



EUROPEAN COMMISSION

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C(2018) 6937 final

Subject: State aid / Netherlands
SA.44848 (2017/N)
NL_BZK_CSDO Catalogue Green and Blue services (modification of the
already approved Catalogue)

Sir,

The European Commission ("the Commission") wishes to inform the Netherlands that, having examined the information supplied by your authorities on the State aid scheme referred to above, it has decided not to raise any objections to the relevant scheme as it is compatible with the internal market pursuant to Article 107(3)(c) of the Treaty on the Functioning of the European Union ("TFEU").

The Commission has based its decision on the following considerations:

1. PROCEDURE

- (1) By letter of 10 March 2016, registered by the Commission on the same day, the Netherlands pre-notified the above mentioned aid scheme to the Commission. A meeting of the Dutch authorities and the Services of the Directorate General Agriculture and Rural Development was held on 13 December 2016. By letter of 3 July 2017, registered by the Commission on the same day, the Netherlands notified, according to Article 108(3) TFEU, the scheme. The Commission sent requests for additional information to the Dutch authorities on 21 August 2017, 20 November 2017, 19 February 2018, 27 February 2018 and 27 June 2018, which the Dutch authorities answered by letters of, respectively, 20 September 2017, 20 December 2017, 27 April 2018 and 28 August 2018, registered by the Commission on the same days.

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() Ce timbre porte sur l'ensemble des documents qui composent le dossier.*

2. DESCRIPTION

2.1. Title

- (2) NL_BZK_CSDO Catalogue Green and Blue services (modification of the previously approved Catalogue) (hereinafter: "the Catalogue" or "the scheme")

2.2. Objective

- (3) With the present notification the Netherlands wishes to put into place a catalogue of measures supporting an active development and management of nature and landscape, with the objective to protect vulnerable species and to enable their development, thus restoring, preserving and enhancing biodiversity and ecosystems related to agriculture and forestry and creating an accessible agricultural landscape with a high environmental and cultural value, taking account of the conservation of the rural area, the environment, nature and the living conditions of animals. The Catalogue of measures had already been subject of a State aid scheme (N 323/2010) which expired on 1 January 2018. The Netherlands now wish to re-install that scheme together with certain amendments thereof.

2.3. Legal basis

- (4) The legal basis is "Provinciewet, Gemeentewet, Waterschapswet" and the draft of the "Catalogus Groenblauwe Diensten"¹. ["Provinces Act, Municipalities Act, Water Board Act" and the draft of the "Catalogue Green and Blue services"]

2.4. Duration

- (5) From the date of the approval by the Commission until the 31 December 2021.

2.5. Budget

- (6) The overall budget for the notified aid scheme is EUR 480 million. The annual budget is EUR 120 million.

2.6. Beneficiaries

- (7) The notified aid scheme applies, depending on the type of measure, to farmers, land managing organisations (hereinafter: "TBOs")² and private land managers active in the agricultural and forestry sector who receive subsidies for their work and costs, who operate outside and/or inside the scope of the "Natuurnetwerk Nederland", (hereinafter: "NNN"), which is an assigned nature area³. The aid is mainly targeted to small or medium sized enterprises (SMEs) in the meaning of

¹ The "Catalogue Green and Blue services" is published on the internet website of "BIJ12", the implementing organisation of the twelve Dutch provinces, <https://www.bij12.nl>. The "Provinciewet, Gemeentewet" and "Waterschapswet" are published on the internet website of the Dutch government: <http://www.wetten.overheid.nl>.

² Terreinbeherende organisaties (TBOs) [Land managing organisations].

³ The policy of the Dutch government aims to carry out nature management in such a way that the various nature conservation areas in the Netherlands operate together. To this end the EHS, the "Ecologische Hoofdstructuur" [Ecological Main Structure] was developed, which is a network of linked valuable nature and landscape areas that connects habitats and thereby promotes biodiversity. In June 2013 the name EHS changed into NNN, which stands for "Natuurnetwerk Nederland" [Nature Network Netherlands].

Annex 1 to Regulation (EU) n° 702/2014. However aid under the Catalogue to large enterprises is not excluded (recital (97)). The number of beneficiaries is estimated at more than 1 000.

- (8) The scheme at hand stipulates that aid is not granted to:
- undertakings in difficulty within the meaning of the European Union Guidelines for State aid in the agricultural and forestry sectors and in rural areas 2014 to 2020⁴ (hereinafter: the "Guidelines");
 - undertakings, which are subject to an outstanding recovery order following a previous Commission Decision declaring aid illegal and incompatible with the internal market⁵.

2.7. Description of the Catalogue

2.7.1. Background

- (9) On 19 February 2007 the Commission approved the Catalogue Green Blue services in State aid case N 577/2006⁶ under the Community guidelines for State aid in the agriculture and forestry sector 2007-2013⁷. Subsequently, amendments to the Catalogue were approved by the Commission in State aid case N 323/2010⁸, which applied to land outside the scope of the NNN and expired on 1 January 2018.
- (10) In comparison to the Catalogue as approved in case N 323/2010, the notified Catalogue remains the same as regards the aim, the ratio, the type of beneficiaries and the content of the measures, its structure and payment system, except for the following four amendments, which are described in section 2.7.4 below:
- (i) inclusion of the sub cluster⁹ "I.8 business system",
 - (ii) inclusion of the cluster "VI cluster blue services on agricultural land",
 - (iii) extension of the area and
 - (iv) duration of the Catalogue.
- (11) In order to create an accessible agricultural landscape with high environmental and cultural values, the Dutch authorities created in 2007 a Catalogue of so called green and blue services, which contains measures aimed at improving environmental conditions and stimulating an accessible nature and landscape with high cultural value. State support is required in order to encourage managers of nature land and farmers to take part in measures, which they otherwise would not

⁴ In accordance with point (26) of the Guidelines for State aid in the agricultural and forestry sectors and in rural areas 2014 to 2020 undertakings in difficulty are excluded from the scope of these Guidelines (OJ C 204, 1.7.2014, p. 1), amended by Commission Notice amending the European Union Guidelines for State aid in the agricultural and forestry sectors and in rural areas 2014 to 2020 (2015/C 390/05, OJ C 390, 24.11.2015, p.4). The definition of undertaking in difficulty is mentioned in point (35)15 of these Guidelines.

⁵ In accordance with point (27) of the Guidelines.

⁶ By decision C(2007) 586 of 19 February 2007 the Commission has approved the aid scheme N 577/2006 "Catalogue Green and Blue Services".

⁷ OJ C 319, 27.12.2006, p. 1.

⁸ By decision C(2011) 3861 of 15 June 2011 the Commission has approved the aid scheme N 323/2010 "Amendment of N 577/2006 Catalogue Green Blue services".

⁹ A cluster concerns a delimited area and contains the establishment and management activities, the terms of use and the requirements to achieve the nature management goals of the area concerned.

do, or would do to a very limited extent, because of the non-productive character and low income and high costs related to nature activities. The Dutch authorities consider that direct grants are the most appropriate form of aid to compensate the additional costs, loss of revenue, loss of value of land and non-productive investments of the beneficiaries, in order to realise the objectives targeted by the scheme. The Dutch authorities have confirmed that other less distortive forms of aid, such as repayable advances, State guarantees, or other forms of capital supply at favourable conditions are not sufficient to compensate additional costs and to reach the objectives.

- (12) The Netherlands have notified the Catalogue as an aid scheme, which consists of different aid measures, out of which the granting authorities select those for support to beneficiaries. The Catalogue provides a framework and serves as a toolkit for the granting authorities, for selecting aid measures, in line with the provisions of the Catalogue. The granting authorities are not allowed to make any change to the measures and no other conditions than those of the approved Catalogue apply. The Dutch authorities have given assurances that each level of government in the Netherlands making use of the measures of the Catalogue will abide by the conditions and maximum allowances described in the Catalogue. The farmers, TBOs and private land managers receive subsidies for the costs of the measures carried out.
- (13) The IPO, the association of the Dutch provinces¹⁰ is, through its unit "BIJ12", responsible for the design and management of the Catalogue, regarding advice, knowledge acquisition, knowledge transfer, communication, informatics and verification of aid granted under the Catalogue. The authorities responsible for the treatment of the aid applications, the granting and the payment of the aid are local government authorities, such as provinces, municipalities and water boards.
- (14) Following the notification and approval of the previous Catalogue in case N 323/2010, the Dutch authorities have established, after an exchange of views with the Commission, an independent body in the form of an Advisory Committee¹¹. The granting authorities submit the measures they want to support to the Advisory Committee that prior to their approval, verifies the compliance of the measures with the criteria of the Catalogue. The Advisory Committee uses experts of LEI, Alterra, etc. (the former technical economic working group, the TEWG). The Advisory Committee delivers its opinion to the granting authority. Only after the Advisory Committee has issued a favourable opinion the granting authorities can implement the aid measures. Measures which are in accordance with the Catalogue will be included in the registry of all aid granted on the basis of the Catalogue. If it is concluded that an aid scheme has not been designed in accordance with the Catalogue and, therefore, falls outside the Catalogue, in that case that aid measure must be, thus, separately notified to the European Commission.

2.7.2. Structure of the notified Catalogue

- (15) Similar to the previously approved Catalogue, the notified Catalogue describes in annex D five themes (so called clusters) (I nature on farmland, II landscape in

¹⁰ IPO is the Interprovinciaal Overleg, an association of and for the Dutch provinces.

¹¹ The "Adviescommissie Catalogus Groenblauwe Diensten" is an independent advisory committee, which has been established by "BIJ12", as foreseen in recital (52) of decision C(2011) 3861 of 15 June 2011 approving aid scheme N 323/2010 "Amendment of N 577/2006 Catalogue Green Blue services".

agricultural and nature areas, III cultural history, IV nature, and V education and professionalization), which outline the environmental and/or landscape goals that are to be achieved. Each cluster is divided into sub clusters e.g. fields, grassland for (meadow) birds, cultural historical buildings, which set out the activities for construction and management, and the conditions of use in order to achieve the goals.

- (16) Depending on the function of the land i.e. agriculture (cultivated land) or nature (land that is no longer cultivated) the authorities can select and compose their measures from the Catalogue, which, in case of agri-environment-climate measures go beyond the baselines and comply with the Good Agricultural and Environmental Conditions (GAEC). In addition, references are made to the lists with the maximum amounts for reimbursement based on the market price. The execution of the measures is done by the farmers, land managers themselves, or by tender. The beneficiaries receive the subsidies in the form of direct grants.
- (17) As an example of a typical cluster as described in the Catalogue, the structure and the content of sub cluster I.1 "Fields" is reproduced here below.

<p>Objective: Adjusting crop rotation on farmland (at least 0.5 ha) in order to achieve the objectives regarding flora and/or fauna or reducing arable land in order to make it fit for nature development.</p> <p>Work:</p> <ul style="list-style-type: none"> • On the farmland a replacement crop is (periodically) cultivated. Depending on the objective, this will be grain (not maize), grasses or herbs. • For reducing of arable land a soil probe is necessary. On the basis of soil type, root depth and phosphorus spreading measures are chosen to increase the impoverishing of the soil. 	
<p>Agriculture (cultivated land which is subject to some environmental elements)</p>	<p>Nature (land that is no longer cultivated and will be changed into nature)</p>
<p>Land The compensation for the use of land is for the main function/purpose:</p> <ul style="list-style-type: none"> ▪ Compensation based on yield loss related to the applicable condition of use. Depending on the objectives for grassland, one of the following use provisions can be imposed: <ul style="list-style-type: none"> ○ Optimizing brooding and incubate possibilities ○ Creation of forage areas ○ Optimizing of propagate possibilities ○ Soil impoverishment ○ Water depository ○ Infiltration ditch <p>Annex M of the Catalogue provides an insight into these conditions of use (and state the maximum compensation amounts considered permissible for revenue loss and loss in value of land.</p>	<p>Land The compensation for the use of land is for the main function/purpose:</p> <ul style="list-style-type: none"> ▪ Compensation based on loss of value of land (Annex N of the Catalogue) ▪ Revenues from a possible remaining harvest have to be cleared with the compensation for nature management.

<p>Maintenance In so far as necessary for achieving the objective, maintenance work is compensated. (Annexes E and L of the Catalogue).</p> <ul style="list-style-type: none"> ▪ As regards maintenance agricultural production is still involved. Thus, as regards agricultural work (Annex E of the Catalogue) only the work additional to the GAEC is compensated. 	<p>Maintenance All work, in so far as necessary for achieving the objective, is compensated. (Annexes E and L of the Catalogue).</p> <ul style="list-style-type: none"> ▪ If the land is intended for nature, then all work necessary for achieving the objective is compensated.
<p>Materials Compensation for materials only in so far as necessary for construction and maintenance. Compensation calculated according to § 4.3 and 4.4 of the Catalogue.</p>	<p>Materials Compensation for materials only in so far as necessary for construction and maintenance. Compensation calculated according to § 4.3 and 4.4 of the Catalogue.</p>
<p>Cross compliance & GAEC Reference to Annex B, parts 1, 3, 5 and 6 of the Catalogue where the baselines are grouped.</p>	<p>Cross compliance & GAEC Not applicable.</p>

- (18) The Catalogue allows the granting authorities to design and support measures in an efficient, effective and flexible manner, with the focus on the needs of the area concerned, such as soil, land use, material and transport times. In practice, the Catalogue takes the form of an online application that guides the authorities in selecting their measures and automatically indicates the relevant baselines, conditions of use and maximum aid amounts per activity. The Catalogue and its dropdown menu can be found on the internet website of "BIJ12" (footnote 1).

2.7.3. *Payment system*

- (19) The Catalogue also sets out the system of financing these measures. The Catalogue makes a distinction between different activities, i.e. development, maintenance, use of land and technical assistance that need to be conducted in order to implement the measures; therefore different ways of financing of the agri-environmental measures are proposed. The beneficiaries receive the aid in the form of direct grants.
- (20) The Dutch authorities have guaranteed that the payments are linked to activities with regard to agricultural land or nature land. Payments are granted to farmers who make agri-environment commitments on a voluntary basis and to other land managers whose land falls within the scope of the measures.
- (21) Following the Catalogue a beneficiary is eligible for payments after fulfilling the following conditions:
- the commitments should go beyond national legal requirements (baseline) and such commitments should be regulated,
 - payments can only be done for activities that involve eligible costs,
 - it should be clear what will be paid for; measures are set up in a manner that they are controllable and verifiable as regards their execution and objective,
 - the aid should not harm others and be limited to the maximum amounts mentioned in relevant regulations regarding rural development.

- (22) The Catalogue prescribes how the maximum allowances are established, which the authorities could grant to the beneficiaries with regard to the measures concerned.

2.7.3.1. *Investment and maintenance allowances*

- (23) Allowances can be given to farmers and landowners for their investments and maintenance activities in order to implement the agri-environmental measures and nature activities. The compensation for nature investments is based on eligible costs. The compensation for maintenance is based on the time needed for the activity and the related hour rate with a distinction between labour and material (machines) per unit (surface, pieces, length). Annexes E and L to the Catalogue contain the allowances excluding VAT for the use of labour and machines per activity. They also provide the norms for the time necessary to conduct the various activities. In order to receive the subsidies, the beneficiaries have to submit detailed reports.
- (24) The allowances for the cost of machines and labour are based on data and calculation of independent research institutes, such as WUR, Alterra, PPO, LEI, KWIN and ASG. The allowance for the cost of labour is in conformity with the regular hour tariff from the collective wage agreement for agriculture. The cost of machines and labour is linked to the working method including a set amount of working hours. The allowances mentioned in the Catalogue are maximum allowances. The granting authorities making use of the Catalogue are free to use allowances which are below these maximum amounts.
- (25) The Catalogue is subject to an annual revision in order to align the labour tariffs and machinery prices with the market prices. This exercise is conducted on the basis of research made by the WUR. Furthermore changes of the Catalogue may result from changes of relevant mandatory requirements regarding the use of fertilizer pesticides and of relevant requirements of European or national rules regarding baseline and/or cross compliance. Finally, changes of the Catalogue may also result from desires of users to add new activities to the Catalogue.
- (26) The Dutch authorities have guaranteed that overcompensation is excluded because the maximum prices are established in a transparent manner and linked to a working method which will also set the maximum amount of working hours the activity can last. Due to the strict spatial separation of the clusters the activities are not overlapping, thus avoiding double financing of the same activity. In practice, the online Catalogue makes it possible to automatically calculate the maximum amount of compensation when selecting the measures.

2.7.3.2. *Compensation for the use of land*

- (27) Compensation can be given for land that will be used for agri-environmental or nature activities. A distinction can be made between *loss in revenue* and *loss in value*:
- *Loss in revenue, when the agriculture activities on the land will temporarily be limited or stopped.*
- (28) For clusters which take place on land that remains agricultural land e.g. edges of parcels, ascending overgrowth (landscape elements) the amount of compensation

for the use of land is related to the loss of revenue due to reduced production following the implementation of the measures.

- (29) The amount of compensation for the loss in revenue is listed in annex M to the Catalogue per activity i.e. optimising breeding- and growing possibilities, creating wet biotope, creating foraging area, soil impoverishment, removal from primary production and extensification. Moreover, the compensation is bound to strict conditions, which the farmer or land manager have to respect when carrying out the agri- environmental measures.

- *Loss in value, besides stopping agricultural production on the land, the land will also change its purpose unchangeably i.e. from agriculture to nature.*

- (30) For measures resulting in a change of function of land from agricultural land to nature area aid will be granted for the loss of value of the land, which is related to the closure of production capacity. These measures are especially targeted towards the protection of environment and nature.

2.7.3.3. *Transaction costs*

- (31) The Catalogue includes the possibility to compensate transaction costs, which are linked to the establishment of a commitment for maintenance works and use of land to a maximum percentage of 20%, if they are real, proven and duly substantiated (recital (81)). Transaction costs are costs, which are not directly attributable to the implementation of the commitment and not included in the compensation on the basis of loss of revenue or additional costs. Transaction costs may include the following costs:

- Information gathering on subsidy measures and research activities into the implementation of the measures by companies
- Supporting discussions with the authorities
- Administration e.g. permits, registration etc.

2.7.3.4. *Benefits*

- (32) In the Netherlands several agri-environment and nature management activities exist for which farmers and other land owners, when performing their maintenance and management measures, may also receive marginal benefits, which will be subtracted from the allowance that they get for those activities.
- (33) In addition to the additional cost and the loss of revenue the allowance also takes account of any saved costs due to non-use of for example fertilizers or chemical pesticides.

2.7.4. *Description of the amendments to the Catalogue*

- (34) The previously approved Catalogue expired on 1 January 2018. With the present notification the Member State wishes to re-establish the scheme in the same form as it existed before, including four amendments. The amendments concern an update on the basis of experience gained with the Catalogue and are described hereafter:

2.7.4.1. *Addition of the sub cluster "I.8 business system" as part of cluster I nature on farmland*

- (35) The quality of many nature areas is harmed due to low groundwater levels and supply of too many nutrients through water and air in the neighbouring farmland. In order to put an end to this negative influence of the farm land management on nature areas it is intended to realise extensive forms of agriculture with higher groundwater levels. Herewith also the habitat of many species of plants and animals can be increased. In the Netherlands five pilot projects regarding this form of extensive farming, under the name "farming for nature" were realised, where the farmers have to turn ten percent of their land into natural landscape elements, such as wet zones ["plas-dras-zones"], hedgerows and nature friendly banks. These elements are managed by the farmer and connect the nature areas to the agricultural plots with better conditions for biodiversity. Such "farmers for nature" work with higher groundwater levels, lower manure loads and a high share of landscape elements (e.g. hedge, wooded bank, verge of a road, hillock, ditch, marsh, etc.), which are of major importance for fauna and flora. The lower fertilizer loads are based on self-sufficiency of manure and forage, the so-called "closed circuit", thus avoiding overgrazing and undergrazing. The activities by these farmers are different from normal agricultural nature management. All manure and forage must be produced within their own holding. This leads to a varied cultivation plan, to a mixed holding, lower livestock density and also to an incentive to manage landscape elements and nature. The farmers involved save on fertilizer and food, but have higher labour costs and less revenue from food production. The experiences gained from the pilot projects are included in the present notified amendment of the Catalogue.

2.7.4.2. *Addition of the new cluster "VI cluster blue services on agricultural land"*

- (36) The Dutch authorities have explained that the blue services contribute to the quality and quantity objectives of the water management in the Netherlands, as Water Framework Directive¹² (hereinafter: "WFD"), and to climate change adaptation. Most of the agricultural parcels in the Netherlands have a water corridor as border. The aid compensates for the additional costs and income foregone of farmers active in the primary production resulting from disadvantages related to the implementation of the WFD. The farmers accept that more often water is retained on their land in periods of heavy rain and droughts, in order to avoid problems elsewhere in the water system. It concerns the adaptation of the ramps, non-use of fertilizers and pesticides, nature friendly cleaning of watercourses, (temporarily) catching of rainwater on agricultural land, or accepting higher water levels on agricultural land, which requires more water tolerant agricultural plants and related loss of revenue. The activities contribute to the diversity of the flora and fauna and the water quality. The objectives of these measures are:
- realising targeted water management to store excess water on agricultural land, realising optimal water level management;

¹² Directive 2006/118/EC of the European Parliament and of the Council of 12 December 2006 on the protection of groundwater against pollution and deterioration (OJ L 372, 27.12.2006, p. 19).

- realising targeted water management to improve water quality and to improve and strengthen the natural character and biotope of the water course;
- limiting/preventing of leaching of nutrients and pesticides to ground-and surface water.

(37) In this respect, the new cluster "VI cluster blue services on agricultural land" has the following five sub clusters:

- VI.1 Water retention. The farmer accepts that there is water on his land more often than the established standards.
- VI.2 Durable water courses pursuant to the area plan including water and nature aspects tailored in function of the use of the area.
- VI.3 Sustainable management of ground and /or surface water level, in such a way that an optimal situation for water quantity and water quality is attained.
- VI.4 Green cleaning. Limiting the loads of pollutants from agriculture into ground and surface water by taking end-of-pipe measures or measures at the source.
- VI.5 Sustainable soil management. Restriction/prevention of leaching of nutrients and pesticides to ground-and surface water through the increase of the soil buffering capacity, by increasing organic matter content, stimulation of airy soil and vital soil life giving a healthy habitat for species. Above the ground the measures aim at keeping organic matter and minerals within the cycle of the farm or the area. In the ground the measures aim at increasing soil fertility, soil resistance and soil health.

(38) The Dutch authorities have confirmed and described in the notification that the aid for the activities mentioned above in recitals (36) and (37) linked to the WFD may only be granted in relation to requirements that:

- were introduced by the WFD, are in accordance with the programmes of measures of the river basin management plans for the purpose of achieving the environmental objectives of that Directive and go beyond the measures required to implement other Union legislation for the protection of water;
- go beyond the statutory management requirements and the good agricultural and environmental condition provided for in Chapter I of Title VI of Regulation (EU) No 1306/2013¹³ and the relevant criteria and minimum activities as established pursuant to points (c)(ii) and (iii) of Article 4(1) of Regulation (EU) No 1307/2013¹⁴;
- go beyond the level of protection of the Union law existing at the time the Water Framework Directive was adopted as laid down in Article 4(9) of the Directive; and

¹³ Regulation (EU) No 1306/2013 of 17 December 2013 on the financing, management and monitoring of the common agricultural policy and repealing Council Regulations (EEC) No 352/78, (EC) No 165/94, (EC) No 2799/98, (EC) No 814/2000, (EC) No 1290/2005 and (EC) No 485/2008 (OJ L 347, 20.12.2013, p. 549).

¹⁴ Regulation (EU) No 1307/2013 of the European Parliament and of the Council of 17 December 2013 establishing rules for direct payments to farmers under support schemes within the framework of the common agricultural policy and repealing Council Regulation (EC) No 637/2008 and Council Regulation (EC) No 73/2009 (OJ L 347, 20.12.2013, p. 608).

- impose major changes in the type of land use, or major restrictions in farming practice resulting in a significant loss of income.
- (39) The agricultural areas which are eligible for aid are included in the river basin management plans of the Eems, Rijn, Schelde and Maas according to the WFD and the aided activities are compatible with the related measure programmes. The Dutch authorities have confirmed that in general the maximum amounts of EUR 500 and EUR 200 and the minimum amount of EUR 50 per hectare per year are respected. However, they explained that due to specific situations in the intensive and high productive agriculture in a densely populated country the loss of income in the Netherlands in certain cases can be higher than these maximum amounts. This may concern difficult and vulnerable area situations, where only manual labour is possible, water areas and areas that are only accessible over water or incidental management that may only occur once during a longer period¹⁵. The Advisory Committee of the Catalogue verifies if the aid amounts of the supported measures are in line with market conditions, comply with the maximum and minimum amounts set in the Catalogue and if in exceptional cases increased amounts, taking into account specific circumstances, are justified in accordance with the approved Catalogue, thus monitoring the correct implementation of the scheme. The Dutch authorities have confirmed that in case of a negative advice by the Advisory Committee the granting authority has to amend the aid in accordance with the approved Catalogue. As mentioned in recital (14), if it is concluded that an aid scheme has not been designed in accordance with the approved Catalogue and, therefore, falls outside the Catalogue, in that case that aid measure must be, thus, separately notified to the European Commission. Aid which is declared by the Advisory Committee in conformity with the Catalogue, is recorded in a register with all aid on the basis of the Catalogue.

2.7.4.3. *Extension of the scope of the Catalogue to the Nature Network Netherlands area*

- (40) The previously approved Catalogue applied to measures outside the ecological main structure (EHS, now called NNN). The underlying reasoning at that time was, that in the EHS other similar funding instruments are available (the national Subsidy system Nature and Landscape management (SNL) and the Rural Development Plan (RDP) to achieve the desired goals). However, in practice more often an area-based approach and regional customization is needed, especially with regard to the clusters “business systems” and “blue services”. Also the resources of the Dutch RDP programme are limited and focused on fewer measures. Therefore, within the area of the NNN on a lot of land the desired goals currently cannot be achieved without nationally financed green blue services. For this reason, the Dutch authorities propose to broaden the scope of the Catalogue to the NNN area. As a result, the Catalogue becomes applicable to areas outside and inside the NNN area (recital (7)). The Dutch authorities have confirmed that the aid instruments for nature activities SNL, the RDP programme and the Catalogue are consistent with, do not overlap, but complement and reinforce each other. All instruments serve the same objective: active development and management of nature and landscape in order to protect and develop vulnerable species.

¹⁵ The notified Catalogue states the specific type of activities for which the aid amount may be increased, as well as the maximum amount and the justification of the activity concerned. In the case of dredging activities of pools the maximum aid amount is € 711.48/ha/year.

2.7.4.4. *Duration*

- (41) The previously approved Catalogue expired on 1 January 2018. With the present notification the Member State wishes to re-establish the scheme with a duration until 31 December 2021. The granting of aid will only take place after the adoption of this decision.

2.7.5. *Description of all measures of the Catalogue*

- (42) The Catalogue contains a range of activities which are eligible for aid and related to: change of function, investments in nature and landscape¹⁶, agri-environment-climate commitments, nature and landscape management, technical assistance¹⁷ and Water Framework Directive in agricultural-, nature- and forest areas.

2.7.5.1. *Change of function*

- (43) The aid for the measure "Change of function" of agricultural land to nature land of the now notified Catalogue is similar to the aid for the measure "Change of function" of the Catalogue, which has been authorised by the Commission in State aid cases N 577/2006 and N 323/2010), except for the now notified amendments regarding the extension of the area (section 2.7.4.3) and the duration (section 2.7.4.4), which apply to all measures of the Catalogue.
- (44) This measure is also comparable to the "Change of function" measure approved in other Dutch State aid schemes regarding nature investments and nature quality (footnote 16), except for the tax exemption in these schemes, which is not applicable to the activities under the Catalogue.
- (45) The measure is open to all farmers who voluntarily conclude an agreement with the granting authorities to close all agricultural activities on their land, for the purpose of nature creation. The main aim of the measure is the conservation and development of biodiversity. The present measure has been notified as aid for closing of capacity for environmental reasons. This particular measure operates as follows. Farmers voluntarily enter into a civil contract with the granting authority concerned under which they accept that a definitive end is put to all agricultural activities on part or all of their land in order "to give this land back to nature". According to the measure, the applicant of the aid may choose to take either a part or all his land out of production. The measure does not necessarily concern the conversion of all agricultural land of a particular farmer. The Dutch authorities want to avoid receiving an insufficient number of applications, which could be the result of a requirement to convert all the land of a farmer. In return, the farmer

¹⁶ Measures similar to the nature investment measure and the change of function measure mentioned here have been approved in the State aid schemes SA.37960 (2015/N) "*Model Grant Scheme quality impulse nature and landscape*" (decision C(2016)1877 of 1.4.2016), extended with SA.48351 (2017/N) (decision C(2017)4587 of 7.7.2017), currently in force until 31. December 2021, SA.37960 (2016/NN) (decision C(2016)5539 of 2.9.2016) and previous cases N 344/B/1999 (Decision C(2004)47 of 21.01.2004) and N 301/2005 (decision C(2005)5300 of 8.12.2005).

¹⁷ Measures similar to the technical assistance measure, nature and landscape management and the forestry nature management measure mentioned here have been approved in the State aid scheme SA.37961 (2016/NN) "*Model regulation - Grant Scheme nature and landscape management*", amended by SA.45811 (2016/N) (decision C(2016)5506 of 1.09.2016) and extended with SA.48028 (2017/N) (decision C(2017)3474 of 17.5.2017), currently in force until 31 December 2021 and previous cases NN 47/2004 (decision C(2008)7042 of 26.11.2008) and N 376/2010 (decision C(2011)2631 of 20.04.2011).

receives a one-time compensation from the granting authority for the difference in value between farmland and nature land. The aid is granted as a result of the conversion of the status of agricultural land to nature land.

- (46) The determination of the loss in value of farm land being transformed to nature area is made by means of individual appraisals by an independent real estate evaluator, which is appointed by the granting authority, taking into account the prices paid for such transactions in previous years. The compensating payment is 100% of the difference between the value of the agricultural land and the remaining value of the land once it has been changed into nature. The aid amount granted is limited to a maximum of 85% of the appraised value of the agricultural land. In this way overcompensation is excluded. The value of nature area contains no element whatsoever reflecting potential future developments of the function of the land as the function of the farmland is definitely turned into nature area.
- (47) The granting authority may decide to pay the compensation for the loss in value as a one-off amount or in annuities over a period of 30 years. The compensation paid out in annuities contains an interest to reflect the discounted value. The interest rate is based on the average interest rate of Dutch State bonds with duration of ten years. The yearly amount of the compensation is linked to the consumer price index.
- (48) The measure provides amongst others that aid for this measure will only be granted to farmers who take open farmland out of production and convert it directly, immediately and definitely into nature area. A legally binding commitment in this regard is obtained from the beneficiary in the form of an officially registered "right in rem agreement" for an indefinite period of time. The agreement is legally binding for all future owners or persons who are entitled to the use of the property, such as leaseholders or mortgagees. The legal obligation is vested by a notarial instrument. The farmers remain the owners of the land.
- (49) The notified aid measure provides that the aid is only granted to active producing undertakings and only for land which has actually been in constant use over the past five years before the closing of the production capacity.
- (50) In case of non-observance of the above-mentioned civil contract the following enforcement measures will apply cumulatively:
 - cancellation of the relevant subsidy and repayment of the total subsidy received plus statutory interest;
 - a civil action aimed at restoration to the status quo ante combined with a penalty payment of 50% of the value of the land concerned.
- (51) It should be noted that the civil action is based on the legal obligation by the farmer to change part of his agricultural land into nature area and to refrain from starting any agricultural/economical activities on this land. The farm land taken out of production is transferred into nature or non-commercial forest within two years after the closure. The legal obligations are linked to the land and can therefore be invoked against the subsequent owners of the land.
- (52) The measure includes the condition that undertakings which do not fulfil the relevant European standards with regard to animal, plant or human health,

sanitary, or environment¹⁸ and which would be obliged to stop production anyhow are excluded from aid.

- (53) Once the farmland has been turned into nature area, additional compensation can be given to farmers who perform nature investments and management activities on the newly created nature area (section 2.7.5.2 below).

2.7.5.2. *Nature investment and nature management*

- (54) The investments in nature and landscape, which are investments for the conservation of natural heritage, and the nature management activities supported by the now notified Catalogue are similar to the aid for such activities of the Catalogue, which has been approved by the Commission in State aid cases N 577/2006 and N 323/2010 (recital (9)), except for the now notified amendments regarding the extension of the area (section 2.7.4.3) and the duration (section 2.7.4.4), which apply to all measures of the Catalogue. The nature investments and maintenance activities in forest area are described below in section 2.7.5.3.
- (55) The supported activities are comparable to those approved in the Dutch State aid schemes regarding nature investments (footnote 16) and nature management (footnote 17), except for the tax exemption, which is not applicable to the activities under the Catalogue.
- (56) Construction works always have to be combined with maintenance works in order to be compensated for and are reimbursed on the basis of real incurred costs in conformity with the norms and amounts of the Catalogue. In case of small works e.g. landscape elements the beneficiary has to submit a budget. When it concerns larger works (e.g. maintaining forests or swamps) the beneficiary has to consult three appropriate companies for an offer or hold a tender. In case of the latter the Dutch authorities have assured that the measures have to comply with Directive 2004/18/EC on the coordination of procedures for the award of public works contracts, public supply contracts and public service contracts.¹⁹
- (57) In the event the beneficiary does all the works himself, subsidies can be given for the real construction costs (labour, machine and material costs), architectural plans (10% of total of construction cost) and preparation cost (5% of total of construction cost and architectural plan cost).
- (58) The beneficiaries of aid for these activities are farmers active in the primary agricultural production and other land managers.
- (59) The Dutch authorities have explained that this measure includes investments in nature and agricultural areas, which arrange the physical conditions of the land for the purpose of nature and environmental objectives and are of non-productive

¹⁸ The Union standards are listed in Annex II of Regulation (EU) No 1306/2013 and in the "bijlagen beheerseisen en goede landbouw- en milieuocondities bij de Uitvoeringsregeling rechtstreekse betalingen GLB van het Ministerie van Economische Zaken, nr. WJZ/14194346 van 11 december 2014". [annexes management requirements and standards for good agricultural and environmental conditions of the Implementing Regulation direct payments CAP of the Ministry of Economic Affairs nbr. WJZ/14194346 of 11 December 2014].

¹⁹ Directive 2004/18/EC of the European Parliament and of the Council of 31 March 2004 on the coordination of procedures for the award of public works contracts, public supply contracts and public service contracts (OJ L 134, 30.4.2004, p. 114).

character. It aims at the conservation and development of certain nature and landscape features. The amount of aid is limited to compensate 100% of the eligible costs incurred by the beneficiary, which have to fit into an investment plan drawn up by the latter.

- (60) The Dutch authorities have confirmed that aid is granted for natural heritage in the form of natural landscapes, which are formally recognised as natural heritage by the competent public authorities. The investments and management activities in nature, agricultural and forest areas have to respect the nature objectives and criteria of the valid policy documents and/or of the aid measures, drawn up by the respective granting authorities.
- (61) The aid for non-productive investments on agricultural holdings serves to make the land suitable for the subsequent realisation of green-blue services, such as the construction of an environmental friendly waterside, or an herbal rich fauna border. These investments do not lead to an increase of the production capacity or to an increase of the value or profitability of the holding.
- (62) The same applies to the investments for cultural and natural heritage located on agricultural holdings, which are made in order to realise subsequent maintenance and management of elements with a cultural historic character, such as historic buildings on the farmyard or characteristic historical locations. These investments do not lead to an increase of the production capacity or to an increase of the value or profitability of the holding. The aid is 100% of the eligible costs (recital (23)). The aid for capital works is limited to EUR 10 000 per year.
- (63) The investments under this measure are needed to increase the nature quality to enable the subsequent execution of nature management activities, which are also eligible under this measure of the Catalogue. The Dutch authorities pointed out that the nature investment and management activities are rather limited regarding geographical scope and amount and that therefore their impact on distortion of competition and influence on trade is limited. Moreover, these effects are compensated by the positive effects with regard to the objective of common interest. The maximum compensation for the nature maintenance activities is 100% of the standard time and standard costs established by the Catalogue (recital (23)).

2.7.5.3. *Nature investment and nature management regarding forest areas*

- (64) The investments in nature and landscape and the nature management activities regarding forests areas, which are supported by the now notified Catalogue are similar to the aid for such activities of the Catalogue, which has been authorised by the Commission in State aid cases N 577/2006 and N 323/2010, except for the now notified amendments regarding the extension of the area (section 2.7.4.3) and the duration (section 2.7.4.4), which apply to all measures of the Catalogue.
- (65) The supported activities are also comparable to those approved in the Dutch State aid schemes regarding nature investments (footnote 16) and nature management (footnote 17), except for the tax exemption, which is not applicable to the activities under the Catalogue.
- (66) The beneficiaries of aid for these activities are forest land managers.

- (67) Under this measure, aid may be granted for forestry investments regarding forest infrastructure and forest management activities with the objective to contribute to maintaining or restoring the forest ecosystem and biodiversity or the traditional landscape, as well as to maintaining and improving the soil quality and ensuring balanced and healthy tree growth.
- (68) The establishment of the forest infrastructure should enable the beneficiaries of the aid to subsequently realise or improve specific forest nature management activities on the forest land. These activities aim to conserve and to improve the ecologic and protection function of the forest. The forestry actions are described in cluster "II.1 Ascending vegetation (trees and bushes)" and cluster "IV.5 nature forest" of the Catalogue and have as aim the restoring and the development of forests and vegetation, and contribute directly to maintaining or restoring the ecological, protective and recreational functions of forests, biodiversity and a healthy forest ecosystem. The forest consists of a certain percentage of one or more indigenous trees. The percentage and the tree species depend amongst others on the stage of development and objectives of the forest concerned.
- (69) The aid covers the incurred establishment costs of the area following the nature objectives and criteria of the valid policy documents and/or of the aid measure, drawn up by the respective granting authorities.
- (70) The forestry investments are of a non-productive character. The Dutch authorities have confirmed that no aid is granted to forest based industries or for commercially viable extraction of timber or for transportation of timber or the processing of wood or other forestry resources into products or for energy generation. It also has been confirmed that no aid is granted for felling the primary purpose of which is the commercially viable extraction of timber or for restocking where the felled trees are replaced by equivalent ones.
- (71) The activities falling under nature management in forests include planting, pruning, thinning, felling of trees, removing of fallen, sick and dead trees and removal of other vegetation with the aim to contribute to maintaining or restoring the forest eco-system. Other measures concern aid for improving the soil quality in forests and ensuring balanced and healthy tree growth, as well as activities concerning restoration and maintenance of natural pathways, landscape elements and features and natural habitat for animals in the forestry sector.
- (72) The Dutch authorities have demonstrated that measures, which include soil improvement by fertilisation and other treatments to maintain natural balance, reducing excessive vegetation density and ensuring sufficient water retention and proper drainage, do not have negative effects on the ecosystem and that the measures shall not reduce biodiversity, cause nutrient leaching or adversely affect natural water ecosystems or water protection zones. On the contrary, a limited and one-time use of a mix of solid manure, straw and insects contributes significantly to the biodiversity, especially as a source of food for young birds. A limited use of fertilizer may occur in order to maintain a desired level of the ecologic status. Furthermore, drainage serves to increase the water retention of the soil, to realise an optimal water level management and to improve the water quality for the area concerned, thus reducing dehydration and mineralisation. Prior to their approval the Advisory Committee will verify that negative effects on the environment are excluded.

- (73) Furthermore, the Dutch authorities have confirmed that aid for the implementation of the Habitats Directive²⁰ and the Birds Directive²¹ is excluded.
- (74) The maximum aid intensity for the forestry investment measures is 100% of the eligible costs (recital (23)). The maximum compensation for the forest nature maintenance activities is 100% of the standard time and costs established by the Catalogue (recital (23)). The aid is calculated per activity based on market conform prices. All revenues from by-products i.e. cut wood will be deducted from the aid for forest nature management.

2.7.5.4. Agri-environment-climate commitments

- (75) The now notified measures of the Catalogue include agri-environmental commitments by farmers active in the primary agricultural production. The Dutch authorities have assured that such measures are non-compulsory and that farmers can voluntarily take part in them. These measures are similar to the aid for such activities of the Catalogue, which has been authorised by the Commission in State aid cases N 577/2006 and N 323/2010, except for the now notified amendments regarding the addition of the sub cluster "I.8 business system" as part of cluster I nature on farmland (described in section 2.7.4.1) and the extension of the area (section 2.7.4.3) and the duration (section 2.7.4.4). The latter two extensions apply to all measures of the Catalogue.
- (76) The Catalogue aims to show that the aid will cover only those voluntary commitments going beyond the relevant mandatory standards established pursuant to Chapter I of Title VI of Regulation (EU) No 1306/2013, the relevant criteria and minimum activities as established pursuant to points (c)(ii) and (c)(iii) of Article 4(1) of Regulation (EU) No 1307/2013, and relevant minimum requirements for fertilisers and plant protection products use as well as other relevant mandatory requirements established by national law. Annex A to the Catalogue lists the GAEC and all relevant Dutch rules, the baselines of which the measures have to go beyond. It also gives the minimum requirements set in national law for fertiliser, plant protection and other relevant environmental and nature subjects²². Relevant GAEC requirements are GAEC 3 (protection of ground water against pollution), GAEC 5 (limitation of erosion), GAEC 6 (maintenance of soil organic matter level) and GAEC 7 (retention of landscape features). Annex B to the Catalogue groups all applicable baselines per cluster i.e. fields, vegetation, landscape etc.
- (77) The Dutch authorities explained that the undertakings which carry out the operations under the notified Catalogue will be provided with the necessary knowledge and information (section 2.7.5.5 of this decision).

²⁰ Council Directive 92/43/EEC of 21 May 1992 on the conservation of natural habitats and of wild fauna and flora (OJ L 206, 22.7.1992, p. 7).

²¹ Directive 2009/147/EC of the European Parliament and of the Council of 30 November 2009 on the conservation of wild birds (OJ L 20, 26.1.2010, p. 7).

²² Relevant national law listed in Annexes A and B to the Catalogue are: Wet natuurbescherming, Besluit gebruik meststoffen, Meststoffenwet, Uitvoeringsregeling Meststoffenwet, Activiteitenbesluit milieubeheer, Wet gewasbeschermingsmiddelen en biociden and Uitvoeringsregeling rechtstreekse betalingen GLB. [Nature Protection Act, Decision fertilizer use, Fertilizer Act, Implementing scheme Fertilizer Act, Activities Decision environmental management, Plant Protection Products and Biocides Act and Implementing scheme direct CAP payments]

- (78) The duration of the commitments is between five and seven years. The aid amounts are granted annually.
- (79) The Dutch authorities have confirmed that the rules for area related payments laid down in Article 47 of Regulation (EU) No 1305/2013²³ are complied with.
- (80) The commitments to extensify livestock farming concern the activities of sub cluster "I.8 business system" (section 2.7.4.1) and shall comply with at least the following conditions: (a) the whole grazed area of the holding must be managed and maintained to avoid over-and under-grazing and (b) the livestock density must be defined taking into account all grazing livestock kept on the farm or, in the case of a commitment to limit nutrient leaching, all animals kept on the farm which are relevant to the commitment in question. Through the self-sufficiency of manure and forage on the holding, in the "closed circuit", these conditions are reached (recital (35)).
- (81) The Catalogue includes the possibility of compensation for transaction costs to a maximum of 20% of the aid for new agri-environment-climate commitments undertaken by SMEs. Transaction costs may relate to the collection of information, deliberations with authorities, filling in of forms, applications and permits. The Catalogue stipulates that if a granting authority wants to compensate for real transaction costs it must provide convincing proof of such costs, for example by presenting cost comparisons with undertakings not entering into such commitments. However, as a principle the Catalogue advises the granting authorities not to compensate transaction costs.
- (82) In general, the payments to beneficiaries will not exceed the maximum amounts set out in Annex II to Council Regulation (EC) No 1305/2013 as required by Article 28(8) of that Regulation. More particularly, the maximum payments will not exceed the following rates: EUR 600 per ha for annual crops, EUR 900 per ha for specialised perennial crops and EUR 450 per ha for other land uses.
- (83) The Dutch authorities have however pointed out that exceptions can occur in which the payments for the activities chosen from the Catalogue exceed aforementioned maximum amounts e.g. regarding large sized projects involving planting of trees. They have assured that in the event of excess of the maximum amounts the beneficiaries are only entitled to subsidy when justifications can be provided that the measures have a significant positive effect on the environment and lead to a change of the agricultural practice. The justification must be supported with proof and arguments. Moreover, from a transparency point of view the Catalogue contains a detailed breakdown of the cost components concerned, which are based on the market prices.
- (84) The specific situation of intensive and high productive agriculture in a densely populated country results in a loss of income in a number of cases in the Netherlands, which is higher than the aforementioned thresholds. This applies to a number of management activities, which concerns for instance: a difficult area situation (vulnerable or sloping area, where only manual labour is possible), an area that is only accessible over water, an incidental management that may only

²³ Regulation (EU) No 1305/2013 of the European Parliament and of the Council of 17 December 2013 on support for rural development by the European Agricultural Fund for Rural Development (EAFRD) and repealing Council Regulation (EC) No 1698/2005 (OJ L 347, 20.12.2013, p. 487).

occur once in 10 or 25 years and activities, or a broader area (windmill and grassland management). The Advisory Committee examines the justification of the use of higher aid amounts if applied in the measures selected by the granting authorities, prior to their approval.

- (85) The aid amount is based on additional costs, loss of revenues and transaction costs (recital (81)). The loss of income is based on the loss of production as a result of the nature management measures, the increase in employment and the balance of exploitation (revenues minus costs) of all crops that are affected by the management measures. The loss of income as a result of agricultural nature management is calculated using data from field studies. The situation with management subsidy is compared to a reference company under optimal conditions. There are different fees for arable land in the Netherlands for clay and sandy soils. The calculations of the aid are based on the baseline and established by an independent working group.
- (86) Data is based on current research data and calculations are discussed with the research community. The independent Advisory Committee, which is set up for the Catalogue once a year reviews if the Catalogue and the aid amounts are in line with scientific knowledge and data. The Advisory Committee is supported by representatives of Wageningen University and Research centres: Alterra, ASG, PPO, LEI. The Advisory Committee advises BIJ12 on how the aid amounts have to be adjusted in the computing systems. The annual revision of the maximum rates is done on the basis of a two years average, a time period established in order to reduce the influence of strong price fluctuations upon the aid amounts. Labour costs are based upon the rates as stated in the collective forestry labour agreement and the rates of farming business services²⁴.

2.7.5.5. *Technical support*

- (87) Technical support, which is covered by the notified Catalogue under cluster "V education and professionalization", is similar to the aid for such activities of the Catalogue, which has been authorised by the Commission in State aid cases N 577/2006 and N 323/2010, except for the now notified amendments regarding the extension of the area (section 2.7.4.3) and the duration (section 2.7.4.4), which apply to all measures of the Catalogue. The activities foresee the training of farmers active in the primary agricultural production on agri-environment-climate activities.
- (88) The education and training costs can be reimbursed up to 100% of the eligible costs for labour and material. The aid will be granted in the form of subsidised services, provided by agricultural collectives or agricultural nature associations and shall not involve direct payment to the farmers. The Dutch authorities have confirmed that the associations providing the knowledge transfer and information actions have qualified and regularly trained staff.
- (89) The Dutch authorities have confirmed that the aid is available to all eligible undertakings in the area concerned, regardless of the membership of the association providing the support services and that the contribution of non-members is limited to the costs of providing the service.

²⁴ The relevant rates are: KVEM ("Kilo Voeder Eenheid melk"), Fertilizer, Labour, Sale prices agriculture and Machinery and equipment.

- (90) The necessary costs of the activities, which focus on training, demonstration activities and information actions, will be given aid up to 100% of the eligible costs.
- (91) Support may also be given for farmers receiving visitors on their farms and organising information activities for them (cluster "V education and professionalization" in Annexes D and L to the Catalogue). Allowances can be given for up to 100% of the actual costs incurred.
- (92) The Dutch authorities have confirmed that the (non-agricultural) activities mentioned in recital (91) will be financed under the general de minimis Regulation (EU) No 1407/2013²⁵.

2.8. Cumulation and overcompensation

- (93) The Dutch authorities have confirmed that the aid under the Catalogue cannot be cumulated with aid from other instruments for nature management, such as SNL or the RDP programme (recital (40)). Instead, the aid for measures of the Catalogue applies to areas, which are not covered by other aid instruments for nature management. The Dutch authorities have also confirmed that the aid may be cumulated with aid received from other local, regional, national or Community schemes to cover costs for the same activity.
- (94) In the latter case, the Dutch authorities have taken measures to limit cumulation of aid and to avoid overcompensation. Beneficiaries have to indicate in the application for aid if they are entitled to other subsidies for the same activity. In case that aid under the Catalogue would be cumulated with other State aid to cover the same eligible costs, the total amount of aid shall not go beyond the aid ceilings, the highest aid intensities or aid amounts following applicable European rules. Furthermore the Advisory Committee Green Blue services²⁶ verifies these aspects, prior to the granting of the aid on the basis of the Catalogue.
- (95) The Dutch authorities have guaranteed that overcompensation is excluded because the maximum prices are established in a transparent manner, regularly updated to the market prices and linked to a working method which will also set the maximum amount of working hours the activity can last. The selected activities for the implementation of the measures may only be compensated once. In practice, the online Catalogue makes it possible to automatically calculate the maximum amount of compensation when selecting the measures.

2.9. Incentive effect and aid to large enterprises

- (96) The notified Catalogue requires that a beneficiary has to submit an aid application, which at least includes the applicants name, the size of the undertaking, a description of the project or activity, including its location and start

²⁵ Commission Regulation (EU) No 1407/2013 of 18 December 2013 on the application of Articles 107 and 108 of the Treaty on the Functioning of the European Union to de minimis aid. This continuation of application of the de minimis aid is in line with the recitals 82 and 83 of Commission decision C(2007)586 of 19 February 2007 in case N 577/2006 Catalogue Green Blue Services, in which the Dutch authorities assured that these (non-agricultural) activities will be financed on the basis of the 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.

²⁶ See footnote 11.

and end dates, the amount of aid needed and the eligible costs. The notified Catalogue states that no aid will be granted, if the project or activities concerned have started before the submission of the aid application to the national authorities.

- (97) The Catalogue is mainly targeted to small and medium sized enterprises, but does not exclude the granting of aid to large enterprises. The Dutch authorities have confirmed that aid applications received by the granting authorities from large enterprises have to describe the situation without the aid and to submit documentary evidence in support of this situation, which will be checked on its credibility by the granting authority concerned.
- (98) The Dutch authorities have confirmed that the investments in nature areas, cultural and natural heritage arrange the structure of the nature area, serve environmental and landscape objectives and are of a non-productive character. The amount of the aid is limited to compensate the real costs incurred by the beneficiary, which have to fit into nature objectives set by the granting authority. The investments do not lead to an increase of the value and do not contribute to the profitability of the holding, thus avoiding the negative effects on competition and trade.
- (99) The Catalogue contains the condition that if an applicant is a large enterprise, the maximum aid amount will be limited on the basis of the "net-extra cost approach" as stipulated in the points 95 to 97 of the Guidelines.

2.10. Other commitments

- (100) The Catalogue contains a revision clause for agri-environment-climate operations undertaken, in order to ensure their adjustment in the case of amendments of the relevant mandatory standards, requirements or obligations referred to in Section 1.1.5.1 of the Guidelines beyond which the commitments have to go.
- (101) The Catalogue contains a revision clause with regard to agri-environment-climate operations undertaken pursuant to Section 1.1.5.1 of the Guidelines, which extend beyond the rural development programming period 2014-2020, in order to allow for their adjustment to the legal framework of the following programming period.
- (102) Furthermore the Catalogue stipulates that the commitment expires and the aid amount is reduced to the amount corresponding for the period until the expiry of the commitment, if the adjustments referred to in recitals (100) and (101) are not accepted or not implemented by the beneficiary.
- (103) The Dutch authorities committed to adapt the aid scheme at hand, after the expiry of the currently applicable State aid rules, to any future State aid rules once these rules start to apply.
- (104) The Dutch authorities have informed the Commission that in order to comply with the transparency requirement the publication of the aid schemes, the identity of the granting authority and the individual aid grants above 60 000 EUR, which

will be done on the Transparency State Aid Module on following web page:
<https://webgate.ec.europa.eu/competition/transparency/public/search/home/>^{27 28}.

3. ASSESSMENT

3.1. Existence of aid - Application of Article 107(1) TFEU

- (105) According to Article 107(1) of the TFEU, "[s]ave as otherwise provided in the Treaties, 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".
- (106) The qualification of a measure as aid within the meaning of this provision therefore requires the following cumulative conditions to be met: (i) the measure must be imputable to the State and financed through State resources; (ii) it must confer an advantage on its recipient; (iii) that advantage must be selective; and (iv) the measure must distort or threaten to distort competition and affect trade between Member States.
- (107) The scheme in question confers an advantage on its recipients, is imputable to the State and financed through State resources (recital (6)). The notified scheme is selective because other undertakings in a comparable legal and factual situation, in the light of the objective pursued by the scheme, within the agricultural sector, or in other sectors, are not eligible for aid and thus will not receive the same advantage. The notified scheme therefore gives only to certain undertakings (recital (7)) a selective economic advantage, by strengthening their competitive position on the market. According to the case law of the Court of Justice, the mere fact that the competitive position of an undertaking is strengthened compared to other competing undertakings, by giving it an economic benefit which it would not otherwise have received in the normal course of its business, points to a possible distortion of competition²⁹.
- (108) Pursuant to the case law of the Court of Justice, aid to an undertaking appears to affect trade between Member States where that undertaking operates in a market open to intra-EU trade³⁰. The beneficiaries of aid operate on a market, the agricultural and forestry sectors where intra-trade takes place³¹. The sector concerned is open to competition at EU level and therefore sensitive to any

²⁷ This link is also included on the website of the "Rijksdienst voor Ondernemend Nederland (RVO)": <http://www.rvo.nl/subsidies-regelingen/subsidiesspelregels/publicatieplicht>.

²⁸ The Dutch authorities also report yearly to the Commission by the SARI-IT-tool (State Aid Reporting Interactive) about the progress of the scheme and the aid for exceptional cases with increased aid amounts mentioned in recital (39) and footnote 15.

²⁹ Judgment of the Court of 17 September 1980 in Case 730/79 *Philip Morris Holland BV v Commission of the European Communities*, ECLI:EU:C:1980:209.

³⁰ See in particular the judgment of the Court of 13 July 1988 in Case 102/87 *French Republic v Commission of the European Communities*, ECLI:EU:C:1988:391.

³¹ In 2016 Dutch trade with all agricultural products with EU countries for exports amounted to EUR 66 210.3 million and for imports to EUR 31 803.5 million. Source: European Commission, Agricultural Statistics, Member States factsheet-June 2017, Netherlands. Available at: http://ec.europa.eu/agriculture/statistics/factsheets/pdf/nl_en.pdf. In 2016 in the European Union 349 121 700 cubic metres of round wood were produced, out of which more than 26 million tons with a value of more than EUR 2.2 billion were traded between EU Member States. Source: EUROSTAT database, Roundwood production and trade, update from 15 January 2018.

measure in favour of the production in one or more Member States. Therefore, the present scheme is liable to distort competition and to affect trade between Member States.

- (109) In light of the above, the conditions of Article 107(1) of the TFEU are fulfilled. It can therefore be concluded that the proposed scheme constitutes State aid within the meaning of that Article. The aid may only be considered compatible with the internal market if it can benefit from one of the derogations provided for in the TFEU.

3.2. Lawfulness of the aid – Application of Article 108(3) TFEU

- (110) The Catalogue was notified to the Commission on 3 July 2017. It has not been implemented yet. Therefore, the Netherlands has complied with its obligation under Article 108(3) TFEU.

3.3. Compatibility of the aid

3.3.1. Application of Article 107(3)(c) TFEU

- (111) Under Article 107(3)(c) TFEU, an aid may be considered compatible with the internal market, if it is found 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.
- (112) For this derogation to be applicable, the aid must comply with the relevant Union State aid rules. In section 3.3.3 below the aid measures, which are not covered by the Guidelines are assessed directly on the basis of Article 107(3) TFEU and by analogy the Guidelines.

3.3.2. Application of the Guidelines

- (113) As regards the notified scheme the following Sections of the Guidelines are applicable:
- Section 1.1.1.1. "Aid for investments in tangible assets and intangible assets on agricultural holdings linked to primary agricultural production", with regard to the non-productive investments under the measure "Nature investment and nature management" (2.7.5.2).
 - Section 1.1.1.2. "Aid for investments for the conservation of cultural and natural heritage located on agricultural holdings", with regard to investments for natural heritage under the measure "Nature investment and nature management" (2.7.5.2).
 - Section 1.1.5.1. "Aid for agri-environment-climate commitments", with regard to the measure "Agri-environment-climate commitments" (2.7.5.4).
 - Section 1.1.6. "Aid for disadvantages related to Natura 2000 areas and to the Water Framework Directive", with regard to the new added "VI cluster blue services on agricultural land" (2.7.4.2).
 - Section 1.1.10.1. "Aid for knowledge transfer and information actions", with regard to the measure "Technical support" (2.7.5.5).
 - Section 1.2.2.1. "Closing of capacity for animal, plant or human health, sanitary, ethical or environmental reasons", with regard to the measure "Change of function" (2.7.5.1).

- Section 2.8. "Other aid to the forestry sector with ecological, protective and recreational objectives", with regard to the measure "Nature investment and nature management regarding forest areas" (2.7.5.3).
- Section 2.8.1. "Aid for specific forest actions and interventions with the primary objective to contribute to maintaining or to restoring forest ecosystem and biodiversity or the traditional landscape", with regard to the measure "Nature investment and nature management regarding forest areas" (2.7.5.3).
- Section 2.8.2. "Aid for maintaining and improving the soil quality and ensuring a balanced and healthy tree growth in the forestry sector", with regard to the measure "Nature investment and nature management regarding forest areas" (2.7.5.3).
- Section 2.8.3. "Aid for restoration and maintenance of natural pathways, landscape elements and features and natural habitat for animals in the forestry sector", with regard to the measure "Nature investment and nature management regarding forest areas" (2.7.5.3).

Thus, the Commission will examine below whether the notified scheme complies with the common assessment principles of the Guidelines as well as the specific conditions laid down in Part II, Sections 1.1.1.1, 1.1.1.2, 1.1.5.1, 1.1.6, 1.1.10.1, 1.2.2.1, 2.8, 2.8.1, 2.8.2 and 2.8.3 of the Guidelines.

3.3.2.1. Common Assessment Principles

- (114) In conformity with points 43 and 44 of the Guidelines, the measures of the catalogue aim to promote the efficient and sustainable use of natural resources in order to achieve intelligent and sustainable growth in the Dutch agricultural sector, by stimulating farmers to turning farmland into nature area, which is under pressure by environmental and animal welfare constraints, by agri-environment-climate operations on agricultural land and by the provision of technical assistance to farmers carrying out the commitments. The related decrease in production capacity will furthermore favour the enterprises remaining in the sector, thus also contributing to the CAP objectives of fostering the competitiveness of agriculture and sustainable management of natural resources and climate action. The investment and management measures in nature under the Catalogue contribute to a well-defined objective of common interest, namely developing, maintaining and improving biodiversity and ecosystems (recitals (3), (11) and (199)). In accordance with point 10 of the Guidelines, the investments and management activities in nature made by agricultural and forest land managers contribute in particular to restoring, preserving and enhancing ecosystems related to agriculture and forestry, whereas the technical support measure fosters the transfer of knowledge regarding agri-environment-climate commitments (recital (87)).
- (115) In line with point 52 of the Guidelines, the Dutch authorities shall assess the environmental impact of the measures of the Catalogue, demonstrating that measures of the Catalogue do not result in an infringement of the applicable Union environmental protection legislation. The Dutch authorities have confirmed that the agricultural land turned into nature area, the nature investments and the management activities will not have a negative impact on the environment and that the new agricultural activities will comply with all relevant national and European environmental requirements. Rather, these voluntary taken

commitments contribute positively and prominently to the desired environmental and nature objectives of the areas concerned.

- (116) According to points 53 and 54 of the Guidelines, State aid can achieve an objective of common interest if it is targeted towards the correction of market failures. In order to show this, Member States have first to identify the problem.
- (117) The Dutch authorities have stated that on grounds of market failure the measures of the Catalogue at hand need State intervention for stimulating turning agricultural land into nature area and performing investments and management activities in nature. Because of low income and high costs in relation to nature conservation and recovery, State support is required in order to encourage owners to take part in the measures of the Catalogue at hand, which make a positive contribution to the environment and climate, to nature recovery and conservation (recitals (3) and (11)).
- (118) According to point 55 of the Guidelines, the Commission considers that the market is not delivering the expected objectives without State intervention concerning the aid measures fulfilling the specific conditions laid down in Part II of these Guidelines. Therefore, such aid should be considered necessary to achieve the objectives of common interest specified under Section 3.1 of Part I of these Guidelines. The measures of the notified scheme fulfil the specific conditions laid down in Sections 1.1.1.1, 1.1.1.2, 1.1.5.1, 1.1.6, 1.1.10.1, 1.2.2.1, 2.8, 2.8.1, 2.8.2 and 2.8.3 of Part II of the Guidelines, as shown in the sections below, when the landowners are farmers or forest land holders and therefore point 55 of the Guidelines is complied with. Other landowners fulfil the same conditions and therefore by analogy point 55 of the Guidelines is complied with also with regard to that type of beneficiary (see section 3.3.3 below). The nature investments and management activities performed by the other land managers also need State intervention to encourage the nature land managers to perform these activities in a sufficient and coherent manner, in order to attain the environmental objectives (recitals (3), (11), (123) and (218), which the market cannot deliver by its own and therefore by analogy point 54 of the Guidelines is complied with regarding these activities and beneficiaries (see section 3.3.3 below).
- (119) Pursuant to points 56 and 57 of the Guidelines an aid is appropriate if no other less distortive policy instrument or other less distortive type of aid make it possible to achieve the same contribution to the objectives of CAP and if the aid fulfils the specific conditions laid down in the relevant Sections of Part II of the Guidelines. The Dutch authorities inform that at the moment other potentially less distortive policy instruments and forms of aid to achieve the desired objectives (recitals (11), (40) and (93)) in the areas covered by the Catalogue do not exist. Furthermore the aid regarding investments on agricultural holdings, agri-environment and Water Framework Directive measures, technical support, closure of production capacity and forestry activities fulfils the specific requirements of Sections 1.1.1.1, 1.1.1.2, 1.1.5.1, 1.1.6, 1.1.10.1, 1.2.2.1, 2.8, 2.8.1, 2.8.2 and 2.8.3 of Part II of the Guidelines (sections 3.3.2.2 to 3.3.2.11 below). The Commission therefore considers the policy instrument appropriate.
- (120) The measures of the Catalogue fulfil the specific form of aid where such form is foreseen in Part II of the Guidelines (sections 3.3.2.2 to 3.3.2.11 below), therefore

in accordance with point 60 of the Guidelines the form of aid is considered as an appropriate aid instrument.

- (121) With regard to the forestry measures, the Netherlands have demonstrated that the ecological, protective and recreational objectives fit into Chapter 2.8 of the Guidelines and cannot be achieved with the forestry measures in Chapters 2.1 to 2.7 of the Guidelines (section 2.7.5.3 above). Point 63 of the Guidelines is therefore met.
- (122) The nature investment and nature management measures are carried out by the land managers in accordance with the valid policy documents established by the public authorities (recital (60)), in order to develop a coherent nature management structure to keep biodiversity at an acceptable level. The payments for the activities are granted on the basis of actually incurred eligible costs or standard costs and calculated for each predefined activity (recitals (23) to (26))), in such a manner to avoid overcompensation and cumulation of aid (recitals (93) to (95)). In this way it is ensured that the grants reflect the required efforts from the land managers and the costs incurred. Therefore, it can be concluded that the State aid constitutes an appropriate instrument and form of aid to the needs of the scheme in order to achieve its environmental objective.
- (123) According to point 66 of the Guidelines, the scheme has an incentive effect if it changes the behaviour of undertakings in such a way that they engage in additional activity contributing to the development of the sector, in which they would have normally not engaged in without aid or would have engaged in a different or restricted manner. Given that in the absence of the aid, farmers and other land managers would rather be hesitant to take farm land out of production and would not, or to a limited extent, undertake nature investment and nature management activities (cf. recitals (3) and (11)), the State intervention has an incentive effect.
- (124) According to points 70 and 71 of the Guidelines, the project should not start prior to the aid application to the national authorities and this application has to comprise at least the name of the applicant, its size, a description and location of the project, the duration, the aid needed and the eligible costs. As described in recital (96), the conditions set out in points 70 and 71 of the Guidelines regarding the incentive effect are met.
- (125) According to points 72 and 73 of the Guidelines, large enterprises must describe in the application the situation without the aid and the granting authority has to carry out a credibility check of this counterfactual scenario. As described in recital (97) these conditions are fulfilled.
- (126) Pursuant to point 82 of the Guidelines, in principle, in order for the aid to be proportionate the Commission considers that the aid amount should not exceed the eligible costs. The aid for the various measures of the Catalogue does not exceed 100% of the eligible costs (recitals (46), (59), (63), (74), (91), (136), (149), (162), (172), (182), (196) and (201)). The aid amounts for the nature activities are fixed on the basis of the real incurred eligible cost or on standard assumptions of the additional costs exclusive of VAT (recital (23)), of which all elements are verifiable, based on figures established by appropriate expertise indicating clearly the source, are differentiated to take account of particular circumstances of the type of management of the land, (recitals (23) to (25)) and

therefore by analogy in accordance with the requirements of point 93 of the Guidelines. The notified aid amounts are therefore deemed to be correctly calculated, justified and in line with points 82, 84, 85, 86 and 93 of the Guidelines, according to which, if the eligible costs are correctly calculated and the maximum aid intensities and aid amounts are respected, the aid is to be considered proportionate. The compensation is in proportion in order to achieve the (long term) common objective of a positive effect on the environment, in accordance with point 81 of the Guidelines. Therefore, the aid for the measures of the Catalogue is considered proportional to the needs of the scheme in order to achieve its environmental objectives.

- (127) Pursuant to point 84 of the Guidelines, proportionality requirements are fulfilled if the calculation of the eligible costs is in line with the specific conditions set out in Part II of the Guidelines and the maximum aid intensities for the type of aid are respected. As shown in the sections 3.3.2.2 to 3.3.2.11 below, the calculation of the eligible costs and the aid intensities with regard the categories of aid of the scheme at hand comply with these conditions.
- (128) With regard to investment aid granted to large enterprises, as it may be the case in measures presented under the Catalogue, pursuant to points 95 to 97 of the Guidelines the aid must be limited. Point 97 of the Guidelines stipulates that the Member State must ensure that the aid amount corresponds to the net-extra costs of implementing the investment in the area concerned, compared to the counterfactual scenario in the absence of aid. In this regard point 96 explains the method to be used together with the maximum aid intensities as cap in order to ensure that the amount of the aid does not exceed the minimum necessary to render the project sufficiently profitable. Following recital (99) the conditions of points 95 to 97 of the Guidelines are respected.
- (129) Points 99 and 100 of the Guidelines contain rules on cumulation of aid. It follows from recitals (93) to (95) that the notified Catalogue contains rules in order to limit cumulation and to avoid overcompensation of aid. The Dutch authorities have confirmed that in case aid under the Catalogue is cumulated with aid received from other local, regional, national or Union schemes to cover costs for the same activity or the same area, the total amount of aid will not go beyond the aid ceilings and aid intensities following applicable European rules (sections 3.3.2.2 to 3.3.2.11). Therefore, the points 99 and 100 of the Guidelines are respected.
- (130) Pursuant to point 113 of the Guidelines, the negative effect on competition and trade is limited to the minimum and the aid has positive effects on the development of the agricultural sector if it fulfils the conditions set out in Part II of the Guidelines and does not exceed the relevant maximum aid intensities specified therein. The Dutch authorities inform that other potentially less distortive forms of aid do not exist at the moment (recitals (11) and (119)) and that the investments under the Catalogue at hand are of a non-productive character. As the activities regarding investments on agricultural holdings, closure of production capacity, agri-environment-climate commitments, Water Framework Directive, technical support and forestry activities comply with the specific requirements of Sections 1.1.1.1, 1.1.1.2, 1.1.5.1, 1.1.6, 1.1.10.1, 1.2.2.1, 2.8, 2.8.1, 2.8.2 and 2.8.3 of Part II of the Guidelines, the negative effect on competition and trade is limited to the minimum. The nature investment and management activities supported by the municipalities, water boards and

provinces may be limited in terms of geographical scope and amount (recital (63)) and are of non-productive character (recital (11), (61) and (62)), therefore the impact on competition and trade between Member States is considered as of limited scale (recitals (63), (117), (215), (216) and (218)).

(131) As shown in recital (104) the transparency requirement of point 128 of the Guidelines is complied with.

(132) The Catalogue excludes from the scope of the beneficiaries undertakings in difficulty at the time of granting the aid within the meaning of point 35(15) of the Guidelines and undertakings which are subject to an outstanding recovery order following a previous Commission decision declaring an aid illegal and incompatible with the internal market (cf. recital (8)). Therefore, the conditions of points 26 and 27 of the Guidelines are fulfilled.

3.3.2.2. Specific assessment according to Section 1.1.1.1. of Part II of the Guidelines "Aid for investments in tangible assets and intangible assets on agricultural holdings linked to primary agricultural production", with regard to the non-productive investments under the measure "Nature investment and nature management" (2.7.5.2)

(133) The support for investments covers aid for one-time investments in nature, which arrange the physical conditions of the land for the purpose of environmental objectives and are of a non-productive character. Following point (435) of the Guidelines aid for conversion works on new established nature land, which is not co-financed by the EAFRD, is to be assessed on the basis of the rules on non-productive investments set out in Section 1.1.1.1 of part II of the Guidelines. Points (143)(d), (144)(e) and (154) do apply to such investments.

(134) According to the objective mentioned in point 143, letter (d) of the Guidelines the investment must pursue the objective of achievement of agri-environment-climate objectives, including biodiversity conservation status of species and habitats as well as enhancing the public amenity value of a Natura 2000 area or other high natural value systems, as long as the investments are non-productive. As the Netherlands outlined that indeed the notified investments serve this purpose (recitals (3), (11), (59) and (61)), the condition of point 143(d) is fulfilled.

(135) According to the notified Catalogue, aid will cover eligible expenses for non-productive investments linked to the objectives referred to in point (143)(d) of the Guidelines, which correspond to the category of eligible costs mentioned in point 144(e). The condition of point 144(e) is therefore met.

(136) According to point 154 of the Guidelines, the aid intensity with regard to non-productive investments must not exceed 100% of the eligible costs. Following the Catalogue notified by the Netherlands (recital (59)), this condition is complied with.

(137) Taking the above into consideration, the Commission considers that, in particular, the requirements regarding the compatibility of aid for non-productive investments are fulfilled.

(138) Furthermore, the investments in nature and landscapes do not relate to those mentioned under point 134 of the Guidelines, which stipulates that where a

common market organisation, including direct support schemes, financed by the European Agricultural Guarantee Fund (EAGF) places restrictions on the production or limitations on Union support at the level of individual undertakings, holdings or processing plants, no investment, which would increase production beyond those restrictions or limitations may receive State aid support. Taking account of the character of the investments notified under the Catalogue this condition is deemed to be met.

- (139) Point 136 of the Guidelines provides that the investments are made on agricultural holdings linked to the primary agricultural production. Under the notified scheme these investments are made by farmers (recitals (7) and (58)), which therefore fulfil this condition. However, under the notified scheme also other land managers may receive aid for the realisation of such investments (section 3.3.3 below).
- (140) Points 137 to 142 of the Guidelines are not relevant to the present case as the investments concerned are not linked to the production of biofuels or of energy from renewable sources on holdings (recital (23))
- (141) According to point 145 of the Guidelines, aid must not be granted in respect of the costs listed in that point 145, letters (a) to (f). Since the aid under the Catalogue is granted for non-productive investments (recital (11)) and not for the costs mentioned in point 145, this condition is complied with.
- (142) Since under the notified scheme no aid is envisaged for the purchases and the investments mentioned in points 146 to 151 of the Guidelines these points are not applicable.
- (143) Since the situations regarding aid intensities as described in the points 152, 153 and 155 of the Guidelines do not apply these points are not applicable to the scheme at hand.
- (144) Taking the above into consideration, the Commission considers that the requirements regarding the compatibility of aid for investment in tangible assets and intangible assets on agricultural holdings linked to primary agricultural production are fulfilled.

3.3.2.3. Specific assessment according to Section 1.1.1.2. of Part II of the Guidelines "Aid for investments for the conservation of cultural and natural heritage located on agricultural holdings", with regard to investments for natural heritage under the measure "Nature investment and nature management" (2.7.5.2)

- (145) As mentioned in recital (54) aid for investments for the conservation of natural heritage previously has been approved under the Catalogue, as well as under other Dutch nature management schemes (recital (55)). The present scheme contains merely technical amendments to the Catalogue, which are mentioned in section 2.7.4 of this decision.
- (146) In accordance with point 156 of the Guidelines the general condition for investment aid set out in point 134 is fulfilled, as the investments are of a non-productive character and do not lead to an increase of the production capacity (recital(61)).

- (147) In line with points 156 and 157 of the Guidelines aid for investments in favour of the conservation of natural heritage should apply to undertakings active in the primary agricultural production. Under the notified scheme these investments are made by farmers active in the primary agricultural production (recitals (7) and (58)) therefore fulfil this condition. Aid to other land managers for the realisation of such investments is assessed in section 3.3.3 below.
- (148) Pursuant to point 158 of the Guidelines aid should be granted for cultural and natural heritage in form of natural landscapes and buildings which is formally recognised as natural heritage by the competent public authorities of the Member State. Following the information from the Member State, this condition is fulfilled (recital (60)).
- (149) According to point 159 of the Guidelines the costs for the conservation of the natural heritage are eligible if they concern investment costs in tangible assets or capital works. Pursuant to point 160(e) the aid intensity may reach up to 100% and according to point 160(f) the aid for capital works must be limited to EUR 10 000 per year. As mentioned in recital (62) these conditions are fulfilled.
- (150) Taking the above into consideration, the Commission considers that the requirements regarding the compatibility of aid for investments for the conservation of cultural and natural heritage on agricultural holdings linked to primary agricultural production are fulfilled.

3.3.2.4. Specific assessment according to Section 1.1.5.1. of Part II of the Guidelines "Aid for agri-environment-climate commitments", with regard to the measure "Agri-environment-climate commitments" (2.7.5.4)

- (151) The farmers undertake the agri-environment commitments on a voluntary basis and in addition to their usual agricultural activities. For this reason they are compensated for the additional costs and the income foregone. The voluntary agri-environment commitments are implemented on agricultural land. Based on information provided in recital (75) amounts are granted to such active farmers. Therefore, the conditions of points 206 and 208 of the Guidelines are met.
- (152) As required in point 209 of the Guidelines, the Dutch authorities have described the environmental benefit of the measure and demonstrated that the measure aims to promote agricultural practices that make a positive contribution to the environment (recitals (3), (11) and (76)). The conditions of point 209 are therefore fulfilled.
- (153) The Dutch authorities have confirmed and demonstrated that the voluntary commitments go beyond the relevant mandatory standards which are identified and described in the notification. As explained in recital (76), the commitments of the farmers go beyond the mandatory standards GAEC 3 (related to groundwater), GAEC 5 and GAEC 6 (related to soil) and GAEC 7 (related landscape features) of Annex II to Regulation (EU) No 1306/2013 and beyond the relevant standards set in national law regarding requirements for the use of fertilisers, plant protection products and for other obligatory requirements regarding e.g. animal welfare. Therefore, the conditions of point 210 of the Guidelines are complied with.

- (154) As mentioned in recital (77) the undertakings which carry out the operations under the present scheme will be provided with the necessary knowledge and information as required under point 211 of the Guidelines. That condition is therefore fulfilled.
- (155) The commitments are undertaken by the beneficiaries for a period of five to seven years (recital (78)). The requirement laid down in point 212 of the Guidelines is therefore met.
- (156) The Dutch authorities have confirmed that, in line with point 213 of the Guidelines, the rules for area related payments laid down in Article 47 of Regulation (EU) No 1305/2013 are complied with (recital (79)). The requirement of this point of the Guidelines is therefore met.
- (157) Points 214, 216 to 220 and 222 of the Guidelines are not applicable as the mentioned activities therein are not covered by this measure of the notified Catalogue.
- (158) According to recital (80) the conditions with regard to extensification of livestock as stated in point 215 of the Guidelines are fulfilled.
- (159) The aid will cover compensation to beneficiaries for all or part of the additional costs and income foregone resulting from the commitments they made and will be granted annually (recital (78)). The requirements laid down in point 221 of the Guidelines are therefore complied with.
- (160) Following recital (81) the Catalogue includes, under certain conditions, the possibility of compensation for proven transaction costs up to 20% of the aid for new agri-environment-climate commitments undertaken by SMEs, which is in line with the provisions of points 223 and 224 of the Guidelines. The calculation referred to in point 225 of the Guidelines is not relevant as the calculation method mentioned therein is not applied in the Catalogue.
- (161) The scheme does not cover aid for organic farming or genetic resources, therefore the points 226, 227 and 230 of the Guidelines are not applicable.
- (162) According to point 228 of the Guidelines, aid for annual crops, specialised perennial crops and other land uses must be limited to respectively EUR 600, EUR 900 and EUR 450 per hectare. Point 229 provides that in duly substantiated cases taking into account specific circumstances these amounts may be increased. The Netherlands intends to grant annual amounts per hectare which do not exceed the thresholds mentioned above (recital (82)). However, with regard to situations in which the annual aid amount per hectare exceeds those ceilings, the Netherlands has provided the specific circumstances, which justify the aid for the measures concerned (recitals (83) and (84)). The conditions of points 228 and 229 of the Guidelines concerning the aid amounts are therefore complied with.
- (163) On the basis of the above mentioned, the specific conditions set out in Section 1.1.5.1 of the Guidelines are therefore met.

- 3.3.2.5. Specific assessment according section 1.1.6 of Part II of the Guidelines "Aid for disadvantages related to Natura 2000 areas and to the Water Framework Directive", with regard to the new added "VI cluster blue services on agricultural land" (2.7.4.2)
- (164) According to point (242) of the Guidelines Section 1.1.6 applies to undertakings active in the primary agricultural production. Pursuant to recital (36) the provision of point (242) is complied with.
- (165) According to point (244) of the Guidelines the aid covers compensation to beneficiaries for additional costs and income foregone resulting from disadvantages in the areas concerned, related to the implementation of the Water Framework Directive. Pursuant to recital (36) the provisions of point (244) are complied with.
- (166) Point (245) of the Guidelines is not applicable, as aid under the Catalogue is not linked to the Habitats Directive and the Birds Directive.
- (167) Point (246) provides that aid linked to the Water Framework Directive may only be granted in relation to specific requirements that:
- (a). were introduced by the Water Framework Directive, are in accordance with the programmes of measures of the river basin management plans for the purpose of achieving the environmental objectives of that Directive and go beyond the measures required to implement other Union legislation for the protection of water;
 - (b). go beyond the statutory management requirements and the good agricultural and environmental condition provided for in Chapter I of Title VI of Regulation (EU) No 1306/2013 and the relevant criteria and minimum activities as established pursuant to points (c)(ii) and (iii) of Article 4(1) of Regulation (EU) No 1307/2013;
 - (c). go beyond the level of protection of the Union law existing at the time the Water Framework Directive was adopted as laid down in Article 4(9) of the that Directive; and
 - (d). impose major changes in the type of land use, and/or major restrictions in farming practice resulting in a significant loss of income.
- (168) Pursuant to recital (38) the provisions of point (246) are complied with.
- (169) According to point (247) of the Guidelines the requirements referred to in point (246) must be identified and described in the notification. Pursuant to recitals (36) to (39) the provisions of point (247) are complied with.
- (170) According to point (248)(c) of the Guidelines agricultural areas included in river basin management plans according to the Water Framework Directive are eligible for aid. Following recital (39) the provisions of point (248)(c) of the Guidelines are complied with.
- (171) According to point 249 of the Guidelines aid must be limited to the following amounts: EUR 500 per hectare per year maximum in the initial period not exceeding five years; and EUR 200 per hectare per year maximum thereafter. Aid related to the Water Framework Directive must amount to a minimum of EUR 50 per hectare

per year. It follows from recital (39) that the provisions of point (249) are complied with.

(172) According to point 250 of the Guidelines the maximum amounts of EUR 500 and EUR 200 may be increased in exceptional cases taking into account specific circumstances to be justified. The minimum amount of EUR 50 for aid related to the Water Framework Directive may be decreased in duly substantiated cases taking into account specific circumstances to be justified. Pursuant to recital (39) the provisions of point (250) are complied with.

(173) The Catalogue therefore complies with the specific conditions of Section 1.1.6 of Part II of the Guidelines.

3.3.2.6. Specific assessment according to Section 1.1.10.1. of Part II of the Guidelines "Aid for knowledge transfer and information actions", with regard to the measure "Technical support" (2.7.5.5)

(174) Aid for technical support can be granted to beneficiaries in the agricultural sector, with the exception of aid for farm replacement services, which can be granted only to undertakings active in the primary agricultural production (point 287 of the Guidelines). The beneficiaries of this measure are farmers active in the primary agricultural production (recital (87)) which is in line with point 287 of the Guidelines.

(175) The technical support is provided in the form of subsidised services, by agricultural collectives or agricultural nature associations (recital (88)), which is in accordance with point (288) of the Guidelines.

(176) Pursuant to point 289 of the Guidelines, the aid must be accessible to all those eligible in the area concerned, based on objectively defined conditions. Where the provision of technical support is undertaken by producer groups or organisations, membership of such groups or organisations must not be a condition for access to the service. Any contribution of non-members towards the administrative costs of the group or organization concerned must be limited to the costs of providing the service. As described in recital (89) the support under this measure is available to all farmers regardless the membership of the organisation. Any contribution of non-members towards the administrative costs of the group or organisation concerned is limited to the costs of providing the service. The conditions of point 289 of the Guidelines are therefore fulfilled.

(177) In line with point 291 of the Guidelines, the aid for technical support covers in the present case vocational training and skills acquisition, such as training courses, workshops, coaching, demonstration activities and information actions (recital (90)).

(178) The eligible costs communicated by the Dutch authorities (see recital (90)) match those listed under point 293(a) of the Guidelines.

(179) Points 292 (farm management exchange and farm visits), 293(b) (travel, accommodation and per diem expenses), 293(c) (replacement services), 293(d) and 294 (demonstration projects) of the Guidelines do not apply as aid for such eligible costs is not foreseen under the Catalogue.

- (180) Pursuant to point 295 of the Guidelines, bodies providing knowledge transfer and information services must have the appropriate capacities in the form of staff qualifications and regular training to carry out those tasks. As described in recital (88), this requirement is met.
- (181) As explained in recital (88), the aid for organising knowledge transfer activities will not involve direct payments to the beneficiaries and will be paid to the provider of knowledge transfer. The requirements of point 296 of the Guidelines are thus met.
- (182) Pursuant to point 297 of the Guidelines, the aid intensity must be limited to 100 % of the eligible costs. It follows from recital (90) that this condition is fulfilled.
- (183) Point 298 of the Guidelines is not applicable as the measure does not cover aid for demonstration projects (recital (90)).
- (184) From the above mentioned, it can be concluded that the requirements of Section 1.1.10.1 of Part II of the Guidelines are met.
- 3.3.2.7. Specific assessment according to Section 1.2.2.1. "Closing of capacity for animal, plant or human health, sanitary, ethical or environmental reasons", of Part II of the Guidelines, with regard to the measure "Change of function" (2.7.5.1)
- (185) Aid under the Catalogue for the measure "Change of function" of agricultural land into nature land previously has been authorised by the Commission in State aid cases N 577/2006 and N 323/2010 (recital (43)) and assessed in the light of aid for the closing of production capacity under the Community Guidelines for State aid in the agriculture and forestry sector 2007 to 2013³². Also in State aid schemes regarding nature investments and nature quality (recital 44)) a similar measure "Change of function" was authorised.
- (186) The now notified measure "Change of function" is identical to one previously approved under the Catalogue and is therefore assessed with regard to aid for the closing of production capacity under the currently applicable Guidelines.
- (187) According to point 424 of the Guidelines aid can be awarded for animal, plant or human health, sanitary, ethical or environmental reasons. As described in recital (45), the closure is done for environmental reasons. Therefore, this condition is complied with.
- (188) According to point 425 of the Guidelines there must be a sufficient counterpart from the beneficiary of the aid, consisting of a definitive and irrevocable decision to scrap or irrevocably close, completely or where duly justified partially, the production capacity concerned. Legally binding commitments must be obtained from the beneficiary that the closure concerned is definitive and irreversible and that the beneficiary will not start the same activity elsewhere. These commitments must also bind any future purchaser of the land concerned. As described in recitals (45), (48) and (51) these conditions are complied with.

³² OJ C 319, 27.12.2006, p. 1.

- (189) According to point 426 of the Guidelines only undertakings that have actually been producing, and only production capacities that have actually been in constant use over the past five years before closing of the capacity are eligible for aid. As described in recital (49) these conditions are complied with under the notified Catalogue.
- (190) According to point 428 of the Guidelines only undertakings fulfilling the relevant Union standards are eligible for aid. The notified scheme fulfils this condition as described above in recital (52).
- (191) The farmland taken out of production is immediately transferred into nature or forest following an approved realisation plan or the conditions of the investment subsidy. The scheme does not concern aid for closure of installations covered by Directive 2010/75/EU of the European Parliament and of the Council³³. The conditions mentioned in point 429 of the Guidelines are therefore met.
- (192) According to point 430 of the Guidelines aid under the scheme must be accessible to all eligible undertakings. This condition is complied with, as shown above in recital (45).
- (193) According to point 431 of the Guidelines the aid may cover compensation for the loss of value of assets, measured as the current selling value of the assets. As mentioned above in recital (46) the notified scheme provides for aid to be granted for this type of costs. The conditions of point 431 therefore are complied with.
- (194) As the notified Catalogue does not cover aid for eligible costs as mentioned in points 432 to 434 of the Guidelines, these points are not relevant for the scheme.
- (195) Following point 435 of the Guidelines the aid for the conversion of land into nature must be granted in accordance with the rules on non-productive investments set out in section 1.1.1.1 of Part II of the Guidelines. Under the notified Catalogue such aid may be granted under the measure "Investment subsidy nature and landscape" (section 2.7.5.2). Following the assessment made above in recitals (133) to (137) the conditions with regard to non-productive investments are complied with. Therefore, that condition of point 435 is fulfilled.
- (196) According to point 436(b) of the Guidelines the maximum aid amount is up to 120% for compensation for the loss of value of assets where the closure is done for environmental reasons. In recital (46) it is indicated that the maximum aid rate for this type of eligible costs is 100%. The provisions of point 436(b) are therefore complied with.
- (197) Taking the above into consideration, the Commission considers that the requirements regarding the compatibility of aid for closing capacity for animal, plant or human health, sanitary, ethical or environmental reasons are fulfilled.

³³ Directive 2010/75/EU of the European parliament and of the Council of 24 November 2010 on industrial emissions (integrated pollution prevention and control) (OJ L 334, 17.12.2010, p. 17).

3.3.2.8. Specific assessment according to Section 2.8. of Part II of the Guidelines "Other aid to the forestry sector with ecological, protective and recreational objectives", with regard to the measure "Nature investment and nature management regarding forest areas" (2.7.5.3))

- (198) The forest nature activities under the scheme at hand have been notified and assessed under Sections 2.8.1, 2.8.2 and 2.8.3 of the Guidelines.
- (199) The Member State has demonstrated that the forest nature activities directly contribute to maintaining or to restoring ecological, protective forest functions, biodiversity and a healthy forest ecosystem (recitals (68) and (71)). Therefore, the conditions of point 590 of the Guidelines are met.
- (200) Point 591 of the Guidelines provides that no aid may be granted to forest based industries, commercially viable extraction or transportation of timber, the processing of wood for energy production, or felling for the purpose of commercial extraction of timber or for restocking of felled trees with equivalent ones. As mentioned in recital (70) the Member State has confirmed the fulfilment of these conditions. Therefore these conditions are met.
- (201) The aid falling under the sections 2.8.1, 2.8.2 and 2.8.3 is limited to 100% of the eligible costs (recital (74)), which is in accordance with the maximum aid percentage of 100% as mentioned in point 592 of the Guidelines.
- (202) The aid is granted to undertakings active in the forestry sector (recital (66)). The condition of point 593 of the Guidelines is therefore fulfilled.
- (203) The common conditions applicable to section 2.8 of the Guidelines are therefore met.

3.3.2.9. Specific assessment according Section 2.8.1. of Part II of the Guidelines "Aid for specific forest actions and interventions with the primary objective to contribute to maintaining or to restoring forest ecosystem and biodiversity or the traditional landscape" with regard to the measure "Nature investment and nature management regarding forest areas" (2.7.5.3)

- (204) Point 594 requires as a primary objective that the measures contribute to maintaining or restoring forest ecosystems and biodiversity or the traditional landscape. The Member State has demonstrated that the notified actions of Catalogue ensure such a contribution (recitals (68) and (71)). Therefore, the conditions of point 594 are met.
- (205) The specific conditions set out in section 2.8.1 of the Guidelines are therefore met.

3.3.2.10. Specific assessment according to Section 2.8.2. of Part II of the Guidelines "Aid for maintaining and improving the soil quality and ensuring a balanced and healthy tree growth in the forestry sector", with regard to the measure "Nature investment and nature management regarding forest areas" (2.7.5.3)

- (206) Point 596 requires that aid may be granted for maintaining, improving the soil quality in forests and ensuring a healthy tree growth. The Member State has

demonstrated that the notified actions of the Catalogue contribute to maintaining and improving of the soil quality, healthy tree growth (recitals (67), (68) and (71)). Therefore the conditions of point 596 are met.

(207) Pursuant to point 597 of the Guidelines measures may include soil improvement by fertilisation, other treatments to maintain natural balance, reducing excessive vegetation density and ensuring sufficient water retention and proper drainage. The Member State has demonstrated that these activities have no negative influence on the environment (recital (72)). The condition of point 597 is therefore fulfilled.

(208) The specific conditions set out in section 2.8.2 of the Guidelines are therefore met.

3.3.2.11. Specific assessment according to Section 2.8.3 of Part II of the Guidelines "Aid for restoration and maintenance of natural pathways, landscape elements and features and natural habitat for animals in the forestry sector", with regard to the measure "Nature investment and nature management regarding forest areas" (2.7.5.3))

(209) Aid for the forestry nature activities with the objective of restoration and maintenance of natural pathways, landscape elements and features and natural habitat for animals is governed by Section 2.8.3 of the Guidelines.

(210) Pursuant to point 600 of the Guidelines aid may be granted for the restoration and maintenance of natural pathways, landscape elements and features and the natural habitat for animals, including planning costs. The Member State has confirmed that the aid for forestry nature maintenance activities covers such activities (recitals (67)), (68) and (71)) and that aid for the implementation of the Habitats Directive and the Birds Directive is excluded (recital (73)). Therefore, the conditions of points 600 and 601 of the Guidelines are fulfilled.

(211) Following the above mentioned, the specific conditions set out in section 2.8.3 of the Guidelines are met.

3.3.3. *Assessment of aid for investments in nature, for the conservation of cultural and natural heritage and for nature management activities for other land managers than farmers.*

(212) As mentioned in recitals (54) and (55) the nature investments and management activities of the notified scheme at hand are in essence the same as in the previously adopted cases regarding the Catalogue N 577/2006 and N 323/2010, as well as in the approved State aid schemes regarding nature investments SA.37960 (2015/N) and nature management SA.37961 (2016/N)³⁴.

(213) The aid for these activities which is granted to other land managers than farmers is not covered by the current Guidelines, or by any other relevant State aid rules. Following point 30 of the Guidelines this part of the measure is assessed on the basis of the Article 107(3) of the Treaty and by analogy of the Guidelines.

(214) The one-time non-productive investments in nature of the measure at hand are necessary for and related to the subsequent performance of nature management

³⁴ See footnotes 16 and 17.

activities on the nature land. These nature investments and management activities are performed by or on behalf of farmers or other land managers, i.e. in this section, other land managers than farmers, such as nature management organisations.

- (215) In State aid case N 376/2010³⁵ regarding nature management activities in the Netherlands the Commission has considered that the Dutch nature managers, including nature conservation organisations concerned by the notified measure should be considered as undertakings within the meaning of Article 107(1) TFEU insofar as they exercise economic activities. In that case the Commission also came to the conclusion that the measure regarding nature management constitutes State aid pursuant to Article 107(1) TFEU. Furthermore it was found that the nature management activities fall outside the Environmental Aid Guidelines and the Agricultural Aid Guidelines. It has been assessed and concluded that: the measure aims at a well-defined objective of common interest, the State aid constitutes an appropriate instrument, the measure has an incentive effect, the aid granted is proportional and that the activities may be of a limited geographical scope and amount. Accordingly, it is not likely that the measure will have an important effect on competition and trade between Member States. It has been concluded that any possible distortion of competition or adverse effect on trade between Member States resulting from the measure in case N 376/2010 can only be limited, so that the overall balance with regard to the objective of common interest is positive. In that case the Commission came to the conclusion that the measure regarding nature management performed by land managers, which are not farmers, constitutes compatible State aid pursuant to Article 107(3)(c) TFEU.
- (216) In State aid schemes regarding nature investments SA.37960 (2015/N), SA.37960 (2016/NN) and nature management SA.37961 (2016/NN) the Commission came to the same conclusion.
- (217) Also the aid for the similar nature investment and management activities under the notified Catalogue, which is granted to other land managers than farmers, is not fully covered by the Section 1.1.1.2 of the Guidelines, because it is related to farmers. Aid for these activities to other land managers, could be covered by Section 3.2 of the Guidelines, when the aid is granted in the framework of a rural development programme pursuant to point 631 of the Guidelines. However, that is not applicable to the aid for the measure of the Catalogue, because it is fully financed by State resources. Also the aid does not fall within the scope of the Guidelines on State aid for environmental protection and energy 2014-2020.
- (218) Therefore, the aid for nature investments and nature management carried out by other land managers than farmers under the Catalogue at hand has been assessed in line with the assessment made in cases N 376/2010, SA.37960 (2015/N), SA.37960 (2016/NN) and SA.37961 (2016/NN). Given the fact that the measure does not fall within the scope of existing guidelines for application of Article 107(3)(c), the measure has been assessed directly under this Treaty provision and by analogy with the Guidelines. On this basis the Commission considers that the notified aid for this measure fulfils the following appropriate assessment criteria:
- the aid contributes to a well-defined objective of common interest (developing and maintaining biodiversity and ecosystems (recital (3)),

³⁵ See footnote 17.

- there is a need for State intervention (without State aid nature managers would not, or to a limited extent, take part in the measure (recitals (11) and (118));
- the State aid constitutes an appropriate instrument (coherent nature management activities undertaken by the nature land managers for the benefit of biodiversity in accordance to government plans (recitals (3), (40), (60), (93) and (119)), with a compensation of real eligible costs or standard costs for predefined nature investment and management activities (recitals (23) to (26) and (122)) and no other less distortive form of aid exists (recitals (11), (40), (93) and (119));
- the aid has an incentive effect (recitals (3), (11), (123) and (124));
- the aid is proportional as it does not exceed the eligible costs (recitals (126) and (127));
- there is no cumulation or double funding of aid (section 2.8) and recital (129));
- the nature management activities, being of limited geographical scope and amount, have limited negative effects in terms of distortion of competition and trade between Member States, which is outweighed by the positive effect with regard to the objective of common interest (recitals (63), (117), (215), (216) and (130) and
- the transparency requirements are fulfilled (recitals (104) and (131)).

(219) Furthermore, the activities, eligible costs involved and the objective are identical regardless of the type of land managers. The aid in favour of natural heritage is directed to investments in nature areas and landscape elements and their conservation, restoration, development, as well as in favour of nature maintenance activities. Therefore, the actions carried out by all beneficiaries of the Catalogue equally contribute to the same objective of conserving natural heritage in nature areas.

(220) It follows that the nature investments are exactly the same for farmers and other land managers. Both types of beneficiaries respect all specific criteria of the relevant aid categories of the Guidelines, except for the criterion of the type of beneficiary in case of other land managers, as shown in the assessment regarding non-productive investments according to investment aid (section 3.3.2.2) and aid for investments for the conservation of cultural and natural heritage (section 3.3.2.3).

(221) On the basis of the above, the Commission considers that with regard to aid for other land managers the notified nature investment activities present enough analogies with aid for investments in tangible assets and intangible assets on agricultural holdings, in particular for non-productive investments in biodiversity and other high natural value systems provided for in section 1.1.1.1 of the Guidelines.

(222) The notified activities also present enough analogies with aid for the conservation of natural heritage provided for in section 1.1.1.2 of the Guidelines.

(223) All relevant conditions of the Guidelines are fulfilled, except for those of points 136, 156 and 157 of the Guidelines regarding the type of beneficiaries. Even if the conditions established in points 136, 156 and 157 of the Guidelines with regard to the type of beneficiaries are not fulfilled when other land managers are

concerned, for the reasons mentioned above, the nature investment activities under the Catalogue are compatible with the internal market under Article 107(3)(c) TFEU.

3.3.4. *Other conditions*

- (224) As laid down in recital (8) undertakings in difficulty and undertakings which are subject to an outstanding recovery order following a previous Commission decision declaring an aid illegal and incompatible with the internal market are excluded from the scope of the beneficiaries. Therefore, the conditions of points (26) and (27) of the Guidelines are fulfilled.
- (225) The Dutch authorities committed to adapt this aid scheme to any future State aid rules once these rules start to apply (recital (103)).

4. CONCLUSION

The Commission has accordingly decided:

- not to raise objections to the aid on the grounds that it is compatible with the internal market pursuant to Article 107(3)(c) TFEU.

If any parts of this letter are covered by the obligation of professional secrecy according to the Commission communication on professional secrecy in State aid decisions³⁶ and should not be published, please inform the Commission within fifteen working days of notification of this letter. If the Commission does not receive a reasoned request by that deadline the Netherlands will be deemed to agree to the publication of the full text of this letter. If the Netherlands wishes certain information to be covered by the obligation of professional secrecy please indicate the parts and provide a justification in respect of each part for which non-disclosure is requested.

Your request should be sent electronically via the secured e-mail system Public Key Infrastructure (PKI) in accordance with Article 3(3) of Commission Regulation (EC) No 794/2004³⁷, to the following address: agri-state-aids-notifications@ec.europa.eu.

For the Commission

PHIL HOGAN

Member of the Commission

³⁶ Commission communication C(2003) 4582 of 1 December 2003 on professional secrecy in State aid decisions, OJ C 297, 9.12.2003, p. 6.

³⁷ Commission Regulation (EC) No 794/2004 of 21 April 2004 implementing Council Regulation (EU) 2015/1589 laying down detailed rules for the application of Article 108 of the Treaty on the Functioning of the European Union (OJ L 140, 30.4.2004, p. 1).