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# ***Tactical and practical***

*Towards a future-proof coordination of Dutch policy on Europe*

*IOB Evaluation | Main conclusions and recommendations*



# Rationale and central question

Climate, migration, employment, competitiveness and – recently very emphatically – health are policy areas differing greatly in terms of content but with one thing in common: in all these areas, binding European rules are becoming increasingly common, with potentially far-reaching consequences for Dutch citizens and businesses. Over half of the new Dutch laws are now the result of European policy. This explains why civil servants and politicians in The Hague invest much time and energy in the negotiations with the other 26 EU Member States and the European institutions. An important condition for effectively influencing these negotiations is a well-coordinated Dutch position on EU policy issues.

This evaluation of the Policy and Operations Evaluation Department (IOB) of the ministry of Foreign Affairs concerns the Dutch coordination of the process of arriving at a position on EU policy. It is an essential process in which the partial interests of a large variety of actors – ministries, lower tiers of government (municipalities, provinces, water boards), parliament and other social stakeholders – are translated into a uniform national government position that Dutch civil servants and diplomats promote in the EU.

The central question addressed in this evaluation is ‘To what extent does the Dutch EU coordination system succeed in inclusively formulating timely, coherent and flexible positions on EU proposals?’ Also addressed are the questions of ‘What are the explanatory factors?’ and ‘What recommendations can be made to improve the coordination system?’. The period under review is 2015-2021, although relevant developments that took place before that time are taken into account as well.

# Main conclusions and recommendations

The process of formulating the Dutch position on EU proposals is generally timely and inclusive, which is conducive for policy coherence. Institutionally, there is little room for flexibility but informally, this is not the case. If the Netherlands wishes to play a more prominent and proactive role in the post-Brexit European Union – a Union that is having increasing consequences for domestic policy – investments are needed in strategy, selectivity and competences. That is the main conclusion of this evaluation.

This IOB evaluation shows that in daily practice the decades-old Dutch EU coordination system operates as a well-oiled machine for formulating Dutch positions on EU proposals in good time, which Dutch negotiators promote in the Council working groups, the Committee of Permanent Representatives (Coreper) and the (European) Council in Brussels. In many Member States, EU coordination works less smoothly, with the result that they do not always have a timely national position, let alone one that is arrived at in an inclusive manner.

In the Netherlands, the Ministry of Foreign Affairs, via the Department of European Integration (*Directie Integratie Europa*, hereafter referred to as DIE), has general responsibility for coordination. Entirely in line with the Dutch ‘polder culture’, the coordination process is consensus-oriented and the actors relevant to an EU issue (i.e. ministries, lower tiers of government) can be directly involved in determining the (initial) position to be adopted. The interests of interest groups and implementing bodies are represented by the relevant ministries. The Dutch parliament actively monitors Dutch positions on the EU via the Assessment of New Commission Proposals (*Beoordeling Nieuwe Commissievoorstellen*, henceforth referred to as BNC) documents it receives from the government. On average, there were 104 of these per year in the period under review. The involvement of these key actors not only serves the inclusiveness of the process but helps promote the coherence of Dutch action in the EU.

The downside of the high degree of inclusiveness of Dutch EU coordination is that it can result in positions being adopted that have involved so much deliberation and are so detailed that they may limit the system's agility to respond quickly to changing circumstances in the Brussels negotiations. Changes to the text of the original EU proposal follow each other in such quick succession that there is limited time for The Hague to make interim adjustments to instructions for the negotiators in Brussels. Particularly instructions issued in the Council working group phase of the negotiations are detailed. This is less the case for instructions issued in Coreper negotiations. This is less the case in Coreper negotiations. The good, informal contacts and short lines of communication between the Permanent Representation to the EU and political and administrative The Hague ensure that rapid action can still be taken outside the coordination committees.

In addition to concluding that the EU coordination system operates as a well-oiled machine, this evaluation concludes that the future viability of the current approach should be discussed at the inter-ministerial level, especially if the Netherlands wishes to take on a more proactive and robust role in a post-Brexit EU. Although coordination processes can be flexible – as demonstrated during the Covid-19 crisis – the EU coordination system as such has not kept pace with a dynamic and more complex environment that is demanding more and more from this system as a whole and from the coordinating directorate DIE in particular. The increased role of the European Council, for example, requires more preparation and consultation, the Europeanisation of more policy areas requires the involvement of more ministries, the increased role of the European Parliament requires a different view of the field of influence, and the fragmentation of the political landscape in the Netherlands – combined with a shortage of administrative support for parliamentarians – requires more administrative time to provide information to the House of Representatives. The resulting workload limits the time DIE can spend on important aspects such as reflection, strategy formation, networking and proactive coordination.

How can Dutch EU coordination be better prepared for the challenges and opportunities in the near future? IOB looks for the room for improvement by investing in the system's capacity, not by radically changing the coordination structure. To this end, it makes recommendations on the basis of five interrelated core capabilities: (1) networks and relationships; (2) knowledge, manpower and mandate; (3) policy coherence; (4) governance and support; and (5) flexibility.

The three most important overarching recommendations from this report can be summarised as follows: **EU coordination must be more strategic, more selective and more competent.** There is a logical connection between these three recommendations. Working more selectively requires strategic foresight; after all, strategic prioritisation makes selective action possible in the process of determining a position. Strategic foresight requires skills, for the differentiation of cases can only be done effectively by civil servants and ministers with sufficient knowledge of and skills in aspects such as the formulation of national standpoints and European decision-making.

Given the high work pressure and the challenges that will be faced by the Netherlands, one obvious option is to **increase manpower** in the coordinating department DIE. In addition, the pressure of work could be relieved by efficiency improvements, which, according to IOB, can be achieved precisely by focusing on working more selectively, more strategically and more competently.

## 1. Working more strategically

Although the coalition agreement and the annual parliamentary letter on the State of the Union mention that European cooperation is important to the Netherlands in a broad repertoire of policy themes, what is lacking is a fully worked-out government strategy that makes clear what are the Dutch interests in the EU, what are the Dutch stakes regarding policy issues and how the Netherlands intends to realise these interests in the European context. Given the abovementioned growing complexity of the EU and the limited capacity (i.e. staff) within the coordination system, strategy formulation is urgent. Advisory reports from 2004 and 2005 have already called on the government to do this.

In concrete terms, more time should be made available for broad strategic discussions at senior civil servant level that are separate from current affairs. Cross-cutting strategic discussions do take place in the European Union High-Level Committee (*Hoog-ambtelijke Commissie Europese Unie*, henceforth referred to as HCEU) and are part of its mandate. However, these discussions are almost always related to the agenda of the day, do not focus on the longer term and the HCEU is mainly occupied with preparing the Dutch input for the monthly European Councils.

Consideration could also be given to organising informal high-level inter-ministerial strategy sessions more frequently. Discussions should focus on 'big' issues, such as the position of the Netherlands in a post-Brexit EU and coalition building. Such matters may not have much to do with the current state of affairs but are all the more important for the Netherlands' position in the EU in the longer term and thus also have an impact on EU coordination. Together with the line ministries, DIE could play a role in preparing the content of these sessions and guiding them. The outcome of this should be reflected in the strategic policy agendas of the ministries and subsequently in policy papers and BNC documents.

Working more strategically also requires political guidance; decisions will have to be taken at the political level about what the Netherlands wants to achieve and how it wants to set priorities. In practice, however, political guidance has not proved easy, partly as a result of political differences of opinion on the direction of European cooperation within the coalition and parliament and the horizontal EU coordination structure, in which, unlike in other Member States, there is no central decision-maker who can cut through content impasse. In practice, early political guidance is limited to cases that are of such importance that political The Hague can no longer ignore them, such as issues that have

been in the pipeline for some time, or crisis situations that require an acute response. In other cases, guidance only takes place when there are points of contention within the bureaucracy – of which there are few, given the consensus-oriented approach in the coordination system – or when a balance must be struck in the Coreper phase of the EU negotiations or in later phases.

In relation to parliament, which plays a relatively active role in Dutch EU policy, it would be advisable to update the information supply arrangements on European policy, partly because parliamentary obligations, in combination with the large number of motions and committee debates, place great pressure on civil servants, with the result that other equally relevant tasks, such as strategy formulation and deepening the field of influence, are compromised. In light of this, the now long list of formal information agreements between the government and parliament on EU issues should be reviewed with the aim of informing parliament more efficiently and effectively.

### Recommendations

Invest time in formal and informal strategic discussions to formulate an overarching politically supported EU strategy on what the Netherlands specifically wants from the EU – including prioritisation – and how exactly it wants to achieve this. This recommendation is addressed to DIE, the HCEU and the European Affairs Council (*Raad Europese Aangelegenheden*, hereafter referred to as REA)/Ministerial Council.

Hold early political discussions on the strategy, priorities and trade-offs for EU issues that should be prioritised from the Dutch perspective or because of their political sensitivity in The Hague/Brussels. This recommendation is addressed to the HCEU and the REA/Ministerial Council.

Ensure that the Ministry of Foreign Affairs/DIE has an overview of how the departments are following up the EU information supply agreements with parliament. Ensure that there are clear and unambiguous information supply arrangements. Enter into dialogue with parliament – specifically the European Affairs Committee and/or the Committee on Procedure – on the suitability of the current information agreements, mutual expectations and their consequences. This recommendation applies to DIE.

## 2. Working more selectively

The Netherlands has a comprehensive EU coordination system. At the request of parliament, an initial Dutch position on all EU proposals is formulated in a BNC document or parliamentary letter. This requirement puts huge pressure on the coordination system, partly because of the large number of new proposals issued by the European Commission every year and partly because of how the coordination process is organised in the Netherlands. For example, BNC documents for non-legislative proposals are shorter than those for legislative proposals, but within these categories the documents always follow the same pattern, regardless of the importance to the Netherlands.

But not everything from Brussels is equally important to the Netherlands. Ideally, existing capacity should be focused on the issues that are of major importance, for instance because they have major financial, social or political consequences for the Netherlands. This already happens to some extent because the priority list of proposals drawn up by the House of Representatives and the Senate each year guides the communication between the government and parliament. However, this prioritisation could be fleshed out during the further process, particularly by making an early selection of issues for which the Netherlands wishes to pursue a proactive influence agenda. Compared with other issues, these issues would then receive more official and political attention and more intensive guidance from DIE to ministries throughout the entire process of setting the agenda, determining a position in the Netherlands and negotiating in Brussels. This selection will create room to focus more strongly on the issues most important to the Netherlands.

Selectivity is also advisable in other areas. The work of the Dutch embassies in the EU Member States, for instance, should focus more on issues that have priority for the Netherlands, thereby allowing the embassies' diplomatic expertise to be deployed as effectively as possible in the interests of the Netherlands. Prioritisation would also make it possible to implement the Ministry of Foreign Affairs' initiative to deploy embassies more strategically and selectively for certain policy themes. Currently, this does not always happen, which means that the embassies' expertise is not used optimally.

Finally, instructions from The Hague for the Permanent Representation to the EU could be more framework-like, especially in the Council working group phase in which Dutch negotiators are faced with more detailed instructions and less room for manoeuvre than in the Coreper phase. Where possible, more frequent use could be made of framework instructions in this Council working group phase of the EU negotiations too, with the option of not including matters of less importance to the Netherlands in the instructions.

### Recommendation

Establish priorities at an early stage, partly on the basis of a well-defined EU strategy and the foreign policy 'chessboard', which contains information about the EU force field; ensure that the missions can focus on priority issues for the Netherlands; and, where possible, make more use of framework instructions. This recommendation applies both to DIE, as coordinator, and to the line ministries.

### 3. Working more competently

It is important to make a sustained investment in building up civil servants' EU competences. There is room for improvement at four levels.

Firstly, civil servants in line ministries do not necessarily have knowledge of the processes behind European decision-making and Dutch EU coordination, yet this knowledge – certainly at a basic level – is essential for formulating positions that do justice not only to the political wishes in The Hague but also to the current reality in Brussels. Overly detailed instructions that do not take sufficient account of the dynamics of the EU negotiation game are partly the result of parliamentary control, but certainly also result from lack of knowledge about how the Brussels negotiations work. This can negatively impact the system's flexibility to respond to new developments.

Secondly, the fact that supportive expertise on EU law is not always present in line ministries results in ministries often having difficulty in correctly filling in the parts of the BNC documents with legal sections, such as those on subsidiarity and proportionality, whereas despite their technical/legal perspective these sections often require highly political and hence extremely important assessment. In cases of this kind, ministries often seek help from the lawyers at the Ministry of Foreign Affairs.

Thirdly, partly as a result of the civil service rotation schedule there is not always sufficient knowledge and experience of European institutions and processes among the directors and directors-general of the line ministries, that, moreover, do not invest structurally in a professional European network.

Fourthly, the central government does not have a 'strategic EU human resources policy' in which staff with EU experience are guided to follow-up positions where their knowledge and networks are put to full use. As a result, knowledge and experience leak away and insufficient attention is paid to preserving valuable professional networks. Thanks to its EU expertise, DIE in the role of process supervisor supports ministries that deal less frequently with the EU and therefore have less knowledge and expertise on matters such as the Council working group phase or the creation of an EU network.

#### Recommendations

Conduct a discussion within the HCEU about making additional investments in the competences of central government civil servants (from trainees to directors-general) concerning EU institutions and EU law (substantive knowledge), the EU negotiating process (process knowledge) and networks in Brussels and in the capitals (network knowledge). Also to be discussed is the development of a government-wide strategic EU human resources policy.

DIE can offer its support as a process supervisor to ministries that have less to do with the EU.

Figure 1 The Dutch coordination process and input into Brussels decision-making



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