

**15 July 2024**

**Positive preliminary assessment of the satisfactory fulfilment of milestones and targets related to the first payment request submitted by the Netherlands on 24 May 2024, transmitted to the Economic and Financial Committee by the European Commission**

**Executive summary**

In accordance with Article 24(2) of Regulation (EU) 2021/241, on 24 May 2024, the Netherlands submitted a request for payment for the first instalment of the non-repayable support. The payment request was accompanied by the required management declaration and summary of audits.

To support its payment request, the Netherlands provided due justification of the satisfactory fulfilment of the 30 milestones and targets of the first instalment of the non-repayable support, as set out in Section 2 of the Annex to the Council Implementing Decision amending Implementing Decision of 4 October 2022 on the approval of the assessment of the recovery and resilience plan for the Netherlands<sup>1</sup>.

For 5 targets covering a large number of recipients, in addition to the summary documents and official listings provided by the Netherlands, Commission services have assessed a statistically significant sample of individual files. The sample size has been uniformly set at 60, which corresponds to a confidence level of 95% or above in all cases.

Upon receipt of the payment request, the Commission has assessed on a preliminary basis the satisfactory fulfilment of the relevant milestones and targets. Based on the information provided by the Netherlands, the Commission has made a positive preliminary assessment of the satisfactory fulfilment of all 30 milestones and targets.

The milestones and targets positively assessed as part of this payment request demonstrate significant steps in the implementation of the Netherlands' Recovery and Resilience Plan. This includes, among others, important reforms relating to the pension system, environmental taxation, the housing market, self-employment, tax planning and the electricity grid code. The milestones and targets also confirm progress towards the completion of investment projects related to training and career advice for individuals in the Dutch labour market, rail traffic management, research and development of quantum technologies, digital equipment for students and e-health care for people living at home.

By the transmission of this positive preliminary assessment and in accordance with Article 24(4) of Regulation (EU) 2021/241, the Commission asks for the opinion of the Economic and Financial Committee on the satisfactory fulfilment of the relevant milestones and targets.

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<sup>1</sup> ST 13613/23 ADD 1 REV 1

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**Number and name of the Milestone:** NL-C[C1]-R[2.R1]-M[3], Entry into force of a law introducing the industrial CO2 levy

**Related Measure:** Introduction and tightening of the CO2 levy for industry (C1.1 R2-1)

**Qualitative Indicator:** Provision in the law providing for its entry into force

**Time:** Q1 2021

### 1. Context:

The objective of this reform is to reduce CO2 emissions of industry through a CO2 levy for industry. This levy shall act as a price floor, setting a minimum price for a tonne of CO2 emitted: if the price in the European Union Emissions Trading System (ETS) drops below this minimum price, the difference between the ETS price and the price floor shall be levied as a tax.

Milestone 3 concerns the entry into force of a law introducing the industrial CO2 levy.

Milestone 3 is the first step of the implementation of the reform, and will be followed by milestone 4, related to the entry into force of a law tightening the industrial CO2 levy, in this same payment request.

### 2. Evidence provided:

	Name of the evidence	Short description
1	Summary document duly justifying how the milestone (including all the constitutive elements) has been satisfactorily fulfilled.	
2	Copy of the publication of the Act of 16 December 2020 amending the Environmental Taxes Act for the introduction of a CO2 levy for industry (hereafter the "Industry Carbon Tax Act") published in the in the Official Journal ( <i>Staatsblad</i> No. 544, page 1 – 19) on 23 December 2020	
3	A copy of the publication of the Act of 16 March 2022 amending the Environmental Taxes Act and the Environmental Management Act for the Introduction of a Minimum CO2 price for Electricity Generation (hereafter the "Minimum CO2 Price for Electricity Generation Act") in the Official Journal ( <i>Staatsblad</i> No. 132, page 1 – 9) on 4 April 2022	

### 3. Analysis:

The justification and substantiating evidence provided by the Dutch authorities cover all constitutive elements of the milestone.

### Entry into force of a law establishing a national CO2 levy for industry.

Article I (F) of the Industry Carbon Tax Act introduces a national levy on the emission of CO2.

The levy targets the industry as defined in Article I (F) of the Industry Carbon Tax Act. The levy notably applies to the following emissions:

- i) the emission of greenhouse gases by any greenhouse gas installation (the latter defined as “*a fixed technical unit, in which one or more activities are carried out, causing an emission of a greenhouse gas into the air and belonging to a category designated by order in council with regard to the greenhouse gas concerned, as well as other activities directly associated and technically related to the former activities and which may have an impact on the emission of the greenhouse gas concerned into the air*” pursuant to Article I (F) of the Industry Carbon Tax Act);
- ii) the emission of carbon dioxide by any waste disposal installation (the latter defined as “*a waste incineration plant or waste co-incineration plant as referred to in Article 3(40) and (41) of Directive 2010/75/EU of the European Parliament and of the Council of 24 November 2010 on industrial emissions in which, in accordance with an environmental permit issued under the Environmental Law (General Provisions) Act, domestic waste, mixed industrial waste or mixed sorting residue may be incinerated, and which is not a greenhouse installation*” pursuant to Article I (F) of the Industry Carbon Tax Act; and
- iii) the emission of carbon dioxide and dinitrogen oxide by any laughing gas installation (the latter defined as “*an installation which, according to an environmental permit issued under the Environmental Law (General Provisions) Act is intended for the production of acrylonitrile or caprolactam and which is not a greenhouse gas installation*” pursuant to Article I (F) of the Industry Carbon Tax Act).

Pursuant to Article I (F) of the Industry Carbon Tax Act, the levy does not apply to greenhouse gas installations operated directly or indirectly exclusively for:

- i) growing crops in a greenhouse;
- ii) district heating;
- iii) heating or cooling spaces in buildings or sites; or
- iv) the generation of electricity without the use of waste gases as fuel.

Article X of the Industry Carbon Tax Act specifies that the act enters into force on 1 January 2021, while providing for certain exceptions. More particularly, Article X (2) of specifies that if the Minimum CO<sub>2</sub> Price for Electricity Generation Act enters into force later than the Industry Carbon Tax Act, then section I, parts B, C, D and E, and Article II, parts C and D, of the Industry Carbon Tax Act will enter into force at the same time as the Minimum CO<sub>2</sub> Price for Electricity Generation Act will enter into force. Given that the Minimum CO<sub>2</sub> Price for Electricity Generation Act entered into force on 5 April 2022, the aforementioned articles of the Industry Carbon Tax Act (which also include the articles on the introduction of the CO<sub>2</sub> levy for industry) entered into force on 5 April 2022.

**The levy shall act as a price floor, setting a minimum price for a tonne of CO<sub>2</sub> emitted [...]**

Article I (F) of the Industry Carbon Tax Act specifies (1) that the rate of the levy is EUR 30 per tonne of carbon dioxide equivalent and (2) that at the start of each calendar year after calendar year 2021 up to and including calendar year 2030, the rate will be increased by EUR 10.56. The CO<sub>2</sub> levy for the industry is therefore construed as a price floor, setting a minimum price for a tonne of CO<sub>2</sub> emitted. The levy applies until 2030, given that the levy scheme is designed in respect of the 2030 CO<sub>2</sub> reduction goal.

**[...] if the European Union Emission Trading System (ETS) price drops below this minimum price, the difference between the ETS price and the price floor shall be levied as a tax.**

Article I (F) of the Industry Carbon Tax Act specifies that for a greenhouse gas installation (as defined above), which is subject to the European Union Emission Trading System (ETS), the rate of the levy is reduced by the forward rate of the greenhouse gas emission allowance, whereby the rate of the levy cannot be less than zero. Consequently, if the ETS price is higher than the price floor, the effective rate of the levy is zero, because the ETS price is already above the price floor. If the ETS price drops below the price floor, the levy takes effect and ensures that the effective cost of emission does not sink below the price floor.

At the time of the adoption of the Industry Carbon Tax Act, the European Union Emission Trading System did not apply to waste disposal installations nor laughing gas installations. In these industries, the tax levy remains as specified above (EUR 30 per tonne of carbon dioxide equivalent, including the annual increase until 2030).

The ETS price is defined in Article 71f (3), of the Minimum CO<sub>2</sub> Price for Electricity Generation Act: *“The forward rate of the greenhouse gas emission allowance, (...), is for a calendar year the average, in euros, of the daily one-year forward prices of greenhouse gas emission allowances (closing sales prices) for transactions in December of the year for which the rate is determined (...), as observed from September 1 till October 31 prior to that year on the European Union carbon exchange with the highest trading volume of greenhouse gas emission allowances in those months”*.

**4. Commission Preliminary Assessment:** Satisfactorily fulfilled

**Number and name of the Milestone:** NL-C[C1]-R[2.R2]-M[4], Entry into force of a law tightening the industrial CO2 levy

**Related Measure:** NL-C[C1]-R[2.R2], Introduction and tightening of the CO2 levy for industry

**Qualitative Indicator:** Provision in the law providing for its entry into force

**Time:** Q1 2023

### 1. Context:

The objective of this reform is to reduce CO2 emissions of industry through a CO2 levy for industry. This levy shall act as a price floor, setting a minimum price for a tonne of CO2 emitted: if the price in the European Union Emissions Trading System (ETS) drops below this minimum price, the difference between the ETS price and the price floor shall be levied as a tax.

Milestone 4 concerns the *tightening* the levy with the objective to further reduce CO2 emissions by industry. This is done through (i) the entry into force of legislation increasing the CO2 industrial levy from EUR 30 per ton in 2021 to EUR 50.10 per ton in 2023 and then gradually to EUR 82.80 per ton in 2026 and (ii) the entry into force of legislation gradually reducing the amount of CO2 emissions exempted from the CO2 industrial levy, resulting in an expected 2.4 Mton less exempted CO2 emissions in 2026.

Milestone 4 is the second and final milestone of the reform, and it follows the completion of milestone 3, related to the introduction of the CO2 levy for industry.

### 2. Evidence provided:

	Name of the evidence	Short description
1	Summary document duly justifying how the milestone (including all the constitutive elements) has been satisfactorily fulfilled.	
2	Copy of the publication of the act of 16 December 2020 amending the Environmental Taxes Act for the introduction of a CO2 levy for industry (hereinafter referred to as the "Industry Carbon Tax Act") published in the Official Journal ( <i>Staatsblad</i> No. 544, page 1 – 19) on 23 December 2020	This is the act that establishes the CO2 levy for industry in the Netherlands.
3	Copy of the publication of the Act of 21 December 2022 amending several tax laws and several other laws (hereinafter referred to as the "Tax Plan 2023") published in the Official Journal ( <i>Staatsblad</i> , No. 532, page 1 – 46) on 27 December 2022	This act defines and tightens the reduction factor amounts.
4	Copy of the publication of the ministerial decree of 15 December 2020 on the implementation of the CO2 levy published in the Official Gazette ( <i>Staatscourant</i> , No. 68060, 1 – 40) on 24 December 2020	This ministerial decree establishes and explains the way the reduction factor determines the reduction in the number of dispensation rights.

5	A letter of 11 May 2022 by the Dutch Emissions Authority	In this letter, the Dutch Emissions Authority reports the reduction factor necessary to reduce the number of dispensation rights by an extra 4,85 Mton in 2030 (amounting to 2,4 Mton in 2026).
6	Tweede Kamer der Staten-Generaal, session 2020-2021, 35 575, no. 3, 15 September 2020, Explanatory memorandum of the Industry Carbon Tax Act	

### 3. Analysis:

The justification and substantiating evidence provided by the Dutch authorities covers all constitutive elements of the milestone.

#### **Entry into force of legislation increasing the CO2 industrial levy from EUR 30 per ton in 2021 to EUR 50.10 per ton in 2023 and then gradually to EUR 82.80 per ton in 2026 [...]**

As outlined in the preliminary assessment fiche on milestone 3, the national CO2 levy for industry was introduced by the Industry Carbon Tax Act, which entered into force on 1 January 2021 (see article X (1) of the Industry Carbon Tax Act).

Article I (F) of that same Industry Carbon Tax Act specifies the following in respect of the level of the CO2 industrial levy:

- the levy amounts to EUR 30 per ton CO2-equivalent in 2021; and
- at the start of every year after 2021 until 2030, the levy will be raised by EUR 10.56 (before indexation).

On the basis of this increase mechanism, the CO2 industrial levy will evolve as follows throughout the years (before indexation):

- In 2021 the levy will be:  $\text{EUR } 30 + (0 * \text{EUR } 10.56) = \text{EUR } 30.00$
- In 2022 the levy will be:  $\text{EUR } 30 + (1 * \text{EUR } 10.56) = \text{EUR } 40.56$
- In 2023 the levy will be:  $\text{EUR } 30 + (2 * \text{EUR } 10.56) = \text{EUR } 51.12$
- In 2024 the levy will be:  $\text{EUR } 30 + (3 * \text{EUR } 10.56) = \text{EUR } 61.68$
- In 2025 the levy will be:  $\text{EUR } 30 + (4 * \text{EUR } 10.56) = \text{EUR } 72.24$
- In 2026 the levy will be:  $\text{EUR } 30 + (5 * \text{EUR } 10.56) = \text{EUR } 82.80$

The CO2 industrial levy therefore increases from EUR 30 per ton in 2021 to EUR 51.12 per ton in 2023 (more than the EUR 50.10 required by the CID Annex), and then gradually to EUR 82.80 per ton in 2026.

**[...] as well as the entry into force of legislation gradually reducing the amount of CO2 emissions exempted from the CO2 industrial levy resulting in an expected 2.4 Mton less exempted CO2 emissions in 2026.**

The Dutch CO2 industrial levy follows a certain allocation system: based on benchmarks and the amount of production of companies under those benchmarks, companies are allocated a certain amount of exempted emissions allowance each year (Article I (F) of the Industry Carbon Tax Act). These are called



dispensation rights (“*dispensatierechten*”). These dispensation rights are allocated to installations that are *within* the scope of the CO2 industrial levy. For the sake of completeness, it is noted that there are also certain installations which are entirely *outside* the scope of the CO2 industrial levy (Article I (F) of the Industry Carbon Tax Act). This is notably the case for greenhouse gas installations operated directly or indirectly exclusively for (i) growing crops in a greenhouse; (ii) district heating; (iii) heating or cooling spaces in buildings or sites; or (iv) the generation of electricity without the use of waste gases as fuel).

The amount of dispensation rights that is allocated each year, decreases towards the year 2030. This decrease in dispensation rights is reflected in a reduction factor that applies uniformly to the industry (in this regard Article II (E) of the Industry Carbon Tax Act). By designing the tax as a levy with a decreasing exempt base, the Netherlands seeks to ensure that only those emissions that must be reduced in view of the industrial reduction target of the Climate Agreement will be taxed. Exempt emissions will be phased out linearly until 2030. As mentioned in the explanatory memorandum (documentary evidence n° 6, p. 3), this creates a system that on the one hand secures the achievement of the industry's reduction target and on the other hand minimises the risk that the level playing field with other countries is affected (thus avoiding CO2 and job leakage to other countries).

The amount of dispensation rights an installation is entitled to, is determined as follows: the production level of the installation in the relevant year, times the EU ETS benchmark, times the applicable reduction factor of the relevant year.

The initial reduction factor was determined in Article II (E) of the Industry Carbon Tax Act. This initial reduction factor was subsequently changed as per Article XXV of the Tax Plan 2023. The Tax Plan 2023 was published in the Official Journal (Staatsblad 2022, No. 532, page 1 – 46) on 27 December 2022 and entered into force on 1 January 2023, as established by Article LIX of the Tax Plan 2023. Pursuant to Article XXV of the Tax Plan 2023, the reduction factor amounts to 1.213 for 2023 and is reduced with 0.078 at the start of every year after 2023. This leads to the following evolution in time of the reduction factor:

	2023	2024	2025	2026	2027	2028	2029	2030
Reduction factor	1.213	1.135	1.057	0.979	0.901	0.823	0.745	0.667

By applying this reduction factor, the amount of CO2 emissions exempted from the CO2 industrial levy, is reduced gradually year after year.

The reduction factor is set as such that by 2026 there is 2.4Mton less exempted CO2 emissions. As confirmed by the letter from the Dutch Emissions Authority, the above-mentioned reduction factors are expected to lead to a total reduction in emissions for all installations of 4.85 Mton between 2022 and 2030 (evidence No. 5). In the four years from 2022 to 2026 this consequently results in an expected reduction of 2.43 Mton (=  $\frac{4}{8} * 4.85$  Mton).

#### **4. Commission Preliminary Assessment:** Satisfactorily fulfilled

**Number and name of the Milestone:** NL-C[C1]-R[1.R3]-M[5], Entry into force of a law increasing the air travel tax for air passengers departing from an airport in the Netherlands

**Related Measure:** NL-C[C1]-R[1.R3], Increase of the Air Travel Tax (ATT)

**Qualitative Indicator:** Provision in the law providing for its entry into force

**Time:** Q1 2023

### 1. Context:

The objective of this reform is to better reflect the social costs of air passenger transport and discourage short distance flying. The reform shall increase the air travel tax resulting in an immediate price increase of air travel tickets for passengers departing from an airport located in the Netherlands.

Milestone 5 concerns the entry into force of a law increasing the air travel tax at least three times compared to 2022 for passengers departing from an airport located in the Netherlands.

Milestone 5 is the only milestone of this reform.

### 2. Evidence provided:

	Name of the evidence	Short description
1	Summary document duly justifying how the milestone (including all the constitutive elements) has been satisfactorily fulfilled.	
2	Copy of the publication of the <b>“Law of 21 December 2022 amending several tax laws and other laws”</b> in the Official Journal ( <i>Staatsblad</i> 2022, No. 532, hereinafter referred to as “Tax Plan 2023”).	
3	Copy of extract from the Official digital law database of the Kingdom of the Netherlands, containing the amended <b>Law on Environmental Taxes</b> ( <i>Wet belastingen op milieugrondslag</i> ) published on 28 April 2023 which contains the amended articles on the tax on air travel (articles 72-77).	

### 3. Analysis:

The justification and substantiating evidence provided by the Dutch authorities cover all constitutive elements of the milestone.

#### **Entry into force of a law increasing the tax on air travel for passengers departing from an airport in the Netherlands.**

The Tax Plan 2023 amending the Law on Environmental Taxes was published in the Official Journal of 27 December 2022 and entered into force on 1 January 2023, as established by Article LIX of the Tax Plan 2023.

The tax on air travel is regulated by chapter VII of the Law on Environmental Taxes, as amended. Pursuant to Article 73 of the Law on Environmental Taxes, the tax on air travel applies to passengers departing from an airport in the Netherlands.

Article 77 of the Law on Environmental Taxes sets the rate of the tax on air travel and was amended by Article XXVI (D) of the Tax Plan 2023.

**The tax shall be at least three times as high as the tax in 2022 (EUR 7.94 per departure per passenger in 2022).**

Pursuant to article XXVI (D) of the Tax Plan 2023, the tax on air travel for passengers departing from an airport in the Netherlands is increased from EUR 7.947 to EUR 26.43. The requirement that the *“tax shall be at least three times as high as the tax in 2022”*, which implies a tax of at least EUR 23.84, is therefore fulfilled.

Furthermore, in line with the measure description, the reform shall increase the air travel tax resulting in **an immediate price increase of air travel tickets** for passengers departing from an airport located in the Netherlands. Pursuant to article 76 of the Law on Environmental Taxes, as amended, the tax becomes due at the time when the passenger departs from the airport on an aircraft. Considering that the Tax Plan 2023 entered into force on 1 January 2023, the increase resulted in an immediate price increase of air travel tickets for passengers departing from an airport in the Netherlands.

**4. Commission Preliminary Assessment:** Satisfactorily fulfilled

**Number and name of the Milestone:** NL-C[C2]-I[1.11]-M[35], Quantum Delta NL set up

**Related Measure:** NL-C[C2]-I[1.11], Quantum Delta NL

**Qualitative Indicator:** Support granted to Quantum Delta NL and publication of action plan

**Time:** Q4 2021

### 1. Context:

The investment aims to accelerate the development of applications of quantum technology, develop, attract and retain talent and stimulate the development and establishment of new companies in the field of quantum technology in the Netherlands.

Milestone 35 relates to the granting of support by the National Growth Fund to Quantum Delta NL with the aim to stimulate research and development of quantum computers, quantum networks and quantum sensors, and the publishing of a detailed action plan.

Milestone 35 is the first milestone of the investment, and it will be followed by milestone 36 related to the completion of phases 1 and 2 of the Quantum Delta action plan. The investment has a final expected date of implementation on 30 June 2026.

### 2. Evidence provided:

	Name of the evidence	Short description
1	Summary document duly justifying how the milestone (including all the constitutive elements) has been satisfactorily fulfilled.	
2	Project proposal, including the action plan of Quantum Delta NL, as submitted to the National Growth Fund (NGF) and link to the publication: <a href="https://www.verveagency.com/projectvoorstel-nationaal-groefonds">Projectvoorstel Nationaal Groeifonds (verveagency.com)</a>	The project proposal for Quantum Delta NL was published on 1 February 2021.
3	Advisory report of the expert committee providing a positive review of Quantum Delta NL, and advising to grant support, and link to the publication: <a href="https://www.nationaalgroefonds.nl/advisory-report-on-the-first-assessment-round-of-the-national-growth-fund-committee-report">Advisory report on the first assessment round of the National Growth Fund Committee   Report   National Growth Fund (nationaalgroefonds.nl)</a>	The report was published in March 2021 on the National Growth Fund website on 9 April 2021.
4	Official statement to parliament in which the government takes over the positive advice of the expert committee and grants support to Quantum Delta NL, and link to the publication: <a href="https://www.kamerstuk.nl/kamerstukken/2021/04/09/kamerbrief-bekostiging-investeringsvoorstellen-uit-nationaal-groefonds">Kamerbrief Bekostiging investeringsvoorstellen uit Nationaal Groeifonds   Kamerstuk   Nationaal Groeifonds</a>	The statement was published on 9 April 2021.
5	Formal declaration signed by the ministry of Economic Affairs and Climate Policy confirming compliance, of all projects under the calls referred	

	to in the measure description, with the Do-No-Significant-Harm (DNSH) principle	
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### 3. Analysis:

The justification and substantiating evidence provided by the Dutch authorities cover all constitutive elements of the milestone.

**Quantum Delta NL shall be granted support under the National Growth Fund to stimulate quantum computing and networking, and support research and skills development in the quantum field.**

The advisory report of the expert committee of the National Growth Fund (evidence 3) provided a positive review of Quantum Delta NL and advised to grant support to the project (evidence 3, paragraph 6.2.4, pages 83 to 88). In the report, it is indicated that the Quantum project includes investments to stimulate quantum computing and networking, and support research and skills development in the quantum field (evidence 3, paragraph 4, page 10). The advisory report is followed by the official statement to parliament (evidence 4), through which the government takes over the positive advice of the expert committee to provide **support** to Quantum Delta NL under the National Growth Fund (evidence 4, page 2, paragraph “Toekenning en reservering” and page 4, paragraph 6).

**Quantum Delta NL shall publish a detailed action plan, built up in phases.**

The Quantum Delta NL presented a project proposal to the National Growth Fund (evidence 2). The proposal is published on the website of the National Growth Fund. The project proposal includes a detailed action plan (evidence 2, pages 11-17) with phases one and two of Quantum Delta NL (as outlined in the table at page 21 of evidence 2). Details of the two phases are developed in the project proposal, from page 69 onwards of evidence 2. The report (evidence 3) and the official statement to Parliament (evidence 4) confirmed the support granted to the Quantum Delta NL under the National Growth Fund.

**Compliance with the ‘Do no significant harm’ Technical Guidance (2021/C58/01) shall be ensured through the use of an exclusion list and the requirement of compliance with the relevant EU and national environmental legislation.**

An official statement was signed on 14 May 2024 by the ministry of Economic Affairs and Climate Policy (evidence 5) confirming compliance to the DNSH principle through the use of an exclusion list and to the relevant national and EU environmental legislation (from page 3 to 36).

The official statement constitutes an ex-post assessment of the compliance to the DNSH principle for all projects selected within the framework of milestone 35. It includes 16 individual assessments of all projects selected in two rounds of the call for Quantum Delta NL. The first round was launched in January 2022 and selected 10 projects (page 2, paragraph “Call 1: Quantum Delta NL SME programme 21 January 2022 Round 1”), while the second round was launched in January 2023 and selected 6 projects (page 24, paragraph “Call 2: Quantum Delta NL SME programme 27 January 2023 Round 2”).

For each project selected in the two rounds of calls, the official statement provides a justification demonstrating that the activities and assets associated with each project are not included in the exclusion list, as outlined in the measure description in the Council Implementing Decision:

- i) activities and assets related to fossil fuels, including downstream use<sup>2</sup>;
- ii) activities and assets under the EU Emission Trading System (ETS) achieving projected greenhouse gas emissions that are not lower than the relevant benchmarks<sup>3</sup>;
- iii) activities and assets related to waste landfills, incinerators<sup>4</sup> and mechanical biological treatment plants<sup>5</sup>; and
- iv) activities and assets where the long-term disposal of waste may cause harm to the environment.

The official statement also includes a justification demonstrating that the activities and assets associated with each project comply with the applicable national and EU environmental regulations.

#### **4. Commission Preliminary Assessment: Satisfactorily fulfilled**

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<sup>2</sup> Except projects under this measure in power and/or heat generation, as well as related transmission and distribution infrastructure, using natural gas, that are compliant with the conditions set out in Annex III of the 'Do no significant harm' Technical Guidance (2021/C58/01).

<sup>3</sup> Where the activity supported achieves projected greenhouse gas emissions that are not significantly lower than the relevant benchmarks an explanation of the reasons why this is not possible shall be provided. Benchmarks established for free allocation for activities falling within the scope of the Emissions Trading System, as set out in the Commission Implementing Regulation (EU) 2021/447.

<sup>4</sup> This exclusion does not apply to actions under this measure in plants exclusively dedicated to treating non-recyclable hazardous waste, and to existing plants, where the actions under this measure are for the purpose of increasing energy efficiency, capturing exhaust gases for storage or use or recovering materials from incineration ashes, provided such actions under this measure do not result in an increase of the plants' waste processing capacity or in an extension of the lifetime of the plants; for which evidence is provided at plant level.

<sup>5</sup> This exclusion does not apply to actions under this measure in existing mechanical biological treatment plants, where the actions under this measure are for the purpose of increasing energy efficiency or retrofitting to recycling operations of separated waste to compost bio-waste and anaerobic digestion of bio-waste, provided such actions under this measure do not result in an increase of the plants' waste processing capacity or in an extension of the lifetime of the plants; for which evidence is provided at plant level.

**Number and name of the Milestone:** NL-C[C2]-I[2.11]-M[46], ERTMS planning study Kijfhoek-Belgian border completed

**Related Measure:** NL-C[C2]-I[2.11], European Rail Traffic Management System (ERTMS)

**Qualitative Indicator:** Rail Traffic Design finalised

**Time:** Q4 2022

### 1. Context:

This investment aims at modernizing the current train protection system with the advanced European Rail Traffic Management System (ERTMS), that is the European digital standard for train protection and control. It encompasses various initiatives aimed at enhancing railway safety and interoperability, such as conducting planning studies for key track sections or implementing measures for alignment with ERTMS requirements.

Milestone 46 concerns the completion of a planning study for the development of a Rail Traffic Design conducted for the Kijfhoek–Belgian border track section (EKB). This design will ensure that any required adjustments to traffic management meet the prescribed standards for railway safety and interoperability as per legislation and regulations.

Milestone 46 is the first step of the implementation of the investment and will be followed by milestone 47, related to completion of the planning study for the rail track sections in North Netherlands, by target 48, related to the renewal of the GSM-Rail radio network, by milestone 49, related to the revision of ProRail IT systems to integrate ERTMS safety and interoperability data, and by milestone 50, related to the implementation of the Central Security System for ProRail. The investment has a final expected date of implementation on 31 December 2024.

### 2. Evidence provided:

	Name of the evidence	Short description
1	Summary document duly justifying how the milestone (including all the constitutive elements) has been satisfactorily fulfilled.	
2	Partial discharge document for the planning study of the track section Kijfhoek-Belgian border, signed by the competent authority of the realisation organisation within ProRail and the responsible business unit within ProRail.	The partial discharge document was signed by the Programme Manager for ERTMS Implementation at Prorail (IEP) and Project Manager for EKB on 11 April 2024. The discharge document is labelled "partial" because it refers solely to the subproject of ERTMS for the track section between Kijfhoek and the Belgian border, which falls under this milestone.
3A. 1	Rail Traffic Design for <i>Section 1 – Zwijndrecht</i> of the project ERTMS Kijfhoek – Belgian	This report is dated 15 May 2023.

	border, awarded to the engineering company Sweco.	
3A. 2	Rail Traffic Design for <i>Section 2 – Dordrecht</i> of the project ERTMS Kijfhoek – Belgian border, awarded to the engineering company RHDHV.	This report is dated 3 July 2023.
3A. 3	Rail Traffic Design for <i>Section 3 - Lage Zwaluwe</i> of the project ERTMS Kijfhoek – Belgian border, awarded to the engineering company Movares.	This report is dated 26 June 2023.
3A. 4	Rail Traffic Design for <i>Section 4 – Roosendaal</i> of the project ERTMS Kijfhoek – Belgian border, awarded to the engineering company Arcadis.	This report is dated 2 June 2023.
3B. 1	Progress report, including the overview of hours and other costs, for <i>Section 1 – Zwijndrecht</i> of the project EKB awarded to the engineering company Sweco.	This report refers to the period of November 2023 and was signed on 21 December 2023.
3B. 2	Progress report, including the overview of hours and other costs, for <i>Section 2 – Dordrecht</i> of the project EKB, awarded to the engineering company RHDHV.	This report refers to the period of November 2023 and was signed on 21 December 2023.
3B. 3	Progress report, including the overview of hours and other costs, for <i>Section 3 - Lage Zwaluwe</i> of the project EKB, awarded to the engineering company Movares.	This report refers to the period of November 2023 and was signed on 21 December 2023.
3B. 4	Progress report, including the overview of hours and other costs, for <i>Section 4 – Roosendaal</i> of the project EKB, awarded to the engineering company Arcadis.	This report refers to the period of November 2023 and was signed on 21 December 2023.
4	Budget release letter for the ERTMS Kijfhoek – Belgian Grens project (EKB) issued within the ERTMS governance programme with reference BV-181 (Bijlage 4 - BV 181 – EKB)	The letter was issued on 10 February 2022.
5	Integrated Safety Dossier summarising the elements for demonstrating safety and compliance of the railway design with regulatory requirements (Bijlage 4 - CCS TSI en TSI OPE)	Annex to the discharge document (evidence 2, page 15).

### 3. Analysis:

The justification and substantiating evidence provided by the Dutch authorities cover all constitutive elements of the milestone.

**The Rail Traffic Design shall be finalised as part of the planning study on the rail track section between Kijfhoek and the Belgian border.**



The signed discharge document (evidence 2) specifies on pages 6 (paragraph 3) and 14 (appendix 3C) that the rail track section between Kijfhoek and the Belgian border (EKB) consists of four sections.

- Evidence 3A.1 provides the rail traffic design for section 1, Zwijndrecht.
- Evidence 3A.2 provides the rail traffic design for section 2, Dordrecht.
- Evidence 3A.3 provides the rail traffic design for section 3, Lage Zwaluwe.
- Evidence 3A.4 provides the rail traffic design for section 4, *Roosendaal*.

The discharge document furthermore explains that the EKB entails the planning phase (planuitwerkingsfase) of the European Rail Traffic Management System (ERTMS) project in the specified regions (evidence 2, page 5). As indicated in each Rail Traffic Design, the designs form an integral part of this EKB planning study (page 6 of Evidence 3A.1, page 2 of Evidence 3A.2, page 12 of Evidence 3A.3, page 10 of Evidence 3A.4), which is also illustrated at page 14 of the discharge document (evidence 2).

The partial discharge document (evidence 2) indicates that the design phase of the project EKB has been finalised. Specifically, page 5 states that the final designs have been developed by the contracted engineering firms and have been transferred to the realisation phase. The finalisation of the designs is further evidenced by the positive decision of releasing the budget (evidence 4).

**The Rail Traffic Design shall show that the necessary traffic management adjustments comply with the relevant legislation and regulations on railway safety and interoperability.**

The Rail Traffic Designs for the four sections are designed as such that the proposed traffic management adjustments comply with the relevant legislation and regulations on railway safety and interoperability by including references to the technical specification for interoperability (TSI) relating to the “control-command and signalling” (CCS) subsystems (Commission Implementing Regulation (EU) 2023/1695) and to the technical specification for interoperability relating to the operation and traffic management subsystem of Union rail system (TSI OPE) (Commission Implementing Regulation (EU) 2023/1693). This is also described in the discharge document (evidence 2) under paragraph 6 at page 10, where it is stated that the CCS TSI and OPE TSI have been followed during the planning phase to ensure the interoperability of the rail system within the European Union.

The Integrated Safety Dossier (evidence 5), also attached at page 15 (Appendix 4) of the discharge document (evidence 2), sets out the key elements necessary for demonstrating safety and compliance with regulatory requirements. It includes comprehensive safety assessments and verification activities necessary to meet the directives outlined. Notably, to ensure the requirements are met, mandatory tests are scheduled through the European Agency for Railways ERTMS Trackside Approval process, as well as inspections by a Notified Body.

**4. Commission Preliminary Assessment:** Satisfactorily fulfilled

**Number and name of the Milestone:** NL-C[C2]-R[3.R1]-M[58], Entry into force of the Open Government Act

**Related Measure:** NL-C[C2]-R[3.R1], Public information management (Open Government Act)

**Qualitative Indicator:** Provision in the law providing for its entry into force

**Time:** Q2 2022

### 1. Context:

The measure aims to revise the management of information by the public administration in order to improve its transparency and openness, through the entry into force of the Open Government Act (*Wet open overheid*, WOO). The Open Government Act shall make public authorities and semi-public authorities more transparent by ensuring that public sector information can be found more easily, is compatible and easy to access digitally by citizens, the press and media, Members of Parliament and their staff.

Milestone 58 concerns the entry into force of the Open Government Act, which shall, inter alia, extend the scope of transparency requirements, include an active disclosure obligation, shorten the processing period for requests for information and set up an advisory board on transparency. The act shall ensure that public sector information shall be easy to access digitally by citizens, the press and media, Members of Parliament and their staff.

Milestones 58 is the first milestone of the reform, and will be followed by Milestone 59 in the same payment request, related to publication of updated action plans on the improvement of information management and Target 60, related to providing public access to at least 330,000 documents on the Platform Open Government Information. The reform has a final expected date of implementation on 30 June 2026.

### 2. Evidence provided:

	Name of the evidence	Short description
1	Summary document duly justifying how the milestone (including all the constitutive elements) has been satisfactorily fulfilled.	
2	Copy of the publication of the <b>original legal text of the Open Government Act</b> ( <i>Wet Open Overheid</i> ) published in the Official Journal ( <i>Staatsblad</i> 2021, No. 499) on 27 October 2021 and a link to the publication <a href="https://zoek.officielebekendmakingen.nl/stb-2021-499.html">https://zoek.officielebekendmakingen.nl/stb-2021-499.html</a>	
3	Copy of the amendments to the text of the Open Government Act (hereinafter referred to as "Amendments to the Open Government Act"), published in the Official Journal ( <i>Staatsblad</i> 2021, No. 500) on 27 October 2021 and a link to the publication <a href="https://zoek.officielebekendmakingen.nl/stb-2021-500.html">https://zoek.officielebekendmakingen.nl/stb-2021-500.html</a> .	

4	Copy of the amended Open Government Act (hereinafter referred to as “Open Government Act”), published in the Official Journal ( <i>Staatsblad</i> 2022, No. 14) on 11 January 2022 and a link to the publication <a href="https://zoek.officielebekendmakingen.nl/stb-2022-14.html#d17e55">https://zoek.officielebekendmakingen.nl/stb-2022-14.html#d17e55</a> . This amendment results in the final consolidated version of the Open Government Act. Article 10(3) of the Open Government Act indicates that the Open Government Act entered into force on 1 May 2022.	
5	Copy of extract from the Official digital law database of the Kingdom of the Netherlands, containing the legal text of the <b>final amended version Public Access Act</b> ( <i>Wet openbaarheid van bestuur</i> , hereinafter referred to as “Public Access Act”), and a link to the publication <a href="https://wetten.overheid.nl/BWBR0005252/2018-07-28/0/afdrukken">https://wetten.overheid.nl/BWBR0005252/2018-07-28/0/afdrukken</a> . The date of publication is 28 July 2018.	
6	Letter to Parliament informing the House of Representatives about the progress in implementing the Open Government Act ( <i>Parliamentary Papers, House of Representatives 2021-2022 33328, No. 42</i> ; hereinafter referred to as “Parliamentary Paper No. 42”), and a link to the publication <a href="https://zoek.officielebekendmakingen.nl/kst-33328-42.pdf">https://zoek.officielebekendmakingen.nl/kst-33328-42.pdf</a> . This publication informs the House of Representatives about the Advisory Board on Public Access and its duties. The date of publication is 26 April 2022.	
7	Letter to Parliament informing the House of Representatives about the progress in implementing the Open Government Act ( <i>Parliamentary Papers, House of Representatives 2021-2022 33328, No. 43</i> ; hereinafter referred to as “Parliamentary Paper No. 43”), and a link to the publication <a href="https://zoek.officielebekendmakingen.nl/kst-33328-43.pdf">https://zoek.officielebekendmakingen.nl/kst-33328-43.pdf</a> . This publication informs the House of Representatives about the progress that has been made regarding the steps taken to shorten the processing period for requests for information. The date of publication is 8 July 2022.	

### 3. Analysis:

The justification and substantiating evidence provided by the Dutch authorities cover all constitutive elements of the milestone.

**The Open Government Act shall enter into force.**

The Open Government Act was published on 11 January 2022 in the Official Journal of the Kingdom of the Netherlands. The Act entered into force on 1 May 2022, as stipulated in Article 10(3) of the Open Government Act, and replaced the Public Access Act, published in the Official Journal (*Staatsblad*, 2018, No. 247) of 11 July 2018 and entered into force on 28 July 2018. The Public Access Act was regulating the right of individuals to request and access information held by various government bodies in the Netherlands.

**The act shall, inter alia, extend the scope of the transparency requirements to Parliament, the Council for the Judiciary, the Council of State, the General Audit Office and the national Ombudsman, [...]**

- Article 1a of the Public Access Act provided an exhaustive list of administrative bodies on which the Public Access Act is applicable. These are: the Ministers (Article 1a(1) sub-paragraph a), the administrative bodies of provinces, municipalities, water boards and business organisations governed by public law (Article 1a(1) sub-paragraph b), the administrative bodies that are operating under the responsibility of the administrative bodies of Article 1a(1) sub-paragraph a and b (Article 1a(1) sub-paragraph c), and other administrative bodies that are not exempted by general administrative measure (Article 1a(1) sub-paragraph d). The list did not include the Parliament, the Council for the Judiciary, the Council of State, the General Audit Office and the national Ombudsman.
- Article 10(1) of the Open Government Act repeals and replaces the Public Access Act.
- Article 1(1) of the Open Government Act lays down the right of individuals to access public information contained in documents held by administrative bodies referred to in Article 2(2)(1) of the Open Government Act. Therefore, the Open Government Act extends the scope of the transparency requirements set out in the Public Access Act to the Parliament (Article 2(2)(1) sub-paragraph b) of the Open Government Act), the Council for the Judiciary (Article 2(2)(1) sub-paragraph c) of the Open Government Act), the Council of State (Article 2(2)(1) sub-paragraph d) of the Open Government Act), the General Audit Office (Article 2(2)(1) sub-paragraph e) of the Open Government Act), and the National Ombudsman (Article 2(2)(1) sub-paragraph f) of the Open Government Act). Article 2(4)(1) ensures that the administrative bodies maintain the documents they receive or produce in accessible conditions.

**include an active disclosure obligation for the institutions covered by these transparency requirements, [...]**

- Article 3(1) of the Open Government Act stipulates that the institutions covered by the transparency requirements (as listed under Article 2(2) Open Government Act) have the obligation to actively disclose information.

**shorten the processing period for requests for information and [...]**

- Article 6(1) of the Public Access Act contained a processing period of 4 + 4 (adjournment) weeks for processing requests for information.
- Article 4(4) of the Open Government Act stipulates that administrative bodies have a processing period of 4 + 2 (adjournment) weeks for processing requests for information.
- The shortening of the processing period is achieved by investing in human resources, improving software to redact information that is excluded under statutory exemptions, and improving other ICT tooling to efficiently process, deduplicate and pseudonymise large amounts of information (Parliamentary Paper No. 43, page 3 and 4, informing the House of Representatives about

progress made regarding the steps taken to shorten the processing period for requests for information).

**set up an advisory board on transparency.**

- Chapter 7 of the Open Government Act creates the Advisory Board on Public Access and Information Management upon the entry into force of the Open Government Act.
- Article 7(1) outlines the composition of the Advisory Board, stating that it shall consist of a President and a maximum of four other members appointed by Royal Decree.
- Article 7(2) describes the main role of the board, including advising the government and Parliament on public information disclosure, providing advice on long-term plans, giving opinions on draft laws and administrative measures, handling complaints related to public information access, promoting the application of relevant laws and ensuring confidentiality when dealing with sensitive information.

**The act shall ensure that public sector information shall be easy to access digitally by citizens, the press and media, Members of Parliament and their staff.**

- Article 2(4) of the Open Government Act stipulates the duty of care of public sector information and disclosure thereof.
- Article 2(4)(1) of the Open Government Act stipulates that public sector documents must be in good, well-organised and accessible state.
- Article 2(4)(3) of the Open Government Act stipulates that, where possible, public sector documents must be accessible electronically, including their associated metadata. Where a machine-readable format is not reasonably possible, they should be presented in some other electronically searchable form. Where this is not reasonably possible, a word for word copy or, where this is not reasonably possible, a summary of the text must be supplied.
- Article 2(4) of the Open Government Act establishes an equal right to access public sector information digitally and easily for all information requesters, irrespective of their status. By guaranteeing the same right to all requesters, the Act inherently extends to citizens, the press and media, Members of Parliament and their staff. This approach ensures transparency and openness in the management of information by the public administration, thereby fulfilling the objective of the reform that this milestone represents.
- Article 3(3) sub-paragraph b) of the Open Government Act stipulates that the proactive disclosure of documents mentioned in Article 3(3) and Article 3(3a) of the Open Government Act shall be done electronically in a publicly accessible manner through a digital infrastructure. This infrastructure is available for the disclosure of other documents.

**The obligation to actively disclose specific categories of information (Article 3(3) of the Open Government Act) may come into effect in phases at times to be determined by a Royal Decree.**

- Article 3(3) of the Open Government Act stipulates the obligation for administrative bodies to proactively disclose 17 specific information categories. This obligation will become mandatory over time, as it will be introduced gradually, category by category, in the coming years. The exact schedule for when each category must be made public is not yet known and will be determined for each category through a Royal Decree.
- Article 10(3) second paragraph of the Open Government Act stipulates that the obligation to actively disclose specific categories of information (as laid down in Article 3(3), first and second

paragraphs of the Open Government Act) may come into effect at a time to be determined by a Royal Decree. This Royal Decree has not yet been issued.

**Furthermore, in line with the description of the measure, the Open Government Act shall make public authorities and semi-public authorities more transparent by ensuring that public sector information can be found more easily, is compatible and easy to access digitally by citizens, the press and media, Members of Parliament and their staff.**

- As described above, Article 2(2)(1) of the Open Government Act gives the list of administrative bodies to which the Act applies, which includes both public and semi-public authorities.
- The active disclosure obligation outlined in Chapter 3 ensures that public sector information can be found more easily, compared to the situation under the Public Access Act. This is achieved by mandating administrative bodies to voluntarily disclose specific categories of information, making them more readily accessible to the public. In addition, as stipulated in Article 3(3)(1)(e), administrative bodies are obliged to make available information regarding the process for submitting information requests.
- The ease of sharing public sector information is covered by Article 2(4)(3)(a), which outlines the modalities through which administrative bodies can make their information public. Among other things, Article 2(4)(3)(a) mandates that all information accessible in electronic form complies with Article 5(1) of Directive on the re-use of public sector information (OJ 2003 L 345), as amended by Directive 2013/37/EU of the European Parliament and of the Council of 26 June 2013 amending Directive 2003/98/EC on the re-use of public sector information (OJ 2013 L 175). Article 5(1) mandates public sector bodies to provide documents in existing formats or languages and electronically in open, machine-readable formats, to ensure accessibility, findability and reusability, while complying with open standards.
- As described above, Article 2(4) and Article 3(3) of the Open Government Act ensure that public sector information is easy to access digitally by citizens, the press and media, Members of Parliament and their staff.

#### **4. Commission Preliminary Assessment:** Satisfactorily fulfilled

**Number and name of the Milestone:** NL-C[C2]-R[3.R1]-M[59], Publication of updated action plans on improving information management

**Related Measure:** NL-C[C2]-R[3.R1], Public information management (Open Government Act)

**Qualitative Indicator:** Publication of an updated action plan by central government organisations

**Time:** Q4 2022

**1. Context:** The measure aims to revise the management of information by the public administration in order to improve its transparency and openness, through the entry into force of the Open Government Act (Wet open overheid, WOO). The Open Government Act shall make public authorities and semi-public authorities more transparent by ensuring that public sector information can be found more easily, is compatible and easy to access digitally by citizens, the press and media, Members of Parliament and their staff.

Milestone 59 concerns the publication of updated action plans to improve the digital accessibility of information systems of the central government organisations (12 Ministries, including their autonomous administrative bodies and agencies).

Milestone 59 is the second milestone of the reform, and it was preceded by Milestone 58 in the same payment request, which required the entry into force of the Open Government Act, and it will be followed by Target 60, related to providing public access to at least 330.000 documents on the Platform Open Government Information. The reform has a final expected date of implementation on 30 June 2026.

**2. Evidence provided:**

	Name of the evidence	Short description
1	Summary document duly justifying how the milestone (including all the constitutive elements) has been satisfactorily fulfilled.	
2	Copy of the action plan to improve the information management system of the Ministry of the Interior Affairs and Kingdom Relations, published on 27 January 2022. (evidence i)	
3	Copy of the action plan to improve the information management system of the Ministry of Foreign Affairs, published on 13 January 2022. (evidence ii)	
4	Copy of the action plan to improve the information management system of the Ministry of Defence, published on 1 February 2022. (evidence iii)	
5	Copy of the action plan to improve the information management system of the Ministry of Economic Affairs and Climate Policy and of the action plan of the Ministry of Agriculture, Nature and Food Quality, published on 28 February 2022. (evidence iv)	
6	Copy of the action plan to improve the information management system of the Ministry of Finance (part 1), published on 28 January 2022. (evidence v)	
7	Copy of the action plan to improve the information management system of the Ministry of Finance (part 2), published on 28 January 2022. (evidence vi)	

8	Copy of the action plan to improve the information management system of the Ministry of Infrastructure and Water Management, published on 1 February 2022. (evidence vii)	
9	Copy of the action plan to improve the information management system of the Ministry of Justice and Security, published on 26 January 2022. (evidence viii)	
10	Copy of the action plan to improve the information management system of the Ministry of the Education, Culture and Science, published on 30 June 2021. (evidence ix)	
11	Copy of the action plan to improve the information management system of the Ministry of Social Affairs and Employment, published on 22 January 2022. (evidence x)	
12	Copy of the action plan to improve the information management system of the Ministry of Health, Welfare and Sport, published on 1 February 2022. (evidence xi)	
13	Copy of the action plan to improve the information management system of the Ministry of General Affairs, published on 28 January 2022. (evidence xii)	
14	Copy of the letter by State Secretary of Kingdom Relations and Digitalization Van Huffelen to Dutch Parliament regarding the action plans and baseline measurements, sent on 20 July 2022. (evidence xiii)	
15	Copy of the Cabinet reaction to the Dutch Parliament regarding the Cabinet's response to the report Unprecedented Justice, sent on 15 January 2021. (evidence xiv)	

### 3. Analysis:

The justification and substantiating evidence provided by the Dutch authorities covers all constitutive elements of the milestone.

**Central government organisations (12 Ministries, including their autonomous administrative bodies and agencies) shall publish updated action plans to improve the digital accessibility of their information systems.**

12 ministries have published their updated action plans (evidence *i* through *xii*):

- Evidence *i* provides the action plan of the Ministry of Interior Affairs and Kingdom Relations, published on 27 January 2022, link: <https://www.rijksoverheid.nl/documenten/rapporten/2022/01/27/actieplan-en-nulmeting-open-op-orde-bzk>. Section 1.4 of the action plan extends the scope to the administrative bodies and agencies within the Ministry of Interior Affairs that did not publish a separate action plan. Section 4.2 and section 4.3 of the action plan outline the lines of action that will contribute to the improvement of - *inter alia* - the digital accessibility of the information.
- Evidence *ii* provides the action plan of the Ministry of Foreign Affairs, published on 13 January 2022, link: <https://www.rijksoverheid.nl/documenten/rapporten/2022/01/13/actieplan-en-nulmeting-open-op-orde-bz>. Throughout the text there is no mention of autonomous administrative bodies and/or agencies related to the Ministry of Foreign Affairs and therefore the action plan applies exclusively to the latter. Section 3.3 and section 3.4 of the action plan include



the activities that will be undertaken to improve – *inter alia* – the digital accessibility of information.

- Evidence iii provides the action plan of the Ministry of Defence, published on 1 February 2022, link: <https://www.rijksoverheid.nl/documenten/rapporten/2022/02/01/actieplan-en-nulmeting-open-op-orde-defensie>. Throughout the text there is no mention of autonomous administrative bodies and/or agencies related to the Ministry of Foreign Affairs and therefore the action plan applies exclusively to the latter. Section 8.2 of the action plan describes a project to improve the management of information, which includes actions for the implementation of the Open Government Act.
- Evidence iv provides the action plan of the Ministry of Agriculture, Nature and Food Quality, published on 28 February 2022, link: <https://www.rijksoverheid.nl/documenten/rapporten/2022/02/28/actieplan-en-nulmeting-open-op-orde-ezk-lnv>. Pages 125-126 substantiate the involvement of the administrative bodies and agencies in the action plan. Section 5 and Section 6 of the action plan describe a set of projects to increase accessibility and reliability of information, also in the digital form.
- Evidence iv provides the action plan of the Ministry of Economic Affairs and Climate Policy, published on 28 February 2022, link: <https://www.rijksoverheid.nl/documenten/rapporten/2022/02/28/actieplan-en-nulmeting-open-op-orde-ezk-lnv>. Pages 50-51 substantiate the involvement of the administrative bodies and agencies in the action plan. Section 5 and Section 6 of the action plan describe a set of projects to increase accessibility and reliability of information, also in the digital form.
- Evidence v and vi provides the action plans of the Ministry of Finance, published on 31 January 2022, links: <https://www.rijksoverheid.nl/documenten/rapporten/2022/01/31/actieplan-en-nulmeting-open-op-orde-financien> (part 1) and <https://www.rijksoverheid.nl/documenten/rapporten/2022/01/31/actieplan-en-nulmeting-open-op-orde-financien> (part 2). The two documents (part 1 and 2) report the general programme plan for the Ministry of Finance, as well as the action plans for three Directorate Generals within the Ministry of Finance, namely DG Belastingdienst, DG Toeslagen and DG Douane. Section 1.7 of the programme plan gives the scope of the action plan, including the administrative bodies and agencies within the Ministry of Finance it applies to. Section 5 and section 6 of the programme plan describe a set of actions that will be undertaken to improve the accessibility of information, also at digital level. Section 7 of the programme plan focuses on the disclosure of information and the implementation of the Open Government Act.
- Evidence vii provides the action plan of the Ministry of Infrastructure and Water Management, published on 1 February 2022, link: <https://www.rijksoverheid.nl/documenten/rapporten/2022/02/01/actieplan-en-nulmeting-open-op-orde-ienw>. Section 1.3 outlines the scope of the action plan, including the administrative bodies and agencies within the Ministry of Infrastructure and Water Management it applies to. Section 2.5 of the action plan describes the action lines, together with the initiatives, that will contribute – *inter alia* – to improve the digital accessibility of information. Sections 3 to 5 provide specific information and details the action lines for three bodies and agencies (Koninklijk Nederlands Meteorologisch Instituut, Planbureau voor de Leefomgeving and the Autoriteit Nucleaire Veiligheid en Stralingsbescherming). According to section 1.3, the organisational units within the Ministry of Infrastructure and Water Management with more than 500 FTE are responsible for drawing up their own action plan for the necessary improvement of the information management within their organisation. Such plans are included from page 51 of the document onwards.

- Evidence viii provides the action plan of the Ministry of Justice and Security, published on 26 January 2022, link: <https://www.rijksoverheid.nl/documenten/rapporten/2022/01/26/actieplan-en-nulmeting-open-op-orde-jenv>. Section 1.4 describes the scope of the plan, listing the bodies within the Ministry of Justice and Security it applies to. Section 1.3.2, together with section 2, outlines the four action lines that will contribute – *inter alia* – to improve the digital accessibility of information.
- Evidence ix provides the action plan of the Ministry of Education, Culture and Science, published on 30 June 2022, link: <https://www.rijksoverheid.nl/documenten/rapporten/2021/06/30/actieplan-en-nulmeting-open-op-orde-ocw>. Section 8 and section 9 outline two action lines that will serve for the purpose of increasing accessibility of information, also at digital level. Page 61 presents an overview in a table of autonomous bodies the plan applies to and its status.
- Evidence x provides the action plan of the Ministry of Social Affairs and Employment, published on 22 January 2022, link: <https://www.rijksoverheid.nl/documenten/rapporten/2022/01/22/actieplan-en-nulmeting-open-op-orde-szw>. Section 1.1 describes the four action lines that will contribute to improve the management of information within the Ministry of Social Affairs and Employment. Section 4 and section 5 outline the initiatives that will improve – *inter alia* – the accessibility and transparency of information, also in digital form. The separate plans for the administrative bodies and agencies are included from page 69 onwards.
- Evidence xi provides the action plan of the Ministry of Health, Welfare and Sport, published on 1 February 2022 on link: <https://www.rijksoverheid.nl/documenten/rapporten/2022/02/01/actieplan-en-nulmeting-open-op-orde-vws>. Section 1.3 extends the scope to their administrative bodies and agencies within the Ministry of Health, Welfare and Sport that did not publish a separate action plan. Section 3.2 and section 3.3 outline the line of actions that will contribute – *inter alia* – to increasing the accessibility and transparency of information produced by the Ministry. Such initiatives will also apply to the information in digital form.
- Evidence xii provides the action plan of the Ministry of General Affairs, published on 28 January 2022, link: <https://www.rijksoverheid.nl/documenten/rapporten/2022/01/28/programma-informatiehuishouding-algemene-zaken-volgens-rijksbreed-beleid-open-op-orde>. This Ministry has no autonomous administrative bodies and agencies. Section 2 outlines the scope of the action plan, as well as the organisational units within the Ministry of General Affairs to which this plan applies. Section 2 further describes a series of initiatives that aim at improving information accessibility, also in digital form. Section 8.2 describes the phases and results of an implementation test of the Open Government Act for the active disclosure of information.
- **The updated action plans of the Ministries shall address the following 8 priorities:**
  1. **Setting up the relevant own governance system at the level of ministries, autonomous administrative bodies and agencies. Carrying out the baseline measurement on the Ministry's information system.**
  2. **Implementation of Quality Framework or similar system IV functions.**
  3. **Implementation of Parliamentary Papers by Core Departments.**
  4. **Connection to the Platform Open Government Information (PLOOI) by the national components.**
  5. **Implementation of the central government email archiving manual.**
  6. **Implementation of the policy line of messaging apps.**

## **7. Implementation of web archiving in accordance with the relevant framework contract.**

Each updated action plan contains references to the 8 priorities as follows (evidence *i* through *xii*):

### **i) Interior Affairs and Kingdom Relations (evidence i)**

1. Chapter 3 outlines the governance system within the program.
2. Section 2.2 presents the results of the baseline measurements in business units with more than 500 FTE of the Ministry's information system.
3. Action line 6 on page 34 describes the initiative for implementing the Quality Framework IV, namely the Kwaliteitsraamwerk IV (KWIV).
4. The paragraph on active disclosure ('Openbaarmaking') of decision memorandums for parliamentary papers in section 4.2.2 explains the implementation of parliamentary papers by Core Departments.
5. The paragraph on active disclosure ('Openbaarmaking') in section 4.2.2 explains that the connection of departments to the PLOOI platform will be carried out as soon as the link of the platform will be active.
6. The paragraph on email archiving ('E-Mail archivering') in section 4.2.2 presents a new working method to make e-mail storing accessible within the e-mail archiving project.
7. The paragraph on messaging apps ('Berichtenapps') in section 4.2.2 explains that the Ministry has adapted the RDDI guidance for storing app messages to its own context. This project ensures that the messages subject to archives are stored in accordance with the guidelines in the policy line.
8. The paragraph on website archiving ('Website archivering') in section 4.2.2 prescribes that in 2021 all websites of the Ministry will be connected to the Central Government Web Archiving Platform ('Platform Webarchivering Rijksoverheid').

### **ii) Foreign Affairs (evidence ii)**

1. Section 4.2 outlines the governance system within the program.
2. In the appendix at page 32, under column 'Nulmeting (niveau)', the results of baseline measurements are displayed for each area of intervention. At page 32, such results are also summarised in a graph per action line.
3. Action line 6 on page 32 describes the initiative for implementing the Quality Framework IV, namely the Kwaliteitsraamwerk IV (KWIV).
4. Under bullet point 3 in section 1.3 on what is information management ('Wat is informatiehuishouding?'), as well as in section 3.3.9 on information supply to Parliament ('Informatieverstrekking Kamer') and action line 2 on page 28 ('Actielijn 2: Volume en aard') explain the implementation of parliamentary papers by Core Departments and describe the adjustments made on the flow of documents in the Parliament.
5. Section 3.3.8 on connection to PLOOI ('Aansluiting PLOOI') describes three different methods to publish information on PLOOI and explains that in the months following the publication of the action plan the Ministry will explore the possibility to create an automated link to the platform for the provision of information.
6. Section 3.3.5 on email archiving ('E-mailarchivering') presents a new and simpler method for email archiving at central level and claims that two facilities have been developed in this regard (PIA and Quick Scan).
7. Section 3.3.6 on securing app messages ('Veiligstellen appberichten') explains that at the end of 2021 the Ministry started a pilot project for Securing Messaging Apps to develop knowledge and experience in this regard and that a business case would be developed in 2022 for further decision-making purposes regarding the security of messaging apps.

8. Section 3.3.7 on web archiving ('Webarchivering') explains that the Ministry will connect via a tender joint central facility in order to achieve a uniform archiving practice for public websites of the central government.

iii) **Defence (evidence iii)**

1. Chapter 5 outlines the program organisation management system.
2. In the appendix at pages 61 to 64, under column 'Nulmeting (niveau)', the results of baseline measurements are displayed for each area of intervention. At page 65, such results are also summarised in a graph per action line.
3. Action line 6 at page 61 describes the initiative for implementing the Quality Framework IV, namely the Kwaliteitsraamwerk IV (KWIV).
4. At page 5, the paragraph on project information supply ('Informatiehuishouding op orde'), together with the timetable ('Tijdsplan') outlined at page 6, explain that this project is responsible for improving the provision of information to the parliament and ensuring that the decision notes accompanying Parliamentary documents are actively made public.
5. The paragraphs on PLOOI ('Aansluiten PLOOI') in section 3.1 and 3.2 explain that the development of the project for the connection to PLOOI was pending guidelines from the Ministry of Interior Affairs and Kingdom Relations.
6. The paragraphs on project results ('Projectresultaten') at page 26, on email archiving ('E-mailarchivering') in section 3.2 and action line 17 at page 62 substantiate the implementation of the project on email archiving had to be implemented by end of 2021.
7. The timetable ('Tijdsplan') at page 6, together with the paragraphs on project results ('Projectresultaten') at page 26, on short term actions and measures ('Acties c.q. maatregelen voor de korte termijn') at page 27 and on messenger services ('Archivering messenger services en social media') in section 3.1 explain that a pilot project has been deployed to promote the implementation of the policy line of messaging apps.
8. The paragraph on web archiving ('Webarchivering') in section 3.1 claims that this project has been completed and that since end of 2021 the Ministry is connected to the government-wide facility for website archiving.

iv) **Economic Affairs and Climate Policy (evidence iv)**

1. Chapter 8 outlines the governance and project structure of the program.
2. Section 2.3 ('Resultaten van de nulmeting') presents the results of the baseline measurements that was carried out in 2021 to map the information bottlenecks within the two departments of the Ministry.
3. Section 4.3 ('Implementatie KWIV-functies') outlines the steps undertaken so far for the implementation of the Quality framework functions at ministerial level and explains that a ministry-wide impact analysis on the framework implementation would be carried out in 2022.
4. Section 5.3 ('Actief openbaar maken onderliggende nota's kamerstukken') states that since July 2021 the memoranda relating to legislation were made public and, to comply with the obligation of active disclosure, the underlying processes and systems were set up, work instructions provided and employees informed.
5. Section 5.7 ('Aansluiting PLOOI') states that the correct approach for connection to PLOOI was examined both interdepartmentally and with the service units in the months before publication of the action plan and that a connection to the PLOI test environment would have taken place at the end of 2022.

6. Section 5.4 ('Implementatie handreiking e-mailarchivering') explains that the email archiving guidelines became mandatory for core departments within the Ministry in 2022.
7. Section 5.5 ('Implementatie beleidslijn berichtenapp-archivering') states that the implementation of the policy on messaging apps archiving already stated at core departments level and some service units.
8. Section 5.6 ('Implementatie webarchivering') states that all websites of the core departments have been securely archived as of 2022 and that further actions would be undertaken to coordinate the implementation with service units.

v) **Agriculture, Nature and Food Quality (evidence iv)**

1. Chapter 8 outlines the governance and project structure of the program.
2. Section 2.3 ('Resultaten van de nulmeting') presents the results of the baseline measurements that was carried out in 2021 to map the information bottlenecks within the two departments of the Ministry.
3. Action line 1 on informational professionals and Section 4.3 ('Implementatie KWIV-functies') outlines the steps undertaken so far for the implementation of the Quality framework functions at ministerial level and explains that a ministry-wide impact analysis on the framework implementation would be carried out in 2022.
4. Section 5.3 ('Actief openbaar maken onderliggende nota's kamerstukken') states that since July 2021 the memoranda relating to legislation were made public and, to comply with the obligation of active disclosure, the underlying processes and systems were set up, work instructions provided and employees informed.
5. Section 5.7 ('Aansluiting PLOOI ') states that the correct approach for connection to PLOOI was examined both interdepartmentally and with the service units in the months before publication of the action plan and that a connection to the PLOI test environment would have taken place at the end of 2022.
6. Section 5.4 ('Implementatie handreiking e-mailarchivering') explains that the email archiving guidelines became mandatory for core departments within the Ministry in 2022.
7. Section 5.5 ('Implementatie beleidslijn berichtenapp-archivering') states that the implementation of the policy on messaging apps archiving already stated at core departments level and some service units.
8. Section 5.6 ('Implementatie webarchivering') states that all websites of the core departments have been securely archived as of 2022 and that further actions would be undertaken to coordinate the implementation with service units.

vi) **Finance, parts 1 and 2 (evidence v and vi)**

1. Chapter 8 in part 1 outlines the governance of the program and explains the interdepartmental cohesion.
2. Appendices 10 to 13 in part 2 present the results of the baseline measurements for the four departments that are part of the Ministry of Finance and in Sections 1.1 ('Vooraf'), it is reported that the results have been adopted in 2021.
3. Paragraph on implementation of quality framework in section 1.5 ('Implementatie kwaliteitsraamwerk IV functies') on page 93 of part 1 explains that the full implementation of all profiles would be implemented by mid 2023, while at the moment of the publication of the action plan the implementation was limited to certain categories of profiles.
4. Paragraph on active publication of underlying memorandums for parliamentary papers in section 1.5 ('Actief openbaar maken onderliggende nota Kamerstukken') on page 93 of

part 1 explains that since 2021, tax authorities made public the memoranda used by the Minister for decision-making for legislative proposals and policy formulation.

5. Paragraph on connection to PLOOI in section 1.5 ('Aansluiting op PLOOI') on page 94 of part 1 explains that the PLOOI web portal was still under development at the moment of publication of the action plan and that it was used by tax authorities only to manually submit documents.
6. Paragraph on email archiving in section 1.5 ('Implementatie mail archivering') on page 93 of part 1 explains that technical realisation and implementation was foreseen from 2023.
7. Paragraph on messaging app archiving in section 1.5 ('Implementatie Berichtenapp archivering') on page 93 of part 1 explains that the tax authorities already implemented the policy 'Handling with messaging apps' ('Omgang met berichtenapps') and communicated the policy with regards internal use of messaging apps and their archiving regarding the internal use of messaging apps.
8. Paragraph on web archiving in section 1.5 ('Implementatie Web archivering') on page 93 of part 1 explains that tax authorities entered into a six-year agreement with an external party to ensure full archiving of all websites for public communications.

vii) **Infrastructure and Water management (evidence vii)**

1. Section 1.2 outlines the establishment and governance of the program that would be responsible for the implementation of the Open Government Act.
2. A description of the baseline measurement initiative is outlined in section 2.5.4 on governance and compliance at pages 25-26 and the results of the measurement carried out in six units of the Ministry are described in the Annex Report "Rapportage nulmeting informatiehuishouding lenW" at page 161 of the action plan document.
3. A description of the initiative on the implementation of the quality framework is outlined in section 2.5.1 on information professionals at page 22 which was expected to be implemented throughout 2022 for all units within the Ministry of Infrastructure and Water management.
4. A description of the initiative on active publication of underlying memorandums for parliamentary papers is outlined in section 2.5.2 on volume and nature of information at page 23.
5. A description of the initiative on connection to PLOOI is outlined in section 2.5.2 on volume and nature of information at page 24 and it is stated that the organisational units are after completion of his project.
6. A description of the initiative on email archiving is outlined in section 2.5.2 on volume and nature of information at page 24 and as described in section 4.4.3 at page 42, this project was expected to be implemented between end of 2021 and end of 2023.
7. A description of the initiative on messaging apps archiving is outlined in section 2.5.2 on volume and nature of information at page 24.
8. A description of the initiative on web archiving is outlined in section 2.5.2 on volume and nature of information at page 23.

viii) **Justice and Security (evidence viii)**

1. Chapter 2 on approach and planned governance outlines the governance that will be responsible for the implementation of the action lines within the programme.
2. The appendix at pages 27 to 38 outlines the progress of results for the baseline measurements for all projects foreseen in the framework of the four lines of action.

3. Point 6 under action line 1 at pages from 27, 30, and 32 describes the state of play for the implementation of the initiative on quality framework, outlining the initial baseline measurement results in the different departments of the Ministry. Under point 6 at page 113, it is explained that the quality framework was not yet applied within the Ministry at the time of the publication of the report (November 2021) but that a plan was already drawn between the existing IV formation and the new quality framework.
4. Action line 2 on complying with new approach for publication of decision memorandums for parliamentary papers ('Implementatie nieuwe werkwijze beslisnota's Kamerstukken door kerndepartementen') at page 24 was defined in this document of January 2022 as compliant.
5. Action line 2 on connection to the governmental platform PLOOI ('Aansluiting op PLOOI door alle Rijksonderdelen') at page 24 was defined in this document of January 2022 as compliant and an explication on the use of PLOOI for Woo requests is outlined under section 21 at page 123.
6. Action line 2 on complying with email archiving manual ('Implementatie handreiking e-mailarchivering Rijksoverheid') at page 24 was defined in this document of January 2022 as compliant.
7. Action line 2 on complying with messaging apps archiving manual ('Implementatie beleidslijn berichtenapps Rijksoverheid') at page 24 was defined in this document of January 2022 as compliant. Under point 16 at page 120 it is explained that this initiative was not being arranged yet for certain messaging services and that full implementation would have occurred following the publication of guidelines.
8. Action line 2 on web archiving ('Implementatie web archivering conform raamovereenkomst Rijksoverheid') at page 24 was defined in this document of January 2022 as completed. Action line 15 at page 36 explains that the relevant websites were mapped in 2021 and a contract with GW CrossMedia has been setup for archiving.

ix) **Education Culture and Science (evidence ix)**

1. Chapter 5 on governance and programme structure outlines the governance that will be responsible for the implementation of the action lines within the programme.
2. Section 6.4 describes the process of baseline measurement to assess the state of play of the different lines of action outlined in the plan and as described in Section 1.2, it was mentioned among the most urgent priorities at the time of the publication of the action plan.
3. Section 7.1 on investing in IT professionals outlines the initiative for the implementation of the quality framework and the resources and concrete actions needed to promote its implementation and functioning within the Ministry. It was mentioned among the most urgent priorities at the time of the publication of the action plan in Section 1.2.
4. Section 8.2 describes the measures needed to implement the initiative of active publication and information supply of underlying documentation for parliamentary papers. It is claimed that this line was supposed to enter into practice from July 2021. It was mentioned among the most urgent priorities at the time of the publication of the action plan as mentioned in Section 1.2.
5. Section 4.2 describes the government-wide project of connection to PLOOI for the disclosure and accessibility of information. At the time of publication of the action plan, the delivery of information through PLOOI was possible only manually but it was envisaged to make the process automatised as soon as the government would have

developed a generic interface for automated delivery. It was among the most urgent priorities at the time of the publication of the action plan as mentioned in Section 1.2.

6. (as well as 7 and 8) Section 4.1 on sustainable archive management for new channels of information provides a description of the implementation of the initiatives on e-mail archiving, messaging apps archiving and web archiving:
  - i. For the archiving of e-mails, the Ministry was exploring and testing a technical solution that, if resulted in a positive outcome, would have been implemented in the second half of 2021.
  - ii. For the archiving of messaging apps, in 2020 it was published a guidance manual to describe the possible tools for securing chat messages. The usage of such tools was envisaged by the Ministry of Education as well.
  - iii. For web archiving, the phase of website mapping was finalised in 2021 and the Ministry was looking into launching a tender to evaluate possible contractors for the implementation of this initiative.

x) **Social Affairs and Employment (evidence x)**

1. Chapter 6 outlines the governance that would be responsible for the implementation of the actions described in the action plan.
2. Chapter 2 outlines the self-evaluation carried out at ministry level for the evaluation of the current state of information management and to gain insights into the starting situation and which improvements were feasible within what period. The conclusions stemming from the results of the baseline measurements are described in Section 2.1.
3. Project 1.2 in annex 2 at page 43 describes the implementing of quality framework and outlines the different implementation phases, as well as the actions and risks associated with it.
4. Project 2.1 in annex 2 on page 44 describes the initiative on active publication and outlines the steps to undertake in this regard, as well as the risks associated with it.
5. Project 2.7 in annex 2 on page 50 describes the implementation phases foreseen for the connection to PLOOI and outlines the risks associated with it.
6. Project 2.3 in annex 2 on page 46 describes the initiative of email archiving, its three implementation phases that will end at the end of 2022 and risks associated.
7. Project 2.2 on messaging apps archiving in annex 2 on page 45 outlines the objective of this initiative and the approach used for its implementation. It is stated that a fact sheet on the use of messaging up was already realised and that a communication campaign in this regard would have started in 2022.
8. Project 2.4 on web archiving in annex 2 on page 47 describes the implementing phases of this project that is supposed to be completed by the beginning of 2022.

xi) **Health, Welfare and Sport (evidence xi)**

1. Section 3.4 on governance, processes and procedures outlines the governance that would be adopted for the implementation of the lines of actions described in the program.
2. Section 2.6 states that a baseline measurement was carried out in late 2021 and the results outlined an overall critical situation for information management within the Ministry. These measurements would serve for the purpose of assessing the starting situation of information management systems within the Ministry and the formulation of actions for improvement.
3. Paragraph on capacity for technical expertise under section 3.1 on page 18 states that an implementation project for the quality framework already started before the publication



of the action plan and provides a list of projects for increasing the expertise capacity among employees.

4. The paragraph on publication on page 22 ('Openbaarmaking') explains that a project started before July 2021 in order to comply with the commitment to make decision notes public for two categories of Parliamentary documents, and that working processes have been developed and implemented. This project is mentioned in section 4.1 among the most urgent priorities that would first be developed.
5. Paragraph on publication on page 23 ('Openbaarmaking') mentioned the connection to PLOOI as one of the main priorities for those service units within the ministry that adopted a separate action plan. This project is mentioned in section 4.1 among the most urgent priorities that would first be developed.
6. Paragraph on email archiving ('Implementatie e-mailarchivering') under section 3.2 states that the Ministry has been working on the implementation of this initiative for some years preceding the publication of the action plan and that much has been invested for securing emails. The paragraph further outlines several projects that would promote the implementation of email archiving.
7. Paragraph on message app archiving under section 3.2 ('Implementatie berichtenapp archivering') states that this initiative is implemented in accordance with the central government guidance and that in 2022 it would have been examined how the archiving of messaging apps could have been implemented more broadly within the Ministry. This Section further outlines several projects to complete the implementation of this priority.
8. Paragraph on web archiving under section 3.2 ('Implementatie webarchivering') states that a starting point for its implementation was the use of government-wide guidelines. The Section further outlines several projects to complete the implementation of this priority.

xii) **General Affairs (evidence xii)**

1. Section 5.2 on steering and governance outlines the governance that would be adopted for the implementation of the lines of actions described in the program.
2. Section 3.1 explains that in 2021 the Ministry carried out the mandatory baseline measurement and outlines the results in the form of graph.
3. The Ministry of General Affairs uses the information professionals and employees project instead of the quality framework KWIV, as it can be seen under action line 1 in section 6.1 on deliverables.
4. Section 8.1 on active publication of decision memorandums states that the project would start from July 2021 and provides a description of the scope and outcome expected by its implementation. This initiative is also mentioned under active publication projects of action line 2 in section 6.1.
5. Planning for connection to PLOOI is mentioned in section 4.1 on planning and it was considered the fourth most important priority to implement for the Ministry.
6. Section 8.3 describes the scope and challenges linked to the implementation of the initiative on email archiving. Its implementation is compliant with the central government guidelines.
7. The initiative on message archiving is described through message traffic archiving projects under action line 2 under section 6.1. Initiatives for automatic securing and archiving of messages were being investigated.

Web archiving projects are outlined under action line 2 in section 6.1 and explain the categories of initiatives that would be undertaken to implement this initiative. Furthermore, in line with the description of the measure, the reform shall include the following elements: b) the obligation for central government organisations and autonomous administrative bodies and agencies to submit action plans for the improvement of the digital accessibility of information systems of public organisations in order to achieve transparency. The action plans of Ministries, together with their baseline measurements, were requested on 16 June 2022 by Parliament. Such request is mentioned in the letter by the State Secretary of Kingdom Relations and Digitalization to Dutch Parliament, which was sent on 20 July 2022 (evidence xiii). All action plans, containing the relative baseline measurement for each Ministry, have been published.

**4. Commission Preliminary Assessment:** Satisfactorily fulfilled

**Number and name of the Milestone:** NL-C[C3]-R[1.R1]-M[67], Entry into force of legislation increasing the vacant possession value ratio

**Related Measure:** NL-C[C3]-R[1.R1], Increasing the vacant possession value ratio

**Qualitative Indicator:** Provision in the legislation providing for its entry into force

**Time:** Q1 2023

### 1. Context:

This reform aims to reduce distortions in the housing market, by better aligning the taxation of rental property with the actual economic value it represents to property owners, by increasing the vacant possession value ratio (*leegwaarderatio*) in the Dutch tax system. The current taxation of privately owned assets assumes that the appraisal value of real estate that is not owner-occupied overstates the true value of the property. Therefore, the value of property that is rented out is corrected by the vacant possession value ratio, effectively introducing a tax discount for buy-to-let owners of property.

Milestone 67 includes the entry into force of legislation increasing the vacant possession value ratio. The ratio shall be increased to 100% for rental properties with an annual rent exceeding 5% of the appraisal value of the property and for properties rented to related parties. For rental properties with an annual rent at or below 5% of the appraisal value, the ratio shall be increased by at least 25 percentage points compared to the ratio applicable in 2022. The vacant possession value shall not apply to rental properties with a temporary rental contract.

Milestone 67 is the only milestone of the reform.

### 2. Evidence provided:

	Name of the evidence	Short description
1	Summary document duly justifying how the milestone (including all the constitutive elements) has been satisfactorily fulfilled.	
2	Copy of the publication of the Tax Plan 2023 (' <i>Belastingplan 2023</i> ') in the Official Journal ( <i>Staatsblad</i> 2022, No. 532) on 27 December 2022.	
3	Copy of the publication of the End of Year Conclusion 2022 (' <i>Eindejaarsbesluit 2022</i> ') published in the Official Journal ( <i>Staatsblad</i> 2022, No. 540) on 27 December 2022.	This legislative text is secondary legislation ( <i>Algemene maatregel van bestuur</i> ) to the primary Law on income taxation.
4	Copy of the publication of the End of Year Conclusion 2013 (' <i>Eindejaarsbesluit 2013</i> ') published in the Official Journal ( <i>Staatsblad</i> 2013, No. 569) on 30 December 2013.	

### 3. Analysis:

The justification and evidence provided by the Dutch authorities covers all constitutive elements of the milestone.

**Entry into force of legislation increasing the vacant possession value ratio.**

The changes to the vacant possession value ratio are captured in two different legislative texts. The End of Year Conclusion 2022 (secondary legislation to the primary Law on income taxation), which was published in the Official Journal on 27 December 2022 increases the vacant possessions value ratio at 100% for rental properties with an annual rent exceeding 5% of the appraisal value of the property as determined by the relevant municipality and for properties rented to related parties, and increases the vacant possession ratio for rental properties with an annual rent at or below 5% of the appraisal value by at least 25 percentage points compared to the ratio applicable in 2022. The End of Year Conclusions 2022 entered into force on 1 January 2023, as established by its Article XIV. The law 'Tax Plan 2023', which was published in the Official Journal on 27 December 2022, entered into force on 1 January 2023, as established by its Article LIX, and prescribes that vacant possession value is not applicable to rental properties with a temporary rental contract.

***The ratio shall be increased to 100% for rental properties with an annual rent exceeding 5% of the appraisal value of the property as determined by the relevant municipality (i.e., the Waardering Onroerende Zaken (WOZ)) and for properties rented to related parties.***

Articles I (B) and IV of the End of Year Conclusions 2022 ('Eindejaarsbesluit 2022') set the vacant possession ratio for rental properties with annual rent exceeding 5% of the appraisal value of the property as determined by the relevant municipality (WOZ) at 100%. These articles also change the assumed annual rent of properties rented to related parties from 3.5% to 5.5% of the WOZ value, thereby resulting in a new vacant possession ratio of 100% for these properties. The increase to 100% is assessed in comparison to the End of Year Conclusions 2013 ('Eindejaarsbesluit 2013'), which establishes in its Articles I and IV that, before 1 January 2023, the vacant possession ratio for properties exceeding 5% of the WOZ value ranged from 73 to 85%. For the properties rented to related parties, the vacant possession ratio before 1 January 2023 was based on the assumed rent of 3.5% of the WOZ, meaning the ratio applying to these properties was 62% (based on the aforementioned articles I and IV of the End of Year Conclusion 2013).

**For rental properties with an annual rent at or below 5% of the appraisal value, the ratio shall be increased by at least 25 percentage points compared to the ratio applicable in 2022**

Articles I (B) and IV of the End of Year Conclusions 2022 ('Eindejaarsbesluit 2022') set the vacant possession ratios applicable as of 1 January 2023 to rental properties with annual rent below 5% of the WOZ value.

Comparing the value before and after 1 January 2023 shows that the vacant possession value ratio is increased by at least 25 percentage points for the relevant categories (under 5% WOZ value). The relevant ratios before 2023 have been fixed since 1 January 2014, based on the End of Year Conclusion 2013:

<b>Annual rent as % of WOZ value</b>	<b>Vacant possession value ratio as of 01-01-2014</b>	<b>Vacant possession value ratio as of 01-01-2023</b>
Source	<i>Eindejaarsbesluit 2013</i>	<i>Eindejaarsbesluit 2022</i>
0 – 1%	45%	73%

1 – 2%	51%	79%
2 – 3%	56%	84%
3 – 4%	62%	90%
4 – 5%	67%	95%

***The vacant possession value shall not apply to rental properties with a temporary rental contract***

Articles I (Y) and XVI (A) of the Tax Plan 2023 (*'Belastingplan 2023'*) establish that the vacant possession value shall not apply to rental properties with a temporary rental contract.

**Furthermore, in line with the description of the measure, for rental properties with an annual rent exceeding 5% of the appraisal value of the property as determined by the relevant municipality (i.e. the Waardering Onroerende Zaken (WOZ)) and for properties rented to related parties, the ratio shall be increased to 100%, effectively eliminating the tax discount.**

As explained above, the vacant possession ratio was increased to 100% for certain properties. This effectively eliminates the tax discount for these properties. For tax purposes, the vacant possession ratio was used to lower the assumed appraisal value of the property (WOZ value of a property) for tax purposes (i.e. a ratio of 50% means that only half of the house value needs to be taken into account for paying taxes). Setting the ratio at 100% means that the full value of the house needs to be taken into account for tax purposes.

**4. Commission Preliminary Assessment:** Satisfactorily fulfilled

**Number and name of the Milestone:** NL-C[C3]-R[1.R3]-M[69], Agreements between the national government and the provinces on the realisation of 900 000 new dwellings

**Related Measure:** NL-C[C3]-R[1.R3], Centralised planning to increase housing supply

**Qualitative Indicator:** Signature of agreements between the national government and the provinces

**Time:** Q4 2022

### 1. Context:

The objective of this reform is to increase housing supply by coordinating the planning for new housing construction at a central level. The national government shall set the number of new dwellings to be realised (meaning newly built or converted from other uses, including abandoned or not fit for inhabiting) in each province, which in turn shall be used to set the number of new dwellings to be realised at municipality level.

Milestone 69 concerns the conclusion of agreements between the national government and provinces on the province specific number of new dwellings to be realised, including by transformation, totalling at least 900 000 new dwellings to be completed and operational by 2030, of which 600 000 dwellings shall be affordable dwellings.

Milestone 69 is the first step in the implementation of the reform, and it will be followed by milestones 70, 71 and 72, related to agreements with municipalities, legislative action to allow the government to intervene if agreements on realizing housing supply are not implemented and the implementation of a monitoring system. The reform has a final expected date of implementation on 31 March 2024.

### 2. Evidence provided:

	Name of the evidence	Short description
1	Summary document duly justifying how the milestone (including all the constitutive elements) has been satisfactorily fulfilled.	
2	National Mortgage Guarantee (NHG), Conditions & Norms 2022-1, published on the NHG website ( <a href="http://www.nhg.nl">www.nhg.nl</a> ) on 1 November 2021	
3	Copy of the provincial housing construction agreements 2022-2023 Drenthe (Provinciale woningbouw afspraken 2022-2030 Drenthe), signed on 13 October 2022 (hereinafter referred to as "Agreements Drenthe").	
4	Copy of the provincial housing construction agreements 2022-2023 Flevoland (Provinciale woningbouw afspraken 2022-2030 Flevoland), signed on 13 October 2022 (hereinafter referred to as "Agreements Flevoland").	
5	Copy of the provincial housing construction agreements 2022-2023 Friesland (Provinciale woningbouw afspraken 2022-2030 Fryslan), signed on 13 October 2022 (hereinafter referred to as "Agreements Friesland").	

6	Copy of the provincial housing construction agreements 2022-2023 Gelderland ( <i>Provinciale woningbouw afspraken 2022-2030 Gelderland</i> ), signed on 13 October 2022 (hereinafter referred to as “Agreements Gelderland”).	
7	Copy of the provincial housing construction agreements 2022-2023 Groningen ( <i>Provinciale woningbouw afspraken 2022-2030 Groningen</i> ), signed on 13 October 2022 (hereinafter referred to as “Agreements Groningen”).	
8	Copy of the provincial housing construction agreements 2022-2023 Limburg ( <i>Provinciale woningbouw afspraken 2022-2030 Limburg</i> ), signed on 13 October 2022 (hereinafter referred to as “Agreements Limburg”).	
9	Copy of the provincial housing construction agreements 2022-2023 Noord-Brabant ( <i>Provinciale woningbouw afspraken 2022-2030 Noord-Brabant</i> ), signed on 13 October 2022 (hereinafter referred to as “Agreements Noord-Brabant”).	
10	Copy of the provincial housing construction agreements 2022-2023 Noord-Holland ( <i>Provinciale woningbouw afspraken 2022-2030 Noord-Holland</i> ), signed on 13 October 2022 (hereinafter referred to as “Agreements Noord-Holland”).	
11	Copy of the provincial housing construction agreements 2022-2023 Overijssel ( <i>Provinciale woningbouw afspraken 2022-2030 Overijssel</i> ), signed on 13 October 2022 (hereinafter referred to as “Agreements Overijssel”).	
12	Copy of the provincial housing construction agreements 2022-2023 Utrecht ( <i>Provinciale woningbouw afspraken 2022-2030 Utrecht</i> ), signed on 13 October 2022 (hereinafter referred to as “Agreements Utrecht”).	
13	Copy of the provincial housing construction agreements 2022-2023 Zeeland ( <i>Provinciale woningbouw afspraken 2022-2030 Zeeland</i> ), signed on 13 October 2022 (hereinafter referred to as “Agreements Zeeland”).	
14	Copy of the provincial housing construction agreements 2022-2023 Zuid-Holland ( <i>Provinciale woningbouw afspraken 2022-2030 Zuid-Holland</i> ), signed on 13 October 2022 (hereinafter referred to as “Agreements Zuid-Holland”).	

### 3. Analysis:

The justification and substantiating evidence provided by the Dutch authorities covers all constitutive elements of the milestone.

**Signature of agreements between the national government and the provinces on the number of new dwellings to be realised by 2030, including by transformation.**

- The agreements on the realization of new dwellings have been signed for each of the twelve provinces. The agreements are signed by the province (College of the Provincial Executive (*'college van de Gedeputeerde Staten'*)) and the national government (Minister of Public housing and spatial planning (*'Volkshuisvesting en ruimtelijke ordening'*)).
- In these agreements, provinces and the national government agree on the number of dwellings to be realized in the concerned province. The commitment on the number of dwellings to be realized is shown in a table that is found in each of the agreements, laying out the number of dwellings that are planned to be realized in the concerned province in each year in the period 2022 – 2030.
- The tables are found in each agreement on the following page:
  - Drenthe: page 1
  - Flevoland: page 1,
  - Friesland: page 2
  - Gelderland: page 2
  - Groningen: page 1
  - Limburg: page 1
  - Noord-Brabant: page 6
  - Noord-Holland: page 1
  - Overijssel: page 1
  - Utrecht: page 1
  - Zeeland: page 1
  - Zuid-Holland: page 2
- Each agreement also describes how involved parties will work together to realize the ambitions with regard to the realization of houses and what actions can be taken in case insufficient progress is made.
- As mentioned in the milestone description, transformations may be part of the effort to reach the ambition on the number of dwellings to be realized. Three provinces have mentioned that some of the new dwellings realized may come from transformations. This is mentioned in section 5.4 of the Friesland agreement and section 4.3 of the Noord-Brabant and Limburg agreements.

**The agreements shall set out the number of new dwellings to be built per province and the number of those new dwellings that shall be affordable. Furthermore, in line with the description of the measure, for the purpose of this reform, affordable housing shall be defined as (a) social rental housing, (b) rented dwellings up to a certain maximum rent, set at EUR 1 000 per month in 2022, and (c) owner-occupied dwellings with a price lower than or equal to the maximum purchasing price of a house for which the National Mortgage Guarantee (NHG) guarantees the mortgage.**

- As mentioned above, each agreement contains a table that shows how many houses are planned to be realized in the concerned province.
- Each of the aforementioned tables also sets out how many dwellings are within the “affordable housing” categories as defined in the measure description:
  - Each of the tables shows the number of social rental housing to be realized in the concerned province



- Each of the tables shows the number of rental houses to be realized with rent below EUR 1 000 per month in the concerned province.
- Each of the tables shows the number of houses to be realized with an estimated sale price up to EUR 355 000 (the 2022 National Mortgage Guarantee (NHG) limit – i.e. the maximum purchase price for which the NHG guarantees the mortgage) in the concerned province.
  - The document “NHG Conditions & Norms 2022-1” shows the official terms and conditions applying to the NHG in 2022 to demonstrate the NHG limit. This limit is specified on page 20 (article 1.6), and it is set at EUR 355.000.
- The table below shows, based on the numbers mentioned in the tables in the agreements, the number of dwellings to be realized in each province and the number of dwellings that fall into one of the three aforementioned categories of affordable housing.

Province	Total dwellings to be realized	Dwellings realized in affordable categories
Drenthe	13.631	7.669
Flevoland	39.193	19.559
Friesland	17.500	11.200
Gelderland	100.000	60.400
Groningen	28.359	21.706
Limburg	26.550	20.974
Noord-Brabant	130.600	106.500
Noord-Holland	183.600	121.940
Overijssel	42.300	35.868
Utrecht	83.500	47.100
Zeeland	16.500	12.200
Zuid-Holland	235.460	157.758
<b>Total</b>	<b>917.193</b>	<b>622.874</b>

**The sum of the number of new dwellings in the provinces shall add up to a minimum of 900 000 dwellings, of which at least 600 000 shall be affordable dwellings.**

The total numbers of dwellings to be realized in all agreements sum up to at least the required totals specified in the CID annex, i.e. 900 000 dwellings in total of which 600 000 affordable. More specifically, adding up the numbers per province as shown in the table above, the total number of dwellings is 917 193 and the total number of affordable dwellings is 622 874.

**4. Commission Preliminary Assessment:** Satisfactorily fulfilled

**Number and name of the Milestone:** NL-C[C3]-R[1.R4]-M[73], Entry into force of legislation to increase the maximum annual rent increase for medium- to high-income tenants living in social housing

**Related Measure:** NL-C[C3]-R[1.R4], Increase income-dependency of rent

**Qualitative Indicator:** Provision in the legislation providing for its entry into force

**Time:** Q1 2022

### 1. Context:

The objective of the reform is to better align rents in social housing with a tenant's income and to enable more targeted provision of affordable housing to households with a low income while also helping housing corporations to increase investments in new rental properties. The reform does this by setting the new maximum increase of the monthly rent at EUR 50 for medium-income tenants and EUR 100 for high-income tenants.

Milestone 73 concerns the entry into force of legislation establishing this increased income-dependency of rent in social housing.

Milestone 73 is the only milestone or target of this reform.

### 2. Evidence provided:

	Name of the evidence	Short description
1	Summary document duly justifying how the milestone (including all the constitutive elements) has been satisfactorily fulfilled.	
2	Copy of the publication of the law on rent increases ('Wijziging huurverhogingsmogelijkheden en inkomensgrenzen Woningwet') in the Official Journal ( <i>Staatsblad</i> 2021, No. 167) on 02 April 2021	
3	Copy of the publication of the decision (by the Minister of Interior Affairs) on the entry into force of the law on rent increases ('Besluit tot vaststelling van het tijdstip van de wijziging huurverhogingsmogelijkheden en inkomensgrenzen Woningwet') in the Official Journal ( <i>Staatsblad</i> 2021, No. 167) on 22 April 2021	
4	Copy of the publication of the ministerial decree on the indexation of income thresholds ('Regeling tot wijziging van de Uitvoeringwet huurprijzen woonruimten (inkomensgrenzen inkomensafhankelijke huurverhoging 2022') in the Government Gazette ( <i>Staatscourant</i> 2021, No. 48113-n1) on 27 December 2021	
5	Copy of the publication of the ministerial decree on the 2022 maximum rent increase ('Regeling tot tot wijziging van de Uitvoeringsregeling huurprijzen woonruimte (maximum huurverhoging 2022') in the Government Gazette ( <i>Staatscourant</i> 2022, No. 5458) on 23 February 2022	

6	Copy of the publication of the ministerial decree on the freezing of rents in 2021 ('Regeling tot wijziging van de Uitvoeringsregeling huurprijzen woonruimte (huurbevriezing 2021') in the Government Gazette ( <i>Staatscourant</i> 2021, No. 14322) on 19 March 2021	
7	Copy of the publication of the law on residential rental prices ('Uitvoeringswet huurprijzen woonruimte') in the Official Journal ( <i>Staatsblad</i> 2002, No. 589) on 19 December 2002	

### 3. Analysis:

The justification and evidence provided by the Dutch authorities covers all constitutive elements of the milestone.

**Entry into force of legislation increasing the possible maximum admissible annual increase in monthly rent in social housing to EUR 50 for middle-income tenants and EUR 100 for high income tenants starting as from 1 January 2022. Middle-income tenants shall be defined as having an annual income between EUR 47 948 and EUR 56 527 (single person households) or between EUR 55 486 and EUR 75 369 (multi-person households) (2022 price level). High-income tenants shall be defined as having annual incomes above the upper limit of these margins.**

#### Entry into force

- The ministerial decree on the 2022 maximum rent increase was published in the Government Gazette on 23 February 2022. Article II of this ministerial decree specifies that the entry into force date of the ministerial decree shall be 1 July 2022.
- The Council Implementing Decision required that the legislation related to the 2022 maximum rent increase shall enter into force by 1 January 2022. The ministerial decree on the 2022 maximum rent increase entered into force on 1 July 2022. Whilst this constitutes a minimal substantive deviation from the requirement of the Council Implementing Decision, the 2022 maximum rent increase had entered into force at the time of the assessment.

#### Specification of income thresholds used to determine maximum rent increase

- Article II A of the law on rent increases amends article 10 of the law on residential rental prices to specify the income limits applicable to determine the maximum rent increase for households. Article II A also specifies that the income thresholds in the aforementioned article 10 are to be adjusted each year on the basis of a ministerial decree.
- The ministerial decree on the indexation of income thresholds was published on 21 December 2021 in the Government Gazette and, as specified in article II of the ministerial decree, entered into force on 1 January 2022. Article II of this decree amends the article 10 of the law on residential rental prices to set the new income thresholds applicable in 2022.
- The following table shows the resulting income thresholds for 2022, found in the amended article 10 of the law on residential rental prices:

Article	Single-person household (EUR)	Multi-person household (EUR)
10.2.a.1°	< 47.948	< 55.486
10.2.a.2°	47.948 – 56.526	55.486 – 75.369
10.2.a.3°	> 56.527	> 75.369

- The terms “middle-income tenants” and “high-income tenants” are not used explicitly in the law or ministerial decree. However, the thresholds clearly define three categories with the limits in euro for the middle-income and high-income groups corresponding to the requirement in the CID. The thresholds in article 10.2.a.2° in the context of this assessment are considered to define the middle-income group, the thresholds in article 10.2.a.3° are considered to define the high-income group.

#### Maximum annual increase in rent

- Article I of the ministerial decree on the 2022 maximum rent increase sets the maximum annual increase in monthly rent at EUR 50 for households with an income falling within the thresholds of article 10.2.a.2° (the middle-income group) and EUR 100 for households with an income falling within the *thresholds of 10.2.a.3° (the high-income group)*. The explanations section of the ministerial decree (page 3, second paragraph) explains that the limitation to rent increase concerns the social rental sector.

#### Comparison to 2021 maximum rent increase

- The milestone description states that the maximum admissible annual increase in monthly rent in 2022 shall be increased to EUR 50 and EUR 100. This means that a comparison with the rent increase applicable in 2021 is necessary to determine whether the EUR 50/100 respectively is indeed an increase.
- Article I of the ministerial decree on the freezing of rents in 2021 sets the maximum admissible annual increase in monthly rent for households (all income groups) at zero as from 1 July 2021. This makes it clear that changing the maximum rent increase to EUR 50/100 respectively is indeed an increase compared to 2021.

#### **4. Commission Preliminary Assessment:** Satisfactorily fulfilled

**Number and name of the Milestone:** NL-C[C3]-R[1.R5]-M[74], Letter to Parliament on planning process bottlenecks identifying possible solutions published

**Related Measure:** NL-C[C3]-R[1.R5]: Accelerating residential construction process and procedures

**Qualitative Indicator:** Provision in the regulation indicating its entry into force

**Time:** Q4 2022

### 1. Context:

This reform aims to remove bottlenecks in the planning and permitting procedure for residential construction processes in the Netherlands. Currently it takes about 10 years in total to realize new housing projects, and the Dutch authorities aim to reduce this amount of time by speeding-up planning and permitting procedures. The reform includes the publication of an action plan and the implementation of some of the steps included in the action plan.

Milestone 74 involves the publication of an action plan that includes steps to address bottlenecks that delay the planning process, permit issuances and legal procedures related to residential building projects. The action plan shall also include a timetable with concrete steps for the implementation of the actions.

Milestone 74 is the first milestone of the reform, and it will be followed by milestone 75 on the implementation of some of the steps included in the action plan. The reform has a final expected date for implementation on 31 March 2024.

### 2. Evidence provided:

	Name of the evidence	Short description
1	Summary document duly justifying how the milestone (including all the constitutive elements) has been satisfactorily fulfilled.	
2	A copy of the letter from the Minister of the Interior and Kingdom Relations to parliament (published on 18 January 2023) accompanying the action plan "Plan van aanpak versnellen processen en procedures woningbouw". The letter is published online: <a href="https://www.rijksoverheid.nl/documenten/kamerstukken/2023/01/18/kamerbrief-over-aanbieding-plan-van-aanpak-versnellen-processen-en-procedures-woningbouw">https://www.rijksoverheid.nl/documenten/kamerstukken/2023/01/18/kamerbrief-over-aanbieding-plan-van-aanpak-versnellen-processen-en-procedures-woningbouw</a>	
3	Copy of the action plan "Plan van aanpak versnellen processen en procedures woningbouw" published on 18 January as attachment to the letter mentioned under point (ii).	

### 3. Analysis:

The justification and evidence provided by the Dutch authorities covers all constitutive elements of the milestone.

**Publication of a letter to Parliament from the Ministry of the Interior and Kingdom Relations identifying actions to address bottlenecks that delay the planning process, permit issuances and legal procedures related to residential building projects, including through legislative amendments if necessary; [...]**

- The Dutch authorities have shared a copy of a letter to Parliament from the Minister of the Interior and Kingdom Relations and, as an attachment, an action plan identifying actions to address bottlenecks that delay the planning process, permit issuances and legal procedures related to residential building projects.
- The letter and action plan were published on 18 January 2023 and a link has been provided to the website where the action plan and letter to parliament have been published.
- The action plan contains a wide range of proposed steps to speed-up planning and permitting procedures in the three main bottleneck areas mentioned in the milestone description (planning process, permit issuances and legal procedures). Examples of actions proposed in each of the main areas include:
  - i) Planning processes:
    - The action plan (page 15) contains proposals to speed up planning processes of residential building projects by stimulating a new way of working where several steps are taken in parallel instead of sequentially.
    - The action plan (page 15) also contains proposals to increase awareness in municipalities and other stakeholders in the planning process about the most efficient way to plan new housing construction. This is done through trainings and information campaigns.
    - The action plan (page 16) mentions that an expert team in housing construction will be available to assist municipalities in their planning processes.
  - ii) Permit issuances:
    - The action plan (page 27) mentions initiatives to digitalise and standardise the permitting process of residential building projects to make it more efficient and save time.
  - iii) Legal procedures:
    - The action plan (page 16) mentions that the Ministry of Interior Affairs will check with judicial parties what steps can be taken to speed up procedures regarding appeals against housing construction plans or permits. This includes for example prioritising court cases regarding housing construction projects and stimulating finding solutions through mediation instead of (lengthy) appeal procedures.
    - The action plan (page 31) contains a proposal to change the procedure for judicial appeals against permits of residential building projects. Currently a permit can be appealed against twice, the proposal is to reduce this to only one appeal possibility when it concerns at least 12 houses. This would require legislative changes.
    - The action plan (page 32) contains a proposal to require administrative judges to provide a verdict in cases regarding housing permitting or planning within 6 months. This would require legislative changes.
- The action plan includes proposals for legislative amendments whenever necessary (such as page 31 on the judicial appeals against permits and page 32 on the timing of the provision of verdicts).

**[...] and a timetable with concrete steps for the implementation of the actions.**

Page 37 of the action plan contains a timeline specifying when the actions are going to take place and be completed.

**4. Commission Preliminary Assessment: Satisfactorily fulfilled**

**Number and name of the Milestone:** NL-C[C3]-I[2.11]-M[81], Entry into force of the regulation establishing the renovation subsidy scheme

**Related Measure:** NL-C[C3]-I[2.11], Subsidy scheme for sustainability of public sector real estate

**Qualitative Indicator:** Provision in the regulation indicating its entry into force

**Time:** Q2 2022

### 1. Context:

The measure aims to support the improvement of energy efficiency in public real estate, such as buildings of local administrations or educational and health institutions and to reduce CO2 emissions as a result.

Milestone 81 concerns the entry into force of the regulation establishing the subsidy scheme.

Milestone 81 is the first milestone of the investment, and it will be followed by target 82, related to tracking the annual reduction in CO2 emissions. The investment has a final expected date for implementation on 31 March 2025.

### 2. Evidence provided:

	Name of the evidence	Short description
1	Summary document duly justifying how the milestone (including all the constitutive elements) has been satisfactorily fulfilled.	
2	Copy of the publication of <b>Regulation No. 2022-0000176983 (Subsidy scheme for sustainability of public sector real estate)</b> , laying down rules on encouraging the sustainability of social property in the Government Gazette ( <i>Staatscourant</i> ) (hereinafter referred to as “the Regulation”) on 30 June 2022.	

### 3. Analysis:

The justification and substantiating evidence provided by the Dutch authorities covers all constitutive elements of the milestone.

**Entry into force of the regulation establishing the renovation subsidy scheme. The subsidy scheme shall provide subsidies to owners of public real estate, such as buildings of local administrations or educational and health institutions, in order to improve the buildings’ energy efficiency.**

- i) The Regulation was published in the Government Gazette on 30 June 2022 and entered into force on 1 October 2022, as stated in Article 22 of the Regulation.
- ii) The Regulation establishes the renovation subsidy scheme. Articles 8-14 of the Regulation on combinations of energy efficiency improvements and Articles 15-21 of the Regulation on integral renovations detail the eligible costs, subsidy amounts and the necessary documentation the owner of public real estate needs to submit to receive the subsidy.
- iii) Article 1 of the Regulation defines what is meant by ‘public real estate’. This conforms with the description in the CID Annex as it includes, among others, properties owned by provinces,

municipalities or water authorities (Article 1, point a.), educational institutions (point b) and health institutions (point c).

- iv) Article 1 of the Regulation defines what is meant by actions that improve the buildings' energy efficiency. It requires the actions to 'directly lead to significant energy savings or reduction of CO<sub>2</sub> emissions'. Article 3 and Annex 3 of the Regulation contain a detailed description and list of eligible activities that fulfil these requirements and are thus eligible.

**4. Commission Preliminary Assessment:** Satisfactorily fulfilled



**Number and name of the Milestone:** NL-C[C4]-R[1.R1]-M[84], Entry into force of the law reducing the tax deduction for self-employed persons

**Related Measure:** NL-C[C4]-R[1.R1], Reduction of the self-employed persons' deduction

**Qualitative Indicator:** Provision in the law providing for its entry into force

**Time:** Q1 2023

### 1. Context:

The measure aims to reduce the difference in tax treatment of income between employees and self-employed persons. Self-employed persons receive a tax deduction which creates a difference in tax treatment between employees and self-employed persons.

Milestone 84 consists of the reduction of the tax deduction for self-employed persons to reduce the tax difference between employed and self-employed persons.

Milestone 84 is the only milestone or target of this reform.

### 2. Evidence provided:

	Name of the evidence	Short description
1	Summary document duly justifying how the milestone (including all the constitutive elements) has been satisfactorily fulfilled.	
2	Copy of the publication of the <b>Tax Plan 2023</b> [ <i>Belastingplan 2023</i> ], articles I-V] in the Official Journal [ <i>Staatsblad</i> 2022, No. 532; hereinafter referred to as 'Tax Plan 2023') on 27 December 2022 containing the amendments to the Income Tax Act of 2001 (" <i>wet inkomensbelasting 2001</i> ").	
3	Link to the Official digital law database of the Kingdom of the Netherlands, containing the legal text of the amended Income Tax Act of 2001 (" <i>wet inkomensbelasting 2001</i> "): <a href="https://wetten.overheid.nl/BWBR0011353/2023-01-01#Hoofdstuk3_Afdeling3.2_Paragraaf3.2.4">https://wetten.overheid.nl/BWBR0011353/2023-01-01#Hoofdstuk3_Afdeling3.2_Paragraaf3.2.4</a>	
4	Copy of the memorandum accompanying the Tax Plan 2023	

### 3. Analysis:

The justification and substantiating evidence provided by the Dutch authorities covers all constitutive elements of the milestone.

**Entry into force of the law on the reduction of the annual tax deduction for the self-employed persons from EUR 6 310 in 2022 to EUR 5 660 or less in 2023, EUR 5 010 or less in 2024, EUR 4 360 or less in 2025 and EUR 3 710 or less in 2026.**

The Tax Plan 2023 containing the amendments to the Income Tax Act of 2001 on the reduction of the tax deduction for self-employed persons was published in the Official Journal (*Staatsblad* 2022, No. 532) on

27 December 2022, and entered into force on 1 January 2023, as established by Article LIX,1 of the Tax Plan 2023.

- Article I, part M of the Tax Plan 2023 reduces the self-employed persons' annual tax deduction from EUR 6 310 in 2022 to EUR 5 030 in 2023. This change takes effect on 1 January 2023 as indicated in article LIX,1 of the Tax Plan 2023. This reduction is below and in line with the requirement as set out in the milestone (from EUR 6 310 in 2022 to EUR 5 660 or less in 2023).
- Article II, part F of the Tax Plan 2023 reduces the self-employed persons' annual tax deduction to EUR 3 750 in 2024. As indicated in this article, this change takes effect on 1 January 2024. This reduction is below and in line with the requirement as set out in the milestone description (EUR 5 010 or less in 2024).
- Article III, part D of the Tax Plan 2023 reduces the self-employed persons' annual tax deduction to EUR 2 470 in 2025. As indicated in this article, this change takes effect on 1 January 2025. This reduction is below and in line with the requirement as set out in the milestone description (EUR 4360 or less in 2025).
- Article IV of the of the Tax Plan 2023 reduces the self-employed persons' annual tax deduction to EUR 1 200 in 2026. As stated in this article, this change takes effect on 1 January 2026. This reduction is below and in line with the requirement as set out in the milestone description (EUR 3 710 or less in 2026).

**The law shall reduce the difference in tax treatment between employees and the self-employed.**

The Tax Plan 2023 minimises the difference in tax treatment between employees and the self-employed by reducing the annual tax deduction for self-employed persons, as outlined in the memorandum to the Tax Plan 2023. To offset the loss in the purchasing power of self-employed persons, the Tax Plan 2023 provides for an increase in the work discount (*'arbeidskorting'*), benefitting both employees and self-employed. This increase can be found in article I part DD of the Tax Plan 2023. This increase in the work discount further reduces the difference in tax treatment between employees and the self-employed.

**Furthermore, in line with the description of the measure, the maximum deductible amount shall reach its structural level of EUR 1 200 or less in 2030.**

Article V of the Tax Plan 2023 states that from 1 January 2027 onwards the maximum deductible amount shall reach a structural level of EUR 900. As indicated in this article, the structural level applies as of 1 January 2027. This reduction is below and in line with the requirement of the measure description of the milestone (EUR 1200 or less in 2030).

**4. Commission Preliminary Assessment: Satisfactorily fulfilled**

**Number and name of the Milestone:** NL-C[C4]-R[1.R3]-M[87]: Entry into force of the law reforming the second pillar of the pension system

**Related Measure:** NL-C[C4]-R[1.R3]: Reform of the second pillar of the pension system

**Qualitative Indicator:** Provision in the law providing for its entry into force

**Time:** Q1 2023

### 1. Context:

The aim of this measure is to reform the second pillar of the Dutch pension system, with the objective of making it more transparent, fair, shock-resilient and better suited for a changing labour market. The reform consists of the entry into force of the law reforming the second pillar of the pension system and binding decisions (invaarbepalingen) on the transfer of the pension assets of at least 66% of policy holders in the second pillar pension system to the new pension system.

Milestone 87 concerns the entry into force of the new pension law which shall abolish the systemic redistribution between different age groups (doorsneesystematiek), establish an age independent pension contribution rate with pension rights accrual matching the contribution and establish the rules for new pension contracts based on pension accrual in capital terms. The law shall apply immediately to pension contracts signed after the entry into force of the law. The law may provide for a reasonable transitional period for existing pension contracts. Pension contracts with a progressive contribution rate may be exempted from the new law.

Milestone 87 is the first step of the implementation of the reform and it will be followed by milestones 88 and 89 and target 89a, related to the transition plans, implementation plans and decisions on transfers to the new system respectively. The reform has a final expected date for implementation in Q2 2026.

### 2. Evidence provided:

	Name of the evidence	Short description
1	Summary document duly justifying how the milestone (including all the constitutive elements) has been satisfactorily fulfilled.	
2	Copy of the publication of 'Law amending the Pension Law, the Law on income taxation 2001 and any other legislation related to the amendment of the Pension Law' ('Wet tot wijziging van de Pensioenwet, de Wet inkomstenbelasting 2001 en enige andere wetten in verband met herziening van het pensioenstelsel') in the Official Journal ( <i>Staatsblad</i> 2023, No. 216) published on June 30, 2023 (hereinafter referred to as " <b>the new pension law</b> ")	
3	Copy of the publication of the decision by the Minister of Poverty, Participation and Pensions concerning the entry into force of the pension law ('Besluit van 22 juni 2023 tot vaststelling van het tijdstip van inwerkingtreding van de Wet toekomst pensioenen en het Besluit toekomst pensioenen')	

	in the Official Journal ( <i>Staatsblad</i> 2023, No. 218) published on June 30, 2023	
4	Copy of the publication of the Pension Law ('Wet houdende invoering van de pensioenwet') in the Official Journal ( <i>Staatsblad</i> 2006, No. 706) published on December 22, 2006 (hereinafter referred to as " <b>the old pension law</b> ")	

### 3. Analysis:

The justification and evidence provided by the Dutch authorities cover all constitutive elements of the milestone.

#### **Entry into force of the law reforming the second pillar of the pension system**

- The new pension law was published in the Official Journal on 30 June 2023.
- The new pension law amends 13 laws that are related to the second pillar of the pension system in the Netherlands. Out of these, mainly the old pension law is relevant in the context of assessing the CID requirements.
- The new pension law (article XV) states that the entry into force date of the law shall be determined by a separate decision. The decision on the entry into force was published in the Official Journal on 30 June 2023 and Article 1 states that the entry into force date of the new pension law is 1 July 2023.

Article I of the decision on the entry into force also mentions a few provisions that have a different entry into force date. The provisions which at the time of the assessment have not entered into force yet concern elements which fall outside the scope of the CID requirements for the pension reform.

#### **The law shall abolish the systemic redistribution between different age groups (*doorsneesystematiek*); establish an age independent pension contribution rate with pension rights accrual matching the contribution**

- Article I (J) of the new pension law amends article 17 of the old pension law to specify the new rules for the pension contribution rate.
- In the original article 17 it was specified that the pension right premiums were age-independent while pension right accrual was "at least proportional in time". This meant that the value of pension rights acquired relative to the pension premium paid increased with time, i.e. the pension premium paid by younger workers was undervalued (accruing less pension rights than expected) while the pension premium of older workers was overvalued (accruing more pension rights than expected). In other words, some of the pension premiums of young workers were used to increase pension right accrual of older workers.
- The new article 17 no longer contains provisions on pension right accrual being "at least proportional in time" and specifies that the pension contribution rate and individual pension capital accrual is always the same percentage of a person's wage, independent of age or other factors. This means that in the new system there is no longer a redistribution of pension premiums from younger to older workers, as the pension premiums paid by workers of all ages directly correspond to the pension rights they accrue.

#### **Establish the rules for new pension contracts based on pension accrual in capital terms**

- Article I (D) of the new pension law amends article 10 of the old pension law to specify the nature of pension contracts in the new system. The new article 10 stipulates that pension contracts can only take the form of a "defined contribution scheme". This means that the contract is based on

fixed contributions that result in a certain amount of accrued capital for individual pension fund participants.

- In contrast, the old system allowed for “defined benefit schemes”. This meant that pension fund participants were accruing fixed pension rights that did not necessarily correspond one to one to the total amount of pension premiums paid.

**The law shall apply immediately to pension contracts signed after the entry into force of the law.**

**The law may provide for a reasonable transitional period for existing pension contracts**

- Article I (UUU) of the new pension law adds a new article 220i to the old pension law. This new article states that the original (unamended) pension law - in its state on the day before the entry into force of the new pension law - remains applicable to existing pension contracts until the relevant pension provider switches to an amended pension agreement based on the amended law. It also states a clear end-date for this transitional period as the article specifies that the original (unamended) pension law is in any case no longer applicable beyond 1 January 2027.
- The end date of 1 January 2027 for the transitional period is assessed to be reasonable. Notably it is taken into account in this regard that the Dutch second pillar pension system is very large both in absolute terms and when compared to other countries, with total pension assets of EUR 1500 billion (150% of GDP). The current reform of the pension system is furthermore one of the largest and most complex reforms undertaken in the Netherlands in the past decades. In terms of implementation, it involves all employers and employees to renegotiate pension contracts and to agree on the terms of allocating the existing pension assets to individual pension participants. It also requires extensive preparatory work from pension funds, the supervisors and other implementing bodies while the process requires a large amount of checks and balances to ensure that the transition happens correctly while limiting litigation risk. Finally, one of the requirements of the CID description is to take the necessary steps to amend existing pension contracts and to transfer pension assets under existing pension contracts to the new system during the transitional period.
- The exception in Article 220i only applies to existing contracts, meaning the new law immediately applies to new pension contracts (finalised after the entry into force of the new pension law as defined in Article 1 of the decision on the entry into force, i.e. 1 July 2023).

**Pension contracts with a progressive contribution rate may be exempted from the new law**

- Article I (UUU) of the new pension law adds a new article 220e to the old pension law. This article provides that pension contracts with a progressive contribution rate that were already in place on the day before entry into force of the new pension law can deviate from some of the requirements in the new pension law. This concerns notably the provisions in article 17 (where it is determined that the contribution rate is equal for all participants). This allows these types of pension contracts to continue to have a progressive contribution rate (i.e. pension premium increasing with age).

**Furthermore, in line with the description of the measure, the law shall provide that, during this transitional period, the necessary steps shall be taken to amend existing pension contracts and to transfer pension assets under existing pension contracts to the new system**

- Article I QQQ of the new pension law adds a new chapter 6b to the old pension law with requirements for the transitional period. As part of this chapter, the following relevant articles are added to the old pension law:

- Article 150d requires employers and employees to agree on the amending of existing pension contracts and the terms and conditions for transferring existing pension assets to the new system.
- Article 150i requires pension funds to prepare an implementation plan detailing how the agreement on the amended pension contracts and the terms and conditions for the transfer of pension assets will be implemented.
- Articles 150l to 150o detail the requirements for the way the transfer of existing pension assets to the new system is done.

**4. Commission Preliminary Assessment:** Satisfactorily fulfilled

**Number and name of the Milestone:** NL-C[C4]-R[1.R4]-M[90]: Action plan to reduce bogus self-employment presented to Parliament

**Related Measure:** NL-C[C4]-R[1.R4]: Tackling bogus self-employment

**Qualitative Indicator:** Letter to Parliament detailing the action plan

**Time:** Q4 2022

### 1. Context:

This reform aims to reduce bogus self-employment. The reform consists of sending a letter to Parliament describing the planned actions, publication of a law modifying the definition of an employment relationship, and the abolishment of the enforcement moratorium on the law deregulating the assessment of employment relationships.

Milestone 90 concerns the sending of a letter by the Dutch government to Parliament which details the planned actions to reduce bogus self-employment. It shall describe (a) the steps to be taken to abolish the enforcement moratorium on the law deregulating the assessment of employment relationships, (b) the actions to intensify public enforcement of that law and increase the capacity of the relevant executing agencies, and (c) preventive actions against bogus self-employment.

Milestone 90 is the first step of the implementation of the reform, and it will be followed by Milestone 91 and 92, related to the publication in the Official Journal of the law that modifies the definition of an employment relationship, and the abolishment of the enforcement moratorium on the law deregulating the assessment of employment relationships. The reform has a final expected date for implementation on 31 March 2025.

### 2. Evidence provided:

	Name of the evidence	Short description
1	Summary document duly justifying how the milestone (including all the constitutive elements) has been satisfactorily fulfilled.	
2	Copy of Letter to Parliament 31311 Nr. 246 of 16 December 2022 Progress working with and as a self-employed person(s) ( <i>Kamerbrief Voortgang werken met en als zelfstandige(n)</i> , hereinafter referred to as "The letter") and a link to the letter <a href="https://www.tweedekamer.nl/kamerstukken/brieven_regering/detail?id=2022D54745&amp;did=2022D54745">https://www.tweedekamer.nl/kamerstukken/brieven_regering/detail?id=2022D54745&amp;did=2022D54745</a>	The letter describes measures in the field of working with and as self-employed person(s), to reduce bogus self-employment.

### 3. Analysis:

The justification and substantiating evidence provided by the Dutch authorities cover all constitutive elements of the milestone.

**The Dutch government shall send to Parliament a letter which shall detail the planned actions to reduce bogus self-employment.**

Page 1 of the letter states that the letter was from the Minister of Social Affairs and Employment and the State Secretary of Finance, on behalf of the Dutch government, and addressed to the Chairman of the House of Representatives (*Voorzitter van de Tweede Kamer der Staten-Generaal*), and thereby to the parliament. Additionally, the letter was published on the website of the House of Representatives.

Page 1 of the letter outlines the government's intention to create future-proof rules that restore the balance in working with and as self-employed persons. The government therefore aims to create a more equal playing field for different contract types, foster clarity on the distinction between employees and self-employed persons, and improve the enforcement of bogus self-employment, which should lead to a reduction in bogus self-employment. The planned actions are further detailed below as part of the other sub-parts of the milestone.

**It shall describe (a) the steps to be taken to abolish the enforcement moratorium on the law deregulating the assessment of employment relationships, [...]**

Section 4 of the Letter to Parliament 31311 Nr. 246 states that the government has the ambition to abolish, no later than 1 January 2025, the enforcement moratorium on the law deregulating the assessment of employment relationships. Section 4.d describes 17 proposed steps ("activiteiten") that are expected to create the right preconditions enabling the abolition of the enforcement moratorium. Below, two examples of such steps are detailed:

- The tax authority wants to establish a program structure, under central management, to provide specific attention to fiscally urgent files, at least until the moratorium is lifted. This should help to increase the currently limited concrete and objective information available on where the risks related to misclassifying employment relationships manifest most prominently. This structure offers the advantage of making specific knowledge readily available and expandable, and simplifying the management of these files, which should help to enforce the law deregulating the assessment of employment relationships once the enforcement moratorium is abolished.
- The tax authority plans to organise webinars for taxpayers or their tax service providers to address the issue of employment relationship classification. The webinars will serve as a means to share the tax authority's perspective on recent case law and potentially other societal developments. This facilitates the transfer of knowledge and provides the market with the tools to comply with the legal framework. Additionally, knowledge sessions with tax service providers are proposed with the aim to transfer knowledge and to gather feedback from the market. This action should help the market to adapt better to the abolishment of the enforcement moratorium on the law deregulating the assessment of employment relationships.

**[...] (b) the actions to intensify public enforcement of that law and increase the capacity of the relevant executing agencies, [...]**

Section 4.C of the letter describes 22 actions to reinforce and improve the public enforcement of the law deregulating the assessment of employment relationships. Among these, the following actions are expected to intensify the public enforcement of the law:

- Perform sampling on SMEs and large enterprises to gain insights into the compliance problems regarding the correct qualification of the employment relationship. By doing this, insights can be



gained about the degree of regulatory compliance and the size of the compliance deficit, which is currently not available information.

- The enforcement approach by the tax authority will be concretised, covering all stages of the enforcement model, to select the appropriate (enforcement) instruments. Currently, it is not well understood where the employment relationship qualification problems are and what factors contribute to non-compliance with legislation and regulations. Identifying and analysing the full population is therefore important to tailor the enforcement approach to specific target groups, and thereby intensify the public enforcement of the law.

The only relevant executing agency that is involved in the enforcement of the law deregulating the assessment relationship is the Tax Authority. The actions that are expected to increase the capacity of the tax authority include:

- The ambition to fully deploy the reserved capacity of 80 full-time equivalents (FTEs) for the tax authority to enforce the qualification of employment relationships in 2022, 2023 and 2024.
- The ability by the tax authority to determine bogus self-employment (also called “aanwijzing”) can be expanded. Currently, this determination can only be given to individual employers, but could be expanded to be given in other forms. For example, the possibility to give a determination to a whole job sector in case the tax authority does not find it plausible that persons who work in that sector are self-employed.

#### **[...] and (c) preventive actions against bogus self-employment.**

Section 2 of the letter describes actions that are aimed at creating a more equal playing field between different types of employment relationships. This should reduce the current unequal treatment of different contract forms in terms of labour law, social security and taxation, which has resulted in workers not having the type of contract that suits the nature of their work, providing among others an improper incentive to perform work as a self-employed, leading to bogus self-employment.

The section includes a plan for the Dutch Authority for Consumers and Markets (ACM) to update its Guideline on Tariff Agreements for Self-Employed Workers in line with the Communication from the European Commission (2022/C 374/02), as well as steps to expand the number of seats for the representation of self-employed persons in the Social and Economic Council (*Socialeconomische Raad*) to strengthen their influence.

Section 3 of the letter contains three additional proposed actions to prevent bogus self-employment by clarifying whether a worker should be considered an employee or self-employed. This should contribute to true self-employed people being able to do business while employees shall have sufficient protection, thereby reducing the chance for bogus self-employment. The actions include a clarification to the open standard "working in the service of" from Section 7:610 of the Civil Code, the introduction of a legal presumption (*rechtsvermoeden*) for self-employed, who when earning less than a certain hourly rate, can go to court to rule if there is an employment contract, and the development of a web module, which provides employers an indication of how a specific employment relationship should be qualified.

#### **4. Commission Preliminary Assessment: Satisfactorily fulfilled**

**Number and name of the Target:** NL-C[C4]-I[1.I1]-T[93], Career advice to support individuals

**Related Measure:** NL-C[C4]-I[1.I1], The Netherlands continues to learn

**Quantitative Indicator:** Number of individuals receiving career advice

**Baseline:** 0

**Target:** 68,705

**Time:** Q3 2020

### 1. Context:

The objective of the investment is to strengthen the labour market position and employability of individuals in the Dutch labour market in order to prevent them from becoming unemployed or, if they are unemployed, to help them get back to work. The investment provides financial support for three temporary subsidy schemes: career advice, skill trainings, and sectoral pathways that provide sector-specific support for up- and reskilling opportunities.

Target 93 requires 68,705 individuals to receive career advice by qualified career advisors to support them in reorienting their careers. Under this subsidy scheme, career advisors submit grant applications and are the grant recipients for career advice given to individuals.

Target 93 is the first step of the implementation of the investment and is accompanied by target 94 in this payment request, related to skill trainings. It will be followed by target 95 and milestone 96 related to sectoral pathways to support the transition to employment and an independent evaluation of the socio-economic impact of the measure. The investment has a final expected date for implementation on 31 December 2024.

### 2. Evidence provided:

	Name of the evidence	Short description
1	<b>Summary document</b> duly justifying how the milestone (including all the constitutive elements) was satisfactory fulfilled	
2	Copy of the publication of the <b>regulation setting up the professional development advice</b> under the measure “NL continues to learn” (hereinafter referred to as “the Regulation”), published in the Government Gazette [Staatscourant 2020, No. 39785] on 24 July 2020	The Regulation defines the criteria for qualified career advisors.
3	An excel <b>list of 67,890 individuals</b> who have received professional development advice by qualified career advisors	For each individual, a unique identifier (registration code) was provided.

4	A sample of 60 individuals selected by the Commission	For each individual the following documentary evidence was provided: an anonymised copy of the document called <b>declaration of prestation</b> "prestatieverklaring" proving that the individual has received professional development advice by a qualified career advisor.
5	Report by executing body on career advice to support individuals	Letter by the executing body ( <i>Uitvoering Van Beleid, UVB</i> ), endorsed by the Ministry of Social Affairs and Employment, which contains more information on the number of individuals that received professional development advice.
6	Screenshot of the Central Bureau of Statistics webpage	Shows the effects of the COVID-19 pandemic on the Dutch labour market.

### 3. Analysis:

The justification and substantiating evidence provided by the Dutch authorities cover all constitutive elements of the target.

**68 705 individuals shall receive professional development advice to reorient their careers provided by qualified career advisors.**

- Article 2 of the Regulation outlines the aim of the subsidy scheme, which is to provide participants with free development advice to provide insight and significantly increase their labour market chances.
- Annex 1 of the Regulation specifies that career advice consists of a labour market scan, advice on their current situation and future prospects, a development plan to reorient their career, and an interview report.
- Article 4 of the Regulation sets out the necessary qualifications of career advisors in order to receive the grant to provide career advice to individuals. Specifically, the career advisor needs to have at least: a higher professional education (*Hoger beroepsonderwijs, HBO*) from a vocational university, three years of relevant work experience, comply with a code of conduct. Alternatively, a career advisor is deemed eligible if they are a registered or certified career professional with a Dutch association for career professionals and job coaches (*Nederlandse Orde voor Loopbaanadviseurs en Outplacement Consulenten, Noloc*). Additionally, the Regulation also provides that career advisors based in other Member States of the European Union, another state party to the Agreement on the European Economic Area, or Switzerland, and who also fulfil the earlier requirements, are also eligible for the subsidy scheme.
- The grant application period was from 1 October 2020 to 30 September 2021, as stated in Article 8 of the Regulation.

On the basis of the list of 67,890 individuals, the Commission drew a sample of 60 randomly selected individuals. For each sampled individual, the Dutch authorities provided a declaration of prestation "prestatieverklaring" document signed by the individual that received professional development advice and the qualified career advisor. In total there are 60 documents for the sample that can be attributed to each individual by the unique registration code (evidence 4). Each of the 60 sampled individuals were

checked in the following way by linking each document to the information provided in the Excel sampling list of 67,890 individuals (evidence 3). The checks done in detail are:

- i) The registration code in the list of individuals that received professional development advice matches with the code in the declaration of prestation;
- ii) The start date of the professional development advice was later than 1 February 2020, as stipulated by the RRF Regulation;
- iii) The signatures of both the qualified career advisor and the individual that received professional development advice are present in the declaration of prestation.

The evidence provided for the sample of 60 individuals confirms that this requirement of the target has been met.

The Council Implementing Decision required 68,705 individuals to receive professional development advice to reorient their careers. The Dutch authorities submitted a list of 67,890 anonymised individuals who received professional development advice (evidence 3). Whilst this constitutes a minimal numerical deviation of 1.2% from the requirement of the Council Implementing Decision, the overall objective of this target is considered met notwithstanding this minor deviation. On this basis, it is considered that this constitutive element of the target is satisfactorily fulfilled.

**Furthermore, in line with the description of the measure, the investment shall provide financial support for the first of three temporary subsidy schemes, relating to professional development advice to support people in reorienting their careers.**

Articles 3 and 10 of the Regulation establish that a subsidy (financial support) for professional development advice to individuals is provided by the Minister of Social Affairs and Employment. Target 93 is the first of the three temporary subsidy schemes under this investment and relates to professional development advice to individuals. The other two subsidy schemes are related to target 94 on skills training for individuals, and target 95 on sectoral pathways that provide sector-specific support for up- and reskilling opportunities.

**4. Commission Preliminary Assessment:** Satisfactorily fulfilled

**Number and name of the Target:** NL-C[C4]-I[1.11]-T[94], Skill trainings to support individuals

**Related Measure:** NL-C[C4]-I[1.11], The Netherlands continues to learn

**Quantitative Indicator:** Number of individuals receiving skills training

**Baseline:** 0

**Target:** 119 000

**Time:** Q4 2022

### 1. Context:

The objective of the investment is to strengthen the labour market position and employability of individuals in the Dutch labour market in order to prevent them from becoming unemployed or, if they are unemployed, to help them get back to work. The investment provides financial support for three temporary subsidy schemes: career advice, skill trainings, and sectoral pathways that provide sector-specific support for up- and reskilling opportunities.

Target 94 requires 119,000 individuals to participate in free training and learning activities to support skills development. Under this subsidy scheme, trainers, training collectives or partnerships, submit grant applications and are the grant recipients for skills training given to individuals.

Target 94 is the second step of the implementation of the investment and is accompanied by target 93 in this payment request, related to professional development advice to support people in reorienting their careers. It will be followed by target 95 and milestone 96 related to sectoral pathways to support the transition to employment and an independent evaluation of the socio-economic impact of the measure, respectively. The investment has a final expected date for implementation on 31 December 2024.

### 2. Evidence provided:

	Name of the evidence	Short description
1	<b>Summary document</b> duly justifying how the milestone (including all the constitutive elements) was satisfactory fulfilled	
2	Copy of the publication of the <b>regulation setting up the training and learning activities</b> under the measure “NL continues to learn” (hereinafter referred to as “the Regulation”), published in the Government Gazette [ <i>Staatscourant</i> 2020, No. 46170] on 04 September 2020	
3	Excel <b>list of 114,156 individuals</b> who participated in free training and learning activities to support skills development	For each individual, a unique identifier (social security number) was provided.
4	Sample of 60 individuals selected by the Commission	For each individual a <b>proof of participation</b> (certificate of participation) was provided as documentary evidence, proving that the individual has participated in free

		training and learning activities to support skills development. Also for each individual, a <b>document linking</b> the social security number from the excel list (evidence 3) to the full name on the proof of participation, was provided.
5	Report by executing body on career advice to support individuals	Letter by the executing body ( <i>Uitvoering Van Beleid, UVB</i> ), endorsed by the Ministry of Social Affairs and Employment, which contains more information on the number of individuals that have participated in free training and learning activities.
6	Report by a certified accountant on the participation for each of the projects financed	70 reports were provided for the participating projects.
7	Screenshot of the news article ' <i>Sociaal pakket geeft mensen zekerheid dat ze geholpen worden</i> ' published by the Ministry of General Affairs on 23 September 2020	Explains how the Social Package, of which the Netherlands continues to learn is part, supports individuals on the Dutch labour market.
8	Screenshot of the <i>Central Bureau of Statistics</i> webpage	Explains the effects of the COVID-19 pandemic on the Dutch labour market.
9	Report by <i>SEO Economisch Onderzoek</i> , a research centre linked to the University of Amsterdam	A report in which sectoral tightness on the Dutch labour market is evaluated.
10	Evaluation report by <i>SEO Economisch Onderzoek</i> on the sectoral pathways workstream	A report in which sectoral pathways, the third workstream of Netherlands continues to learn, is evaluated.
11	Copy of the publication of the <b>regulation setting up the sector-specific training and learning activities</b> under the measure "NL continues to learn" (hereinafter referred to as "the sector-specific Regulation"), published in the Government Gazette [ <i>Staatscourant</i> 2021, No. 10313] on 02 March 2021	

### 3. Analysis:

The justification and substantiating evidence provided by the Dutch authorities cover all constitutive elements of the target.

### **119 000 individuals shall participate in free training and learning activities to support skills development.**

The free training and learning activities have been provided based on two subsidy schemes.

The first subsidy scheme is described in the Regulation:

- Article 2 of the Regulation describes the aim of the subsidy scheme, which is to develop the participants' knowledge and skills by offering them training programs free of charge, which are expected to contribute to increasing their chances on the labour market or to regaining employment.
- Article 5 of the Regulation outlines the general requirements for training and subparagraph 2b sets out that the training and learning activities are provided to participants free of charge. Subparagraph 2a of Article 5 of the Regulation lists the certifications or quality marks that the trainings are required to have. Furthermore, subparagraph 2c of Article 5 describes the requirement that the training offered should be relevant to the labour market.
- There were three application periods for the grants, as stated in Articles 11 and 11a of the Regulation: a first application period from 1 October 2020 to 15 October 2020, a second application period from 2 November 2020 to 16 November 2020, and a third application period from 1 September 2021 to 8 September 2021.

The second subsidy scheme is described in the sector-specific Regulation:

- Article 2 of the sector-specific Regulation describes the aim of the subsidy scheme, which is to facilitate and encourage job retention or transition to other employment through the provision of grants.
- Article 3 of the sector-specific Regulation outlines the eligible activities and subparagraph 6 sets out that all activities, including the skills training, are provided to the participants free of charge.
- Subparagraph 3a of Article 8 of the sector-specific Regulation lists the certifications or quality marks that the trainings are required to have. Furthermore, subparagraph 3b of Article 8 describes the requirement that the training offered should be relevant to the labour market.
- The grant application period was from 15 March 2021 to 26 April 2021, as stated in Article 19 of the sector-specific Regulation.

The Council Implementing Decision states that 119 000 **individuals shall participate** in free training and learning activities to support skills development. Individuals could participate in multiple trainings in different categories, where the categories differed in terms of training length and the minimum value of the training. Article 6 of the Regulation establishes three distinct training categories: (1) category A – trainings with a minimum value of €150 and length of at least 8 hours; (2) category B – trainings with a minimum value of €500 and length of at least 16 hours; and (3) category C – trainings with a minimum value of €1000 and a study load equivalent to a certificate or diploma at secondary or higher education level. The value of the training specified in the categories does not represent the cost for participants, given that, as explained above, the trainings were subsidised and therefore offered free of charge.

Article 9 of the sector-specific Regulation specifies four categories (C1 to C4), with the first category not falling under target 94 because the minimum value of the training (€75) does not correspond to categories A, B, and C from Article 6 of the Regulation. Training categories C2, C3 and C4 are equivalent to categories A, B and C from Article 6 of the Regulation, respectively, both regarding the minimum value and the training length. Based on the description of the trainings in Article 6 of the Regulation and Article 9 of the sector-specific Regulation, the types of training provided in the three categories are considered to be substantially different and supporting different skills. Therefore, if an individual completed a training in two or three different categories this was considered as two or three participations in training. Individuals within this target are therefore interpreted as participants per category of training.

On the basis of the list of 114,156 participants the Commission drew a sample of 60 randomly selected participants. For each sampled participant, the Dutch authorities provided a proof of participation (certificate of participation), proving that the individual has participated in free training and learning activities to support skills development (evidence 4). The Dutch authorities also provided for each sampled participant, a document linking the social security number from the list of participants (evidence 3) to the full name on the proof of participation. This linking document took the form of either a consent form for processing personal data, a copy of an identification document, or an extract from an administration platform. Each of the 60 sampled participants were checked by linking each document to the information provided in the Excel sampling list of 114,156 participants (evidence 3). The following checks were done:

- The unique identifier (social security number) in the list of individuals that participated in free training and learning activities matches with the identifier in the linking document;
- The full name on the linking document matches with the full name on the proof of participation document;
- The start date of the training on the proof of participation document was later than 01 February 2020, as stipulated by the RRF Regulation.

The evidence provided for the sample of 60 individuals confirms that this requirement of the target has been met. For one individual a clerical error was found in the linking document, where the full name of the participant was not spelled out correctly. The Dutch authorities provided a copy of an identification document for the participant, which contained the correct full name of the training participant as it appeared in the proof of participation document.

The Council Implementing Decision states that **119 000** individuals shall participate in free training and learning activities to support skills development. The Dutch authorities submitted a list of 114 156 participants in free training and learning activities (evidence 3). Whilst this constitutes a minimal numerical deviation of 4.1% from the requirement of the Council Implementing Decision, the overall objective of this target is considered met notwithstanding this minor deviation. On this basis, it is considered that this constitutive element of the target is satisfactorily fulfilled.

Furthermore, in line with the description of the measure, **the investment shall provide financial support for the second and third of three temporary subsidy schemes, relating to b) free training and learning activities provided to support skills development; and c) support to individuals via tailor-made sectoral pathways within a specific sector, specifically via skills training (element iii).**

Article 3 of the Regulation establishes that a subsidy (financial support) for training to individuals is provided by the Minister of Social Affairs and Employment. Target 94 is the second of the three temporary subsidy schemes under this investment and relates to skills training for individuals, both under type b) free training and learning activities provided to support skills development; and c) support to individuals via tailor-made sectoral pathways within a specific sector, element (iii). The other two subsidy schemes are related to target 93 on professional development advice to individuals, and target 95 on sectoral pathways that provide sector-specific support for up- and reskilling opportunities.

#### **4. Commission Preliminary Assessment:** Satisfactorily fulfilled



**Number and name of the Milestone:** NL-C[C4]-I[2.I3]-M[105]: Launch of an online platform to support pupils in the last year of secondary school

**Related Measure:** NL-C[C4]-I[2.I3]: Support to pupils in the last year of secondary school

**Qualitative Indicator:** Launch of an online platform

**Time:** Q4 2021

### 1. Context:

The measure aims to provide additional support to pupils in their last year of secondary school to mitigate learning losses due to the COVID-19 pandemic, such as those resulting from school closures.

Milestone 105 consists of the launch of an online platform by the Ministry of Education, Culture and Science to support pupils in the last year of secondary school with their final exam. The platform contains webinars, assignments and instructional videos on examination topics.

Milestone 105 is the first step of the implementation of the investment, and it is accompanied by target 106 in this payment request, related to at least 300 school boards receiving funding enabling them to support pupils in the last year of secondary school with the aim of mitigating learning losses due to the COVID-19 pandemic in this payment request.

### 2. Evidence provided:

	Name of the evidence	Short description
1	Summary document duly justifying how the milestone (including all the constitutive elements) has been satisfactorily fulfilled.	
2	Link to the website Study for the exam <a href="http://www.lerenvoorhetexamen.nl">www.lerenvoorhetexamen.nl</a> (hereinafter referred to as “the website”)	
3	Printout with data on the website Study for the exam ( <i>studeren voor het examen</i> ) on 23.03.2023	
4	Copy of the grant application for 2021 by Kennisnet to the Ministry of Education, Culture and Science	
5	Copy of the grant application for 2022 by Kennisnet to the Ministry of Education, Culture and Science	

### 3. Analysis:

The justification and substantiating evidence provided by the Dutch authorities cover all constitutive elements of the milestone.

**An online platform shall be launched by the Ministry of Education, Culture and Science [...]**

The website of the online platform [www.lerenvoorhetexamen.nl](http://www.lerenvoorhetexamen.nl) was accessed and checked by Commission services on 04 June 2024. The printout with data on the website shows that the platform was

launched on 29.04.2021. The 'About us' (*over ons*) section of the website states that the Ministry of Education, Culture and Science supports and finances the platform.

**[...] to support pupils in the last year of secondary school with their final exam. The platform shall contain webinars, assignments and instructional videos on examination topics.**

The website of the online platform [www.lerenvoorhetexamen.nl](http://www.lerenvoorhetexamen.nl) was accessed and checked by Commission services on 04 June 2024 and provides a variety of resources, such as webinars, assignments and instructional videos on examination topics, to support pupils specifically in their preparation for the final exams in the last year of secondary school. This support is provided for all four levels of secondary education (that is 'vmbo bb-kb', 'vmbo gl-tl', 'havo', 'vwo').

The website offers **webinars**, presented by teachers and experts, which cover exam strategies, study tips, and subject-specific knowledge to help students prepare for their final exams effectively. The website provides access to a wide range of **assignments**, including exams from previous years. The website offers **instructional videos**, providing in-depth explanations and examples. All these resources can be accessed on the homepage of the website by clicking on one of the four levels of secondary education (that is 'vmbo bb-kb', 'vmbo gl-tl', 'havo', 'vwo'), followed by clicking on the requested examination topics.

**4. Commission Preliminary Assessment:** Satisfactorily fulfilled

**Number and name of the Target:** NL-C[4.2]-I[3.2]-T[106], Support to school boards to provide extra support to pupils in the last year of secondary school

**Related Measure:** NL-C[C4]-I[2.I3], Support to pupils in the last year of secondary school

**Quantitative Indicator:** Number of school boards receiving funding

**Baseline:** 0

**Target:** 300

**Time:** Q4 2022

### 1. Context:

The objective of the investment is to provide additional support to pupils in their last year of secondary school to mitigate learning losses due to the COVID-19 pandemic, such as those resulting from school closures. The measure includes the launch of an online platform with learning materials and additional funding for school boards in secondary education.

Under target 106, at least 300 school boards shall receive funding enabling them to support pupils in the last year of secondary school with the aim of mitigating learning losses due to the COVID-19 pandemic. Schoolboards of schools with disadvantaged pupils shall receive additional financial support.

Target 106 is the second and last milestone or target of the investment, and it is accompanied by target 105 related to the launch of an online platform with learning materials to support pupils with their final exam in secondary school in this payment request.

### 2. Evidence provided:

	Name of the evidence	Short description
1	<b>Summary document</b> duly justifying how the target (including all the constitutive elements) was satisfactory fulfilled.	
2	Copy of the publication of the <b>Regulation on supplementary and special funding for final examinations 2021</b> (hereinafter referred to as “the Regulation”) in the Government Gazette [ <i>Staatscourant</i> 2021, No. 39387] on 30 August 2021.	The Regulation includes the methodology to calculate which schoolboards receive additional funding related to disadvantaged pupils.
3	An excel list containing 342 secondary schoolboards which have received funding.	Specifying for each school board its name and unique identifier (BRIN-number) was provided
4	Sample of 60 school boards selected by the Commission.	For each school board the following documentary evidence was provided: a copy of the funding decision of the Ministry of Education, Culture and Science.

5	Copy and link of the Regulation Education Plus arrangement for secondary education ( <i>Regeling leerplusarrangement vo</i> ), defining which schoolboards receive additional funding to disadvantaged pupils (hereinafter referred to as “the Regulation Education Plus”).	Link: <a href="https://wetten.nl/Regulations-Regulations%20for%20the%20learning%20plus%20arrangement%20for%20secondary%20education-BWBR0025977-overheid.nl">wetten.nl - Regulations - Regulations for the learning plus arrangement for secondary education - BWBR0025977 (overheid.nl)</a>
6	Copy and link of the Law on Special Education ( <i>Wet op de expertisecentra</i> ), defining which school boards receive additional funding to disadvantaged pupils.	Link: <a href="https://wetten.nl/Regulation-Law%20on%20centres%20of%20expertise-BWBR0003549-overheid.nl">wetten.nl - Regulation - Law on centres of expertise - BWBR0003549 (overheid.nl)</a>

### 3. Analysis:

The justification and substantiating evidence provided by the Dutch authorities cover all constitutive elements of the target.

**At least 300 school boards shall receive funding enabling them to support pupils in the last year of secondary school with the aim of mitigating learning losses due to the COVID-19 pandemic. Schoolboards of schools with disadvantaged pupils shall receive additional financial support.**

Funding was allocated on the basis of the Regulation on supplementary and special funding for final examinations 2021 (*Regeling aanvullende en bijzondere bekostiging eindexamens 2021*). The Regulation was published in the Government Gazette (*Staatscourant*) on 30 August 2021, and entered into force on 31 August 2021 in accordance with article 7.1. of the Regulation. The Regulation was in force until 1 April 2022, reflecting the nature of the temporary funding mechanism in relation to learning losses due to COVID-19.

The Regulation stipulates that the purpose of the funding program to schoolboards is to provide extra support to last year secondary school pupils in preparation for their exams (Article 3.1.a and 3.2.a) and to cover the additional costs incurred by schools, as an allowance, for the organisation, supervision and correcting resit examinations of pupils in the last year of secondary school (Article 3.1.c and 3.2.b). Article 3.1.b foresees funding for teachers in the North region, but this is not part of the investment under the Dutch RRP. The explanatory memorandum of the Regulation (*Memorie van Toelichting, page 4*) further describes the aim of the funding, namely to mitigate learning losses due to the COVID-19 pandemic.

Article 4.1 of the Regulation stipulates how schoolboard funding is allocated. The amount granted to each schoolboard is based on the type of schools managed by the schoolboard, and on the number of pupils in their last year of secondary school:

- Schoolboards are granted EUR 251 per student in the last year of secondary education school, which is a school not falling under the two following categories.
- Schoolboards are granted additional financial support of EUR 339 per student in the last year of secondary education school, in schools falling under Article 3 of Regulation Education Plus (*Regeling leerplusarrangement vo*). Schools under Regulation Education Plus are those with students who live in a postcode area that falls within the scope of a “poverty problem accumulation area” (as specified in Article 1 of the Regulation Education Plus), and therefore constitute schools with disadvantaged pupils.

- Schoolboards are granted additional financial support of EUR 389 per student in the last years of secondary education school, in schools falling under Article 1 of the Law of Special Education (*Wet op de expertisecentra*). Secondary special education is intended for children for whom a predominantly orthopedagogical and orthodidactic approach is needed (as specified in Article 2 of the Law of Special Education), and are therefore considered as schools with disadvantaged pupils.
- In addition, all schoolboards are granted EUR 223 per last year secondary student who takes a resit exam in one of their schools.

Evidence 3 presents the list of 342 school boards which have received funding under Articles 3.1.a, 3.1.c or 3.2 of the Regulation.

On the basis of the list of 342 schoolboards, the Commission drew a sample of 60 randomly selected schoolboards. For each sampled schoolboard, the Dutch authorities provided a funding decision of the Ministry of Education, Culture and Science. Each of the 60 sampled school boards were checked by linking, through the unique code (BRIN-code), the funding decision to the information provided in the Excel sampling list of 342 secondary school boards (evidence 3). The specific checks performed for each funding decision are:

- The name of the schoolboard and the unique code (BRIN-code) in the funding decision match those provided in the list.
- The date of the funding decision corresponds to academic year 2021/2022, as stipulated by the Regulation.
- The funding allocated to each school to support pupils in the last year of secondary school, based on Article 3.1.a, 3.1.c and 3.2, excluding funding under Article 3.1.b which does not qualify for this investment.
- Thirteen schoolboards sampled by the Commission are schools falling under the categories of special education listed above. For each of those schoolboards, the Commission concluded that all schoolboards with disadvantaged students received additional funding, in accordance with the CID requirement and the applicable Regulation.

The evidence provided for the sample of 60 schoolboards confirms that the requirements of the target have been met.

#### **4. Commission Preliminary Assessment:** Satisfactorily fulfilled

**Number and name of the Target:** NL-C[4.2]-I[4.1]-T[107], Number of digital devices provided.

**Related Measure:** NL-C[4.2]-I[4.1], Laptops and tablets for online and hybrid education to combat and mitigate learning losses

**Quantitative Indicator:** Number of digital devices

**Baseline:** 0

**Target:** 75 000

**Time:** Q4 2021

### 1. Context:

The measure aims at supporting schools to organise hybrid and online education to combat and mitigate learning losses due to the COVID-19 pandemic, such as those resulting from school closures.

Target 107 relates to providing 75 000 devices (laptops and tablets) to support online and hybrid education for students in primary education, secondary education and vocational secondary education.

Target 107 is the only milestone or target of this investment.

### 2. Evidence provided:

	Name of the evidence	Short description
1	<b>Summary document</b> duly justifying how the target (including all the constitutive elements) was satisfactory fulfilled	
2	Funding decision #1 (25 March 2020)	Decision of the Ministry of Education, Culture and Science to provide dedicated funding to SIVON for the acquisition of digital devices to support online and hybrid education for combating and mitigating learning losses
3	Funding decision #2 (6 May 2020)	Decision of the Ministry of Education, Culture and Science <b>to increase</b> the dedicated funding to SIVON for the acquisition of digital devices to support online and hybrid education for combating and mitigating learning losses
4	Funding decision #3 (17 July 2020)	Decision of the Ministry of Education, Culture and Science <b>to extend the duration of the measure</b> for SIVON for the acquisition of digital devices to support online and hybrid education for combating and mitigating learning losses
5	Funding decision #4 (12 October 2020)	Decision of the Ministry of Education, Culture and Science <b>to extend the duration of the measure</b> for SIVON for the acquisition of digital devices to support online and hybrid education for combating and mitigating learning losses

6	Funding decision #5 (10 December 2020)	Decision of the Ministry of Education, Culture and Science <b>to increase</b> the dedicated funding <b>and to extend the duration of the measure</b> for SIVON for the acquisition of digital devices to support online and hybrid education for combating and mitigating learning losses
7	Funding decision #6 (1 March 2021)	Decision of the Ministry of Education, Culture and Science <b>to increase</b> the dedicated funding to SIVON for the acquisition of digital devices to support online and hybrid education for combating and mitigating learning losses
8	Funding decision #7 (21 May 2021)	Decision of the Ministry of Education, Culture and Science <b>to extend the duration of the measure</b> for SIVON for the acquisition of digital devices to support online and hybrid education for combating and mitigating learning losses
9	Funding decision #8 (23 February 2022)	Decision of the Ministry of Education, Culture and Science <b>to extend the duration of the measure</b> for SIVON for the acquisition of digital devices to support online and hybrid education for combating and mitigating learning losses
10	Funding decision #9 (21 March 2024)	Decision of the Ministry of Education, Culture and Science <b>to set the final amount of the grant award as per the actual costs incurred</b> for the acquisition of digital devices to support online and hybrid education for combating and mitigating learning losses.
11	An excel list of 485 school boards to which 76,092 digital devices have been provided	Specifying for each school board: its unique identifier (BRIN-number), the type of schools it covers (primary, secondary, or vocational education school) and the number of digital devices provided by type of digital devices (laptops or tablets).
12	Activity report by the Ministry of Education, Culture and Science (19 April 2023)	Activity report on the dedicated funding to SIVON, including for the acquisition and distribution of devices.
13	Independent audit report (19 April 2023)	Audit report on the dedicated funding to SIVON, including for the acquisition and distribution of devices for the period from 25 March 2020 to 31 July 2022.
12	Independent evaluation report "Evaluation devices-during the coronacrisis 2021" ( <i>Evaluatie devices-acties tijdens de coronacrisis 2021</i> )	Independent report by ResearchNed commissioned by the Ministry of Education, Culture and Science evaluating the measure providing digital devices to support online and hybrid education.
13	Background note on the 'competent authority' in the Dutch education system	The background note is extra information about who is the competent authority is in the Dutch

		school system. This is relevant for understanding that the school board is the competent authority, and not schools themselves.
14	Report “a clear position for school boards” (“ <i>Een duidelijke positie voor school besturen</i> ”) issued in September 2023 by the Education Council ( <i>Onderwijsraad</i> )	This report explains the responsibilities of schoolboards within the Dutch educational system
15	Copy of the Law on primary education ( <i>Wet op het primair onderwijs</i> ), defining competent authorities and their responsibilities	
16	Copy of the Law on secondary education ( <i>Wet op het voortgezet onderwijs</i> ), defining competent authorities and their responsibilities	
17	Sample of 60 school boards selected by the Commission.	For each school board the following documentary evidence was provided: invoices and delivery slipsproof that devices have been delivered.

### 3. Analysis:

The justification and substantiating evidence provided by the Dutch authorities cover all constitutive elements of the target.

#### **75 000 digital devices shall be provided to schools to support online and hybrid education for students in primary education, secondary education and vocational education (MBO)**

Funding decision #1 (pages 1-2) indicates that the Ministry of Education, Culture and Science approved funding for SIVON, a cooperation of school boards, to acquire and distribute digital devices for distance education (that is online or hybrid education) to relevant school boards. Furthermore, funding decisions #2 to #8 demonstrate that the funding was increased three times and the duration of the measure was extended five times.

According to an activity report by the Ministry of Education, Culture and Science (page 4), by the end of the measure, SIVON acquired and distributed a total of 76 092 digital devices to schools and school boards in primary education, secondary education and vocational education. This is further confirmed by the independent audit report on page 1, and by the independent evaluation report issued by Research Ned (page 10). Funding decision #9 issued by the Ministry of Education, Culture and Science sets the final amount of the award to SIVON as per the actual costs incurred for the acquisition of 76 092 devices.

The evidence presented by the Netherlands shows that the transfer of devices has been organised to school boards. The law on primary education and the law on secondary education specify in Article 1, respectively, that the competent authority for a school is the municipality, public legal entity, association or foundation, which are all forms of school boards. The Education Council's report on pages 13 and 33 confirms that the government has a funding relationship with the competent authority, represented by



the schoolboard, which is the legal entity operating the schools. Schools themselves, being non-legal entities, do not have independent rights and obligations, and cannot directly own funds. Therefore, the schoolboard is responsible for making teaching materials available to students, which includes the responsibility for the acquisition of digital devices under this measure. Consequently, the delivery of devices to schoolboards enables schools to support online and hybrid education for students in primary, secondary and vocational secondary education.

Evidence 11 presents a list of 485 school boards in primary education, secondary education and vocational education to which a total of 76 092 digital devices were distributed overachieving the target of 75 000 digital devices.

On the basis of the list of 485 school boards, the Commission drew a sample of 60 randomly selected schoolboards, representing 8 525 digital devices being delivered. For each sampled schoolboard, the Dutch authorities provided proof of delivery of the devices. Specifically, the Commission services examined the official invoices issued by SIVON for devices delivered to the schoolboards that paid partially for the acquired devices. These invoices included the name and unique identifier of the schoolboard, and the type and number of digital devices. For schoolboards that did not make any contribution towards the acquisition and therefore lack invoices issued by SIVON, Commission services examined the delivery slips issued by private companies to each schoolboard, indicating the name of the schoolboard, and the type and number of devices delivered. The documents provided by the Dutch authorities for the selected sample can be attributed to each schoolboard by the unique BRIN number and name of the schoolboard.

Each of the 60 sampled schoolboards were checked by linking, through the unique code (BRIN-code), each document to the information provided in the Excel list of 485 schoolboards. The checks done in detail are:

- The name of the schoolboard and the unique code (BRIN-code) in the excel match those indicated by the proof of delivery.
- The number of devices delivered to the schoolboard as indicated in the excel list match those indicated by the proof of delivery.
- The type of devices delivered to the schoolboards are either laptops or tablets, as indicated in the excel list.

The evidence provided for the sample of 60 schoolboards confirms that this requirement of the target has been met.

#### **4. Commission Preliminary Assessment:** Satisfactorily fulfilled

**Number and name of the Milestone:** NL-C[5.1]-I[3-1]-T[113], Number of grants awarded

**Related measure:** NL-C[C5]-I[1.13], SET COVID-19

**Time:** Q4 2022

**1. Context:**

The objective of this investment is to support care for persons living at home, in particular for older people and people with vulnerable health, through e-health solutions during the COVID-19 pandemic.

Target 113 relates to award of grants for the use of different e-health applications by care providers in general medical care, district nursing, community care, mental healthcare and social assistance.

Target 113 is the only step of the implementation of the investment.

**2. Evidence provided:**

	Name of the evidence	Short description
1	Summary document duly justifying how the milestone (including all the constitutive elements) has been satisfactorily fulfilled.	
2	Copy of the publication of the of the SET <b>COVID-19 1.0 subsidy scheme</b> in the Government Gazette [Staatscourant], on 7 April 2020 by the Minister of Health, Welfare and Sport	This regulation is an amendment of the already existing “Stimuleringsregeling E-health Thuis”.
3	Copy of the publication of the of the SET <b>COVID-19 2.0 subsidy scheme</b> in the Government Gazette [Staatscourant], on 22 July 2020 by the Minister of Health, Welfare and Sport	
4	A list of 1143 grants awarded to care providers	For each grant awarded, a unique identifier was provided, as well as the name of the care provider.
5	A sample of 60 grants selected by the Commission	For each grant, the following documentary evidence was provided: a copy of the grant award notification, the application and the activity plan, incl. a brief description of the project, the starting date, the e-Health tools financed and the target group.
6	Evaluation report SET COVID-19 commissioned by the ministry of Health, Welfare and Sport, published 28 August 2023.	

### 3. Analysis

The justification and substantiating evidence provided by the Dutch authorities cover all constitutive elements of the target.

**At least 1 000 grants shall be awarded to care providers for the use of different e-health applications (such as online healthcare via video connection, diagnosis via an application and medicine dispensers) in general medical care, district nursing, community care, mental healthcare and social assistance.**

- Evidence 2 and 3 (the subsidy schemes SET COVID-19 1.0 and 2.0 as published in the Government Gazette on 7 April 2020 and 22 July 2020 respectively) confirm that the measure is meant for care providers in general medical care, district nursing, community care, mental healthcare and social assistance. (as indicated on the first page of both schemes). SET COVID-19 1.0 was open from 7 April until 20 June 2020. SET COVID-19 2.0 was open from 22 July until 30 November 2020.
- Evidence 4 includes a list of 1143 awarded grants with unique identifiers and names of the care providers (evidence 4). The numerical target of at least 1000 grants awarded has therefore been met (the actual award notifications were checked in a sample for 60 randomly selected grants, see below).
- The evaluation report published by consultancy bureau ZonMw, commissioned by the ministry of Health, Welfare and Sport (evidence 6, page 1) provides further assurance in this respect by stating the total number of awarded grants.

On the basis of the list of 1143 care providers which received a grant, the Commission drew a sample of 60 randomly selected grants provided to care providers (evidence 5). For each sampled grant, the Dutch authorities provided three documents: a copy of the grant award notification, the application and the activity plan, which includes a brief description of the project, the starting date, the e-Health tools financed and the target group. The specific checks performed for each grant are whether:

- The name of the care provider and unique identifier of the project in the list of awarded grants matches with the name and unique code in the grant award notification.
- The grant is awarded to a care provider (in the grant award notification).
- The care provider received a grant for an e-health solution (such as online healthcare via video connection, diagnosis via an application and medicine dispenser) for persons living at home (in the application).
- Grants were awarded to care providers in all of the following fields; general medical care, district nursing, community care, mental healthcare and social assistance .

The evidence provided for the sample of 60 grants confirms that the requirements of the target have been met.

**Furthermore, in line with the description of the measure, additional care and support required for these two categories of vulnerable people – older people and people with vulnerable health - shall be provided through e-health solutions during the COVID-19 pandemic.**

Article 1 of the subsidy schemes published in the Government Gazette confirm that the schemes are meant for older people and people with vulnerable health.

The support provided in the framework of the scheme happened during the pandemic. The subsidy schemes published in the Government Gazette confirm that the support was provided during the years

2020 and 2021, as of 28 February to July 2020 under SET COVID 1.0 (article 3b) and from July 2020 to September 2021 under SET COVID 2.0 (article 10)

**4. Commission Preliminary Assessment:** Satisfactorily fulfilled

**Number and name of the Milestone:** NL-C[5.1]-I[4-1]-M[114], Support system for researchers operational – Service desks

**Related measure:** NL-C[C5]-I[1.I4], Health Research Infrastructure (HRI)

**Time:** Q4 2022

### 1. Context:

The objective of this investment is to stimulate innovation in life sciences and the healthcare sector by standardising and connecting research data among seven University Medical Centres and the Eindhoven Technical University. The investment aims at developing an integrated national health data infrastructure, removing social and organisational barriers through agreement between public and private stakeholders, and creating a central point for data issuance.

Milestone 114 concerns the development and operationalisation of a support system for researchers composed of a service desk at regional level and a central service desk at national level.

Milestone 114 is the first step of the implementation of the investment and it will be followed by milestone 115 and milestone 116 related to the road map and the operationalization of a health data portal. The investment has a final expected date for implementation on 31 December 2023.

### 2. Evidence provided:

	Name of the evidence	Short description
1	Summary document duly justifying how the milestone (including all the constitutive elements) has been satisfactorily fulfilled.	
2	Government letter to Parliament, 9 April 2021 confirming national financing for the development of Health RI	
3	Reports from the meetings among Health RI (Research Infrastructure) service desks (30 March 2023, 16 May 2023 and 6 July 2023, issued by Health RI)	The meetings among the service desks were used to develop collaboration and identify best practices to facilitate data-driven research and innovation.
4	Agreement between Health RI and the service desks (version 1.0, valid until December 2024, issued by Health RI)	The document defines principles for connection of the service desks
5	Health RI central service desk user statistics (8 February 2024, issued by Health RI)	The user statistics document the number of active users, handled calls and registered studies
6	Links to the regional service desks and contact points of coordinators for the eight regional service desks	
7	Minutes of on-the-spot virtual check conducted by COM with regional service desks with log-in protected intranets (20 February 2024 and 14 March 2024)	On-the-spot checks were performed by COM to verify whether the regional service desks of Leiden, Rotterdam, Eindhoven, and

		Utrecht have been developed and are operational.
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### 3. Analysis

The justification and substantiating evidence provided by the Dutch authorities cover all constitutive elements of the milestone.

**A support system for researchers composed of a service desk at regional level and a central service desk at national level shall be developed and be operational.**

On 9 April 2021 the Ministers of Finance and of Economic and Climate Affairs sent a letter to Parliament (evidence 2) confirming the award of financing for a project called Health RI under the National Growth Fund. According to the letter, Health RI shall develop a support system for researchers (page 4) through the elimination of organisational obstacles to access to health data. The support system was developed through meetings between the central service desk of the Health RI consortium and the regional service desks of university medical centres (evidence 3), in which common standards and procedures for access to health research data were agreed upon. The system consists of an integrated infrastructure for reusable health data for research, policy and innovation at regional and at central level (evidence 3).

**At regional level** eight service desks have been developed in the university medical centres of Leiden, Rotterdam, Utrecht, Amsterdam, Groningen, Nijmegen and Maastricht, and the technical university of Eindhoven (evidence 3 and 4). The development of regional service desks is confirmed on page 6 of evidence 4 (agreements between Health RI and the service desks), which spells out all the actions (including timelines) for the service desks to develop a common health data infrastructure, such as making data findable, accessible, interoperable and reusable. In addition, the meeting reports of the regional service desks (evidence 3, pages 1-4) indicate the different topics discussed and agreed upon, such as the human capital agenda for the desks, the pilot projects and services to be provided by the desks.

Evidence 6 (pages 1-2) provides for each regional service desk an overview of the coordinators with contact details for each regional hub.

- The Commission services were able to verify whether each regional service desk has been developed and is operational: For the four regional service desks of Amsterdam, Groningen, Nijmegen and Maastricht, the websites of the service desks were accessed and checked by Commission services on 7 February 2024, using the links provided in evidence 6 (pages 1-2). The Commission could verify that the four regional service desks have been developed and are operational.
- As the regional service desks of Leiden, Rotterdam, Eindhoven, and Utrecht have log-in protected intranets, the Commission performed two online on-the-spot checks on 20 February 2024 for the service desks of Leiden, Rotterdam, Eindhoven, and on 14 March 2024 for the Utrecht service desk. Participating parties were European Commission Officials, Health RI employees and employees from the University Medical Centres concerned. The on-the-spot checks demonstrated that the four regional service desks have been developed and are operational (evidence 8).

**At central level**, evidence 5 (central service desk user statistics, 8 February 2024, issued by Health RI) on page 1 shows that a central service desk has been developed at national level as a central point of data issuance. For the Health RI central desk, user statistics are provided for the first six months of 2023. On the same page, it is indicated that in this period, there were 2,216 active users, 825 calls handled and 27 newly registered studies for Health RI services, showing that the central desk is operational.

**4. Commission Preliminary Assessment:** Satisfactorily fulfilled

**Number and name of the Milestone:** NL-C[C6]-R[1.R2]-M[119], Entry into force of the law tackling mismatches in the application of the arm's length principle

**Related Measure:** NL-C[C6]-R[1.R2], Tackling mismatches in the application of the arm's length principle

**Qualitative Indicator:** Provision in the law providing for its entry into force

**Time:** Q1 2022

### 1. Context:

The objective of the reform is to address mismatches arising from a different application or interpretation of the arm's length principle in corporate taxation. The aim of the reform is to neutralise transfer pricing or holding gains and losses in order to prevent situations of double non-taxation and to make the Dutch taxation system more transparent internationally.

Milestone 119 concerns the entry into force of the law tackling mismatches in the application of the arm's length principle, eliminating mismatches that relate to a difference in transfer pricing or in valuation of acquired assets which lead to double non-taxation.

Milestone 119 is the only milestone of this reform.

### 2. Evidence provided:

	Name of the evidence	Short description
1	Summary document duly justifying how the milestone (including all the constitutive elements) has been satisfactorily fulfilled.	
2	<b>Copy of Amendment No. 654 to the Corporate Income Tax Act (CITA)</b> tackling mismatches in the application of the arm's length principle published in the Official Journal ( <i>Staatsblad</i> 2021, No. 654) on 22 December 2021	
3	<b>Copy of the original Corporate Income Tax Act 1969</b> ( <i>Wet op de vennootschapsbelasting 1969</i> , CITA) of 31 December 2021.	

### 3. Analysis:

The justification and substantiating evidence provided by the Dutch authorities covers all constitutive elements of the milestone.

#### **Entry into force of the law tackling mismatches in the application of the arm's length principle.**

Amendment No. 654 to the Corporate Income Tax Act (CITA) was published in the Official Journal (*Staatsblad* 2021, No. 654) on 22 December 2021, and according to its Article III, entered into force on 1 January 2022. The same Article III establishes that the Amendment applies for financial years commencing on or after 1 January 2022.

**The law shall eliminate mismatches that relate to a difference in transfer pricing or in valuation of acquired assets which lead to double non-taxation.**



Amendment No. 654 amends the Corporate Income Tax Act (CITA) by adding the following Articles to the CITA:

- **Article 8ba** defines the arm's-length principle and entities affiliated to the taxable person. Such entities are defined as bodies with which the taxable person is linked within the meaning of Article 8 in the CITA.
- **Article 8bb** affects the tax profit and loss account. Any downward adjustment of the taxable profit of a Dutch entity is annulled unless the affiliated entity includes a corresponding upward adjustment in its profit tax base. In cases where the corresponding upward adjustment of the profit tax base by the affiliated entity is too low, any downward adjustment of the taxable profit of a Dutch entity is annulled. This means in practice that in informal capital structures, the Netherlands does not allow deductions when the foreign country does not tax the corresponding income of the foreign affiliated entity.
- **Article 8bc** states how mismatches originating from the difference in the valuation of acquired assets (and debts) are eliminated. When an asset is transferred from a transferring foreign affiliated entity to an acquiring Dutch entity, whereby the transferring entity takes into account a low(er) transfer price, while the acquiring Dutch entity activates the asset for tax purposes in the Netherlands at a high(er) arm's length price and depreciates on it, it is no longer allowed to write off the arm's length price for tax purposes.
- **Article 8bd** completes Article 8bc by introducing a specific provision for contributions, distribution of profits, mergers and demergers. For the purposes of accounting such transfers of assets and liabilities, the taxpayer should consider at maximum (for assets) or minimum (for liabilities) the value of the asset (or liability) in the transferor's tax base (the affiliated entity). The taxpayer must demonstrate the value included in the transferor's (the affiliated entity) tax base.
- Furthermore, **Article 35** aims at preventing a mismatch corresponding with articles 8bc and 8bd occurring in the period just before the implementation of this legislation. This depreciation limitation is introduced for informal capital situations in which a taxpayer has acquired a business asset from an affiliated entity in financial years starting on or after 1 July 2019 and before 1 January 2022 and which can still be depreciated in a financial year starting on or after 1 January 2022. In such cases, with effect from the financial years commencing on or after 1 January 2022, depreciation may no longer, in principle, be applied for tax purposes on the basis of the transfer price as determined in accordance with the arm's-length principle. This is unless the taxpayer can demonstrate that the transfer price was higher than the transfer price determined on the basis of the arm's length principle.

#### **4. Commission Preliminary Assessment:** Satisfactorily fulfilled

**Number and name of the Milestone:** NL-C[C6]-R[1.R3]-M[120], Entry into force of amendments to the Corporate Income Tax Act to eliminate tax exemptions on negative interests and positive currency results

**Related Measure:** NL-C[C6]-R[1.R3], Amendment of the specific interest deduction limitation to prevent tax exemptions on negative interests and positive currency results

**Qualitative Indicator:** Provision in the law amending the Corporate Income Tax Act providing for its entry into force

**Time:** Q1 2021

### 1. Context:

The objective of the reform is to avoid that the anti-abuse interest deduction limitation from the Corporate Income Tax Act (Article 10a), leads to undue tax exemptions. The reform aims to avoid that negative interest expenses and positive currency results benefit from tax exemption.

Milestone 120 concerns the entry into force of amendments to the Corporate Income Tax Act to avoid the application of the specific interest deduction limitation when it leads to an exemption from taxes on negative interests and positive currency results.

Milestone 120 is the only milestone or target of this reform.

### 2. Evidence provided:

	Name of the evidence	Short description
1	Summary document duly justifying how the milestone (including all the constitutive elements) has been satisfactorily fulfilled.	
2	<b>Copy of Amendment No. 540 to Article 10a of the Corporate Income Tax Act (CITA)</b> to avoid the application of the specific interest deduction limitation when it leads to an exemption from taxes on negative interests and positive currency published in the Official Journal ( <i>Staatsblad</i> , No. 540) on 23 December 2020.	
3	<b>Copy of the original Corporate Income Tax Act 1969</b> ( <i>Wet op de vennootschapsbelasting 1969</i> , CITA) of 31 December 2021.	

### 3. Analysis:

The justification and substantiating evidence provided by the Dutch authorities covers all constitutive elements of the milestone.

#### **Entry into force of amendments to the Corporate Income Tax Act (Article 10a) [...]**

Amendment No. 540 to the Corporate Income Tax Act (CITA) was published in the Official Journal (*Staatsblad*, No. 540) on 23 December 2020. Article XLII paragraph 1 section d) of Amendment No. 540

provides that the Amendment entered into force on 1 January 2021 and that it applies for financial years commencing on or after 1 January 2021.

**[...] which shall modify the specific interest deduction limitation in the Corporate Income Tax Act so that the application of this anti-abuse rule may not lead to an undue exemption from paying taxes on negative interests and positive currency results.**

Article XXV part A paragraph 2 of Amendment No. 540 specifies that the Dutch Corporate Income Tax Act of 1969 is modified by adding a paragraph 8 to Article 10a.

Article 10a, paragraph 1 of CITA specifies that interests, including costs and currency results, on debts to related parties used in connection with certain transactions are non-tax-deductible. Negative interest costs and positive currency results on debts fall outside the scope of Article 10a of CITA, and therefore remain tax exempt, which is considered an undue exemption. In that regard, Amendment No. 540 adds paragraph 8 to article 10a CITA, stating that the interest deduction limitation of paragraph 1 of Article 10a of CITA does not apply with regard to a debt that would lead to a lower amount of profit. In other words, the new paragraph (paragraph 8) is an anti-abuse rule that includes negative interest and positive currency results under the scope of article 10a CITA, avoiding undue exemptions.

**4. Commission Preliminary Assessment:** Satisfactorily fulfilled

**Number and name of the Milestone:** NL-C[C6]-R[1.R4]-M[121], Entry into force of amendments to the Corporate Income Tax Act to limit the exemption from taxes due to liquidation and cessation losses

**Related Measure:** NL-C[C6]-R[1.R4], Limitation of tax deductions due to liquidation and cessation losses

**Qualitative Indicator:** Provision in the law amending the Corporate Income Tax Act providing for its entry into force

**Time:** Q1 2021

### 1. Context:

The objective of the reform is to limit the deductibility of final losses of an entity (liquidation losses) and final losses of a permanent establishment (cessation losses) from the corporate income tax.

Milestone 121 concerns the entry into force of amendments to the Corporate Income Tax Act (CITA) to limit the exemption from taxes due to liquidation and cessation losses by introducing three necessary conditions (temporal, territorial and quantitative condition) for these losses to be tax-deductible.

Milestone 121 is the only milestone or target of this reform.

### 2. Evidence provided:

	Name of the evidence	Short description
1	Summary document duly justifying how the milestone (including all the constitutive elements) has been satisfactorily fulfilled.	
2	<b>Copy of Amendment No. 539 to the Corporate Income Tax Act (CITA)</b> to limit the exemption from taxes due to liquidation and cessation losses published in the Official Journal ( <i>Staatsblad</i> , No. 539) on 23 December 2020.	
3	<b>Copy of the original Corporate Income Tax Act 1969</b> ( <i>Wet op de vennootschapsbelasting 1969</i> , CITA) of 31 December 2021, before the implementation of the measure.	

### 3. Analysis:

The justification and substantiating evidence provided by the Dutch authorities covers all constitutive elements of the milestone.

#### **Entry into force of amendments to the Corporate Income Tax Act limiting the deductibility of liquidation and cessation losses.**

Amendment No. 539 to the Corporate Income Tax Act (CITA) to limit the exemption from taxes due to liquidation and cessation losses was published in the Official Journal (*Staatsblad*, No. 539) on 23 December 2020. Article III of Amendment No. 539 provides that the Amendment entered into force on 1 January 2021 and that it applies to financial years commencing on or after 1 January 2021.

Article I part B of Amendment No. 539 adds article 13d to the Dutch Corporate Income Tax Act 1969 (CITA), thereby amending the deductibility of liquidation losses. Article I part H of Amendment No. 539 adds article 15i to the Dutch Corporate Income Tax Act 1969 (CITA), thereby amending the deductibility of

cessation losses. These two new articles introduce the temporal, territorial and quantitative conditions for the deductibility of liquidation and cessation losses, as well as its specifications.

**The amendments shall introduce three necessary conditions for liquidation and cessation losses to be tax deductible:**

**a) Temporal condition: liquidation and cessation losses shall be deductible only if the liquidation or cessation is completed within three years following the calendar year in which the business operations ceased or the calendar year in which the decision thereon was taken.**

- Article I part B paragraph 4 of Amendment No. 539 provides the temporal condition for liquidation losses by introducing a new article 13d, paragraph 14, section c) to the CITA, **providing** that liquidation losses shall be deductible only if the liquidation or cessation is completed within three years following the calendar year in which the business operations ceased or, if the decision thereon was made earlier, the calendar year in which that decision was made.
- Article I part H paragraph 2 section b of Amendment No. 539 provides the same temporal condition for cessation losses by introducing a new article 15i, paragraph 5, section b) to the CITA.

**b) Territorial condition: liquidation and cessation losses shall be tax deductible only if the entity or permanent establishment was established in the Netherlands, the European Union, the European Economic Area or a third country with which the European Union has a qualifying Association Agreement.**

- Article I part B paragraph 1 of Amendment No. 539 provides the territorial condition for liquidation losses by introducing a new article 13d, paragraph 2, section a) to the CITA, providing that liquidation losses shall be tax deductible only if the dissolved entity is established in the Netherlands, the European Union, the European Economic Area or a third country with which the European Union has a qualifying Association Agreement.
- Article I part H paragraph 1 of Amendment No. 539 provides the same territorial condition for cessation losses by introducing a new article 15i, paragraph 4 to the CITA.

**c) Quantitative condition: tax deduction of liquidation losses shall be possible only if there is a decisive influence (controlling interest), which shall mean that the taxpayer has the power to determine the activities of the liquidated entity.**

- Article I part B paragraph 1 of Amendment No. 539 provides the quantitative condition for liquidation losses by introducing the new article 13d, paragraph 2, section a) to the CITA, providing that the taxpayer must have a 'qualifying interest' in the liquidated entity.
- Article I part B paragraph 1 of Amendment No. 539 also provides the introduction of a new article 13d, paragraph 4 to the CITA providing that a qualifying interest shall mean that the taxpayer has the power to determine the activities of the liquidated entity.

**The territorial and the quantitative conditions shall apply only when losses are above EUR 5 000 000.**

- Article I part B paragraph 1 of Amendment No. 539 establishes in the new paragraph 2 of article 13d of the CITA that a liquidation loss will be taken into account for an amount not exceeding EUR 5 000 000, unless the territorial and quantitative conditions are met. This means that the territorial and quantitative conditions do not apply for liquidation losses below EUR 5 000 000.

Article I part H paragraph 1 of Amendment No. 539 provides a similar EUR 5 000 000 threshold for the territorial condition for the deduction of cessation losses by introducing a new article 15i paragraph 4 to the CITA.

**4. Commission Preliminary Assessment:** Satisfactorily fulfilled

**Number and name of the Milestone:** NL-C[C6]-R[1.R5]-M[122], Entry into force of amendments to the Corporate Income Tax Act to limit loss relief

**Related Measure:** NL-C[C6]-R[1.R5], Limitation of loss relief

**Qualitative Indicator:** Provision in the law amending the Corporate Income Tax Act providing for its entry into force

**Time:** Q1 2022

### 1. Context:

The objective of the reform is to limit the possibility of offsetting profits against losses from other years to reduce tax payments. The reform aims to prevent companies with profitable activities in the Netherlands from circumventing the payment of corporate tax.

Milestone 122 concerns the entry into force of a Law amending the Corporate Income Tax Act (CITA) to limit loss relief.

Milestone 122 is the only milestone or target of this reform.

### 2. Evidence provided:

	Name of the evidence	Short description
1	Summary document duly justifying how the milestone (including all the constitutive elements) has been satisfactorily fulfilled.	
2	<b>Copy of Amendment No. 540 to the Corporate Income Tax Act (CITA)</b> to limit loss relief published in the Official Journal ( <i>Staatsblad</i> , No. 540) on 23 December 2020.	
3	Copy of the <b>publication of the Royal Decree</b> determining the entry into force of the measure as of 1 January 2022 (hereinafter referred to as "Royal Decree") published in the Official Journal ( <i>Staatsblad</i> , No. 257) on 3 June 2021.	
4	<b>Copy of the original Corporate Income Tax Act 1969</b> ( <i>Wet op de vennootschapsbelasting 1969</i> , CITA) of 31 December 2021, before the implementation of the measure.	

### 3. Analysis:

The justification and substantiating evidence provided by the Dutch authorities covers all constitutive elements of the milestone.

#### **Entry into force of amendments to the Corporate Income Tax Act to reduce loss relief in corporate taxation**

Amendment No. 540 to the Corporate Income Tax Act (CITA) to limit loss relief was published in the Official Journal (*Staatsblad*, No. 540) on 23 December 2020. Article XLII paragraph 2 of Amendment No. 540 provides that the Amendment enters into force at a date to be determined by a Royal Decree. The Royal

Decree (single article) published in the Official Journal (*Staatsblad*, No. 257) on 3 June 2021 provides that the Amendment No. 540 to CITA entered into force on 1 January 2022, and that it applies for financial years commencing on or after 1 January 2022.

Amendment No. 540 amends the Corporate Income Tax Act (CITA) in the following way:

**loss relief shall only be available up to 50% of the taxable profit exceeding the amount of EUR 1 000 000 [...]**

- Article XXVI part Ab of Amendment No. 540 amends Article 20, paragraph 2 of the CITA thereby limiting the amount of losses that can be offset. A new sentence provides that loss relief in a year can only take place up to an amount of EUR 1 000 000, and in case taxable profit exceeds EUR 1 000 000, 50% of the taxable profit can be offset.
- Article XXVI part Aa of Amendment No. 540 amends Article 15ab of the CITA, specifying that the same provisions apply to liquidation losses.
- Article XXVI part Bc of Amendment No. 540 amends Article 34i of the CITA, specifying that the same provisions apply to losses from holding and financial.

**[...] combined with an unlimited loss carry-forward period (previously up to six years).**

- Article XXVI part Ab of Amendment No. 540 amends Article 20, paragraph 2 of the CITA by replacing “the following six years” by “the following years”. Previously, Article 20, paragraph 2 of the CITA provided that a loss in a year can be (fully) offset with the taxable profits of the previous year (carry back) and the six following years (carry forward). With the amendment, the losses can be offset (carry forward) for an unlimited period of time.
- Article XXVI part Aa of the Amendment No. 540 provides that the same provision applies to liquidation losses.

**In the case of taxable profits below or up to EUR 1 000 000, losses shall be fully deductible.**

- Article XXVI part Ab of Amendment No. 540 amends Article 20 Paragraph 2 of the CITA. The amendment establishes that loss relief in a year can take place up to an amount of EUR 1 000 000. The same article limits the amount of losses that can be offset for taxable profit in excess of EUR 1 000 000.
- Article XXVI part Aa of Amendment No. 540 amends Article 15ab of the CITA, specifying that the provisions apply to liquidation losses.
- Article XXVI part Bc of Amendment No. 540 amends Article 34i of the CITA, specifying that the same provision applies to losses from holding and financial activities.

**4. Commission Preliminary Assessment:** Satisfactorily fulfilled



**Number and name of the Milestone:** NL-C[C7]-R[C7]-M[125], Repository system for Audit and Control: information for monitoring implementation of RRF

**Related Measure:** NL-C[C7]-R[C7], Audit and Control, Implementation and Complementarity

**Qualitative Indicator:** Audit report confirming repository system functionalities

**Time:** Q1 2023

### 1. Context:

The objective of the reform is to put in place a central repository system for recording and storing all relevant data related to the implementation of the recovery and resilience plan and to set up the relevant legal mandates for the coordination, monitoring, control and audit of the implementation of the recovery and resilience plan (RRP).

Milestone 125 concerns the central repository system for monitoring the implementation of the RRF. The system shall include all relevant data related to the implementation of the RRP, comprising at least the monitoring of the achievement of milestones and targets and data required by Article 22 (2) (d) (i) to (iii) of the RRF Regulation.

Milestone 125 is part of the reform on Audit and Control, Implementation and Complementarity, together with Milestones 126 and 127, related to the legal mandate of the coordinating body and the audit authority of the Dutch RRP, respectively. All milestones of this Reform are included in the first payment request.

### 2. Evidence provided:

	Name of the evidence	Short description
1	Summary document duly justifying how the milestone (including all the constitutive elements) has been satisfactorily fulfilled.	
2	Audit report confirming the functionalities of the repository system (hereinafter “the audit report”)	Issued by the audit authority of the Dutch RRP in July 2023
3	A list of unique IDs of final recipients and contractors which received funding under the Dutch RRP	The list was sent during of the virtual check in order to sample 30 concluded contracts
4	30 concluded contracts under the Dutch RRP	30 contracts reflecting the sample were requested to cross-check the collected data with the concluded contracts

### 3. Analysis:

The justification and substantiating evidence provided by the Dutch authorities cover all constitutive elements of the milestone.

**A central repository system for monitoring the implementation of the RRF shall be in place and operational.**

An audit report issued by the audit authority of the Dutch RRP confirms a central repository system, named CEDAR, for monitoring the implementation of the Dutch RRP has been developed and operationalized. The CEDAR system was accessible to the Commission staff, who could verify that the system and its functionalities are in place.

**The system shall include, as a minimum, the following functionalities: (a) collection of data and monitoring of the achievement of milestones and targets;**

The audit report (page 6) confirms that CEDAR allows to collect data and monitor the achievement of milestones and targets. CEDAR allows to upload supporting documents related to milestones and targets. Using the CEDAR dashboard, the Coordinating Body (Programme Directorate for the Dutch RRP) can monitor the progress of the number of documents to be uploaded by the users, i.e., the different departments. The functionality allowing the Coordinating Body to validate or reject the justification by a given department is also confirmed by the audit report (pages 6 and 7).

The functionalities of the system were further confirmed by Commission staff by directly accessing the CEDAR system, who were granted access to the repository system between 30 April 2024 and 30 May 2024.

**(b) collection, storage of, and ensure access to, the data required by Article 22 (2) (d) (i) to (iii) of Regulation (EU) 2021/241 (RRF Regulation).**

The audit report (page 6) confirms that CEDAR allows to collect, store and ensure access to the data required by Article 22 (2) (d) (i) to (iii) of the RRF Regulation, namely “name of final beneficiaries”, “name of contractor and subcontractor” and “first name (s), last name (s) and date of birth of the beneficial owner (s) of the recipient of funds or contractor”.

The collection of data required by Article 22 (2) (d) (i) to (iii) was assessed by Commission staff who performed a virtual on the spot check. Commission staff acquired access to the CEDAR repository system for a period of 30 days (between 30 April 2024 and 30 May 2024) and performed the virtual checks during that time. The virtual check was finalised successfully without any issues found. Additionally, a sample of 30 contracts was selected by the Commission from a list of 309,632 unique IDs of final recipients and contractors with concluded contracts under the Dutch RRP at the time of the assessment.

Commission staff concluded that the collected data in the system come from different sources, namely:

- An automatic link (API) with the Chamber of Commerce’s UBO register. The API connects the system of CEDAR with the repository system of the Chamber of Commerce (KvK) UBO-register in CEDAR.
- An automatic link (API) with the Chamber of Commerce’s business register
- Manually collected data by the implementing bodies

The source of the data is recorded in CEDAR to facilitate the monitoring activities of the Directions of Financial and Economic Affairs (FEZ directorates) and thus maintain an overview of the data collection process. Where CEDAR displays a lacking source on a given data, it means that the UBO data have been supplemented with other data and re-uploaded. The replies provided by the NL authorities during the virtual check sufficiently demonstrate that the UBO register was consulted and that in some cases other sources of data were used in addition. On balance, the data has been collected except for the case on the

sole proprietorship. This is however acceptable because sole proprietorships are not required to register UBO details, as can be read on the website of the Chamber of Commerce (KvK). A sole proprietorship ('eenmanszaak') is registered under a trade name in the Chamber of Commerce's register and can also be consulted in Company.info to complement data on shareholder structures, where the sole ownership of this one person can be clearly determined.

**Furthermore, in line with the description of the measure, the Netherlands shall submit a dedicated audit report before the first payment request confirming the existence of the functionalities of the repository system.**

The audit report (page 1) issued by the audit authority of the Dutch RRP was signed on 19 July 2023 and submitted together with the first payment request. The audit report indicates that the system is operational and the functionalities, as described in the description of the milestone, are present; that the data can be effectively collected by the data subjects, as nationally determined and that the data is stored. The report also describes possible risks in the data system with recommendations on how to mitigate the risks.

**4. Commission Preliminary Assessment:** Satisfactorily fulfilled

**Number and name of the Milestone:** NL-C[C7]-R[C7]-M[126], Entry into force of the ministerial decree amending the statute of the audit body (“Auditdienst rijk”)

**Related Measure:** NL-C[C7]-R[C7], Audit and Control, Implementation and Complementarity

**Qualitative Indicator:** Provision in the ministerial decree indicating entry into force

**Time:** Q4 2022

### 1. Context:

The objective of the reform is to put in place a central repository system for recording and storing all relevant data related to the implementation of the recovery and resilience plan and to set up the relevant legal mandates for the control and audit set-up of the implementation of the recovery and resilience plan (RRP).

Milestone 126 concerns the entry into force of a ministerial decree amending the statute of the audit body. It officially mandates the audit body to set up and carry out system audits and substantive testing related to the Dutch RRP.

Milestone 126 is the second milestone of the reform, and it follows the completion of target 125 related to the development of a central repository system for monitoring the implementation of the RRP and is followed by milestone 127 related to the legal mandate of the coordinating body of the Dutch RRP. The reform has a final date for implementation of 31 December 2022.

### 2. Evidence provided:

	Name of the evidence	Short description
1	Summary document duly justifying how the milestone (including all the constitutive elements) has been satisfactorily fulfilled.	
2	Copy of the publication of the <b>Ministerial Decree amending the statute of the audit body</b> as of 1 December 2022 (hereinafter referred to as “the ministerial decree”) published in the Government Gazette [ <i>Staatscourant</i> 2023, No. 115] on 4 January 2023.	
3	Copy of article 20 of the Organisational decision of the Ministry of Finance ( <i>Organisatiebesluit Ministerie van Financiën 2020</i> ) containing the amended mandate of the audit body for the recovery and resilience plan (hereinafter referred to as “the organisational decision”).	
4	A letter signed by the Secretary General of the Ministry of Finance sent to the Employee Council to inform the Employee Council of the change made through the ministerial decree	

5	The detailed task assignment in the form of a budget proposal of the Ministry of Finance as shared with the financial-economic directorate ( <i>Opdrachtformulering en begrotingsvoorstel ADR</i> ).	
6	A letter of 23 December 2022 signed by the Director of the audit body confirming that they will perform the role of the audit body for the Dutch RRP (hereinafter referred to as “the letter”).	
7	An email of 5 April 2023 sent by the Director of the audit body confirming that the tasks will be performed in line with the detailed task assignment as shared with the financial-economic directorate (hereinafter referred to as “the email”).	

### 3. Analysis:

The justification and substantiating evidence provided by the Dutch authorities covers all constitutive elements of the milestone.

**The ministerial decree amending the statute of the audit body (“Auditdienst Rijk”) shall include the mandate to set up and carry out system audits and substantive testing related to the Netherlands’ recovery and resilience plan.**

The ministerial decree amending article 20 of the organisational decision of the Ministry of Finance, which includes the amendment of the statute of the “Auditdienst Rijk” (Article I, paragraph B) with a mandate to perform the task of an audit body for the RRP of the Netherlands, has been published in the Government Gazette on 4 January 2023.

The ministerial decree amends the organisational decision as follows:

- Article 20.d in the organisational decision, gives the “Auditdienst Rijk” the mandate to perform the tasks of an audit body for the recovery and resilience plan of the Netherlands in line with EU Regulation 2021/241 (Regulation establishing the RRF).
- Article 20.d furthermore states that the “Auditdienst Rijk” shall draw up a summary of audits for each payment request regarding the implementation of the RRP by the Netherlands.

The mandate came into force retroactively on 1 December 2022, as indicated in article II of the ministerial decree. The decree itself entered into force on 5 January 2023, one day after publication in the Government Gazette, according to Article II of the decree.

The Council Implementing Decision required that the ministerial decree shall include a mandate to set up and carry out system audits and substantive testing. The ministerial decree refers, nonetheless, to the mandate to act as the audit authority for the Dutch RRP and to prepare a summary of audits on the use of European funds for each payment request. Whilst this constitutes a minimal formal deviation from the requirement of the Council Implementing Decision, the general mandate to act as the audit authority for the Dutch RRP and to prepare the summary of audits is further specified in the task assignment by the Ministry of Finance to the audit body stating that the activities of the audit body include system audits and audits on milestones and targets, which is consistent with the definition of substantive testing. As of this, this minimal deviation does not change the nature of the measure and does not affect the progress

towards achieving the reform that the milestone represents. On this basis, it is considered that this constitutive element of the milestone is satisfactorily fulfilled.

**The Ministry of Finance shall give the Dutch audit body (“Auditdienst Rijk”) the relevant assignment to set up and carry out system audits and substantive testing related to the Netherlands’ recovery and resilience plan.**

The detailed task assignment in the form of a budget proposal of the Ministry of Finance shared with the financial-economic directorate confirms the “Auditdienst Rijk” mandate and describes its role, as follows:

- Page 2 of the detailed task assignment states that the Dutch audit body will perform system audits to obtain reasonable assurance that the audited internal control system ensure that funds have been managed in accordance with all applicable rules and that the systems are capable of preventing, detecting and correcting cases of conflict of interest, corruption, fraud and double funding.
- Page 2 of the detailed task assignment will perform audits to obtain reasonable assurance that the monitoring and implementation arrangements for the plan concerned provide complete, accurate and reliable data for the indicators defined in the plan. Such audits should verify that effective controls are in place to collect, summarise, aggregate and report the relevant data, and that the compiled figures reported correspond to the source data. The verification of reported data is consistent with the definition of substantive testing.
- Page 3 of the detailed task assignment details that the activities of the “Auditdienst Rijk” include both carrying out system audits per department and audits on the milestones and targets per department.

The letter and email of the director of the “Auditdienst Rijk” confirm that the task assignment as included in the budget proposal is the relevant task assignment of the Ministry of Finance for the audit body.

Furthermore, in line with the description of the measure, the relevant legal mandates and assignments to the authorities involved in the coordination, monitoring, control and audit of the implementation of the Dutch recovery and resilience plan **shall be adopted in accordance with the national legislation.**

The ministerial decree refers to this effect to article 3 paragraph 2 of the Coordinating Decision organisation, business management and information systems for the national government (*Coördinatiebesluit organisatie, bedrijfsvoering and informatiesystemen rijksdienst*) and article 10:3 of the General public law Act (*Algemene wet bestuursrecht*). The former grants Ministers the ability to determine the organization and formation of their Ministry, while the latter allows an administrative body to grant a mandate except for certain competences, which are not covered by the mandate of the “Auditdienst Rijk”.

#### **4. Commission Preliminary Assessment: Satisfactorily fulfilled**

**Number and name of the Milestone:** NL-C[C7]-R[C7]-M[127], Entry into force of a ministerial decree amending the organisational decision (“organisatiebesluit”) defining the mandate of the programme directorate for the recovery and resilience plan

**Related Measure:** NL-C[C7]-R[C7], Audit and Control, Implementation and Complementarity

**Qualitative Indicator:** Provision in the ministerial decree indicating entry into force.

**Time:** Q4 2022

### 1. Context:

The objective of the reform is to put in place a central repository system for recording and storing all relevant data related to the implementation of the recovery and resilience plan and to set up the relevant legal mandates for the implementation and monitoring of the recovery and resilience plan.

Milestone 127 concerns the entry into force of a ministerial decree amending the organisational decision of the Ministry of Finance. It officially mandates the Programme Directorate for the recovery and resilience facility of the Ministry of Finance as the coordinating body for the implementation of Netherlands’ recovery and resilience plan.

Milestone 127 is the third and last milestone of the reform, and it follows the completion of target 125 and milestone 126, related to the development of a central repository system for monitoring the implementation of the recovery and resilience facility and the legal mandate of the audit body to audit the Dutch recovery and resilience plan. The reform has a final date for implementation on 31 December 2022.

### 2. Evidence provided:

	Name of the evidence	Short description
1	Summary document duly justifying how the milestone (including all the constitutive elements) has been satisfactorily fulfilled.	
2	Copy of the publication of the <b>Ministerial Decree amending the statute of the Programme Directorate Recovery and Resilience Plan</b> as of 1 December 2022 (hereinafter referred to as “the ministerial decree”) published in the Government Gazette [ <i>Staatscourant</i> 2023, No. 115] on 4 January 2023.	
3	Copy of article 41 of the Organisational decision of the Ministry of Finance ( <i>Organisatiebesluit Ministerie van Financiën 2020</i> ) containing the amended mandate of the Programme Directorate for the recovery and resilience plan (hereinafter referred to as “the organisational decision”).	

### 3. Analysis:

The justification and substantiating evidence provided by the Dutch authorities covers all constitutive elements of the milestone. In particular:

**The Programme Directorate for the recovery and resilience facility of the Ministry of Finance shall be officially mandated via the entry into force of a ministerial decree amending the organisational decision of the Ministry of Finance (“organisatiebesluit Ministry of Finance”) as the coordinating body for the implementation of Netherlands’ recovery and resilience plan.**

The ministerial decree amending article 41 of the organisational decision of the Ministry of Finance which includes the amendment of the statute of the Programme Directorate for the recovery and resilience plan of the Ministry of Finance (Article I, paragraph C) to coordinate the implementation of the Netherlands’ recovery and resilience plan, has been published in the Government Gazette on 4 January 2023.

The ministerial decree amends the organisational decision as follows:

- Article 41.0.a sub d of the organisational decision is modified to give the Programme Directorate for the recovery and resilience plan the mandate to monitor and implement the Dutch recovery and resilience plan.
- Article 41.0.a sub e of the organisational decision has been added regarding the implementation and coordination activities of the Programme Directorate. The Programme Directorate is responsible for controlling the monitoring, implementation and audit systems in collaboration with the other departments and the audit body. The Programme Directorate is also responsible for guiding the relevant policy departments in the implementation of the Dutch RRP.
- Article 41.0.a sub f of the organisational decision has been added so the Programme directorate is also responsible to submit the payment requests with the management declaration and summary of audits to the European Commission.

The mandate came into force on retroactively 1 December 2022, as indicated in article II of the ministerial decree. The decree itself entered into force on 5 January 2023, one day after publication in the Government Gazette, according to Article II of the decree.

Furthermore, in line with the description of the measure, the relevant legal mandates and assignments to the authorities involved in the coordination, monitoring, control and audit of the implementation of the Dutch recovery and resilience plan **shall be adopted in accordance with the national legislation.**

The ministerial decree refers to this effect to article 3 paragraph 2 of the Coordinating Decision organisation, business management and information systems for the national government (*Coördinatiebesluit organisatie, bedrijfsvoering and informatiesystemen rijksdienst*) and article 10:3 of the General public law Act (*Algemene wet bestuursrecht*). The former grants Ministers the ability to determine the organization and formation of their Ministry, and the latter allows an administrative body to grant a mandate except for certain competences, which are not covered by the mandate of the Programme Directorate Recovery and Resilience Plan.

### 4. Commission Preliminary Assessment: Satisfactorily fulfilled



**Number and name of the Milestone:** NL-C[C8]-R[1.R1]-M[131], Entry into force of a decision by the Authority for Consumers and Markets amending the electricity grid code

**Related Measure:** NL-C[C8]-R[1.R1], Energy market reform package

**Qualitative Indicator:** Provision in the decision by the Authority for Consumers and Markets providing for its entry into force

**Time:** Q4 2022

### 1. Context:

The objective of this reform is to tackle several challenges related to energy markets the Netherlands is facing. The reform includes the following three elements:

- a) Actions that aim at reducing congestion on the Dutch electricity grid that shall include i) the entry into force of a decision by the Authority for Consumers and Markets amending the electricity grid code to provide additional instruments to grid operators for flexible grid use when the grid is congested as well as incentives for demand reduction and reallocation of grid capacity to users of the grid; and ii) completion of the 12 'Provincial Multiannual Programmes for Energy and Climate Infrastructure 2.0' (provinciale Meerjarenprogramma's Infrastructuur Energie en Klimaat, pMIEK).
- b) Entry into force of a ministerial decree establishing the priority framework for investments in the electricity grid by transmission and distribution system operators. The framework shall ensure that investments that are part of the national and provincial Multiannual Programmes for Energy and Climate Infrastructure (Meerjarenprogramma's Infrastructuur Energie en Klimaat, MIEK) shall be prioritised.
- c) Entry into force of an act amending the Environment and Planning Act (Omgevingswet). The amending act shall accelerate the permitting procedures for renewable energy projects. The scope of renewable energy projects that shall benefit from the acceleration shall be defined in a subordinate decree.

Milestone 131 concerns the first element, and more in particular the entry into force of a decision by the Authority for Consumers and Markets amending the electricity grid code. The decision shall provide additional instruments to grid operators for flexible grid use when the grid is congested, as well as incentives for demand reduction and for reallocation of grid capacity to users of the grid.

Milestone 131 is the first step of the implementation of the reform, and will be followed by milestones 132, 133 and 134 related to respectively the entry into force of a ministerial decree establishing the priority framework for electricity grid investments, the completion of 12 'Provincial Multiannual Programmes for Energy and Climate Infrastructure 2.0' and the entry into force of an act amending the Environment and Planning Act. The reform has a final expected date for implementation in Q4 2025.

### 2. Evidence provided:

	Name of the evidence	Short description
1	Summary document duly justifying how the milestone (including all the constitutive elements) has been satisfactorily fulfilled.	

2	Copy of the publication of the <b>Decision of the Authority Consumer and Market of 24 May 2022 reference ACM/UIT/577139 to amend the conditions referred to in section 31 of the Electricity Act 1998 concerning rules around transmission scarcity and congestion management</b> in the Government Gazette ( <i>Staatscourant</i> ) (hereafter referred to as the “Decision”) on 25 May 2022.	
3	Comparison file of the electricity grid code	This comparison file shows the relevant changes to the electricity grid code in track changes.

### 3. Analysis:

The justification and substantiating evidence provided by the Dutch authorities cover all constitutive elements of the milestone.

#### **Entry into force of a decision by the Authority for Consumers and Markets amending the electricity grid code.**

The Decision was taken by the Authority for Consumers and Markets (*Autoriteit Consument en Markt*), as evidenced by the title and the preamble of the Decision. Article III of the Decision specifies that the Decision enters into force 6 months after the date of publishment in the Government Gazette. Given that the Decision was published in the Government Gazette of 25 May 2022, it entered into force on 25 November 2022. Article I of the Decision amends “*the conditions referred to in section 31 of the Electricity Act 1998*” (these “conditions” are commonly referred to as the electricity grid code (*Netcode elektriciteit*)).

#### **The decision shall provide additional instruments to grid operators for flexible grid use when the grid is congested.**

The Decision provides the following additional instruments to grid operators for flexible grid use when the grid is congested:

- A first instrument is introduced as per article I (C) of the Decision, which amends article 9.1 of the electricity grid code. The first instrument concerns the possibility for grid operators to conclude capacity restricting contracts (*capaciteitsbeperkingscontract*). As explained in the explanatory memorandum of the Decision (p. 18 of the Decision), this instrument allows a grid operator to enter into agreements with connected parties in its service area, in order to request under pre-agreed conditions that the connected party or parties do not make full use of the transport capacity agreed in its (their) contract(s), against payment. Such bilateral agreements are at all times market-based, as the grid operator and connected party voluntarily agree the terms. The specifics of this instrument are determined in article I (G) of the Decision: the capacity restricting contract is a contract between the grid operator and the grid user, regarding capacity restriction (defined as the waiving of the use of the transport capacity contracted or made available), which specifies at least the maximum transport capacity to be used, whether the reduction is delivered permanently or during periods to be agreed, the price in EUR per MW for the agreed reduction,

the location with EAN code(s) of the connection and the contract period. By exercising its rights under the capacity restricting contracts, the grid operator can reduce the transport capacity used at a certain moment on the grid, in order to avoid or remedy grid congestion.

- A second instrument is introduced as per article I (C) of the Decision, which amends article 9.1 of the electricity grid code. The second instrument concerns the possibility for grid operators to *oblige* grid users with a capacity above 1MW to offer flexibility to help reducing physical congestion.
- A third instrument is introduced as per article I (F) of the Decision, which adds three new paragraphs (notably §9.9, 9.10 and 9.11) to the electricity grid code. The third instrument concerns the role of the “congestion service provider” or “CSP”. As indicated in the explanatory memorandum of the Decision (p. 51 of the Decision), the CSP is an intermediary party between the grid operator on the one hand, and parties wishing to offer flexibility on the other hand. In accordance with §9.9 of the electricity grid code (as introduced by the Decision) any (natural or legal) person who wishes to act as CSP must obtain the approval to do so from the grid operator. One of the conditions to be approved as CSP, is to have successfully completed the pre-qualification process for the supply of at least one product under annexes 11 and 12 of the electricity grid code. Pursuant to §9.9 of the electricity grid code, it is the task of the network operators themselves to establish the pre-qualification criteria for each of the products to be provided under annexes 11 and 12 of the electricity grid code.

**It shall also provide incentives for demand reduction and for reallocation of grid capacity to users of the grid.**

As indicated above, in a capacity restricting contract the grid operator and the grid user agree on a price (in EUR per MW) for an agreed reduction. The capacity restricting contract therefore provides a financial incentive for the grid user concerned to reduce its demand during peak moments. This is expected to enable the grid operator to better meet the demand for transport capacity on the electricity grid, without the need for (or awaiting) grid expansion (page 18, point 2 of the Decision).

In addition, as explained in the explanatory memorandum (p. 51 of the Decision), congestion management is a process in which a grid operator deploys market-based and non-market-based congestion management services in an area where there is a structural shortage of transport capacity. By deploying congestion management services (such as the capacity restricting contract), the grid operator can reallocate any freed-up capacity to other users of the grid.

**4. Commission Preliminary Assessment:** Satisfactorily fulfilled