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**Dutch response to the targeted review of the General Block Exemption Regulation:
revised rules for State aid promoting the green and digital transition (HT.5934)**

This response reflects the views of the Dutch 'Interdepartementaal Staatssteun Overleg (hereafter: ISO)'. The ISO is a central State aid coordination body composed of all Dutch ministries and representation of the regional and local authorities. The ISO is chaired by the Ministry of Economic Affairs and Climate Policy. The Minister of Economic Affairs and Climate Policy is responsible for competition policy in the Netherlands.

This is the response of the Netherlands to the targeted review of the General Block Exemption Regulation (hereafter: GBER). With this targeted review of the GBER the European Commission is proposing revised rules for State aid promoting the green and digital transition. The Netherlands welcomes the revision and proposes some further improvements. The response entails the first formal reaction of the Netherlands to the first draft of this GBER revision. The Netherlands looks forward to be involved in the further drafting of the GBER.

Introduction

Robust State aid control is essential for a level playing field to ensure a well-functioning competitive internal market. At the same time, intervention with State aid may be needed to address certain market failures and/ or to accomplish the goals of European Union interests.

In general, the Netherlands are satisfied with the possibilities that the State aid rules offer to public entities. There is a proper balance between, on the one hand, the assessment framework in guidelines, which serves more market-distorting forms of State aid and, the GBER, which allows certain State aid to be granted relatively easy and quickly- this balance between the instruments should be maintained. A revision of the GBER is, however, deemed necessary to reflect the latest developments to allow and to enable those investments that are essential for achieving the EU's climate, energy and environmental objectives and digital ambitions. This in line with the goals of the Paris Agreement and, among others, the European Green Deal and the recently presented Digital Decade Communication. Therefore, the Netherlands welcomes the initiative by the European Commission to revise the GBER.

This corresponds with the Dutch climate and circular economy ambitions towards a climate-neutral and circular economy by 2050, as formulated in the Dutch Climate Agreement and associated strategies and the EU and national digital and innovation ambitions. Realizing these national and European ambitions will require significant public investments in the coming years. For the Netherlands, it is with regard to climate and environmental aid particularly important in the review that there are sufficient possibilities to also facilitate the transition to climate neutrality, instead of only being able to support the end goal.

This means, among other things, that the GBER should enable:

- sufficient possibilities for funding of innovative SME's and innovative mid-caps (see comments on aid for risk finance investment, p.2 and further);
- the necessary support for development of technologies and initiatives that are crucial for long term digitalization, e.g. investments (CAPEX) in digital infrastructures like dataspace,

cloud and cyber to safeguard openness, transparency and interoperability (see p.5 and further);

- the necessary support for technologies that are crucial for long term climate neutrality, especially technologies for electrification and hydrogen production. The development of the hydrogen market could be hindered if the focus is only on direct, short-term emission reduction effects or the use of exclusively renewable energy. State aid should also be possible when contributing to the long-term emission effects (see comments on aid for environmental protection and energy, p.9 and further);
- sufficient possibilities for non-market based support mechanisms (for example first come, first served subsidy schemes) when other safeguards are in place to ensure proportionality of the aid, such as a limited aid intensity. In this regard we observe that the Commission in her proposals still considers such safeguards sufficient with regard to most investment aid categories that relate to environmental policy objectives and provides the flexibility to choose between a competitive bidding procedure or other ways of granting aid in a transparent manner. Limiting the possibilities for certain aid categories, such as for zero-emission mobility, to competitive bidding is not proportionate as it does not take into account the lack of maturity of the markets or other relevant aspect of the design of aid schemes (see comments on Articles 36a GBER, p.16 and further);
- adequate definition of 'undertakings in difficulty': The definition of 'undertaking in difficulty' in State aid rules poses problems for start ups and scale ups. Many undertakings would have to be excluded from State aid measures due to a low equity ratio in the short-term even if they could be considered viable in the mid- and long-term (see comments on p. 21-22).

Comments on Regional aid

The Netherlands welcomes the alignment of the regional aid section of the GBER with the Regional aid Guidelines applicable as from 2022. The proposed clarifications and amendments seem logical to the Netherlands. In addition, the Netherlands would like to emphasize that it considers it essential that there are adequate safeguards to ensure effective use of State aid. This is needed to counteract unfair competition between undertakings through public financing on the basis of regional aid. An important aspect here is the prevention of relocation as a result of State aid. Since it affects the objectives of State aid control, relocation as a result of State aid is a disagreeable effect that should be prevented by definition. We also see that the general trend among European countries is that the differences between countries looking at GDP per capita are smaller than a decade ago (convergence). Therefore, The Netherlands calls on the European Commission to introduce proper safeguards to prevent relocation as a result of State aid and to lower the thresholds for regional aid so that the more market-distorting aid is subject to an analysis by the European Commission on the basis of the Regional aid Guidelines. Increasing convergence of European economies should imply a reduction of aid intensities for assisted areas fulfilling the conditions of Article 107(3)(a) of the Treaty and a smaller gap between possibilities for such areas and assisted areas fulfilling the conditions of Article 107(3)(c).

Comments on aid for risk finance investment

General comments

Funding of innovative SME's and innovative mid-caps

Risk capital is needed for all (digital) innovations and critical technologies. Upscaling activities in this context will also have to be stimulated. Innovative SME's and innovative mid-caps who develop such innovations and technologies face high financial risks for a long period of time, but the payoff for society will be worth it if the innovation succeeds. The Netherlands are currently developing new instruments such as deeptech investment funds to address market failures regarding the scale up of European companies in key technologies. A study by EIB (2018)¹ pointed out that deep technology innovations are inherently risky, capital intensive and require patient, long-term financing. Due to the rapid cycles of innovations and the increasing complexity of deep technologies, there is a sizeable 'knowledge gap' between innovators and investors. These information asymmetries hinder investors from adequately assessing the technical and financial

¹ [Financing the Deep Tech Revolution: How investors assess risks in Key Enabling Technologies \(KETs\) \(eib.org\)](https://www.eib.org/en/press/financing-the-deep-tech-revolution-how-investors-assess-risks-in-key-enabling-technologies-kets)

viability of deep-tech solutions. This is also the case in the Netherlands where we notice cash lock ups by Venture Capital funds, the refusal to roll over hybrid loans, a lack of access to risk finance funding as existing funds and investors are retrenching and unwilling to facilitate new funding rounds, especially for innovative SME's and innovative mid-caps which have limited cash income but high R&D expenditures. As an example, our NPI Invest-NL found out that in between 2005-2019 only 1.3% of Dutch deeptech startups active in climate & energy secured a funding round over €20 mln., compared to 4.8% in the UK.² Therefore, the Netherlands consider that in these segments EU Member States should be able to provide "replacement or follow up risk finance" to allow continued development of innovative SME's and innovative midcaps. Mckinsey recently conducted a study on the development of start-up and scale-up companies in Europe, India and the US with the US as the benchmark. The performance of these companies have been followed from the moment these companies obtained seed funding until an IPO was made. Due to various causes, including the limited market size due to the lack of a common market, and lack of funds with a sufficient size to meet higher risk capital demands, Europe's start-ups are still fewer in number, raise less money, and have a lower likelihood of success (which is defined as start-ups that reach Series C funding, go public, or are acquired) compared to the US. While Europe generates 36 percent of all formally funded start-ups, it creates only 14 percent of the world's unicorns. Adjusted for population and GDP, the number of seed-stage start-ups that Europe generates is only 40 percent of that generated by the United States. Despite signs of progress, both founders and funders indicated that the relative gap in ease of raising large funding rounds has not yet been fully closed, making it more difficult for European start-ups to compete with significantly better funded US competitors and to become leading global players.³ Increasingly, companies are faced with large amounts of Foreign Direct Investment (FDI) that EU Member States might find undesirable when applied to strategically important sectors and critical value chains. It is important that the EU Member States have the right possibilities to defend their financial participation but also to make it more difficult for an FDI investor to quickly take over the target company. A key development in the Netherlands to deal with FDI risks is the increased use of subordinated debt with conversion possibilities and venture debt. In both cases the possibility and right is introduced to either convert the debt into equity or the right to participate in a next funding round. One of the triggers for conversion or participation is a change of control or new funding round. This allows the EU Member States both to defend their financial participation but also to make it more difficult for an FDI investor to quickly take over the target company.

The current State aid rules do not provide adequate possibilities to provide risk funding for innovative SME's and innovative mid-caps. First, due the high burn rate these companies require high aid amounts in the early stages of a company's life cycle. Maximum State aid amounts under the GBER are capped too low for companies working on digital innovations and critical technologies. Second, the transparency provisions of the GBER are too limiting for funding of these companies. Especially in R&D intensive SME's and innovative mid-caps risk finance is normal market practice to promote investments in such companies. Risk finance (both under MEOP conditions and as State aid) at the level of eligible undertakings, may take the form of equity, quasi-equity investments, loans, guarantees, or a mix thereof. However, risk financing is currently only possible under the GBER if all provisions of Article 21 GBER are respected. This poses problems, because there is not enough private funding available for innovative SME's and innovative mid cap due to poorly developed risk capital markets or such private funding might pose FDI risks (see above). For these reasons Article 21 GBER cannot always be used to provide adequate funding for these companies. Due to the transparency provisions of Article 5 GBER risk financing specifically for RDI aid under Article 25 GBER is not allowed without respecting the provisions of Article 21 GBER. Investments in the form of loans, subordinated loans and hybrid loans, where the gross grant equivalent can be calculated on the basis of the reference rate prevailing at the time of the grant, should also be seen as a transparent form of aid for risk financing. Specifically in relation to the COVID- 19 pandemic the Netherlands see the need to incorporate in both the RDI Framework and the GBER the possibility for financial support when engaging in clinical trials and follow up research and development and scale up when medical products and vaccines are placed on the market. The key there is the need for a balance between the downsides and upsides for the tax payer and health authorities.

² Bottlenecks voor deeptech scale-ups in de Klimaat & Energietransitie (www.invest-nl.nl)

³ Mckinsey October 2020, Europe's start-up ecosystem: Heating up, but still facing challenges, <https://www.mckinsey.com/industries/technology-media-and-telecommunications/our-insights/europes-start-up-ecosystem-heating-up-but-still-facing-challenges>

Proposed changes in the GBER

The Netherlands welcomes the alignment of the risk finance provisions of the GBER with the ongoing revision of the Risk Finance Guidelines and the additional clarifications and possibilities (such as the 'bonus' for environmental aid) for risk finance aid.

Specific comments

Introduce small innovative midcaps in GBER

Small (innovative) midcaps are only mentioned in the Risk Finance Aid Guidelines, not even in the Commission Notice on the notion of State aid. The Netherlands asks the Commission to consider using this 'intermediate category' also in the GBER, the SME user manual and other relevant State aid guidelines. The term 'innovative start-ups' appears only once in the definition of (92) innovation cluster, but nowhere else.

The Netherlands asks the Commission to consider solutions for adequate funding of innovative SME's and innovative mid-caps, such as a targeted aid category under the GBER for risk financing (equity and hybrid financing) of early stages of a company's life cycle that addresses the needs of startups and scale-ups for digital innovations and critical technologies (including artificial intelligence, robotics, semiconductors, cybersecurity, aerospace, defense, energy storage, quantum and nuclear technologies as well as nanotechnologies and biotechnologies). Such a category should also have a higher notification threshold than the current thresholds for aid for risk financing or research and development. Due to the high burn rate these companies require high aid amounts in the early stages of a company's life cycle.

The Netherlands uses the possibility of a direct grant for startups under article 22(3)(c) of the GBER. However, the scope of this article doesn't cover small (innovative) midcaps. Does the Commission consider introducing a separate article for small (innovative) midcaps such as article 22, which allows for aid in the form of a loan, guarantee, equity and direct grant or a mix of these? The Netherlands also refers to the comments on creating possibilities for risk financing under Article 25 GBER (see below).

The Netherlands would like to point out that the GBER should also be available for individual 'ad hoc' aid to SME's, not only on the basis of a scheme but also on the basis of an individual ad hoc aid measure. Therefore, the requirement in the Articles 21, 21a and 22, paragraph 1, of a risk finance scheme for SME's should be deleted.

Article 1 GBER (Scope)

In paragraph 3 of Article 1 of the GBER some types of aid are excluded for the fishery and aquaculture sector and the primary agricultural production sector:

3. a. aid granted in the fishery and aquaculture sector, (...) with the exception of training aid, aid for SMEs' access to finance, (...);

b. aid granted in the primary agricultural production sector, with the exception of ..., aid for consultancy in favour of SMEs, risk finance aid,

→ There is a difference between paragraph 3a and 3b (narrowly formulated), please align: allow the primary agricultural sector for Article 22 GBER as well: (3a) aid for SMEs' access to finance and (3b) risk finance aid.

Article 2 GBER (Definitions)

The proposed definition of 'independent private investor' in Article 2, point 72 of the GBER (that excludes The European Investment Bank, the European Investment Fund, an international financial institution in which a Member State is a shareholder, or a financial institution established in a Member State aiming at the achievement of public interest under the control of a public authority, as well as a public or private law body with a public service mission), is not compatible with key elements of Union law and State aid practice. The definition is discriminatory with regard to the public sector and therefore not in line with article 106, paragraph 1, and article 345 TFEU as well as the concept of market economy investor principle as developed by the European Courts (see also the Communication on the notion of aid, paragraph 4.2, The market economy operator (MEO)

test). The proposed definition will have negative effects on the effectiveness of Article 21 GBER, as in the current capital markets and risk capital funding available on the internal market the involvement of the entities enhances the willingness of risk capital investors to invest alongside the (currently excluded) entities. As long as the authorities have no direct influence on investment decisions by aforementioned institutions, and these institutions behave as Market Economy Investors, the Netherlands consider the exclusion not necessary and unwarranted. Therefore these institutions should be considered as private investors as long as they apply the MEO test. The Netherlands suggest either to delete the exclusion of these entities in the definition of "independent private investor" or to limit the exclusion of these entities when they do not apply the MEO test.

In the definition of 'innovative enterprise' reference is made to an evaluation carried out by an external expert that the enterprise can demonstrate that it will in the foreseeable future develop products, services or processes which are new or substantially improved compared to the state of the art in its industry, and which carry a risk of technological or industrial failure. However, in the practice this requirement is difficult to apply. It is unclear what the evaluation of an external expert should entail. The Netherlands would welcome clarification by the Commission on this point.

Article 4 GBER (Notification thresholds)

The threshold for aid for start-ups as laid down in Article 4, paragraph 1, point h: the amounts laid down per undertaking in Article 22(3), (4) and (5). However, start-ups often also need follow-up investments, the Netherlands would welcome an amendment of the threshold to 'per investment' instead of per undertaking.

Article 21 GBER (Risk finance aid)

One of the conditions for eligibility for risk finance aid under Article 21 GBER is that, as laid down in paragraph 3, under a, that they have not been operating in any market. To qualify for Article 21 aid supported undertakings must have a track record. While start-ups could be supported under article 22 of the GBER, there seems to be a bottleneck for already running SMEs because of the 'any market' requirement. This means that undertakings that change markets are not eligible. The Netherlands would welcome an adjustment of this condition to 'the market to which the investment now refers'.

The same holds true for the condition in paragraph 3, under b, that have been operating in any market for less than 10 years following their registration and/or seven years after their first commercial sale. The Netherlands welcomes the ten-year eligibility period and the possibility to take into account the registration. However, this still doesn't seem to take into account that undertakings could change their economic activities and start operating on a different market. Does the Commission consider to take this into account so that any market could also here be adjusted to 'the relevant market to which the investment refers' while introducing safeguards to prevent strategic behavior?

The condition in paragraph 3, under c, doesn't seem to be easily applicable in the daily State aid practice when working with article 21 of the GBER. The possibility of the paragraph 4 of Article 21 is available however each of the conditions of that paragraph must be met and the paragraph only covers for follow-up investments.

Article 22 GBER (Aid for start-ups)

In Article 22, paragraph 2, it is laid down that eligible undertakings shall be any unlisted small enterprises up to five years following their registration. However, in practice, undertakings are established and need time to start, so the 5-year limit is often reached before a company really starts. The Dutch authorities propose to turn 5 years into 7 years (which also aligns with change to a ten-year eligibility period in Article 21 GBER). Registration is a good starting point because it is easy to check. Only the following undertakings could be excluded from this condition, which are quite common:

- The so called 'sleeping undertakings', which revive after a while.
- Undertakings that first focused on a different market but have switched in terms of the type of economic activity (and can demonstrate this).

Comments on aid for research, development and innovation

General comments:

There are enormous challenges in technology development for the green and digital transition. Therefore an incidental or temporary increase of the aid intensity and/or thresholds for different R&D&I aid categories that contribute to this twin transition would be welcome (a top up), as this would contribute to the European and national policy objectives. This mainly concerns Article 25, 26a and 27 of the GBER.

In the light of the COVID-19 public emergency health crisis, the Commission has considered that specific possibilities for state aid for the acceleration of research and development and testing and upscaling of infrastructure that develop COVID-19 products is necessary to tackle the health emergency crisis. If there are structural weaknesses or challenges that require specific government aid or support, for example with respect to healthcare and readiness for future health crises, the Netherlands consider that these should be addressed through the RDI (permanent) state aid framework (rather than a temporary framework).

- Is the Commission considering a special paragraph in the RDI framework for public funding in respect to healthcare and readiness for future health crisis?

Article 2 GBER (Definitions)

The Netherlands welcomes the clarification that innovation and research in digital technologies are also included in the different R&D&I definitions. However, such clarification would be welcome in the definition for test and experimentation infrastructure/technology infrastructure as well (Article 2, point 98a). It is currently not included.

The Commission proposes clarifications to the definitions of innovation clusters, industrial research, experimental development, as well as process and organisational innovation activities and aid for innovation activities to mostly explicitly include digital and social innovations. It would be useful if the Commission could further clarify some other definitions in the GBER as well which we elaborate on here.

Research and knowledge dissemination organization

The Netherlands would like to ask the Commission to further clarify the definition of a research and knowledge dissemination organization, as referred to in the GBER (Article 2, paragraph 83). For legal certainty it is important that it is clear what, according to this definition, should be understood by the phrase 'whose primary goal is to (...)'. The Netherlands would also welcome clarification that based on this definition it is possible for undertaking to create a specific (joint) entity for research activities, which as such can qualify as a research and knowledge dissemination organization. This as long as the other conditions, such as actual non-economic activities and separate accounts, are met. In that way an entity which does not have the possibility to have separate accounts for the economic activities and non economic research activities can create a special (purpose) entity which only engages in independent research and knowledge transfer activities. Funding of such a special purpose entity would not entail state aid.

Industrial research and experimental development

In the Frascati manual the definitions for applied research and experimental development are wider than the definitions in the GBER, which could lead to confusion in the State aid practice and discussions with companies. Social and economic research that is not specifically aimed at new products, processes or services, can be conducted by companies in connection to their technological research.

- Please add a footnote to the definitions of fundamental research, industrial research and experimental development (Article 2, points 84, 85 and 86) with a reference to the Frascati manual for further interpretation of these definitions.
- Could the Commission bring the definitions of the GBER more in line with the Frascati Manual, for example by introducing 'directed primarily towards a specific, practical aim or objective' into those definitions?
- For this purpose an additional paragraph in the definitions of industrial research and experimental development (Article 2, point 85 and 86 of the GBER) would also be useful. Social

and economic R&D should be included if it is necessary for or supports technology development that can be expected to have a significant social impact or where social or economic considerations can be decisive for successful implementation. In nature, this research must be clearly distinguishable from market research aimed at the commercial implementation of a specific product, process or service.

In the definition of industrial research and experimental development (Article 2, point 85 and 86 of the GBER) reference is made to pilot lines respectively piloting. Also in the Staff Working Document pilot lines are mentioned as an example of technology infrastructure. In the experience of the Netherlands pilot lines and validation of generic technology can be (and is usually) associated with test-set ups in an environment setting at a research institute. Therefore, the Netherlands would welcome an addition to the definition of industrial research that the pilot lines can also be (or can also include) pilot lines in a lab.

- Can the Commission clarify in which cases pilot lines fall under industrial research or experimental development?
- Can the Commission clarify what is meant by "or in an environment with simulated interfaces to existing systems" in the definition of industrial research?

In the definition of experimental development (Article 2, point 86 of the GBER) reference is made to demonstrations. If it is used as a synonym to piloting, testing and validation, it would be more clear if the word 'demonstrating' was deleted.

- Can the Commission clarify what is meant by 'demonstrating' in the definition of experimental development?

The definitions of 'industrial research' and 'experimental development' are very technology-oriented. However, for the important transitions to achieve the energy and climate goals of the Union, not only technological research is necessary. It is also important that innovative solutions that are not primarily technical, for instance because they aim at services and new business models, are included in the definitions because it is equally important that State aid can be granted in order to demonstrate their functioning in large scale and in real life context prior to commercial exploitation. The same holds true for digital innovations. Clarification of the wording "in an environment with simulated interfaces to existing systems" in the definition of industrial research would also be welcomed.

The Netherlands proposes the following suggested changes to the definitions for this purpose:

Article 2, point 85 of the GBER: "'industrial research' [...]
Industrial research comprises the creation of components parts of complex systems, and may include the construction of prototypes in a laboratory environment or in an environment with simulated interfaces to existing systems as well as of pilot lines, where necessary for the industrial research and notably for generic ~~technology~~-validation;

Article 2, point 86 of the GBER: "Experimental development [...] Experimental development may comprise prototyping, demonstrating, piloting, testing and validation of new or improved products, processes or services in environments representative of real life operating conditions where the primary objective is to make further ~~technical~~ improvements on products, processes or services that are not substantially set. [...]"

Article 25 GBER (Aid for research and development projects)

Changes to Article 25:

In article 25, paragraph 6, point 6) a new condition is added that can be fulfilled in order to receive a higher aid intensity. It is however unclear what the difference is between the new condition iii) and the existing condition ii) and whether it could be concluded that under condition ii) confidential information (protected by intellectual property rights) does not have to be shared.

As no aid is allowed under Article 25 GBER for knowledge transfer and the present condition ii) is in practice difficult to check and is problematic because of intellectual property rights, we propose a new aid category for knowledge transfer and information actions, with an aid intensity of 25 %.

- The Netherlands proposes a new aid category for aid for knowledge transfer and information actions (comparable to article 21 ABER⁴) to provide for aid measures in cases where the beneficiary does not qualify as a research organization and the activities have an economic nature.

'Effective collaboration'

Article 25, paragraph 6), sub i) GBER is not consistent with the definition of 'effective collaboration'. It does not recognize that it is possible for research organizations to participate in collaborations with undertakings while conducting independent research. In the definition of 'effective collaboration' in the GBER and in the RDI Framework it is clearly stated that "[o]ne or several parties may bear the full costs of the project and thus relieve other parties of its financial risks". Point 19 in the RDI Framework states that independent R&D for more knowledge and better understanding is a primary activity of research organization (and of a non-economic character), which includes collaborative R&D where the research organization or research infrastructure engages in effective collaboration. Paragraph 2.2.2 of the RDI framework contains the conditions under which no indirect State aid is awarded to the participating undertakings in a collaboration project carried out jointly by undertakings and research organisations or research infrastructures, through those last entities.

However, according to Article 25, paragraph (6), sub i) GBER research organizations have to bear at least 10 % of the eligible costs. Could the Commission clarify the relation between this provision and the abovementioned paragraph in the RDI framework? It does not seem to recognize that it is possible for research organizations to participate in effective collaborations with undertakings while conducting independent research and having all of their non-economic activities fully subsidized. Also under those circumstances an increase of aid intensities should be possible.

Aid intensities for medical research

Specifically for medical research aid intensities are too low. This includes implementation research/studies (within the definition of 'experimental development') and facilitating the use of knowledge for the purpose of legitimately and effectively solving medical and/or social (health) problems. Organizations providing medical care, including services meeting social needs as regards health and (long term) care' usually do not have their own research budgets. An increase of the aid intensity is therefore necessary. These types of research results are not intended for the own organization but for the sector as a whole, or serve to improve the healthcare (general/public interest). Aid for medical research contributes to the general public interest in improving the quality, affordability and accessibility of healthcare. The great uncertainty of the results of this type of research and the limited protection after a registration process makes it also difficult for such research to be initiated without aid. There is a financial impediment to conducting the research, which lies in the research costs themselves.

As an example for medicine research (not by pharmaceutical companies/medical product suppliers but organizations providing medical care, including services meeting social needs as regards health and (long term) care): it is plausible that the manufacturer/owner (such as pharmaceutical companies/ medical product suppliers) of the innovation to be investigated has no significant interest in execution of the research because he can continue to sell a (possibly other) profitable intervention without the research or the expected returns for the manufacturer/owner do not sufficiently outweigh the investment in the research. It is also possible that there is no direct manufacturer/owner for the innovation yet. From the perspective of organizations providing medical care, including services meeting social needs as regards health and (long term) care and care professionals, it is plausible that those organizations and/or professionals have no financial means and possibly no individual own interest in efficiency research with medicines in order to achieve cost control (resulting in appropriate use of healthcare or the absence of interventions) as this is not necessarily beneficial to their own organization. However it benefits society as a whole.

- The Netherlands propose the following regarding Article 25 of the GBER:

⁴ COMMISSION REGULATION (EU) No 702/2014 of 25 June 2014 declaring certain categories of aid in the agricultural and forestry sectors and in rural areas compatible with the internal market in application of Articles 107 and 108 of the Treaty on the Functioning of the European Union.

- to increase the aid intensity for medical research qualified as industrial research with 40 percentage points of the eligible costs;
- to increase the aid intensity for medical research qualified as experimental development with 45 percentage points of the eligible costs;

Notification thresholds and aid intensities for digital innovations

The notification thresholds for digital innovation activities under article 25 GBER is too low, taken into account on the structure of the market and the market failure present for European digital innovation activities. Developing (innovative) activities on digital markets is characterized by high risks, especially for SMEs because of the impact of network, large scale and interdependencies. Higher notification thresholds and higher aid intensities specifically for research and experimental development with regard to digital innovations would be desirable to create the necessary scale to realize results in such projects and to safeguard openness, transparency and interoperability, especially in digital infrastructures and for SMEs. For long term digitalization, e.g. investments (CAPEX) in digital infrastructures like dataspace, cloud and cyber, to safeguard openness, transparency and interoperability, and the following upscaling and market introduction activities before the commercialization phase, are important. The Netherlands will provide the Commission with suggestions for (proportional) aid categories in the GBER which will introduce sufficient possibilities for 'first industrial deployment' projects to meet the digitalization goals of the Union.

Innovative SME's and mid-caps

The Netherlands ask the Commission to consider solutions for adequate public funding of innovative SME's and innovative mid-caps (see also 'Dutch response to the consultation on Revision of the State aid rules for RDI' and comments above) such as:

- Risk finance (both under MEOP-conditions and as State aid) at the level of eligible undertakings, may take the form of equity, quasi-equity investments, loans, guarantees, or a mix thereof. However, risk financing is currently only possible under the GBER if all provisions of Article 21 GBER are respected. This poses problems, because there is not enough private funding available for innovative SME's and innovative mid cap due to poorly developed risk capital markets or such private funding might pose FDI risks (see above). For these reasons Article 21 GBER cannot always be used to provide adequate funding for these companies. Due to the transparency provisions of Article 5 GBER risk financing specifically for RDI aid under Article 25 GBER is not allowed without respecting the provisions of Article 21 GBER.
- Changes in Article 5 GBER to allow for risk financing for aid under Article 25 GBER and more flexibility in the definition for 'repayable advances' to provide hybrid financing which is not solely dependent on the result of the project.

Article 26a GBER (Investment aid for testing and experimentation infrastructures)

The Netherlands welcomes the introduction of a specific article for investment support for test and experimentation infrastructure/technology infrastructure. This is a welcome addition to the existing possibilities for research infrastructures to cover the whole R&D&I chain with the necessary State aid possibilities.

As recognized by the definition of test and experimentation infrastructure in Article 1, point 98a of the GBER proposal, it concerns infrastructure to develop, test and upscale technology to advance through industrial research and experimental development activities. The proposed threshold value (EUR 15 million) seems generally appropriate. However, the proposed aid intensity of 25% seems to take into account only the experimental development part of infrastructure, and not industrial research part. The Netherlands suggest to align the proposed Article 26a with regard to aid intensities to Article 25 and introduce different aid intensities depending on the kind of research which is included in the activities of the infrastructure. If the infrastructure can be used for both industrial research as well as experimental development an aid intensity between 25 and 50 % seems appropriate. If the infrastructure will be only used for industrial research an aid intensity of 50 % seems appropriate.

Because of the introduction of this new category of infrastructure, it becomes unclear whether the use of infrastructure for industrial research falls under Article 26 (research infrastructure) or Article 26a of the GBER. It would be helpful if the Commission could clarify in the definitions in which cases the use of infrastructure for industrial research is covered by which article (see also our remarks on Article 2, point 85 and 86 of the GBER, on page 6).

Article 27 (Aid for innovation clusters)

The Netherlands welcomes the fact that the cluster organization is no longer required to be a separate legal entity but can also be a consortium of parties.

The Netherlands would like to ask if this would include consortiums consisting of undertakings or organizations not necessarily at the same location. Also, cooperation of innovation clusters with other innovation clusters or with organizations outside of the innovation cluster would be beneficial for innovation as a whole.

The Netherlands would also welcome clarification that based on the definition of innovation clusters it is possible for an innovation cluster to perform other activities (such as research and infrastructure activities), provided that the beneficiary creates separate accounts for these activities and no benefits from one activity pass on to the other. This also seems to be implied in the proposed amended article 28 (2), point (c), according to which innovation clusters can provide activities such as innovation advisory and support services. Subsequently, the Netherlands would like to ask confirmation for the possibility for a granting authority to contribute to these different activities (e.g. State aid for activities on the basis of articles 25, 26, 26a and 27 GBER), provided that the rules of cumulation are taken into account.

- The Netherlands proposes to expand the possibility for possible beneficiaries concerning eligible costs. It would be helpful if the eligible costs could also include costs in order to actually collaborate or prepare to collaborate with other organizations under Article 27 GBER.
- The Netherlands propose to increase the notification threshold of Article 4, paragraph 1, under k, GBER. The current threshold could be considered as too low in comparison with the duration of the operating activities of the innovation clusters. The Netherlands would welcome raising the threshold for aid for innovation clusters from 7,5 million to 10 million. These clusters, in the Netherlands also known as 'innovation ecosystems' are growing in scope and duration. The amount is valid for 10 years, so the increase would lead to a maximum of on average 1 million per year. The increase would accommodate the growing importance of such clusters.

Article 28 (Innovation aid for SMEs)

The Netherlands welcomes the changes to Article 28, paragraph 3, to reflect the possibility that aid can be granted under this Article for costs for innovation advisory and support services provided by innovation clusters.

To minimize the administrative burden a clarification with regard to the three year period of article 28 (4) GBER would be welcomed. The Netherlands would also like to ask the Commission to confirm that this maximum amount of EUR 200 000 per undertaking within a three year period does not limit the amount of de minimis aid the same undertaking would be eligible for.

Suggested changes:

[...]

4. In the particular case of aid for innovation advisory and support services the aid intensity can be increased up to 100 % of the eligible costs provided that the total amount of aid for innovation advisory and support services does not exceed EUR 200 000 per undertaking *within any in the three year period previous to the granting of the aid.*

Comments on aid for environmental protection and energy

General comments

The Netherlands welcomes the room for aid for environmental benefits in the value chain and attention for circular economy in the proposal for the amendments to the GBER. These are

important revisions which are crucial for realizing the EU national climate and circular economy objectives.

The Netherlands believes, however, that more is needed in the GBER to achieve the climate goals of 2030 and 2050. State aid should be allowed as long as it facilitates the transition towards climate goals. This means that broader possibilities for support are necessary under proper conditions. Specifically, the GBER should give more possibilities for granting State aid for projects enabling the energy transition: the GBER should not only focus on short-term or direct emission reductions, but also on the long-term effects of projects which support the energy transition – e.g. technologies that are necessary for climate and environmental gains on the long term. This is particularly an issue for electrification and hydrogen production.

Facilitating the transition to climate neutrality

For the Netherlands, it is important that there are sufficient possibilities to support the transition to climate neutrality. This includes possibilities to support activities that do not achieve emission reduction in the short run, but where the environmental gains are obtained in the long run. That is, State aid should, under proper conditions, also be possible when contributing to the long-term emission effects, e.g. over the entire lifespan of supported projects. A positive outcome of the widely used life-cycle analysis (LCA) is the appropriate tool to use, without extra requirements for short-run environmental gains. It can be envisaged that such transitional support should be limited in time and should be phased out.

The need to facilitate the transition to climate neutrality is clearly illustrated by the case of hydrogen. While our future hydrogen market should be primarily based on renewable sources, the Netherlands believes that in the current transition phase scaling up of hydrogen is essential. During the energy transition, the Netherlands foresees a crucial -temporary- role for low-carbon hydrogen solutions. Both blue hydrogen (from natural gas with carbon capture and storage) and low-carbon electricity-based hydrogen (from low-carbon electricity through electrolysis) allow for cost-effective CO₂-reduction and the development of the European hydrogen market. These techniques promote the necessary economies of scale and facilitate new applications for hydrogen, both of which are crucial for the further development of fully renewable hydrogen production. The development of the hydrogen market could, however, be hindered by demanding a focus on direct, short-term emission reductions or the use of exclusively renewable energy. The State aid rules should facilitate support for these technologies as long as they are in line with our common climate targets.

The challenges the Dutch authorities encounter when defining the environmental benefits of grid connected electrolysis projects are the unclear scope of the emission effects. We note that aid for the decarbonization of industrial activities must not merely displace the emissions from one sector to another but should deliver overall greenhouse gas emissions reductions (paragraph 2b of the Article 36 GBER). In this regard, the Netherlands argues that the environmental benefits (emission effects) should be cumulated over projects' lifetime, or at least yearly, to define the quantity of produced hydrogen eligible for aid. The emissions effects in grid connected project can be determined by the projection of the marginal emission intensity of used electricity or the use of power purchase agreements (PPAs) with renewable sources. We envisage these approaches in practice in several proposed aid measures, that are currently discussed with the European Commission.

Relationship and overlap between aid categories

With the latest amendments and this proposal for amendment of the GBER, new categories are introduced. The Netherlands welcomes the revision of the GBER because it is necessary to reflect the latest developments to allow and to enable those investments that are essential for achieving the EU's environmental objectives. However, the introduction of new categories leads to overlapping possibilities for certain projects and questions about the relationship between aid categories (i.e. *lex specialis* character of certain aid categories). An example is the different categories on infrastructure, such as the new Article 36, 36a and 56, 56a, 56b and 56c GBER. See also specific questions below in the comments on Article 36a GBER. In that regard, provisions such as the new Article 36, paragraph 1a, GBER which explicitly states that the Article shall not apply to measures for which more specific rules are laid down in other Articles, are very welcome. A similar

problem occurs regarding aid for the production of hydrogen, where possibilities exist under Article 36 and 41 GBER and even under Article 36a GBER but the conditions under which the aid may be granted differ (even the applicability of for instance low-carbon hydrogen) or are implicit and therefore unclear. In that case the interpretation the European Commission gives to the Articles is crucial which leads to legal uncertainty. The Netherlands would welcome more clarity in the GBER in this regard and at least further clarification in a new FAQ GBER.

Article 1 GBER (Scope)

Article 1 paragraph 2, under a of the GBER states that the GBER shall not apply to schemes for some types of aid if the average annual State aid budget per Member State exceeds EUR 150 million, from six months after their entry into force unless an evaluation plan is notified. As the Commission proposes to raise some of the thresholds in Article 4 GBER and because of importance and challenges of the green and digital transition, it seems appropriate that the threshold in this Article is raised as well.

Article 2 GBER (Definitions)

Environmental protection

The Netherlands welcomes the proposal to amend Article 2 point 101 (definition 'environmental protection'). The Netherlands finds it desirable to not only consider environmental gains directly at the level of the State aid beneficiary, but to also allow, under certain conditions, State aid when the environmental benefit is (mainly) achieved elsewhere in the chain or for instance with alternative fuel infrastructure which is not open for the general public. We also welcome the extension of the definition on environmental protection in which also other techniques to reduce greenhouse gasses are incorporated.

The Netherlands would welcome the explicit inclusion of the use of renewable feedstocks in the definition to cover all aspects of a circular economy.

Suggested change:

(101) 'environmental protection' means any action designed to remedy or prevent damage to physical surroundings or natural resources by human activities, including to adapt to and mitigate climate change, to reduce the risk of such damage or to lead to more efficient and sustainable use of natural resources, **including the use of sustainable renewable feedstocks, including and** energy-saving measures and the use of renewable sources of energy and other techniques to reduce greenhouse gas emissions;";

Low carbon hydrogen: The definition of low carbon hydrogen in Article 2, point 102e, is based on the proposal for the EU taxonomy which refers primarily to private investments. See also our comments on the EU taxonomy below. The Netherlands consider the standards in point 102e as the end goal to be achieved and find these robust in the long run. These standards run the risk of being inappropriate for the coming early phases of low carbon hydrogen, which could result in certain low carbon options not being realized. The Netherlands would like to suggest to allow for State aid for hydrogen production as long as emission reductions are realized over projects' lifespan. Furthermore, if this definition would be used it is not sufficiently clear how the percentage in the definition should be calculated in case of electrolysis project:

- There are different ways of calculating CO₂-reduction and from the definition it is not sufficiently clear which should be used. The Netherlands would welcome an approach where the CO₂ reduction is calculated based on the marginal generator in the bidding zone instead of the average grid mix. Based on the text, this seems the most logical assumption. If not, please clarify.
- The Netherlands would welcome an approach where the CO₂-reduction of [73.4%] has to be achieved over the economic lifetime of the investment, since it is based on a lifecycle analysis. Based on the text, this seems the most logical assumption. If not, please clarify.

Clean vehicle, zero-emission vehicle, vehicle:

With regard to the definitions in the proposed 102f, read in conjunction with 102g and 102h, The Netherlands has the following remarks and suggestions.

As regards Inland Navigation (102f, sub d en e): As Studies by the Central Commission for Navigation on the Rhine (CCNR) clearly indicate, there will be no “one size fits all” technical solution towards a near zero emission for the inland navigation fleet in 2050. Based on the same studies, it may be stated that the real implementation of zero emission technology will only begin as from 2030. In the meanwhile, traditional technologies, including internal combustion engines (‘Stage V emission value’ from regulation (EU) 2016/1628), remain essential. The inland navigation industry cannot finance these solutions on its own. Therefore, the possibility for state aid measures to fund these types of investments must remain intact.

The definitions in 102f, sub f and g are furthermore unclear or inconsistent with other EU regulations:

- it is unclear why after 2025 aid would no longer be possible for vessels for passenger and freight transport;
- It is unclear what is meant by auxiliary activities;
- It important to include possibilities for renewable fuels; and
- EEOI requirements are no official norm and EEXI and CII values would be more useful indicators. All these indicators are not applicable to vessels for passenger and freight transport.

The Netherlands therefore suggests to amend the definitions in Article 2, point 102f (sub d, e and f) as follows:

d) ~~until 31 December 2025, a craft within the scope of directive (EU) 2016/1629~~ an inland vessel for passenger transport that has a hybrid or dual fuel engine deriving meeting at least the emission values of regulation (EU) 2016/1628 where applicable, and capable of deriving at least 50 % of its energy from renewable sources, zero direct (tailpipe) CO2 emission fuels or plug-in power for its normal operation;

~~(e) until 31 December 2025, an inland vessel for freight transport with direct (tailpipe) emissions of CO2 per tonne kilometre (g CO2/tkm), calculated (or estimated in case of new vessels) using the International Maritime Organization Energy Efficiency Operational Indicator (EEOI), 50 % lower than the average reference value for emissions of CO2 determined for heavy duty vehicles (vehicle subgroup 5-LH) in accordance with Article 11 of Regulation (EU) 2019/1242;”~~

(f) a sea and coastal vessel for passenger, freight transport, for port operations or for auxiliary activities that has zero direct (tailpipe) CO2 emissions or uses only fuels from renewable sources [RED II definitions for renewable fuels] with the aim of net zero CO2 emissions operation of the vessel.

(g) until 31 December 2025, a sea and coastal vessel for passenger, freight transport, for port operations or for auxiliary activities that has a hybrid or dual fuel engine deriving at least 25 % of its energy from zero direct (tailpipe) CO2 emission fuels or plug-in power for its normal operation at sea and in ports, or that has an attained CII value which labels that ship for 2023 as an A label ship and or has an EEXI value 10% below the EEXI requirements applicable on 1 January 2023 EEOI value 10 % below the EEOI requirements applicable on 1 April 2022 and the vessel is able to run on zero direct (tailpipe) CO2 emission fuels or on fuels from renewable sources;

(h) a sea and coastal vessel for freight transport that is used exclusively for operating coastal and short sea services designed to enable modal shift of freight currently transported by land to sea and that has direct (tailpipe) CO2 emissions, calculated using the EEOI, 50 % lower than the average reference CO2 emissions value determined for heavy duty vehicles (vehicle sub group 5-LH) in accordance with Article 11 of Regulation (EU) 2019/1242;.

The Netherlands suggests that the definition in point 102g, sub d, and point 102h should be changed according to the suggestions above as well.

Remediation and rehabilitation:

The Netherlands prefers *not* to include definitions of 'remediation' and 'rehabilitation' as these are too limiting. Furthermore, the absence of such definitions has not given rise to any problem in practice. Including the definitions as now proposed would on the contrary mean an unnecessary limitation to other forms of remediation. The definition for 'remediation' (Article 2, point 121a) is primarily aimed at removal of contaminants. This seems an unnecessary limitation to other forms of remediation. This definition does not take into account the many various ways of rehabilitation that has been developed the past decades, such as covering up the contaminated soil or the injection of the soil with specific bacteria, or a combination of measures aimed at handling the contamination. Also, a specific measure or combination of measures can be necessary for a specific situation. Finally, removal of contaminated soil in cities and densely populated areas is not always possible because it is not possible to reach the pollution or it is undesirable in perspective of the costs or the environment.

In the case that the Commission would not take into the consideration the suggestion to remove the definitions 'remediation' and 'rehabilitation' from the text, the Netherlands ask the Commission to at least clarify in the text of these definitions that other forms of remediation such as sealing contaminated soils or in situ monitoring are also included under this definition. For both definitions it is important that remediation and rehabilitation at least include options that are aimed at the safe use of the topsoil. In this regard The Netherlands propose the following changes:

"(121 a). 'remediation' means actions, such as the removal or **detoxification or coverage or isolation** of contaminants or excess nutrients from soil and water, that aim at removing sources of degradation **and/or remove unacceptable risks for humans, ecosystem services or oppose spreading;**

(121b) 'rehabilitation' means actions that aim at reinstating a level of ecosystem functioning on degraded sites for renewed and ongoing provision of ecosystem services **and/or restore at degraded sites a level that belongs to the function of those sites;"**

Energy infrastructure:

The Netherlands has the following comments on the definition for energy-infrastructure in Article 2, point 130:

Carbon dioxide (CO₂):

The Netherlands would like to suggest to broaden the scope for carbon dioxide to network, which are maybe not yet used by multiple sources but are intended for such use. As the infrastructure needs to be open access, more parties can connect to the network. Also, installations capturing CO₂ directly from air are missing from the definition.

Suggested changes:

(130) (d) concerning carbon dioxide (CO₂): (i) pipelines, other than upstream pipeline network, **used intended** to transport CO₂ from more than one source, i.e. industrial installations (including power plants) that produce CO₂ gas from combustion or other chemical reactions involving fossil or non-fossil carbon-containing compounds **or installations capturing CO₂ directly from air**

Heat/steam:

The Netherlands would like to suggest to broaden the scope for heat and steam in Article 2, point 130, subparagraph e, next to transmission and distribution, to also include storage. Contrary to the definition on district heating and cooling systems in (Article 2, point 124b), the related infrastructure does not consider cooling and does not consider storage as part of the infrastructure. All other types of energy infrastructure explicitly include storage. Though waste cooling is a rare thing, it exists, e.g. with LNG, and it seems logical to include here. Furthermore, it seems to follow from the definition that only already fully renewable networks could qualify. During the transition phase it is necessary to broaden this definition to networks that are developing to fully renewable.

Finally, it is important to broaden the definition to one or more producers of heat and steam. In practice most projects start with only one producer of steam and heat. In the view of the

Netherlands it is sufficient to ensure that future producers will get unconditional access to the infrastructure.

Suggested changes:

(130) (e) , infrastructure used for transmission or distribution **or storage** of heat/steam/**cooling** from **multiple** producers ~~or~~ **and** users, based on use of zero or low carbon heat, steam **or cooling**, or residual heat or cold from industrial applications or from production processes (waste heat, **waste cooling**) **or from processes developing to zero or low carbon carbon heat during the transition period**;

CCS:

In the definition for carbon capture and storage' or 'CCS' (Article 2, point 131a) direct air capture and a combination of fossil fuels or biomass is missing.

Suggested changes:

(131a) 'carbon capture and storage' or 'CCS' means a set of technologies that captures the (CO₂) emitted from industrial plants based on fossil fuels or **sustainable biomass or a combination of both**, including power plants, **or directly from air**, transports it to a storage site and injects the CO₂ in suitable underground geological formations for the purpose of permanent storage of CO₂;

CCU:

In the definition for 'carbon capture and utilisation' or 'CCU' (Article 2, point 131b) it is unclear whether utilization is deliberately excluded from the definition. This last step is crucial for the achievement of CO₂ reduction.

Suggested changes:

'carbon capture and utilisation' or 'CCU' means a set of technologies that captures the CO₂ emitted from industrial plants based on fossil fuels or **sustainable biomass**, including power plants, and transports it to a CO₂-consumption site, **where the CO₂ is utilised**;;

Article 4 (Notification thresholds)

Environmental aid (Article 36 GBER):

By setting the maximum aid amount at EUR 20 million for investment aid for environmental protection in Article 4, paragraph 1, under s, the amount is essentially not increased when taking into account inflation. It is important to be able to stimulate projects that can effectively contribute to climate change mitigation, and more and more projects exceed the EUR 20 million mark. Therefore the Netherlands finds it necessary to increase maximum aid amounts to EUR 25 million and under certain conditions and safeguards, which can be laid down in Article 36 GBER, up to EUR 50 million.

Projects which radically new industrial processes and do so fossil free, both in feedstock and energy, in line with the 2050 climate targets, should be exempt from notification under Article 108, paragraph 3 of the TFEU up to EUR 50 million under the following conditions:

1. The project must show, through a Life Cycle Analysis, emissions in the European value chain are reduced.
2. External experts must calculate that the subsidy, as part of the business case, does not lead to an internal rate of return exceeding 10%.

Aid for district heating networks or energy-infrastructure (Article 46 and 48 GBER):

For these categories, it would specifically be useful if the Commission clarified what is meant by project. In practice the realization of these kind of infrastructural projects consists of several smaller projects that together form the entire heat infrastructure project. Is the threshold granted for every project leading to the realization of the entire project even though they consist of different investment decisions by the company?

Aid for local infrastructures

Can Article 4, under cc, be clarified in line with the FAQ GBER? Suggested changes:

cc) for investment aid for local infrastructures: EUR 10 million or ~~the total costs exceeding overall investment costs of the project of more than~~ EUR 20 million ~~for the same infrastructure.~~

Article 8 (Cumulation)

It would be helpful if the Commission could clarify how cumulation should be treated if a project gets funding from 2 different sources (for example Innovation Fund and national funding), both fundings are about the same investments, but the eligible costs are calculated differently. For example: Innovation fund looks at the additional costs compared to a reference and in the national scheme the project is treated as a pilot project and only depreciation costs are eligible for funding.

Article 36 GBER (Investment aid for environmental protection, including climate protection)

The Netherlands welcomes the expansion of the scope of the Article to, among other projects, CCUS and project with environmental benefits in the value chain.

Specific comments:

- The Netherlands welcomes the incorporation of leasing agreements in Articles 36 GBER, and assumes this includes both financial and operational lease. It would be useful if this is explicitly clarified.
- The Netherlands assumes that Article 36 GBER also includes environmental protection (including climate protection) by investments in construction and buildings. In the CE Action Plan construction and buildings have a substantial role. It would be useful if this is explicitly clarified.
- Paragraph 1a:
 - o The Netherlands suggests to also include syngas and industrial waste gases in the scope of Article 36 GBER. Suggested changes:
This Article shall also not apply to investments in equipment, machinery and industrial production using fossil fuels, except those using natural gas, ~~syngas or industrial waste gases~~
 - o The Netherlands also suggests to include investments in retrofitting heavy mobile machinery that are already in use. These machines are already operational and emit lots of pollutants. Use of these machines is not prohibited, so it must remain possible to make them cleaner. This results in health and environmental benefits. In addition, it increases the chance that users can bridge the period until there are more zero emission alternatives without buying another fossil fuel-based machine in between. The Netherlands also suggests including investments in hybrid heavy mobile machinery, since entirely zero emission alternatives are not yet available for many of the heavy machines. As a safeguard, the year 2025 should be included as end date for financial support for retrofitting of mobile machinery.
 - o The Commission clarifies that this Article shall apply to investments in equipment, machinery and industrial production using hydrogen to the extent that the hydrogen used qualifies as renewable hydrogen or low-carbon hydrogen. The Netherlands assumes based on this text that this condition is not applicable on aid for the production of hydrogen (e.g. for elektrolyzers). Can the Commission confirm this?
 - o The introduction of the definition of low-carbon hydrogen leads to a CO2 emission threshold for one technology, which seems illogical. Other techniques or technologies might lead to a lower CO2 emission reduction but are still allowed under Article 36 GBER. Taking into account the EU and national climate objectives and the challenges of the energy transition, it is undesirable to not allow this for hydrogen.

- Furthermore, a condition is introduced that in such a case, the Member State shall ensure that the requirement to use renewable hydrogen or low-carbon hydrogen is complied with throughout the economic lifetime of the investment. This is a not workable condition because this Article refers to investment aid and not to operational aid. In the latter case there is a longtime relationship between aid recipient and aid supplier, during the lifetime of the investment. In case of investment aid, this long time relation is not there. This proposed condition will lead to extra enforcement costs and creates legal uncertainty for aid recipients. The Netherlands suggests that it is sufficient if, when determining the aid, the aid recipient makes it plausible to the authorities that he will comply to this condition.
- Paragraph 2b:
 - It is unclear what is meant by 'offsetting of indirect emissions'. Does this mean that simply a net positive effect must be reached or does the Commission foresee certain thresholds? And what is meant by indirect emissions? It is also unclear over what period the reductions must not be offset, the project period or the lifetime of the installation? The Netherlands suggests to look at the lifetime of the installation, while taking into account the comments made regarding paragraph 1a.
- Eligible costs in paragraph 5:
 - The proposed amendments to the GBER articles concerning investment aid for environmental protection are welcomed.. For smaller investments however these calculations centering around counterfactual scenarios can be relatively complicated, it would greatly increase GBER's effectiveness in contribution to achieving the EU Green Deal goals if in paragraph 5 an option is added that stipulates that eligible costs are a percentage of the total costs of the investment. A safeguard could be that such an option would only be applicable to smaller investments and a proportionate aid intensity for such investments. For example, the method used in Article 53, paragraph 8, or Articles 56b, paragraph 9 and 56c, paragraph 8, where the costs for a lower subsidy amount can be determined as a percentage of the eligible costs.
 - By including the NPV and the difference between the leasing of that equipment and the leasing of the equipment that would be used in the absence of the aid. This leads depending on the type of scheme to a heavy administrative burden and is for fiscal schemes even impossible to implement. Suggested changes:
 - In all situations listed under (a) to (d), the counterfactual scenario shall correspond to an investment with comparable output capacity and economic lifetime that complies with applicable Union standards, in particular regarding greenhouse gas emission requirements. The counterfactual scenario shall be credible in the light of legal requirements, market conditions and incentives generated by the EU ETS system. *For schemes in the form of tax advantages, the eligible costs are calculated as if the counterfactual scenario corresponds to the situation in point a).*
 - With regard to the eligible costs it is important to also include the scenario where the investment does not have an environmentally-friendly equivalent, but is also not add-on investment to an already existing facility. This is for instance the case where a counterfactual scenario does not exist because of the scale of capacity of the installation. An example would be an SMR installation for hydrogen production which are usually very large scale while the investment could be a small scale elektrolyser. The investments cannot be realistically compared.
- The aid intensity for CCUS project is set at a maximum of 20 % in paragraph 6a. It is unclear how this lower aid intensity is justified. The Netherlands would like to propose to delete subparagraph 6a so that the aid intensity for CCUS is in line with other investments under this Article.

Articles 36a (Investment aid for recharging or refuelling infrastructure) and 36b (Investment aid for the acquisition of clean vehicles or zero-emission vehicles and for the retrofitting of vehicles) GBER

The Netherlands underlines an important concern with regard to the proposed extension of article 36a GBER to charging infrastructure that is not publicly accessible and the introduction of article

36b GBER for clean and zero-emission vehicles. In its response to the consultation on the revised CEEAG the Netherlands stated that using a competitive bidding process can be supported, while also emphasizing the importance of flexibility for Member States. The Netherlands would like to underline the importance of the flexibility specifically for investments regarding the clean and zero-emission vehicles and infrastructures.

Investment aid is a highly relevant tool by means of which Member States can contribute to the shift towards zero-emission mobility, to achieving the ambitious targets of the Green Deal and to comply with the demands posed by the European Effort Sharing Regulation. It is therefore essential that the possibility for Member States to provide aid such as to promote agreed goals is not unduly restricted by GBER. When markets are not fully mature this is specifically important.

A specific concern we have with restricting possibilities of awarding aid to competitive bidding is that will make it challenging at least to offer equal access to aid to beneficiaries with specific characteristics. Smaller companies are only one example of a group losing access, as larger companies frequently have an advantage due to their size which enables them to place a more competitive bid. Another reason why it is difficult to guarantee equal access to aid with competitive bidding is that companies are not homogeneous with regard to the technical parameters which they expect their sustainable vehicles and (private) charging infrastructure to have. Different business models correspond with different vehicle and infrastructure needs and designing a tender geared to the needs of one group reduces the appropriateness of the tender for another group.

At the same time, next to competitive bidding there are sufficient possibilities for non-market based support mechanisms (for example first come, first served subsidy schemes) to prevent overcompensation, such as the limitation of aid intensity. In this regard we also observe that for other investment categories than vehicles and infrastructure under Article 36 of the GBER it is proposed that Member States keep the possibility to choose between a direct grant of a limited percentage of the eligible costs and the award of a much higher percentage of the eligible costs (up to 100%) by means of competitive bidding. In the view of the Netherlands Member States should have the same choice between both methods with regard to zero emission vehicles and alternative fuel infrastructure.

In the context of the Netherlands the proposed obligation to use competitive bidding within the envisaged timeframe will be disruptive for a number of subsidy and fiscal schemes for sustainable mobility that are presently under way or in an advanced stage of development. With regard to fiscal schemes, support will even have to be discontinued permanently as they cannot be reconciled with competitive bidding even though such schemes fulfill the conditions of transparent aid under Article 5 of the GBER.

The Netherlands therefore request to allow granting the budget in other ways than competitive bidding in case of investments in clean or zero-emission vehicles (including retrofit) and recharging or refueling infrastructure that is not accessible to the public.

The Netherlands also wants to support the energy storage facilities of car batteries. EV's and H2 cars could have a peak shaving function in the energy system as a whole. A two way electricity EV loading and unloading system is in an early stage of development and therefore expensive. The smart grid modalities and cost-effective integration of EV energy in built environment applications should be part of enhanced support mechanisms. Suggested changes:

Article 36a GBER:

6. In derogation of paragraph 4 aid to infrastructure that is not accessible to the public may also be awarded without competitive bidding. In that case the aid intensity shall not exceed 40 % of the eligible costs. The aid intensity may be increased by 10 percentage points for aid granted to medium sized undertakings and by 20 percentage points for aid granted to small undertakings.

67. [...]

78. [...].

Article 36b GBER

[...]

4. The aid intensity shall not exceed 40 % of the eligible costs. The aid intensity may be increased by 10 percentage points for aid granted to medium sized undertakings and by 20 percentage points for aid granted to small undertakings.

5. Where aid is granted in a competitive bidding process as defined in Article 2, point (38), the aid intensity may reach up to

- 100 % of the eligible costs for the purchase or the leasing of zero-emission vehicles or the retrofitting of vehicles allowing them to qualify as zero-emission vehicles;
- 60 % of the eligible costs for the purchase or the leasing of clean vehicles, or of the retrofitting of vehicles allowing them to qualify as clean vehicles.

Competitive bidding, as defined in Article 2, point (38), should fulfill all of the following additional conditions:

~~4. Aid under this Article shall be granted in a competitive bidding process as defined in Article 2, point (38), which fulfils all of the following additional conditions:~~

(a) the aid award shall be based on clear, transparent and non-discriminatory eligibility and selection criteria;

(b) the selection criteria shall be based primarily on the submitted bid or the clearing price;

(c) the selection criteria may also relate to other aspects, in particular environmental, technological, geographical or social aspects, provided these are linked to the objective of the measure. The submitted bid or the clearing price shall not account for less than 75 % of the weighting of the selection criteria.

~~5.~~ 6. By way of derogation from paragraph 5 aid under this Article that is granted to an undertaking that has been awarded a public service contract in accordance with the rules laid down in Regulation (EC) No 1370/2007 of the European Parliament and of the Council may be granted outside of a competitive bidding process.

~~6. The aid intensity shall not exceed:~~

~~(a) 100 % of the eligible costs for the purchase or the leasing of zero-emission vehicles or the retrofitting of vehicles allowing them to qualify as zero-emission vehicles;~~

~~(b) 60 % of the eligible costs for the purchase or the leasing of clean vehicles, or of the retrofitting of vehicles allowing them to qualify as clean vehicles.~~

7. Aid shall not be granted for the leasing of clean vehicles or zero-emission vehicles if the undertaking from which the vehicles are leased benefitted from aid for the purchase of the leased clean vehicles or zero-emission vehicles.

Finally, we ask the Commission to clarify whether it is possible for alternative fuel infrastructure as part of port infrastructure to choose whether to make use of Article 36a or Articles 56b and c of the GBER. Can the Commission elaborate on why for Article 56a (aid for regional airports) such a possibility is not created?

With regard to aviation, The Netherlands understands that State aid in support of aviation decarbonisation, for example in airport operations, is only possible in the proposed amendments to the GBER through the generic article 36 GBER. Articles 36a and 36b are not applicable to fleet renewal and retrofitting and the roll-out of alternative energy infrastructure at airports, as aviation is the only modality not included in the definitions for clean and zero-emission transport vehicles. The generic provisions in articles 41(2) and 43(3) GBER regarding fuel production are also limited to advanced biofuels as listed in Annex IV Part A of the Renewable Energy Directive (2018/2011) and exclude new synthetic fuels (i.e. RFNBOs). The Netherlands asks the Commission to treat aviation as it does other modalities in the revision of the GBER, as was recently proposed in the revision of the CEEAG, and to include synthetic kerosene next to biokerosene in the scope.

Article 38 (Investment aid for energy efficiency measures) and 39 (Investment aid for energy efficiency projects in buildings in the form of financial instruments) GBER

The Netherlands endorses the decreasing possibilities for State aid for energy equipment of buildings using fossil fuels. The Netherlands appreciates the possibilities for funding by means of an energy efficiency or renewable energy fund or other financial intermediaries instead of directly to owner-occupants. Due notice has to be taken for remaining concerns on State aid for owners' associations with a mix of rental/owner-occupied homes: the Netherlands urges the European Commission to make it easier and using a simplification for undertakings as part of such an owners' association in order to accelerate renovation of buildings with mixed ownership. If more than 50% of the property in an owners' association of a mainly residential building is not owned by an undertaking, the aid for investment costs for energy-efficiency measures is regarded not to be state aid.

Other concerns are related to: the considerable higher amounts of aid necessary for monumental buildings compared to other existing buildings; (too) limited possibilities for energy-cooperations which are started by citizens of a district or neighbourhood; and (too) limited possibilities for support in situations where energy supply is shared between industry and the built environment (heat grid, energy storage). Furthermore, energy generation in/near buildings is not only important for public buildings but for other non-residential buildings as well. Buildings with sportsfacilities should also have more possibilities under the GBER.

Moreover, aquathermal storage is often realized outside the building or even outside the property. These remarks are even more important for the GBER than for the CEEAG.

Specifically for Article 38 GBER:

- Paragraph 3b, subparagraph a: Clarification would be welcome on what must be understood by an 'integrated on-site renewable energy installation' is. Should the installation be in or on top of the building, or may it also be located next to it? And in the latter case: does the installation has to be on your own land or can it also be the land of someone else?
- Paragraph 3b, subparagraph d and the final paragraph: "digitalisation" lacks any link in the definition (Article 2, point 103c) with energy or environmental protection. In case of any such combined works the entire investment cost of the various installations and equipment shall constitute the eligible costs. However, the costs not directly linked to the achievement of a higher level of energy efficiency shall not be eligible. This seems somewhat contradictory because the costs mentioned in points (a) to (e) are by their nature not directly linked to a higher level of energy efficiency, and in case of point (d), not even to environmental protection at all.
- Paragraph 3c: The Netherlands would like to be able to support of biogas-fired energy equipment, or for example (renewable or low carbon) hydrogen-fired equipment. A suggested change could be to replace "gas-fired" by "mainly fossil gas-fired (more than 50 %)".
- Paragraph 7: Condition (e) states that the energy performance contracting relates to a building referred to in paragraph 3a of Article 38. Energy performance contracting also happens in case of other buildings, like office buildings and buildings at industrial sites, and in case of industrial installations. We would welcome an extension of the scope of this paragraph to all kinds of buildings and to industrial installations.

Specifically for Article 39 GBER in relation to Article 53 GBER:

- The Netherlands also considers the sustainability and energy efficiency of cultural heritage to be of great importance. To respect its cultural value customization is often required. Therefore, the Netherlands would prefer to see this covered explicitly in Article 53 GBER by adding costs for measures to enlarge the energy efficiency and sustainability of cultural heritage – next to preservation- as eligible costs to Article 53 GBER, paragraph 4, sub c.

Article 41 GBER (Investment aid for the promotion of energy from renewable sources, renewable hydrogen and high-efficiency cogeneration)

The Netherlands welcomes the extension of the scope of Article 41. The Netherlands has the following specific comments and questions for clarification:

- Paragraph 1a: It is unclear which conditions are meant by "same conditions" (plural). Can the Commission please clarify?
- Paragraph 3: The Netherlands assumes that investment aid for installations that produce low carbon hydrogen is possible under Article 36 (see comment above). Therefore the following changes are suggested:

"Investment aid for the production of hydrogen *under this Article* shall be exempted from the notification requirement of Article 108(3) of the Treaty only for installations producing exclusively renewable hydrogen."
- Paragraph 5: Can the Commission clarify what is meant by refurbished capacities? There is a risk that every repair of a broken installation would claim support under this Article. According to the Netherlands the aid should prolong the economic and/or technical lifetime of the installation.
- Paragraph 9: Can the Commission clarify whether heat pumps also qualify for the extra intensity of 15 percent when additional requirements on energy efficiency are met?
- Could the Commission also clarify whether it is possible to support investments in hydrogen production when the hydrogen is sold both for energy purposes (transport) and for use in chemical processes?

Article 44 GBER (Aid in the form of reductions in taxes under Directive 2003/96/EC)

The current Energy Tax Directive (ETD) probably will be revised under the Fit for 55 package. If so, it would be important that the new GBER and the new CEEAG will also be intermediately adjusted, taking the changes in the new ETD into account. It is important that the ETD and the GBER and CEEAG are geared to one another, e.i. that lower levels of taxations allowed under the directive are also allowed under the GBER and CEEAG. Currently, MS would have room to provide aid in the form of lower tax levels, but still far above the minimum rates set of the ETD proposal, to for example the manufacturing sector. Overall this would give the possibility to tax energy products and electricity at a higher rate which would lead to positive environmental effects and would help to reach the climate goals of the Fit for 55 package.

Article 45 GBER (Investment aid for the remediation of environmental damage, the rehabilitation of natural habitats and ecosystems, the protection or restoration of biodiversity or the implementation of nature-based solutions for climate change adaptation and mitigation)

The Netherlands points out that (non-productive) investments in nature or nature management are usually non-economic activities. However, in the case public funding is granted for economic activities in this field, The Netherlands welcomes the extension of the scope of Article 45 GBER, while keeping important safeguards in place.

However, the Netherlands has the following specific questions and comments:

- What is the difference between 'rehabilitation of natural habitats' and 'ecosystems or the protection or restoration of biodiversity'? Is damage caused by nitrogen, PFAS or invasive exotic covered?
- Is it mandatory that the cause of the environmental damages or degraded habitats and ecosystems is established? Or is damage that occurred over a longer period of time also covered?
- How must the increase in value of the land or property be appraised? Is it the difference between the damaged nature and the remediated or rehabilitated nature? Or the difference between the original (undamaged) state of the nature and the remediated or rehabilitated nature? Are the costs for appraisal also eligible costs?
- The Netherlands assumes this also includes investment in the built environment, e.g. for possibilities for nest facilities for e.g. birds or bats in and on buildings after renovation of for investment in public space in the built environment. It would be useful if this is explicitly clarified.

- Non-productive investments for biodiversity can usually be supported with 100 % aid intensity (see case law practice: Subsidieverordening Kwaliteitsimpuls Natuur en Landschap (SA.37960 and SA.59463) en de Catalogus Groenblauwe diensten (SA. 44848, and SA.59078). It is unclear why the maximum aid intensity in Article 45, paragraph 6, under b, for biodiversity is set at 70 %. The same holds true for nature-based solutions for climate change adaptation and mitigation. For investments covered by this article there are usually no profits and if there are, organizations are obligated to reinvest those in other nature measures. For this reason, investments in natural heritage can usually be funded until 100 % of eligible costs, based on Article 53, paragraph 6 GBER.
- There is a small error in Article 45, paragraph 2, in the Dutch version of the proposal. It states: "of het herstellen van ecosystemen die reeds in goede staat verkeren". This should be: "of het beschermen van ecosystemen die reeds in goede staat verkeren".

Article 46 GBER (*Investment aid for energy efficient district heating and cooling*)

There is a small error in Article 46, paragraph 1c, subparagraph b in the Dutch version of the proposal. It states: 'de upgrade resulteert in een toegenomen productie van energie uit fossiele brandstoffen ... '. This should be: 'de upgrade resulteert *niet* in een toegenomen productie van energie uit fossiele brandstoffen.. '.

Article 47 GBER (*Investment aid for resource efficiency and for supporting the transition towards a circular economy*)

The Netherlands welcomes the extension of the scope of Article 47 GBER to support a transition to a circular economy.

With regard to the scope of the Article:

- It is important that replacing fossil feedstocks by sustainable biobased feedstocks is also included in paragraph 2. It is a missed opportunity that in the revised articles and preceding considerations biobased feedstocks, as an important part of a circular economy, are not mentioned at all.
- Can the Commission clarify whether reused building materials are considered as secondary raw materials under article 47, paragraph 2, subparagraph a, second indent? If not, is it possible to include the purchase of reused building materials as investment costs in order to help undertakings transition to a circular economy? More and more undertakings reuse building materials (from their own old buildings/infrastructure or from third parties) in their new buildings and infrastructure.
- Can the Commission clarify whether investments in the form of financial and operational lease are possible?
- Can the Commission clarify what is meant in paragraph 5 with "without increasing collection of those materials"? Must this be part of the same investment, or should this be regarded as collection as a whole? How should this in practice be complied with?

With regard to the eligible costs in paragraph 7 it is important to also include in the last sentence the scenario where the investment does not have an environmentally-friendly equivalent, but is also not add-on investment to an already existing facility. A lot of times burning waste in a waste-incineration plant is the counterfactual scenario, but in a lot of new recycling installations the capacity of the installation is way smaller than that of a waste incineration plant, so this investment is not a realistic counterfactual scenario. It would, however, be an adequate safeguard to include in subparagraph a) that the comparable investment should have the same capacity as the investment eligible for aid.

The proposed aid intensity in paragraph 8 is 40 %. However, as demonstrated i.a. in a feasibility study executed on behalf of the European Investment Advisory Hub "Design of an Investment Platform for Circular Economy projects in the Netherlands", September 2019, in almost all sectors of the circular economy there is an average financing gap of 50%. Therefore, an aid intensity of 50 % seems more appropriate. The Commission therefore is asked to elaborate further on the reasons that a 40% intensity is being proposed.

For a transition to a circular economy it is also important to close down waste incineration plants. Could the European Commission consider a State aid category for closure or transformation of fossil fuel based installations and waste incineration plants?

General comments:

Publication and information

The threshold for publication of State aid on a State aid website is lowered from EUR 500,000 to EUR 100,000. The Netherlands considers that this new threshold would lead to a disproportionate administrative burden for Member States and considers this highly undesirable. Therefore, the Netherlands requests the European Commission to maintain the threshold of EUR 500,000 as this threshold will ensure adequate transparency.

In the Netherlands discussion in legal proceedings have arisen whether the obligation in Article 11, paragraph 1, under a, is a condition for aid to be exempted under the GBER. The reason for this is that the obligation is laid down in Chapter II and in Article 3 of the GBER reference is made to conditions of Chapter I and relevant specific conditions of Chapter III. The Netherlands proposes that the obligation of Article 11, paragraph 1, under a, is included in Article 3.

Undertakings in difficulty

The definition of 'undertaking in difficulty' in State aid rules poses problems for start ups and scale ups. Many undertakings would have to be excluded from State aid measures due to a low equity ratio in the short-term even if they could be considered viable in the mid- and long-term. Start-ups in their early stages, particularly with a focus on research and development activities in high-technology sectors, usually show losses during several years after being set up and have to undergo a phase, which is called a "valley of death", until they succeed on the market.

In the definition of 'undertaking in difficulty' innovative SME's and innovative mid-caps should also be excluded within the 7 years of their first commercial sale, even when it is not eligible for risk financing under the current strict conditions of Article 21 GBER. If a new aid category for risk financing for innovative SME's and innovative mid-caps is introduced, the definition could refer to eligibility under that new article of the GBER.

In recital 5 the specific problems that SME's face are addressed: "SMEs, especially when they are young, are often unable to demonstrate their credit-worthiness to investors." SME's that have been in existence for less than five years should be excluded from the definition. In our experience a period of 5 years (instead of the current 3 years) is sufficient for a start-up to grow and overcome the first few years in which the investments are high and the return low. They are past the valley of dead and their product/service is established in the appropriate market. They become financially viable and can demonstrate their credit-worthiness.

Suggested changes:

Article 2 GBER

(18) 'undertaking in difficulty' means an undertaking in respect of which at least one of the following circumstances occurs:

(a) In the case of a limited liability company (other than an SME that has been in existence for less than ~~three~~ five years or, for the purposes of eligibility for risk finance aid, an SME that fulfils the condition in Article 21 paragraph 3, point (b), and qualifies for risk finance investments following due diligence by the selected financial intermediary), or for the purpose of eligibility for aid for research and development and innovation, an SME within 7 years from its first commercial sale), where more than half of its subscribed share capital has disappeared as a result of accumulated losses. This is the case when deduction of accumulated losses from reserves (and all other elements generally considered as part of the own funds of the company) leads to a negative cumulative amount that exceeds half of the subscribed share capital. For the purposes of this provision, 'limited liability company' refers in particular to the types of company mentioned in Annex I of Directive 2013/34/EU of the European Parliament and of the Council and 'share capital' includes, where relevant, any share premium.*

(b) In the case of a company where at least some members have unlimited liability for the debt of the company (other than an SME that has been in existence for less than ~~three~~ five years or, for the purposes of eligibility for risk finance aid, an SME that fulfils the condition in Article 21 paragraph 3, point (b), and qualifies for risk finance investments following due diligence by the selected financial intermediary or for the purpose of eligibility for aid for research and development and innovation, an SME within 7 years from its first commercial sale), where more than half of its capital as shown in the company accounts has disappeared as a result of accumulated losses. For the purposes of this provision, 'a company where at least some of its members have unlimited liability for the debt of the company' refers in particular to the types of company mentioned in Annex II of Directive 2013/34/EU.

An alternative could be to add innovative SMEs and innovative mid-caps as an exception into Article 1, paragraph 4, point c, of the GBER:

4. This Regulation shall not apply to:

(..)

(c) aid to undertakings in difficulty, with the exception of aid schemes to make good the damage caused by certain natural disasters, innovative SMEs and innovative mid-caps, start-up aid schemes and regional operating aid schemes, provided that such schemes do not grant undertaking in difficulty more favorable treatment than other undertakings.

European Defense Fund

Recital 15 mentions that Article 8 should be amended to allow for combinations of Union centrally managed funding and State aid of up to the total project costs. However, this does not seem coherent with the proposed amendments in Article 8, paragraph 2, itself. It would be helpful if this Article explicitly stated that the total public funding for projects, the part which is not funded by the EDF, may reach up to the total eligible costs of the project, provided that the notification thresholds and maximum aid intensities or maximum aid amounts under this Regulation are respected. It would also be appropriate to include the EDF in a more explicit way, as has been done in Article 25a and further of the GBER for Horizon 2020 and Horizon Europe.

Taxonomy Regulation

In the definitions in point 121c, 121d, 123a, Article 21, paragraph 3 and Article 56e, paragraph 10 reference is made to Regulation (EU) 2020/852 of the European Parliament and of the Council (EU taxonomy). According to the Netherlands the development of the EU taxonomy as a means to provide guidance for private investors assessing which investments are future proof (i.e. in line with the EU climate goals) can be supported. The EU taxonomy could be one of the factors that helps the European Commission in defining positive environmental gains. The EU taxonomy has been and is being developed primarily for the private market and should create security for investors, protect private investors from greenwashing, help companies to become more climate-friendly, mitigate market fragmentation and help shift investments where they are most needed. The taxonomy thus describes a situation which we can and will strive towards. State aid rules play an important role in stimulating markets and projects to become, amongst others, taxonomy-compliant. Sometimes, this may require aiding projects that are not yet taxonomy-compliant. Thus, State aid should also be permitted for projects which are likely to meet taxonomy standards over time. This way, State aid can contribute to developing and achieving economies for new technologies and leads to faster and larger taxonomy compliance.

Transitional provisions

As laid down in Article 58 of the GBER any aid schemes exempted under this Regulation shall remain exempted during an adjustment period of six months. This is a very short period for the extensive amendments of the GBER which could also lead to necessary changes in schemes that are opened yearly and are currently open for applications. The Netherlands would propose an adjustment period of a year.