

EN

ANNEX

Observations on the amendment to the rural development programme of The Netherlands POP 3

The following observations are made pursuant to Article 30(2) of Regulation (EU) No 1303/2013. The Netherlands are asked to provide to the Commission any necessary additional information and, where appropriate, revise the amendment to the Rural Development Programme (RDP).

1. LEGAL BASIS FOR AMENDMENT

1. In the indicator plan, it is seen that target indicator T3 (Focus area FA-1C) increases by more than 50% (from 11000 to 18000). For this reason, the modification is a modification referred to in Article 11(a)(i) of Regulation (EU) No 1305/2013.

In addition, if the increase of >50% for target indicator T3 is the result of the transfer of funds from Pillar 1 to Pillar 2, then the Netherlands can apply the derogation of Art 4 (2)(d) of Regulation (EU) 808/2014 and therefore this modification would not be counted as 1 out of 3 strategic modifications. In this case, since the modification is also a modification referred to in Art. 11(a)ii and iii and Art. 11(b), the quota of 1 modification/per calendar year applies. The Dutch Authorities are requested to confirm that the target indicator T3 has increased by more than 50% as a result of the transfer of funds.

2. CONSULTATION OF THE MONITORING COMMITTEE

2. Following Art. 49(3) of Regulation (EU) No 1303/2013 the Monitoring Committee (MC) should be consulted and should, if it considers it to be appropriate, give an opinion on any amendment of the programme proposed by the managing authority. The Managing Authority (MA) should note that the MC must be consulted on the finalised version of the programme amendment. The version submitted to the Commission contains some further minor modifications that were not submitted to the MC, in particular corrections to the performance framework, financial plan, indicator plan and chapters 12 and 13 on national top-ups .

In the context of a reduced number of RDP modifications for the 2014-2020 programming period and in line with the principles identified in the European

Code of Conduct on partnership in the framework of the ESIF (Regulation (EU) No 240/2014), the Commission encourages Member States to facilitate the active involvement and dialogue between MC members on amendment proposals and their justification prior to formal submission to the Commission.

3. DETAILED DESCRIPTION OF THE AMENDMENT

3. All new resources added to the RDP should result from an adaptation to the strategy and must be in line with the needs assessment. The strategy is the part of the programme which identifies the priority needs and sets out the policy choices. Similarly, all changes to target indicator values should be linked to the needs and the strategy. The justification for the activities proposed is well described in the measure fiches, but should be reinforced in the strategy section.

(a) Description of the amendments under 1.1.5.1.

4. Amendment 1: there is some contradiction with regard to the description of these changes between the notification document under 1.1.5.1.1. and the changes indicated in chapter 2. While the above changes are clear in Chapter 2, in section 1.1.5.1.1., it is still mentioned that the new definition is the same (the whole territory with exclusion of areas with >30.000 inhabitants) both for rural area and geographical area. This inconsistency should be corrected.
5. With regard to the amendment relating to the derogation provided for in Article 69(3)(b) of Regulation (EU) No 1303/2013: what is explained in the notification document does not entirely correspond to what is in the Article: *'in exceptional and duly justified cases, the limit (i.e. the 10% of the the total eligible expenditure) can be raised for operations concerning environmental conservation'*. Instead, it is mentioned that the percentage of subsidy will be increased to 30%, which is not the same. The eligible costs for the land should be expressed in % of the total eligible costs. This should be corrected. Furthermore, this should be added in the notification document where the relevant amendment has been described (chapter 8.1.). Finally, before the MA could accept such a derogation (increased percentage of the eligible costs), the assessment should always be done on a case-by-case basis. Please note that the high price of land in the Netherlands alone cannot be judged a sufficient justification for all such demands.
6. Addition of labour costs as eligible costs: it is suggested, for the sake of clarity, to briefly indicate in the notification documents for which measures (and submeasures) these amendments have been made - this has not been provided. In addition, for investment measure 4, eligible costs are only those pursuant to Article 45 of Regulation (EU) No 1305/2013. The MA should clarify and specify how these labour costs are eligible according to these relevant legal provisions. The same should be done if labour costs are added as eligible costs in other measures.

7. On the reduced intensity rate (40%>30%) for submeasure 4.1., type of operation 4.1.02, investments for young farmers: in the measure fiche 4, the information on the minimum of 10.000 € and the maximum value of 20.000 € is not specified under section 8.2.3.3.2.8: it should be clarified why this information is not added there while it is described under 1.1.5.1 . Furthermore, the MA is requested to justify the minimum threshold of 10.000€.
8. On the amendment in the notification document under 1.1.5.1.1 measure 4 b), it should be recalled that operations supported by the ESI funds have to comply with applicable EU and national law (Art. 6 of Regulation (EU) No 1303/2013)
9. On the amendment in the notification document under 1.1.5.1.1.,point 4 d), it is mentioned that the following amendment will be made in the measure fiche of submeasure 4.4 'non-productive investment' *'No grant is to be awarded for investments designed to meet requirements arising from a EU Regulation or a EU Directive for which the implementation-period has expired'*. However, in the text of submeasure 4.4. the text modified does not seem to correspond entirely to the above: *'For this submeasure, the investments are targeted to go further than the requirement that is directly the result of an EU Regulation or Directive for which the implementation period has expired'*. Besides the different wording used, it is also creating confusion. Clarification is requested.
10. On the proposals concerning simplified cost options, it should be further clarified which 'eligible cost' are concerned, in particular for the fixed surcharge employers' contributions (43.5 %) and a fixed surcharge for indirect costs (15 %) (see above observation on labour costs).

It is stated by the MA that where relevant, in all cases where use is made of simplified cost options, compliance with articles 67, 68 and 69 of Regulation (EU) 1303/2013 is ensured. The MA should indicated which 'option' pursuant to Article 67(1) of Regulation (EU) No 1303/2013 is applied to determine the support and which 'method' is applied to calculate the amount/rate in line with Art. 67(5).

11. The changes presented in the notification document under the 'smaller and editorial amendments' do not seem to be clerical/editorial corrections within the meaning of Art. 11(c) of Regulation (EU) No 1305/2013. In addition, more clarification and detailed information is requested on what is described as *'amendments on financial data, namely those brought in line with the changes proposed above and those for which desirable adjustments/transfers are due for transfers of EAFRD budgets at the level of measures following changed needs at provincial level.'*
12. Further under the expected effects of the amendments described under 1.1.5.1., more explanation is expected to describe the effects of the

amendment. In particular some of the amendments under 6 are not exclusively textual clarifications as in the meaning of Article 11(c) of Regulation (EU) No 1305/2013, as some effects on the financial implementation of the program are expected (use of budget for measures depending on the change in Provincial needs) and also those amendments related to change of the general conditions in relation to depreciation of land.

(b) Description of the amendments under 1.1.5.2.

13. On the '*1.EUR 10 million for the veal calf sector*' : it is suggested to add the distribution of the annual 10 mio€ for these measures (M3 and M 14) as has similarly been done for the other transferred funds described under 2, 3, 4. In addition, as a consequence of this modification, please add the motivation for the financial means that are allocated to these two new measures in the strategy chapter section 5.2. P2A.
14. On the relationship between the change and the PA: it is suggested to indicate the relative changes to the thematic objectives in percentage as compared to the current PA.

(c) Measure fiche 10:

15. The beneficiaries defined are certified collectives that exist of farmers and other landmanagers, and complemented by other members for its management (non-farmers nor landmanagers). The role of these latter complementary members is not clear. The MA is requested to confirm that these comply with Article 28(2) of Regulation (EU) No 1305/2013, which states that the beneficiaries that can receive support under this measure are farmers, groups of farmers or groups of farmers and other land managers. In this respect, other land managers can be NGOs, environmental associations, municipalities etc.
16. a)The notification document states that the types of activities in these habitats are similar to the (management) activities of the type of operations under sub-measure 10.1 in the existing approved RDP. Does this mean that the new activities are not exactly the same? It is also unclear whether there are completely new activities.
 - b) If the activities are not the same as those in the existing approved AECM, then such commitments have to be included and specified/described in the modified RDP.
 - c) These management activities should be divided per each of the proposed habitats. Currently, these activities are listed in the table (*'Koppel tabel'*) which is inserted as a screenshot in the measure fiche; however, it is not in a readable form. It is suggested to add the list of all possible management activities divided per each of the proposed habitats.
 - d) It should also be demonstrated that these management activities go beyond the baseline (currently in the screenshot which is not readable). Referring to

annexes 3.4. and 3.5 in the dedicated textbox under section 8.2.4.3.5.10 is not sufficient. The information currently presented under section 8.2.4.3.5.3. should be moved there as this refers to the baseline. The elements of the baseline which are relevant to a given type of activity have to be included while the complete description of e.g. all minimum requirements for fertilisers and plant protection products use, cross-compliance standards should be included in the annex. In the case of the activities already existing in the RDP, this would not be necessary.

e) It is mentioned that activities that are planned in the annual management plan, can sometimes not be carried out and are omitted for ecological or other reasons. Does this imply that this activity will instead be implemented on another parcel within the area covered by the collective or simply not be carried out? Can this 'annual' flexibility with regard to management activities be clarified?

17. Under links to other legislation, reference is made to chapter 1.1.3.5.8. but this chapter cannot be found in the measure fiche. It should be verified.
18. The text under eligible costs of the new type of operation 10.1.05. under 'management of habitats and category water', starting with '*er zijn 2 hoofdprocessen te onderscheiden*', is not fitting under this section and should be moved elsewhere (to information specific to the operation or in the general section 8.2.4.6.). Similarly, the textblok 2 starting with 'how is the premia calculated' should be moved under 8.2.4.3.5.8. amount and support rates and/or under information specific to the operation 8.2.4.3.5.10.
19. It is explained that once an application for agro-environmental measures is approved by the MA, this process is followed by a decision taken between the MA and the collective. In this decision, it is mentioned that the following is fixed: min/max hectares (100-115%), minimum requirements for the activities to be carried out and the 'agreed' price per hectare. It is not clear what the latter means: 1) how is this price/hectare agreed? 2) how is such average price/hectare calculated and of what exactly is this price an average? 3) is this average price/hectare calculated by the collectives? 4) is this final agreed price varying between collectives, or purely dependent on the type of habitats and management activities carried out ? Please clarify by demonstrating a calculation of such average price per hectare.
20. Further in the section amount and support rates, it is currently mentioned that the price will be fixed by a tender. The method applied to fix the payment should be clarified. Is this approach to be understood as pursuant to Article 49(3) of Regulation (EU) No 1305/2013 which provides the possibility for the beneficiaries to be selected on the basis of calls for proposals, applying economic and environmental efficiency criteria? It should be clarified.
21. For the calculation of the premia (price per hectare) for the new type of operation '10.1.05 realized habitats', it should also be added under

information specific for the measure, last box, whether management activities or combination of activities on the same parcel are compliant with the ceiling of Annex II of Regulation (EU) No 1305/2015 or whether it can be exceeding this ceiling. In case it does, it should be indicated for which habitats/activities this can be the case, similarly as has been done for the other 'old' type of activities (see 8.2.4.6. textbox, last paragraph). In addition, in accordance with Annex II, the maximum amounts may be increased in duly substantiated cases taking into account specific circumstances to be justified in the rural development programmes.

22. Concerning the labour as part of the calculation for the premia under 8.2.4.6, it is mentioned that the rates are those notified in the CAO forestry, with 2 different dates for fixing the rates respectively. This is unclear. It should be clarified if these are similar to those applied for own labour and based on fixed rates as indicated in the notification document under the simplified cost options (1.1.5.1.).
23. Principles of selection criteria: pursuant to article 49 of Regulation (EU) No 1305/2013, selection criteria are not required for M10; however, if we have understood that the approach pursuant to Article 49(3) of Regulation (EU) No 1305/2013 will be applied and a selection of the beneficiarries is made based on the criteria of this paragraph, then this approach should be explained/described in this section 8.2.4.3.5.7.
24. The detailed description of the control and penalties arrangements (apart from the verifiability and controllability issue) should not be part of the RDP, as such information is not required for other types of AECM.
25. Pending the changes to Regulation (EU) No 809/2014 (to adapt the controls and penalties system for the transition to the collective schemes for AECM), the start of the implementation of the collective scheme in the Netherlands should be conditional upon the adoption and the entry into force of these amendments to the EU control rules. Such conditionality should be specified in the RDP modification.

Controllability & verifiability (C&V) of type of operation 10.1.05:

26. In the new type of operation 10.1.05 'realized habitats' and water category, the text under 'risks with the execution for the measure' does not really identify risks but rather indicates the changes in the controls subsequent to the changed approach. This text (8.2.4.3.5.9.1.) fits rather under the section 'general assessment of the measure' (8.2.4.3.5.9.3.). Furthermore, the text under mitigating actions presents usually the solution for the risks identified. This does not seem to match now.
27. To avoid repetition between C&V of type of operation 10.1.05 and the section C&V of Measure 10, it is suggested to specify only the new risks that are

linked to any new activities of 10.1.05, and to present general risks linked to the new approach under 8.2.4.4.1.

Controllability & verifiability of Measure 10

28. In the general section 8.2.4.4.2 on mitigating actions, it is suggested to insert the text box which is currently under 8.2.4.3.5.9.2. and which is more a general assessment of the whole measure 10, rather than one for the type of operation 10.1.5.

(d) Measure fiche 14:

29. In the section eligible costs (8.2.5.3.1.5.), it is mentioned that costs can only be paid for costs that go beyond the legal requirements; for this purpose a reference to table 1 is inserted which describes the concrete actions for which extra costs are involved. However, the underlying cost components should be provided in annex in order to see how the premia of 7 euro/calf/year is below or equal to the costs for these concrete actions.
30. Because the economic returns/benefits cannot yet be quantified, it is mentioned under 8.2.5.4. that this measure will be reviewed in 3 years time and then if needed, the premia will be recalculated. It is suggested to add this commitment also under 'applicable amount and support rates' (section 8.2.5.3.1.8.)
31. In table 1, on the concrete action referring to the exchange of information between dairy and veal farmers via a digital platform, it is mentioned that the extra cost are based on fees for a licence. These are normally eligible costs under investments pursuant to article 45(2)(d) of Regulation (EU) No 1305/2013.
32. The description should demonstrate that the proposed commitments go beyond the baseline and beyond the current animal welfare practices. In particular, in the case of the concrete action on the exchange of information on animal health, it is expected that such exchange of information is to lead to the changes / adaptation of the farms' health management plans. The text only says that "farmers can adapt" such plans; however, it should be made clear that if the results of information exchange shows that the changes are necessary, then such changes ought to be introduced by farmers. In other words, the support for the exchange of information is supposed to lead to concrete actions (improvement). The necessary wording changes should be introduced.

(e) Modification of the Performance framework

33. Table 7.1. indicators: for P2 and P4, while the absolute milestone values have remained the same, the % milestone 2018 have been reduced proportionally. The justification provided is that with the transferred money that becomes

available in 2016, extra projects that could be financed will not be finalized before 2018 and therefore no increase of the milestone 2018 is expected. In order to fully understand the impact of these changes, it is asked to see the calculations behind the changed % milestone 2018 values

34. The total performance reserve in table 7.3. (36.438.319€) does not correspond to the amount in table 10.1. (36.438.321,60€). The latter amount is the correct and current performance reserve being 6% of the EAFRD contribution to which the performance reserve applies, as is correctly reflected in the current approved PDR. Furthermore, clarification is requested on why there was a change both in the column '*amounts subject to the performance reserve*' as well as in the column '*performance reserve rates*' for each of the different priorities, as normally none of these should have changed as opposed to the current version, because the transferred funds from the First Pillar are not subject to the performance reserve.

(f) Modification of the Financial Plan

35. Tables 10.3.: in the proposal, contrary to the current version, and with the exception of M04 where financial instruments are applicable under submeasure 4.1 (4.1.03), now the column indicating the contribution rate applicable to financial instruments is filled in for all other measures (M1, M3, M10, M14, M16, M19). It should be clarified why this column is now filled in for all other measures. In addition, it should be recalled that financial instruments concern only investments measures.

(g) Modification of the Indicator Plan

36. There is an error in table 11.1.1.2. for P2A, namely the budget total public expenditure for Measure 14 should be 20.000.000 EUR instead of 30.000.000 EUR. Please correct.

(h) Modification Chapter 13- Additional national financing State aid

37. It is noted that so far no state aid clearance references are included in the PDR. For the measures for which an increased budget for additional national financing is foreseen, it is reminded that these changed budgets will have to be reflected in the notifications for the state aid clearance.

38. Finally, references should be included to any state aid scheme notified or presented in order to get exemption and therefore state aid clearance for the RD measures.

(i) chapter 6: ex ante conditionalities.

39. Ex-ante conditionality P5.1.a. on energy efficiency: the action plan in 6.2.2. lists deadlines of 01/01/2015 by which these actions should be completed. Now these deadlines have elapsed. Could an update be provided on whether

or not the actions are completed and if so, to modify the relevant sections in this chapter accordingly.

(j) chapter 18, section 18.1.:

40. The text must be modified for the correct number of measures as there are now eight measures instead of six.