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PUBLIC VERSION

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Subject: State Aid SA.102182 (2022/N) – Netherlands
NL_LNV_AGRO_EIA_Modification to SA.63576 (2021/N), SA.100202 (2021/N) and SA.100953 (2021/N) - NL LNV AGRO EIA
Aid scheme financing uncovered fixed costs agricultural and horticultural undertakings COVID-19

Excellency,

1. PROCEDURE


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H.E. Mr. Wopke Hoekstra
Minister of Foreign Affairs
Rijnstraat 8
Postbus 20061
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Nederland
(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 1/1958\(^2\) and to have this Decision adopted and notified in English.

2. **DESCRIPTION OF THE NOTIFIED AMENDMENTS**

(3) The Netherlands wishes to amend the existing aid scheme. The existing aid scheme supports eligible undertakings active in the primary agricultural and horticultural production that have suffered a decline in turnover of at least 30% during the relevant period(s) (first, second, third and fourth quarter 2021) compared to the same relevant period(s) in 2019. The undertakings can apply for aid up to a maximum of 70% of the uncovered fixed costs. The notified amendments are as follows:

a) inclusion of the first quarter 2022, from 1 January 2022 to 31 March 2022, as an additional subsidy period to the existing aid scheme;

b) an increase of the overall budget of the aid scheme by EUR 20 million (from EUR 70 million to EUR 90 million) to cover the aid for the first quarter 2022;

c) inclusion of the period from 31 March 2022 up to and including 2 May 2022 for the submission by the beneficiaries of their aid applications for the first quarter 2022 and

d) setting the date of 28 February 2023 as the final date for the submission by the beneficiaries of their final payment application of the first quarter 2022.

(4) The notified amendment with regard to the inclusion of an additional subsidy period (recital (3)a)) provides the possibility to beneficiaries to apply for aid for the first quarter of 2022 under the same conditions as foreseen in the existing aid scheme, which applies to the first, second, third and fourth quarter of 2021.

(5) 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 unchanged.

(6) The legal basis of the notified amendments is (i) Article 3 of the “Framework Act for subsidies by the Minister of Economic Affairs and Climate Policy and the Ministry of Agriculture, Nature and Food Quality” (“Kaderwet EZK- en LNV-subsidies”)\(^3\), and (ii) the draft of the

\(^{2}\) Regulation No 1 determining the languages to be used by the European Economic Community, OJ 17, 6.10.1958, p. 385.

\(^{3}\) Act of 29 February 1996 laying down rules for the granting of subsidies by the Minister for Economic Affairs, as into force since 1 January 2019, Dutch Official Journal (“Staatsblad”) with reference number Stb. 1996, 180. The last change to the law was signed into law on 5 December 2018 (Stb. 2018, 487). A consolidated version of the law can be found here, alongside links to all relevant publications in the Dutch Official Journal: https://wetten.overheid.nl/BWBR00007919/2019-01-01
“Regulation of the Minister of Agriculture, Nature and Food Quality of ..., nr. WJZ/22023504, amending the Regulation for subsidies for the financing of uncovered fixed cost of agricultural and horticultural undertakings COVID-19 concerning the first quarter 2022” (“Concept-regeling van de Minister van Landbouw, Natuur en Voedselkwaliteit van ..., nr. WJZ/22023504, houdende wijziging van de Regeling subsidie financiering ongedekte vaste kosten land- en tuinbouwbedrijven COVID-19 in verband met eerste kwartaal 2022”).

(7) Aid may be granted under the existing aid scheme, as amended, as from the notification of the Commission’s approval of the notified amendments. The Dutch authorities have confirmed that no subsidies according to this scheme as amended will be granted before the notification of the approval decision of the Commission and that the amended scheme will enter into force after the approval from the Commission.

3. **Assessment**

3.1. **Lawfulness of the measure**

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

3.2. **Existence of State aid**

(9) 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.

(10) The existing aid scheme constitutes State aid within the meaning of Article 107(1) TFEU for the reasons set out in recitals (39) to (44) of the initial decision C(2021) 4924 final of 29 June 2021 in case SA.63576 (2021/N) and was confirmed in recital (10) of the initial decision C(2021) 7528 final of 15 October 2021 in case SA.100202 (2021/N) and in recital (11) of the initial decision C(2021) 9927 final of 22.12.2021 in case SA.100953 (2021/N).

(11) The notified amendments do not affect that conclusion. The Commission therefore refers to the respective assessments of the initial decisions and concludes that the existing aid scheme, as amended, constitutes State aid within the meaning of Article 107(1) TFEU.

3.3. **Compatibility**

(12) The existing aid scheme is compatible with the internal market pursuant to Article 107(3)(b) TFEU, since it meets the conditions of section 2 and section 3.12 of the Temporary Framework for the reasons set out in recitals (45) to (53) of the initial decision C(2021) 4924 final of 29 June
2021 in case SA.63576 (2021/N), in recitals (11) to (16) of the initial decision C(2021) 7528 final of 15 October 2021 in case SA.100202 (2021/N) and in recitals (12) to (20) of the initial decision C(2021) 9927 final of 22.12.2021 in case SA.100953 (2021/N) The Commission therefore refers to the respective assessments of the initial decisions.

(13) The amendment regarding the inclusion of the subsidy period of the first quarter 2022 (recital (3)a)), is in line with the provisions of the existing aid scheme (recital (4)) and does not alter that conclusion. The inclusion of the additional subsidy period from 1 January 2022 to 31 March 2022 falls within the validity period of the existing aid scheme, which ends at 30 June 2022 (recitals (3)a) and (13) of the initial decision C(2021) 9927 final of 22.12.2021 in case SA.100953 (2021/N)).

(14) The amount of the notified overall budget increase (recital (3)b)) covers the expected total amount of aid resulting from the inclusion of the first quarter 2022 subsidy period. The budget increase is in line with the budget amounts of the previous quarters and considered proportionate. Given in particular that the maximum aid intensity does not change (recitals (4) and (5)), no further distortive effect on competition is expected in this regard.

(15) The Commission considers the inclusion of the period from 31 March 2022 to 2 May 2022 for the submission by the beneficiaries of their aid applications with regard to the first quarter 2022 (recital (3)c)) as an appropriate administrative provision. It is in accordance with the inclusion of the first quarter 2022 as an additional subsidy period and considered necessary for a proper implementation of the aid scheme. It does not affect the previous assessment on compatibility.

(16) The new final date for the submission of final payment claims by beneficiaries with regard to the first quarter 2022 subsidy period (recital (3)d)) is considered as an appropriate administrative provision, which facilitates a proper implementation of the aid scheme and results from the inclusion of the first quarter 2022 as an additional subsidy period. It does not alter the previous assessment on compatibility.

(17) 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 unchanged (recital (5)).

(18) 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 Commission therefore considers that the notified amendments do not alter the Commission’s conclusion on the compatibility of the existing aid scheme in the initial 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](http://ec.europa.eu/competition/elojade/isef/index.cfm).

Yours faithfully,

For the Commission

Margrethe VESTAGER  
*Executive Vice-President*