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**Subject: State Aid SA.100829 (2021/N) – The Netherlands
COVID-19: Sixth amendment of the direct grant scheme to support
the fixed costs for enterprises affected by the COVID-19 outbreak
(amendments to SA.57712, SA.59535, SA.60166, SA.62241, SA.63257
and SA.63984)**

Excellency,

1. PROCEDURE

- (1) By electronic notification of 26 November 2021, the Netherlands notified amendments (the “notified amendments”) to State aid measure SA.57712 “COVID-19: direct grant scheme to support the fixed costs for small and medium-sized enterprises affected by the COVID-19 outbreak” (the “initial decision”)¹, as amended by SA.59535 “Amendment of the scheme SA.57712 - COVID-19: direct grant scheme to support the fixed costs for small and medium-sized enterprises affected by the COVID-19 outbreak” (the “first amendment decision”)², SA.60166 “Amendment of the aid scheme SA.57712 as already amended by SA.59535, and new sub-measures on “COVID-19: direct grant scheme to support the fixed costs for enterprises affected by the COVID-19 outbreak”” (the “second amendment decision”)³, SA.62241 “Third amendment of the direct grant scheme to support the fixed costs for enterprises affected by the COVID-19 outbreak” (the “third amendment decision”)⁴, SA.63257 “COVID-19: Fourth amendment of the direct grant scheme to support the fixed costs for enterprises affected by the COVID-19 outbreak (amendments to SA.57712,

¹ Approved by the Commission on 26 June 2020, C(2020) 4442 final.

² Approved by the Commission on 20 November 2020, C(2020) 8286 final.

³ Approved by the Commission on 9 February 2021, C(2021) 942 final.

⁴ Approved by the Commission on 15 March 2021, C(2021) 1872 final.

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SA.59535, SA.60166, SA.62241)” (the “fourth amendment decision”)⁵ and SA.63984 “COVID-19: Fifth amendment of the direct grant scheme to support the fixed costs for enterprises affected by the COVID-19 outbreak (amendments to SA.57712, SA.59535, SA.60166, SA.62241, SA.63257)” (the “fifth amendment decision”)⁶ (the “existing aid scheme”) under the Temporary Framework for State aid measures to support the economy in the current COVID-19 outbreak (the “Temporary Framework”)⁷.

- (2) The Netherlands exceptionally agrees to waive its rights deriving from Article 342 of the Treaty on the Functioning of the European Union (“TFEU”), in conjunction with Article 3 of Regulation 1/1958⁸ and to have this Decision adopted and notified in English.

2. DESCRIPTION OF THE NOTIFIED AMENDMENTS

- (3) Section 3.1 of the Temporary Framework provides that limited amounts of aid may be granted no later than 30 June 2022 (point 22 (d)).
- (4) Section 3.1 of the Temporary Framework provides that the total nominal value of aid granted in the form of direct grants, tax and payment advantages or other forms such as repayable advances, guarantees, loans and equity shall not exceed the overall cap of EUR 2.3 million per undertaking for undertakings active in sectors others than the primary production of agricultural products, fisheries and aquaculture (point 22(a)) or EUR 345 000 per undertaking for undertakings active in the fishery and aquaculture sector or EUR 290 000 per undertaking for undertakings active in the primary production of agricultural products (point 23(a)).
- (5) The Netherlands wishes to prolong sub-measure (a) of the second amendment decision, as amended with the third, fourth and fifth amendment decisions, and to provide aid in the form of direct grants for the period 1 October to 31 December 2021, subject to the following amendments:
 - (a) An enterprise is eligible if it lost at least 30% of its turnover in the period 1 October to 31 December 2021 compared to either the same period in 2019 or the first quarter of 2020, at the choice of the applicant. By derogation, for beneficiaries registered for the first time after 30 September 2019 in the Commercial Register, the reference period shall be, at the choice of the applicant, the third calendar quarter of 2020 or the first full calendar quarter following the month of entry in the Commercial Register.

⁵ Approved by the Commission on 22 June 2021, C(2021) 4735 final.

⁶ Approved by the Commission on 26 July 2021, C(2021) 5709 final.

⁷ Communication from the Commission - Temporary framework for State aid measures to support the economy in the current COVID-19 outbreak (OJ C 91I, 20.3.2020, p. 1), as amended by Commission Communications C(2020) 2215 (OJ C 112I, 4.4.2020, p. 1), C(2020) 3156 (OJ C 164, 13.5.2020, p. 3), C(2020) 4509 (OJ C 218, 2.7.2020, p. 3), C(2020) 7127 (OJ C 340I, 13.10.2020, p. 1), C(2021) 564 (OJ C 34, 1.2.2021, p. 6) and C(2021) 8442 (OJ C 473, 24.11.2021, p.1).

⁸ Regulation No 1 determining the languages to be used by the European Economic Community, OJ 17, 6.10.1958, p. 385.

- (b) The aid may be granted provided its nominal value, for all measures granted in accordance with Section 3.1 of the Temporary Framework, does not exceed EUR 345 000 per undertaking active in fishery and aquaculture sectors, EUR 290 000 per undertaking active in the primary production of agricultural products or EUR 2 300 000 per undertaking active in all other sectors (all figures used being expressed in gross, that is before any deduction of tax or other charges).⁹ The Dutch authorities indicate that the new ceilings will apply for aid for the period 1 October to 31 December 2021.
 - (c) The increment for the agriculture sector¹⁰, as provided in recital (8)(h) of the third amendment decision, recital (3)(e) of the fourth amendment decision and recital (3)(b) of the fifth amendment decision, is not prolonged for the period 1 October to 31 December 2021.
 - (d) Aid will be granted no later than 30 June 2022¹¹.
- (6) Applications can be submitted after the entry into force of these notified amendments.
 - (7) The legal basis for the notified amendments is (i) the “Kaderwet EZK- en LNV-subsidies” (“legal framework for the granting of subsidies by the Minister of Economic Affairs and Climate Policy”)¹² and (ii) the draft Regulation “Regeling subsidie vaste lasten financiering COVID-19” (“Regulation on the financing of fixed costs COVID-19” – hereinafter the “draft Regulation”)¹³.
 - (8) The estimated budget of the measure for aid to undertakings for the period 1 October to 31 December 2021 is EUR 1.9 billion. The measure is not co-financed by Union funds.
 - (9) Aid may be granted under the existing aid scheme, as amended, as from the notification of the Commission’s decision approving the notified amendments.
 - (10) Apart from the notified amendments, the Netherlands confirms that no further amendments are proposed to the existing aid scheme and that all other conditions of that scheme remain unaltered.

3. ASSESSMENT

3.1. Lawfulness of the measure

- (11) By notifying the amendments before putting them into effect, the Dutch authorities have respected their obligations under Article 108(3) TFEU.

⁹ Aid granted under the measure or aid under other measures approved by the Commission under section 3.1 TF COVID-19 which has been reimbursed before new aid is granted shall not be taken into account in determining whether the relevant ceiling is exceeded.

¹⁰ See footnote (9) of the fifth amendment decision.

¹¹ Previously until 31 December 2021.

¹² See footnote (5) of the second amendment decision.

¹³ Draft Regulation of the State Secretary for Economic Affairs and Climate Policy, No WJZ/21243040, provided by the Dutch authorities with the notification.

3.2. Existence of State aid

- (12) For a measure to be categorised as aid within the meaning of Article 107(1) TFEU, all the conditions set out in that provision must be fulfilled. First, the measure must be imputable to the State and financed through State resources. Second, it must confer an advantage on its recipients. Third, that advantage must be selective in nature. Fourth, the measure must distort or threaten to distort competition and be liable to affect trade between Member States.
- (13) The existing aid scheme constitutes State aid within the meaning of Article 107(1) TFEU for the reasons set out in recitals (55) to (60) of the second amendment decision, recital (15) of the third amendment decision, recital (11) of the fourth amendment decision and recital (11) of the fifth amendment decision. The notified amendments do not affect that conclusion. The Commission therefore refers to the respective assessment of the second, third, fourth and fifth amendment decisions and concludes that the existing aid scheme, as amended, constitutes State aid within the meaning of Article 107(1) TFEU.

3.3. Compatibility

- (14) The existing aid scheme is compatible with the internal market pursuant to Article 107(3)(b) TFEU, since it meets the conditions of sections 2 and 3.1 of the Temporary Framework for the reasons set out in recitals (61) to (66) and (85) and (86) of the second amendment decision, recitals (16) to (19) of the third amendment decision, recitals (12) to (15) of the fourth amendment decision and recitals (12) to (15) of the fifth amendment decision. The Commission therefore refers to the respective assessment of the second, third, fourth and fifth amendment decisions.
- (15) The notified amendments, as described in recitals (5) to (9), do not affect the conclusion of the compatibility assessment referred to in recital (14). In particular:
- (a) The amendment related to the eligibility of beneficiaries (recital (5)(a)) has no impact on the conditions for compatibility assessed in the second, third, fourth and fifth amendment decisions as the measure complies with point 22(c) and 22(c)bis of the Temporary Framework.
 - (b) The amendments related to the amount of aid, in particular the increase of the maximum aid under section 3.1 of the Temporary Framework (recital (5)(b)) and the non prolongation of the increment for the agriculture sector (recital (5)(c)) have no impact on the conditions for compatibility assessed in the second, third, fourth and fifth amendment decisions as the aid per undertaking will not exceed the aid ceilings as set in the section 3.1 of the Temporary Framework (recital (4)). The measure therefore complies with points 22(a) and 23(a) of the Temporary Framework.
 - (c) The non prolongation of the increment for the agriculture sector (recital (5)(c)) has no impact on the conditions for compatibility assessed in the second, third, fourth and fifth amendment decisions as it does not affect compliance with points 23(a) and 23(b) of the Temporary Framework, as established in the second, third, fourth and fifth amendment decisions.
 - (d) The increase of the budget as indicated in recital (8) has no impact on the compatibility assessment of the measure, as it complies with point 22(b) of

the Temporary Framework, which requires that the scheme has an estimated budget.

- (e) The modification of the period in which beneficiaries can apply to the measure (recital (6)) does not modify the conclusions of the compatibility assessment of the measure as reported in the second, third, fourth and fifth amendment decisions as the period of granting the aid remains in the limit as provided by point 22(d) of the Temporary Framework (recital (3)).
- (16) Apart from the notified amendments, the Netherlands confirms that no further amendments are proposed to the existing aid scheme and that all other conditions of that scheme remain unaltered (recital (10)).
- (17) The Commission therefore considers that the notified amendments are necessary, appropriate and proportionate to remedy a serious disturbance in the economy of a Member State pursuant to Article 107(3)(b) TFEU, since they meet all the relevant conditions of the Temporary Framework. The notified amendments do not alter the Commission's conclusion on the compatibility of the existing aid scheme in the second, third, fourth and fifth amendment decisions.

4. CONCLUSION

The Commission has accordingly decided not to raise objections to the scheme, as amended, on the grounds that it is compatible with the internal market pursuant to Article 107(3)(b) of the Treaty on the Functioning of the European Union.

The decision is based on non-confidential information and is therefore published in full on the Internet site: <http://ec.europa.eu/competition/elojade/isef/index.cfm>.

Yours faithfully,

For the Commission

Margrethe VESTAGER
Executive Vice-President