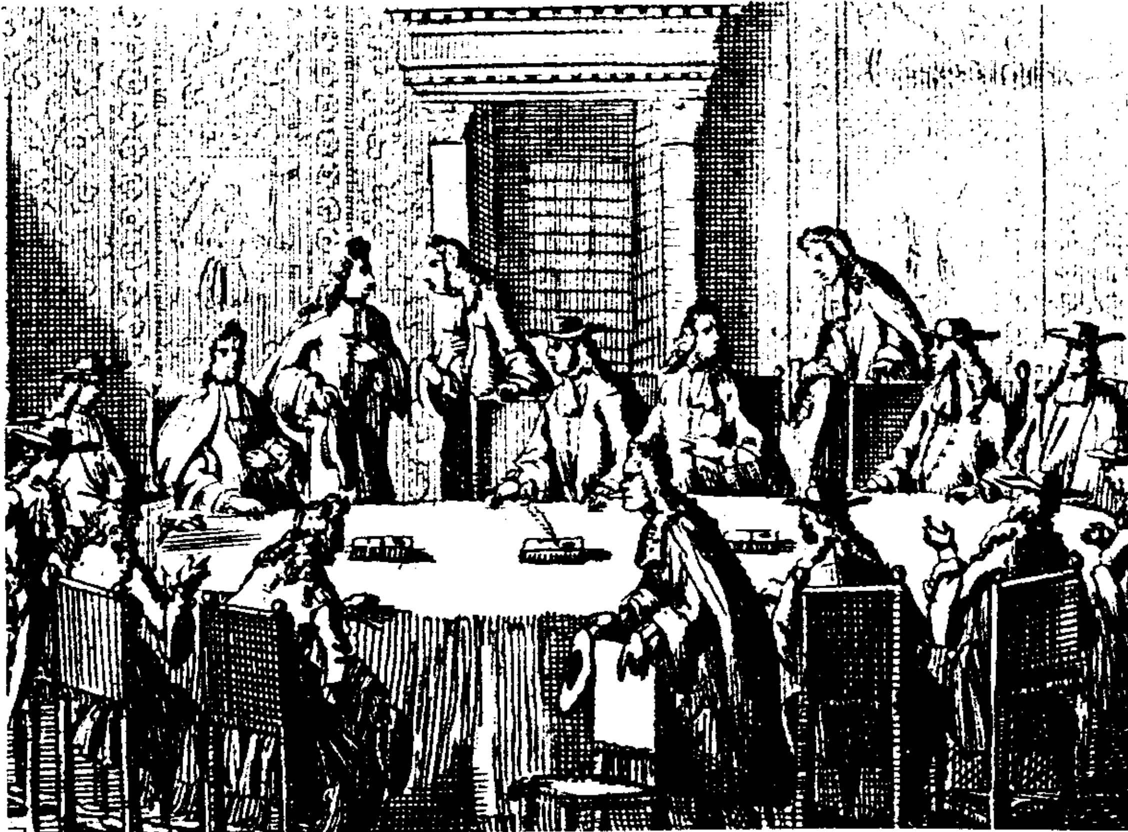
Corporate Governance in the Netherlands



FORTY RECOMMENDATIONS

Committee on Corporate Governance

Recommendations on Corporate Governance in the Netherlands

Recommendations for sound management, effective supervision and accountability.

June 25, 1997

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Joseph de la Vega in "Confusion de Confusiones" (1688)

"The Company is like an immortal tree, that when a branch had been cut off immediately produced another, so that there was no need to care about any mist clouding the light, for later it would display again its new halo and its new blossoming splendour."

Dennis Diderot in "Voyage en Hollande" (1744)

"Trade rules are excellent because they have not been instituted by soldiers, priests, magistrates or courtiers but by the tradesmen themselves."

R.S. McNamara: "In retrospect" (1975)

"They taught that business leaders had a duty to serve society as well as their shareholders, and that a company could drive for profits and at the same time meet social reponsibilities."

Sir Adrian Cadbury in: "Cadbury report" (1992)

"The country's economy depends on the drive and efficiency of its companies. Thus the effectiveness with which their boards discharge their responsibilities determines Britains competitive position. They must be free to drive their companies forward, but exercise that freedom within a framework of effective accountability. This is the essence of any system of good Corporate Governance."

Richard J. Mahony in: "Who really owns corporate America?" (1996)

"The fact is, corporations increasingly are vehicles for providing retirement income."

1. Introduction and basic principles

1.1 The company in society; accountability and reporting

Companies and the enterprise connected therewith play an important role in society. They must possess the strength needed to guarantee their continuity. They must seek a good balance between the interests of the providers of risk capital (investors) and the other stakeholders. In the long term this should not mean a conflict of interests.

Social reality makes a positive company performance of essential importance to its continuity and this brings an increase in the company's economic value. The function of the international capital market is becoming more and more important and this affects the ability to attract capital and influences its cost.

It is important always to recognize that business enterprise also means accepting risks in very diverse forms. It should be realized that companies operate within the legal and ethical standards that are in force in the countries they work in and moreover that they also adhere to their own codes of conduct.

The company is accountable to its various stakeholders in several ways. The way in which accountability is given and to whom as well as the form of control within the company have always been issues for analysis and debate. At this moment these issues are attracting a great deal of attention internationally and nationally, especially as a result of increasing interest from institutional investors on the international stock markets, the Netherlands included, and growing shareholder activism, further intensified by the increased ownership of Dutch shares by foreigners. Although a number of company failures have also occurred in the Netherlands these were not, unlike in the United Kingdom, the reason to set up this Committee. The growing internationalization of the Dutch economy and the increasing international attention for the role, position and influence of shareholders were the underlying reasons for setting up the Committee on Corporate Governance. The Committee has taken note of the debates and recommendations with regard to Corporate Governance within and outside of the European Union and in international organisations such as the International Federation of Stock Exchanges (FIBV). It sees a certain convergence of ideas on Corporate Governance and believes that, with due regard for the specific rules and customs in this country, the Netherlands should stay in line with international developments in this respect.

1.2 Concept of Corporate Governance

Governance means management and power, responsibility and influence and accountability and supervision. In this respect integrity and transparency play an important part. These aspects are a subject for discussion in many parts of society, in both the private and the public sector.

This report addresses the subject of Corporate Governance, but is focused on companies, in particular on companies in which a separation exists between management and investment.

The Committee's attention has been directed mainly at the working of the Supervisory Board (supervision) and the Board of Directors (management) as well as at the role played by shareholders and holders of certificates of shares (investors).

Companies already present extensive information about themselves in their annual reports[1]. The capital market determines the company's financial worth. In addition rules regarding Corporate Governance have been included in the law, in the articles of association of companies and in the regulations of the Amsterdam Exchanges.

It is essential that all interested parties, i.e. also the investors, actually use the whole range of their influence. Dividend and growth of value - as well as an efficient equity market - are of great importance to the passive investors who are not interested in influence. To the active investor, who is interested in influence, the long-term development and the strategy of the company are also of crucial importance. For institutional investors in particular, disposing of an equity participation ('voting with one's feet') is certainly not an effective means of asserting their influence, nor is it always possible or desirable.

[1] Dutch company law (Civil Code, Book 2, section 9, art. 391) refers to the term annual report as the directors' report. In this report the term is used for the whole of the Board of Directors' reports, the Supervisory Board reports, the annual accounts and other items.

For the purpose of the debate in the Committee the concept of Corporate Governance has been understood to mean a code of conduct for those associated with the company - in particular directors, Supervisory Board members and investors - consisting of a set of rules for sound management and proper supervision and for a division of duties and responsibilities and powers effecting the satisfactory balance of influence of all the stakeholders. The basic principle here is that members of the Board of Directors and Supervisory Board members should - also in public - be accountable for their conduct.

1.3 Range, differentiation and implementation

In the Netherlands we find an enormous variety of companies. They differ, for instance, in size, in product differentiation, in the scale of internationalization and in the composition of their investor base.

The Committee has formulated its recommendations taking into account the existing legislation and the stock exchange regulations, such as those with regard to protective measures for listed companies, also the regulations for anti-takeover measures as agreed between the Amsterdam Stock Exchange Association and the Association of Securities Issuing Companies and the Ministers involved and, finally, also the statements made by the Finance Minister in his letter dated 28 February 1996 about a statutory regulation of anti-takeover measures.

Many listed companies are not subject to the 'structure regime'. Some have large shareholders and some have majority shareholders. The diversity of the companies should be taken into account in formulating the recommendations. The Committee has recognized this diversity in formulating its recommendations. It should be borne in mind that markets and structures are dynamic and subject to continuous change, causing the conditions for sound Corporate Governance to change with them.

The recommendations are primarily intended for listed companies. They could also be implemented by non-listed companies, co-operatives and pension funds which have a large number of shareholders or members. Naturally this applies only to the extent that the rules governing these organisations so allow.

The Committee believes that - besides upholding the existing rules - it is accountability and openness rather than new rules made by the legislators, the stock exchange or this committee which will benefit Corporate Governance in Dutch companies, many of which operate within an international context. The Committee makes its recommendations acknowledging the fact that new rules will never be satisfactory unless the interested parties aim for sound accountability and openness.

2. Supervisory Board[2]; duties, profile, composition, appointment and remuneration

2.1 Duties

In accordance with the law the Supervisory Board, in performing its duties, is bound by the interests of the company and the enterprise connected therewith. It is responsible for the supervision of management policy and the general course of affairs in the company. Under the full 'structure regime' the Supervisory Board is responsible for appointments to the Board of Directors. In companies not subject to the full 'structure regime' nominations for such appointments will be the duty of the Supervisory Board. The Supervisory Board advises the Board of Directors. It acts as a body with collective responsibility, without a mandate and independently of subsidiary interests associated with the company.

2.2 Profile

The Supervisory Board of each company should draw up a desired profile of itself in consultation with the Board of Directors. The Supervisory Board should evaluate this profile periodically and draw conclusions regarding its own composition, size, duties and procedures. New developments, for example technological and financial innovations, are also of importance. As regards the desired size and composition of the Supervisory Board the nature and the size of the company should be taken into account. The profile should reflect, inter alia, the nature of the activities, the degree of internationalization, the size and the specific medium-term and long-term risks of the company. The profile is a public document and should be available for inspection at the company's offices.

2.3 Composition

The Supervisory Board should be composed in such a way that its members operate independently and critically in relation to each other and the Board of Directors.

2.4 Data

The annual report should state the ages of the individual Supervisory Board members, their occupation, main job, nationality and the main additional posts they hold, to the extent that the latter are of importance for performing the duties of a Supervisory Board member. The report should also state when a member was first appointed and the current term of the appointment.

2.5 Former members of the Board of Directors

No more than one former member of the company's Board of Directors should serve on the Supervisory Board.

A point for consideration here should be the influence that a person's former membership of the Board of Directors may have on that individual's functioning on the Supervisory Board as well as on the functioning of the Supervisory Board and of the Board of Directors.

This applies especially in cases where a former chairman of the Board of Directors is the intended chairman of the Supervisory Board.

2.6 Independence

Supervisory Board members who have been appointed on the basis of a nomination should perform their duties without a mandate from those who nominated them and independently of the subsidiary interests associated with the company.

This means that - like other Supervisory Board members - they should not commit to certain subsidiary interests while neglecting other associated interests. In this context the chairman should ensure that information is not made available solely to certain groups of shareholders.

[2] The Committee's recommendations with regard to Supervisory Board members (Supervisory Boards) also apply as much as possible in cases where the supervision in a (listed) company is implemented other than by a Supervisory Board.

2.7 Reappointment

Reappointments should be measured against the profile and the possible wish for new blood should be considered. Deliberations regarding the reappointment should be conducted in the absence of the person concerned and should be held on the basis of a report drawn up by the chairman on the interview with the resigning Supervisory Board member.

The proposal for reappointment should state the motives for reappointment and should explicitly mention why it is felt that the performance of the member in question was satisfactory.
Substantially the same procedure is adopted for the reappointment of a chairman. In this case the vice chairman or another member of the Supervisory Board appointed by the Supervisory Board acts as chairman.

Members of the Supervisory Board in companies not subject to the 'structure regime' should be appointed for a certain period of time.

The Supervisory Board should draw up a rota for resignation to prevent an unnecessarily high number of reappointments having to be discussed at once. A four year term of office could serve as a basis.

2.8 Premature resignation

A Supervisory Board member's premature resignation can be expedient in cases of unsatisfactory performance, fundamental differences of opinion, or conflicts of interest or if his integrity is at issue. When judging whether such a situation has arisen it is not solely the opinion of the relevant Supervisory Board member that counts. The chairman of the Supervisory Board in particular should, where necessary, play an active and decisive role in situations of this nature.

2.9 Conflict of interests

A Supervisory Board member with a conflict of interests will report this to the chairman immediately. If it concerns a random incident, non-participation in the deliberations and the decision-making in that area will be sufficient.

2.10 Number of Supervisory Board memberships

The Committee advocates that the number of Supervisory Board memberships which one person can hold in (listed) companies should be limited so as to guarantee a proper performance of duties. In particular the workload, also that resulting from posts held in non-listed companies and other institutions, is a point that needs to be explicitly taken into consideration. The number of Supervisory Board memberships should be determined by the time available for a proper performance of duties.

It is important that Supervisory Board members are selected from a wide circle. One means of helping to achieve this would be via a further internationalization of the composition of the Supervisory Board.

Companies should enable executives in active duty to hold seats on Supervisory Boards elsewhere.

2.11 Cross bonds

Neither hierarchic subordination within an interest group, cross bonds nor any other relations with persons under their supervision should prevent members of the Supervisory Board from performing their duties independently.

2.12 Securities

The securities held by members of a Supervisory Board in the company where they have a seat on the Supervisory Board should be for long-term investment. The aggregate number of shares, certificates of shares and stock options[3] held by all the Supervisory Board members should be published each year in the annual report.

[3] Marketable options and not employee stock options are meant here, because the Committee assumes that, in accordance with paragraph 2.13, no employee stock options will be granted to Supervisory Board members.

2.13 Remuneration

The remuneration of Supervisory Board members should not be dependent on the results of the company. Stock options should not be granted to a person by virtue of his capacity as a Supervisory Board member. Nor is it desirable to remunerate a Supervisory Board member separately for his advice. The explanatory notes to the annual accounts should state separately whether and, if so, what other business relationships exist between the company and a Supervisory Board member.

2.14 Personal gain

Supervisory Board members should derive no form of personal gain from the company's activities other than via their remuneration as a Supervisory Board member or from capital growth resulting from shareholding or dividends. This means that, to prevent every semblance of misuse, Supervisory Board members should accept limitations on their freedom of action with regard to their private property, in terms of both shares in the company and other assets, and limitations on the acceptance of additional posts.

3. Supervisory Board; procedures

3.1 Supervisory Board responsibilities and procedures

The Supervisory Board has a chairman who ensures that the Supervisory Board functions properly. The chairman has specific duties regarding discussions on relevant issues[4], communication between the Supervisory Board members and the Board of Directors, the accountant and the external advisers appointed by the Supervisory Board. The chairman keeps in frequent contact with the chairman of the Board of Directors. The chairman takes the initiative whenever he deems fit. The specific duties of the Supervisory Board and those of its chairman are laid down in the regulations for the Supervisory Board. The Supervisory Board should also consider the desirability of adding rules to the regulations concerning its contacts with the Board of Directors, the works council and the investors. The existence of such regulations should be mentioned in the report of the Supervisory Board in the company's annual report

3.2 Committees

The Supervisory Board considers whether to appoint from its midst a selection and nomination committee, an audit committee and a remuneration committee. These committees submit reports on their findings and make recommendations to the full Supervisory Board. The Supervisory Board should report on the existence of such committees in the annual report.
The following are a number of Supervisory Board duties in respect of which decision-making can be prepared by the various subcommittees.

1. Selection and nomination committee
   - preparation of the selection criteria and nomination procedures for Supervisory Board members, executive directors and higher management posts;
   - periodical assessment of the size and composition of the Supervisory Board and the Board of Directors;
   - periodical assessment of individual Supervisory Board members and executive directors;
   - preparation of proposals for (re)appointments.
2. Remuneration committee
   - periodical assessment of the remuneration system;
   - periodical assessment of the granting of options, pension rights, redundancy compensation schemes and other emoluments;
   - periodical assessment of the company's liability insurances.
3. Audit committee
   See paragraph 6.4 of this report

3.3 Frequency of board meetings

The Board should meet according to a predetermined timetable. Individual members are asked to explain frequent non-attendance.

3.4 Areas for special attention

At least once a year the Supervisory Board should discuss the strategy and the risks associated with the company and the results of the assessment made by the Board of Directors of the systems of internal control. In addition the Supervisory Board should assess the strategies and objectives formulated during previous periods against the actual results. The fact that such discussion has been held should be mentioned in the Supervisory Board's report in the company's annual report. The report of the Supervisory Board need not report on the contents of the discussion.

3.5 Meetings without the presence of the Board of Directors

At least once a year the Supervisory Board should meet without the Board of Directors and discuss its own performance, its relationship with the Board of Directors and the composition and performance of the Board of Directors, including issues regarding succession and remuneration. The fact that such discussion has been held is to be mentioned in the Supervisory Board's report in the annual report.

[4] See more specifically paragraphs 2.6, 2.7, 2.8, 2.9, and 3.5

3.6 Approval of annual accounts and management policy

The agenda for the annual General Meeting of Shareholders is organized in such a way that clearly identifiable decisions can be made concerning on the one hand the approval of the policy pursued and the release from liability therefor, and on the other hand the approval of or, as the case may be, the adoption of the annual accounts. This means that the following should be separate items on the agenda: on the one hand, approval of the annual accounts including dividend (company subject to the 'structure regime') or adoption of the annual accounts including dividend proposals (company not subject to the 'structure regime') and, on the other, approval of the policy pursued by the Board of Directors and of the supervision carried out by the Supervisory Board, which approval shall likewise imply a release from liability for the Board of Directors and the Supervisory Board.

3.7 Delegate Members of the Supervisory Board

A member of the Supervisory Board permanently delegated to the Board of Directors gives rise to a conflict in the form of a mixture of the supervisory and management functions in the company. In special circumstances, however, the Supervisory Board can nominate a delegated member to the Board of Directors on a temporary basis.

In situations such as these preference is given to the temporary appointment of a Supervisory Board member to the Board of Directors, in which case he should resign his seat on the Supervisory Board.

4. Board of Directors

4.1 Duties

Barring any limitations in the company's articles of association, the Board of Directors is responsible for the management of the company, which implies, inter alia, that the Board is responsible for realising the company's objectives, the strategy and policy and the ensuing development of results.

4.2 Objectives and Strategy

The Board of Directors should report in writing to the Supervisory Board on the company's objectives, strategy and the associated risks and the mechanisms needed to control risks of a financial nature. The main points of the report should be given a permanent place in the annual report. These could be objectives in terms of growth in earnings per share, the return on capital employed, the net profit margin, turnover and the like. In combination with the objectives, the report should also indicate the strategy used by the company to achieve these objectives. The fields of activities, shifts of emphasis and the acquisitions policy can be included. Quantification can serve as a tool to help clarify the objectives and the strategy. If quantifications have been given they should be utilized to make comparisons with the actual outcome.

4.3 Risk control

The Board of Directors will report in writing to the Supervisory Board on the risks entailed in the policy and strategy. To illustrate risks, mention could be made of currency developments, interest rates, economic growth (in certain countries/regions), political risks, raw materials and the environment.

Internal control is understood to mean the process aimed at achieving reasonable certainty about the realization of objectives in the following categories:

- the reliability of the financial information;
- the effectiveness and efficiency of the corporate processes;
- compliance with the relevant laws and regulations.

The Board of Directors is primarily responsible for effective systems of internal control. As a minimum requirement, the Board of Directors should report to the Supervisory Board on the results of its assessment of the structure and functioning of the internal control systems which are intended to provide reasonable certainty that the financial information is reliable.

The main points of the reports referred to in paragraph 4.2 and in this paragraph should be a permanent part of the annual report and should be set out in the clearest possible way. To reach consensus on this, structured consultation should be conducted involving both the drafters and users of the information on accountability and also involving the accounting profession.

4.4 Remuneration

Dutch company law prescribes that the General Meeting of Shareholders determines the remuneration of the members of the Board of Directors, unless the company's articles of association stipulate otherwise. Generally this remuneration is fixed by the Supervisory Board. In addition to the information required on the basis of the existing statutory regulations, the aggregate sum of the remuneration in the annual report should be split into payments made to serving board members and those made to former board members. A departure from this is possible if the anonymity of the individual members of the Board of Directors cannot be guaranteed.

4.5 Securities

Members of the Board of Directors should be able to be or become shareholders in the company. The securities held by a member of the Board of Directors in the company should be for long-term investment. The aggregate number of securities held by all the members of the Board of Directors at the end of the financial year should be included in the annual report and should be subdivided into:

- shares/certificates of shares;
- convertible bonds;
- marketable options;
- options issued by the company;
  together with the most significant conditions relating thereto.

4.6 Employee stock option plans

An employee stock option plan serves to strengthen involvement in the company over the long term (at least 3 years). The employee stock option is a form of remuneration which should be related to the degree of success of the efforts made by the person concerned to enhance the market value of the company. This should be reflected in the conditions on which the stock options are granted.

The stock options granted by the company in a particular financial year to the joint members of the Board of Directors and to other employees should be included in the annual report together with the most significant conditions relating thereto.

4.7 Personal gain

Members of the Board of Directors should not in any way derive personal gain from the company's activities other than via the agreed remuneration or through capital growth and dividends resulting from their holding of securities and related instruments. This means that, to prevent every semblance of misuse, they should accept limitations on their freedom of action with regard to their private property, in the form of both shares in the company and related instruments, as well as limitations on the acceptance of additional posts.

5. Functioning of the General Meeting of Shareholders and the role of the investors

5.1 Introduction

A company's capital has two overlapping functions, namely the provision of finance and influence. Under normal circumstances there should be no reason to separate these two functions. The general principle should be that proportionality exists between capital contribution and influence. The maxim of 'one share one vote' is the customary way of expressing this principle. All investors - large and small - are thus enabled to make their influence felt in the company pro rata to their equity participation. A second principle is that the providers of risk capital should be able to demand from the management a clear and transparent account of the policy that has been pursued.

There are no conceivable circumstances which can justify any relaxation of the principle that the management should be fully accountable to the providers of risk capital[5]. The influence of the investors can be enhanced if there is active accountability towards the shareholders or holders of certificates of shares. After all the Board of Directors and the Supervisory Board will have to take their reactions into serious account in the conduct of their future policy.

The Committee has drafted criteria in order to give concrete form to the obligation for accountability. These can be used as a basis for discussing the policy and the structure of influence in the General Meeting of Shareholders.

With regard to the first principle mentioned above: i.e. influence pro rata to investment, there may be circumstances which justify a departure from this principle. The Committee offers the following non-exhaustive examples:

1. In most cases only a limited number of shareholders are present at general meetings. The inherent risk of this is that the shareholders present will actually have a disproportionately high influence. It is also a fact that the quality of the input by shareholders sometimes leaves much to be desired. In these circumstances measures such as priority shares and certification may be justified. Their aim is to ensure continuity in the decision-making.
2. In the situation where the company becomes the target of a hostile takeover bid by a party attempting to acquire control over it, the company's management should be allowed the time to provide adequate protection for the interests to which the hostile takeover bid relates. Protective measures can, within certain limits, be accepted in these circumstances. Anti-takeover regulations do not fall within the remit of the Committee and it awaits the proposed legislation on this subject.

The Committee is confident that if the shareholders, especially the institutional investors and other major shareholders, are in actual fact present at the General Meeting of Shareholders and make their views heard, this will lead to higher attendance rates and to a considerable improvement in the quality of the General Meeting of Shareholders. As the attendance rate at the General Meeting of Shareholders becomes more representative of the investors, the Committee believes that the need and justification for limiting the influence of the providers of risk capital will diminish.

5.2 General Meeting of Shareholders

In principle Dutch company law grants considerable powers to shareholders. At the same time, however, it offers possibilities, which are frequently applied, for these powers to be substantially curtailed in the company's articles of association, for example by stipulating that the co-operation of the priority shareholder(s) is required for the adoption of resolutions in the General Meeting of Shareholders. Other circumstances can also result in the investors not enjoying these powers to an extent proportionate to their investment, for example as a result of the presence at the meeting of a dominant block of votes, which has not provided risk capital or not to an extent proportionate to its voting rights.

Whatever differences may exist in each company as regards the role, powers and composition of the General Meeting of Shareholders, each company's General Meeting is the forum to which the Board of Directors and the Supervisory Board report and to which they are accountable for their perfor-

[5] Barring the legal regulation (Civil Code, Book 2:107 paragraph 2) stating that the duty to inform the shareholders' meeting is subject to exception if a substantial company interest bars providing this information.

mance. The agenda items should include the company strategy, policy - financial and otherwise - and the business results.

In the General Meeting of Shareholders a thorough exchange of ideas should take place between company executives and investors. Relevant information should therefore be supplied so that, on the basis of soundly-based sector and investment analyses, it is possible to communicate effectively about and make a critical assessment of strategy, risks, activities and financial results. This, of course, requires the commitment not only of the directors and the supervisory directors but also that of the investors themselves.

Based on this information, the views of a wide variety of large and small investors should be discussed in the meetings in a representative and well-balanced fashion. All kinds of investors - private and institutional, large and small, domestic and foreign - should be given the opportunity and encouraged to assert their influence on the company's performance in an appropriate fashion. Those who exercise powers on behalf of the real providers of risk capital should, during the decision-making process at the General Meeting of Shareholders, be aware at all times that the said powers are in principle vested in those providers of risk capital. This creates an obligation for them to attach particular importance to the interests of the investors when exercising these powers.

If the General Meeting of Shareholders is to function properly, the attendance rate of the investors also needs to be higher. They, too, will have to participate actively in the meetings. This would prevent the meetings from being dominated by a few persons who cannot be regarded as representative for the larger group of investors and it would also counter the danger of insufficient continuity in the decision-making.

5.3 Mutual trust

The basic principle is that the Board of Directors and the Supervisory Board should have the confidence of the shareholders' meeting. The Committee therefore recommends that this be borne in mind when appointing board members. Boards of Directors and Supervisory Boards cannot perform satisfactorily in the long run without that confidence.

If companies comply with and implement these and the other, related recommendations by the Committee, then the co-optation system laid down in the 'structure company' regime should be able to continue functioning satisfactorily. Changes in legislation are therefore not deemed necessary, specifically because of the expectation that they would paralyse the discussion on Corporate Governance for a lengthier period of time.

5.4 Influence of the investors

5.4.1 Introduction

The Committee believes that investors should be able to exert real influence within the company. Although the Committee realizes that under the circumstances mentioned above the continuity of decision-making and the protection against hostile take-overs may justify a departure from the principle that the investor should be able to exercise a degree of influence which is proportionate to the capital contribution, the Committee believes that this should never lead to the investors being deprived of exerting a real influence. The company's management must not be allowed over a long period of time to ignore the opinions of the investors on subjects that concern them.

5.4.2 Reflections on diversity

In paragraph 5.5 of this report the Committee has listed a number of subjects which are of particular concern to the investors and on which they should be able to exert their influence. In this respect the Committee has noted the existence in listed companies of a wide diversity of regulations and structures which limit the influence of the investors. Its conclusion is that as a result of this wide diversity and having regard to what are often the different circumstances facing companies, it is not really possible to make concrete recommendations for the amendment of these regulations in order to extend the influence of the investors.

On the other hand, however, the Committee believes that it is possible and desirable for each com-

pany to reflect carefully on its own situation. Each company can in fact map out its own situation very accurately. Therefore it should be possible for each company to form a well-balanced opinion on whether its investors need more influence and on the measures required to achieve this. Such can be done without detracting too much from the justifiable desire for continuity in decision-making or from the protective function of existing regulations and structures.

5.4.3 Stock-taking and reporting

The Committee recommends that on the basis of the points mentioned in paragraph 5.5, the Board of Directors should take stock of the influence available to the investors in the company and should report its findings in writing to them. The Board of Directors should also state in the report whether and, if so, in what respect it feels that the influence of the investors should be increased and, where applicable, what measures it would like to take to achieve this.

The Committee also recommends that this report be placed on the agenda of a shareholders' meeting in 1998.

Investors, and institutional investors in particular, are invited to make known in good time their views on the subjects to be dealt with in this report, such as the criteria below and the regulations set out in paragraph 5.6, and to participate actively in the discussions at a shareholders' meeting in 1998.

To establish a basis for the discussions between the company's management and the investors, the Committee has given a non-exhaustive list ('menu') in paragraph 5.6 of a number of regulations for the limitation of influence, followed by a few general suggestions for possibilities of increasing the influence of the investors. These are not detailed suggestions and are not recommendations as such. The Committee's recommendation is that the investor should be able to exert a serious influence and that the company should establish, on the basis of these and other criteria, whether this is the case and, if not, what measures can be taken to increase the influence of the investor.

5.4.4 Further recommendations

In addition to the above-mentioned recommendation that the influence of the investors should be discussed at the shareholders' meeting in 1998 on the basis of the criteria in paragraph 5.5, the Committee has made a number of further recommendations.

The basic principle (cf. paragraph 5.4.1) that the Board of Directors should not ignore the general opinions of the investors is simply meaningless if the investors are not even given the opportunity to air their opinions. It follows that they should be able to bring influence to bear on the agenda of the General Meeting of Shareholders. The appropriate recommendation can be found in paragraph 5.7

To enhance the quality of the debate in the General Meeting of Shareholders and bring about a de facto increase in the influence of the investors, it is not only of importance that the Board of Directors provides good quality information in good time, but that the investors can also have recourse to the work done by investment analysts and the press. The Committee's recommendation on this can be found in paragraph 5.8.

As well as the higher attendance at the General Meeting of Shareholders discussed in paragraph 5.2, an effective proxy solicitation system without prohibitive costs would improve the representative nature of the General Meeting of Shareholders. The Committee is aware that a study group is preparing a proposal for the implementation of proxy solicitation. The Committee hopes that ways and means can be found to ensure compliance with the recommendation it has made in paragraph 5.9.

In addition the Committee recommends in paragraph 5.10 that minority shareholders should be given a satisfactory exit in the event that a party obtains majority control over the company.

5.5 Criteria

The Committee has identified a number of points against which the role and the influence of the investors could be tested. These relate to issues on which the Committee feels that the investors should be allowed to exert their influence:

1. the company's strategic policy, such as potential growth, the sectors of activity, the risk profile, the profit targets;
2. major changes in the nature and size of the company;
3. the dividend policy (the level of the dividend and the form it takes);
4. the size and composition of the share capital, including for example classes of shares/certificates of shares; intended issues; buy-back of shares; option plans; aspects of marketability and pre-emptive rights;
5. alteration of the company's articles of association;
6. adoption and/or approval of the annual accounts.

Criteria 1 and 2 emphasize the disclosure of information and criteria 3, 4, 5 and 6 emphasize the exertion of influence.

5.6 Abundance and cumulation of regulations ('menu')

With regard to the limitations of the rights of the ordinary investors, an abundance of different rules and regulations exist in the various companies within the wide framework offered by the law. The survey in Appendix 2 gives an indication of them. The Committee offers below a number of remarks on possible changes in frequently occurring regulations. These are meant to encourage the debate on reassessment of the factor capital and to form an initial basis for the debate. An open discussion of these points will in the Committee's opinion enhance the mutual trust between the Board of Directors and the Supervisory Board on the one hand and the investors on the other. Depending on the concrete circumstances, this exchange of views could lead to the conclusion that the position of investors in the relevant company should be reassessed.

5.6.1. Certification

In actual practice 'certification' [the issue of certificates in return for the original shares] is used for various purposes. Sometimes protection plays a role, sometimes there are other objectives. The Committee realizes that in the early 1970s the position of holders of certificates of shares was afforded legal recognition and protection, at least for holders of certificates of shares issued with the company's cooperation. They must be invited to and are admitted to the General Meeting of Shareholders and are allowed to participate in the deliberations. Furthermore the holders of certificates of shares have the right to ask the court to institute an inquiry if there is any suspicion of mismanagement. They have this right regardless of whether the certificates of shares were issued with the cooperation of the company or not.

The Committee has considered the position of holders of certificates of shares. It has paid particular attention to the composition and duties of the board of the trust office and to whether it is possible under normal circumstances to give holders of certificates of shares the right to vote by proxy.

Regarding the composition of the board of the trust office the Committee notes that in the case of listed companies it is not desirable for the board to be dominated by individuals who also hold a post in the company. With this in mind, Appendix X of the Amsterdam Exchanges Listing Rules contains regulations which cover certificates of shares with limited exchangeability, issued with the cooperation of the company, and which should guarantee an independent composition of the board. Appendix X does not, however, include any regulations on the way in which the individuals in question are appointed or dismissed. This should be regulated in such a manner that their independence is guaranteed in relation to the Board of Directors of the company and that holders of certificates of shares are given a satisfactory opportunity to formulate their wishes with respect to appointments and dismissals. This could be carried out in a trust office, set up especially for the company, by enabling the holders of certificates of shares to nominate a number of board members equal to largest possible minority within the board. If the certification has been arranged to protect against hostile takeovers, a greater influence of the holders of certificates of shares on the composition of the board would mean that certification would no longer offer adequate protection.

The suggestion that holders of certificates of shares are allowed to exert influence on appointments with regard to the largest possible minority of the board of the trust office was inspired by the consideration that there should be a greater equilibrium between the influence of the holders of certificates of shares and that of the Board of Directors on the appointment and dismissal of the members of the board of the trust office.

There are of course other ways and means of achieving a greater equilibrium, for example via a modified appointment and dismissal procedure which would promote greater independence of the board of the trust office as against the company.

With regard to the second point, the proxy to holders of certificates of shares, the Committee proposes that the trust office should give a proxy to those holders of certificates of shares who request such, unless - in exceptional cases - the nature of the relevant certification system is opposed to this.

The wording of the aims of the trust office, according to the regulations in Appendix X of the Listing Rules, implies 'the promotion of the interests of the issuing institution, the enterprise associated therewith and all those involved therein'. The problem that could arise is that the board of the trust office would not be able to transfer this responsibility to holders of certificates of shares, since the board of the trust office need not primarily be guided by this mandate and will vote according to their own opinions. Should this be an obstacle to granting proxy to the holders of certificates of shares, the Committee proposes amending the wording of the aims of the trust office and, if necessary, the regulations in Appendix X to the extent that such granting of proxy is not excluded.

The Committee believes than under normal circumstances the granting of proxy to holders of certificates of shares need not be incompatible with the Trust Office's obligation to take into account the interests of the company and all its stakeholders. Under normal circumstances these interests specifically imply that the holders of certificates of shares should be able to voice their opinions in what is a justifiably relevant fashion. In the case of certification, the granting of proxy is an appropriate means of doing this.

Obviously, the granting of proxy will involve costs. A regulation enabling the granting of proxy would of course lose its meaning if the costs charged to those requesting the proxy were prohibitive. Thus it follows that these costs should be charged to the company.

If the board of the trust office believes there are reasons not to grant proxy to holders of certificates of shares,it should justify its point of view explicitly to such holders. In such cases the Committee recommends that a meeting of holders of certificates of shares is convened at which the trust office gives an account of its actions.

The board of the trust office will in general have to take account of the opinions of the holders of certificates of shares and, if necessary, adjust its voting behaviour accordingly at the General Meeting of Shareholders.

The Committee would finally like to raise another important issue, namely the way in which the board of the trust office fulfils its duties. The basic principle is that the board, while observing the interests of the company and its stakeholders and the recommendations of the Committee on Corporate Governance, should carefully form its own, independent opinion on the course of affairs in the company and on matters which are (or should be) discussed in the shareholders' meeting. The board of the trust office should not adopt a passive attitude and it should express its opinions and the reasons for them at the appropriate time both in the shareholders' meeting and in its contacts with the company. It should also express these opinions via its voting behaviour at the shareholders' meeting.

5.6.2 Priority shares

Special powers are often vested in priority shares with respect to the appointment and dismissal of members of the Board of Directors and Supervisory Board members. The Committee has assumed as a basic principle in paragraph 5.3 that the Board of Directors and the Supervisory Board should under normal circumstances have the

confidence of the General Meeting of Shareholders and that they cannot perform satisfactorily in the long run without that confidence. The Committee believes that the holders of priority shares should also seriously bear this in mind when exercising special powers with respect to the composition of the Board of Directors and the Supervisory Board.

It also happens that decisions made by other bodies, including the General Meeting of Shareholders, on subjects other than the composition of the Board of Directors and the Supervisory Board, such as resolutions to alter the company's articles of association or resolutions on changes in the share capital, are subject to the approval of the holders of priority shares. Especially in situations where the priority shares have been issued to protect the interests of the company and the enterprise related therewith, the holder of priority shares should be expected to take serious account of the interests and opinions of the investors while observing the recommendations of the Committee. This likewise applies when representatives of the company's Board of Directors and of the Supervisory Board, as (members of the board of) the body that holds priority shares, determine how the priority shares will vote.

A practical problem in this respect is that approval by the priority usually has to be given in advance. Failing such approval the relevant item will in principle not be put on the agenda for the General Meeting of Shareholders.

Regarding the priority shares issued to protect the company's interests, the Committee proposes that, also in situations where approval has to be given in advance, the holder of priority shares should not stand in the way of the decisions called for by the investors in the General Meeting of Shareholders, unless an important company interest rules against this. If this only proves to be possible after alteration of the articles of association of the body that holds the priority shares, then the Committee proposes that such alteration be considered.

5.6.3 Preference shares

A distinction should be made between financing preference shares and protective preference shares.

The Committee takes the view that financing preference shares should not be issued until the Board of Directors has given account of the intended issue in the General Meeting of Shareholders and has explained what evident financial benefits the issue will bring for the company. Attention should also be paid to the consequences for the value of the profit per ordinary share and to the consequences for dilution of voting rights on the ordinary shares.

In this respect the Committee, in general, accepts the basic principle that proportionality exists between investment and influence. If preference shares are issued at a price that does not deviate substantially from the market price of the ordinary shares, then that principle will have been satisfied. This does not alter the fact that, in terms of their return, the character of financing preference shares may differ essentially from that of ordinary shares. If an issue of preference shares at a price that deviates significantly from the market price of ordinary shares is inevitable in order to realize substantial financial benefits, the Committee proposes that the company investigate whether certification of the preference shares can provide an acceptable solution for the dilution of the voting rights of ordinary shareholders.

In general the Committee believes that financing preference shares should not be issued for purposes for which they are not intended, such as protection. If required the company could make use of protective preference shares for such purpose. The Committee proposes that, when issuing financing preference shares, the company should not subject the transfer of those shares to lasting contractual limitations or to restrictions laid down in the articles of association. If this does happen, the explicit approval of the General Meeting of Shareholders should be sought.

The Committee believes that protective preference shares should under normal circumstances not be issued. The voting right on protective preference shares should be exercised with due regard for the function of the shares. The holder of these shares

should be reticent in using the voting rights attached to these shares when decisions are being taken that do not concern the protection of the company against an unfriendly acquisition of control.

5.6.4 'Structure companies'

In paragraph 5.3 attention has already been paid to the special rights of the Supervisory Board under the (full) 'structure regime' regarding the appointment of its own members and the composition of the Board of Directors. In addition the law also grants other mandatory rights to the Supervisory Board under the 'structure regime', such as the adoption of the annual accounts (if the company is subject to the full 'structure regime') and the approval of certain important board resolutions. The Committee does not wish to undo these mandatory powers that are granted by law.

The Committee takes a different view of the additional powers of the Supervisory Board which reduce the powers of the General Meeting of Shareholders and which are granted to the Supervisory Board via the articles of association within the latitude allowed for such by the law. As regards the exercise of these additional powers the Committee proposes, also in situations in which approval has to be given in advance, that the Supervisory Board and the Board of Directors, if an initiative for decision-making is needed in the General Meeting of Shareholders, should not stand in the way of decisions called for by the investors in the General Meeting of Shareholders, unless a substantial company interest rules against such. To the extent that such a position taken by the Supervisory Board would be impossible in view of the statutory regulation that it must be guided by the interests of the company and the enterprise related thereto, the Committee proposes that the said additional powers of the Supervisory Board should be cancelled by means of an alteration of the articles of association.

In addition to the voluntary granting of powers to the Supervisory Board under the articles of association in companies subject to the compulsory 'structure regime', there are instances in which the structure regime is voluntarily applied fully or in part. The Committee proposes that a decision should be taken to terminate such a voluntary application if there is no evident justification for it.

5.7 Agenda

In the context of the sought-after dialogue and the required accountability, it is important that shareholders and holders of certificates of shares are given the opportunity to exert their influence on the composition of the agenda of the General Meeting of Shareholders.
In their articles of association, some companies grant an explicit right to shareholders and to holders of certificates of shares to propose items for inclusion on the agenda. If the articles do not contain such a provision, this still does not mean that the Board of Directors can simply disregard a proposal to include a certain item. The Board of Directors should realize that mutual trust between the board and the shareholders and holders of certificates of shares implies that the items placed on the agenda by them within the approved period of time should be carefully considered. In cases where investors who, either on their own or collectively, represent 1 per cent of the issued capital or whose shares or certificates of shares represent a stock market value of at least NLG 500,000 on the date of convocation of the meeting, request that a certain item should be placed on the agenda, such request should be honoured, provided it has been submitted to the Board of Directors or to the chairman of the Supervisory Board at least thirty days prior to the date of the meeting, unless such inclusion on the agenda is - in the opinion of the Supervisory Board and the Board of Directors - opposed by substantive company interests.

If proposals to include on the agenda items, which comply with the above criteria, are not honoured, the Committee recommends that the Board of Directors should state this explicitly at the beginning of the meeting and explain why it has decided not to include such item or items on the agenda.

5.8 Investment analysis and the press

For the benefit of all the investors the quality and specialisation of investment analysis, particularly that of the different sectors, should increase. This will mainly be a task for the Society of Investment

Analysts and for stockbrokers. The financial press will have a permanent role to play, acting as a critical and independent element.

5.9 Proxy solicitation

An efficient proxy solicitation system should be established at a reasonable cost for the company and (groups of) shareholders and holders of certificates of shares. Its implementation should be entrusted to a neutral body that draws up and publishes the conditions for admission. These conditions should ensure that all those involved in decision-making in the General Meeting of Shareholders should have a realistic possibility of contacting (other) shareholders or holders of certificates of shares to discuss specific items listed on the agenda which affect the company and all its stakeholders and which could be the subject of discussion or decision-making at the General Meeting of Shareholders.

5.10 Minority shareholders

Pending completion of the discussions on the European 13th Directive on company law, the Committee recommends that a party that holds 50% or more of the shares of a listed company and has gained control of such company must, within a reasonable period of time, make a bid under realistic terms for the remaining shares or, where appropriate, for the certificates of shares.

6. Compliance with the recommendations, auditors and rating

6.1 Reporting on compliance with the recommendations

The basic outlines of Corporate Governance within the company should be explained in the annual report. The company should give a motivated explanation in the annual report of the extent to which it has complied with the recommendations.

6.2 · Reporting by the auditor on compliance with the recommendations

The Supervisory Board may grant an assignment to the auditor to assess the accuracy of the reports by the Board of Directors om compliance with the verifiable recommendations. If such assignment is carried out, the auditor should report his findings in writing to the Managing Board and the Supervisory Board.

6.3 Auditor and systems of internal control

The annual accounts audit is one of the cornerstones for sound Corporate Governance. The short form auditor's report adds certainty to the reliability of the annual accounts for all those with an interest in the company. The Board of Directors is responsible for preparing the annual accounts, but it is the auditor's responsibility to provide the report. The auditor is the independent expert on providing information and verifying it. International developments in Corporate Governance increasingly mean that (internal and external) auditors are being asked to advise and alert when assessing the structure and functioning of systems aimed at controlling risks and the accountability thereof. In this context the Committee would like to refer to what is said about internal control in paragraph 4.3.

6.4 Consultation with the auditor

The Supervisory Board or the audit committee should hold a meeting with the auditor at least once a year. On the agenda will be at least the audit (range, planning and findings) as well as (aspects of) the financial reporting.

The specific duties of the audit committee include:

1. supervising the quality of all external financial reports;
2. supervising compliance with internal procedures and laws and regulations and the control of company risks;
3. facilitating the communication with the auditors;
4. assessing the activities and functioning of the auditors.

6.5 Rating agencies

If the company, whether at its own request or not, is subjected to a rating process by a rating agency, the report prepared by such agency should be discussed in the Supervisory Board.

7. Monitoring

7.1 Monitoring

The Committee proposes that compliance with its recommendations, as set out in this report and summarized in Appendix 1, should be monitored once only after publication of the 1998 annual reports and that the procedure to be used for this monitoring this should be agreed between the parties involved.

The aim of this is to promote an effective system of self-regulation. During the proposed monitoring process special attention should be paid to the following:

1. the report of the Supervisory Board

2. discussion in the company's annual report of:
   - the company's strategy
   - the risk profile of the company
   - the systems of internal control
   - compliance with the recommendations made by the Committee on Corporate Governance:

3. discussions on the criteria set out in paragraph 5.5 in a Shareholders' Meeting in 1998, in accordance with the proposals made by the Committee in chapter 5.

7.2 Monitoring results

The results of the monitoring will be of importance for further discussions on the subject of Corporate Governance in the Netherlands.

8 Buyback of shares

8.1 Buyback of shares

A solution needs to be found for the problem of the fiscal aspects of the buyback of shares. The Committee recommends revision of the legislation with regard to this problem in order to enable companies in the Netherlands to buy back their own shares without any fiscal objections.

Committee Members

Chairman:

J.F.M. Peters	*ex-Aegon*

Secretary

S.L.M. Follender Grossfeld	*Amsterdam Exchanges nv*

Assistant Secretaries

T.P. Flokstra	*Amsterdam Exchanges nv*
H.J. Tulp	*Amsterdam Exchanges nv*

On the recommendation of the Amsterdam Exchanges Association:

P.Arlman	*Amsterdam Exchanges nv*

On the recommendation of the Association of Securities-Issuing Companies:

C.J. Brakel	*Wolters-Kluwer N.V.*
J.V.H. Pennings	*Océ N.V.*
J.W.B. Westerburgen	*Unilever N.V.*

On the recommendation of the Platform of investors:

R.A.E. de Haze Winkelman	*former managing director Association of Stockholders*
J. Mensonides	*Industrial Pension Funds*
D. Snijders	*Company Pension Funds*

Experts:

R.H. Hooghoudt	*Nauta Dutilh Lawyers, Civil Notaries, Tax Advisors*
P.W. Moerland	*Catholic University of Brabant*
P. Wallage	*KPMG Accountants N.V.*

Assistance:

W.J. de Ridder	*Society and Enterprise Foundation*

Appendix 1 Summary of the recommendations of the Committee on Corporate Governance[6]

For practical reasons this summary has been formulated as briefly as possible. The recommendations should be read and implemented within the context of the full report.

The Committee's recommendations with regard to the Supervisory Board (members) will apply as much as possible in cases where the supervision of a (listed) company has a structure other than through a Supervisory Board.

1. The Supervisory Board should draw up a profile which is to be periodically amended. It should be available for inspection at the company offices (2.2).

2. The composition of the Supervisory Board should be such that the Board Members are able to operate independently of one another and of the Board of Directors and in a critical way (2.3).

3. The annual report should contain the particulars of each Supervisory Board member as proposed by the Committee (2.4).

4. No more than one former member of the Board of Directors should serve on the Supervisory Board.

   Special consideration should be given to the influence that former membership of the Board of Directers could exert on the performance in and on the Supervisory Board and on the performance of the Board of Directors. This is of special importance when a former chairman of the Board of Directors is the intended chairman of the Supervisory Board (2.5).

5. Members of the Supervisory Board who have been appointed on the basis of a nomination, should perform their duties without a mandate from those who nominated them and independently of subsidiary interests associated with the company. This means that they, like other Supervisory Board members, should not commit to certain subsidiary interests while neglecting other associated interests (2.6).

6. Reappointment of Supervisory Board members should be given careful consideration and should not be automatic.

   Supervisory Board members in companies without a structure regime should also be appointed for a certain period of time.

   The Supervisory Board should draw up a rota for resignations to prevent an unnecessary number of resignations having to be made at the same time (2.7).

7. Members of the Supervisory Board should resign early whenever inadequate performance, fundamental differences of opinion, irreconcilable conflict of interests or other circumstances so dictate (2.8).

8. A member of the Supervisory Board facing a conflict of interests should immediately report this to the chairman of the Supervisory Board (2.9).

9. The number of Supervisory Board memberships which a person can hold with a (listed) company should be limited in such a way as to guarantee the satisfactory performance of duties. Companies should allow employees in active service to hold memberships on Supervisory Boards of other companies (2.10).

10. Neither hierarchic subordination within an interest group, cross bonds nor other relations with a person under his supervision should prevent a Supervisory Board member from performing his duties independently (2.11).

11. Any company shares held by a Supervisory Board member are meant to be long-term investments. The aggregate number of shares, certificates of shares and options[8] held by the joined Supervisory Board members are to be published in the company's annual report (2.12).

12. The remuneration of Supervisory Board members should not be dependent on the results of the company. Any business relationships with the company should be published in the notes to the annual accounts (2.13).

13. Any semblance of conflict of interests between the company and a Supervisory Board member should be avoided (2.14).

14. The specific duties of the Supervisory Board and those of its chairman are laid down in the

[8] Marketable options and not employee stock options are meant here, because the Committee believes, in accordance with paragraph 2.13, Supervisory Board members should not be granted employee stock options.

regulations for the Supervisory Board. The Supervisory Board also considers the desirability of adding rules to the regulations concerning the relation of the Supervisory Board with the Board of Directors, the works council and the investors (3.1).

15. The Supervisory Board should consider setting up a nomination, audit and a remuneration committee from among its members. The existence of such committees should be mentioned in the report of the Supervisory Board in the company's annual report (3.2).

16. The Supervisory Board should meet according to a predetermined time schedule. Individual members should be called to account for frequent non-attendance (3.3).

17. At least once a year the Supervisory Board should review the strategy and the risks involved in the company and the results of the assessment by the Board of Directors of the systems of internal control. These matters should be included in the Supervisory Board report in the company's annual report (3.4).

18. At least once a year the Supervisory Board should meet in the absence of the Board of Directors to discuss the functioning of the Supervisory Board, the relationship with the Board of Directors, the assessment of the Board of Directors including issues concerning succession and remuneration. The Supervisory Board should refer to this meeting in the annual report (3.5).

19. The adoption (approval) of the annual accounts and the approval of the policies pursued by the Board of Directors and the supervision exercised by the Supervisory Board should be separate items on the agenda for the annual General Meeting of Shareholders (3.6).

20. A permanently delegated Supervisory Board member is not desirable (3.7).

21. The Board of Directors should report in writing to the Supervisory Board on company objectives, the strategy and the associated risks and the mechanisms used to control financial risks. The main items in the report should be a permanent part of the annual report. Quantification can be a tool to help clarify the company objectives and the strategy. If quantifications have been given they should be utilized in comparisons with the actual outcome (4.2 and 4.3).

22. The aggregate sum of the remuneration in the annual report should be split into that for serving and that for former board members (4.4).

23. Any securities held by a member of the Board of Directors are meant to be long-term investments. The aggregate number of securities held by the joint members of the Board of Directors at the end of the financial year should be included in the annual report, with a subdivision into:

- shares/certificates of shares;
- convertible bonds;
- marketable options;
- options issued by the company with the most significant conditions(4.5).

24. An employee stock option plan serves to strengthen involvement in the company over the long-term (at least 3 years). The employee stock option is a form of payment which should be related to the degree of success of the efforts made by the employee to enhance the market value of the company. The conditions for the granting of the stock options should reflect this.

    The options issued by the company to the joint board members and other employees in that financial year should be included in the annual report together with the most significant conditions (4.6).

25. Any semblance of a conflict of interests between the company and members of the Board of Directors should be avoided (4.7).

26. Based on the principle that finance and influence should be in line, companies and investors should be asked to reassess the part played by capital in their company (5.1).

27. For all companies the General Meeting of Shareholders should be the forum to which the Supervisory Boards and the Boards of Directors report and to which they are accountable with regard to their performance (5.2).

28. The Board of Directors and the Supervisory Board should have the confidence of the shareholders' meeting. This should be borne in mind when appointing board members (5.3).

29. Based on the criteria mentioned in paragraph 5.5 of the report, the management should assess the degree of influence of the investors and in what respect it would be desirable to increase the influence of the investors and, if so, what measures should be taken. The results of the assessment should be reported to the General Meeting of Shareholders in 1998. This report should be put on the agenda and should be discussed (5.4 - 5.6).

30. Requests made by investors who represent 1 percent of the issued capital or whose shares or certificates of shares at the time the General Meeting of Shareholders is called represent a value of at least DFL 500,000 to place a certain item on the agenda should be honoured, if such requests have been submitted to the Board of Directors or to the chairman of the Supervisory Board at least thirty days beforehand, unless substantive company concerns in the opion of the Supervisory Board and the Board of Directors prevail (5.7).

31. The quality and the specialisation of investment analysis - particularly with regard to individual sectors - should be enhanced (5.8).

32. A proxy solicitation system which can enhance the involvement of the investors in the decision-making in the General Meeting of Shareholders should be introduced (5.9).

33. Parties which have gained control of a listed company by holding 50% or more of its shares should within a reasonable period of time make a bid for the remaining shares and/or certificates of shares on realistic terms (5.10).

34. The main principles of Corporate Governance in the company should be outlined in the annual report. In its annual report the company should give an argued explanation of the extent of its compliance with the recommendations(6.1).

35. The Supervisory Board should assess whether the auditors should verify the reporting on the implementation of the verifiable recommendations (6.2).

36. The audit of the annual accounts is an integral part of a sound system for Corporate Governance (6.3).

37. The Supervisory Board or the Audit Committee should meet with the auditor at least once a year (6.4).

38. Reports from rating agencies should be discussed in the Supervisory Board (6.5).

39. The Committee proposes to monitor compliance with the recommendations once only after the publication of the annual reports in 1998 to be arranged by the parties involved (7.1).

40. Buyback of shares in the Netherlands should be possible without fiscal objections (8.1).

Appendix 2 Further information on listed companies

Companies by capitalisation	Number of companies	Market value in *f* billions	% of capitalization	'Structure regime'	Priority shares	Preference shares protective	Preference shares financing	Certificate of shares	Voting limitations
> *f* 25 bln.	5	277.5	50%	3	3	2	3	2	1
*f*10 bln. - *f*25 bln.	8	133.0	24%	4	4	4	2	1	1
f 5 bln. - *f* 10 bln.	7	49.2	9%	2	1	3	2	1	1
f 2.5 bln. - *f* 5 bln.	9	37.6	7%	7	4	7	2	2	0
f 1 bln. - *f* 2.5 bln.	21	34.1	6%	13	10	13	2	9	0
f 500 million - *f* 1 bln.	15	10.0	2%	12	5	9	2	6	0
f 250 million - *f* 500 million	20	6.5	1%	15	7	14	0	9	1
f 100 million - *f* 250 million	19	3.4	1%	13	4	9	3	9	0
f 50 million - *f* 100 million	9	0.7	0%	6	6	5	0	2	0
< *f* 50 million	22	0.6	0%	12	7	9	2	5	1
Total	135	552.6	100%	87	51	75	18	46	5

SOURCES: AMSTERDAM STOCK EXCHANGE;
B. VAN DER HOEVEN, F&O JAN/FEB. 1995, P. 23-31
E.H.L. VERVUURT, EFFECT JULY 1996, P. 9
INVESTMENT INSTITUTIONS NOT INCLUDED

In the Netherlands a total of 593 persons sit on one or more Supervisory Boards in Dutch listed companies, investment institutions not included.
The number of persons sitting on a Supervisory Board in all the companies in the Netherlands, i.e. including non listed companies and investment institutions, is 6,542.

SOURCE: DELWEL PUBLISHERS / AMSTERDAM STOCK EXCHANGE ASSOCIATION, SEPTEMBER 1996

Supervisory Board memberships per person[1]

number of persons	0	10	20	30	40	50	60	70	80
2 memberships								69	
3 memberships				32					
4 or more memberships			20						

1) IN LISTED COMPANIES, NOT INCLUDED INVESTMENT INSTITUTIONS
SOURCE: DELWEL PUBLISHERS / AMSTERDAM STOCK EXCHANGE ASSOCIATION, SEPTEMBER 1996

Distribution of Dutch shares (in percentages)

	1986	1990	1994	1996
Banks[1]	0.8	0.7	0.6	0.8
Institutional Investors[2]	13.4	19.0	18.8	20.4
Foreign holdings[3]	47.2	44.0	41.8	41.2
Investment trusts[4]	1.6	1.5	1.2	1.1
Other[5]	36.9	34.8	37.6	36.5
Total[6]	100.0	100.0	100.0	100.0

1) De Nederlandsche Bank (Source: Quarterly Report DNB, table 2.1)
2) Insurance companies, private pension funds, ABP and social funds (Source: Quarterly Report DNB, table 2.2)
3) Data as of end of year based on Publications Sparling (Source: Quarterly Report DNB, 88/Q4 and 94/Q2)
Other quarters based on Net international transactions DNB Quarterly Report, table 6.5.2 adjusted for CBS general index
4) Investment institutions (Source: Quarterly Report DNB, table 2.2)
5) Residual item, an estimate of private and company holdings
6) Capitlisation of all (the depositary receipts of) Dutch shares as listed on the Amsterdam Stock Exchange, including 50% of the market value of the listed investment institutions

Distribution of ownership of American shares (in prercentages)

	1950	1970	1990	1992	1995
Private pension funds	0.8	8.0	16.8	15.0	14.0
State & local pension funds	0.0	1.2	8.4	8.2	8,2
Life insurance companies	1.5	1.7	2.8	3.2	4.3
Other insurance companies	1.8	1.6	2.3	1.8	1.8
Mutual funds	2.0	4.7	6.6	7.3	12.6
Closed-end funds	0.0	0.5	0.5	0.4	0.5
Bank personal trusts	0.0	9.6	5.4	4.0	2.7
Foreign sector	2.0	3.2	6.9	6.0	4.3
Households & non-profit organizations	91.3	68.0	49.9	53.4	51.2
Other	0.6	1.4	0.6	0.5	0.5
Total equities outstanding ($ in billions)	$ 142.7	$ 841.4	$ 3,530.2	$ 5,462.9	$ 8,013.5

bron: New York Stock Exchange, Fact Book 1995 Data

..... pension funds now own about 30% of all listed stocks, holding the stock's underlying value in trust for the retiree recipients. Ten years ago, it was only 21% and 25 years ago less then 10%.
In addition, people aged 55 to 64 own 13% of all stocks and those 65 and older own 22%. Indeed, there are more than 15 million shareowners in these age brackets. The burgeoning mutual funds and 401(k) programs are favorites of these groups.

Mahoney, Richard J.
Who really owns corporate America?
Directorship Inc. & Sound Shore Drive, vol XXII, no 5, may 1996

Companies with 100 or more employees according to sector, january 1, 1996

Sector	Number of companies
Mining	10
Industry	1.750
Building Industry	390
Repair of consumer goods, trade	615
Catering	100
Transport, storage and communications	290
Financial institutions	160
Rental and commercial services	690
Education (only driving schools)	730
Health and welfare services	1.050
Culture, recreation, other services	230
Total	6.015

Source: CBS

Companies according to number of employees, january 1, 1996

Number of employees per company	Number of companies
0 employees	321.985
1 to 5 employees	206.825
5 to 10 employees	40.805
10 to 100 employees	51.895
100 or more employees	6.355
Total	627.645

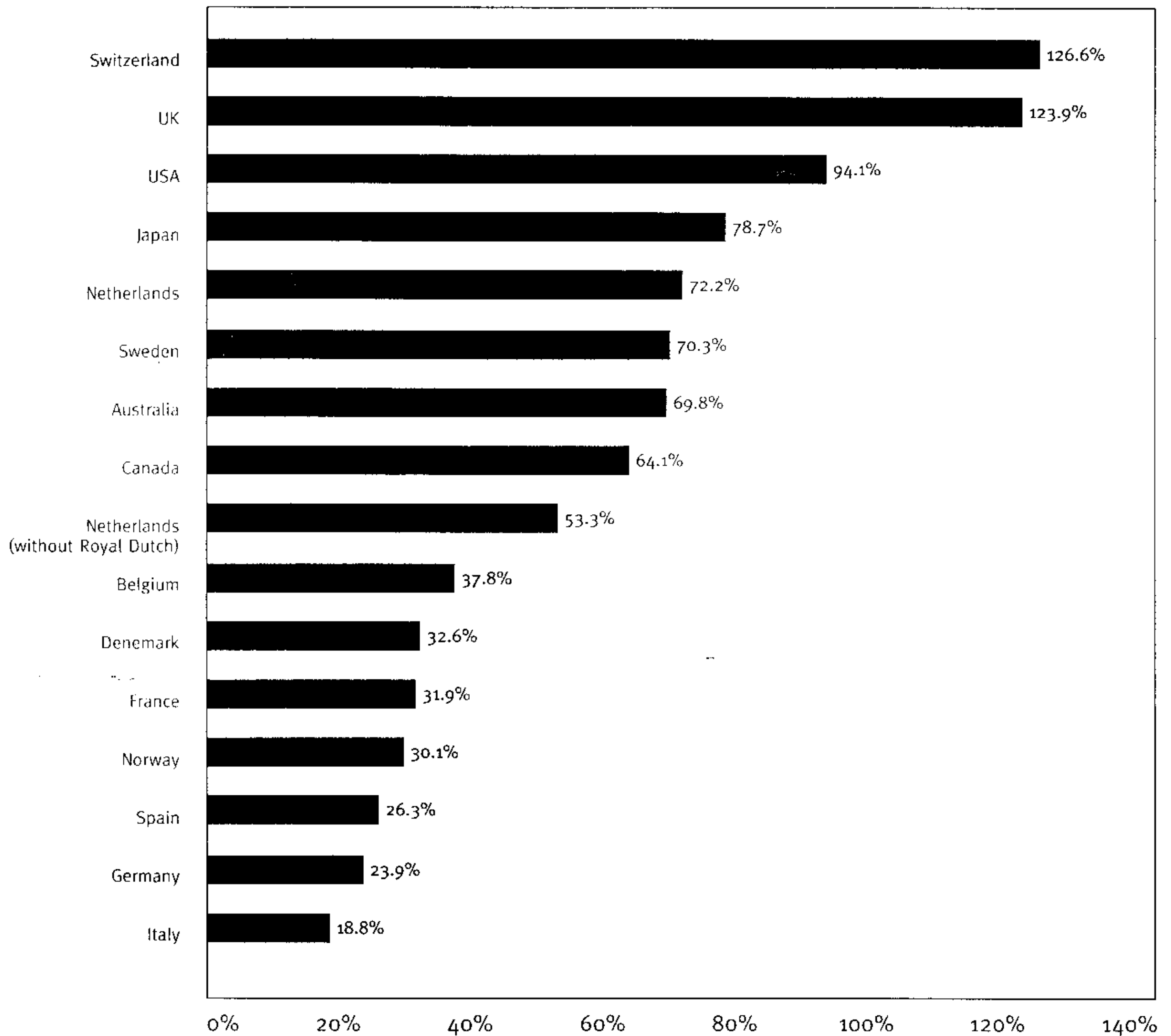
Source: CBS

Companies according to corporate structure, january 1, 1995

Corporate structure	Number of companies
Public limited company	2.042
Private limited company	156.170
One-man business	332.438
Partnerships	87.072
Miscellaneous	72.601
Total	650.323

Source: CBS

Stock Exchange Capitalisation vs GDP*



SOURCES: FIBV, OECD JUNE 1996

* GROSS DOMESTIC PRODUCT