



EUROPEAN COMMISSION

Brussels, 20.11.2013

C(2013) 7886 final

PUBLIC VERSION

This document is made available for information purposes only.

**Subject: State aid SA.34719 (2013/N) – The Netherlands  
Electric transportation scheme in Amsterdam**

Sir,

I am pleased to inform you that the European Commission has assessed the Electric transportation scheme in Amsterdam notified by the Kingdom of the Netherlands and decided to consider the aid to be compatible with the Treaty on the Functioning of the European Union ("TFEU").

## **1. PROCEDURE**

1. Following pre-notification contacts, pursuant to Article 108(3) of the TFEU, on 3 October 2013, the Netherlands notified to the Commission its intention to set up a grant scheme to support the purchase of electric vehicles in the municipality of Amsterdam.

## **2. DESCRIPTION OF THE AID MEASURE**

### **2.1. Objective**

2. The purpose of the transportation scheme is to support the use of electric vehicles in the city of Amsterdam and to decrease the number of conventional vehicles emitting CO<sub>2</sub>, thereby improving the air quality of the city. The Netherlands claims that electric vehicles are substantially more expensive than their conventional, petrol- or diesel-driven equivalents. The aid under the scheme is given mainly with a view to covering the higher cost of investing in electric, rather than conventional, vehicles. The measure also fosters the development of an electricity supply chain consisting of charging posts,

Zijne Excellentie de Heer Frans TIMMERMANS  
Minister van Buitenlandse Zaken  
Be Zuidenhoutseweg 67  
Postbus 20061  
NL - 2500 EB Den Haag

since the availability of a geographically comprehensive charging-point infrastructure is essential in order to be able to run electric vehicles in the municipality.

## 2.2. Legal basis

3. The legal basis for the aid are the *Algemene subsidieverordening Amsterdam 2004* (Municipal General Subsidy Ordinance Amsterdam 2004, ASA 2004) *Subsidieverordening met betrekking tot de aanschaf van elektrische auto's door veelrijders van 16 januari 2012* (Municipal Subsidy Ordinance relating to the purchase of electric vehicles by high-mileage users dated 16 January 2012) and *Bijzondere subsidieverordening voor de realisatie van oplaadpunten buiten de openbare ruimte voor elektrische voertuigen van 1 oktober 2011 (as amended)* (Municipal special Subsidy Ordinance for the construction of charging points outside the public space for electric vehicles dated 1 October 2011).

## 2.3. Scope of the notified measure

4. The scheme covers the subsidy for vehicles propelled exclusively by electricity from the grid<sup>1</sup> and which are used to carry out business activities within the boundaries of the municipality of Amsterdam. Hybrid vehicles are excluded from the scheme. Aid can be granted to cover the higher expenditure incurred through purchasing or leasing electric vehicles rather than equivalent petrol- or diesel-driven models. The aid to leasing would be limited to financial aspects, that is excluding services of operating nature, such as repairs, maintenance and fuel (electricity) supply. Subsidies may also be given for the conversion of conventional vehicles to environmentally friendly ones, however only under the de-minimis rules<sup>2</sup>.
5. The municipality may grant subsidy for the purchase and provision of charging points in semi-public and non-public parking areas. A semi-public parking area is a parking area functionally and recognisably intended for parking the vehicles of third parties, other than the subsidy recipient and parties employed by the subsidy recipient. Third parties must be able to use the charging point at fixed times or all day without prior arrangement or order, to charge their electric vehicles. A charging point in a non-public parking area may only be sited in a parking area accessible only for charging the electric vehicle of the subsidy recipient himself. Subsidy from the municipality is only possible if the charging points are intended for charging electric vehicles.
6. Besides the subsidy for the construction of charging points themselves, the Municipality of Amsterdam may grant subsidy for supporting infrastructure if the municipality can demonstrate that the supporting infrastructure is essential for charging electric vehicles. Where no ordinances have been laid down for this subsidy, the municipality may decide

---

<sup>1</sup> According to Article 3 of the Subsidy Ordinance dated 16 January 2012 the eligible vehicles are new electric passenger cars, commercial vehicles, trucks or taxis.

<sup>2</sup> See in particular Commission Regulation (EC) No 1998/2006 of 15 December 2006 [on the application of Articles 87 and 88 of the Treaty to de minimis aid](#), OJ L 379 of 28.12.2006; 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, OJ L 3337 of 21.12.2007.

to grant subsidy by virtue of the General Subsidy Ordinance Amsterdam<sup>3</sup> under the de-minimis rules.

7. The Netherlands has indicated that the beneficiaries would primarily receive subsidies under the de-minimis rules. Should a beneficiary not be eligible under the de-minimis Regulation<sup>4</sup>, it may still receive aid under the scheme as long as the application is in line with this Commission Decision. According to the notified scheme, no beneficiary may be granted more than EUR 1,000,000 for the purchase of electric vehicles or EUR 65,000 for the purchase or instalment of charging posts during the lifetime of the scheme. If the subsidy applicant is part of a company group, this maximum amount applies to the entire group.

#### **2.4. Administrative authority and evaluation procedure**

8. The aid is granted by the Municipality of Amsterdam who set up the Air Quality Programme Office as a state body entrusted with the implementation of the notified scheme. Following the launching of calls for applications, it shall decide on the award and payment of grants, in the light of the project's accounts and documentation concerning expenditure and on condition that the project for which a subsidy is sought, is carried out as stated in the application and in the conditions governing the subsidy (see recital 3 above).
9. The Air Quality Programme Office shall verify that the subsidy recipient meets the conditions of the municipal ordinances, and may as well require that the applicants prove that they conduct business activities within the area of the Municipality of Amsterdam.
10. The Air Quality Programme Office shall take its award decision on the basis of applications that have been received for subsidies for projects. In reaching its decision, the Air Quality Programme Office will take account of the projects' anticipated cost-effectiveness and overall value in terms of providing data. The application is open for all entities who are eligible under the general conditions (see recital 4 above) and the aid is allocated on a "first-come, first-served" basis, i.e. the first subsidy applicant to submit an application accompanied by all data and documents is the first to qualify for the subsidy.

#### **2.5. Beneficiaries**

11. Subsidies under the scheme can be granted to fleet owners who are public authorities, undertakings or institutions or private undertakings, organisations or institutions. Enterprises in all sectors can apply for aid if they use electric vehicles. However the Air Quality Programme Office will only grant subsidies to companies for the pursuit of

---

<sup>3</sup> Algemene Subsidieverordening Amsterdam 2004: under this subsidy ordinance the Municipality of Amsterdam may grant subsidies to foster certain activities (such as employment, sport, culture, education, transport, water management, health, environment etc.) if the amount of subsidy does not exceed EUR 25,000.

<sup>4</sup> To verify whether an applicant is eligible under the de-minimis rules, the granting authority shall request a de-minimis declaration from each aid applicant.

commercial activities within the municipality<sup>5</sup>. Aid shall not be granted for private purposes.

12. The Netherlands confirms that if a subsidy is given to a car leasing company with a view to covering additional costs arising from the purchase of electric cars, it will not at the same time be possible to provide companies that lease these same electric cars with subsidies covering the additional costs incurred in connection with the cars.
13. Any undertaking or non-profit legal entity who can decide in a legally valid manner to install a charging point in a parking area may apply for the subsidy for the purchase and installation of non-public charging points and semi-public charging points as long as the charging point can only be used to charge electric vehicles and it is installed within the boundaries of the Municipality of Amsterdam. The user of a charging point will pay directly to the energy company for charging the vehicle. Owners of the parking areas may not charge an extra tariff for the use of the charging pole<sup>6</sup>.
14. The subsidy is limited to a maximum amount of charging points per applicant depending on the type of charging point. Subsidy can be granted to one applicant for the purchase or installation of not more than 20 non-public charging points, to the extent that the charging points are located in parking areas belonging to undertakings or non-profit legal entities with electric vehicles in their asset. One applicant may not receive subsidies for the purchase or installation of more than 50 semi-public charging points, to the extent that these charging points are located in parking areas belonging to the applicant of this type of subsidy.

## **2.6. Budget and duration**

15. The scheme will be in force until 31 December 2015, with a total budget of EUR 8.61 million concerning the purchase of electric vehicles and EUR 500.000 for the installation of electric charging posts.
16. In addition, the Municipality of Amsterdam fixes a separate subsidy quota annually for each category of vehicle<sup>7</sup>. Once the quota in a category is reached, the granting authority shall cease to make payments for the purchase of that vehicle category for the year in question. This allows the granting authority to control the subsidy for certain vehicle categories, thereby preventing subsidies from being granted exclusively, for example, for passenger cars. The ceilings are in Annex I of the decision. A subsidy quota is also applied for the installation of charging points (per charging point as well as per applicant).

## **2.7. Form of aid, eligible costs and aid intensity**

17. The aid to purchase electric vehicles is provided in the form of direct grants, following assessment of the projects in the light of previously established and published criteria.

---

<sup>5</sup> The Municipality shall verify the following: the place of registered seat, place of main clients, invoices etc.

<sup>6</sup> See Article 10d) of the Subsidy Ordinance dated 1 October 2011

<sup>7</sup> See Article 7(1) of Subsidy Ordinance dated 16 January 2012

18. According to the Netherlands, the scheme does not discriminate between car manufacturers since the applications are assessed independently of the make or model of car concerned. In the next two years the Netherlands expects models from the following makes to enter the Dutch market: Audi, Ford, Renault, Smart, Tesla, Toyota, Volkswagen, BYD, Ecar, Fiat, Honda and MIA. None of these are manufactured or planned to be manufactured in the Netherlands.
19. Aid is granted to cover the expenditure incurred in the purchase or lease of (an) electric vehicle(s) that is additional to what would have been incurred for a reference vehicle, that is to say, the conventional diesel-driven vehicle that has so far been used for providing business activities within the Municipality of Amsterdam, or a corresponding model of at least the same standard, based on offers from car dealers.
20. The additional costs of operation of electric vehicles during a five-year period shall be factored in the calculation of eligible costs. According to the Netherlands there shall be no additional benefits incurring at the aid applicants related to switching conventional vehicles to electric ones as they shall be used for the same business activity. The total aid intensity in percentage of eligible costs will be a maximum of 50% for large enterprises. For medium-sized and small enterprises, it will be 60% and 70%, respectively.
21. To illustrate the amount and breakdown of eligible costs, the Netherlands has submitted information of a comparison operating costs of typical average models of, respectively, diesel and electricity-fuelled cars at standard usage conditions on the Dutch market. According to the Dutch model the difference between the Total Costs of Ownership (TCO) is eligible under the scheme. This model counts the purchase price as costs through the 5 years ownership in the form of depreciation. The model presumes a full depreciation in 5 years in case of both the conventional and the electric vehicles therefore the entire purchase price is eventually expressed as costs. The TCO includes road tax, fuel and maintenance costs (as costs of 5-year operation) and the costs of depreciation for average mileage of 50 000 Km/year, based on the calculations submitted by the Netherlands, see Table 1 below:

**Table 1**

**Cost differentials including 5 year usage (EUR) per subsidised category**

**A) Personal Car/Taxi**

	Counterfactual (diesel – Seat Ibiza)	Electric car (Nissan Leaf)
A) 5-year operation	10 763	10 000
B) Depreciation	18 144	36 221
C) TCO (A+B)	28 906	46 221

## B) Light Commercial Vehicle

	Counterfactual (diesel – Renault Kangoo Express)	Electric car (Renault Kangoo ZE)
A) 5-year operation	15 155	14 500
B) Depreciation	19 118	33 107
C) TCO (A+B)	34 272	47 606

## C) Truck

	Counterfactual (diesel - DAF)	Electric car (Hytruck S12E)
A) 5-year operation	124 800	20 000
B) Depreciation	57 717	289 190
C) TCO (A+B)	182 197	309 190

22. The table shows that the Total Cost of Ownership of an electric vehicle significantly exceeds the ones of a conventional car. On this basis, the aid payable to a small-sized enterprise (70% of eligible costs) would amount to a maximum of EUR 12,120 for a personal car or taxi (eligible costs: EUR 17,315), EUR 9,333 for a light commercial vehicle (eligible costs: EUR 13,334) and EUR 88,895 for a truck (eligible costs: EUR 126,993), for that stylised example.
23. Nonetheless, the Netherlands introduced further ceilings which are designed to keep the aid amount under control and avoid overcompensation as the maximum subsidy for a single car is limited (from EUR 2,000 to EUR 40,000 depending on the subsidized type of vehicle and the year concerned – see Annex II of the decision).
24. The Netherlands submit that that in case of the subsidy for non-public charging points, all the investment costs may be deemed to be eligible, whereas the maximum subsidy for installing semi-public charging posts under the notified (non-de-minimis) scheme shall be 35% of the eligible costs for large enterprises. For medium-sized and small enterprises, it will be 45% and 50% respectively. Pursuant to the Dutch submission, eligible costs, therefore, are the following: purchase of charging point, capital costs, changes to the meter box, provision of wiring and man hours for wiring and for installation and commissioning of the charging point.
25. The maximum subsidy for each non-public charging point is EUR 500 and one beneficiary is entitled to apply for the subsidy of maximum 20 non-public charging points throughout the lifetime of the scheme. The subsidy is up to a maximum of EUR 1,300 for each semi-public charging point (including communication module) on

the condition that one beneficiary can receive subsidies for the installation of not more than 50 semi-public charging points until 31 December 2015.

## **2.8. Cumulation**

26. The Netherlands claims that the Municipality of Amsterdam has no plans to combine the notified aid measure with other aid and is unaware of any other potentially overlapping schemes. It reiterates that the beneficiaries of the current scheme are undertakings who run their businesses within the territory of the Municipality of Amsterdam.
27. The Dutch authorities will ensure that the aid granted is accounted for and compatible with state aid rules, including the rules on cumulation of aid.

## **2.9. Other information**

28. An EU standard for CO<sub>2</sub> emissions, which entered into force from 2012, has been laid down in Regulation (EC) No 443/2009 of 23 April 2009 on emission performance standards for new passenger cars<sup>8</sup>. The performance standards apply, however, as averages for the individual vehicle manufacturer and do not directly regulate emissions from vehicles of a particular model. EU standards for emissions of a number of other substances and particles from new passenger vehicles (Euro standards) have been laid down.
29. Since the entry into force of the national legal basis, the Netherlands declares that it has granted aid under the *de minimis* Regulation and the General Block Exemption Regulation (hereinafter the GBER)<sup>9</sup>, but now plans to grant aid, subject to Commission approval, under the presently notified measure, for applications in cases where the conditions laid down in the *de minimis* Regulation or GBER are not met.
30. As regards aid to leasing of electric vehicles, in addition to possible aid to leasing companies which buy electric cars for subsequent lease, the Netherlands declares that only aid to lessees which have entered into contracts for financial leasing which contain an obligation to purchase the vehicle at the end of the lease contract, and which have as principal object of the contract the acquisition of the vehicle, and not its temporary use, shall be granted under the notified scheme. However, if the lessee can provide the granting authority with a de-minimis declaration, it may as well receive subsidies for operational lease under the de-minimis rules, i.e. lease which does not result in the final acquisition of the vehicle.

---

<sup>8</sup> Regulation (EC) No 443/2009 of the European Parliament and of the Council of 23 April 2009 setting emission performance standards for new passenger cars as part of the Community's integrated approach to reduce CO<sub>2</sub> emissions from light-duty vehicles, OJ L 140, 5.6.2009, p. 1–15.

<sup>9</sup> Commission Regulation (EC) No 800/2008 of 6 August 2008 [declaring certain categories of aid compatible with the common market in application of Article 87 and 88 of the Treaty](#), OJ L 214 of 9.8.2008, p. 3.

### **3. ASSESSMENT OF THE AID**

#### **3.1. State aid within the meaning of Article 107(1) TFEU**

31. Article 107(1) TFEU provides that "*[s]ave as otherwise provided in th[e] Treaty, any aid granted by a Member State or through State resources in any form whatsoever which distorts or threatens to distort competition by favouring certain undertakings or the production of certain goods shall, in so far as it affects trade between Member States, be incompatible with the internal market*". The application of these cumulative conditions is examined below.

##### ***3.1.1. Aid for the purchase of electric vehicles***

##### **Aid granted by a Member State or through State resources**

32. The aid is based on decisions imputable to the Municipality of Amsterdam and funded from the budget of the Municipality of Amsterdam, thereby involving State resources.

##### **Advantage favouring certain undertakings or the production of certain goods**

33. Subsidies for the purchase of electric vehicles are given to undertakings since entities such as enterprises performing an economic activity in the territory of the Municipality of Amsterdam are eligible for applications under the scheme. The planned aid confers an economic advantage to undertakings within the meaning of Article 107(1) TFEU in that the grants shall reduce the investment costs in the acquisition of vehicles which the direct beneficiaries would otherwise bear. The measure is selective insofar it favours the purchase of electric vehicles excluding other vehicles which run in full or partly on conventional fossil fuels. The scheme is also selective as only undertakings running a business in Amsterdam may apply for aid, i.e. the scheme imposes specific requirements on acquirers.
34. Moreover, irrespective of whether the buyer of electric cars, which is the direct beneficiary to whom aid is paid under the scheme, qualifies as undertaking in that it performs an economic activity, the planned subsidy can also stimulate demand for the purchase of electric cars compared to the reference situation in which no such aid would be granted. It follows that the electric transport scheme may favour dealers which buy those cars on their own account for resale, as compared to dealers which do not sell such cars. Likewise, the advantage on dealers which buy and sell electric cars, might in turn favour manufacturers of electric cars, which will face increased demand for the purchase of electric cars from dealers compared to the reference situation in which no such aid would be granted.
35. It follows that it cannot be ruled out that the aid granted and paid to enterprises buying or leasing electric vehicles could also indirectly benefit the independent car dealers who buy electric cars for sale and, ultimately, the car manufacturers that manufacture such cars and sell them to the dealers. Therefore Commission notes that since the scheme may only favour car dealers and manufacturers that offer electric vehicles it is also selective at the level of the car dealers and the manufacturers.



### **Distortion of competition and effect on trade between Member States**

36. The beneficiary undertakings, regardless their primary business activities located in Amsterdam, can be active in the supply of product or service markets which are subject to competition within the European Union. The selective economic advantage conferred by the aid measure is thus liable to distort or to threaten to distort competition on the markets on which the beneficiaries are active. Moreover, the measure distorts or threatens to distort competition on the retail car market between dealers selling electric vehicles, which can be subsidised under the scheme, and those selling conventionally fuelled vehicles, which are not.
37. Likewise, given the general nature of the activities of the potential beneficiaries, the scheme does not exclude economic activities which give rise to trade between Member States, which is affected by the planned measure. Meanwhile, there is intense competition in the manufacturing, sale and trade of vehicles between manufacturers in different Member States, which includes the electric cars eligible to the scheme. The economic advantage conferring an indirect benefit to dealers and manufacturers who sell electric vehicles is thus liable to affect competition and trade between Member States.
38. On that basis, the scheme can be deemed to distort or threaten to distort competition whilst affecting the patterns of trade between Member States.

#### ***3.1.2. Subsidy for the purchase and installation of charging points of electric vehicles***

### **Distortion of competition and effect on trade between Member States**

39. The beneficiary undertakings must be active in the supply of product or service markets which are subject to competition within the European Union. At the same time both the non-public and semi-public charging posts under the scheme must be located on the territory of the Municipality of Amsterdam.
40. Non-public charging posts can receive aid only to the extent that these charging points are located in parking areas belonging to undertakings who own an electric vehicle. The maximum amount per such charging point is EUR 500 and a further cap of 20 charging posts per beneficiary is also applied. Consequently an aid applicant<sup>10</sup> may maximum receive the total amount of EUR 10,000 under the scheme for the purchase or installation of non-public charging posts. Semi-public charging points must be available for any third person who wants to charge their electric vehicle (typically supermarkets, department stores, fast-food restaurants, cinemas etc.). The maximum subsidy per semi-public charging points (including communication modules) cannot exceed EUR 1,300 whereas only 50 semi-public charging points per applicant shall receive subsidies from the Municipality of Amsterdam. This leads to another ceiling per applicant, which is EUR 65,000 under the scheme for the purchase or installation of semi-public charging posts from the total budget of EUR 500,000.
41. While the beneficiaries of both non-public and semi-public charging points may not charge an extra tariff for the use of the charging poles, the selective economic advantage

---

<sup>10</sup> Who might as well be a company group, see recital 7 above

conferred by the measure is unlikely to have the actual or potential effect of distorting competition on the markets on which the beneficiaries are active since there is an extremely low likelihood that the very limited amount of new subsidised charging points themselves would increase sales and, hence, the competitive position of the beneficiary.

42. Moreover, the Commission considers that it is not likely that the limited subsidized investment in charging posts without the projection of foreseeable profitability, at the ceilings of EUR 10 and 65 thousand respectively, could have any material bearing on the decision of the investors outside Amsterdam or in other Member States to establish an outlet in Amsterdam.
43. This reasoning also applies to the potential indirect advantage to the manufacturers and installing companies of the charging posts (there are currently 6 companies who supply charging installations). The limited amount of aid and number of supported charging posts involved in the measure do not seem sufficient to attract other companies to the Netherlands to establish themselves on this market.
44. Therefore, the Commission considers that the current scheme aimed to support the purchase or installation of charging points for electrical vehicles has no effect on trade between Member States or distorts or threatens to distort competition between the Member States.

### **Conclusion**

45. In view of the foregoing, the Commission considers that the notified scheme grants a selective economic advantage to the beneficiaries who purchase electric vehicles. The measure is publicly funded, distorts competition and has an effect on trade between Member States. Therefore the Commission regards the notified measure as constituting State aid within the meaning of Article 107 (1) of the TFEU. It is therefore necessary to consider whether the aid measure can be found to be compatible with the internal market.
46. As regards the scheme for the purchase and installation of non-public and semi-public charging points for electric vehicles, the Commission notes that it does not constitute State aid within the meaning of Article 107(1) of the TFEU insofar it does not distort or threaten to distort competition, nor it affects the patterns of trade between Member States.

### **3.2. Legality of the aid measure**

47. As regards individual aid that may be granted under the scheme which does not meet the conditions laid down in the de-minimis Regulation, the Netherlands has fulfilled its obligation according to Article 108(3) TFEU by notifying the scheme before putting the aid into effect.

### **3.3. Compatibility of the aid measure**

#### **Article 107 (3) c) TFEU**

48. In derogation from the general prohibition of State aid laid down in Article 107(1) TFEU, aid may be declared compatible if it can benefit from one of the derogations

enumerated in the Treaty. For the present case, Article 107 (3) (c) TFEU may provide the appropriate basis for compatibility. Article 107(3) c) TFEU declares: "*The following may be considered to be compatible with the internal market: (...) aid to facilitate the development of certain economic activities or of certain economic areas, where such aid does not adversely affect trading conditions to an extent contrary to the common interest (...)*".

49. The Commission has wide discretion in matters falling under Article 107(3) TFEU<sup>11</sup>. It is constant jurisprudence that the Commission is bound by the guidelines and notices that it issues in the area of supervision of State aid in as much as they do not depart from the rules in the Treaty and are accepted by the Member States<sup>12</sup>. It is therefore necessary to first assess whether the notified aid falls into the scope of application of one or more guidelines or notices. If this is the case, the Commission is bound for the exercise of its discretion under Article 107 (3) of the TFEU by the respective text. If this is not the case, the Commission needs to verify whether the aid can be declared compatible directly based on Article 107 (3) (c) of the TFEU.

### **Scope of application of the Environmental Aid Guidelines**

50. In the present case, in view of its objective of fostering the substitution of petrol and diesel-fuelled vehicles by electric vehicles at the level of end-user demand, the Dutch scheme falls within the scope of the Community Guidelines on State Aid for Environmental Protection<sup>13</sup>, ("Environmental Aid Guidelines"). The scope of the Environmental Aid Guidelines is defined in point 58 to 60 as follows:

- (58) These Guidelines apply to State aid for environmental protection. They will be applied in accordance with other Community policies on State aid, other provisions of the Treaty establishing the European Community and the Treaty on European Union and legislation adopted pursuant to those Treaties.
- (59) These Guidelines apply to aid to support environmental protection in all sectors governed by the EC Treaty. They also apply to those sectors which are subject to specific Community rules on State aid (steel processing, shipbuilding, motor vehicles, synthetic fibres, transport, coal, agriculture and fisheries) unless such specific rules provide otherwise.
- (60) The design and manufacture of environmentally friendly products, machines or means of transport with a view to operating with fewer natural resources and action taken within plants or other production units with a view to improving safety or hygiene are not covered by these Guidelines.

51. Environmental protection is defined in point 70 (1) as follows:

---

<sup>11</sup> Case C-142/87 *Belgium v Commission*, 1990, ECR I-959, paragraph 56, and Case C-39/94 *SFEI and Others* [1996] ECR I-3547, paragraph 36

<sup>12</sup> Case C-313/90 *CIRFS and Others v Commission* [1993] ECR I-1125, paragraph 36; Case C-311/94 *IJssel-Vliet* [1996] ECR I-5023, paragraph 43; and Case C-351/98 *Spain v Commission* [2002] ECR I-8031, paragraph 53.

<sup>13</sup> Official Journal C 82 of 01.04.2008, page 1

- environmental protection means any action designed to remedy or prevent damage to physical surroundings or natural resources by a beneficiary's own activities, to reduce the risk of such damage or to lead to more efficient use of natural resources, including energy-saving measures and the use of renewable sources of energy.
52. Finally, section 3.1.2 of the Environmental Aid Guidelines lays down conditions for aid for the acquisition of new transport vehicles which go beyond EU standards or which increase the level of environmental protection in the absence of EU standards.
53. The notified scheme has the objective of environmental protection and, as far as the direct beneficiaries buying or leasing electric cars are concerned, it is not an aid for the production or manufacturing of environmentally friendly means of transport referred to at point 60 of the Environmental Aid Guidelines but an aid for the substitution, at the level of end-user demand, of petrol and diesel-fuelled vehicles by electric vehicles.
54. However, as regards the indirect aid to dealers and manufacturers of electric cars identified at recitals 34 to 35 above, the assessment must be conducted directly under Article 107 (3) (c) TFEU since the scope of the Environmental Aid Guidelines excludes the production or manufacturing of environmentally friendly means of transport. Such aid is also assessed below.

#### **Conditions of application of the Environmental Aid Guidelines**

55. The specific conditions of compatibility set out in the Environmental Aid Guidelines for the aid envisaged under the scheme for, respectively, the aid for the acquisition of electric vehicles can be assessed as follows.
56. Firstly, the aid is planned to be granted for the acquisition of new vehicles referred to at section 3.1.2 of the Environmental Aid Guidelines. As clarified by the Netherlands at point 30 above, in the case of leasing, only aid to lessees which have entered into contracts for financial leasing which contain an obligation to purchase the vehicle at the end of the lease contract and which have as principal object of the contract the acquisition of the vehicle, and not its temporary use, shall be granted under the notified scheme. It follows that the aid to leasing is tantamount to aid for the (delayed) acquisition of electric vehicles<sup>14</sup>. The Commission also notes that lessees may receive subsidies for operational lease, i.e. lease which does not result in the final acquisition of the vehicle. However, the Dutch authorities confirmed that this aid will be granted to the lessees that can provide the granting authority with a de-minimis declaration only under the de-minimis rules, in line with the de-minimis Regulation, which sets forth that subsidies not exceeding a ceiling of EUR 200 000 over any period of three years do not affect trade between Member States and/or do not distort or threaten to distort competition, yet they do not fall under Article 107(1) of the Treaty.
57. Point 70 (3) of the Environmental Aid Guidelines defines as Union standard a mandatory Union standard setting the level to be attained in environmental terms by individual undertakings. There is currently no obligation under EU law for individual undertakings

---

<sup>14</sup> The Commission has taken this view with respect to the interpretation of "acquisition" also in its application of the Regional Aid Guidelines, see cases NN24/2009 and N791/1999 as well as case C(2011) final of 08.03.2011 in case N386/2010 – DK, Pilot scheme for purchase of electric vehicles.

such as the direct beneficiaries of the scheme to use a certain share of electric or zero emission cars. The obligation under Article 3 (4) of the Renewable Energy Directive 2009/28/EC of 10% renewable energy in transport is directed at Member States and contains no binding rules as to what share individual undertakings have to attain. In addition, the Commission reiterates that the performance standards set out in Regulation (EC) No 443/2009 on emission performance standards for new passenger cars apply only for the individual vehicle manufacturer and do not directly regulate emissions from vehicles of a particular model. Consequently, the aid to the acquisition of electric vehicles shall not help the beneficiaries to meet obligations under a Union standard within the meaning of the Environmental Aid Guidelines.

58. Secondly, point 80 of the Environmental Aid Guidelines requires that eligible costs be limited to the extra investment costs necessary to achieve a higher level of environmental protection. The Commission is satisfied with the definition of eligible costs (Total Cost of Ownership) planned to be used by the Netherlands which includes, in the case of acquisition of electric vehicles compared to conventional vehicles, usage costs and benefits for a duration of five years, as illustrated in the application shown for the stylised examples set out above in Table 1. Conventional diesel fuelled cars can be seen as an adequate counterfactual investment for the purposes of ascertaining the extra costs involved for electric vehicles. Moreover, as explained at point 12 above, if a subsidy is given to a car leasing company with a view to covering additional costs arising from the purchase of electric cars, it will not at the same time be possible to provide companies that lease these cars with subsidies covering the additional costs incurred in connection with the cars.
59. Thirdly, pursuant to point 76 of the Environmental Aid Guidelines, the maximum aid intensity to support new transport vehicles over existing environmental standards or in the absence of standards is set out at 50% of the eligible costs for large enterprises, 60% for medium enterprises and 70% for small enterprises. These are the maximum thresholds planned to be applied in the notified scheme, in keeping with the thresholds set out in the Environmental Aid Guidelines.
60. Fourthly, apart from the aid intensities under the Environmental Aid Guidelines the Netherlands introduced other aid ceilings per car category which are designed to avoid overcompensation, as in the maximum subsidy for a single vehicle is limited and shows a downward trend over the scheme's duration (from EUR 2,000 to EUR 40,000 depending on the subsidized type of vehicle and the year concerned – see Annex II of this decision). Furthermore, no beneficiary<sup>15</sup> may receive more than EUR 1,000,000 throughout the lifetime of the scheme.
61. The specific conditions for compatibility set out in the Environmental Aid Guidelines for the various categories of investment aid envisaged under the notified scheme for the benefit of undertakings buying or leasing cars appear, therefore, to be met.

#### **Assessment of indirect aid for manufacturers of electric cars**

62. The Environmental Aid Guidelines, which set out specific criteria for the application of Article 107(3)(c) TFEU, specifically exclude from their scope of application the design

---

<sup>15</sup> The ceiling applies to the entire company group if the aid applicant is an affiliate [see Article 9(2) of the Subsidy Ordinance dated 16 January 2012]

and manufacture of environmentally friendly products, machines or means of transport (point 60). What is more, those guidelines are limited to aid to remedy the beneficiary's own pollution (point 70(1)), and not the pollution caused by the products which a distributor may sell. Therefore, any aid to car dealers or to car manufacturers cannot be assessed on the basis of those Guidelines. However, to the extent that any such aid is an ancillary effect of the notified scheme and inevitable if the scheme is to function, the Commission will assess that aid for its compatibility with internal market, pursuant to Article 107(3)(c) TFEU. This view is supported by earlier decisions of the Commission<sup>16</sup>.

63. Under Article 107(3)(c) of the TFEU, the Commission may declare a measure compatible if, on balance, its positive effects (achievement of an objective of common interest, appropriate instrument, necessity and proportionality) outweigh its negative effects, in particular, on competition).
64. Reducing CO<sub>2</sub> emissions from cars remains one of the objectives of the EU environmental policy, to which electric cars covered by the notified scheme clearly contributes<sup>17</sup> and any indirect benefit to car manufacturers and dealers results in and is commensurate with an increase in the number of low-emission cars being put on the market.
65. The notified scheme would appear to be an appropriate means to pursue to objective of changing consumer preferences: numerous studies<sup>18</sup> indicate that, in view of their purchase price, among other things, sales of electric vehicles in the Netherlands are unlikely to increase without any stimulation in the form of public support. At the same time the Commission considers that any indirect benefit to car manufacturers and dealers as a result of increased demand for low-emission cars is simply an inevitable effect of achieving the objective pursued by the scheme instead of a well-aimed measure to the sector.
66. The provided examples in Table 1 above illustrate the cost differential of the total costs of ownership of an electric vehicle compared with their conventional counterparts. Such figures as well as the study referred to above indicate that without the notified scheme, consumers are unlikely to change their behaviour and purchase electric vehicles. Consequently the Commission considers the measure necessary.
67. The measure is also proportionate: The notified scheme is limited in time and includes provisions for reviewing the conditions of its application in order to adjust the grant amount to changing market realities. The Municipality of Amsterdam fixes a separate subsidy quota annually for each category of vehicle. Once the quota in a category is reached, the granting authority shall cease to make payments for the purchase of that

---

<sup>16</sup> Commission decisions C(2006) final of 26.4.2006 in case N 142/2005- UK, Low Carbon Car Grant Programme and C(2009) final of 19.11.2009 in case N457/2009 – DE, Promote the purchase of hybrid buses in public transport, C(2011) final of 08.03.2011 in case N386/2010 – DK, Pilot scheme for purchase of electric vehicles, and C(2011) final of 19.10.2011 in case SA.30741 (2011/N) – UK, Aid to purchase of ultra low-emission vehicles and C(2012) final of 22.06.2012 in case SA.34375 (2012/N) – UK, Aid to purchase of ultra low-emission vehicles – amendment to include vans.

<sup>17</sup> Communication from the Commission "A European strategy on clean and energy efficient vehicles", COM(2010) 186 final of 28.4.2010.

<sup>18</sup> See for instance *Schone lucht voor Amsterdam* (June 2011 – Gemeente Amsterdam)

vehicle category for the year in question. This allows the granting authority to control the subsidy for certain vehicle categories, thereby preventing subsidies from being granted exclusively for certain types of vehicles. Such quotas are detailed in Annex I of the decision. The main eligibility criterion (a vehicle exclusively propelled by electricity without any CO<sub>2</sub> or other noxious emissions of conventional pollutants emitted by diesel fired ones) is objective and there is therefore no discrimination between manufacturers. This is also supported by the fact that, as noted at recital 18 above, the scheme is open to electric cars from all makes. Finally, while sales of low-emission cars will increase, the measure is likely to result in lower sales of conventional cars by the same or other manufacturers. Thus, to the extent that a manufacturer produces both electric and conventional vehicles, any indirect benefit may be at least partially outweighed by a fall in sales in other car segments and is, in any event, an inevitable effect of achieving the objective pursued by the scheme.

68. As a result, the Commission finds that any potential indirect aid to car dealers and manufacturers is an ancillary and inevitable effect of the scheme, necessary for its functioning. Even if the scheme contained an indirect benefit to the electric car manufacturing sector which would constitute State aid, it could be found compatible with the internal market pursuant to Article 107 (3) c) TFEU

### **Conclusion**

69. It follows from the foregoing that the notified scheme for the benefit of enterprises in the city of Amsterdam buying or leasing cars fulfils the conditions laid down for the application of Article 107 3) c) TFEU in the Environmental Aid Guidelines. Any possible additional indirect benefit to the car manufacturing sector which would constitute State aid, is also found compatible with the internal market pursuant to Article 107 (3) c) TFEU.

### **CONCLUSION**

The Commission has accordingly decided to consider the scheme for purchase of electric vehicles to be compatible with the internal market pursuant to Article 107(3) c) TFEU. As regards the scheme for the purchase and installation of non-public and semi-public charging points for electric vehicles, the Commission notes that it does not constitute State aid within the meaning of Article 107(1) of the TFEU.

The Commission reminds the Dutch authorities that, in accordance with Article 108 (3) of the TFEU, any plans to refinance, alter or change this scheme have to be notified to the Commission pursuant to provisions of Commission Regulation (EC) No 794/2004 implementing Council Regulation (EC) No 659/1999 laying down detailed rules for the application of Article 108 of the EC Treaty<sup>19</sup>.

---

<sup>19</sup> OJ L 140, 30.4.2004, p.1

If this letter contains confidential information which should not be disclosed to third parties, please inform the Commission within fifteen working days of the date of receipt. If the Commission does not receive a reasoned request by that deadline, you will be deemed to agree to the disclosure to third parties and to the publication of the full text of the letter in the authentic language on the Internet site:

<http://ec.europa.eu/competition/elojade/isef/index.cfm>

Your request should be sent by registered letter or fax to:

European Commission  
Directorate-General for Competition  
State Aid Registry  
B-1049 Brussels  
Fax No: +32-2-296 12 42

Yours faithfully,  
For the Commission

*Joaquín ALMUNIA*  
Vice-president



## ANNEX I.

### Subsidy quota per category pursuant to Article 7(1) of Subsidy Ordinance dated 16 January 2012

	Vehicles purchased until 31 December 2012	Vehicles purchased until 31 December 2013	Vehicles purchased until 31 December 2014	Vehicles purchased until 31 December 2015	
Cars which do not qualify as taxis	EUR 500,000	EUR 450,000	EUR 600,000	EUR 800,000	
Taxis	EUR 300,000	EUR 1,000,000	EUR 360,000	EUR 400,000	
Light Commercial Vehicles	EUR 400,00	EUR 200,000	EUR 270,000	EUR 1,530,000	
Trucks	EUR 600,000	EUR 600,000	EUR 600,000	EUR 0	
<b>Total</b>	<b>EUR 1,800,000</b>	<b>EUR 2,250,000</b>	<b>EUR 1,830,000</b>	<b>EUR 2,730,000</b>	<b>EUR 8,610,000</b>

## ANNEX II.

### Maximum subsidy amounts per vehicle pursuant to Article 9(1) of Subsidy Ordinance dated 16 January 2012

	Vehicles purchased until 31 December 2012	Vehicles purchased until 31 December 2013	Vehicles purchased until 31 December 2014	Vehicles purchased until 31 December 2015
Cars which do not qualify as taxis	EUR 5,000	EUR 5,000	EUR 3,000	EUR 2,000
Taxis	EUR 10,000	EUR 5,000	EUR 3,000	EUR 2,000
Light Commercial Vehicles	EUR 10,000	EUR 5,000	EUR 3,000	EUR 3,000
Trucks	EUR 40,000	EUR 40,000	EUR 30,000	EUR 20,000