Subject: State Aid - Netherlands
SA.50448 (2018/N)
NL_LNV_AGRO Energy-efficiency glasshouse horticulture

Sir,

The European Commission (hereinafter: "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 (hereinafter: "TFEU").

The Commission has based its decision on the following considerations:

1. PROCEDURE

   (1) By letter of 16 February 2018, registered by the Commission on the same day, the Netherlands have pre-notified the above mentioned aid scheme. The Commission sent a request for additional information to the Dutch authorities on 23 March 2018, which the Dutch authorities answered by letter of 20 July 2018, registered by the Commission on the same day. By letter of 23 July 2018, registered by the Commission on the same day, the Netherlands have notified, according to Article 108(3) TFEU, the above mentioned aid scheme. The Commission has requested additional information on 30 and 31 July 2018 which the Dutch authorities submitted on 7 September 2018, registered by the Commission on the same day.

2. DESCRIPTION

2.1. Title

   (2) NL_LNV_AGRO Energy-efficiency glasshouse horticulture

H.E. Mr. Stef BLOK
Minister of Foreign Affairs
Bezuidenhoutseweg 67
Postbus 20061
NL - 2500 EB Den Haag
2.2. Objective

(3) With the present notification the Dutch authorities wish to support investments in glasshouse horticulture undertakings, which result in a saving of fossil energy, which the undertakings use for growing crops. The aid is primarily aimed at the conservation and improvement of the natural environment by achieving energy savings, CO₂-emission reduction and in addition in the longer term at the reduction of production costs. The aim is to come in 2020 to the construction of new net-energy-neutral glasshouses and to a considerable saving of energy by existing glasshouses. With the notified aid scheme the Netherlands expect a structural reduction of CO₂-emissions by the glasshouse horticulture of 0.03 Mton CO₂ per year.

(4) The Dutch authorities endeavour to make glasshouse horticulture undertakings increasingly less dependent on fossil fuels, as agreed in the “Multi-annual Agreement Glasshouse horticulture 2014-2020”

(5) The notified aid scheme is part of a broader package of transition measures, which aim at accelerating innovation and encouragement of a wider introduction of energy-saving techniques. The supported investments under the scheme aim at energy transition by means of a wide introduction of energy-saving techniques and should contribute to the following outcome:

a) a climate-neutral greenhouse horticulture sector in 2050;

b) medium term goal (2020): a CO₂ emission of a maximum of 6.2 Megatons and an additional reduction of energy use with 11 PJ (petajoule);

c) having available in 2020 new net energy-neutral greenhouses and existing greenhouses which are much more energy-efficient.

2.3. Legal basis

(6) The legal basis is:

a) "Regeling nationale EZ-subsidies - Titel 2.3. Energie-efficiëntie glastuinbouw" [National EZ subsidies scheme – Title 2.3. Energy-efficiency glasshouse horticulture], (hereinafter: "subsidy module EG").

b) "Kaderbesluit nationale EZ-subsidies" [Framework decision national EZ-subsidies], (hereinafter: "Kaderbesluit").

2.4. Duration

(7) From the date of the adoption of the Commission Decision until 1 July 2022.

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1 The "Meerjarenafspraak Energietransitie Glastuinbouw 2014-2020" [Multi-annual Agreement Glasshouse horticulture 2014-2020] is an agreement between the Dutch government and the glasshouse horticulture sector with regard to innovation and scaling-up actions, in order to arrive at the construction of net-energy-neutral new greenhouses and to more energy-efficient producing existing greenhouses. Reference number: Dutch parliamentary document II 2013/14, 32 627, nr. 17.
2.5. Budget

The overall budget is EUR 75 million financed from the general State budget. The annual budget is EUR 15 million. The granting authority is the Ministry of Agriculture, Nature and Food quality.

2.6. Beneficiaries

Glasshouse horticulture undertakings active in the primary agricultural production, which are mainly small and medium-sized enterprises (SME) and also large enterprises. The number of beneficiaries is estimated at more than 1 000.

2.7. Description of the aid scheme

The scheme, which is laid down in the subsidy module EG, is intended to support investments on agricultural holdings, which are glasshouse horticulture undertakings active in the primary agricultural production. Previously, the Dutch authorities have notified similar schemes for the period of 2007-2010 (XA 38/2007) and in 2011 (SA.319689), and under the Community Guidelines for State aid in the Agriculture and forestry sector 2007-2013 for the period 2012-2017 (SA.340050). The Dutch authorities have now decided to notify the scheme for the period until 1 July 2022 under the currently applicable Guidelines.

The measures under the notified aid scheme are comparable to, however different from, the corresponding investment measures included in the Dutch Rural Development Programme (hereinafter: "RDP") for 2014-2020. According to the Dutch authorities under the RDP, in particular the part enhancing innovation, sustainability and competitiveness thereof, the entrepreneurs are encouraged to invest in their undertakings to be able to continue to meet the demands of market and society. However the RDP does not provide for an aid instrument which is particularly focussed on greenhouse horticulture in the interests of the environment and climate, and also encourages reduction of production costs by establishing energy-saving investments. The measures under the notified aid

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3 Point 27 of the Guidelines.
scheme are designed in a consistent manner with Regulation (EU) No 1305/2013\(^8\) and the rural development policy and contribute to the objective of the aforementioned RDP. In this context, the present aid scheme is consistent with the Dutch RDP.

(13) The Dutch authorities have assessed that negative environmental effects are not expected. The selected investments do not aim at an increase of production, but rather at energy efficiency and CO\(_2\) emission reduction, thus counteracting climate change. Therefore the environmental effects are positive.

(14) The Dutch authorities confirm that aid will only be granted for investments that go beyond the minimum EU and/or national requirements in force.

(15) The Dutch authorities have confirmed 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, investment which would increase production beyond those restrictions or limitations cannot receive State aid support.

(16) The aid may be granted following the submission of aid applications by the potential beneficiaries on the basis of an "opening decision" ["openstellingsbesluit"] of the Ministry. The potential beneficiaries can apply for aid under the scheme within a deadline and the available budget by submitting electronically the forms to the "Rijksdienst voor Ondernemend Nederland" [Government Service for Enterprising Netherlands]. On behalf of the Ministry this body checks the applications, issues granting decisions, executes payments and carries out controls with regard to the aid. If the ceiling of the budget is reached the available budget will be divided on the basis of the date of receipt of the applications.

(17) The subsidy module EG (recital (6)a)) entails in Article 2.3.2. limitative number of investments, pursuant to which glasshouse horticulture undertakings can apply for aid for the following investments on their holding:\(^9\):

a) Secondary energy shields.

b) The physical connection to a heating network or cluster.

c) The physical connection to a biogas or CO\(_2\) network or cluster.

d) Air handling system which dehumidifies the greenhouse air in an energy efficient way.

(18) Pursuant to the subsidy module EG the aid will not be granted for the following investments and costs:


\(^9\) The private investments are made by the beneficiaries in tangible assets on their glasshouse horticulture undertakings and do not concern investments in energy infrastructure. The Dutch authorities explained that where applicable, the investments supported under the scheme comply with national minimum standards regarding energy efficiency. For example, the coefficient of performance (COP) of a heat pump, as part of an air handling system mentioned in recital (17)d), always exceeds the level 4 as required by the Dutch legislation of the "Energie Investeringsaftrek (EIA)".
a) facade screens, cultivation required blackout screens, legally required light protective screens, screens whose use results in less than 45% energy saving, shadow and sun protection screens or translucent energy screens with a light shielding of more than 25%;

b) equipment, installations or machines that have already been used;

c) replacement investments;

d) investments in facilities that have as objective to generate electricity from biomass;


f) investments in installations for the production of renewable energy.

g) investments which are not in conformity with the legislation of the European Union and with the national environmental protection legislation;

h) investments related to irrigation on new and existing irrigated areas.

i) items which are mentioned in point 145 of the Guidelines.

(19) Only the following costs are eligible for aid:

a) costs for the construction, acquisition or improvement of immovable property, with land purchase only eligible up to a maximum of 10% of the total eligible costs of the operation.

b) costs for the purchase or lease-purchase of machinery and equipment, of which the beneficiary is the first user. Aid is not granted in respect of the following costs connected to leasing contracts: lessor's margin, interest refinancing costs, overheads and insurance charges.

c) costs related to the physical connection as mentioned in recital (17)b) and (17)c) as far as these are real costs for materials and construction of this connection, such as costs for pipes, dividers, pumps, ducts, excavation works and other costs accessories.

d) costs related to acquisition of immovable property of recital (19)a) mentioned above, such as notary costs, transfer tax, and registration costs.

(20) The investments supported by the scheme are in the last phase of their market launch and are not yet economically profitable. Without aid the beneficiaries would normally not engage, or engage to a limited extent, in this type of investments. The aid is a direct grant calculated as 25% of the eligible costs. The energy saving and CO₂ reducing investments proposed by the notified scheme are new concepts, which are expensive. Therefore, they cannot yet be earned back during their exploitation by the undertaking. Even when the positive financial effects of energy saving and received subsidy are taken into account, the investments remain loss making for the beneficiaries. Calculations provided by the Dutch authorities show that the aid in the form of the grant of 25% covers

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around 67% of the exploitation loss of the investment and that 33% of the loss remains at the charge of the farmer.

(21) The Dutch authorities have demonstrated that other less distortive forms of aid, such as loan guarantees or interest subsidies, are not appropriate to promote the energy saving and CO₂ reducing investments of the notified scheme. Aid in the form of guarantees does not cover any part of the loss of the investment. Although such form of aid would improve the solvability of the undertaking for the purpose of obtaining loans, it has no impact on the financial result of the investment. Furthermore, calculations show that aid in the form of an appropriate interest subsidy would cover only a minor part (20%) of the loss on the investment made by the beneficiary.

(22) Therefore, the Dutch authorities consider that aid in the form of guarantees or interest subsidies are not appropriate alternatives to encourage beneficiaries to carry out these investments and that such forms of aid would put the achievement of the objectives of the scheme in terms of energy savings and CO₂-emission reduction at risk.

(23) The eligible costs are exclusive value added tax (VAT), except where it is not recoverable by the beneficiary of the aid who incurred the costs. The eligible costs for a secondary energy shield (recital (17)a)) are limited to EUR 6 per m² installed greenhouse surface, or to EUR 7 per m² when the surface of the glasshouse remains under 4 hectares. The eligible costs for an air handling system (recital (17)d)) are limited to EUR 15 per m² glasshouse surface.

(24) The subsidy amounts to at least EUR 5 000 per application and is limited to the following maximum amounts:

a) for each of the investments mentioned above in recital (17)a) and (17)b) separately: EUR 150 000 per glasshouse horticulture undertaking;

b) for the investments mentioned above in recital (17)c), EUR 50 000 per glasshouse horticulture undertaking

c) for the investments mentioned above in recital (17)d) EUR 187 500 per glasshouse horticulture undertaking;

2.8. Incentive effect and aid to large enterprises

(25) The subsidy module EG 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 and end dates, the amount of aid needed and the eligible costs. The Dutch authorities confirmed that the beneficiaries have to submit application for aid before the start of the activities concerned and that activities, which have started before the submission of the application are not eligible for aid.

(26) The aid scheme 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 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 that has to confirm the incentive effect of the aid.
The Dutch authorities have confirmed that the aid scheme 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.

2.9. Cumulation

Article 6(1) of the "Kaderbesluit", mentioned in recital (6)b) above, stipulates that if aid has already been provided by a government authority or the European Commission for the same eligible costs, or a part thereof, only such an amount of subsidy will be granted under the scheme at hand, in order that the total amount of aid does not exceed the amount that can be provided under the scheme at hand nor exceed the amount which is permitted by the applicable European aid rules. The subsidies are centralized at the RVO, which keeps a record of all applications, in order to ensure that overcompensation in the context of cumulation is excluded.

2.10. Other commitments

The Dutch authorities committed to adapt the aid scheme at hand, after the expiry of the currently applicable State aid rules, to the future State aid rules once these rules start to apply.

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 will be done on the Transparency State Aid Module on following web page: https://webgate.ec.europa.eu/competition/transparency/public/search/home/11.

3. ASSESSMENT

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

According to Article 107(1) 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".

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.

The scheme in question is imputable to the State and financed through State resources (recital (8)). 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 horticulture sector or other sectors, are not eligible for aid and thus will not receive the same advantage. The notified

11 This link is also included on the website of the "Rijksdienst voor Ondernemend Nederland (RVO)"; http://www.rvo.nl/subsidies-regelingen/subsidiesspelregels/publicatieplicht.
scheme therefore gives only certain undertakings (recitals (3) and (9)) 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 competition\(^\text{12}\).

(34) 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 trade\(^\text{13}\). The beneficiaries of aid operate on the market of agricultural products, where intra-trade takes place\(^\text{14}\). The sector concerned is open to competition at EU level and therefore sensitive to any 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.

(35) In light of the above, the conditions of Article 107(1) 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

(36) The aid scheme was notified to the Commission on 23 July 2018. 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

(37) 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.

(38) For this derogation to be applicable, the aid must comply with the relevant Union State aid rules.

3.3.2. Application of the Guidelines

(39) As regards the notified aid scheme, Part I and Part II, Chapter 1, Section 1.1.1.1 of the Guidelines are applicable.

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\(^\text{13}\) 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.

According to point 43 of the Guidelines, the objectives of aid in the agricultural and forestry sectors and in rural areas are to ensure viable food production and to promote the efficient and sustainable use of resources in order to achieve intelligent and sustainable growth. The notified aid scheme aims at improving the overall performance of the beneficiaries and at achieving a more efficient use of resources (recitals (3) and (4)). It therefore complies with point (43) of the Guidelines.

Following recitals (3), (4) and (5) the present scheme contributes to the conservation and improvement of the natural environment by energy saving and CO\textsubscript{2} emission reduction, as well as to the reduction of production costs. Therefore, the notified aid scheme contributes to promoting the efficient and sustainable use of resources in order to achieve intelligent and sustainable growth in close relation to the CAP and thus it complies with points 43 and 44 of the Guidelines. Furthermore, it follows from recital (15) that the scheme is compatible with the rules on the relevant common organisation of the market, in line with point 44 of the Guidelines.

The scheme is a rural development-like measure, differing from the relevant measure of the Dutch RDP for 2014-2020 only because the notified aid scheme provides support for glasshouse horticulture undertakings with the focus on investments regarding energy saving, CO\textsubscript{2} reduction, as well as the reduction of production costs (recitals (3) and (12)). The scheme at hand can therefore be regarded as consistent with the rural development framework in line with point 47 of the Guidelines. It follows also from recital (12) that the scheme contributes to the rural development objectives in accordance with point 44 of the Guidelines.

As described in recital (3) above, the scheme supports investments meeting specific requirements with the aim to achieve energy saving and CO\textsubscript{2} reduction, inter alia, in the interests of the environment. As described in recital (13) the Dutch authorities have assessed that no negative impact on the environment within the meaning of point 52 of the Guidelines has been identified.

Since the present scheme fulfils the specific conditions laid down in the relevant section of Part II of the Guidelines, as analysed below under section 3.3.2.2., the Commission considers, in line with point 55 of the Guidelines, that the aid is necessary to address the objective of common interest.

Pursuant to point 56 of the Guidelines, an aid is appropriate if no other less distortive policy instrument or other less distortive types of aid make it possible to achieve the same contribution to the objectives of the CAP. The present scheme fulfils the specific conditions laid down in the relevant section of Part II of the Guidelines. Moreover, the option of a rural development-like State aid measure was chosen to support beneficiaries and investments other than those covered by the relevant RDP measure (recital (12)). Therefore, in line with points 57 and 58 of the Guidelines the Commission considers the policy instrument appropriate.

As regards investment aid not covered by Regulation (EU) No 1305/2013, as part of the RDP, the Dutch authorities stated the reasons, as described in recitals (12), (20), (21) and (22), why other potentially less distortive forms of aid than a direct grant do not exist at the moment, in order to reach the objectives of the aid
scheme. Therefore, the condition of point 62 of the Guidelines is deemed to be satisfied and the Commission considers the form of the aid as appropriate.

(47) It follows from recital (25) above that work on the relevant activity will only start after the beneficiary has submitted an aid application to the national authorities in line with point 70 of the Guidelines and that the aid application includes the elements required under point 71 of the Guidelines.

(48) In compliance with point 72 of the Guidelines the Dutch authorities confirmed that large enterprises also have to describe in their application the situation without the aid and submit documentary evidence in support of the counterfactual scenario described in the application. The Dutch authorities also confirmed that when receiving an application, the granting authority will carry out a credibility check of the counterfactual scenario and confirm that the aid has the required incentive effect (recital (26)), as foreseen in point 73 of the Guidelines. The Commission therefore considers that the notified aid complies with the requirements of the incentive effect.

(49) As shown in section 3.3.2.2. below, the eligible costs and aid intensities respect the specific conditions set out in Part II of the Guidelines and thus are in line with point 84 of the Guidelines regarding the proportionality of the aid. As described in recital (23) VAT is not eligible, which is in line with point 86 of the Guidelines.

(50) With regard to investment aid to large enterprises, point 97 of the Guidelines stipulates that Member States 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. To that end, the method explained in point 96 of the Guidelines must be used together with maximum aid intensities as a cap to ensure that the aid does not exceed the minimum necessary to render the project sufficiently profitable. The Netherlands confirmed to comply with these requirements (recital (27)).

(51) According to point 99 of the Guidelines, aid may be cumulated, provided that the total amount of State aid for a project does not exceed the aid ceilings laid down in the Guidelines. As described in recital (28) above, this condition is met.

(52) On the basis of the foregoing, it can therefore be concluded that the conditions of proportionality and cumulation are fulfilled.

(53) 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. As the conditions of Part II of the Guidelines are complied with (see section 3.3.2.2. below), the negative effect on competition and trade is limited to the minimum.

(54) The transparency requirement of point 128 of the Guidelines is complied with as shown in recital (30).

3.3.2.2. Specific assessment according to the category of aid for investment in tangible assets and intangible assets on
According to point 134 of the Guidelines investment aid falling under Sections 1.1.1.1 of Part II of the Guidelines shall comply with the condition 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”. The Dutch authorities have committed to respect this condition (recital (15)) and thus the Commission considers the condition set out in point 134 of the Guidelines to be fulfilled.

In conformity with point 136 of the Guidelines, the notified aid scheme concerns investments in tangible assets and intangible assets on agricultural holdings linked to the primary agricultural production (recital (11)).

Point 137 of the Guidelines sets conditions for investments linked to the production of biofuels or to the production of energy from renewable resources on holdings. It follows from recitals (17), (18)e) and (18)f) that the present scheme does not support investments linked to the productions as referred to in point 137 of the Guidelines. Therefore, point 137 of the Guidelines does not apply to the notified scheme.

Points 138, 140, 141 and 142 of the Guidelines include conditions, which are related to investments for the production of renewable energy, electricity production from biomass and bioenergy production, including biofuels. The investments supported under the notified scheme are restricted to the items listed in recital (17), which do not include such investments (recitals (18)d), (18)e), (18)f) and (57)), but are investments regarding energy saving and the connection of the horticulture undertakings to energy networks for the purpose of reducing the consumption of energy (recital (3)). Points 138, 140, 141 and 142 therefore do not apply to the notified scheme.

Pursuant to point 139 of the Guidelines Member States must require compliance with minimum standards for energy efficiency for investments in renewable energy infrastructure that produce or consume energy. The Dutch authorities have confirmed that the notified scheme does not support investments in infrastructure, but concerns investments on agricultural holdings. Where applicable, the relevant minimum standards in relation to the eligible investments are complied with (recital (17) and footnote 9). Therefore, point 139 of the Guidelines is complied with.

The investments supported by the notified aid scheme pursue the objective of the improvement of the overall performance and sustainability of the agricultural holding, in particular through a reduction of production costs or the improvement and re-deployment of production, and the improvement of the natural environment (recitals (3) and (13)) by means of investments, which go beyond the Union standards in force (recital (14)). The conditions of point 143(a) and 143(b) of the Guidelines are therefore met.
The eligible costs described in recital (19) are in line with the categories of eligible costs listed in points 144(a) and 144(b) of the Guidelines. Therefore, the Commission considers that the conditions of points 144(a) and 144(b) of the Guidelines are complied with.

Point 145 of the Guidelines provides that aid must not be granted to the items mentioned therein. It follows from recital (18)i) that aid will not be granted under the notified scheme in relation to these items. Aid is not granted to: production rights, payment entitlements, annual plants, animals or working capital (recital (17)), investments to comply with Union standards (recitals (14), or certain leasing costs (recital (19)b)). Therefore, the aid for investments under the scheme is in compliance with point 145 of the Guidelines.

Points 146 and 147 of the Guidelines are not relevant to the present scheme as it does not concern the purchase of breeding animals.

Points 148 to 151 of the Guidelines are not applicable to the notified scheme as it does not aim at meeting standards (recital (14)) and does not concern irrigation (recitals (3), (17) and (18)h)).

The maximum aid intensity of 25% under the notified scheme (recital (20)) is below the applicable maximum aid intensity of 40% as set out in point 152(e) of the Guidelines. Therefore, this point of the Guidelines is fulfilled.

Points 153 to 155 of the Guidelines are not applicable to the present aid scheme.

On the basis of the above, the Commission concludes that the conditions set out in Section 1.1.1.1 of Part II of the Guidelines are fulfilled.

3.4. Other conditions

The Commission takes note that undertakings in difficulty at the moment of the granting of the aid and undertakings still having at their disposal an earlier unlawful aid that was declared incompatible by a Commission decision (recital (10)) are excluded from any support.

In accordance with point 719 of the Guidelines the Commission only authorises schemes of limited duration. Aid schemes that can benefit from co-financing under Regulation (EU) No 1305/2013 should be limited to the duration of the programming period 2014-2020. Other aid schemes should not apply for a period of more than seven years. The scheme at hand is financed from State resources and does not benefit from co-financing under Regulation (EU) No 1305/2013 (recital (8)). It follows from recital (7) above that the requirements of point 719 of the Guidelines are met.

The Dutch authorities committed to adapt this aid scheme to future State aid rules once these rules start to apply (recital (29)).

The Commission therefore concludes that the notified aid scheme complies with the relevant provisions of the Guidelines.
4. CONCLUSION

The Commission has accordingly decided not to raise objections to the notified aid scheme 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 decisions\(^{15}\) 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 794/2004\(^{16}\), to the following address: agri-state-aids-notifications@ec.europa.eu.

For the Commission

Phil HOGAN
Member of the Commission

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