



## **Consultation Dutch Law on Corporate Social Responsibility ("Wet IMVO")** **Response ExxonMobil<sup>1</sup>**

As a concerned EU corporate citizen, we provide comments on the draft bill on Corporate International Responsibility Act (Bill), while at the same time reiterating our broader views on the Corporate Sustainability Due Diligence Directive (CS3D), from its laudable aims to its likely repercussions on EU competitiveness and investment attractiveness.

In this respect we fully support the position submitted by AmCham Netherlands on December 21, 2024, to the public consultation and herewith want to emphasize the following elements addressed in the AmCham Netherlands' response:

### **Comments on the CS3D**

#### **Europe's Competitiveness Challenge:**

The current regulatory and policy framework discourages businesses from investing in the EU. Doing business in Europe is more difficult when compared to other regions such as the U.S. and China. If the EU wants to meet its climate goals, it must make doing business here easier. Otherwise, it risks losing the very industries that can provide the technologies to help achieve net zero. If these industries leave, jobs and economic security go with them, and the EU becomes even more dependent on imports.

The Draghi report labels the CS3D as a major source of regulatory burden. CS3D is a prime example of an uncompetitive policy and was proposed despite two negative impact assessments from the Commission's own scrutiny board.

The spirit of the CS3D is laudable. It is important for companies to respect human rights, end forced and child labour and protect the environment. But the CS3D poses a number of concerns including:

- Extraterritorial effect and overreach: the CS3D's impact on companies both inside and outside the EU creates overlapping and potentially conflicting regulations with those in non-EU jurisdictions.
- Regulatory burden: it will impose heavy, costly and, in some cases, unfeasible burdens on companies.
- Civil liability regime: it opens the door to a further threat of frivolous, excessive, and expensive litigation and, with its extraterritorial scope, creates liability hazards in non-EU jurisdictions and could result in litigation and potential liabilities for the same damages under different legal systems.
- Transition plans: the EU is trying to turn commitments by countries under the Paris Agreement into direct legal obligations for companies. The EU already has a comprehensive framework for achieving its net zero ambitions, including the Fit for 55 package (with, e.g., a well-established emission trading system and policies addressing the transport sector). Companies should have

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<sup>1</sup> Exxon Mobil Corporation has many affiliated companies, many of which include the names ExxonMobil, Exxon, Esso, and Mobil. For convenience and simplicity, those terms such as company, company, our, we and his/her are sometimes used on this website as abbreviated references to specific affiliated companies or related groups. Abbreviated references that describe global or regional operational organisations and global or regional industries are also sometimes used for convenience and simplicity. ExxonMobil also has business relationships with thousands of customers, suppliers, governments, etc. For convenience and simplicity, words such as enterprise, joint venture, partnership, co-venturer, and partner are used to indicate business relationships involving joint activities and interests, and those words do not necessarily indicate exact legal relationships.

the flexibility to decide how to best comply with those EU policies in their business, taking into account consumers' needs.

We understand that the European Commission will propose an omnibus package (which will include changes to some parts of the CS3D) at the end of February 2025. Making progress in the process of transposing a directive into national law while at the same time discussing amending the directive itself will lead to uncertainty and inefficiencies for both businesses and the institutions involved. We believe that the Dutch government – as well as the other Member States – **should work with the European Commission to adjust the deadline for transposition into national legislation and for implementation** to ensure that the omnibus changes can be properly considered for national implementation without causing further undue inefficiencies and lost time. We also point out the risk of distortion of the level playing field if the Netherlands implements the CS3D quickly in national legislation, while other member states may wait for the discussion on omnibus legislation before proceeding with implementation.

### **Comments on the proposed Bill, notwithstanding the above-mentioned points**

We applaud the efforts of the Dutch government to introduce legislation that aligns to the CS3D without additional burdens to business being included in the Bill. That said, we believe that Article 3 would benefit from a more closely aligned interpretation of the Article 22 (Combating climate change) provisions and related preamble paragraphs as referred to in detail in the AmCham Netherlands position.