



EUROPEAN COMMISSION

Brussels,  
C (2011)

**Subject: State Aid 32160 (2010/N) – Netherlands  
Extension of the scheme ‘Limited amounts of compatible aid  
(guarantees for working capital) for undertakings active in the  
primary production of agricultural products’**

Sir,

The Commission wishes to inform the Netherlands that, having examined the information supplied by your authorities on the aid measure referred to above, it has decided not to raise any objections to the measure in question, as it is compatible with the Treaty on the Functioning of the European Union (TFEU).

The Commission has taken this decision on the basis of the following considerations.

#### **1. PROCEDURE**

- (1) By electronic notification of 24 December 2010, the Dutch authorities notified the Commission (on a simplified notification form) of extension of the scheme ‘Limited amounts of compatible aid (guarantees for working capital) for undertakings active in the primary production of agricultural products’ (N 611/2009), pursuant to Article 108(3) of the TFEU. Additional information was submitted by letters of 13 and 20 January 2011.
- (2) The initial scheme (N 611/2009) was related to the Communication from the Commission ‘Temporary Community framework for State aid measures to support access to finance in the current financial and economic crisis’ (‘Temporary Community Framework’)<sup>1</sup>. This initial scheme was approved by the Commission by decision C(2009)10588 of 22 December 2009.
- (3) The extension notified is related to the Communication from the Commission ‘Temporary Union framework for State aid measures to support access to finance

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<sup>1</sup> OJ C 16, 22.1.2009, p. 1.

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in the current financial and economic crisis', adopted on 1 December 2010 ('Temporary Union Framework')<sup>2</sup>.

## **2. DESCRIPTION**

- (4) The Dutch authorities confirmed that the amendment concerns only the duration of the initial scheme (N 611/2009) and that all other aspects of this scheme remain unchanged. The description set out below accordingly focuses on the main aspects of the extended scheme.

### **2.1. Legal basis**

- (5) The measure is based on Articles 2, 4 and 7 of the *Kaderwet LNV-subsidies* and on Articles 2:81 to 2:89 of the *Regeling LNV-subsidies*.
- (6) The Dutch authorities committed themselves to replacing the references in the legal basis (*Regeling LNV-subsidies*) to the Communication from the Commission 'Temporary Community framework for State aid measures to support access to finance in the current financial and economic crisis' (OJ C 16, 22.1.2009, p. 1) with references to the Communication from the Commission 'Temporary Union framework for State aid measures to support access to finance in the current financial and economic crisis' (OJ C 6, 11.1.2011, p. 5).

### **2.2. Form**

- (7) The aid is granted in the form of a guarantee for repayment of a loan to finance working capital. The aid element will be calculated on the basis of the method approved by decision C(2009)10757 of 5 January 2010 (N 602/2009).

### **2.3. Beneficiaries**

- (8) The beneficiaries are undertakings active in the primary production of agricultural products.
- (9) The aid may not be granted to undertakings in difficulty (as defined in point 2.1 of the Communication from the Commission 'Community guidelines on State aid for rescuing and restructuring firms in difficulty'<sup>3</sup>). However, it may be granted to undertakings which were not in difficulty on 1 July 2008 but fell into difficulty after that date.
- (10) The aid may not be granted to any undertaking in respect of which a recovery order is still outstanding following a previous decision by the Commission declaring the aid received illegal and incompatible with the internal market.

### **2.4. Conditions**

- (11) The Dutch authorities confirmed that the conditions laid down in point 2.2 of the Temporary Union Framework are met. In particular they confirmed that

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<sup>2</sup> OJ C 6, 11.1.2011, p. 5.

<sup>3</sup> OJ C 244, 1.10.2004, p. 2.

- the aid is not export aid or aid favouring domestic over imported products;
- the aid is not fixed on the basis of the price or quantity of products put on the market.

### **2.5. Intensity**

- (12) The gross grant equivalent of the aid does not exceed EUR 15 000 per undertaking.

### **2.6. Budget**

- (13) The overall budget for the scheme is EUR 2 810 000.

### **2.7. Duration and standstill**

- (14) The scheme is to be extended by one year, so that the aid may be granted until 31 December 2011. Complete applications may be submitted from the date of the adoption of this decision by the Commission until 31 March 2011.
- (15) No aid will be granted under the extended scheme in 2011 before this scheme is approved by the Commission.

### **2.8. Cumulation**

- (16) During the period from 1 January 2008 to 31 December 2011, the total amount of *de minimis* aid (as provided for in Commission Regulation (EC) No 1535/2007 of 20 December 2007 on the application of Articles 87 and 88 of the EC Treaty to *de minimis* aid in the sector of agricultural production<sup>4</sup>) and of aid based on point 2.2 of the Temporary Union Framework will not exceed the gross grant equivalent of EUR 15 000 per undertaking.
- (17) Each application for aid must be accompanied by a declaration from the undertaking reporting all *de minimis* aid or aid based on the Temporary Union Framework granted since 1 January 2008.
- (18) The Dutch authorities confirmed that, in case of cumulation of the aid granted under the Temporary Union Framework with other forms of Union financing, the maximum aid intensity indicated in the relevant guidelines or block exemption regulations will be observed. In case of co-financing with the EU Structural Funds and other EU financing instruments, the applicable rules will be respected.

### **2.9. Reporting obligations**

- (19) The Dutch authorities committed themselves to complying with the monitoring and reporting obligations laid down in point 4 of the Temporary Union Framework.

### **2.10. Confidential information and language waiver**

- (20) The Dutch authorities indicated that the notification contains no confidential information or business secret and accepted that the Commission decision be adopted in English as the authentic language.

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<sup>4</sup> OJ L 337, 21.12.2007, p. 35.

### 3. ASSESSMENT

- (21) In its decision C(2009)10588 of 22 December 2009, the Commission concluded that the scheme ‘Limited amounts of compatible aid for undertakings active in the primary production of agricultural products’ constituted State aid within the meaning of Article 107(1) of the TFEU but was compatible with the internal market pursuant to Article 107(3)(b) of the TFEU, because it was apt to remedy a serious disturbance of the Dutch economy. To this end, the Commission had assessed the appropriateness, necessity and proportionality of the measure.
- (22) In view of the continued volatility of financial markets and the uncertainty about the economic outlook, the Commission decided that an extension until the end of 2011 of the measures taken under the Temporary Community Framework to give companies easier access to finance was justified in order to ensure a gradual return to normal State aid rules while limiting their impact on competition.
- (23) The Commission observes that the prolongation of the scheme is a response to the continuing difficulties that enterprises in the Netherlands are experiencing in obtaining funding from banks. Even though in broad terms the health of the banking sector has improved compared with the situation one year ago, the recovery is still fragile as the future developments in financing remain uncertain. Thus the risk persists that the banking system might not be ready to sustain the recovery when demand for credit picks up.
- (24) Against this background and taking into account the residual fragility of the recovery and the possibility of setbacks in that process, continuation of the scheme ‘Limited amounts of compatible aid for undertakings active in the primary production of agricultural products’ can be deemed necessary to give companies easier access to finance. The Commission considers that abrupt withdrawal of the scheme might put further stress on the recovery process. The Commission therefore considers that extension of the scheme until the end of 2011 is appropriate, necessary and proportionate to remedy a serious disturbance of the Dutch economy.
- (25) In the light of the foregoing, the notified prolongation of the above-mentioned scheme does not alter the Commission’s previous assessment in decision C(2009)10588 of 22 December 2009.
- (26) On the basis of these considerations, the prerequisites for the compatibility of the scheme with Article 107(3)(b) of the TFEU that have been established by the Temporary Community Framework continue to apply. Furthermore, the Commission considers that the notified extension of the above-mentioned scheme until 31 December 2011 complies with the requirements set out in the Temporary Union Framework (in particular in point 2.2) and is therefore compatible with the internal market.
- (27) The Commission notes that the Dutch authorities agreed that the decision be adopted in English as the authentic language and confirmed that the notification contains no confidential information.

**4. DECISION**

- (28) The Commission has accordingly decided to consider the notified extension of the aid scheme compatible with the internal market on the basis of Article 107(3)(b) of the TFEU.

Yours faithfully,  
For the Commission

Dacian CIOLOȘ  
Member of the Commission