HT. 6365 Response of the Netherlands to the public consultation on the draft for a new General Block Exemption Regulation

The Hague, 23 april 2026

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

Introduction

This is the Netherlands' response to the public consultation on the draft for a new General Block Exemption Regulation (GBER). The GBER defines specific categories of State aid as compatible with Treaty on the Functioning of the EU, if they fulfil certain conditions, and exempts them from prior notification to and approval by the European Commission. This allows Member States to quickly provide aid if conditions limiting the distortion of competition in the Single Market are met. The proposed new GBER is aimed at: (i) simplifying the GBER; (ii) bringing the GBER into line with social, market and technological developments; and (iii) streamlining it by addressing inconsistencies and improving readability.

General comments

The NL welcomes the revision of the GBER. It is important to ensure that the State aid frameworks are fit for purpose and aligned with EU strategies, such as the Clean Industrial Deal, to address the challenges relating to EU competitiveness. In our view, caution is needed regarding the State aid instrument due to the level playing field on the EU internal market. At the same time, however, the NL recognizes the importance of revising the State aid rules to support the digital and green transitions, among other things. Amendments to the State aid rules should be based on a proper problem analysis. In this context we regret that no impact assessment is carried out next to the 2025 public consultation and call for evidence.

In general, the GBER is an effective instrument within the State aid framework to grant certain State aid relatively easily and quickly and enabling the Commission to focus on the types of State aid that causes the most distortion of competition which are not suitable for the GBER. The GBER is also an important instrument for granting aid to SMEs. The NL welcomes the revision, as in our view the GBER has become complicated to apply, particularly with regard to aid for SMEs. Simplification is welcomed wherever possible, including in the GBER’s structure. In this context, for example, the Commission’s proposal to introduce new, specific conditions for small amounts of aid relating to certain projects or activities, particularly relevant for SMEs, is welcomed. This type of aid distorts competition to a lesser extent. The draft proposes some useful simplifications, such as the removal of the requirement in the GBER to carry out an *ex-post* evaluation of large block-exempted aid schemes, as this reduces administrative burden. Furthermore, the draft GBER proposes improvements to the structure of the GBER. In our view, the simplification process should be taken further. Specific suggestions are included in the relevant sections and articles. Furthermore, the Netherlands considers it important for the GBER to accommodate the combination of EU funds and national funds wherever relevant. Therefore, the Netherlands welcomes the Commission’s statement that it intends to consult Member States on a possible targeted revision of the GBER to align it with the 2028-2034 Multiannual Financial Framework once the legislative procedure has advanced. The Netherlands would also like to see greater scope for national co-financing in the GBER, particularly where it is mandatory. The current situation creates unnecessary obstacles.

The Netherlands’ top priority is revising the GBER with regard to Undertaking in Difficulty (UID). At present, and for no justifiable reasons, certain companies and their activities that are particularly important for the transitions are currently unable to receive financial support. This is an urgent problem. Undertakings performing vital activities for the transitions and our open strategic autonomy are unable to receive State aid.

The purpose of the UID exception in the GBER is to prevent the GBER from applying to UIDs because support to a UID has a great impact on the market. According to the recitals in the GBER, UIDs are exempted therein to ensure that aid granted to the undertakings concerned is assessed in the light of the Rescue and Restructuring Guidelines (RRG), in order to prevent circumvention thereof. The RRG, state, that 'an undertaking is considered to be in difficulty when, without intervention by the State, it will almost certainly be condemned to going out of business in the short or medium term'.

While we support the purpose of the UID definition, we note that it is not fit for purpose. In practice many innovative undertakings with the ability to raise private capital are not condemned to go out of business in the short or medium term. To the contrary: Innovative undertakings, especially startups and scale ups, with significant potential attract substantial amounts of (hybrid) debt financing, thereby qualifying as UIDs. This is a result of a changing (financial) market. However, the successful raising of (hybrid) debt financing is often a strong indicator of economic potential and a positive outlook for business continuity.

Therefore, the UID definition in the GBER must be aligned with market and technological developments and its purpose. In response to the public consultation, the Netherlands will suggest a solution and will reflect on the approach chosen by the Commission. In our view, the fundamental problem is addressed by amending the definition of UID (Article 2, paragraph 32) to include quasi-equity financing as own funds. Please see our detailed comments for Article 2, paragraph 32. These comments should also be taken into account in the ongoing revision of the RGG and consequently in aid frameworks such as the Communication from the Commission on the criteria for the analysis of the compatibility with the internal market of State aid to promote the execution of important projects of common European interest (IPCEI), the Clean Industrial Deal State aid Framework (CISAF) and the 2022 guidelines on State aid for climate, environmental protection and energy (CEEAG).

The draft GBER includes exemptions for certain categories of aid, such as aid for research and development and innovation to undertakings which qualify as innovative enterprises, from the application of the UID definition. This should include environmental aid, covered by Section 6, as well. While this would address some of the current problems, it would not provide a sustainable and complete solution. Please see our detailed comments with regard to Article 1, paragraph 5.

Finally, the Netherlands encourages the Commission to provide an interim solution, such as a guidance document or a statement to enable retroactive application, to bridge the gap until the revised rules are fully implemented, as it is urgent to facilitate innovative undertakings, also in 2026.

Other topics the Netherlands would like to highlight in our general comments are training aid (Article 44) and the circular economy (Article 65).

On training aid, the Netherlands welcomes the intention of the Commission to better incentivise investments in upskilling and reskilling of workers, through higher aid intensities. Specific attention for digitalisation, science, technology, engineering and mathematics is important. However, the proposed changes to this aid category do not ensure that the objectives of the Union of Skills are realised. The draft GBER does not yet address the supply side of training. The Netherlands would like the Commission to consider a new article in GBER for aid for the development of training courses if it appears that there is market failure and a certain type of course or training is not being taken up quickly or sufficiently by the market and does not fall within the scope of regular funded education.

Regarding the circular economy, the Netherlands would like to emphasise the importance of the GBER providing sufficient opportunities for the transition to a circular economy. To develop a future-proof economy, the GBER should be aligned with relevant EU strategies, such as the Clean Industrial Deal. Circularity is a priority in the Clean Industrial Deal. Transitioning to a circular economy is essential to maximising the EU's limited resources, reducing dependencies and enhancing resilience. This approach reduces waste, lowers production costs, lowers CO2 emissions, and creates a more sustainable industrial model that benefits the environment and enhances economic competitiveness. However, the GBER contains obstacles that make it difficult to support such projects. For example, the purchase of circular products is currently restricted to production processes and recycling or reuse during the waste phase. Therefore, aid for the purchase of circular products is not possible. In our view, the GBER should also allow support for demand-stimulating measures. Please see our detailed comments regarding to Article 65.

Please refer to our specific comments for further information. In the coming period, the Netherlands is committed to contributing to the revision of the GBER to ensure it is a user-friendly State aid instrument for granting targeted aid, enabling the Commission to focus on aid that causes the most distortion to competition.

Specific comments

The Netherlands has the following comments on the draft for the new GBER.

Structure of the GBER

The Netherlands considers it important that the GBER is user-friendly. We believe that the Commission's draft of the new GBER improves its structure. This could be improved further, for example by adding the sector-specific provisions and definitions currently included in Chapter I (*Common provisions*) to the relevant sections or articles in Chapter III (*Specific provisions for different categories of aid*).

In the Explanatory memorandum accompanying the proposal for the new GBER, the Commission announces a guidance document to answer frequently asked questions on interpretation. Although the Netherlands welcomes further clarification and practical examples from the Commission, it is of the utmost importance that the GBER is applied uniformly throughout the EU. Therefore, it is crucial that the GBER itself provides sufficient clarity on its scope. We agree that merely illustrative provisions can be moved to a guidance document. The same applies to unnecessarily detailed provisions that do not relate to the scope of the GBER but merely provide a further explanation of certain provisions.

Please also note that certain references in the draft, for example to the annexes, are incorrect, and the layout is inconsistent in places. Where applicable, we have pointed this out in our response.

CHAPTER I COMMON PROVISIONS

Article 1 (Subject matter and Scope)

The Netherlands welcomes the broadening of the scope of the GBER to further include the agricultural and fisheries sectors (Article 1, paragraphs 2 and 7), subject to certain specific conditions. Given the growing need for innovation and sustainability in these sectors, this expansion is particularly beneficial for RD&I measures, as the Agricultural Block Exemption Regulation (ABER) and the Fisheries Block Exemption Regulation (FiBER) offer limited exemptions. The Netherlands also welcomes the phrase that 'Member States may choose, where applicable, to grant aid in compliance with this Regulation or with other block exemption regulations' in relation to the Transport Block Exemption Regulation (TBER).

The Netherlands welcomes the removal of the requirement in the GBER to carry out an *ex-post* evaluation of large block-exempted aid schemes, as this reduces administrative burden. Member States should be free to decide on the evaluation of aid measures. In the context of reporting and monitoring (Chapter II of the GBER), we call on the Commission to constantly verify whether the GBER remains fit for purpose.

UID carve-outs: The Netherlands welcomes the inclusion of new categories and undertakings that are excluded from the UID-test in Article 1, paragraph 5. Although this does not solve the underlying problem of the outdated UID-definition, it does enable some affected innovative undertakings to receive aid for some of their activities. If the Commission choose not to amend the UID definition, the Netherlands calls upon the Commission to define a broader group of exempted undertakings and to further broaden the exemptions from the UID-test for specific sections of the GBER.

Carved out undertakings

The carve-out in Article 1 paragraph 5, is now aimed at several categories of undertakings. The Netherlands focuses on the carve-out for start-ups and for innovative enterprises in Article 1, paragraph 5, subsection g), which are unlisted and have been operating for less than ten years following their registration. This categorization is necessary to prevent undertakings in real difficulty from receiving market distorting aid, while enabling the specific group of innovative undertakings to receive aid. However, having two categories is unnecessary, and does not help to simplify the GBER. Therefore, a single category should be used for these sections of the GBER: the Young Innovative Company (YIC).

The definition of 'young innovative companies' is based on the Commission recommendation on the definition of innovative enterprises, innovative startups and innovative scaleups (Commission recommendation). However, this definition is amended to be more aligned with the purpose of the GBER. An innovative undertaking in its start or scaleup phase is an enterprise that meets the following criteria in at least one of the three preceding years or its current fiscal period:

A) It has incurred R&D costs amounting to at least 10% of its operating costs or 5% of its net sales; or it
   has R&D capitalized costs on its balance sheet amounting to at least 10% of the balance sheet total.
B) It has received direct funding or loans from public investment corporations, venture capital companies, individuals or groups of individuals with a regular venture capital investment activity who invest (equity) capital in unlisted businesses (business angels) or independent investors.
   It must also have the objective of commercialisation and, in the last three financial years have developed, be developing or will, in the foreseeable future, develop products, services or business processes, which are new or substantially improved compared to the state of the art in its industry, and which carry a risk of technological or industrial failure.
C) It is unlisted and has been operating for less than 15 years following their registration.

The proposed definition aims to establish a practical, compact definition with a realistic State aid enabling effect for young innovative companies. The presented criteria, provide clear and objective (measurable) criteria.

The currently proposed period of ten years excludes the application to scale-ups, which can be in the developmental phase until fourteen years after registration. In order not to exclude scale-ups from receiving necessary aid, the term should be lengthened until fifteen years after registration. This could be included in the definition of ‘young innovative enterprise’ or amended separately.

In case these categories are not unified, please see our comments on the definitions of startup and innovative enterprise in Article 2, paragraph 34 and 89.

Carved out aid categories

Next to Section 4, Section 6 must be carved out from the UID-test in Article 1, paragraph 5, subsection g). The reason for carving out certain categories in Section 6 from the application of the UID-definition is that the EU and the Netherlands must transition to a clean industry while maintaining open strategic autonomy. Innovative undertakings developing new technologies have a fundamental role to play in this process. Member States should be able to provide sufficient support to innovative undertakings in the stages of research, development and demonstration. These stages are covered in Section 4, Article 32 (aid for research and development projects). However, this Article supports first-of-a-kind activities to a limited extend as part as experimental development. Actual first-of-a-kind projects (i.e. demonstration projects not covered by the RDI definitions) must comply with the conditions for investment aid of Section 6. Therefore, Section 6 should be included in Article 1, paragraph 5. Otherwise, this would result in the undesirable outcome that such innovative undertaking may enjoy aid to development a new technology up until the first real step towards market first introduction. This stage, also known as the ‘valley of death’, is exceptionally challenging for new technologies. This valley of death generally cannot be overcome without State aid, yet it is essential for the transition to a clean industry and for maintaining open strategic autonomy. Therefore, aid covered by this section should also be available for (young) innovative undertakings.

With regard to the structure of the GBER: The exceptions to the prohibition of aid to UID, as set out in subsections c–k), should be incorporated into the relevant sections or articles in Chapter III.

Article 2 (Definitions)

The Netherlands welcomes the grouping of general and specific definitions. Ideally, the latter should be added to the relevant sections in Chapter III. The Netherlands considers it important that the GBER is a user-friendly State aid instrument. In our opinion, the GBER would be clearer if the sector-specific provisions and definitions currently included in Chapter I were added to the relevant sections or articles in Chapter III. If the focus is on user-friendliness, the duplication of certain definitions in the various sections of Chapter III is acceptable.

The Netherlands has the following comments on the definitions.

Article 2, paragraph 3 'undertaking or single undertaking': The Netherlands welcomes the insertion of this definition in conjunction with Article 3, paragraph 2, subsection b). However, this definition should be clarified in more detail. It is important that the GBER provides a clear rule stating that the definition of UID should only be assessed at the level of the group to which the aid applicant belongs (if any). In a judgement of December 2024, the Court of Appeal for trade and industry (*College van Beroep voor het bedrijfsleven*),[1] which is the highest administrative court of appeal in the Netherlands for administrative law concerning economic instruments, ruled that the UID requirement only applies at the level of the (international) group to which the aid applicant belongs, and not at both the group and the aid applicant levels. It is important to note that the situation is not entirely similar when the definition is used for the purposes of the RRG. In that case, aid for large undertakings is the exception, and the arbitrary allocation of costs within the group should be avoided. In case of application in GBER the situation is opposite.

Article 2, paragraph 32 'undertaking in difficulty': The Netherlands urges the Commission to align the definition to financial market realities by considering quasi-equity instruments in the UID-assessment. The most fundamental way in addressing this is the amendment of the UID-

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[1] ECLI:NL:CBB:2024:923, College van Beroep voor het bedrijfsleven, 23/1187.

definition by including quasi-equity. A secondary option would be to make the proposed carve-out aimed towards the entire group of innovative undertakings currently excluded (please see our response with regard to Article 1, paragraph 5). The Netherlands is aware of the concerns of the Commission.

Firstly, the Commission has noted that it is difficult to make a distinction between the forms of quasi-equity funds which fall under the definition and which do not. This could lead to risky quasi-equity financing being used by UIDs to qualify as non-UID and receive market distorting funding. The Netherlands therefore calls to establish an exhaustive list of instruments, which are clearly described in the regulation, or in a communication, such as described in the next paragraph. The current definition of own funds, or the proposed use of equity does not solve this demarcation issue as this term still depends, as it does now, on the national interpretation of the term.

Secondly, the Commission has stated that the rules should not be too difficult to apply for small granting authorities. Concerns about implementation are legitimate. However, the current definition is also complex and leads to a lot of interpretation issues. If the definition is not changed, those issues are not resolved. However, the central consideration is which problem this amendment should solve. The problem of wrongful application of the UID-test, or the problem of a systematic exclusion of innovative undertakings for aid. The proposed approach holds the status quo and offers mitigation options for innovative undertakings. Therefore, even though we cannot completely ensure the definition to be easily applicable, we can make it more fit for purpose. The Netherlands prefers an approach that solves the problem for innovative undertakings and offers mitigation options for the problem of wrongful application. This can be done by codifying the use of self-declarations (trust-based approach) or a reliable online tool (like the SME self-assessment tool).

Therefore, the Netherlands urges the Commission to take into account quasi-equity as own funds. The definition of quasi-equity in the GBER should fulfil the material aspects that cover various quasi-equity instruments. The Netherlands proposes specifically, three types of external funding to be included as 'own funds' in the definition of UID: 1) subordinated loans 2) convertible loans 3) loans provided by national and European (semi-)governmental institutions, such as the European Investment Bank, the European Investment Fund and national promotional banks. Other types of funding that could be included are silent partnerships, profit participation rights, and Simple Agreements for Future Equity (SAFE). The Netherlands also proposes two conditions. Firstly, the (remaining) duration of the loan must be at least equal to the duration of the period over which aid is given. Secondly, the loan may not be withdrawn during the project period. In this way, the loan will take on the character of (semi) permanent capital (commitment), thereby ensuring the realization of the project for which aid is granted. If a loan is withdrawn during the project period, it should be reassessed whether the undertaking would qualify as an UID. In case an undertaking would classify as an UID, it should be treated as such, meaning that the provided state aid must be recovered. To facilitate the Member States and granting authorities and uniformize the material conditions of own funds, a standard subordination agreement could be included as an Annex to the GBER or in additional guidance by the Commission.

Specific comment on the proposed amendment:
The proposed replacement of own funds by equity in the UID definition affects a group of financially healthy innovative undertakings that are financed through quasi-equity capital instruments. Therefore, the term broader concept of 'own funds' should not be replaced by the term narrower term 'equity'. This would codify an interpretation that is not fit for purpose.

Article 2, paragraph 34 'start up': The definition is yet to be determined. In order to properly assess the new scope of the prohibition on granting aid to UID, it is essential that we gain an understanding of the definition of 'start up' soon.

In reaction to the proposal on innovative startup included in the Commission recommendation, the Netherlands proposes the following amendments:

(Innovative) startup

> *(a) it is an innovative enterprise [within the meaning of the definition of innovative enterprise in the GBER];*
>
> ~~*(b) it is an autonomous enterprise within the meaning of point 5.1.*~~
>
> *(c) it is an enterprise which employs fewer than 100 persons* ~~*and whose annual turnover or annual balance sheet total, or both, does not exceed EUR 10 million;*~~
>
> *(d) it has been operating for less than 10 years following its registration.*

A): Amended reference to the GBER.
B): We strongly oppose to include this criterion that would exclude approximately 75% of the startup group, if the definition of an autonomous enterprise is applied. In the Netherlands and several other Member States, it is common practice to set up a legal structure in the first few years following establishment. This legal structure generally consists of one or more holding companies and an operational subsidiary. The common objective of the founders is to keep the financial risks within the innovative entity and to facilitate the entry of venture capitalists as shareholders in the event of (future) loan conversions. Venture capitalists also often require such a legal structure before investing in a company.
C): Very similar thresholds are already specified in the SME definition. Including these thresholds here adds no value in terms of more sharply defining the target group. Furthermore, for the deep tech sector in particular, the investment horizon for innovation is long, the required (equipment)investments, starting in early stage, are high. Based on this criterion – specifically the maximum balance sheet total – it is expected that approximately 30%-50% of the eligible target group in this sector will be excluded.

Article 2, paragraph 38 'start of works'. In terms of the incentive effect we welcome the deletion of the phrase 'or any other commitment that makes the investment irreversible'. This is an important simplification. Taking into account the clarifications previously provided by the Commission, we would welcome further guidance on the start of works in the guidance document. This should include guidance on when labour hours can be considered as a start of the construction or investment.

Article 2, paragraph 80, 81 and 82 'independent private investor': The Netherlands considers it important to mobilise private investment in the green and digital transitions. State aid can play a role here, as can other factors. The definition sets out which entities are not considered private investors, including the European Investment Bank, the European Investment Fund and national promotional banks. We call on the Commission to reconsider this. We have taken note of the Commission's intention to consider funding by the European Investment Bank and the European Investment Fund (at own risk and from own resources) to constitute external financing free of any public support under Section 1 (*Regional aid*) and Section 3 (*Aid for access to finance for SME's*). The Netherlands considers that funding from national promotional banks should be included in this classification.

Article 2, paragraph 89 'innovative enterprise': the definition is yet to be determined. In order to properly assess the new scope of the prohibition on granting aid to UID, it is essential that we gain an understanding of the definition of 'innovative enterprise' at some point.

In response to the proposal on the definition of 'innovative enterprise' included in the Commission recommendation, the Netherlands proposes the following amendments to the definition:

'Innovative enterprise'

> *(a) in at least one of the three preceding or current financial years, it has incurred research and development costs representing either at least 10% of its total operating costs or at least 5% of its total net sales or has development costs capitalised on its balance sheet amounting of at least 10% of the balance sheet total.*

(b) received directly funding or loans from public investment corporations, venture capital companies, individuals or groups of individuals with a regular venture capital investment activity who invest (equity) capital in unlisted businesses (business angels) or independent investors, or ~~having the objective of commercialization~~, in the last three financial years it has developed, is developing or will, in the foreseeable future, develop products, services or business processes, which are new or substantially improved compared to the state of the art in its industry, and which carry a risk of technological or industrial failure.

(c) the enterprise is not listed.

A) In the past years many innovative enterprises have chosen for (a change in accounting policy which has resulted in) capitalizing development costs, instead of accounting those as costs, due to the positive impact on the current UID calculation.
B) We propose to add [...] because the main characteristic of innovative enterprises in need of state aid is to cover the development costs of their innovation. The above definition of the applicable funding parties is in accordance with Article 3 paragraph 2 subsection a) of Annex I SME definition of the GBER, completed by 'independent investors' based on Article 2 paragraph 82 of the GBER.
We propose to remove the objective of commercialization of the innovation as it applies to 99% of innovative companies. Furthermore, objective determination of this criterion is not possible.
C) Additional requirement is added.

Article 2, paragraph 98, 'research and knowledge-dissemination organisation': The definition no longer corresponds with that in the RD&I-framework (point 16 ff). Whereas the definition contained in the RD&I-framework states that the primary goal of a research- and knowledge-dissemination organisation is 'to independently conduct fundamental research, industrial research or experimental development or to widely disseminate the results of such activities by way of teaching, publication or knowledge transfer.', the proposed definition in Article 2 states that this primary goal is 'to independently conduct fundamental research, industrial research or experimental development and to widely disseminate the results of such activities by way of teaching, publication or knowledge transfer.' A difference in definitions between these two instruments can cause uncertainty in the application of the State aid rules when funding research(-related) activities. Please clarify the difference. We would welcome guidance on how to determine whether the primary goal of the entity in question is independent research and the wide dissemination of the results of such research, as this is a rather complex assessment.

Article 2, paragraph 99 'research infrastructure': the definition refers to 'scientific community', which term is normally used for 'everybody & everything in science'. We assume that 'research and knowledge dissemination organisation' or 'research organisation' as defined in the State aid framework for research and development and innovation (paragraph 16, subsection ff) are a part of this? Please clarify this term.

Moreover, the used wording in this definition is not the same as in the ERIC Regulation. Therefore, the last sentence, which read: '*Such infrastructures may be 'single-sited' or 'distributed' (an organised network or resources) in accordance with Article 2, point (a), of Council Regulation (EC) No 723/2009 of 25 June 2009 on the Community legal framework for a European Research Infrastructure Consortium (ERIC*)' is confusing, because it is unclear whether it only refers to 'single sited/distributed' or to the definition of 'research infrastructure'.

Article 2, paragraph 100 'testing and experimentation infrastructure': The Netherlands welcomes the improved definition.

Article 2, paragraph 105 'organisational innovation' and paragraph 106 'process innovation': the list of excluded changes is so extensive that is raises the question of which types of changes are permitted. Please provide examples of changes that fit the definitions and/or remove the long list of exclusions and elaborate on this in the guidance document.

Article 2, paragraph 113 ‘rolling stock’: Please align this definition with the TBER and explicitly include ‘special vehicles’ therein. These vehicles do not transport goods or passengers but operate on rail infrastructure and are used for railway maintenance. Examples include ballast regulators, ballast cleaners, grinding or milling machines, and measuring trains.

Article 2, paragraph 117 ‘small mid-cap': The definition refers to Annex V, but it appears that it should refer to Annex IV instead. Please refer to our comments with regard to Annex IV.

Article 2, paragraph 141 ‘energy infrastructure’, subsection e): We suggest aligning this definition with that in Article 2, paragraph 46 of Directive (EU) 2023/1791, to which Article 64 of the new GBER refers. This can be achieved by deleting the final part of the definition. Furthermore, in 5th generation distric[2] networks, lukewarm water is made available to the buildings that are connected to the infrastructure□. Such networks can unlock more sources of renewable heat and waste heat, so it is important to make them eligible for aid. Finally, thermal infrastructure should also include storage facilities as is the case for other types of infrastructure.

Therefore, the definition should be amended to read: ‘*infrastructure, including thermal storage facilities, used for transmission or distribution of thermal energy in the form of steam, hot or lukewarm water or chilled liquids from multiple producers or users, ~~based on use of renewable energy or waste heat from industrial applications~~*;’

In addition, the Netherlands would welcome a definition of ‘applied research’ as referred to in Article 32, which specifies that the focus is not predominantly on industrial research or experimental development activities. This aims to prevent the circumvention of aid amounts and intensities.

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[2] For example, in the Netherlands Mijnwater received funding from the EIB (https://www.eib.org/en/projects/all/20220937).

Furthermore, we would welcome a definition of 'investment costs'. This would clarify whether, under national accounting rules, investment costs must be capitalised on the balance sheet under national accounting rules in order to fall within the scope of the GBER definition, or whether the GBER definition is broader than costs that are capitalised on the balance sheet.
In section 6, the term 'investment costs' is used consistently throughout, while in other sections and articles of the GBER it is not. In some articles, (for example Article 38) it is specifically mentioned that aid can be provided for tangible and intangible assets. Could the Commission please clarify whether 'investment costs' in Section 6 refers to costs that are activated on the balance sheet of the aid beneficiary, whether it could include operational lease as well, what the difference is with 'investment costs in tangible and intangible assets' in other sections of the GBER, and whether Article 7, paragraph 3 is applicable to 'investment costs in tangible and intangible assets' as well?

Article 3 (Conditions for exemption)

The Netherlands suggests incorporating this Article into Article 1 of the new GBER, before the definitions, as this provision deals with the subject matter and scope of the GBER.

Paragraph 2, subsection b), is to be read in conjunction with Article 1, paragraph 3), 'undertaking' or 'single undertaking'. The Dutch authorities welcome this clarification, and have some remarks as mentioned in response to Article 1, paragraph 3.

Finally, we suggest incorporating paragraph 2, subsection c), into Section 9 on Infrastructure.

Article 4 (General provisions applicable to aid provided in the form of financial instruments)

The Netherlands recommends relocating this Article. It could perhaps be incorporated into the provisions on aid instruments and into the relevant sections or articles of the new GBER.

Article 5 (Notification thresholds)

The Netherlands welcomes the fact that the notification thresholds are incorporated into Chapter III of the proposed GBER. Now that Article 5 has been shortened, it could be included in Article 1, which deals with the scope of the GBER.

Furthermore, the new GBER should also include inflation-related adjustments to the notification thresholds.

Article 6 (Determination of the aid amount)

The Netherlands recommends that this Article should refer to '*aid instruments covered by GBER'* instead of *'determination of the aid amount*'. The Article aims to define the types of aid that do not involve a complex economic assessment. These determinations are made based on the instrument used, rather than the amount of aid. To avoid confusion and make this Article easier to interpret and apply, it should reflect this.

Paragraph 2 states that '*determining (...) in particular in*'. Does this mean that the list is not exhaustive and leaves discretionary room for application by the Member States?

Article 7 (Aid intensity and eligible costs)

The Netherlands welcomes the expanded use of the Simplified Cost Options (SCO) and the simplification of the Article compared to the current GBER.

However, the Netherlands does not see the added value of paragraph 2, subsection b), because it requires *ex ante* verification of the SCO whereas subsection a) already requires that SCO is established *ex ante* in accordance with a fair, equitable and verifiable method based on relevant and reliable data. Removing subsection b) would also be in line with the explanatory memorandum, which states that the SCO will be extended to all aid categories. Maintaining paragraph 2, subsection b), especially the sentence 'verified ex ante by an appropriate authority' could mean an additional administrative burden for granting authorities if the 'appropriate authority' is not the granting authority, but, for example, an audit authority. In reality, an auditor requires an *ex-ante* investigation in accordance with paragraph 2, subsection a), before he can verify the use of SCOs.

Article 8 (Incentive effect)

In terms of the incentive effect, the Netherlands welcomes the amended definition of 'start of works', as set out in Article 2, paragraph 38, of the new GBER, without the phrase 'or any other commitment that makes the investment irreversible'. This is an important simplification.

The Netherlands also welcomes the inclusion of 'written application for EU funding' in Article 8, paragraph 2.

Further clarification could be provided in the GBER or in the guidance document how to deal with follow-up investments and situations where significant cost increases mean that more aid is required for the same project, both in general and for specific aid categories.

The Netherlands suggests incorporating the specific exceptions into the relevant sections or articles of the GBER.

Article 9 (Cumulation)

With regard to cumulation, the Netherlands suggests incorporating the specific provisions into the relevant sections or articles of the GBER.

Article 10 (Publication and information)

The Netherlands requests that the Commission reconsider the TAM obligation. According to the Netherlands, an obligation to publish aid measures would suffice. Due to the administrative burden, the TAM threshold should be increased to at least EUR 500,000 again. The Netherlands has seen no evidence of the effectiveness or usefulness of the TAM information since the threshold was lowered.

Please also note that Article 10, paragraph 1, subsection a), refers to Article 11, which should be Article 12.

CHAPTER II REPORTING AND MONITORING

The Netherlands would welcome the relocation of Article 10 (*Publication and information*) to Chapter II of the GBER.

As Article 11 (*Withdrawal of the benefit of the block exemption*) is not on reporting and monitoring, the Commission could consider relocating it to Chapter I of the GBER.

With regard to Article 12 (*Reporting*) and Article 13 (*Monitoring*), the Netherlands calls on the Commission to incorporate the specific provisions in the relevant sections in Chapter III of the GBER.

CHAPTER III SPECIFIC PROVISIONS FOR DIFFERENT CATEGORIES OF AID

Section 1 Regional development and territorial cooperation
(Articles 14-19)

The Netherlands calls upon the Commission to carefully assess whether differentiated treatment with regional State aid is still required to the same extent. Consideration should be given to deleting these articles from the GBER. The proposed simplifications even appear to broaden the scope of possibilities to grant regional aid by removing conditions. In our opinion, the various GBER articles that provide a bonus percentage for investments in an assisted area are more targeted and should be sufficient.

Please also note that the layout of the title in this section differs from that in the other sections.

Article 18 (Aid to undertakings participating in European territorial cooperation project)

The Netherlands welcomes the Commission’s statement that it intends to consult Member States on a possible targeted revision of the GBER, in order to align it with the 2028-2034 Multiannual Financial Framework, once the legislative procedure has advanced. This is certainly necessary, given that the current wording of Article 18 disadvantages situations in which the performance-based method of cohesion policy is applied in programmes and projects.

The performance-based method is compulsory at programme level and highly recommended to be used in programmes and projects. Therefore, we suggest amending the wording of Article 18 to address this unequal treatment of programmes using the performance-based method versus a cost-based method at the lower level. This is necessary already now because programmes are currently deciding how to implement future programmes.

The unequal treatment stems from the wording of paragraphs 2 and 3. Paragraph 2 provides for a lumpsum of EUR 22.000 per project, which can be applied in all cases (this incorporates the current Article 20a into the ‘main Interreg Article’). Paragraph 3 allows for a much higher aid amount ‘determined on the basis of eligible costs’. This cannot be applied to programmes that, in the period 2028-2034, would grant aid based on the fulfilment of milestones and targets.

Moreover, the Netherlands suggests raising the aid amount in paragraph 2 to at least EUR 30.000.

Finally, we recommend adding this Article to the exceptions to the prohibition of aid to UID, as set out in Article 1, paragraph 5 of the new GBER.

Section 2 AID TO SMEs *(Articles 20-24)*

Article 20 (Investment aid to SMEs)

The Netherlands requests the Commission to reconsider the integral exemption of investments in the sectors of primary agricultural production and primary production of fishery and aquaculture products in paragraph 9, subsection c). The Netherlands proposes to allow the possibility of granting aid to these sectors up to an aid intensity of 100% as long as the total amount of investment aid to SME's does not exceed EUR 50.000 (agriculture) and EUR 30.000 (fisheries).

Article 24 (Aid in the form of favourable treatment of remuneration in the form of share options and warrants)

The Netherlands welcomes the introduction of this new Article for aid in the form of favourable treatment of remuneration in the form of share options and warrants. This could result in increased employee participation in SMEs. We agree with the Commission that attracting and retaining talent is crucial for SMEs, particularly start-ups and scale-ups.

However, it can be the case that scale-ups with share options do not meet all or any criteria for an SME. Also scale-ups above the SME threshold can still face the same challenges to attract and hold employees and from a policy perspective it could be desirable to grant aid to these companies as well. It would also be sufficient if such aid could be deemed compatible after assessment by the Commission in an approval decision as it might be too complex for GBER.

Section 3 AID FOR ACCESS TO FINANCE FOR SMEs *(Articles 25-31)*

The Netherlands considers it important that this section of the GBER, and in particular Article 25, be simplified. Therefore, we call on the Commission to organise expert meetings to review it. In this regard, we welcome the meeting on national promotional banks and State aid rules-ensuring access to finance to support the Clean Industrial Deal on 28 April 2026.

The first preliminary comments we have on Article 25 are the following.

We welcome the amendment of paragraph 4, subsection b).

Furthermore, the Netherlands would like to call on the Commission to reconsider the delineation between Article 25 and 29 insofar it is the period of operating on a market: 5, 7 and 10 years.

With regard to aid to startups: According to the current GBER, (registered) startups are defined as 'unlisted small enterprises up to five years following their registration, which have not yet distributed profits and have not been formed through a merger.' However, the draft GBER complicates this definition of startups and introduces the new term: 'young enterprises' in Article 29. The new term 'startups' has yet to be defined. Furthermore, the draft does not propose an increase of the maximum amounts mentioned in paragraph 3. However, the proposal includes a doubling of these maximum amounts for 'startups' and 'social enterprises', doubling for 'small and innovative enterprises' has been removed. Considering the proposed changes, the Netherlands suggests the following:

- Use a fit-for-purpose definition of the term 'startups' in the GBER. Please refer to our response with regard to Article 2, paragraph 34. Alternatively, use the term 'young innovative company. Please refer to our response with regard to Article 1, paragraph 5. Any decision to align with other legislation should be appropriate, prompt, and necessary, and take into account the goals of this revision.

- Simplify the new definition of ‘small enterprises’. The technical details added to the definition go beyond the purpose of using this Article to block exempt targeted and limited aid for startups and young enterprises.

- Remove the proposed limitation for young and innovative enterprises by including ‘innovative enterprises’ in paragraph 5.

Finally, please see our response with regard to the definition of ‘independent private investor’ as defined in Article 2, paragraph 80, 81 and 82. The Netherlands considers it important to mobilise private investment in the green and digital transitions. State aid can play a role here, as can other factors. We have taken note of the Commission’s intention to consider funding by the European Investment Bank and the European Investment Fund (at own risk and from own resources) to constitute external financing free of any public support under Section 3. The Netherlands considers that funding from national promotional banks should be included in this classification.

For Article 28, paragraph 4, the Netherlands suggests that in addition to allowing open participation, financial intermediaries involved in the measure could be selected through an open, transparent, and non-discriminatory call in accordance with applicable Union and national laws in line with Article 25, paragraph 15.

Next to this, the Netherlands asks the Commission to clarify the link between Article 28, paragraph 3 (financial intermediaries whose remuneration shall conform to market practices) and Article 28, paragraph 5 (all the advantages are passed on to the largest extent to the eligible undertakings in the form of ex ante identifiable interest-rate reductions, higher volumes of financing, or lower collateral requirements) as these obligations do not seem to match.

Articles 25 to 27 cover risk finance measures and are therefore typically aimed at investments. Under the ABER risk finance is not considered to be transparent aid. The Netherlands therefore welcome these categories under the GBER.
In the Netherlands support to SMEs is needed for the transition to more sustainable agriculture. For this, the eligibility of working capital is essential. In the ABER this is generally excluded. Therefore, the Netherlands would welcome more possibilities in the GBER to finance working capital in the form of direct loans or guarantees through financial intermediaries and entrusted entities.

The Netherlands proposes to either include working capital as eligible costs under these articles or provide for more specific financing options.

The Netherlands would like to specifically draw attention to the scope of Article 25, paragraph 3 as the conditions in this Article are referred to most Articles in this Section (including Article 28).

The Netherlands suggests considering the inclusion of initial financing working capital aiming at improving environmental performance as an eligible activity for which the threshold is limited to 15 % under Article 25, paragraph 3.

Section 4 AID FOR RESEARCH AND DEVELOPMENT AND INNOVATION *(Articles 32-43)*

In general, the Netherlands welcomes the proposal for the new GBER with regard to RD&I aid. We have the following comments on this Section.

Article 32 (Aid for research and development projects)

Article 32 introduces the aid category ‘applied research’, in paragraph 2, subsection d), as a combination of industrial research and experimental development activities. We welcome the flexibility that this category intends to create. The Netherlands proposes including this term in the definitions that accompany this Section of the GBER, in which it is specified that the focus is not predominantly on either of these activities, with the aim preventing circumvention of aid amounts and aid intensities. Furthermore, the Netherlands would favour a higher notification threshold (EUR 30 million) and aid intensity (of 40%) for this type of activity.

Furthermore, the Netherlands proposes removing the term ‘additional’ from paragraph 4, subsection e), as it implies that there is a distinction between regular overhead costs and additional overhead costs. However, Article 32 GBER provides a limitative list of eligible research and development costs and makes no distinction between regular and additional overhead costs. Consequently, using 'additional’ may unintentionally create a distinction that could lead to issues of interpretation. Removing ‘additional’ does not expand or restrict the eligible costs. It merely clarifies the text to avoid ambiguity. Referring simply to ‘overheads and other operating expenses’, achieves a more neutral and unambiguous terminology, a clearer connection to the limitative list in the same Article, and less room for differences in interpretation during implementation, reporting, and auditing. It also ensures greater consistency with administrative practices used in research and development projects.

The Netherlands would like to propose adding a subsection to paragraph 6 increasing the aid intensity by 5 % for projects within the scope of Section 6 (Aid for environmental protection), since these activities could help to achieve the objectives of the European Green Deal, the Fit for 55 package and the Clean Industrial Deal, among others.

Could the Commission provide a clarification regarding Article 32, paragraph 7 subsection a), whether the wording ‘where the total aid amount does not exceed EUR 1.2 million per undertaking, per project’ means that where an undertaking submits a single aid application covering multiple distinct research and development projects, the total aid amount of EUR 1.2 million applies to each individual research and development project and not to the application as a whole? If so, we would welcome guidance how to determine whether activities form part of the same research and development project or of separate research and development projects.

Article 37 (Aid involved in the co-funding of projects supported by the European Defence Fund or the European Defence Industrial Development Programme)

The Netherlands welcomes and has a positive view of this Article. However, we recognize that the recent adoption of the European Defence Industry Program (EDIP) and its work programme propose an opportunity. Keeping in mind that the activities undertaken in the Industrial Reinforcement Actions (IRA) align with civil RD&I activities that are covered by other articles of this Section, the Netherlands would like the Commission to consider adding the EDIP program to this Article on defence related activities. This furthermore holds true as well for the inclusion of new Defence programs undertaken in the new Multiannual Financial Framework, once the legislative procedure has advanced.

Article 38 (Investment aid for research infrastructure and testing and experimentation infrastructure)

The Netherlands has a positive view of Article 38 and welcomes the increase in aid intensity for testing and experimentation infrastructure. However, a higher notification threshold than EUR 25 million and/or aid intensity of 50% is required for certain types of testing and experimentation infrastructure, such as microelectronics, semiconductors and quantum technology, where the total investment amount in pilot lines often exceeds EUR 150-200 million. Moreover, the Netherlands would welcome it if the threshold for research infrastructures were not lowered to EUR 25 million, but remained at EUR 35 million (as under the current GBER), given the high investment costs typically required for the construction or modernisation of research infrastructures. Furthermore, we would welcome guidance from the Commission on the combination of economic and non-economic activities.

Article 39 (Aid for innovation clusters)

The Netherlands would welcome a clarification by the Commission in paragraph 3, that an innovation cluster may have multiple owners, similar to the clarification provided for their operators.

Furthermore, clarification is needed regarding the assets for which investment aid may be granted. The definition of an innovation cluster also refers to research infrastructure and testing and experimentation infrastructure. We make a similar request for clarification regarding operating aid for the management of cluster facilities. For example, can operating aid be granted for the management of research infrastructure or testing and experimentation infrastructure that forms part of an innovation cluster?

Finally, the Netherlands welcomes the option of extending the operating aid period, in paragraph 8.

Article 40 (Mechanism for passing on to SMEs and small mid-caps transparent aid in the form of prices below the market price by research and knowledge dissemination organisations, research infrastructure, testing and experimentation infrastructure or innovation clusters)

The current wording of Article 40 is unclear. It states that aid based on Articles 38 and 39 may be passed on to SMEs and small midcaps. However, if the aid is passed on, it no longer falls under these articles. It would be useful if the Article states whether the passed-on aid should be based on, and fulfil the conditions of, another Article in the GBER, such as Articles 41 or 32, as is currently the case. Could the Commission provide guidance how Article 12 should be applied when aid is passed on?
The Netherlands welcomes the addition of small mid-caps to innovation aid. The extending measures to small mid-caps should however not reduce SME support, funding or policy focus.

Article 40, subsection c), appears to contain a textual error: '*full of partial market price discounts'* should read *'full or partial market price discounts*.'.

Article 41 (Innovation aid for SMEs and small mid-caps)

The Netherlands welcome the addition of costs for digitalisation to Article 41, paragraph 3, subsection d).
The Netherlands welcomes the addition of small mid-caps to innovation aid. The extending measures to small mid-caps should however not reduce SME support, funding or policy focus.

Section 5 AID WITH A SOCIAL OBJECTIVE *(Articles 44-49)*

Article 44 (Training aid)

The Netherlands welcome the intention of the Commission to better incentivize investments in upskilling and reskilling of workers, through higher aid intensities. Specific attention for digitalisation, science, technology, engineering and mathematics is important and therefore a top up for these sectors is welcomed. A specific possibility to increase the aid intensity to 100 % when the aid does not exceed EUR 300 000 is also welcomed. The Netherlands proposes to add the following to Article 44, paragraph 5:

- increasing the aid intensity from 50% to 100% in cases of labour shortages in a certain sector.
- increasing the aid intensity for the healthcare sector. Experience has clearly shown that 50% is an inadequate aid intensity in this context, so this adjustment is essential to achieving the necessary transformation.

However, the proposed changes to aid category for training aid do not ensure that the objectives of the Union of Skills are realised. The proposal for the new GBER does not address the supply side of training. In the Netherlands, offering training and education programs within the framework of lifelong learning and development often fall outside the

scope of public funded education; for public educational institutions, these are economic activities. The current private and public supply in the field of lifelong learning is insufficient to make the
necessary scaling-up in the field of reskilling and upskilling within various sectors, and the current supply is not sufficiently focused on reducing labour market shortages. Public education cannot incorporate technical developments into their curricula quickly enough. In addition, public educational institutions are unable to properly organise and offer programmes for workers as they lack financial resources for the investment in longer courses. Private education providers are not sufficiently filling this gap, as their focus is mainly on short refresher courses, as longer training programmes are considered insufficiently profitable. This is the case within, among others, the technical sectors, including the semiconductor industry, nursing and education when it comes to reducing the teacher shortage. In order to enable the necessary transitions, the Netherlands needs a clear support framework with sufficient possibilities. A clear support framework will also contribute to the achievement of the European Commission's objectives, as set out in the Union of Skills.

The Netherlands would like to propose a new Article in GBER for aid for the development of training courses if it appears that there is market failure and a certain type of course or training is not being taken up quickly or sufficiently by the market and does not fall within the scope of regular funded education (i.e. the national education system that is mainly or entirely funded by the State and is under State supervision). This is, for example, the case for the Science, Technology, Engineering and Mathematics (STEM) sector. The beneficiaries are (public and private) educational organisations. An SGEI is an alternative option for the type of aid considered here. However, a disadvantage is a lack of legal certainty. In the guidance by the Commission the only examples that are given when this could be used are reintegration into the labour market or the social inclusion of a vulnerable group.[3] When using SGEI, there is therefore uncertainty whether there could be a manifest error when it

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[3] RRF guiding template on upgrading education and training, point 28.

concerns lifelong learning. Furthermore, compared to GBER, the SGEI decision entails a heavier administrative burden, as it requires, amongst other things, establishing parameters and detailed compensation calculations each time.
The eligible costs would in any case be the costs related to developing a course or training programme and marketing the training programme or course. For specific sectors, such as healthcare and STEM, to account for their unique characteristics, the eligible costs would also be the costs of preparing an action plan, as well as the coordination costs of bringing together relevant
stakeholders, for the purpose of developing and providing specific training programmes.

In our proposal, the educational organisation would have to charge market rates for attending the training programme or course offered.

The following is proposed for the aid intensity:
- The aid intensity is 50% of the eligible costs, or
- The aid intensity may be up to 100% of the eligible costs.

The amount of aid shall not exceed what is necessary to cover the net costs, including a reasonable profit. This shall be based on reasonable forecasts. In the case of aid amounts exceeding EUR 500.000, a recovery mechanism must prevent overcompensation in the event of more than reasonable profit.

Section 6 AID FOR ENVIRONMENTAL PROTECTION *(Articles 50-67)*

The Netherlands welcomes the aim of simplifying this Section of the GBER. It is welcomed that the complex counterfactual scenario is no longer always required. However, since many aid schemes make often use of combinations of articles, the Netherlands favours ensuring that the methods used to calculate aid and aid intensities are as closely aligned.

Article 50 (Scope of aid for environmental protection)

According to this Article Section 6 shall not apply to aid measures for production of nuclear energy. We would like to call on the Commission to reconsider this. The Netherlands would welcome a specific aid category for Small Modular Reactors (SMRs) that considers their unique characteristics. SMRs contribute to the transition away from fossil fuels and achieving the climate goals. However, the technology faces different challenges compared to renewable energy projects on the road to realisation due to required permits, their high capital expenditure and longer construction time.

Article 51 (Investment aid for climate protection)

Electrification is widely regarded as a key means of decarbonization of industry. As such, it is a key part of the EU's transition pathways. Compared to other methods, such as CCS, it offers the advantages of energy savings, lower air and water emissions, for example NOx, and reduced dependence on fossil fuels. In the Dutch industry, we are seeing electrification become more feasible even for more complex processes (for example at high temperatures) due to rapid technological innovation. It is therefore of key importance that the GBER framework provides substantial support for industrial electrification. However, in certain industrial processes full electrification is not yet technically or economically viable. In such cases, electrification is often combined with a limited use of fuels in hybrid configurations. For example, industrial heat pumps can deliver substantial reductions in both GHG emissions and energy consumption. In practice, however, they often still rely on a conventional gas boiler as a backup capacity to ensure operational reliability. Another example is the glass industry, where hybrid furnaces, use of electricity supported by fuels, is due to the nature of the production process the only feasible option for decarbonisation (important to take into account that the fuels are used as back up; operator cannot choose which source will be used for production).

Therefore, the Netherlands proposes including certain hybrid alternatives within the scope of Article 51, provided there is a genuine reduction and no realistic 100% electric alternative exists due to the nature of the production process. Without aid, an undesirable and polluting situation will persist, despite the potential environmental benefits. The net result will be that projects for electrification will stagnate. Moreover, reduced industrial electricity demand weakens the business case for investments in renewable generation, such as wind and solar.

To this end, paragraph 3, subsection b), should be amended. The same applies for Article 52, paragraph 3, subsection b), with a similar wording. This would also be in line with the possibilities for aid for CCS (including low carbon hydrogen), as described in paragraph 6 and 4, subsection c), and Article 58, paragraph 6.

With regard to paragraph 3, the Netherlands also favours the retention of the current possibility to grant aid for the installation of add-on components improving the level of environmental protection of existing equipment, machinery and industrial production facilities, in which case the investment shall result neither in the expansion of the production capacity nor higher consumption of fossil fuels.

Furthermore, when a specific unit within a larger factory is replaced, it is unclear under which paragraph this should be categorised. In our view, both paragraph 4, subsection a), and paragraph 4, subsection b), are possible. However, as these paragraphs differ in terms of aid intensity, and as paragraph 4, subsections b), require a counterfactual, it needs to be clear which paragraph applies. Therefore, clarification by the Commission would be welcome.
port electrification on its own, taking into account that the share of renewable electricity in the Netherlands is increasing to 70% already in 2030. Energy response and demand response are key to optimizing grid capacity. The lack of sufficient grid capacity will hinder the EU goals concerning renewable energy and greenhouse gas reduction.
Paragraph 4: Pursuant to paragraph 4, subsection b), and paragraph 7, subsection b), a comparison must be made between the planned

investment and the counterfactual investment. Could the Commission please clarify that if no counterfactual investment is available, the planned investment can be compared with a scenario in which no investment is carried out?

Furthermore, in paragraph 4, subsection c), there is a semicolon between ’transport’ and ’distribution’, where a comma would appear to be more appropriate.

The Netherlands welcomes the possibility to provide aid using a counterfactual scenario. However, the provisions provided in paragraph 8, subsection a), increase the regulatory burden on both the aid beneficiaries and granting authorities. In any case it is unclear how aid beneficiaries can demonstrate compliance with paragraph 8, subsection a), (i) on the 10% most efficient ETS installation.
Additionally, the difference between ‘installation’ in paragraph 8, subsection a), (i) and ‘technical unit’ in paragraph 8, subsection a), (ii) is unclear. For these two reasons, we propose removing these provisions. Firstly, it should be up to the Member States to implement measures to ensure they support companies that reduce CO2 as much as possible. The GBER should facilitate this without imposing additional obligations on the amount of CO2 reduced, as set out in paragraph 8, subsection a). Secondly, for electrification projects, it may be very difficult to comply with paragraph 8, subsection a). This is because electricity from the grid in the Netherlands in 2030 will be 70% of renewable sources whereas a 100% share by 2030 is unrealistic. Unless there is a direct connection between a renewable electricity source and the installation, reaching a 90% (and sometimes even 40%) reduction is therefore near impossible. Furthermore, paragraph 8, subsection a), sets out the following regarding aid intensity for electrification: ‘45% of the total investment costs for investments in electrification combined with energy storage or with demand response, as defined in Article 2, point (20), of Directive (EU) 2019/944’. It is unclear whether we can provide aid for electrification when the investment is combined with either storage or demand response, or whether energy storage and demand response can be optional when combined with electrification. In our view, it is unnecessary

to require a combination with either energy storage or demand response. We should be able to support electrification on its own, taking into account that the share of renewable electricity in the Netherlands is increasing to 70% already in 2030. Energy response and demand response are key to optimizing grid capacity. The lack of sufficient grid capacity will hinder the EU goals concerning renewable energy and greenhouse gas reduction.

In paragraph 8, subsection a), the term 'energy storage' is used. Does this refer to both electricity and thermal storage in line with paragraph 3, subsection b)?

Paragraph 9, subsection a), appears to contain an error. It refers to a situation in which discounted revenues exceed discounted operating costs. We assume that it is intended to refer to a situation in which discounted revenues are lower than discounted operating costs. The same applies for Article 52, paragraph 7, subsection a), with a similar wording.

Finally, it seems that there is no possibility of supporting projects involving direct air capture and direct ocean capture, which we consider important in light of the green transition. Therefore, we call on the Commission amending paragraph 4 subsection c), to read: '*(c) by exception to points (a) and (b), the following investments are assumed to deliver a reduction <u>or removal</u> of greenhouse gases emissions: <u>investments in installations which capture CO2 directly from the (ambient) air or water</u>, investments in dedicated infrastructure for the transport; distribution or storage of low-carbon hydrogen and hydrogen-derived fuels; investments in dedicated infrastructure for transport and storage of waste heat; investments in dedicated infrastructure for transport of CO2; and, investment in a connection to an energy infrastructure for hydrogen, waste heat or CO2*.'

Finally, could the Commission please confirm whether the investment in or leasing of mobile machinery is still considered an 'investment' under Articles 51 and 52 of the GBER? This was explicitly stated when determining the eligible costs under Article 36, paragraph 4, subsection d), of the current GBER. The question is in what way mobile machines can be related to (investments in) installations and production capacity as referred to in Article 51 paragraphs 4 and 8 or Article 52, paragraph 4? Machines do not intrinsically generate a reduction of greenhouse gases (or other pollution) in those installations or in production units or capacity themselves. Leasing is an important way of financing zero emission mobile machinery, particularly in the construction sector. Furthermore, leasing is also included in Article 54 of the GBER. Financing mobile machines used in the construction sector is comparable to the financing trucks, which fall under Article 54 of the GBER. Therefore, it would make sense to make this option available for mobile machinery under Articles 51 and 52 of the GBER as well.

Article 52 (Investment aid for the prevention or reduction of pollution and for actions for climate resilience)

The Netherlands would welcome clarification on the scope of Article 52 of the GBER in relation to Article 51. For instance, does aid for zero-emission mobile machinery fall within the scope of Article 51 GBER or Article 52 GBER? Subsidising this type of machinery reduces both CO2 emissions and pollution (NOx, PM).

When subsidizing hydrogen-powered mobile machinery, such as an excavator, the administrative burden for the applicant (often a small enterprise) is too high if it has to be demonstrated that all hydrogen used when operating the machine meets the requirements set out in Article 51, paragraph 5. Can the Commission confirm that is not intended and that in the above example the requirements set out in this article would only apply when subsidizing the fuel itself?

Could the Commission please clarify in the Regulation or in the guidance document whether; the prevention or reduction of pollution' also covers the elimination of reduction of nitrogen emissions by undertakings, with a view to limiting nitrogen deposition in Natura 2000 areas? Moreover, the Netherlands would welcome clarification how 'actions for climate

resilience' relate to 'nature-based solutions for climate change adaptation', as referred to in Article 63.
Furthermore, please see also our comments on Article 52, paragraph 3, subsection b), and paragraph 9, subsection a), in our response to Article 51.

Article 53 (Investment aid for recharging or refuelling infrastructure)

The Netherlands welcomes the fact that this Article now also applies to both air and maritime transport. Ports are no longer specifically excluded. As Article 80 (Aid for ports) also covers infrastructure for recharging and refuelling infrastructure, could the Commission please confirm that Article 80 is the *lex specialis* for this type of aid?

For fixed or mobile recharging or refuelling infrastructure, the Netherlands would welcome the scope of paragraph 3 being widened to include ammonia and methanol, in addition to the already mentioned electricity and hydrogen.

The Netherlands welcomes the possibility of low-carbon hydrogen next to renewable hydrogen in paragraph 6.

With regard to paragraph 9, the Netherlands suggests changing the scope in order for the storage units (battery packs) to be used to store renewable electricity from the grid, as a mitigating measure in the event of grid congestion.

With regard to paragraph 10, subsection b), the Netherlands proposes to increase the aid intensity of 20% of the eligible costs to at least 50% of the eligible costs. For battery trains an aid intensity of 20% is not sufficient.

Paragraph 11 refers to the competitive bidding process. It appears that the aid intensity of 100% of the eligible costs has been omitted.

Article 54 (Investment aid for the acquisition of clean vehicles or zero-emission vehicles and for the retrofitting of vehicles)

The Netherlands welcomes limiting the scope to zero-emission road vehicles, rather than both zero-emission and clean road vehicles.

The Netherlands also welcomes that airplanes are now included in the scope of this Article. However, the scope is limited to zero-emission airplanes. The scope for shipping is broader. A limited scope may exclude innovative projects that do not directly involve electric or hydrogen propulsion, but which are essential for the sector's transition. Therefore, an explanation of the discrepancy between aviation and shipping would be welcome.

The Netherlands believes that the definition of a 'clean inland waterway vessel' is too strict to assume 0 g CO2-eq/MJ for 2050, given the current lack of support from international pricing measures. The Netherlands therefore suggests aligning the requirements for inland waterway transport with those for maritime transport. Therefore, the last line from the definition of clean inland waterway vessels should be removed, which is '~~g CO2e/MJ from 1 January 2050~~'. This aligns with the text of the draft Taxonomy (technical screening criteria).

The Netherlands welcomes the phrase 'enabled to achieve' in the definitions for clean maritime and inland waterway vessels. However, the same should apply to zero-emission vehicles. The current wording of the GBER criteria for zero-emission vessels can be interpreted as requiring the use of sustainable fuels once the project is completed. However, as these fuels are likely to remain significantly more expensive than fossil fuels for some time to come, this removes the incentive to invest in energy lines suitable for renewable fuels. Therefore, it would be preferable to formulate the criteria in terms of 'enabled to achieve', as is also the case with 'clean vehicle', as this is more in line with investment aid.

Suggestion:
In paragraph 3, subsection b) (v) on 'Zero-emission inland waterway vessels': *Is enabled to achieve zero direct (tailpipe/exhaust) CO2 emissions*;
'Zero-emission maritime vessels': *Is enabled to achieve zero tank-to-wake emissions*.

In paragraph 3, the Tank-to-wake (TTW) benchmark is used for zero-emission vehicles (subsection b) (v), and the Well-to-wake (WTW) benchmark is used for clean vehicles (subsection a) (ii).

This means that in the case of electricity, hydrogen and ammonia, which have significant WTT emissions, the vessels in question may be classified as zero-emission (based on zero emissions at the exhaust), but not as clean vehicles.
Could the Commission please explain why there are two different terms used for the same thing for inland shipping and maritime shipping?

The Netherlands suggest using WTW for both zero-emission maritime and inland waterway vessels. The Netherlands recommends using the same terms for both inland waterway transport and maritime transport: 'zero Tank-to-wake CO2 emissions'.

In the definition of 'inland waterway vessel' in paragraph 3, subsection a) (i), it is unclear what the definition is of 'self-propelled floating structures' within inland shipping. And whether this term also applies to maritime shipping. Could the Commission please explain whether offshore work vessels fall under this definition? The Netherlands would like to emphasise the importance for the energy transition of offshore work vessels. We propose to clarify this in a similar way as in the current draft Taxonomy. In this the term 'work vessels' are added in the description of the articles of the technical screening criteria 6,8; 6,9; 6,10; and 6,12 of the Taxonomy. Also a definition is given: *Work vessel as identified under Type of ship code (S&P Global Market Intelligence Statcode5) in accordance with IMO Circular Letter No.2554/Rev.4*.

In paragraph 3, subsection a), sub (ii) with regard to clean maritime vessels, could the Commission please explain what methodology should be used to calculate the 40% of the propulsion energy coming from wind-assisted propulsion systems? Perhaps P_Wind/P_Prop>0.4, in line with the requirement for zero-emission vehicles in maritime transport?

In paragraph 3, subsection b), sub (v), regarding zero-emission maritime vessels), the Netherlands does not understand why the criterion of using sailing propulsion as the primary source of energy, that is, if it can achieve a relation of Pwind/Pprop above 1, is included. In our view it is not realistic to set a zero-emission criterion for a seagoing vessel with wind assistance without also setting (zero-emission) requirements for the normal propulsion system on the propeller. In addition, the requirement seems to apply to only a few vessels in Europe, with no potential for scaling up. Therefore, we question whether this rather extreme requirement adds anything to the already stringent requirement of 40% propulsion energy for clean maritime vessels.

For paragraph 7,subsection a) (ii), the Netherlands proposes an aid intensity of at least 50% of the eligible costs.

Paragraph 4, states that clean vehicles must be powered 'at least partially by electricity or hydrogen'. This limits the scope of the definition of "clean vehicle", which is based on gCO2e/MJ – which in itself does not have requirements regarding the type of energy carrier. The EU Taxonomy also makes no distinctions between hydrogen and electricity. So why does the GBER? The Netherlands views this as a missed opportunity, because carbon-containing biofuels and RFNBOs with very low WTW greenhouse gas emissions (such as bio- and e-methanol) are crucial for achieving climate-neutral shipping. It is impossible to achieve this in maritime shipping on the basis of hydrogen and electricity alone. To a lesser extent, this also applies to inland waterway transport.

Therefore, the Netherlands advises amending paragraph 4 as follows:
'*clean vehicles powered at least partially by electricity or by hydrogen or*

fuels from renewable sources compliant with the Renewable Energy Directive'.

Article 55 (Investment aid for energy efficiency measures other than in buildings)

Paragraph 5 states that 'aid under this Article may only be granted for investments with a payback period needed to recover the cost of the investments in the absence of aid of at least five years.'. As set out in our response to Article 51, we believe that these additional demands are unnecessary as they increase the regulatory burden of providing aid. Furthermore, these new requirements contradict the efforts to reduce the regulatory burden in the GBER. More specifically, this requirement will cause problems for innovative projects that propose solutions that are high risk, high reward. Introducing this specific requirement may make it impossible to support innovative demonstration projects that propose a solution with that ha a payback period of less than five years, but is very risky due to its innovative nature, and therefore aid is necessary for the beneficiary to make the investment.

Article 56 (Investment aid for energy performance measures in buildings)

The Netherlands considers Article 56 to be a useful for the energy transition. However, the Article is very complicated due to the numerous technical exemptions and references. The Netherlands therefore call upon the Commission to review and simplify these paragraphs further. We have the following more specific comments regarding this Article.

Firstly, we welcome the removal of the condition regarding the 18-months implementation period for Union standards in Article 56, paragraph 2 as there was/is no clear overview of applicable Union standards, which has led to practical problems in the execution of energy efficiency projects in the Netherlands.

The Netherlands also welcomes the removal of the requirement for the initial primary energy demand and the estimated improvement to be established by reference to an Energy Performance Certificate. This condition is not always practical, particularly when renovating monuments or parts of buildings. It is not practical to create a new Energy Performance Certificate for parts of buildings as not the entire building will be renovated, and an Energy Performance Certificate covers the entire building.

Moreover, the Netherlands also welcomes the addition of the maximum aid intensities with 20 percentage points for social and affordable housing as this allows us to provide more targeted aid to disadvantaged households or socially less advantaged groups and support these groups in the transition to more energy efficient housing.

Secondly, the Netherlands would welcome an exception and/or an alternative to the requirement that the level of energy efficiency is determined based on a minimum improvement of 20% for the entire building. This requirement makes is extremely difficult to provide aid to projects concerning parts of large buildings such as hospitals, which are often made more sustainable in staged instead of all at ones. We would therefore suggest adding an alternative or an exception to this requirement for these types of categories of buildings that cannot meet the 20% threshold for the entire building but can demonstrate comparable performance for (parts of the) building in another way. This would improve the ability of granting authorities to assess energy efficiency improvements in practice and allow them to provide more targeted aid to these important energy efficiency projects.

Furthermore, the conditions set out in paragraphs 6, 11 and 12 necessitate constant, complicated calculations at building level, resulting in a high administrative burden. Consequently, implementation in practice is difficult, mainly because there are no universal methods available for calculating the actual improvement of the efficiency of buildings before and after certain measures are taken, and the ‘after’ criterion leads to highly insecure subsidies.

Regarding the requirement for a 20% improvement in energy performance, as follows from paragraph 6. This condition can generally only be met when a building is completely renovated and made sustainable. For many owners, especially those in the social real estate sector, it is not feasible to meet this condition. This includes healthcare institutions and large educational buildings, for example. Such owners tend to approach sustainability projects for their building in phases, implementing energy efficiency measures per building section or per measure. It is very difficult to achieve the 20% requirement for such individual measures.

We consider the requirement that 'aid for investments in equipment using fossil fuels including natural gas and including when fossil fuels are used in combination with other energy sources' impractical for renovation projects involving the installation of hybrid central heating boilers. An exemption for such equipment would be welcome.

The method set out in paragraph 11 and subsequent paragraphs for calculating the maximum aid intensity is too complex.

Moreover, in the Netherlands, a relatively high proportion of people on low incomes live in (mixed) Owners' Associations (*Vereniging van Eigenaren*), for example in apartment buildings or blocks of flats comprising both owner-occupied and rental properties. These buildings need to become more sustainable, but applying the State aid rules particularly Article 56 of the GBER to mixed groups complicates the process and prevents sustainability goals from being achieved. This poses a serious problem for the energy transition. One possible solution would be to introduce an exception in Article 56 for mixed Owner's Associations, given that they lack the legal and practical capacity to make joint investment decisions to improve the building's energy efficiency in the same way that a regular business could.

And finally, please add to this Article that aid granted for the improvement of the energy efficiency of the building may be combined with aid for any or all of the following measures: *the extra costs of* repaired, refurbished, reused or biobased building materials or building parts with a higher environmental performance than materials that would be used in a reasonable counterfactual scenario.

Article 58 (Investment aid for the promotion of energy from renewable sources and high-efficiency cogeneration)

The Netherlands welcomes this Article on investment aid for the promotion of energy from renewable sources and high-efficiency cogeneration, especially considering that stimulating flexible electricity usage is key for making more efficient use of the grid and addressing the issue of grid congestion.
The Netherlands would welcome clarification by the Commission how to combine projects that partially fall within the scope of Article 58 and Article 65 (Investment aid for resource efficiency and for supporting the transition towards a circular economy). Gasification of biomass-containing waste streams is an efficient way to recycle carbon into new fuels, energy carriers, materials and chemicals. Investment aid for gasification could qualify under Article 58 if the output is sold on the market as a fuel, or under Article 65 if it is used as a feedstock for new materials and chemicals. In some cases, the output could be used for both purposes, for example, methanol can be produced via gasification, followed by catalytic conversion. Methanol can both be used as both a fuel and a feedstock for the chemical industry.

However, the maximum amount of aid for these two categories differs significantly. The maximum aid intensity under Article 58 amounts to 45% of the total investment costs for large companies and up to 65% for SMEs. Under Article 65, the maximum aid intensity is 15% for large companies and 25% for SMEs. This is a huge difference for two different applications of the same technology and seems undesirable. In our view, there is no preference for either application. In practice, however, the use of gasification for fuel production is currently far more common.

With regard to Article 58, paragraphs 3 and 7, could the Commission please clarify whether assets for energy conversion and buffer capacity are also considered to fall within the scope of this Article, and whether these assets specifically can be categorized as 'demand response'? These assets are regarded by the Netherlands as important for adjusting electricity consumption and for increasing the flexibility of production processes.

Furthermore, regarding the scope of Article 58, paragraph 3, subsection f), we would welcome guidance from the Commission. For example, does this include the development of a renewable hydrogen distribution network serving several undertakings located on an industrial estate?

With regard to paragraph 6, the Netherlands would welcome the Commission providing clarification in either the GBER or the Guidance document that the term 'cogeneration installation' does not also refer to hybrid heat pumps (which operate as a supplementary system to the gas boiler, are installed separately and are eligible for a subsidy).

Moreover, the Netherland would welcome more possibilities for aid for Energy management systems, for example in industrial zones. This could help to alleviate grid congestion. We would welcome explicit possibilities for aid for such systems. However, Article 58 does not appear to fully accommodate such support, as this Article is primarily aimed at promoting energy from renewable sources.

Article 59 *(Direct price support for the production of electricity from renewable sources)*

The Netherlands welcomes this Article on investment aid for the promotion of energy from renewable sources. The Article focuses on the support of smaller renewable electricity projects. However, could the Commission please explain how the limitations described in paragraph 2, subsections a), b), and c), are determined. It is unclear what the effects are for the sources mentioned.
It is welcomed that a competitive bidding process is not required for small projects.

Article 60 (Aid for the production of renewable energy other than electricity)

It is welcomed that in addition to Article 59 aid could be given for the production of renewable energy other than electricity, such as renewable heat projects including heat pumps, and renewable fuels.

Article 63 (Investment aid for the remediation of environmental damage, the protection or restoration of nature and the implementation of nature-based solutions for climate change adaptation and mitigation)

The Netherlands calls upon the Commission to increase the maximum aid intensity for investments in the protection or restoration of nature to 100%, or at least for designated protected natural reserves. Alternatively, the aid amount could be capped at the level of the funding gap. This is because the task of improving nature is very substantial, and activities in the field of nature protection generate little or no revenue. Setting the aid intensity at 70%, as set out in paragraph 8, subsection b), unnecessarily complicates the achievement of nature restoration objectives.

Article 64 (Investment aid for district heating and/or cooling)

Regarding Article 64 of the GBER, we have the following comments:

Paragraph 2: The phrase ‘per undertaking, per project’ raises questions, as heating systems are often implemented across multiple projects, where each project has its own Final Investment Decision (FID), to spread risk and development capacity. Could the Commission please clarify whether a heating system requiring a subsidy of EUR 200 million could be implemented across four projects, each with a subsidy of EUR 50 million, such that the first project involves the construction of a heating network, and the second to the fourth projects involve the expansion of an existing heating network?

Paragraph 3: Can the Commission consider to move the reference to Article 2, point (19 of Directive 2010/31/EU from subsection a) to the first sentence of paragraph 3 to clarify that both the generation installations (covered by subsection a)), thermal storage (covered by subsection b)) and the distribution network (covered by subsection c)), operate within the meaning of Article 2, point 19, so that all the components can be applied for the use of space or process heating and cooling in multiple buildings or sites?

Paragraph 3, subsection c): Could the Commission please clarify the phrase 'as well as smart measuring devices directly enabling the interactive and intelligent management of heating or cooling production, distribution and consumption'? Should this be interpreted as a restriction, meaning that standard consumer meters are no longer eligible for aid? Furthermore, certain items are missing from the list, such as substations and pumping stations. The Netherlands would prefer this to be a non-exhaustive list, with all components necessary for heat transport being eligible for aid (as in the current version of the GBER), provided this results in an efficient district heating and cooling system.

Paragraph 4: The Netherlands welcomes the updated references to the revised Energy Efficiency Directive (Directive (EU) 2023/1791. District heating networks with a sustainability plan to improve their efficiency may be eligible for aid. This clarification and broadening of the scope of the Article is welcome.

Paragraph 4: Could the Commission please clarify the following phrase: 'The relevant point in time for assessing whether the energy efficiency criteria are met is the date of the aid application'? This is an important issue for the Netherlands. If this phrase means that the heating network must be efficient or will become efficient through a sustainability plan (within five years), then this is not feasible. We wish to assess, at the time of the subsidy application, whether an efficient district heating network is being constructed as part of the project, and it must be operational by the end of the project. We therefore suggest the following amendment: '*The relevant point in time for assessing whether the* *investment yields an efficient system for district heating and/or cooling system* *is the date of the aid application'. Otherwise, this article will be* *limited to district heating projects that are completed in less than five years*.

Paragraph 5: This condition should be aligned with the Energy Efficiency Directive (Directive (EU) 2023/1791).

Paragraph 7: Please clarify the exception '*except where such high-efficiency generations facilities are based on natural gas and meet the criteria of Article 26, point 4(b) of Directive (EU) 2023/1791*'. Does this mean that the exemption can no longer be applied if the investments take place after 2030? Are we correct in our understanding that, after 2030, aid cannot be granted for the construction or upgrading of, for example, fossil-fuel-fired CHP plants? If so, the Netherlands points out that in the current energy transition phase aid after 2030 could still be necessary. A district heating system using a relatively small proportion of fossil fuels, for instance for peak load, could still meet the energy efficiency criteria set out in Article 26, paragraph 2, of Directive (EU) 2023/1791 and therefore should still be eligible for State aid.

Paragraph 8: The Netherlands welcomes the significant relaxation for projects where the amount of aid does not exceed EUR 2.5 million per undertaking, per project.

Paragraph 8, subsection a): The Netherlands has experience with both the funding gap method (paragraph 8, subsection b) and the investment aid method (paragraph 8, subsection a). The investment aid method is usually preferred because it provides more predictable funding and is much simpler to execute. However, in our experience, the maximum aid intensity of 30% of the eligible costs is only sufficient for extending existing district heating networks or the realisation of relatively small district heating systems. In order to promote investments in sizable district heating networks, we would like to ask the Commission to consider increasing the maximum aid intensity to 50% of the eligible costs, for example. This is important not only to promote investments in district heating, but also to ensure district heating is affordable for consumers.

Paragraph 8, subsection b): it seems difficult to us to implement if, for example, the standard funding gap is applied to generation and storage and the simplified funding gap to the distribution network. It is preferred when the simplified funding gap can be applied to paragraph 3, subsection a), and paragraph 3, subsection b), or a combination of paragraph 3, subsections a), b) and c), as well.

Article 2, paragraph 48, defines 'simplified funding gap'. An estimation of the cash flows at the time of granting of the aid would increase the applicability of this option compared to the moment of actual determination of the aid.

Finally, in terms of the incentive effect, we welcome the amendment to the definition of 'start of works' in Article 2, paragraph 38.

Article 65 (Investment aid for resource efficiency and for supporting the transition towards a circular economy)

The Netherlands considers the fact that the purchase of circular products is not block exempted to be a missed opportunity. Therefore, we would like to highlight the lack of aid possibilities for the plastic recycling industry again.

Currently, the purchase of circular products[4] is limited to production processes and recycling or reuse during the waste phase. Therefore, aid for the purchase of circular products (i.e. on the demand side) is not possible. This may be due to a desire to provide aid at only one point in the product chain. However, the Netherlands has received clear market signals indicating that support is needed precisely on the demand side[5]. The sale of circular (semi-)products is often a bottleneck in the transition

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[4] Products which are (partly) made of secondary resources (e.g. plastic recyclate) or renewable biobased resources (e.g. biobased plastics).

[5] For example, energy companies for application of plastic recyclate in their underground plastic cables.

to a circular supply chain. Supply follows demand. Moreover, circular products are often more expensive than non-circular products, even when the production process is equally costly to that of the conventional, less environmentally friendly product. This is partly because recycled materials and biobased materials are more expensive than virgin raw materials, and partly because the logistics of circular products are still costly. If producing such products does not incur additional costs, support is not possible under the Article 65. Therefore, aid is not possible at any point in the product chain for such products.

This current lack of support is particularly problematic for the plastics (recycling) industry, where already many EU companies have gone bankrupt in the last two years. For this reason, the Commission has announced a first package to support the plastic(recycling)industry[6]. This package is a first step and should be enforced by other measures. In our view the revision of the GBER could and should contribute to the solution of this crisis as well.

Therefore, the Netherlands suggests the following amendments to Article 65 of the GBER.

In paragraph 5, subsection a): *investments improving resource efficiency* *<u>or reducing the use of primary materials</u>* *by reducing the quantity of inputs needed to produce a unit of output or substituting primary inputs with secondary inputs, through one or more of the following:*

In paragraph 5, subsection a), adding a new section (iv): *<u>the production of more durable or resource efficient products or products produced with a view to its (partial) re-use or recycling;</u>*

In paragraph 5, subsection a), adding a new section (v): *<u>the acquisition of more durable or resource efficient products or assets, products or assets produced with a view to its (partial) re-use or recycling or products or</u>*

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[6] https://environment.ec.europa.eu/publications/communication-accelerating-europes-transition-circular-economy-boosting-circularity-plastics_en

assets (partially) produced with secondary (re-used or recovered, including recycled) or sustainable bio-based raw materials or feedstock

In paragraph 5, subsection c): *investments for the prevention and reduction of waste, separate collection of waste, collection of separated waste and sorting of waste with a view to its preparing for re-use or recycling;*

In paragraph 10: *The eligible costs are (a) for investments referred to in paragraph 5, point (a), the difference between the investment costs of the project and those of a counterfactual investment that can be expected to have occurred in the absence of the aid or would lead to a higher consumption of primary raw materials or feedstock;*

Furthermore, while we welcome the possibility of using biobased materials under Article 65, it is unclear why paragraph 5, subsection a), (iii), is mentioned under paragraph 5, subsection a). Using biobased materials does not improve resource efficiency or utilise secondary inputs. We therefore suggest inserting a separate subparagraph 5b for biobased materials.

Furthermore, it is unclear whether the production of biobased base chemicals from biomass falls under paragraph 5 sub a), (iii). Using biobased chemicals to produce products is not only a necessary step to qualify for aid, but the production process is very important as well. For example, is the production of a biobased polyester from biomass covered by paragraph 5, subsection a), (iii), when compared to the fossil production? We suggest that making the production of biobased base chemicals from biomass should also be possible under this Article. If this is already the case, we would welcome more clarity on this matter.

Regarding the possibility of granting aid for CCU, we have the following questions that need to be clarified:

- How does the Usage part of CCU fit into this Article, for example mineralization?

- Can CO2 from direct air capture, or from direct ocean capture be considered as 're-used' or 'recovered'?

Paragraph 5, subsection a), (i), states: '*(...) of output compared to a pre-existing production process used by the beneficiary (...)*'. In the current GBER, there is an addition of '*(…) or to alternative projects or activities listed under paragraph 7*' which states the less environmentally friendly projects for cost comparison. Without this addition, only existing companies can apply for their own production process. To create a circular (new) economy, new companies (start-up/scale-up) with more efficient processes that can compete with existing companies should be supported. It is therefore crucial that part is added again to paragraph 5, subsection a), (i).

Furthermore, we suggest amending paragraph 7 to read '*… the net increased use of recourses.*' This is because one resource might be used more intensely when the net effect is a reduction.

In paragraph 10, the option has been removed where the eligible costs may equal the total investment costs if the aid applicant could demonstrate that no investment would otherwise take place. In the current GBER, the aid intensity in this case is maximum 40% (of the total investment costs). The Netherlands uses this option on a regular base, since many projects in the field of circular economy do not have relevant counterfactual investment (see examples below). The proposed changes lead to two challenges. Firstly, in paragraph 10, subsection a), there is no option anymore when there is no relevant counterfactual scenario. This raises the question whether investments mentioned in paragraph 5, subsection a), that have no (relevant) counterfactual scenario are eligible at all. Since, this is an area where new, innovative activities are very common, the Netherlands would welcome the inclusion of these types of investments. Secondly, paragraph 11, subsection b), states that the aid intensity is 15% of the total investment costs for investments in paragraph 5, subsections a), b) and c). For projects with no counterfactual case, this means a reduction of the aid intensity from 40% to 15% of the total investment costs compared to the current GBER. With aid percentages this low, these innovative projects with unproven technologies will not be able to conquer the infamous valley of death. In our view, scale-up companies need sufficient aid in addition to the financing procured through investors. The following are examples, not exclusive, of Dutch projects from 2024 that would not have been possible with 15% of aid:

- Phosphate (a critical raw material) recovery from wastewater. This project cost EUR 90 million and the aid was capped at EUR 30 million. There is no contrafactual investment, since phosphate would not otherwise be recovered, harvested or mined in the Netherlands.
- Production of polyhydroxyalkanoates (PHA) from paper wastewater streams. PHA has the potential to be used as a source of bioplastics. The project costs EUR 53 million. The counterfactual investment for this project was the wastewater treatment.
- Chemical recycling of mixed plastics by solvolysis or pyrolysis of mixed plastics. The involved plastics cannot be recycled using mechanical recycling due to the high content of impurities. Therefore, there is no counterfactual scenario under the current GBER. The companies involved are SME's and an aid intensity of 20-25% of the CAPEX would be insufficient to stimulate this kind of investment.

Also, an aid intensity of 15–25% for investments in carbon removal and storage solutions, including the utilization of agricultural and forestry bioresource for the production of biobased materials, such as sustainable building products may not be sufficient to mobilise the scale of investment required for impactful carbon removal projects. Given the urgency of the climate transition, we recommend reconsidering and increasing the aid intensity such type of investments, especially when the carbon removal activities meet the criteria established in Regulation 2024/3012. This adjustment would enable Article 65 to provide comprehensive support for the deployment of innovative, high-impact projects that are essential for achieving the EU’s climate objectives.

Article 66 (Aid for energy infrastructure)

The Netherlands would welcome clarification by the Commission on how to incorporate hydrogen (and hydrogen carriers) related infrastructure under this Article, as it is unclear how to do so. Paragraph 3, subsection a) states: '*This Article shall not apply to: (a) energy infrastructure partly or fully exempted from third party access or tariff regulation in accordance with Regulation (EC) No 715/200955, Regulation (EU) 2019/943, Directive (EU) 2019/944 or Directive (EU) 2024/1788;*' In the gas and decarbonization package, rules on third party access and tariff regulation are implemented for hydrogen pipelines and import terminals.

For hydrogen pipelines, tariff regulation will be obligatory from 2033 onwards. Could the Commission please clarify whether we can support pipelines up to 2033 under this Article, despite the exemption from third-party access until 2033?

For hydrogen (or hydrogen carriers) import terminals negotiated third party access is implemented (as described in the abovementioned Regulations and Directives). This seems to be a partial exemption from third-party access or tariff regulation, and therefore a mismatch with this Article. However, these terminals also do not seem to fit under the definition of 'dedicated infrastructure' in Article 51 and 58 of the GBER, as negotiated third party access applies to these terminals, which sometimes also use open seasons to attract customers (therefore not dedicated infrastructure). If the above explanation is correct, we are unable to grant aid to hydrogen import terminals under GBER. We call upon the Commission to provide clarity on this matter.

Article 67 (Aid for studies and consultancy services on environmental protection and energy matters)

Based on paragraph 4, we conclude that it is not possible to grant aid for internal (wage) costs. According to the Netherlands, this is an unwelcome restriction compared to the current version of the GBER. It is particularly important for innovative demonstration projects (amongst others) that fall under Section 6 of the GBER to be able to support not only external costs for consultants, but also internal costs of the beneficiary of the aid. These internal costs are important because the beneficiary of the aid has site-specific knowledge. Innovative demonstration projects usually incur both internal costs and external costs, such as those associated with a FEED study. We therefore suggest removing this constriction and allowing internal costs of the aid beneficiary again.

In addition to the proposed articles in Section 6 we have the following comments:

Geologic CO2 storage is not covered by Section 6. The Netherlands requests that the Commission considers making this possible in Article 66, for example, as geological storage is an indispensable part of the CCS chain. To properly support this chain, aid must also be available for the geological storage component. As for CO2-transport, there are risks in terms of underutilisation and possible overdimensioning at the start of the project, for which aid could be provided.

Furthermore, we are seeing an increase in attention for projects that import intermediate products to be upgraded it into high-end products in the EU. One example of this is the import of methanol for upgrading to SAF. It is unclear where these projects fit in the GBER. Neither Article 51 (no CO2 reduction) nor Article 55 (no actual increase in renewable energy within Europe, as methanol is already considered a renewable fuel) seem to be a good match for these projects. Could the Commission please ensure that these types of projects fall within the scope of the GBER.

Section 7 AID TO MAKE GOOD THE DAMAGE CAUSED BY CERTAIN NATURAL DISASTERS *(Article 68)*

The Netherlands welcomes the proposed amendments to this Section of the GBER, which aim to provide greater clarity on this category of aid.

Section 8 AID FOR CULTURE AND HERITAGE CONSERVATION *(Articles 69-70)*

The Netherlands welcomes the proposed amendments to this Section of the GBER, which are intended to streamline and simplify the GBER. We agree that merely illustrative provisions can be moved to a guidance document. The Netherlands would welcome it if the Commission were to indicate in the guidance document that activities currently covered, such as that aid for culture and heritage conservation includes natural heritage, will continue to be so in the future.

Furthermore, we recommend adding this Section to the exceptions to the prohibition of aid to UID, as set out in Article 1, paragraph 5 of the new GBER. Certain cultural institutions need public funding simply to enable them to exist.

Furthermore, the Netherlands welcomes the fact that aid for the restoration and conservation of heritage is generally exempted. However, the GBER does not clearly cover adaptive reuse and sustainability improvements, even though these directly contribute to the preservation and continued use of heritage assets. This results in implementation challenges.

In different regions of the Netherlands cultural heritage plays a key role in spatial quality, identity, and local economic development in rural areas. At the same time, these areas are facing structural challenges and a lack of private investment capacity. The adaptive reuse of heritage assets is therefore increasingly necessary to ensure their long-term preservation.

While public authorities can provide targeted aid for restoration projects, they cannot always provide the necessary aid for follow up investments for adaptive reuse and sustainability that make buildings usable and economically viable. Thisis often necessary before an end-user or business case is secured. Because heritage properties are often privately owned, this gap in the possibility to provide targeted State aid, limits direct public intervention in these projects. As a result, heritage properties risk remaining vacant or deteriorating, despite available policy instruments aimed at conservation. Without adaptive reuse and sustainability measures, the long-term conservation objective cannot be achieved. In order to close this gap, the Netherlands proposes the following changes in Article 69 of the GBER:

To explicit state in paragraph 1 that the adaptive reuse of cultural heritage, including functional transformation for new uses, falls under the exemption for heritage conservation where it contributes to the long-term preservation of the asset.

To include sustainability improvements as an eligible cost for investment aid in paragraph 4. We suggest to explicitly recognise energy efficiency and sustainability measures as eligible costs when they are necessary to ensure the continued use and preservation of heritage.

To explicitly allow aid to cover the funding gap between investment costs and expected returns in adaptive reuse projects, especially in areas with limited market demand.

To give the granting authority more flexibility regarding project maturity. We propose to allow aid in earlier project phases, where a fully developed end-use or business case is not yet established, particularly in rural or economically disadvantaged areas.

We also propose providing additional flexibility or clarification for heritage projects in rural or shrinking regions, where market failure is more pronounced, and public intervention is necessary to safeguard cultural assets.

These changes are expected to improve the preservation of cultural heritage through enabling its continued use, providing legal certainty for both public authorities and private investors, and enhanced socio-economic development. Furthermore, investments in adaptive reuse ensure long-term viability rather than short-term conservation, making them more effective use of public funds.

In addition, the Netherlands would welcome a specific aid category for sporting events, limited in amount. Often, revenues from broadcasting rights, sponsorship, hospitality and ticket sales are insufficient to cover the costs of organising such events. At the same time, it is essential to keep sporting events affordable and accessible to the general public, in order to encourage citizens to participate in sports themselves.

Section 9 Infrastructure *(Articles 71-80)*

Article 79 (Aid for airports)

The Netherlands welcomes the Commission’s statement that the compatibility conditions for aid to airports will be further finetuned in light of the ongoing review of the Aviation Guidelines. We call on the Commission to include Article 79 of the GBER in this review process with the Member States to ensure alignment. We also welcome the distinction between investment aid and operating aid to make a clear distinction between those two aid objectives.

Article 80 (Aid for ports)

The Netherlands welcomes the consolidation of aid for seaports and inland ports. Paragraph 4 now includes ‘installation’ and ‘extension’ among the eligible costs of investments in port infrastructure and access infrastructure, which is positive. However, this is not mentioned in paragraph 6 regarding the aid intensity, which appears to be an omission. Furthermore, the Netherlands would welcome the clarification that superstructure in ports can be financed if they are ancillary.

Please also note that the layout of the title in this Section differs from that in the other Sections.

Section 10 AID INVOLVED IN FINANCIAL INSTRUMENTS AND BUDGETARY GUARANTEES SUPPORTED BY THE INVESTEU FUND [AND THE INVESTEU INSTRUMENT OF THE EUROPEAN COMPETITIVENESS FUND] *(Articles 81-83)*

The Netherlands considers it important for the GBER to accommodate the combination of EU funds and national funds wherever relevant. The Netherlands, therefore, welcomes the Commission's statement that it intends to consult Member States on a possible targeted revision of the GBER to align it with the 2028-2034 Multiannual Financial Framework, once the legislative procedure has advanced.

The Netherlands would also like to see more possibilities for national co-financing in the GBER, particularly where it is mandatory. Euro HPC☐ and CEF are two examples. In particular, the application of the State aid rules to the mandatory co-financing under EURO HPC (financing an AI factory) was complicated. We found a solution to apply the GBER to the mandatory co-financing (among other things through cascade financing), but the analysis and implementation involved a significant administrative burden for both the Dutch granting authority and the beneficiaries. Furthermore, the beneficiary did not fully comprehend that his project had been approved by the Commission and had received EU funding, while the national mandatory co-funding was possible in conflict with the State aid rules or even had to adhere to additional rules at all. Wherever possible, the Netherlands is in favour of the conditions for national co-financing being derived as much as possible from the EU funds themselves, rather than from the GBER. Article 34 is an example of this. Furthermore, NL has concrete examples where a company obtains financing from EU funds, and we face difficulties with applying the GBER because of the definition of undertaking in difficulty. We call on the Commission to consider whether the condition of not qualifying as an UID should apply to national co-financing.

CHAPTER IV TRANSITIONAL AND FINAL PROVISIONS *(Articles 84-90)*

Article 85 (Retroactive application)

Article 10 is exempted from the retroactive application. Is the Netherlands correct in understanding that this means that aid (both ad hoc aid and aid based on schemes) which is in line with the GBER but before entering into force of the new GBER does not have to be notified or reported into TAM? Furthermore, the Netherlands would welcome clarification from the Commission in the guidance document on how to apply retroactively, for example when an Article of the GBER will be amended.

ANNEX 1 SME DEFINITION

The Netherlands welcomes the clarification on the exhaustiveness of the listed criteria, as well as the clarifications and rationale on the data used for staff headcount, financial amount and reference period as set out in Article 4. We have no further suggestions for the Annex.

ANNEX II INFORMATION REGARDING STATE AID EXEMPTED UNDER THE CONDITIONS OF THIS REGULATION

The Netherlands would like to suggest the following points.

Firstly, the form includes the fields 'Member State reference number' and 'Title of the aid measure'. In practice, these are the same, meaning that the title is copy a second time. It is also counterintuitive that the title of the aid measure, which is not at the top of the form, forms the name of the aid measure in the SANI system. The Netherlands therefore suggest removing the 'Member State reference number' row and moving the 'Title of the aid measure' row to that place.

Secondly, budgets for aid schemes are not always the same for all years of a scheme. The Netherlands suggests adding 'average' to clarify that the average of the budgets for each year is to be reported, and changing '*Total annual amount of the budget planned under the scheme*' into '*Total average annual amount of the budget planned under the scheme*'.

Furthermore, it is stated by the Commission that the alternative to the SME bonus (with limited amounts of aid) is to eliminate the need to classify undertakings as SMEs. However, the notification and TAM templates still require the size of the undertaking to be indicated. How should this be addressed in practice?

ANNEX III Provisions for the publication of information as set out in Article 9(1)

Please note that the reference to Article 9, paragraph 1 is incorrect. It should refer to Article 10, paragraph 1 instead. Furthermore, it would be welcomed if it were explicitly stated that the Commission's transparency award module fulfils the criteria as mentioned in this Annex.

Please also refer to our comment regarding the classification of SMEs in Annex II.

ANNEX IV Definition of small mid-cap enterprises
Negotiations are currently ongoing regarding the threshold value for small mid-caps within Omnibus IV. The Netherlands strongly prefers the Council Mandate regarding the threshold. The Netherlands would prefer a harmonized definition of small mid-caps. However, the threshold set out in this Omnibus IV proposal (simplification) should be treated as exceptions to the rule. As a starting point for the future implementation of the small mid-caps definition, the original Commission proposal regarding the threshold, 750 employees and EUR 150 million in net annual turnover, should be used.