Articles 19 and 20 Dutch Constitution (*Grondwet*), the legislator has the duty to provide regulations on the legal position, judicial protection, co-determination and entitlements to social security. Embedding this in the Constitution also implies that existing regulations, such as the Act on Collective Agreements, are protected against withdrawal.

⁶⁹ Basic information in English can be found here: www.vno-ncw.nl/over-vno-ncw/english.

⁷⁰ Basic information in English can be found here: www.lto.nl/english.

⁷¹ Basic information in English can be found here: www.mkb.nl/over-mkb-nederland/english.

⁷² Basic information in English can be found here: www.fnv.nl.

⁷³ Information is only available in Dutch: www.cnv.nl.

⁷⁴ Basic information in English can be found here: <https://vcp.nl/english>.

⁷⁵ All three employers' and employees' organisations are represented in the Social-Economic Council as well, together they are expected to reflect the society and the economy of the Netherlands.

Economic Council's role is to advise the Dutch Government and Parliament on social and economic policy. In doing so, other organisations, such as municipalities, nature-conservation and environmental organisations, patient organisations and the Consumer Association (*Consumentenbond*) may be consulted when preparing recommendations or in doing projects. Unlike FNV, AWVN is not a direct member in the Social-Economic Council, but is to some extent through membership represented by VNO-NCW.⁷⁶

Among the trade unions, different ideological streams have been developed, with FNV currently as the largest trade union federation in the Netherlands. Trade union membership in the Netherlands is, with almost 20%, quite low.⁷⁷ In 2018, as follows from a study, there were 176 regular sectoral collective agreements and 475 company collective agreements (in total 651). Around 3,67 million employees were covered by a generally binding regular sectoral collective agreement and 1,47 million by a non-generally binding one. As to the company collective agreements, they covered 481,800 employees.⁷⁸ The reason why there are *de facto* and *de jure* more employees covered by a collective agreement is threefold:

- employers are legally obliged to treat their employees equally and, by way of Article 14 Act on Collective Agreement (see below), they are required to apply the collective agreement applicable to them also to all those they employ;
- many employment contracts contain incorporation clauses determining that a certain collective agreement applies to the employment contract; and
- declaring a collective agreement generally binding.

As said, FNV is the largest federation with approximately one million employee-members in a broad range of sectors and branches. As follows from its 2018 Statutes, FNV, in order to look after the interests of its members, is organised in sectoral departments and networks, which also includes looking after the interests of its members as stakeholders in pension funds.⁷⁹ In its Statutes, tasks concern encouraging a societally responsible and useful production of the provision of goods and services, a responsible use of natural sources and the natural

⁷⁶ The members of the Social-Economic Council are available here: www.ser.nl/nl/ser/over-ser/wie-zitten-er-in-de-ser.

⁷⁷ See for some, although a bit older, data: www.cbs.nl/nl-nl/nieuws/2018/25/bijna-eeen-op-de-vijf-werknemers-lid-van-eeen-vakbond.

⁷⁸ In total 5,62 million were covered. See on the data: www.uitvoeringarbeidsvoorwaardenwetgeving.nl/mozard/document/docnr/55242.

⁷⁹ Article 4.1 *Statuten Federatie Nederlandse Vakbeweging*, 27 June 2018. Available here: www.fnv.nl/over-de-fnv/wie-we-zijn/statuten-reglement-en-grondslag.

environment/surroundings realising their vulnerability and finiteness, the right of all to a mental and physical healthy living and working climate.⁸⁰ As FNV is based on membership, it is the members that influence and determine FNV's overall policy. Nevertheless, FNV is said to be an association of and for members and primarily an interest group of and for workers (and for those who want to work and for those who no longer work).⁸¹ FNV consists of an overall institution that is responsible for everything concerning the association as such, whereas the sectoral branches of FNV undertake the collective bargaining at sectoral and company level.⁸²

In its multi-year policy plan 2017-2021, FNV stresses that in the context of climate change a more sustainable economy and a new balance between environmental and employment interests is needed. One problem FNV faces is that some of its members are still employed in the 'old' economy, where changes will occur and where FNV sees for itself a role in finding a new position in newly developed and developing sectors. Similarly, in its Association Plan 2014-2017, it is stated that FNV envisions a sustainable management of the earth, and a socially justified solution of the impact of global environmental policy on work.

Following FNV, the environment, earth warming and energy transition are areas related to the interests of workers and sectors, as they (may) have an impact on employment and working conditions. Key driver seems to be the statement, which has been captured also by ETUC⁸³, that there are no jobs on a dead planet. FNV is aware of the fact that trying to balance between environmental and employment/work interests can be contradictory. As workers experience the impact of climate change in two ways, namely at work and in their living environment, one main task for FNV is to assess the effects and interests on work and income, which is and remains the core business of FNV. Most notably, however, FNV is concerned about the fact that a sustainable economy not necessarily creates decent jobs and aims to contribute to the transition of those workers in the old economy so that they will find a job in the new economy⁸⁴.

⁸⁰ Article 4.2. sub j, k and l, *Statuten Federatie Nederlandse Vakbeweging*, 27 June 2018.

⁸¹ FNV-VISIE KLIMAATBELEID EN ENERGIETRANSITIE, October 2018, 4.

⁸² See for an overview of the sectors represented within FNV: www.fnv.nl/cao-sector.

⁸³ See, e.g., ETUC, *Climate justice: There are no jobs on a dead planet*, 2015, available at: http://agreement.adapt.it/?page_id=295.

⁸⁴ See also www.ituc-csi.org/kitty-jong-fnv-netherlands?lang=en.

What is interesting is, when reading the FNV's position documents⁸⁵, that it engages with questions on the environment and work at various levels (international, national, and local), developing visions and statements, trying to get the employees' interests and perspectives on the agenda. An important means is, as has been set out earlier, to give advice on environmental (and work) issues as a member of the Social-Economic Council⁸⁶. We will look at FNV's role in collective bargaining in section 4 below.

On the employer side, VNO-NCW is the largest employers' organisation in the Netherlands and represents the common interest of Dutch business, both at home and abroad, offering a variety of services to its 160 (branch) members (covering in total 185.000 enterprises). Almost 80% of the medium-sized companies in the Netherlands are covered and nearly all larger corporations.⁸⁷

3.2. The Legal Regulation of Collective Agreements

Collective bargaining is built around the idea of consensus building at all levels in the socio-economic area (known as the *poldermodel*).⁸⁸ Three acts support the system of collective bargaining in the Netherlands:

- the Act on Collective Agreement from 1927 (*Wet op de collectieve arbeidsovereenkomst*),⁸⁹
- the Act on Declaring the Provisions of Collective Agreements to be Generally Binding and Non-binding from 1937 (*Wet op het algemeen verbindend en het onverbindend verklaren van bepalingen van collectieve arbeidsovereenkomsten*),⁹⁰ and
- the Act on Works Councils from 1950 (*Wet op de ondernemingsraden*).⁹¹

Importantly, collective agreements only bind the employers or their representatives signing the agreement and employees through their representatives (Article 9(1) Act on Collective Agreement) and through other instruments (incorporation clauses

⁸⁵ FNV *Visie Klimaatbeleid en Energietransitie*, October 2018.

⁸⁶ E. BOS, *Inhoudelijke achtergrondnotitie FNV (staand) beleid Klimaat en Energie*, 21 June 2018, 1; www.ituc-csi.org/kitty-jong-fnv-netherlands?lang=en.

⁸⁷ <https://www.vno-ncw.nl/over-vno-ncw/english>.

⁸⁸ A. JACOBS, *op. cit.*, 38.

⁸⁹ Stb. 1927, 415.

⁹⁰ Stb. 1937, 801.

⁹¹ Stb. 1971, 54.

and declaration of generally bindingness) also non-members. Most of the provisions of sectoral collective agreements can be and are declared generally binding (*erga omnes*), which means that many employers, without being a member of the signatory party or having signed the agreement themselves, are bound to apply it.⁹² Once a business is covered by the personal and material scope defined by the collective agreement, it will be subject to that agreement. Companies in the Netherlands usually are bound either by a sectoral collective agreement or by a company collective agreement. However, concluding a company-level collective agreement, however, cannot escape an *erga omnes* sectoral collective agreement, unless an exemption is applied for and being granted, which is only the case where the application of a sector collective agreement cannot reasonably be requested from an undertaking.⁹³ Parties can ask to be exempted from a generally binding collective agreement, but only if they already are bound by a collective agreement, the parties must be independent, and there are serious reasons, such as the specific business characteristics that differ in essential respects from the undertakings that are included in the scope of the collective bargaining agreement, that application of the collective agreement cannot be required.⁹⁴

A collective agreement is defined as an agreement entered into by one or more employers or one or more associations with full legal capacity of employers and one or more associations with full legal capacity of employees (i.e. trade unions), whereby mainly or exclusively the terms and conditions of employment are regulated, to be complied with in employment contracts.⁹⁵ Notably, the Act stipulates further that a collective agreement may also concern contracts for work (*aanneming van werk*) and contracts for services (*overeenkomst van opdracht*). The provisions of this Act relating to employment contracts, employers and employees shall then apply *mutatis mutandis*. Even though a collective agreement aims at regulating the terms and conditions of employment, the Supreme Court (*Hoge Raad*) has ruled that the strict interpretation thereof as was intended when enacting the Act on Collective Agreement cannot reflect the current state (1987 at the time of the ruling) and that it therefore should and could be interpreted more broadly

⁹² See for general information on collective agreements in the Netherlands the website of the Government: <https://business.gov.nl/regulation/cao>. Recent developments on the conclusion of collective agreements and the level of wage increase can be found here: <https://cao-kijker.awvn.nl>.

⁹³ A. JACOBS, *op. cit.*, 268.

⁹⁴ See the Assessment framework General binding Declaration of collective bargaining provisions (*Toetsingskader Algemeen Verbindend Verklaring CAO-bepalingen*), available at: <https://wetten.overheid.nl/BWBR0028909/2017-09-23>.

⁹⁵ Article 1(1) Act on Collective Agreement.

than originally intended.⁹⁶ According to the Supreme Court, an increasing number of subjects related to employment conditions were and are regulated by collective agreements without being part of the actual employment conditions themselves. As a result, the Court ruled that, e.g., fund and contribution schemes as part of a collective agreement are often agreed for a longer period than the duration of the actual employment conditions stipulated in that agreement with the result that the fund and contribution scheme may continue to be in force during a period in which collective agreement provisions concerning actual employment conditions are no longer in force. Moreover, in connection with the development described, it is also important to note that the passages from the legislative history, taken together, show that the intention is to leave room for further developments. Finally, and more generally, the social partners enjoy a large freedom to organise the scope and application of their collective agreements, the duration of which may not exceed five years.⁹⁷ To what extent this means that collective agreements can address sustainability is unclear. Nevertheless, it could be argued that as long as this is related to the workers' health and well-being, which expands beyond the workplace in the traditional sense, there seems to be no reason to exclude provisions that address social and environmental sustainability.

Notably, company agreements cannot be declared generally binding. A collective agreement can be *erga omnes* for at most two years (Article 2(6) Act on Declaring the Provisions of Collective Agreements to be Generally Binding and Non-binding). The provision in question must, by its very nature, fit into a collective agreement, i.e. it must concern matters which, according to their subject matter and purport, lend themselves to be included in a collective agreement.⁹⁸ In general, this means that only normative provisions can become generally binding, while obligatory provisions, i.e. provisions that regulate the relationship between the contracting parties, cannot. Moreover, a provision cannot be declared generally binding if it violates any law and regulation (e.g., minimum wage regulations) or general principles.

3.3. Workers' Representation at Company Level

The Works Councils Act exists in the interest of the company in all its objectives, including environmental objectives. Works councils play an important role in the

⁹⁶ See, for instance, HR 30 January 1987, n. 12854, NJ 1987/936 (*Van Velden*).

⁹⁷ Article 18 Act on Collective Agreement. A. JACOBS, *op. cit.*, 258.

⁹⁸ GRAPPERHAUS/JANSEN, Article 2(6) Wet AVV, para. 3.

undertaking, especially where the law stipulates that for certain proposed decisions, the endorsement (*instemming*) of the works council is needed, which is the case for, e.g.: working time, health and safety at work, and staff training.⁹⁹ Endorsement is not needed when it concerns an individual employee. Moreover, no endorsement is needed, if collective agreements already regulate a topic, Article 27(3) Act on Works Councils determines that no consent by the works council is needed, reflecting the primacy of the collective agreement and the role of the social partners. Besides, works councils and employers may conclude contracts with employers where the law grants the possibility to derogate from it. Such agreements, however, do not directly bind the employees; only in case the employment contract refers to such an agreement.

Under the Act on Works Councils, works councils have two particular roles: first, to ensure the proper consultation and representation of the persons that work in the undertaking and, second, as a body that serves the interests of the proper functioning of the undertaking with respect to all its objectives.¹⁰⁰ Apart from that, works councils have the duty to ensure that the rules on non-discrimination are observed. In the context of Article 25(1) Works Councils Act, the works council will have to take the initiative itself to include environmental criteria in an advisory report¹⁰¹. However, frictions may occur because of the inclusion of environmental issues by the works council, which can lead to adverse effects on employee participation. Employment effects occur on a short-term whereas environmental implications have long-term effects. Moreover, employment arguments may trump the polluter-pays-principles. At the same time, it is quite difficult to pinpoint at individual polluters. In addition, difficulties arise as there has to be a balance between individual versus general interests.¹⁰² Also, works councils are, by law, required to promote the care for the environment, including the adoption or amendment of policy, organisational and administrative provisions relating to the environment.¹⁰³ During consultation meetings, which are to take place within two weeks after either the works council or the entrepreneur has made a reasoned request, between the works council and the entrepreneur.¹⁰⁴ Meetings have to address matters relating to

⁹⁹ Article 27 Act on Works Councils.

¹⁰⁰ Article 2(1) Act on Works Councils.

¹⁰¹ *Ibid.*, 22.

¹⁰² LE BLANSCH, *Betrokkenheid van werknemers bij bedrijfsinterne milieuzorg: Een verkenning van een nieuw terrein van medezeggenschap*, in *Tijdschrift voor Arbeidsvraagstukken*, 1991, p. 18-27.

¹⁰³ Article 28 Act on Works Councils.

¹⁰⁴ Article 23 Act on Works Councils.

the undertaking, a notion that is interpreted broadly and can concern social, organisational, economic and financial concerns.¹⁰⁵

The works council can further monitor the company's measures taken to care for the environment in the following ways¹⁰⁶:

- sustainable purchasing;
- sustainable mobility;
- supervision of sustainable building by the company by the works councils;
- assessing the extent to which sustainable energy use is realistic for the company;
- specific attention to the environment

¹⁰⁵ This is more specified in Articles 23(4), 25(4), 27(2) and 30(3) Act on Works Councils.

¹⁰⁶ J. KOOISTRA, *De bevorderende en bewakende taak van de ondernemingsraad: Verkenning van artikel 28 van de Wet op de Ondernemingsraden*, CAOP, 16 December 2016, 13-21.

4. The Responses of Dutch Industrial Relations to the Environmental Crisis

Interviews were held, with employees' representatives working with FNV (one at federation level¹⁰⁷ and two at company level¹⁰⁸) and one with an employers' representative affiliated to AWWN¹⁰⁹. We approached another employers' association, VNO-NCW, who is also a member of the Social-Economic Council, but they informed us that they were not interested in participating in this research.¹¹⁰

The (preparation of the) interview(s) (questions) were structured according to the following categories: topic (indicating the main area to be discussed), subtopic (more specific topic to be addressed) and specified questions. These questions were intended as guidelines for the interviews, leaving enough room to have an open conversation and allow our interview partners to share their views, opinions and experiences freely. Following these semi-structured interviews, we were able to gain insights into the social partners' practices in terms of policy-making and collective bargaining when it comes to social and environmental sustainability. Preliminary results have been presented and discussed during a workshop held at AIAS Amsterdam on Thursday 24 October 2019.

In the remainder of this section, we will provide insights into the extent to which and how social partners address issues around social and environmental sustainability. It will first set out the visions, policies, and strategies they adopt. In a second step, it will give examples of some collectively bargained provisions (see Annex 1, below), as mentioned by the interviewees and as complemented by own-desk research, on social and environmental sustainability. On a general note, it can

¹⁰⁷ Caroline Rietbergen (senior policy advisor and member of the taskforce on employment and training, which is part of the climate summit, *Klimaatberaad*) and Marie-Therèse Rooijackers (policy advisor (energy) transition and (regional) labour market).

¹⁰⁸ Birte Nelen (director FNV Luchtvaart, covering the aviation industry and in particular KLM Cabine crew, Transavia Cabine crew, Transavia Ground staff, and Schiphol airport) and Joost van Doesburg (campaign leader at Schiphol for FNV) as well as Hettie Kijzers (director FNV, representing workers' interests within the process industry and in particular DSM, a global, purpose-led, science-based company active in Nutrition, Health and Sustainable Living).

¹⁰⁹ Geert de Bruin, policy advisor AWWN.

¹¹⁰ Nevertheless, following their website, VNO-NCW can be said to engage in promoting a 'greener world', albeit it does not provide in-depth information on their strategy in doing so. See, e.g., VNO-NCW, *Benut voorsprong en maak Nederland koploper groene waterstof*, 2 July 2019, www.vno-ncw.nl/nieuws/benut-voorsprong-en-maak-nederland-koploper-groene-waterstof?

utm_source=Nieuwsbrief_VNO-NCW&utm_campaign=nieuwsbrief&utm_medium=e-mail.

be said that before the interviews took place, we assumed that social partners, and in particular the trade unions, do care about and do address social and environmental sustainability in their work, be it in outlining their visions and policies and/or in agreeing on legally enforceable provisions laid down in collective agreements. The interviews clarified that sustainability, meaning to care for the environment while sustaining employment, indeed is visible in the trade union vision, strategy, and policy formulation but not that explicitly in specific provisions in collective agreements.

Therefore, in what follows, it becomes clear that the trade union side has developed a quite coherent and strategic approach in dealing with social and environmental sustainability at various levels (international, European, national, regional, sectoral, company), compared with that of the employers'/business side that has been interviewed. It should be noted at this point that we only were able to interview one business representative which means that this does not and cannot reflect a general position on how employers perceive and act with a view to sustainability. Moreover, the actions taken by FNV at federation and sectoral level are visible in online media, which we will draw on as well to supplement what has been said during the interview. The employers' side, represented only by AWWN, has no official vision on environmental sustainability and is, unlike FNV, not quite outspoken when it comes to sharing its opinion about social and environmental sustainability. For the report that follows, there is thus an imbalance as to the information that can be shared and compared on social and environmental sustainability, the FNV's position clearly dominating here. Where possible and necessary, the interviews have been supplemented by or linked to additional information, partly mentioned in other parts of the report above, to provide a coherent picture.

4.1. Social Partners: Their Visions, Policies, and Strategies

There certainly is an awareness of the relationship between labour and environment and the need to engage with social and environmental sustainability, either explicitly or implicitly, in the work of social partners. Interestingly, FNV used to have a policy advisor specialised in environmental issues, and also responsible for other areas, until his retirement in 2004 (*milieueconoom*). Initially, this resulted in the sectors being expected to take up environmental issues themselves. However,

after some years a policy advisor from FNV¹¹¹ received the task to address environmental concerns within the Federation until her retirement in 2018. Since then, FNV has two policy advisors at federation level.¹¹²

Climate change, climate mitigation and adaptation, the circular economy, sustainable development are core interests of FNV and at sectoral level, as FNV aviation mentioned, environmental or climate concerns slowly but increasingly play a role also amongst its member-employees (the so-called *achterban*). Within DSM, represented by FNV process industry, a global and science-based company active in Nutrition, Health and Sustainable Living, there is an extensive awareness of in particular the health and well-being risks involved through initiatives that make working at the workplace safer. Overall, as FNV is, a trade union, aimed at improving work and working and employment conditions for employees at large, an important concern is and will remain that of employment, while at the same time increasing the awareness amongst employees and employers of the importance of the environment. There certainly are potential clashes between short-term interests (i.e. the retention of jobs) and long-term interests of a wider range of society in environmental protection from pollutants emanating from industry.¹¹³ Therefore, even though, as a trade union, the core business is employment and income (i.e., the labour market), FNV is very active in and supportive of these areas since they affect and will affect the labour market and the Dutch economy as a whole. It can be observed that since 2006, FNV is very much involved in addressing social and environmental concerns.

In doing so, FNV exchanges views and strategies and, to some extent also, collaborates closely with environmental organisations, among which Greenpeace, Friends of the Earth (*Milieudefensie*)¹¹⁴, and Nature and Environment (*Natuur & Milieu*)¹¹⁵.¹¹⁶ During the interviews with representatives from FNV aviation and FNV process industry it was confirmed that at sectoral and company level, there are frequent meetings with environmental organisations, whereby the stakeholders on the employees' and consumers' or citizens' side have been able to establish a

¹¹¹ E. BOS, *op. cit.*

¹¹² Caroline Rietbergen and Marie-Therèse Rooijackers.

¹¹³ T. NOVITZ, *The Paradigm of Sustainability in a European Social Context: Collective Participation in Protection of Future Interests?*, in *IJCLLIR* 2015, vol. 31, n. 243, 247.

¹¹⁴ See <https://en.milieudefensie.nl>.

¹¹⁵ See www.natuurenmilieu.nl/english.

¹¹⁶ Mentioned in an interview with Kitty Jong, vice president FNV: Arbeid & Milieu, Speech Kitty de Jong (FNV) op MO*Talks, 14 June 2019, <https://arbeidenmilieu.be/2019/06/14/speech-kitty-jong-fnv-op-motalks>.

culture where an open debate is possible. This does not necessarily mean that the stakeholders' interests are aligned, but it does mean that they can discuss them with each other and that opposing perspectives are being heard. Although environmental organisations mainly address the interests of the environment, while trade unions focus on employment and decent working and employment conditions, these sometimes (seemingly) opposed interests can be aligned by, for instance, taking small steps to limit the impact of polluting industries on the health and well-being of employees as well as the environment and climate.

In response to the question to what extent labour and environment are topics that are relevant to businesses, the AWWN interviewee responded that unlike FNV they have no environmental officers or advisors. This, to some extent, explains what is key for the organisation, namely to provide services to their member-companies. Moreover, it seems that only if their member-companies are being exposed to deal with environmental issues, AWWN will assist them in giving advice. Even though AWWN has not 'institutionalised' sustainability strategy, partly because it is not part of their core business, it does not mean that the organisation does not address environmental sustainability where it is relevant to its company-members. Most relevant, as the interviewee of AWWN told, are safety issues on the work floor, a topic that is also, of course, of key concern to FNV.

In the Netherlands, employees' and employers' representatives agree on sector- or company-specific health and safety standards in so-called 'health and safety catalogues' (*arbocatalogi*). These catalogues contain ways in which the employer and its employees (will) comply with the statutory regulations on healthy and safe working, such as the maximum noise level. In particular, the catalogues describe techniques and ways, good practices, standards and practical manuals for safe and healthy working.¹¹⁷ Apart from health and safety issues, what, in some companies that act on a global scale, appears to receive also attention is the role of corporate social responsibility (*maatschappelijk verantwoord ondernemen*, MVO), but also here 'hard' environmental concerns are only addressed marginally, as this would be an area where other experts have a role to play.

As was mentioned earlier, collective bargaining and collective agreements, mainly or exclusively regulate the terms and conditions of employment to be complied with in the employment contract.¹¹⁸ It is because of this provision, that the tasks of the

¹¹⁷ An overview of such catalogues can be found here: www.arboportaal.nl/onderwerpen/arbocatalogi.

¹¹⁸ Article 1(1) Act on Collective Agreement.

social partners have usually been interpreted so as to limit the scope of collective agreements to employment and working conditions, understood in a traditional way, and only through, for instance, occupational health and safety, also addressing environmental concerns. Thus, the environment being only of concern as a derived interest. This is, however, the legal doctrinal point of view.

What is interesting in this context, however, is that according to FNV's Statutes, its task has been defined as contributing to a socially responsible and meaningful production and supply of goods and services, the responsible use of natural resources and the natural environment, recognising that their vulnerability and finiteness, and the right of every person to a mentally and physically healthy living environment.¹¹⁹ No comparable provision can be found in the Statutes of AWWN, except that the aim of the association is to promote the interests of employers in the social-economic area, offering a network for employers and providing advice to its members on employership.¹²⁰ In what follows, we will continue with predominantly outlining FNV's overall development in including environmental sustainability in their policies and strategies. This will be supplemented by a company-level trade union perspective in the aviation sector (hence referred to as FNV aviation) and in the process industry (hence referred to as FNV process industry).

FNV represents in the first place, but certainly not only, its members, who are also part of the body that may have influence on what policies and strategies FNV should adopt. As follows from the interview, FNV has adopted a two-way approach (through its members and through the SER) to deal with climate issues. In the first place, there is a working group on climate that takes a sectoral approach and who will draft a vision in case of new(er) relevant topics, which will be presented to their 'member parliament' (*Ledenparlement*)¹²¹. If that is in accordance with the FNV member parliament's vision, a note or brochure, such as Vision Climate Policy and Energy Transition (*Visie Klimaatbeleid en Energietransitie*) from October 2018, will be published. The note or brochure serves as a mandate for FNV's members parliament to act. For instance, before the start of a SER advisory process, FNV makes an introductory note, which is concluded with its member parliament and, if present, a sounding board group from FNV's member parliament, on the points it wants to bring in for discussion. In the second place, FNV represents the interests of employees in the Social-Economic Council where it is part of the larger body

¹¹⁹ Article 4.2(j), (k) and (l) Statute. FNV's current statute can be downloaded here: www.fnv.nl/over-de-fnv/wie-we-zijn/statuten-reglement-en-grondslag.

¹²⁰ Article 1:3 Statutes. Available here: www.awvn.nl/over-ons.

¹²¹ On the member parliament see: www.fnv.nl/over-de-fnv/wie-we-zijn/ledenparlement.

drafting advice on, for instance, the energy transition. Before giving advice, FNV will consult with the respective focus group established for various sectors that FNV represents through collective bargaining. This focus group will, upon request, give detailed comments as to whether particular information is missing or whether information should be taken out in the drafts produced by the SER.

An important role for FNV to make its opinions being heard is during meetings that take place within the SER. As said earlier, one task of the SER is to prepare and write reports and advice to the government. Even though FNV has, between 1990 and 2005, been concerned with company-level environmental protection, where environmental issues are interconnected with working conditions, such as health and safety, since 2005, there has been an increased involvement in taking issues around the environment more seriously in FNV's work at a more macro or policy-making level, most notably as employee representatives in the SER. FNV's involvement in the Social-Economic Council has had a formative role to further shape and develop FNV's substantive position on climate, energy, and sustainability issues. Most notably, through the processes that have led to the following reports and advice (in chronological order):

- 'Towards a promising and sustainable energy policy' (2006)¹²²,
- 'Nuclear energy and a sustainable energy supply' (2008)¹²³,
- 'More chemistry between green and growth' (2010)¹²⁴,
- 'Energy agreement for sustainable growth' (2013)¹²⁵,
- 'Working on a circular economy' (2016)¹²⁶, and
- 'Energy transition and employment' (2018)¹²⁷.

¹²² SER, *Naar een kansrijk en duurzaam energiebeleid*, December 2006, Publication n. 10, www.ser.nl/-/media/ser/downloads/adviezen/2006/duurzaam-energiebeleid.pdf.

¹²³ SER, *Kernenergie en een duurzame energievoorziening*, March 2008, Publication n. 2, www.ser.nl/-/media/ser/downloads/adviezen/2008/kernenergie-duurzame-energievoorziening.pdf.

¹²⁴ SER, *Meer chemie tussen groen en groei: De kansen en dilemma's van een biobased economy*, December 2010, Publication n. 5, www.ser.nl/-/media/ser/downloads/adviezen/2010/biobased-economy.pdf.

¹²⁵ SER, *Energieakkoord voor duurzame groei*, September 2013, www.ser.nl/-/media/ser/downloads/overige-publicaties/2013/energieakkoord-duurzame-groei.pdf.

¹²⁶ SER, *Werken aan een circulaire economie: geen tijd te verliezen*, June 2016, Publication n. 5, www.ser.nl/-/media/ser/downloads/adviezen/2016/circulaire-economie.pdf.

¹²⁷ SER, *Energietransitie en werkgelegenheid: Kansen voor een duurzame toekomst*, April 2018, Publication n. 3, www.ser.nl/-/media/ser/downloads/adviezen/2018/energietransitie-werkgelegenheid.pdf.

Apart from the more institutionalised forms of ‘environmental activism’, FNV has defended its vision quite strongly in the heavily debated the Climate Agreement (*Klimaataakkoord*), adopted on 28 June 2019. The Climate Agreement is the Dutch implementation of the Paris Agreement and, in general, contains national climate goals aimed at reducing greenhouse gas emissions in the Netherlands by 49% compared to 1990.¹²⁸ Starting in February 2018, more than 100 parties have contributed to compose a coherent package of proposals to reduce greenhouse gas emissions until 2030. As was made clear by Kitty Jong, vice president of FNV, FNV basically supports the goals of the Paris Agreement, thereby noting that they do so without compromises and with a view to facilitating transitions in the labour market by enabling employees to undergo retraining, reskilling and training.¹²⁹ In addition, FNV aims to ensure a fair transition, meaning that the costs that are involved in making an energy transition are fairly shared and not only or predominantly shifted to the employees. Nevertheless, although FNV and others principally were supportive of the Climate Agreement, when a preliminary draft of the Climate Agreement was proposed in December 2018, FNV¹³⁰ and five environmental organisations announced at a press conference that they would not sign the Climate Agreement the way it was framed at that time, doubting whether the measures would be able to achieve the climate target.¹³¹

But what were the main concerns that were not properly addressed according to FNV? With a view to the central objective of the Climate Agreement, as the text mentions, climate touches on everyday life, the transition that is going to be made is first and foremost a social transition. Citizens and businesses are faced with a series of decisions that affect how we live, travel, what we eat, the products we buy

¹²⁸ KLIMAATAAKKOORD, 28 June 2019, The Hague, www.klimaataakkoord.nl/documenten/publicaties/2019/06/28/klimaataakkoord.

¹²⁹ In terms of securing employment and considering improving employment in the energy sector, FNV and NVDE organised a seminar on 31 October 2019, stressing that there seems to be a need to make employees aware of their role they could play in making energy more sustainable and thus contribute to the larger good. However, to be attractive as employer, the energy sectors needs to offer employees a job perspective. J. KAGER, *Maatschappelijk relevant werk profileringskans voor energiesector*, 31 October 2019, www.fnv.nl/nieuwsbericht/algemeen-nieuws/2019/10/maatschappelijk-relevant-werk-profileringskans-voor. See the report www.nvde.nl/wp-content/uploads/2019/10/Motivaction-Aantrekkelijk-werkgeverschap-resultaten-B5042.pdf.

¹³⁰ This was decided by FNV’s board in consultation with both the climate working group and the sounding board group.

¹³¹ H. EKKER, *Milieuorganisaties, FNV: “dikke onvoldoende” voor klimaataakkoord*, 13 March 2019, <https://nos.nl/artikel/2275797-milieuorganisaties-fnv-dikke-onvoldoende-voor-klimaataakkoord.html>.

and how we earn our money.¹³² Especially ensuring a fair distribution of the costs of the energy transition is a sensitive aspect from the perspective of a trade union, and also one of the main drivers that led FNV not to sign the Climate Agreement in December 2018.¹³³ For FNV, the Climate Agreement in the form it was proposed lacked proper guarantees for employees, stressing the need to introduce a coal fund (*kolenfonds*), paid for by the state, for employees in the coal or gas extraction industries to facilitate the possibility of making a just transition. Part of the suggestions were to establish a coal fund to help employees making a transition or at least to compensate any income loss should a transition not be possible (anymore).¹³⁴ In addition, the coal fund could cover supplementary unemployment benefits or severance payments as well as retraining. One day later, however, it was announced on FNV's website that the state is willing to contribute financially to the establishment of a coal fund.¹³⁵

In June 2019, the SER published its advice 'National climate approach for regional industrial leaders'¹³⁶, emphasising a regional approach to reducing greenhouse gas emissions, strengthening the labour market and training policies, promoting innovation and charging for social costs. Key in all this is ensuring that costs should be equally shared and that purchasing power is maintained. In relation to developing a regional strategy, the SER suggests to define multi-year industrial leaders' programmes aimed at improving efficiency, sustainability and greenhouse gas emissions reduction. To ensure compliance with these programmes, the SER advises to appoint an international committee of experts which will assess the progress against the backdrop of existing best practices in other countries.

At the same time, FNV proposed to introduce a CO₂ tax (*CO₂-heffing*) in the Climate Agreement, a proposal which created some upheaval among undertakings

¹³² KLIMAATAKKOORD, 28 June 2019, The Hague, www.klimaatakkkoord.nl/documenten/publicaties/2019/06/28/klimaatakkkoord, 4.

¹³³ T. CALU, Speech Kitty Jong (FNV) op MO*Talks, 14 June 2019, <https://arbeidenmilieu.be/2019/06/14/speech-kitty-jong-fnv-op-motalks>.

¹³⁴ See, e.g., N. MARKUS, *Klimaatakkkoord zonder milieubeweging is flets en onbestendig*, Trouw, 20 December 2018, [www.trouw.nl/nieuws/klimaatakkkoord-zonder-milieubeweging-is-flets-en-onbestendig~bff4c877/?referer=https%3A%2F%2Fwww.google.com%2FandMilieuorganisaties en FNV tegen klimaatakkkoord, ondertekening gaat door](http://www.trouw.nl/nieuws/klimaatakkkoord-zonder-milieubeweging-is-flets-en-onbestendig~bff4c877/?referer=https%3A%2F%2Fwww.google.com%2FandMilieuorganisaties%20en%20FNV%20tegen%20klimaatakkkoord%20ondertekening%20gaat%20door), 6 August 2018, www.nu.nl/klimaat/5642636/milieuorganisaties-en-fnv-klimaatakkkoord-ondertekening-gaat.html.

¹³⁵ FNV, *Druk op kolenfonds heeft resultaat*, 21 December 2018, www.fnv.nl/nieuwsbericht/archief/druk-op-kolenfonds-heeft-resultaat.

¹³⁶ SER, 'Nationale klimaataanpak voor regionale industriële koplopers', June 2019, www.ser.nl/nl/Publicaties/nationale-klimaataanpak.

and their representatives and bringing to surface the power play between employees' and employers' representatives. As a fair distribution of the costs that result from the energy transition is part of FNV's overall aims, a CO₂ tax which would require undertakings to contribute to pay for reducing CO₂ emissions rather than putting the burden on the state to cover the estimated costs of EUR 500 million involved in this transition. It seems that, based on data, the ten largest CO₂ emitters emit more than all Dutch households together, while at the same time, companies who emit substantially received a discount the more they emit. Many companies as well as works councils of (large) companies that are located in the Netherlands (Esso/ExxonMobil Nederland, Tata Steel Nederland, Zeeland Refinery, Dow Benelux, OCI Nitrogen, BP Raffinaderij Rotterdam BV, Shell Raffinaderij, Shell Moerdijk, Yara Sluiskil, Sabic Limburg, Trinseo Netherlands BV, Indorama Ventures Europe) were strictly against introducing such a tax and putting the burden of the costs on undertakings.

As became clear during the interview with FNV, it seemed that the works councils of the undertakings referred to above predominantly believed in what the undertakings were saying, namely that such a tax system would cost (some) jobs mostly because undertakings would go bankrupt or foreign investors would decide not to invest in companies located in the Netherlands anymore and thus will leave.¹³⁷ The vice president of FNV, Kitty Jong, however, came with a counterargument and explained that if public money is spent on reducing CO₂ emissions the undertakings are not willing to pay for, that public money will not be available for education or care, sectors where also a lot of money is needed. FNV's guiding principle thus is to fairly share the burdens.

An interesting turn in this debate came when both the Netherlands Environmental Assessment Agency (*Planbureau voor de Leefomgeving*, PBL) and the Netherlands Bureau for Economic Policy Analysis (*Centraal Planbureau*, CPB) each presented their reports in March 2019 in which they estimated the potential effects of some of the measures that were proposed in the Climate Agreement.¹³⁸ The main tenor of

¹³⁷ See J. KAGER, *Werkgelegenheid belangrijk uitgangspunt bij de energietransitie*, 11 April 2019, www.fnv.nl/nieuwsbericht/algemeen-nieuws/2019/04/werkgelegenheid-belangrijk-uitgangspunt-bij-de-ene.

¹³⁸ Not all measures have been taken into consideration as the costs were expected to be marginal or costs involved are not enforceable. See for the reports: CENTRAAL PLANBUREAU, *Doorrekening ontwerp-Klimaatakkoord*, March 2019, available at www.cpb.nl/doorrekening-ontwerp-klimaatakkoord-en-kabinetsvarianten and PLANBUREAU VOOR DE LEEFOMGEVING, *Effecten ontwerp Klimaatakkoord*, March 2019, available at www.pbl.nl/publicaties/effecten-ontwerp-klimaatakkoord.

these reports is that the way it was framed and the measures it proposed as such were insufficient to meet the emission goals of the Paris Agreement. As a response to the outcome of the two reports, the government, on 12 March 2019, instead of sticking to a bonus-malus system, opted for a national CO₂ tax for the industry to be effectuated in 2021¹³⁹, as this would, most likely contribute to achieving the Paris Agreement goals and reduce emissions.¹⁴⁰

The importance of trade unions in actually contributing in realising climate plans should not be underestimated. But it should be noted that their role in addressing environmental concerns and thus sustainability takes place outside of the official collective bargaining and only to a very limited extent can be found in provisions agreed upon in (generally binding) collective agreements. Hence, trade unions rather keep relationships with environmental NGOs, government institutions, employers and their associations and works councils, seeking a platform to share concerns and ideas. This is seen as part of their tasks as a trade union and thus goes beyond the traditional role of concluding collective agreements. For example, to raise awareness in the roofing sector, a sector where people work outside, FNV developed a so-called Climate App to inform workers on the risks related to climate, providing useful tips on what workers can do in case of extreme heat. Also, it gives insights into what employers should do following the applicable collective agreement.¹⁴¹

During the interview, FNV mentioned an example of making a transition from generating electricity with coal to an alternative form. In this particular context, some companies situated in the Netherlands started to order wood chips from the Amazonian jungle to be used for biomass instead of coal. Instead of using tropical wood, FNV argued that local unused wood should be used, or that undertakings should install solar panels or use wind energy. When considering fewer polluting alternatives, the question is that if new ways of generating energy, such as geothermal energy, for instance are found, what risks are involved for employment and working conditions and safety. In order to assess the risks, FNV makes use of experts who are able to picture the consequences of certain decisions. It seems a dilemma that, on the one hand, ambitious goals should be formulated, while, on the

¹³⁹ See more specifically on the CO₂ tax: KLIMAATAKKOORD, 97-108.

¹⁴⁰ NOS, *Kabinet: minder energiebelasting voor burgers, toch CO₂-heffing bedrijven*, 13 March 2019, <https://nos.nl/artikel/2275799-kabinet-minder-energiebelasting-voor-burgers-toch-co2-heffing-bedrijven.html>.

¹⁴¹ ETUC, *Adaptation to Climate Change and the world of work: A Guide for Trade Unions*, 2020, available at www.etuc.org/en/adaptation-climate-change, p. 56.

other hand, such goals should be as realistic as possible.¹⁴² Nevertheless, it should be stressed that, as the Netherlands Environmental Assessment Agency (*Planbureau voor de Leefomgeving*) analysed in its report ‘Analysis of the proposal for an outline of the climate agreement’ (2018), it is impossible to predict the expected effect of the Climate Agreement without having concrete measures on how citizens and businesses can be motivated and stimulated to actually realise the proposed measures.¹⁴³

At sectoral and company level, there have been discussions for quite some years now on, inter alia, reducing CO₂ emissions in particular also in the aviation industry as the latter is seen as belonging to one of the polluting industries, thereby also referring to nitrogen oxide, particulate matter and noise, CO₂ and nitrous oxide. Overall, the aviation industry is expected to take responsibility in adopting environmentally friendly measures. There are figures pointing out that the aviation industry is responsible for 6.5 per cent of the total CO₂ emissions in the Netherlands.¹⁴⁴ Although it somehow seems that the aviation industry is left untouched in the discussion on taking appropriate measures, which has become visible during the farmers’ protests in 2019, it can be mentioned here that for years the industry is taking part in emissions trading. Moreover, the Dutch government in this regard plans to introduce a flight tax as of 2021, next to reducing the maximum speed on motorways as well as requiring farmers to trim the size of their herds.¹⁴⁵ Due to the Covid-19 pandemic, the aviation industry suffered immense losses following which the Dutch state provided financial assistance through state aid. State aid could secure jobs of many thousands of staff, in particular in times of economic difficulties. On Monday 14 September 2020, Greenpeace announced to lodge a claim against the government’s in return for billions of support not enough conditions are in place to combat climate change.¹⁴⁶

¹⁴² ETUC mentions for 2030 an objective of reducing 55% of the emissions, while FNV underlined, as was mentioned during the interview, that for a real discussion on the effects of realising this reduction, one should be realistic and concrete.

¹⁴³ M. HEKKENBERG AND R. KOELEMEEIJER (eds), *Analyse van het voorstel voor hoofdlijnen van het klimaatakkoord*, 28 September 2018, www.pbl.nl/publicaties/analyse-van-het-voorstel-voor-hoofdlijnen-van-het-klimaatakkoord.

¹⁴⁴ E.g., www.parool.nl/nederland/boeren-richten-hun-pijlen-op-aanpak-vliegtuigen~baf694a6.

¹⁴⁵ See on this, e.g., www.parool.nl/nederland/boeren-richten-hun-pijlen-op-aanpak-vliegtuigen~baf694a6.

¹⁴⁶ See on this, e.g., www.trouw.nl/binnenland/greenpeace-wil-via-rechter-miljardensteun-aan-klm-terugdraaien~b7061211.

Overall, as became clear during the interview with representatives of FNV active in the aviation industry, businesses consider the flight tax having more impact than flight shame (*vliegschaamte*) resulting in passengers not taking airplanes anymore. The opposite is the case. Current numbers show a growth in air traveling in the European Economic Area.¹⁴⁷ In this context, the representatives explained that their constituency, i.e. their members' views, has changed meaning that awareness of environmental problems in the aviation industry has become more prevalent among employees, replacing the initial resistance towards the topic that consumers should fly not anymore or at least fly less. Nevertheless, a not unimportant point is the fact that transitions in the aviation industry go quite slowly, mostly because of renewing or modernising the airline industry by, for instance, buying or leasing eco-friendly airplanes is a costly endeavour, especially also because airplanes due to their high prices have been designed for the long term.

Overall, however, linking sustainability (*duurzaamheid*) with the aviation industry, geographically located at Schiphol airport, goes not without any conflict. Nevertheless, by deciding to adopt a so-called campaign approach (*campagneaanpak*), FNV aviation actively seeks to have a conversation with employees working at Schiphol airport. Reaching out to some employees, however, has been quite difficult in the past, due to the fact that in the aviation industry, there have been (and still are) certain occupations of which employees were proud of. This included pilots and pursers, to name a few. Convincing individuals in those occupations that were reluctant in showing an interest in environmental issues therefore took some time and effort and has improved a great deal over the past years. That approach aims at grouping employees around specific themes (so-called 'issue flights') such as particulate matter, safe working or expanding Schiphol airport, whereby FNV aviation, as a trade union, serves as a catalyst empowering employees to cooperate and collaborate with the trade union to solve particular problems. The trade union thus sees itself as a union with an activating role, seeing its members as being the union. Through campaigning around specific themes, the trade union is able to bring in environmental concerns via typical employment matters. For instance, the issue of particulate matter is quite sensitive with regard to, on the one hand, safe working, and on the other hand, expanding the airport. One key argument used by the trade union then is to convince employers to – indirectly – also take measures that are not damaging to the environment and climate is to bargain for quality employment. As there is a large number of flexible staff working

¹⁴⁷ www.bloomberg.com/opinion/articles/2019-05-07/you-don-t-have-a-right-to-cheap-flights-abroad.

at Schiphol airport, with many from job-to-job transitions, the trade union asks for permanent job because these are safe jobs and also because knowledge of health and safety standards is more present in long-term work relationships rather than among temporary agency workers who frequently change jobs. Therefore, the idea is that the more fluctuation between jobs there is, the less safe it will be for employees, passengers, and citizens overall, increasing costs for employers.

Also, often, flexible jobs at Schiphol come with a poor income, thus there are calls for a fair pay of 130 per cent of the statutory minimum wage,¹⁴⁸ possible through making aviation more expensive so as to cover the increase in labour costs for employers. At the same time, FNV has bargained that employees working at Schiphol, partly because of the level of pay they receive, do not pay for public transportation or parking spaces when commuting to work. Moreover, in order to improve the situation of the flexible workforce, FNV's aim is to have a maximum of 20 per cent of the workforce in flexible work relationships. This campaign approach is unique within FNV and may serve as a best practice for other sectors. Currently, approximately 15.000 of 68.000 employees working at Schiphol airport, covering all businesses that are represented there, are members of FNV and the number is increasing because of the trade union's approach.

Addressing environmental concerns has been part of FNV's strategy within the process industry as well, and in particular with a view to DSM, for many years. These concerns relate to questions on working with dangerous substances, including hydrogen. What is relevant in this context is asking questions about how employees actually work and what they (can) do for their own safety. This has led to substantial improvements regarding health and safety at the workplace for this involved increased awareness among employees of the dangers involved. Ultimately, this also reduced the pollution. Understanding the relevance and perception of a healthy and safe workplace, one needs to delve into the business case of the company. DSM, unlike other undertakings, can be said to have actively made a transition away from bulk chemicals. Nevertheless, much of this transition has been and is dealt with by the (central) works council, which focuses on vitality, wellbeing and happiness in relation to working and employment conditions. Apart from the works council's strategies, FNV process industry at DSM aims at ensuring that employees receive the necessary training and education to work safely and

¹⁴⁸ As per 1 January 2020, the statutory minimum wage is 1.653,60 EUR per month, 381,60 EUR per week, and 76,32 EUR per day. The statutory minimum wage increases twice each year, in January and July. See for the most recent statutory minimum wage: www.rijksoverheid.nl/onderwerpen/minimumloon/bedragen-minimumloon/bedragen-minimumloon-2020.

healthy and that there is, at least to a certain extent, the option of career opportunities for employees, knowing that there is a limit for some employees. Career opportunities are organised together with human resources, as this often involves making investments for employees to be able to grow and make an actual transition. In the context of health and safety at DSM, FNV process industry adopts a long-term perspective. This is particularly relevant where working with dangerous substances can have effects on the health condition of employees, some of which will only be found out many years after having been exposed to such substances or even only when employees have already been retired and do face or understand the physical constraints involved, as is the case with infertility among men and women. Besides the health aspects that affect employees, employment is of particular importance, especially where there is the risk that production of certain substances will be relocated outside of the Netherlands. This limits employment opportunities, which is key to making a living, but it also shifts the environmental aspect of this industry to other countries. Nevertheless, overall, the jobs within DSM have become of high-quality in terms of employment and working conditions, including a healthier and safer workplace.

Before continuing with the study on the collective agreements, a final note on social partner activities beyond the Dutch frontiers. FNV is represented at European Union and international level. Via VNO-NCW, whereas AWWN is represented at European Union level through BusinessEurope.¹⁴⁹ While at European Union level, within the European Trade Union Confederation (ETUC), climate goals are being defined that are to be implemented at Member State level.¹⁵⁰ At international level, other issues are prioritised, such as assisting employees' representatives in establishing themselves and developing their own strategies, sometimes even outside the legal boundaries and sometimes by providing material assistance in case someone is in prison or discussing the situation of climate refugees that flee from Africa. FNV representatives in the aviation industry emphasised their active role in participating at international and European level employees' representatives, in particular International Transport Workers' Federation (ITF)¹⁵¹ and the European Transport Workers' Federation (ETF)¹⁵². There are usually, on average, two

¹⁴⁹ See www.buinessurope.eu/members.

¹⁵⁰ See on this ETUC POSITION, *Key demands to build a Just Transition and boost climate action after the EU elections*, adopted at the ETUC Executive Committee of 24 April 2019, www.etuc.org/en/document/etuc-position-key-demands-build-just-transition-and-boost-climate-action-after-eu.

¹⁵¹ www.itfglobal.org/en.

¹⁵² www.etf-europe.org.

meetings per year where the federations involved take place in coordinating their different international, European, and national strategies and actions. Often, the international and European federations ask for more specific regulations at various levels, but not necessarily in relation to the environment and climate.

4.2. Labour and Environmental Sustainability in Collective Agreements

As was defined in the project description, the report should also identify the most significant norms in collective agreements that have, direct or indirect, (external) environmental implications, such as wage setting mechanisms, job classification systems, working hours, teleworking opportunities, energy saving measures at the workplace, works councils' information and consultation rights, and health and safety measures. It should be stressed right in the beginning, that not all topics mentioned are dealt with in collective agreements, the latter only relating to employment and working conditions in a stricter sense. While FNV bargains sectoral collective agreements (which, in most cases, will be declared generally binding) and company collective agreements, AWWN usually bargains on company collective agreements signed by its member-undertakings.¹⁵³

Also, as AWWN explained, in the collective agreements they bargain on, only a few provisions on environment can be found and if there are provisions, they remain rather vague and abstract. It seems that, as FNV highlighted, also works councils can provide specific health and safety standards for the particular undertaking at hand, whereas more general safety standards and training will most likely be laid down in collective agreements. Other topics that could be dealt with by works councils is making agreements that oblige the undertaking to contract only with suppliers and customers that contribute to and commit themselves to sustainability or if an undertaking plans to reorganise its production by introducing new machines and working methods. The most important sectors in which environmental issues are important are the industry, including the metal sector, the energy sector, agriculture and horticulture, greenhouse construction, pig and cow farming and construction. One reason is that these sectors work with pollutant substances and another one is the high energy consumption in sectors such as agriculture and horticulture.

¹⁵³As follows from AWWN's website, more than 750 individual large and small companies, active in services, industry and the non-profit sector (including, e.g., Shell and Unilever, the Royal Dutch Football Association (*Koninklijke Nederlandse Voetbal Bond*, KNVB)), and industry organisations are affiliated with AWWN, together employing about five million people. See: www.awvn.nl/over-ons.

When exploring some of the collective agreements, either at sectoral or company level, that are concluded for employers and employees pursuing an activity in the Netherlands, we searched for the following terms: environment, sustainability, green, green employment and working conditions. What we found, however, is that hardly any of the explored collective agreements contains particular provisions included because of reasons related to social and environmental sustainability, conceived very broadly here. There are, however, particular provisions that, implicitly, contribute to social and environmental sustainability, albeit it should be noted that there is a huge discrepancy between FNV's environmental and social policy and strategy and what actually is regulated and included in collectively bargained provisions with the employers' side.

In addition to the collective agreements (at sectoral and undertaking level) that were suggested by the interviewees, we explored other collective agreements and found that most of them refrain from explicitly providing provisions that are related to the environment. However, we refer to provisions that either aim at contributing to environmental sustainability or that do the opposite (reimbursing the use of cars, for instance).

Overall, arrangements can be quite diverse, from a general environmental management system (*algemeen milieuzorgsysteem*), including corporate environmental plans (*bedrijfsmilieuplannen*) and training and awareness-raising, occupational safety reports (*arbeidsveiligheidsrapporten*), the establishment of safety committees. Safety is an important issue, in particular, in heavy and polluting industries where there are rules determining limits as to the exposure of dangerous substances (e.g., Cabot, Climax Molybdenum, Shell, Tata Steel).

Collective agreements sometimes refer to flexible working schedules or working from home, but the reason why they are offered are not environmental ones (e.g., PGGM). Moreover, not in all sectors addressed here, flexibility as to working time and the place of work, not allowing employees to stay at home. Another way to contribute to an eco-friendly climate would be to facilitate employees sharing a car or commute with public transportation, which happens in the construction industry, for example. Incentives in doing so are taken away where employees receive a net compensation of 0,19 EUR per kilometre for traveling between their home (e.g., Sodexo, DSM) and work or where taking a bicycle is discouraged by the comparatively small compensation paid (e.g., construction).

Those who decided to make use of public transportation, receive a public transport pass (*OV-abonnement*) for 2nd class (annual or monthly) tickets (e.g., PGGM, Sodexo). Some collective agreements contain provisions relating to ‘green working conditions’, for instance, encouraging employees to commute to work by bicycle. Business trips preferably should be undertaken by using public transportation, but in some cases, employees receive a higher reimbursement for business trips when using their own car. Other collective agreements limit the reimbursement of home-work travel costs, requiring employees to cover the costs that exceed the level of reimbursement while determining that compensation is only paid if the employee works at least four days at the workplace.

With regard to job functions, there are collective agreements providing specific tasks and duties for particular jobs in the sector (e.g., construction). Depending on the type of job an employee has, he may be(come) responsible, in a supervisory manner, to control whether the use of certain materials that are being produced meet the standards regarding quality, quantity, environment and safety. But apart from these kinds of provisions, sustainability, as said before, is not an issue that has been dealt with in collective agreements, but more at collective representation and bargaining level.

5. Discussion and Conclusions

Clearly, the climate crisis has been on the agenda in the Netherlands and also among the social partners, more prominently though within the largest employees' representative, the Federation of Dutch Trade Unions (FNV). An important tripartite body is the SER, an institutionalised form of what is known as the generic approach for collaborative and consultative decision-making between relevant stakeholders, also referred to as the (socio-economic) Polder Model, becoming seen as the Dutch miracle in the late 1970s. Within the SER, issues on sustainability are explored and developed, always, however, on the basis of consensus among the represented stakeholders (social partners and independent (academic) members). Nevertheless, even though in its reports and advice the SER refers to sustainability and the environment, it usually refers to social-economic sustainability rather than environmental sustainability, the latter seemingly reserved for environmental organisations and associations. This could be interpreted in a way that social and economic sustainability, in terms of keeping workers healthy and fit and educated and trained to participate in the labour market for as long as is possible as well as promoting economic growth, prevails over environmental concerns, even though not the least through a court proceeding in which the Netherlands state has been summoned to do more to reduce CO₂ emissions, climate is clearly an issue to be addressed.

Viewing the legal competences in terms of the scope of collective bargaining agreements, the legal provisions do not seem to limit the social partners to issues that relate to employment and working conditions only in a limited way. Rather it could be argued that employment and working conditions, through health and safety, decently paid jobs, and the idea of facilitation a just transition, could cover also those topics that, so far, have been left outside of collective agreements. It is easy to see, as can be argued, that a workforce that is healthy in a physical and mental meaning, not only is healthy at work but at home as well. This is particularly relevant, it can be underlined, where working in sectors that have a detrimental impact on a worker's health and well-being only experience the consequences long after the dangerous event(s) has (have) taken place, resulting in, e.g., infertility.

Even though collective agreements are meagre in terms of including provisions that also concern environmental sustainability, the interviews have shown that, in practice, there is a lot of attention to and action taken in making work also environmentally sustainable. To some extent, this can be explained by the fact that the trade union's interests, overall, is to secure decent jobs for its members and

beyond. Employment is a crucial cornerstone of a trade union's business, it can be concluded. On the other hand, the trade union is aware of the fact that the environment is particularly important where industries or sectors are causing (long-term) health problems (and with some time delay) for workers. Therefore, a contradiction or clash can be sensed in the policies of FNV, especially where employment as such trumps the environment. In the end, however, it seems that FNV tries to create a balance between the two, be it that the strategies are not always in sync but time-delayed. Also, much depends also on the union's members and their interests and whether they see a point in addressing environmental issues more clearly as well as the role of employers and/or their representatives. Where the business model is based on production or services that are detrimental to the environment, new ways have to be found, but these may increase investment, which then will not be able for other causes.

Overall, however, looking at the role of social partners, and in this report FNV and its sectoral representatives in particular, makes clear that caring for the environment is possible and is necessary. But it takes a lot of effort and a clever strategy with which employee-members and beyond can be convinced to fight for. Above all, the Schiphol example clearly shows that for a strategy to work, the strategy not only must be holistic in terms of addressing social, economic, and environmental sustainability, but it also takes time to convince those that, in the end, will benefit from the actions. It can also be a way to increase the trade union's legitimacy by increasing member numbers.

While a lot is already being done by the trade union and especially FNV on the environmental side, the question though remains whether linking environmental sustainability with economic and social sustainability is enough without rethinking and redesigning the current economic model key of which is to promote economic growth and social and environmental protection are subordinated to that.

Annex 1 – Collective Bargaining on Environmental Sustainability

This annex provides some examples of ‘green(ish)’ clauses in collective agreements. The collective agreements have been manually read and analyse the content of the collective agreement, understanding the kind of sector and work involved and the type of provisions included. Original collective agreements (mostly) in Dutch can be found at the website of the Federation of Dutch Trade Union (FNV) and of some of the companies themselves.¹⁵⁴ FNV’s website is helpful for it differentiates between different sectors such as, inter alia, agricultural green, construction & housing, ports, aviation, government, metal, process industry, Schiphol, cleaning, transportation & logistics, healthcare and food. Collective agreements, sectoral and company-level, were mainly selected based on the fact that the respective sector is known for having a detrimental impact or leaving an ecological footprint on the living environment of human beings and animals.

Sectoral collective bargaining

*Construction Sector*¹⁵⁵

As one of the most polluting sectors (CO₂ emissions in 2017 were as high as in 1990¹⁵⁶), the construction sector is also one of the larger sectors, employing more than 309,000 employees and more than 170.000 self-employed persons.¹⁵⁷ Workplaces may vary substantially, depending on where workers are sent to work and where their habitual workplace is. Therefore, commuting from home to work is a crucial issue to deal with, also with regard to the costs involved for employees. As a result, the collective agreement grants employees that need to commute distances of more than 15km, measures from home to work and back, compensation (Art 50). As usually groups of employees are posted to the same construction site, the collective agreement determines that transportation will take place as much as is possible by group transport. If no public transportation is used, the employee will

¹⁵⁴ See www.fnv.nl/cao-sector. Although the website is available in various languages, the collective agreements published there are (mostly) in Dutch.

¹⁵⁵ See for the collective agreement: www.fnv.nl/cao-sector/bouwen-wonen/bouw-infra/cao-bouw-infra.

¹⁵⁶ www.cbs.nl/nl-nl/nieuws/2018/37/co2-uitstoot-in-2017-gelijk-aan-die-in-1990.

¹⁵⁷ www.bouwendnederland.nl/service/feiten-en-cijfers/kerncijfers-arbeidsmarkt.

receive the following reimbursement, depending on the means of transportation used:

- use of a bicycle (per day): € 0.80;
- use of a bicycle with an auxiliary motor (per kilometre): € 0.07, with a minimum (per day): € 0.89;
- use of a motor vehicle with less than 4 wheels (per kilometre): € 0.22;
- use of a car (per kilometre): € 0.32.

Following this payment scheme, taking the car is reimbursed the most, probably because the assumption is that employees will commute in small groups, thus sharing the ride.

There is an additional provision that concerns particular job functions (Annex 9b) in the construction sector (function n. 24) that are responsible for quality, working conditions, and environment. This seems to relate more to jobs that entail particular duties rather than a provision that encourages environmentally friendly behaviour.

Although reducing working hours in some sectors may be beneficial and the collective agreement provides provisions for employees to ask to work part-time (Article 25) or provisions for employees aged over 55 years to work four days a week (Article 26a), it is unlikely that these provisions contribute to reducing CO₂ emissions, for instance, for the work itself is labour and capital intensive and cannot be performed on a remote basis.

Apart from that, the employee has the right to refuse the highly polluting work assigned to him if insufficient protective measures have been taken for the employee and/or the work environment (Article 70a). To what extent the employee actually can invoke this right is unclear and depends largely on the good will of the employer, i.e. whether the employer takes enough care of the health and well-being of his employees. It certainly is not a provision that aims at protecting environmental damages, but rather the damaging impact on the employee.

*Metalektro*¹⁵⁸

The ‘Metalaktro’ sector consists of companies in the metal industry and the electrical engineering industry, including high-tech, engineering, mechanical engineering, shipbuilding, electrical engineering, and transport equipment.

The collective agreement is split in two parts: one containing ‘basic’ provisions and the other containing provisions for top-ranking and senior employees. In the latter, the social partners agreed on a provision which determines that the collective bargaining parties instructs that the company pays attention to the environmental impact of the production process and to introduce an internal environmental care system (Introduction n. 13). A similar provision, although much shorter, can be found in the basic collective agreement (Introduction under D.). It is, following this generally phrased instruction, unclear what exactly is to be understood here. Given that companies under Dutch law on occupational health and safety are to take measures to reduce the impact on the employees’ state of health, it is likely that in this context attention is also paid to the environmental side of it.

Collective Bargaining at a Company Level

*Schiphol*¹⁵⁹

The collective agreement that has been concluded for employees working at Schiphol airport, where in 2017 in total 68,660 employees worked¹⁶⁰, lacks, as do collective agreements mentioned earlier, substantive provisions that are framed in a way so as to contribute to environmental sustainability. Nevertheless, it contains a provision which obliges employees to report any lack of care, ethics or integrity or any (other) suspicion of wrongdoing, including where there is a danger to public health, safety or the environment (Article 1 E.6). How that provision must be interpreted and to what extent employees, and in particular those in flexible contracts, have been clearly instructed so as to be able to understand possible dangers for the environment does not follow from the collective agreement. It is therefore expected that at company level, more detailed provisions exist.

¹⁵⁸ See for the collective agreement (also in English): www.caometalektro.nl/paginas/openbaar/caos/caos-in-de-metalektro.

¹⁵⁹ See for the collective agreement: www.fnv.nl/cao-sector/schiphol/cao-schiphol.

¹⁶⁰ www.cbs.nl/nl-nl/maatwerk/2019/29/werknemers-schiphol-2017.

*KLM Cabin Crew*¹⁶¹

The cabin crew, 10,000 employees of the 33,000 employed with KLM, can benefit from a collective agreement in which the social partners agreed, in their preamble that KLM aims at promoting of a high level of occupational safety and the prevention of working conditions which are unacceptable, detrimental and/or harmful to health. Moreover, KLM set out to create working conditions appropriate to the physical and mental capabilities of workers. Nevertheless, the collective agreement itself emphasises that as much personal authority and responsibility as is possible should be given to the employee in the performance of his duties, giving him or her scope for advice and participation in matters that are part of the direct work situation, shifting a great deal of the responsibility to individual workers.

More specifically, the collective agreement contains a provision on occupational health counselling and medical examination (Article 6.13). According to this provision, employees are obliged to undergo a medical examination by a physician, occupational physician or insurance medical practitioner to be designated by KLM if KLM deems this desirable. A medical examination is an examination of the employee's physical and/or mental condition related to his or her job. Findings will be communicated, in writing, within ten days. If employees do not agree with the result of the medical examination and this result affects his employment with KLM, he shall have the right to request a new examination within two weeks of becoming aware of the result.

*DSM NL Services B.V.*¹⁶²

DSM is a global, purpose-led, science-based company active in Nutrition, Health and Sustainable Living, with 3,827 employees in the Netherlands in 2018.¹⁶³ Its collective agreement contains a provision on commuter traffic, following which employees receive an allowance of 0.13 EUR/km (plus 0.15 EUR/km for business trips) for a distance of max. 60km/day (return) and on a max. of 216 working days per year based on a full-time employment contract. This allowance does not apply to employees who have a public transport card (2nd class), a free bicycle for nothing or a lease car.

¹⁶¹ See for the collective agreement: www.fnv.nl/cao-sector/luchtvaart/klm-cabinepersoneel-cao.

¹⁶² See for the collective agreement: www.fnv.nl/cao-sector/procesindustrie/cao-dsm-nl-services.

¹⁶³ www.dsm.com/content/dam/dsm/dsmnl/nl_NL/documents/jaarverslag-2018-dsm-in-nederland.pdf.

With regard to the remuneration of the Managing Board DSM N.V., interestingly, there is a provision based on which the Board's variable income depends on reaching goals in alignment with the company strategy and weighting of both financial and planet/environmental, people/societal and individual goal areas.¹⁶⁴

*Cabot B.V.*¹⁶⁵

The manufacturing facility in Botlek, The Netherlands, produces carbon blacks for elastomer reinforcement and specialty carbon blacks that serve global markets in a variety of applications. More than 100 employees are employed throughout the facility, which is located just outside of Rotterdam. Following the collective agreement, the employer publishes an annual social report, which will also address the environmental policy (Article 18, implementing Article 31b Works Councils Act). Moreover, employees are entitled to a safe workplace and have the right to discuss safety, health or environmental issues with his line manager as well as expert services within the meaning of the Working Conditions Act (i.e. the Safety and Environment Department and the Working Conditions Service) (Article 20). The employer shall, on the basis of his safety, health, welfare and environmental policy, which he discusses with the works council and the trade unions, pay attention to the quality of the workplace and effective environmental management and, if necessary, take measures to improve it. Moreover, the employer shall systematically identify and quantify internal and external safety and environmental risks, take the necessary measures to avoid unacceptable risks and submit plans in this respect in consultation with the works council and the trade unions (Article 21).

*Climax Molybdenum*¹⁶⁶

The world's leading molybdenum producer and supplier, with its location in Rotterdam, has a collective agreement addressing health and safety issues, basically determining that employees are co-responsible for the order, working conditions, safety, health, work environment and welfare in the company of the employer and are obliged to comply with the relevant instructions and regulations given by or on behalf of the employer (Article 4.3). Moreover, employees are entitled to a bonus

¹⁶⁴ REMUNERATION POLICY MANAGING BOARD KONINKLIJKE DSM N.V., adopted by the Annual General Meeting on 8 May 2019, available at www.dsm.com/content/dam/dsm/corporate/en_US/documents/managing-board-remuneration-policy.pdf.

¹⁶⁵ See for the collective agreement: www.fnv.nl/cao-sector/procesindustrie/cao-cabot-rotterdam.

¹⁶⁶ See for the collective agreement: www.fnv.nl/cao-sector/procesindustrie/cao-climax-molybdenum.

each quarter, consisting of 40% safety (125 EUR), environment of 40% (125 EUR), and individual attendance of 20% (62,50 EUR). When are employees entitled to a bonus? According to the collective agreement, taking care of the work environment is a collective objective which must be achieved by all employees covered by the collective agreements. There is one exception, namely if an employee has received a sanction or official warning as a result of conduct for which he is to blame and/or is to be held liable with regard to compliance with environmental regulations, he is excluded from a benefit for the quarter in question. An environmental incident is understood to mean exceeding the permit. The bonus will be paid in full if no environmental incidents have taken place within the site during the quarter in question. In this case, the employee covered by the collective agreement will receive a gross payment of € 125.00 in that quarter. If there is one environmental incident, a payment of € 62.50 applies. In the event of two (2) or more environmental incidents, no payment will be made (Annex IX point V.).

PGGM¹⁶⁷

PGGM is a not-for-profit cooperative pension administration organisation, who agreed with the trade unions, that its employees are entitled to receive a mobility budget to commute to work, but that PGGM, in its efforts to reduce CO₂ emissions resulting from mobility, makes sustainable alternatives more attractive than non-sustainable alternatives. That means an employee deciding to commute by public transport will receive a 100% reimbursement rather than a fixed compensation depending on the distance home-work. For those employees that are entitled to a lease car, PGGM does a pilot to provide employees who use bicycles for their home-work commuting bonuses (pecuniary or in kind) (Chapter 9, Article 1). Moreover, employees who live more than 25 km from work, receive a relocation compensation if the distance between work-home will be reduced by at least 60% (Chapter 9, Article 7). And employees have the possibility to work from home, unless the employer is of the opinion that this is not technically and/or organisationally possible in a particular case (Chapter 10, Article 3).

¹⁶⁷ See for the collective agreement: www.pggm.nl/werken-bij/.../CAO_PGGM_2018_2019.pdf.

*Shell Nederland Raffinaderij B.V. and Shell Nederland Chemie B.V.*¹⁶⁸

By the end of 2018, Shell employed a total of 9,797 employees in the Netherlands. The collective agreement provides rules on taking care for safety, health, welfare and the environment, meaning that Shell, together with the works council, is primarily responsible for ensuring that the workplace is safe. But, it further states, that Shell cannot guarantee that employees will not be harmed by the work they are performing (no zero risk-free workplace). Shell continuously and systematically assesses internal and external safety and environmental risks. As a result, Shell is taking measures, together with the works council and informing employees' representatives about it, to avoid unacceptable risks. Solutions at the source are preferred. Moreover, Shell promotes research into, among other things, acutely toxic and/or chronically toxic (including mutagenic) substances from the production process which may reasonably be assumed to be hazardous to health. The company does this by, among other things, participating in (environmental) toxicological and exposure research carried out industry-wide by external organisations. Shell will discuss the progress and results of the research during annual consultations with the employees' representatives. The company aims to limit, as much as is reasonably possible, exposure to substances that are generally known to be carcinogenic and/or mutagenic to humans. Shell develops its safety, health, welfare and environmental policies in the form of annual plans. On the basis of these plans:

- the company pays attention to the quality of the workplace and an efficient environmental management;
- strives for a workplace that offers optimum safety and the best possible protecting your health and well-being;
- takes measures to improve it if necessary.

Shell also provides expert education and training on safety, health and wellbeing and environment, promotes awareness and behaviour in this area, provides information about the specific dangers at work and the measures it takes.

Employees can have a medical examination carried out by the Occupational Health and Safety Service that is tailored to the employees' needs.

¹⁶⁸ See for the collective agreement: www.fnv.nl/cao-sector/procesindustrie/cao-shell. Milieudefensie and six other parties including 17,000 applicants started a proceeding against Shell to stop its damaging impact of gas and oil extraction practices. See, e.g., <https://milieudefensie.nl/klimaatzaakshell/advocaat-roger-cox-over-de-klimaatzaak-tegen-shell>.

*Tata Steel Nederland*¹⁶⁹

Tata Steel produces, processes and distributes high-quality steel and employs 11,000 employees in the Netherlands.¹⁷⁰ Its collective agreement contains a clause on reviewing the employer's environmental policy. This means that, twice a year, the employer's environmental policy will be discussed by the social partners. The topics include: an overview of the reporting to the central works council; the content of the sections on the environment in the annual plan instruction; the environmental assurance system and environmental audits; and suggestions for subjects for the annual sustainability report. The employer also discusses the annual sustainability report with the trade unions (Article 10.4.3).

Moreover, the collective agreement contains a special provision on subcontracting clauses, determining that the employer, in its current purchasing conditions, stipulates that subcontractors must comply with safety and environmental regulations and that they do not violate the Tata Steel Responsible Procurement Policy. This Policy contains a number of principles in the field of health & safety and the environment and obliges companies to do business in an honest and open manner and to be a good employer to their own employees. Non-compliance can lead to terminating the contract (Article 10.15).

¹⁶⁹ See for the collective agreement: www.fnv.nl/cao-sector/metaal/cao-tata-steel. Tata Steel's website contains information on environment and health (www.tatasteel.nl/nl/milieu) as well as sustainability (www.tatasteel.nl/nl/duurzaamheid).

¹⁷⁰ www.tatasteel.nl/static_files/Downloads/Tata%20Steel%20NL/Factsheet%20Tata%20Steel%20algemeen%20DEF%20281118.pdf.

Annex 2 – List of people interviewed

Much of the information reported in section 4 in this report derive from interviews with the following workers’ representatives and employers’ representatives:

- Federation of Dutch Trade Unions (FNV) (15 April 2019): Caroline Rietbergen, senior policy advisor and member of the taskforce on employment and training, which is part of the climate summit, *Klimaatberaad* and Marie-Therèse Rooijackers, policy advisor (energy) transition and (regional) labour market;
- FNV aviation sector and FNV Schiphol (FNV Luchtvaart) (15 and 30 January 2020): Birte Nelen, director FNV Luchtvaart, covering the aviation industry and in particular KLM Cabin crew, Transavia Cabin crew, Transavia Ground staff, and Schiphol airport and Joost van Doesburg, campaign leader at Schiphol for FNV;
- FNV process industry and DSM (3 February 2020): Hettie Kijzers, director FNV, representing workers’ interests within the process industry and in particular DSM; and
- AWWN (29 May 2019): Geert de Bruin, policy advisor AWWN.

