

The Hague, 26 May 2020

HT.5594

Response of the Dutch authorities on the draft amending Regulation (EU) No 1407/2013 and Regulation (EU) No 651/2014 as regards their date of application and relevant adjustments with respect to Regulation (EU) No 651/2014 (HT.5594)

This response reflects the views of the Dutch 'Interdepartementaal Steun Overleg (ISO)'. The ISO is a national State aid committee composed of all Dutch ministries and representatives of the regional and local authorities.

General remarks

The Dutch authorities welcome the opportunity to react to the Commission's draft regulation regarding the period of validity of the de Minimis regulation and the General Block Exemption Regulation. We understand that the Commission is already in the process of amending:

- a. Guidelines on regional State aid for 2014-2020,
- b. Guidelines on State aid to promote risk finance investments¹
- c. the Guidelines on State aid for environmental protection and energy 2014-2020²
- d. the Communication - Criteria for the analysis of the compatibility with the internal market of State aid to promote the execution of important projects of common European interest³ (IPCEI) and
- e. the Communication on the application of Articles 107 and 108 of the Treaty on the Functioning of the European Union to short-term export-credit insurance⁴ (STEC).

regarding their expiry date. This speeding up in order to provide faster for new State aid guidelines with a view of the Green Deal and the Digital Agenda is much welcomed and appreciated by the Dutch authorities.

Furthermore the Dutch authorities support the amendment of the GBER and the above mentioned guidelines in relation to the undertaking in difficulty application because of the COVID-19 outbreak. It is important that undertakings as well as member states have clarity that the GBER as well as the state aid guidelines could be applied to undertakings that were not in difficulty on 31 December 2019 but, because of the COVID-19 outbreak, became in difficulty in the period 1 January 2020 until 30 June 2021. In these exceptional times this is justified however we do ask the Commission to keep this period as short as possible.

The Commission proposes that any loss of jobs in the same or similar activity in one of the initial establishments of the beneficiary in the EEA occurring between 1 January 2020 and 30 June 2021, should not be regarded as relocation. The Dutch authorities are not in favour of relocation of jobs between member states as a result of state aid. This should be prevented.

For the Dutch Authorities it is clear that the Commission envisages to prolong the validity of the GBER and the De Minimis regulation until 31 December 2023. It could be necessary, in view of

¹ Communication from the Commission — Guidelines on State aid to promote risk finance investments, OJ C 19, 22.1.2014, p. 4.

² Communication from the Commission — Guidelines on State aid for environmental protection and energy 2014-2020, OJ C 200, 28.6.2014, p. 1.

³ Communication from the Commission — Criteria for the analysis of the compatibility with the internal market of State aid to promote the execution of important projects of common European interest, OJ C 188, 20.6.2014, p. 4.

⁴ OJ C 392, 19.12.2012, p. 1.

future EU priorities, in particular to achieve climate neutrality in 2050, to amend the GBER before this period ends or to issue decisions directly under the TFEU.

Therefore we would like the Commission to consider the possibility to amend the GBER at any time, if this should be necessary for reasons associated with competition policy or alignment with the new guidelines on State Aid (especially the State aid guidelines for Environmental Protection and Energy) or to take into account other Union policies and international commitments. This could be the case for instance with regard to measures that contribute to a climate neutral economy.

Furthermore the Dutch authorities ask the Commission - given that the GBER and the Guidelines on State Aid for Environmental Protection and Energy do not currently cover all the carbon reduction measures that are necessary to achieve climate neutrality - for the swift approval of state aid for these sustainable industrial projects and clean technologies if the Commission were to explore the possibility of bringing these under the GBER or the Guidelines on State aid for environmental protection and energy (EEAG). More specifically, this is the case for (1) green hydrogen projects, (2) synthetic aviation and other fuels, (3) advanced biofuels, (4) CCU and (5) circular feedstock projects. These technologies will play an important role in achieving the objectives of the European Green Deal.

Specific remarks

undertaking in difficulty

The Dutch Authorities welcome that undertakings which became undertakings in difficulty as a consequence of the COVID-19 outbreak should remain eligible under Regulation (EU) No 651/2014 for a limited period of time with this amendment of the regulation. We find this useful.

However we do like to raise the following issues.

Could the Commission clarify whether this amendment of the regulation also applies to block exempted state aid measures taken prior to the entry into force of this amendment of the regulation? It is helpful if this provision has retroactive effect from 1 January 2020.

Furthermore The Dutch authorities propose to align article 1, paragraph 4, point (c) with recital 9 of the regulation:

“(c) aid to undertakings in difficulty, with the exception of aid schemes to make good the damage caused by certain natural disasters, start-up aid schemes and regional operating aid schemes, provided those schemes do not treat undertakings in difficulty more favourably than other undertakings. However, this Regulation shall apply by derogation to undertakings which were not in difficulty on 31 December 2019 but became in difficulty in the period from 1 January 2020 to 30 June 2021 as a consequence of the COVID-19 outbreak.”

'Guidelines on regional State aid for 2014-2020'

The Dutch authorities ask the Commission whether the Commission considers more temporary adjustments of the regional state aid guidelines which take into account the economic impact of the COVID-19 outbreak in the regions eligible for regional aid under the guidelines for regional aid?

Updated information on extended measures because of the extension of the GBER

The Commission requires an update of the summary information on extended national block exempted measures. We urge the Commission to keep the administrative burden for the member states as low as possible and call upon the Commission not to issue new SA (state aid) numbers in cases of the update of summary information because of the extended measures.