

Commission Decision of 22 June 2005 on the aid measures implemented
by the Netherlands for AVR for dealing with hazardous waste
(notified under document number C(2005) 1789) (Only the Dutch
version is authentic) (Text with EEA relevance) (2006/237/EC)

- Article 1 The compensation for operating deficits, the compensation for the costs...
- Article 2 Subject to the conditions set out in Article 3 of...
- Article 3 (1) The aid for AVR Nuts shall not exceed the...
- Article 4 The aid for AVR IW consisting in the compensation for...
- Article 5 (1) The Netherlands shall take all necessary measures to recover...
- Article 6 (1) The Netherlands shall inform the Commission, within two months...
- Article 7 This decision is addressed to Kingdom of the Netherlands.
Signature

ANNEX I

METHODOLOGY USED FOR DETERMINING THE OPERATING BUDGET DEFICITS

The methodology to determine the budget deficits in advance was...

The methodology is based on a detailed assessment of the...
The 2002 budget is based on estimated revenues, historical ratios...

On basis of this budget, a forecasting model was built,...

The scenario chosen assumes that approximately 85 000 tonnes can...

ANNEX II

POINTS TO BE INCLUDED IN THE EX POST VERIFICATION
OF THE ABSENCE OF OVERCOMPENSATION

Operating budget 2004, 2005 and 2006

Compensation for agreed investments not yet written off

Compensation for costs due to earlier closure

Guarantee

The verification includes a calculation showing that the aid does...

Changes to legislation: *There are currently no known outstanding effects for the Commission Decision of 22 June 2005 on the aid measures implemented by the Netherlands for AVR for dealing with hazardous waste (notified under document number C(2005) 1789) (Only the Dutch version is authentic) (Text with EEA relevance) (2006/237/EC). (See end of Document for details)*

ANNEX III

Information regarding the implementation of the Commission decision in Case C 43
2003 - Netherlands, operating aid in favour of AVR for dealing with hazardous waste

1. Calculation of the amount to be recovered
 - 1.1 Please provide the following details on the amount of unlawful...
 - 1.2 Please explain in detail how the interest payable on the...
2. Recovery measures planned and already taken
 - 2.1 Please describe in detail what measures have been taken and...
 - 2.2 By what date will the recovery of the aid be...
3. Recovery already effected
 - 3.1 Please provide the following details of aid that has been...
 - 3.2 Please attach supporting documents for the repayments shown in the...

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- (1) OJ C 196, 20.8.2003, p. 5, and OJ C 250, 9.10.2004, p. 6.
- (2) See footnote 1.
- (3) OJ L 83, 27.3.1999, p. 1.
- (4) See footnote 1.
- (5) OJ L 195, 25.7.1975, p. 39; as subsequently amended by Regulation (EC) No 1882/2003 of the European Parliament and the Council (OJ L 284, 31.10.2003, p. 1).
- (6) The concession agreement defines RDF waste as follows: that part of the waste streams the incineration of which is regarded as disposal, i.e. hazardous waste with a calorific value of less than 11,5 MJ/kg (≤ 1 % chlorine) or 15 MJ/kg (> 1 % chlorine), packaged hazardous waste, specific hospital waste and waste containing PCBs.
- (7) OJ L 30, 6.2.1993, p. 1; as subsequently amended by Commission Regulation (EC) No 2557/2001 (OJ L 349, 31.12.2001, p. 1).
- (8) See, in particular, Case C-203/96 *Chemische Afvalstoffen Dusseldorp B.V. and Others v Minister van Volkshuisvesting, Ruimtelijke Ordening en Milieubeheer* [1998] ECR I-4075.
- (9) See, in particular, Case C-288/00 *Commission v Germany* [2003] ECR I-1439.
- (10) Source: *Toekomst verbranden specifiek gevaarlijk afval*, AOO-2004-12, prepared by the Afval Overleg Orgaan, July 2004, www.aoo.nl.
- (11) OJ L 195, 29.7.1980, p. 35, as last amended by Directive 2000/52/EC (OJ L 193, 29.7.2000, p. 75).
- (12) The aid is, however, reduced by €75 000 for each month that the Province of South Holland allows ‘peakshaving of CO emissions’. When the operating deficit was established, this was not yet known. The amount represents the expected monthly cost saving where peakshaving is allowed.
- (13) For high-calorific hazardous waste, there were initially a few exceptions due to ongoing contracts.
- (14) OJ C 37, 3.2.2001, p. 3.
- (15) Case C-280/00 *Altmark Trans GmbH, Regierungspraesidium Magdeburg/Nahverkehrsgesellschaft Altmark GmbH* [2003] ECR I-7747.
- (16) Article 5.3 of the Concession Agreement and Article 5.2 of the Service Agreement for AVR companies (Annex 7.2.A to the Concession Agreement).
- (17) Communication from the Commission on services of general interest in Europe (OJ C 17, 19.1.2001, p. 4, point 22).
- (18) Green Paper on services of general interest (COM(2003) 270 final, 21.5.2003) and White Paper on services of general interest (COM(2004) 374 final, 12.5.2004).
- (19) Case C 209/98 *Entreprenørforeningens Affalds/Miljøsektion (FFAD) v Københavns Kommune* (‘Sydhavnens Sten&Co’) [2000] ECR 3743, paragraph 75. An example where the Commission considered the management of a particular waste to be an SGEI can be found in the state aid field with regard to the collection of halons and CFCs (state aid No N 638/2002, OJ C 82, 5.4.2003, p. 18). See also in this connection Case C 240/83 *Procureur de la République v Association de défense des brûleurs d’huiles usagées* [1985] ECR 531.
- (20) In addition, the concession agreement contains a provision for interim upward adjustment in the event of changed public policy measures or calamities beyond the influence of AVR. A similar provision allows downward adjustment of the aid in the event of a significantly smaller loss than that determined in advance.
- (21) The three joint competitors pointed out in particular that Figure 3.2 on theoretical and actual availability and the supply of hazardous waste in the study ‘Toekomst verbranden specifiek gevaarlijk afval’ (annexed to their comments and also to the letter from the Netherlands) suggests an unduly high estimate for the supply of RDF waste because it would not take into account the possibility for AVR to treat part of the waste in its grate incinerators for municipal waste. AVR’s practice is, however, explicitly described in paragraph 3.1.2 of that study.
- (22) OJ L 140, 30.4.2004, p. 1.

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