The Hague, 6 July 2020

HT.5224 Dutch response to the Targeted review of the General Block Exemption Regulation (State aid): extended scope for national funds to be combined with certain Union programmes (2nd consultation)

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

On 27 September 2019 the Dutch authorities have responded to the Targeted review of the General Block Exemption Regulation. The Dutch authorities have also presented their views on the targeted review at the first and second meeting of the State aid advisory committee. In addition to the views previously expressed, the Dutch authorities would like to state the following in response to the updated proposal.

In general, the Dutch authorities endorse the aim of the proposal of the European Commission to improve the interplay between EU funding rules and the State aid rules. According to the Dutch authorities it is important to find the right balance in this regard, on the one hand, to national funding of projects or financial products, which fall under the scope of certain EU programmes and, on the other hand, preserving competition in the EU internal market. According to the Dutch authorities, the European Commission has successfully achieved this with the update proposal.

In this context, however, it is important to note that the Dutch authorities are of the opinion that it is essential to include adequate safeguards to ensure effective use of State aid. This is needed to counteract unfair competition between undertakings through fund financing and/ or national co-financing. An important aspect here is the prevention of relocation as a result of State aid. Since it affects the objectives of State aid control, relocation as a result of State aid is a disagreeable effect that must be prevented by definition. Therefore, the Dutch authorities are of the opinion that the conditions for State aid within the framework of the EU funds should not be less strict than 'regular' State aid. Consequently, State aid conditions with regard to State aid to undertakings in financial difficulties (and also with regard to the so-called Deggendorf clause) must be respected. Both for European Territorial Cooperation projects and financing and investment operations supported by the Invest-EU Fund. It is also important that a decent private contribution remains necessary. The Dutch authorities believe that the GBER expansion should not lead to a crowding out effect of private financing.

With regard to the European Territorial Cooperation projects (ETC), the Dutch authorities agree with the updated proposal. The Dutch authorities consider it an improvement that the European Commission has aligned the aid intensity proposed in Article 20 to the level of the co-financing rate provided for in the draft ETC Regulation for all project partners to simplify the management of ETC projects and to reduce the administrative burden. It is also positive that the European Commission has simplified the reporting and monitoring conditions for limited amounts of aid granted under Article 20a. According to the Dutch authorities the limited amounts of aid to undertakings that can be granted on the basis of Article 20a could be increased to a limited extend.

With regard to the updated proposal for RD&I the Dutch authorities consider it an improvement that the European Commission have aligned the Articles 25a – 25d with the provisions under Horizon 2020 or Horizon Europe programme. Furthermore, the Dutch authorities are pleased that the European Commission has removed the Technology Readiness Level in the definitions of eligible activities. The Dutch authorities ask the

European Commission to reconsider whether the condition of the independent experts to assess the RDI projects is workable in practice.

With regard to the updated proposal for Invest-EU, the Dutch authorities are of the opinion that there is also an improvement. Clarifications made by the European Commission make it easier to use the (updated) proposal. The Dutch authorities are therefore of the opinion that the European Commission has succeeded with the updated proposal in aligning definitions with the definitions included in the InvestEU Regulation.

With regard to the Invest-EU fund the Dutch authorities ask further clarification by the European Commission when there is State aid in this context. This is possible, for example, in the Communication on the notion on State aid in case the Commission does not consider the GBER recitals to be the right place. The Dutch authorities welcome the intention by the Commission to provide further guidance on the typical scenarios supported by the Invest-EU fund (recital 10).

The Dutch authorities agree that there is a wide range of options for granting aid linked to Invest-EU, ranging from aid to aid for trans-European digital connectivity infrastructure to aid for social, educational, cultural and natural heritage infrastructure and activities. The fact that some threshold amounts have been raised is also positive, according to the Dutch authorities. The proposed thresholds and also the aid intensities now seem to be reasonable.

With regard to aid for environmental protection, including climate protection, the Dutch authorities are of the opinion that this is an important category. Given the challenges facing the EU-Member States, the Dutch authorities are in favor of a broadly applicable aid category. According to the Dutch authorities, it would be good if the European Commission explicitly states that aid for hydrogen projects, synthetic aviation and other fuels, advanced biofuels, CCU and circular feedstock projects and electrification falls under the updated proposal.