



# Report on the Dutch EU member state declaration 2010

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**Netherlands Court of Audit, Lange Voorhout 8, P.O. Box 20015, 2500 EA The Hague**



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# **Report on the Dutch EU member state declaration 2010**

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In this report, we present our opinion on the Dutch EU member state declaration for 2010, consider the follow-up to the recommendations we made last year and make several new recommendations. We then present the government's response and our afterword. We close the report with a summary of our main recommendations and the undertakings given by the ministers.

We consider our audit approach and our audit findings on the member state declaration and the underlying subsidiary declarations in more detail in the annex to this report, in Dutch, posted on [www.rekenkamer.nl](http://www.rekenkamer.nl).





## Summary

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By addressing an EU member state declaration to the European Commission and the Dutch parliament, the Netherlands wishes to improve management, control and accountability for the funds it spends under shared management with the European Commission. The member state declaration is issued annually by the Minister of Finance on behalf of the government. The Netherlands Court of Audit has been asked to express an opinion to parliament each year on the Dutch EU member state declaration. This is the fifth year in which it has done so.

Apart from the Netherlands, the United Kingdom, Denmark and Sweden have taken comparable initiatives to account for the use of EU funds under shared management. Since there are no regulations or harmonised standards – the initiatives are voluntary national undertakings – the declarations differ from each other. Unfortunately, the initiatives have not yet been followed up by other member states. In the framework of the new Financial Regulation, proposals have been made in the European Parliament to strengthen accountability and control in the member states. It is not yet clear how far the proposals will approach the Dutch member state declaration, which provides assurance on legality and regularity down to the level of final beneficiaries.

The Court of Audit and the European Court of Auditors carried out a coordinated audit of the two agricultural funds (EAGF and EAFRD) this year. The project produced interesting findings that can contribute to the more effective and efficient control of European funds under shared management in both the member state and the EU. We report on the outcome of the coordinated audit in this report and the European Court of Auditors will report on it in its annual report concerning the financial year 2010, which will be published in the autumn of 2011.

We are on the whole positive about the EU member state declaration for 2010 that the Minister of Finance issued on behalf of the government. The declaration considers aid from the following European funds:

1. the European Agricultural Guarantee Fund (€895.2 million);
2. the European Agricultural Fund for Rural Development (€62.7 million);



3. the European Regional Development Fund (€51.0 million);
4. the European Social Fund (€50.8 million);
5. the European Fisheries Fund (€8.2 million);
6. the European External Borders Fund (€0.3 million);
7. the European Integration Fund (€0.5 million).

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The member state declaration presents a good picture of the management and use of EU funds in the Netherlands with the exception of:

- non-compliance with local public procurement rules and failure to check compliance with those rules down to the level of the final beneficiaries of assistance from the European Agricultural Fund for Rural Development;
- the completeness of errors/irregularities in the payment applications submitted to the European Commission in 2009, as reported in the subsidiary declaration on the European Regional Development Fund.

Apart from the two points noted above, we would draw attention to the following matters:

- the inclusion of remittances to the European Union in the member state declaration;
- a breach of European regulations by the Minister of LNV (currently EL&I) regarding the non-recovery of €14.5 million from farmers. The minister decided upon this course of action in consultation with parliament;
- assurances on the quality of satellite imaging to check area aid;
- problems with the National Audit Authority's checks, such as lack of capacity and lack of standardisation, especially in the ERDF.

In response to our conclusions and recommendations, the Ministers of Finance, EL&I, SZW, BZK and I&A undertook to follow up seven of the nine open recommendations. The ministers will unfortunately not follow up two of our recommendations in whole or in part. They relate to the inclusion of own resources in the member state declaration and compliance with local procurement rules down to the level of final beneficiaries. Regarding the procurement rules, the undertaking is limited to the application of applicable provincial regulations.

We think not including own resources in the member state declaration, as Denmark does, is a missed opportunity. Regarding compliance with procurement rules, we would note that conditions set in provincial grant decisions are also part of the regularity requirements.



# 1 About this report

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## 1.1 Introduction

By addressing the EU member state declaration to the European Commission and the Dutch parliament, the Netherlands wishes to improve management, control and accountability for the funds it remits to and receives from the EU.

The member state declaration has been issued annually by the Minister of Finance on behalf of the government since 2007 (Ministry of Finance, 2006 and 2007) and is based on subsidiary declarations prepared by the responsible line ministers.

The member state declaration provides the States General with an insight into the management of EU funds in the Netherlands and can also be used to account to the European Commission for the use of EU funding.

The Court of Audit has been asked to express an opinion on the Netherlands EU member state declaration each year (Netherlands Court of Audit, 2006 and 2007). Our audit considers the soundness of the preparation of the member state declaration and the soundness of the assertions made on management and control systems and on the regularity of financial transactions. Our opinion is intended to provide assurance on the reliability of the member state declaration issued by the Minister of Finance and the underlying subsidiary declarations issued by the responsible line ministers. We also provide an insight into shortcomings in management and control. Through our recommendations we draw attention to the main points for improvement and highlight areas where parliament can hold the responsible ministers to account.

This is the fifth year in which we have expressed an opinion. This report presents the findings of our audit of the EU member state declaration for 2010.



## 1.2 Scope of the member state declaration 2010

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The member state declaration for 2010 considers the operation of management and control systems and the regularity, accuracy and completeness of the financial transactions accounted for and the amounts declared to the European Commission in the accounting reference periods for the following European funds:

- 1 the European Agricultural Guarantee Fund (EAGF);
- 2 the European Agricultural Fund for Rural Development (EAFRD);
- 3 the European Regional Development Fund (ERDF);
- 4 the European Social Fund (ESF);
- 5 the European Fisheries Fund (EFF);
- 6 the European External Borders Fund (EBF);
- 7 the European Integration Fund (EIF).

Since no expenditure has been declared in respect of the European Refugee Fund and the European Return Fund, these funds are not considered in the subsidiary declarations for 2010.

With regard to the ERDF and ESF structural funds, the EFF and the migration funds, the member state declaration relates to the current programming period from 1 January 2007 to 31 December 2013. The settlement of the previous programming period (2000-2006) is not considered in the member state declaration. Budgeted expenditure for the 2007-2013 programming period totals €830 million for both the ERDF and the ESF, €48.6 million for the EFF and €107 million<sup>1</sup> for the migration funds (European Refugee Fund, EBF, European Return Fund (RF) and EIF). The agricultural funds are settled with the European Commission on an annual basis. For this member state declaration, the accounting reference period commenced on 16 October 2009 and ended on 15 October 2010. On balance, a sum of €957.9 million was declared.

## 1.3 Preparation of the member state declaration 2010

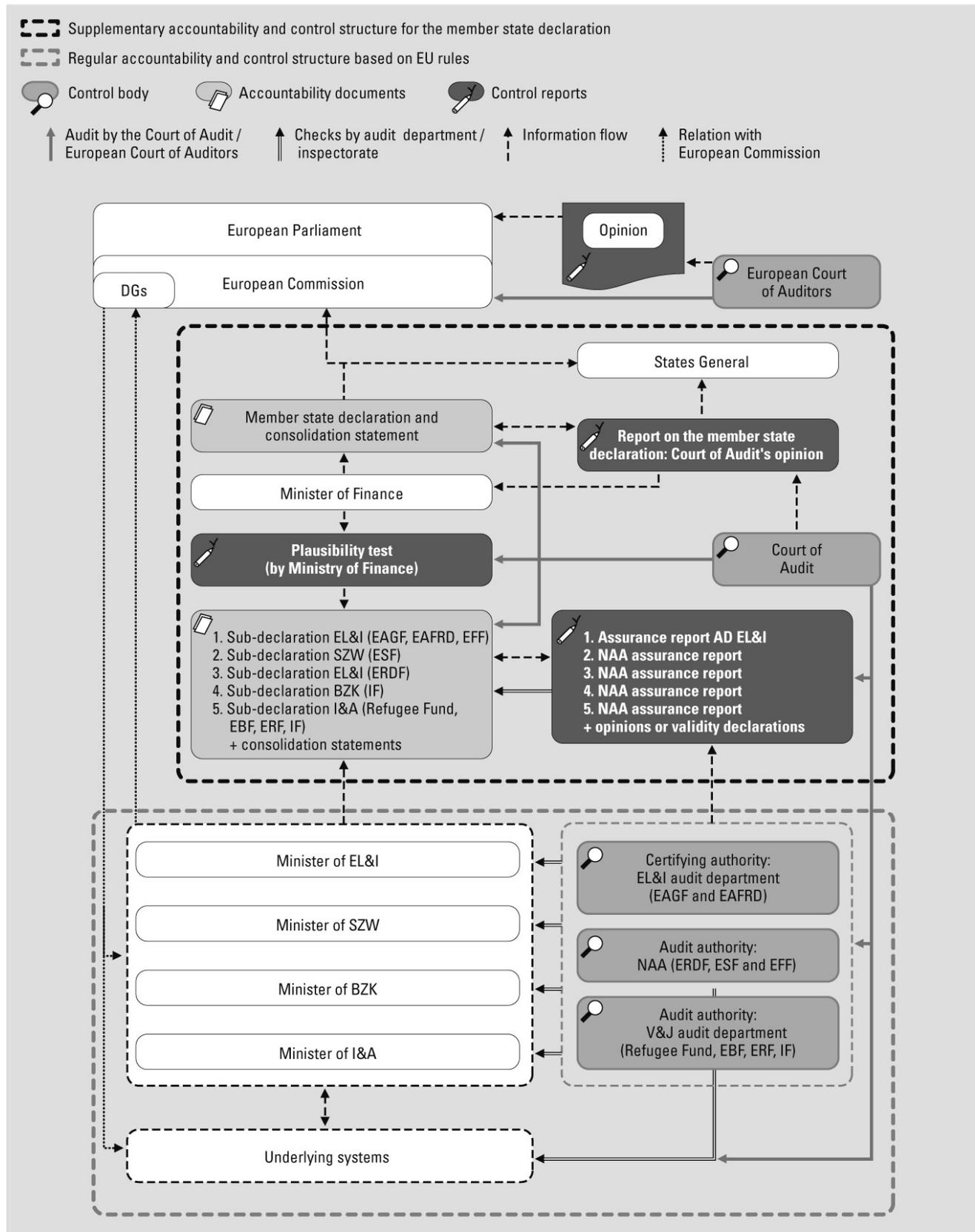
The actors and management, control, accountability and assurance structures in place for the preparation of the member state declaration are shown in the figure below.

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<sup>1</sup> Situation in October 2009.



**Actors, accountability and control**





## 1.4 Standards and audit approach

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The basic standards used in this audit are derived primarily from European legislation and regulations. We also apply international audit standards<sup>2</sup> and general principles on transparency and public accountability. Our opinion considers the soundness of the assertion in the member state declaration regarding the legality and regularity<sup>3</sup> of financial transactions down to the level of the beneficiaries (the final recipients of assistance).

For efficiency purposes, we rely wherever possible on the work of other auditors and experts. Our opinion on the member state declaration therefore makes significant use – following a review<sup>4</sup> – of the work of audit departments that carry out audits for the European Commission and/or the responsible minister. A coordinated audit<sup>5</sup> of the agricultural funds was carried out with the European Court of Auditors this year. Our opinion took account of the audit findings.

## 1.5 The fifth Dutch EU member state declaration

This is the fifth member state declaration the Netherlands has issued. It considers the nine European funds the member state spends under shared management with the European Commission. The phased introduction of these funds in the declaration is therefore near completion. What, in our opinion, is still lacking are the remittances made to the European Commission. The government had originally undertaken<sup>6</sup> to include remittances in the member state declaration as soon as possible. In its response to our EU Trend Report 2009, however, the government wrote that own resources would not form part of the national declaration. We consider this further in the recommendations we make in this report.

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<sup>2</sup> International Standards on Auditing<sup>2</sup> (ISA's), prepared by the International Federation of Accountants, and International Standards of Supreme Audit Institutions (ISSAI), prepared by the International Organisation of Supreme Audit Institutions (INTOSAI).

<sup>3</sup> We consider the Dutch term 'regularity' and the European term 'legality and regularity' to be synonymous in this report.

<sup>4</sup> A review is an assessment of the adequacy of an audit. We determine whether minimum requirements have been satisfied with regard to independence, integrity, objectivity, professionalism and expertise.

<sup>5</sup> A coordinated audit is a joint audit on which the auditors make agreements but need not necessarily express a joint opinion. Both parties retain their own responsibilities and freedoms.

<sup>6</sup> House of Representatives 2006-2007, 30 455 and 24 202, no. 5 and no. 6.



The Netherlands has made improvements in the management and control of EU funds under shared management<sup>7</sup> in recent years, thanks in part to the introduction of the member state declaration. Our recommendations have generally been followed up well.

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Apart from the Netherlands, the United Kingdom, Denmark and Sweden have taken comparable initiatives to account for the use of EU funds under shared management. Since there are no regulations or harmonised standards – the initiatives are voluntary national undertakings – the declarations differ from each other. Unfortunately, the initiatives have not yet been followed up by other member states. In the framework of the new Financial Regulation, proposals have been made in the European Parliament to strengthen accountability and control in the member states. It is not yet clear how far the proposals will approach the Dutch member state declaration, which provides assurance on regularity down to the level of final beneficiaries.

As noted above, the Court of Audit and the European Court of Auditors carried out a coordinated audit of the two agricultural funds (EAGF and EAFRD) this year as part of this present audit. The project produced interesting findings that can contribute to more effective and efficient control of European funds under shared management in both the member state and the EU. We consider the coordinated audit and its findings in the detailed annex to this report, in Dutch, on [www.rekenkamer.nl](http://www.rekenkamer.nl) (in section 3.5).

## 1.6 Structure of this report

In chapter 2 we present our opinion on the EU member state declaration for 2010. In chapter 3 we outline the status of the recommendations we made last year and make a number of new recommendations. In chapter 4 we present the government's response to the report, followed by our afterword. The report closes with a summary of the main findings and the ministers' undertakings.

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<sup>7</sup> The vast majority of EU expenditure takes place under shared management between the European Commission and the EU member states. The EU entrusts management to the member states, which are responsible for setting up sound management and control systems for the effective operation of the system and for the prevention, detection and correction of irregularities.



We consider our audit approach and our audit findings on the member state declaration and underlying subsidiary declarations in more detail in the annex to this report, in Dutch, posted on [www.rekenkamer.nl](http://www.rekenkamer.nl).



## 2 Court of Audit's opinion on the Dutch EU member state declaration 2010

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We have examined the member state declaration for 2010 (including the associated consolidation statements<sup>8</sup>) and expressed an opinion thereon. Our opinion on the member state declaration 2010 considers three aspects:

- the preparation of the member state declaration and the underlying sub-declarations with associated consolidation statements;
- the assertion made on the systems and measures in place to manage and control EU funds;
- the assertion made on the legality, regularity, accuracy and completeness of financial transactions down to the level of the final beneficiary.

European regulations<sup>9</sup> lay down different management, control and accounting requirements for each fund. EU member state declarations must therefore be made to measure.

The *National Declaration 2010*<sup>10</sup> issued by the Minister of Finance on behalf of the government is presented in appendix 1 to this report. It is summarised in the box below.

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<sup>8</sup> Consolidation statements account for actual expenditures and receipts from each EU fund.

<sup>9</sup> Or decisions in the case of the migration funds.

<sup>10</sup> The Minister of Finance refers to a national declaration rather than a member state declaration.



**Summary of the Dutch EU member state declaration 2010 issued by the Minister of Finance**

The Minister of Finance signed the *National Declaration 2010* on 18 March 2011.

The National Declaration includes positive opinions on the management and control systems in place for five of the nine EU funds relevant to the Netherlands. No opinion is expressed on the European Refugee Fund or the European Return Fund as no payment claims were made to the European Commission during the accounting reference period. The declarations on management and control of the ERDF and ESF include reservations regarding a number of shortcomings in the systems. The reservations are explained by the minister.

The declaration includes a positive opinion on the regularity, accuracy and completeness of expenditure and receipts regarding the agricultural funds, the EFF, the EBF and the EIF. The declarations on ERDF and ESF expenditure and receipts include reservations for irregularities detected. The reservations are explained by the minister.

In the annexes, the Minister of Finance considers a €47.1 million financial correction imposed by the European Commission in 2010. The minister also provides a summary of pending and not yet finalised investigations by the European Commission with brief notes on the findings and, where known, the financial corrections proposed by the European Commission.

In the accounting reference period for the member state declaration 2010 (the reference period may differ per fund), expenditure was declared to the European Commission in respect of seven funds. The EU member state declaration relates to the actual financial figures shown in the table below.

**Table 1 Actual financial figures in the member state declaration 2010**

Fund and accounting reference period	Payment claims (in € millions)		Outstanding claims (in € millions)
Agriculture (EAGF + EAFRD, 16 October 2009 - 15 October 2010)	Total	* 957.9	15.2
	EAGF	895.2	
	EAFRD	62.7	
ERDF** (1 January 2009 - 31 December 2009)	Eligible costs	***121.8	0
	Contribution from ERDF	<b>51.0</b>	
ESF (1 January 2009 - 31 December 2009)	Eligible costs	120.9	0
	Contribution from ESF	<b>50.8</b>	
EFF (1 January 2009 - 31 December 2009)	Eligible costs	27.5	0
	Contribution from EFF	<b>8.2</b>	
Migration funds, EIF and EBF (1 January 2007 - 31 December 2009****)	Eligible EIF costs	0.6	0.2
	Contribution from EIF	<b>0.3</b>	
	Eligible EBF costs	0.7	0.7
	Contribution from EBF	<b>0.5</b>	

\* Net expenditure and receipts recognised in the consolidation statement.

\*\* The ERDF consolidation statement aggregates the expenditure for the four ERDF programmes.

\*\*\* The structural funds (ERDF, ESF, EFF and migration funds) are co-financed. Part of the total eligible costs is paid from a European fund and the remainder from other funding sources (ministry, local authorities, enterprises, institutions, etc.).

\*\*\*\* The procedure for the migration funds differs from that for the structural funds and the EFF. The amounts accounted for in the 2007 annual programme (1 January 2007 - 31 December 2009) were declared to the European Commission in 2010.

## 2.1 Opinion on preparation

Opinion
In our opinion, the EU member state declaration for 2010, as issued by the Minister of Finance on behalf of the government, was on the whole prepared in a sound manner.

### Note

*Without prejudicing our opinion on the preparation of the member state declaration, we would make the following observation.*



Problems arose during the preparation of the sub-declaration on the ERDF last year. On the one hand, the suspension of cooperation by one of the managing authorities<sup>11</sup> temporarily denied the audit authority access to the data to be audited. On the other hand, capacity shortages considerably delayed the audit authority's work. In consequence, the European Commission could not be provided with an insight into the amounts disclosed in the annual control reports and opinions issued by the audit authority in December 2010. The minister, moreover, did not have full insight into the regularity of the ERDF funding declared to the European Commission. The lack of a definite insight into the regularity of the declarations is also considered in our opinion on the financial transactions. **14**

## 2.2 Opinion on the assertion on management and control systems

### Opinion

In our opinion, the assertion made in the member state declaration for 2010 is sound with regard to the functioning of the management and control systems and the measures in place in the Netherlands for expenditures and receipts from the European funds as accounted for in the member state declaration 2010 with the exception of:

- non-compliance with local procurement rules and lack of checks of compliance with those rules down to the level of final beneficiaries of EAFRD funding.

The shortcomings detected in the functioning of the ERDF and ESF systems are considered in the member state declaration.

### Note

#### *Agricultural funds*

Payments from the two agricultural funds are made by the paying agencies reporting to the Ministry of EL&I (formerly the Ministry of Agriculture, Nature and Food Quality – LNV): the National Service for Implementation of Regulations and the Government Service for Sustainable Rural Development (DLG). Our audit found that neither the DLG paying agency nor the audit authority responsible for auditing the DLG's work systematically checked whether the final beneficiaries of

<sup>11</sup> The four managing authorities for the ERDF (North Netherlands Assembly, Gelderland Provincial Executive, North Brabant Provincial Executive and Rotterdam Municipal Executive) are responsible for implementing of the grant process. The National Audit Authority is responsible for auditing the quality of the managing authorities' implementation and the regularity of the financial transactions. The outcomes of these audits are sent to the European Commission for oversight purposes.



EAFRD funding complied with local procurement rules. In theory there are sufficient controls but in practice no checks are made of whether final beneficiaries actually comply with local procurement rules. The extrapolated errors amount to €3.7 million. Unfortunately, we did not detect this systematic error in the management and control structure in previous years.

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*Without prejudicing our opinion on the assertion in the member state declaration regarding the functioning of systems, we would make the following observations.*

#### *Structural funds*

As noted above in our opinion on the preparation of the member state declaration, problems arose during the audit of ERDF funding. In the light of these problems and the errors detected in the 2009 payment applications, we believe the responsible minister should take measures to improve the supervision and management of the ERDF. In the notes to the sub-declaration on the ERDF, the minister concludes from the audit authority's review that the managing authorities' management and control systems are effective and there has been a clear improvement since the previous audit cycle but further improvements are still possible. We cannot completely confirm this positive interpretation. In contrast to the previous year, the audit authority did not assess all essential requirements (controls) for the ERDF North operational programme. Furthermore, errors were made in the 2009 accounting reference period and subsequently corrected in the 2010 ERDF payment applications.

#### *Insight into current investigations by the European Commission*

In the light of its findings, the European Commission can make financial corrections to the payments claimed by a member state. With effect from this year, the minister's sub-declaration has considered all the Commission's current investigations as well as financial corrections already imposed or settled. The inclusion of current investigations in the annex to the member state declaration considerably enhances the transparency of the functioning of the systems and the associated potential financial risks. The annex shows that the volume of financial corrections has increased and the European Commission is still carrying out several investigations that will probably also result in financial corrections. The Ministry of LNV (now the Ministry of EL&I) investigated the causes of the financial corrections in 2009. The investigation led to a series of recommendations to prevent disputes and corrections in the future.



## 2.3 Opinion on the assertion on financial transactions

### Opinion

In our opinion, the assertion made in the EU member state declaration for 2010 on financial transactions down to the level of final beneficiaries of European funds is sound with the exception of:

- the completeness of the errors/irregularities stated in the ERDF sub-declaration<sup>12</sup> on the payment applications submitted to the European Commission for 2009 (ERDF).

In the member state declaration for 2010 the government declares in respect of the seven funds with financial transactions that the expenditures and receipts were legal and regular (i.e. in conformity with relevant legislation and regulations) down to the level of the final beneficiaries with the exception of:

- in the ESF, an error rate was detected of 1.77% and excessive claims of €14.1 million were declared for the period 1 January 2009 - 31 December 2009; the excessive claims were corrected in subsequent payment applications<sup>13</sup> made to the European Commission<sup>14</sup> and on balance there were no undue payments to the final beneficiaries;
- in the ERDF, a maximum error rate was detected of 1.67%. There was also uncertainty regarding the eligibility of €1.0 million declared for the period 1 January 2009 - 31 December 2009; this amount has since been corrected in the December 2010 payment application.

### Note

#### ERDF

Apart from the reported maximum error rate, we found other potential corrections. The financial significance, however, was not known as the managing authority had not set correction rates. In our opinion, therefore, the completeness of the errors/irregularities stated in the ERDF sub-declaration is uncertain. Furthermore, the member state declaration states that €1.0 million in excess expenditure had been corrected in a payment application in 2010 but had not been counted in the error rate.

<sup>12</sup> Projects are carried out over several years (in accordance with the programming period) and final settlement must still take place. Irregularities can therefore still be corrected and settled against later project payments.

<sup>13</sup> Payment applications in April and July 2010.

<sup>14</sup> Since the programming period covers several years and payment applications are submitted to the European Commission periodically, irregularities detected in retrospect are corrected and deducted from the following payment application.



We found that the total amount of errors in the 2009 financial year that had been corrected in 2010 was not €1.0 million but €1.5 million.

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*Without prejudicing our opinion on the assertion in the member state declaration regarding the regularity, accuracy and completeness of the financial transactions down to the level of the final beneficiaries, we would make the following observations.*

#### *Agricultural funds (EAGF and EAFRD)*

The assistance farmers receive is based for a large part on the area of land they use for farming activities. The systems used to record and verify the land parcel areas are managed by the Ministry of EL&I. One of the systems, the land parcel identification system, has shown shortcomings in recent years. The parcel areas recorded in the system include certain non-eligible areas such as grass parcels between runways at an airport. The ministry has taken action and significant efforts were made last year to rectify the system. The measures taken by the ministry have clarified what financial errors were caused by the shortcomings in the land parcel identification system in the previous agricultural year. The associated undue payments to farmers amounted to €14.5 million (EAGF and EAFRD together). Pursuant to the European Regulation, the minister should have recovered this amount from the farmers. However, the minister decided not to do so and, with parliament's approval, funded the undue payments from her own national budget. The minister did not declare this amount to the European Commission.<sup>15</sup> Since the minister did not include the amount concerned in the declaration to the European Commission, there was no payment claim to and/or receipt from the European Commission. Nonetheless, the minister acted contrary to the European Regulation.

Total irregularities (based on the maximum errors we calculated of €5.8 million) do not exceed the European Commission's tolerable threshold of 2% of the total agricultural expenditure declared by the Netherlands (€21.8 million). For the opinion on the agricultural funds, the 2% materiality level is applied to the aggregate of both funds. If there has been an overrun at fund level, however, it has been agreed that it will be reported separately. In the light of our findings on the EAFRD, this was applicable last year. The total extrapolated error in the EAFRD was €4.4 million. This is equal to 7% of the amount declared for the EAFRD. A substantial proportion of this amount (€3.7 million) was attributable to non-compliance with local procurement rules.

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<sup>15</sup> This finding is also considered in our report on the Ministry of LNV's annual report for 2010.



### *Structural funds*

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In the declaration on the ERDF and ESF, the minister lists the material errors/irregularities that had been included in the payment applications submitted to the European Commission in 2009. In both the ERDF and ESF, errors and irregularities detected in the 2009 payment declarations were settled in subsequent payment applications in 2010 in accordance with the European system. A *maximum* error rate was calculated for the ERDF because the clearance procedure could not be completed in time. The error rate in the amount claimed from the ESF was 11.67% (as at 31 December 2009). Following a €14.1 million<sup>16</sup> correction in the 2010 payment application, the remaining error rate was 1.77%. In our opinion, the method selected to disclose the figures harbours the risk of presenting too favourable a picture. The total error rate reported plus the errors corrected in a subsequent year provides an insight into the effectiveness of the management and control systems during the accounting reference period.

### *Migration funds*

No irregularities higher than the tolerable threshold were detected in the migration fund accounts submitted to the European Commission. It can be seen from the figures on the EBF and EIF that a relatively large proportion of the funding received was recovered where grant conditions were not satisfied. Of the €1.9 million awarded, €0.9 million was recovered by the competent authority<sup>17</sup> following the detection of irregularities. Many errors were detected by both the audit authority and the competent authority. We would like to see the Programme Secretariat for European Funds (PEF) increase its monitoring so that there is no over-reliance on the audit authority's work as the audit authority should act as an external auditor wherever possible. The European Commission (DG Home Affairs) did not accept the audit authority's report on the 2007 annual programme.

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<sup>16</sup> This is the highest estimate of 'minimum positions' (the minimum declarations expected on the basis of audit work not yet completed) and 'over-realizations' (amounts paid in excess of the maximum grant decision).

<sup>17</sup> The competent authority for the EBF is the Migration Policy department and that for the EIF is the Integration and Citizenship department, both departments of the Ministry of BZK.



## 3 Recommendations for the future

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In this chapter we present the improvements we consider possible. We first look at the recommendations we made last year that are still applicable this year. We then make new recommendations.

### 3.1 Status of prior year recommendations

Five recommendations we had made in our *Report on the Dutch EU member state declaration 2009* (Netherlands Court of Audit, 2010) still require attention from the ministers concerned.

#### **Opinion on financial transactions from the agricultural funds down to the level of final beneficiaries**

Compliance with relevant legislation and regulations is checked by means of inspections. Inspection results therefore provide an insight into the regularity of financial transactions and are thus relevant to the member state declaration.

The audit carried out by the Ministry of EL&I's audit department found that the system that produces control statistics for the EAFRD did not function entirely adequately. Corrections therefore still need to be made to the control statistics submitted to the Commission. Many steps have to be taken to produce the control statistics. We recommend that the minister review the preparation of the control statistics and take measures to ensure their reliability.

Further to our *Report on the Dutch EU member state declaration 2009*, the minister undertook to study how inspection reports could be speeded up. However, the desired result has not yet been achieved. Since the 2010 control report on checks of cross-compliance will not be issued until May 2011, the results will be provided too late for consideration in our opinion. We would ask the minister to make concrete agreements with the new Food and Consumer Product Safety Authority (nVWA) on the timely delivery of inspection results, no later than 15 March in t+1.<sup>18</sup>

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<sup>18</sup> t+1: t is the agricultural year reported upon in the member state declaration.



*See points 4 and 5 in the list of recommendations.*

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### **Shortcomings in ERDF management and control systems**

The shortcomings found in the functioning of the management and control systems in place for the ERDF have not been resolved. Shortcomings in the certifying authority's work during the 2009-2010 audit cycle represent a risk to the regularity of the expenditure declared. Improvements are necessary. In concrete terms, the audit trail for the verifications made and the conclusions on them should be clearly recorded. The certifying authority has since made the necessary improvements (however, they have not yet been examined by the audit authority). In addition, the temporary suspension of audit cooperation by one of the managing authorities and capacity shortages at the audit authority caused a considerable delay in the audit. We therefore repeat our recommendation that the Ministry of EL&I should tighten up its supervision of the management and control structure.

*See points 9 and 10 in the list of recommendations.*

### **ESF improvement measures**

Some progress has been made but attention must still be paid to the quality of the Minister of SZW's operations because the system was unable to prevent errors being included in payment applications in 2009. The minister recognises this problem and considers it in the sub-declaration. The score of 2 awarded by the audit authority also implies that improvements are necessary in certain areas of the systems.

*See point 11 in the list of recommendations.*

## **3.2 New recommendations**

### **Remittances to the European Commission**

The government has not fulfilled its undertaking to include remittances to the European Commission in the member state declaration. There are four types of remittance, or own resources.<sup>19</sup> In our opinion, traditional

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<sup>19</sup> The own resources system consists of four types of income:

Traditional own resources: (1) Agricultural duties and sugar levies: these consist mainly of customs duties on imports from non-Community countries of agricultural produce subject to common organisation of the market and levies on sugar, isoglucose and inulin syrup; (2) Customs duties: these arise from the application of the common customs tariff and are collected on imports from third countries at the external borders. The two other types are: (3) The VAT resource: this arises from the application of a uniform percentage rate to the VAT base of each member state. This rate was reduced to 0.50% in 2004. For all member states, it is applied to a base capped at 50% of GNP; (4) The resource based on gross national income (the 'fourth resource'): introduced in 1988, this is an "additional" resource, because it is set according to the other three sources of budget



own resources (agricultural duties and customs duties) could be included in the member state declaration in the near future because, unlike the other two own resources, they are not based on estimates or statistical information that is more difficult to audit as to accuracy and completeness. We recommend that they be included in stages. *See point 3 in the list of recommendations.*

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### **Compliance with procurement rules below the EU threshold (concerns EAFRD)**

With regard to compliance with local procurement rules down to the level of the final beneficiaries, we recommend that the Minister for EL&I:

- have DLG take measures to correct the irregularities detected, if possible, and prevent them in the future;
- remind EL&I's audit department that compliance with procurement rules must be checked down to the level of final beneficiaries.

*See point 7 in the list of recommendation.*

### **Area aid**

We concluded from the coordinated audit with the European Court of Auditors that the systems in place to implement the single farm payment scheme functioned correctly and no irregularities were detected that, in total, exceeded the tolerable threshold. This situation was underpinned by the measures taken by the minister and the resultant update of the land parcel identification system. However, we found that satellite imaging was not always adequate for the proper measurement of parcel areas and there were still errors in the system at parcel level. To prevent irregularities in the years ahead, we recommend that the Minister for EL&I:

- keep the land parcel identification system up to date and ensure that changes can be traced. We found irregularities in 14% of the reference parcels we audited (149) in the land parcel identification system;
- prevent parcels that do not satisfy the eligibility criteria qualifying for aid. Land that is ineligible should be identified as such in the land parcel identification system. Parcels between runways at an airport, for example, should be identified as ineligible;
- improve and monitor the quality of satellite imaging and, if there are doubts, carry out rapid field visits.<sup>20</sup> Our audit and the inspections carried out by the General Inspectorate (AID) found that satellite

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revenue. A uniform percentage rate is applied to the total GNI of all the member states, under the budget procedure.

<sup>20</sup> Rapid field visits are a means to follow up inadequate screen-based satellite measurements.



measurements systematically produce a higher area than on-the-spot inspections.

22

*See point 8 in the list of recommendations.*

**Audit authority's activities for ERDF, ESF structural funds and EFF**

The following recommendations are the outcome of our audit work to determine whether we could rely on the audit authority's findings. We would make the following recommendations to the responsible ministers (Finance, EL&I and SZW):

- ensure that there is sufficient capacity and allow interventions to be made when problems arise in the conduct of audits so that necessary procedures can be carried out;
- standardise the audit work for comparable auditees;
- prevent decisions being taken during the conduct of an audit that restrict the scope of the procedures. We think a reservation should be made in the sub-declaration if audits can't be performed completely or not on time and this leads to a material uncertainty;
- assess in principle all relevant, essential requirements of the management and control systems every year;
- ensure there is a meticulous evaluation of all audit findings.

*See point 12 in the list of recommendations.*



## 4 Response of the ministers and the Court of Audit's afterword

23

We sent the draft of this report for comment to the Minister of Finance, who had issued the EU member state declaration on behalf of the government. We also sent drafts to the Minister for EL&I, who is responsible for the sub-declarations on the agricultural funds, EFF and ERDF, the Minister of SZW, who is responsible for the sub-declaration on the ESF, the Minister of BZK, responsible for the sub-declaration on the EIF, and the Minister for I&A, responsible for the sub-declaration on the EBF.

We asked the Minister of Finance to respond to the report on behalf of the Ministers of EL&I, SZW, BZK and I&A. We received his response on 2 May 2011. This chapter presents the full text of the response and our afterword. In an annex to his letter the minister responded to the recommendations we make in the tables at the end of this part of the report. We have included this part of his response in the tables. The full response, in Dutch, is available on our website at [www.rekenkamer.nl](http://www.rekenkamer.nl).

### 4.1 Response of the ministers

'You submitted the draft Report on the Dutch EU member state declaration 2010 for official response on 15 April 2011. On behalf of the government, I hereby present the response to the draft Report on the Dutch EU national declaration 2010.<sup>21</sup>

The government took note of the Court of Audit's opinion with interest and is on the whole pleased with the Court of Audit's positive opinion on the national declaration 2010. You noted that recommendations made by the Court of Audit in recent years have on the whole been followed up well. There is a constructive dialogue between the ministries and the Court of Audit regarding the development of this accountability instrument, with each party acting in its own capacity and retaining its own responsibility. The government hopes to continue this cooperation on the publication of the national declaration.

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<sup>21</sup> The Court of Audit uses the term member state declaration for the national declaration.



The national declaration 2010 considers the regularity of the use of all EU funds under shared management in the Netherlands as well as the functioning of the financial management systems. The phased introduction of these funds in the national declaration has now been completed.<sup>22</sup>

The government's response to the main conclusions and resultant main recommendations to improve the national declaration and financial management are presented below.

### **Opinion on the national declaration 2010**

#### *General*

Your opinion considers three aspects of the national declaration 2010:

- the preparation of the national declaration and the subsidiary declarations;
- the assertion on systems;
- the assertion on the legality and regularity of financial transactions down to the level of final beneficiaries.

The government took note of your positive opinion on most of these aspects. Some elements of your opinion are discussed separately below.

#### *Opinion on preparation*

In the note to your positive opinion, you make – without prejudicing your opinion – a number of observations that you return to in the recommendations. The government considers these points under *Recommendations for the future*.

#### *Opinion on the assertion on management and control systems*

You express a positive opinion. You also conclude that controls of the application of local procurement regulations are not implemented correctly. The Minister for EL&I notes that on the grounds of the control regulation for the EAFRD, administrative checks and on-the-spot inspections are subject to only national and EU public procurement regulations. The applicable regulations are the Public Contracts Tendering Rules Decree, the regulations arising from the Treaty on the Functioning of the European Union, the European Union's public contracting guidelines and provincial rural development regulations. Local procurement rules do not need to be checked in all cases. Your recommendation is therefore applicable only where required under relevant provincial rural

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<sup>22</sup> Declarations have not yet been submitted in respect of the European Refugee Fund and the European Return Fund.



development regulations. This was applicable in a limited number of cases. Measures will be taken in this respect. The minister recognises the complexity of EU regulations and the differences that can arise in their interpretation. Nevertheless, the Minister for EL&I agrees with you that local authorities should observe their own regulations on public procurement.

25

You also note that not all essential requirements for the functioning of the systems were assessed for the EFRD North operational programme. The national declaration is based on European standards and rules and the control procedure laid down by the Commission. In accordance with EU regulations on the structural funds, it is not necessary to check all essential requirements every year. The Commission has approved the audit authority's approach and assessment of the ERDF systems.

*Opinion on the assertion on financial transactions*

In your opinion, the assertion in the national declaration on the legality and regularity of transactions down to the level of final beneficiaries is sound with the exception of the completeness of errors and irregularities in ERDF payment applications. The latter is the outcome of a concurrence of exceptional circumstances that prevented checks being completed on time and in full. The causes are not structural in nature. Nevertheless, the Minister for EL&I will take measures to prevent a reoccurrence.

The audit authority reported all the errors and irregularities to the European Commission but they were not fully explained in the ERDF sub-declaration or, in consequence, in the national declaration. In its assurance for the national declaration, the audit authority qualified a large item (approximately €1 million) as material and made a reservation. It qualified smaller items (approximately €0.5 million) as non-material. The Minister for EL&I accepted these qualifications. This explains why the latter amount was not reported in the sub-declaration. For the sake of transparency, you proposed that all smaller items also be reported in future. The audit authority will adopt your proposal.

Without prejudicing your opinion, you state in the notes that the Minister for EL&I incorrectly did not recover €14.5 million in agricultural funding from farmers. The Minister for EL&I does not agree with this opinion. As a general principle of EU regulations, as the Court of Audit observes, undue payments must be recovered.<sup>23</sup> An exception is made, however, if a payment is due to an error by the competent authority that a farmer could not reasonably have detected. We would also note in this respect

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<sup>23</sup>Article 80 (1) of Regulation (EC) no. 1122/2009.



that under the applicable regulation<sup>24</sup> the farmer is responsible for the accuracy of the application but the member state is obliged to include information on the areas per reference parcel on the application form.<sup>25</sup> This information is provided to the farmers over a series of years and the Commission had not commented on it until 2007. In such circumstances, it would be unreasonable to expect farmers to personally notice inaccuracies in the area information for the reference parcels. The Minister for EL&I accordingly decided not to recover the payments. The minister notes that this decision does not apply to cases of deliberate over-declaration. The Minister for EL&I took this decision with the approval of the House of Representatives (11 May 2010).

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### **Recommendations for the future**

We present our response to the main recommendations below.

#### *Remittances to the European Commission*

You believe there are opportunities to include own resources in the national declaration and recommend that they be introduced in stages. In response to a similar recommendation made in the EU Trend Report 2009, the government informed you in 2009 of its decision not to include own resources in the national declaration. The following reasons were given:

- in contrast to expenditure under shared management, remittances of own resources to the EU are satisfactory, as confirmed by the European Court of Auditors each year. The government will direct and confine its efforts to those parts of the EU budget that are not satisfactory, particularly in view of the civil service's heavy workload;
- the management and control systems were set up under the responsibility of the Commission and in accordance with its requirements;
- traditional own resources account for about 20% of total remittances. The remaining 80% are determined by figures from Statistics Netherlands, an independent body. The compilation of these figures is checked by Eurostat, the European Commission and the GNI Committee. National political interference is not desired;
- for similar reasons, other member states that issue a national declaration do not include own resources in the declaration. As explained in 2009, therefore, the government does not accept your recommendation.

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<sup>24</sup> Article 12 (4) of Regulation (EC) no. 1122/2009.

<sup>25</sup> Article 12 (3) of Regulation (EC) no. 1122/2009 .



*Recommendations for improvements in the agricultural funds systems:  
reliability and availability of inspection results, compliance with  
procurement rules and area aid systems*

27

The Minister for EL&I will implement the recommendation regarding the availability of inspection results and area checks.

The recommendation regarding compliance with local (municipal) procurement rules is not entirely consistent with applicable European regulations. The Minister for EL&I will therefore not implement it in full but will take measures where the recommendation is applicable.

*Structural funds management and control systems*

You repeat part of the recommendation you had made in 2008 and 2009 that the Minister for EL&I should monitor the quality of implementation very critically and take corrective measures if necessary to ensure that the audit authority's recommendations are followed up and shortcomings at the certifying authority are rectified.

The Minister for EL&I takes this recommendation to heart. The audit authority had given the systems a score of 2, which means that the systems work but some improvements are needed. In the case of improvements that go beyond the audit authority's recommendations, it will be considered whether the benefits justify the extra effort and investments and whether the regularity of expenditure satisfies the European 2% threshold. Improvement measures have already been taken at the certifying authority that the audit authority will review. In his capacity as coordinator for the European Regional Development Fund (ERDF) the Minister for EL&I will ensure that the audit authority's recommendations are followed up by the ERDF managing authorities and certifying authority.

*Recommendations regarding the National Audit Authority in its capacity  
as audit authority for the ERDF, ESF and EFF*

You provide a series of action points to improve the quality of the audit authority's work. The Ministers of SZW and EL&I welcome these recommendations and will ensure that the promised capacity is adequate. Your recommendation on the standardisation of procedures and the prevention of restrictions in audit scope will be implemented wherever possible, with due account being taken of the specific character of each structural fund and the European Commission's requirements. The assessment of essential requirements is and will remain part of the audit cycle in accordance with the Commission's instructions.



The response to the remaining action points is provided in the annex.'

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## 4.2 Court of Audit's afterword

We read the Ministers of Finance, EL&I, SZW, BZK and I&A's undertakings to carry out seven of the nine open recommendations with satisfaction. Unfortunately, the ministers will not follow up two of our recommendations in full or in part.

### *Remittance of own resources*

We think it is a missed opportunity that the ministers have decided not to include the remittance of own resources in the member state declaration. In our opinion, the reasons they give are not entirely correct.

- The European Court of Auditors may express a positive opinion on the remittance of own resources but it also comments on the limitations in controls. It cannot audit, for example, underlying transactions that are based on macroeconomic statistics. The audit is therefore based on macroeconomic variables that are compiled by the member states and submitted to the Commission. The Commission's systems to process the information are reviewed in order to agree the figures that are disclosed in the final accounts. The quality of the sources and the methods used to process the resultant information at member state level are therefore not audited by the European Court of Auditors.
- The independence of Statistics Netherlands must be guaranteed; national political interference in this institution is not what we had in mind. However, the risk the member state runs when calculating the correct remittances to the EU means that there is a very definite political responsibility. Good governance in the member state also entails accountability and control for remittances to the European Commission. Assurance on the orderly and auditable preparation of the information on which the remittances are based is therefore essential.
- The Danish member state declaration does consider own resources.<sup>26</sup>

It recently became clear what risks can arise in the macroeconomic data used to monitor financial management of the euro and of Europe. The integration of own resources into the member state declaration is not a panacea for these problems but it demonstrates the minister's political responsibility for the reliability of the information on remittances and of

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<sup>26</sup> Rigsrevisionen, *Report to the Public Accounts Committee on the audit of EU funds in Denmark in 2009*, November 2009.



the underlying data and systems. Furthermore, accountability and control mitigate risks and increase confidence in the member state. We would call parliament's attention to this matter. 29

In our opinion, the government's original ambition of 2006 can be achieved relatively easily. An assurance strategy could be drawn up that does justice to the special position of Statistics Netherlands and the specific nature of the VAT and GNI data that are used to calculate the remittance of own resources. A good link can thus be made between the existing supervision and control systems at European Commission level and at member state level.

#### *Compliance with procurement rules*

The Minister for EL&I undertook to take measures in those cases in which local procurement rules apply under relevant provincial regulations. We think this is a step in the right direction but would note that the Court of Audit's opinion (and in principle also the European Court of Auditors' opinion) on the regularity of the assistance granted also considers conditions that are set in provincial grant decisions. Procurement rules are important to ensure fair competition and encourage managerial integrity. For this reason and because we had not noticed this shortcoming in the management and control system earlier, we will pay extra attention to this matter in the EU member state declaration for 2011.

The response also explains why the Minister for EL&I (and previously the Minister of LNV) decided not to recover the €14.5 million in undue area payments. The errors in the reference parcel system were known when the minister paid the advances. The minister could simply have settled the errors in the final grant decision. Not settling the undue payments effectively means that farmers who passed on changes in parcel information in good faith were not treated equally.



## Recommendations to ministers

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The tables below show which of the recommendations we made last year have still not been followed up in full or in part. We have also made a number of new recommendations. These are also shown in the tables.

<b>NATIONAL DECLARATION OF THE MINISTER OF FINANCE (ON BEHALF OF THE GOVERNMENT)</b>			
<i>Recommendation</i>	<i>Current status</i>	<i>Minister's undertaking</i>	<i>Court of Audit's afterword</i>
<b>2009</b>			
1 Comply with European accounting and control standards but, together with the line ministries concerned, explore ways to clarify and increase comparability of accounting records and include the Annual Summaries <sup>27</sup> prepared for the funds in the process.	We found that the minister precisely followed the European terms and scope. In consequence, an opinion was given on the ERDF, ESF and EFF for the period 1 January 2009 – 31 December 2009 in March 2011.		Completed.
<b>2009</b>			
2. Evaluate the implementation of current assurance work and determine whether it adequately covers the reliability of the sub-declaration.	We agreed in consultation last year that the current approach would be accepted for the time being.		Completed.
<b>New in 2010: Remittances to the European Commission</b>			
3. Carry out the initial intention of including remittances to the EU in the member state declaration. In our opinion, traditional own resources (agricultural duties and import duties) could be introduced in the near future. We recommend that they be included in stages.		The government has already decided not to include own resources in the member state declaration (see government response to the EU Trend Report 2009). This decision is explained in the present government response	We adhere to our recommendation and call parliament's attention to the matter.

<b>SUB-DECLARATION OF THE MINISTER FOR EL&amp;I (EAGF and EAFRD)</b>			
<i>Recommendation</i>	<i>Current status</i>	<i>Minister's undertaking</i>	<i>Court of Audit's afterword</i>
<b>2007</b>			
4. The reliability of inspection results can be further improved. The way in which data are recorded has consequences for the information based on those data.	The system that generates control statistics for the EAFRD does not work adequately. We recommend that the preparation of control statistics be reviewed and measures be taken to ensure the reliability of the control	Minister accepts the recommendation.	We will follow the progress in our audit.

<sup>27</sup> An Annual Summary is a compulsory summary of the European funds a member state administers under shared management. It provides an account of financial transactions and management and control and an insight into the outcome of audits carried out by the audit authorities.

<b>SUB-DECLARATION OF THE MINISTER FOR EL&amp;I (EAGF and EAFRD)</b>			
<i>Recommendation</i>	<i>Current status</i>	<i>Minister's undertaking</i>	<i>Court of Audit's afterword</i>
	statistics.		
<b>2008</b>			
5. Speed up the availability of inspection results, in particular on cross-compliance, so that the information can be used for the member state declaration.	Inspection results are not yet delivered on time. The 2010 management report on checks of cross-compliance was not issued until May 2011. We would ask the minister to make agreements with the nVWA to issue the inspection results before 15 March t+1.	Inspection results are reported in accordance with EU regulations. The necessary information from the inspection results is therefore provided on time. In consultation with the nVWA, it is being studied whether the management report on checks of cross-compliance can be brought forward for the benefit of the Court of Audit.	We assume that this recommendation will have been followed up next year.
<b>2008</b>			
6. Shortcomings were found in information security at both paying agencies. Implement action plan to improve information security at both paying agencies on a timely basis.	The minister's intention to complete the action plan to improve information security in 2010 has been implemented except a handful of points. DICTU has taken compensatory measures for these points.		Completed.
<b>New in 2010</b>			
7. Take measures at the DLG and EL&I audit department to ensure compliance with local procurement rules below the EU threshold for the EAFRD down to the level of final beneficiaries.		Measures are being taken for those cases in which local procurement rules are applicable under relevant regional development regulations.	We again observe that conditions laid down in grant decisions can influence the regularity of financial transactions.
<b>New in 2010: Area aid</b>			
8. Monitor the quality of single farm payment systems: <ul style="list-style-type: none"> <li>keep the land parcel identification system up to date and ensure that changes are traceable;</li> <li>identify non-eligible parcels as such in the parcel identification system;</li> <li>improve the quality of satellite imaging and, if there are doubts, have the AID carry out rapid field visits;</li> <li>check the quality of satellite imaging by means of on-the-spot sampling.</li> </ul>		The minister accepts the recommendation. An improvement plan will be submitted to the European Commission on 22 April listing a number of actions to improve the land parcel register and keep it up to date. The quality of the land parcel register will be checked each year in accordance with article 6 of Regulation 1122/2009. On the basis of the check, it will be decided each year what actions are necessary to enhance the quality of the land parcel register. All changes in land parcels at reference parcel level are entered	We are confident that the minister will sort out this crucial aspect of the single payment scheme.



<b>SUB-DECLARATION OF THE MINISTER FOR EL&amp;I (EAGF and EAFRD)</b>			
<i>Recommendation</i>	<i>Current status</i>	<i>Minister's undertaking</i>	<i>Court of Audit's afterword</i>
		<p>in the land parcel register and are traceable.</p> <p>All non-eligible reference parcels will be identified as such. It is not possible for farmers to apply for aid for them.</p> <p>If there are doubts about eligibility, a rapid field visit (RFV) will be carried out as standard practice. An RFV of natural grassland will also be carried out as standard practice.</p> <p>15 files will be checked by both satellite imaging and the AID each year. Parallel checks in 2010 give no cause to doubt the quality of satellite imaging.</p>	

<b>SUB-DECLARATION OF THE MINISTER FOR EL&amp;I (ERDF)</b>			
<i>Recommendation</i>	<i>Current status</i>	<i>Minister's undertaking</i>	<i>Court of Audit's afterword</i>
<b>2008</b>			
<p>9. We have comments on the complicated arrangements that have arisen. We recommend that the minister monitor implementation very critically and take remedial action where necessary.</p>	<p>Unfortunately, we found that the system is still not working optimally regarding the supervision of the management authority and capacity shortages at the audit authority and that measures are required.</p>	<p>The minister has started an evaluation of the effectiveness and efficiency of the financial management system (AA, CA, MA). Completion is planned for summer 2011. The minister will ensure that the audit authority's recommendations are followed up by the managing authority.</p>	<p>We will consider the progress and developments in our audit.</p>
<b>2009</b>			
<p>10. In view of the reservation in the declaration, we draw attention to the shortcomings detected:</p> <ul style="list-style-type: none"> <li>- adequate documentation and corroboration of control work carried out;</li> <li>- stricter and improved checklists;</li> <li>- monitoring of response and decision terms.</li> </ul>	<p>The shortcomings in the certifying authority's work are a risk to the regularity of the expenditure declared. In concrete terms, the audit trail for the verifications and conclusions on them should be clearly recorded.</p>	<p>The minister takes the recommendation to heart and will ensure that it is implemented by the certifying authority. The audit authority will consider this in its annual audit report of December 2011.</p>	<p>We will consider the progress and developments in our audit.</p>



<b>SUB-DECLARATION OF THE MINISTER OF SZW (ESF)</b>			
<i>Recommendation</i>	<i>Current status</i>	<i>Minister's undertaking</i>	<i>Court of Audit's afterword</i>
<b>2009</b>			
11. Actively implement the improvement measures accepted by the managing authority and minister.	The system did not work effectively enough in 2009, as recognised by the minister in the sub-declaration.		
Elaboration in 2010: Rectify the shortcomings detected by the audit authority, such as: inadequate documentation, inadequate internal review of verifications and shortage of audit capacity.		Adequate measures have been taken to improve documentation and internal review of verifications. The audit capacity has also been increased. A planning system has been introduced to shorten control lead times.	We will consider the progress and developments in our audit.

<b>OTHER POINTS</b>			
<i>Recommendation</i>	<i>Current status</i>	<i>Minister's undertaking</i>	<i>Court of Audit's afterword</i>
<b>New in 2010</b>			
12. National Audit Authority (in its capacity as audit authority for the ERDF, ESF and EFF):			We will consider the progress and developments in our audit.
<ul style="list-style-type: none"> <li>Ensure there is sufficient capacity to intervene if there are problems in the conduct of audits so that necessary work can be carried out.</li> </ul>		The Ministers of SZW and EL&I take the recommendation to heart. Management of the NAA has promised sufficient capacity.	
<ul style="list-style-type: none"> <li>Standardise audit work for comparable auditees.</li> </ul>		Regarding audit standardisation and prevention of audit scope restrictions, this recommendation will be followed up where possible in 2011 (taking account of the specific nature of the various structural funds, their priorities and the requirements of the Commission's DGs).	
<ul style="list-style-type: none"> <li>Prevent scope restrictions during conduct of audit.</li> </ul>			



<b>OTHER POINTS</b>			
<i>Recommendation</i>	<i>Current status</i>	<i>Minister's undertaking</i>	<i>Court of Audit's afterword</i>
<ul style="list-style-type: none"> <li>Annually review all relevant essential requirements on management and control systems.</li> </ul>		The Commission decides what are the most critical essential requirements. They are included in the audit cycle in accordance with the Commission's requirements.	
<ul style="list-style-type: none"> <li>Ensure there is a meticulous evaluation of all audit findings.</li> </ul>		The audit findings will be meticulously evaluated. A start was already made in 2010 and 2011.	



## Appendix 1 Member state declaration 2010 with annexes

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### National declaration 2010

Having regard to the Council of Ministers decision d.d. 11 March 2011, I hereby declare, on behalf of the government of the Netherlands, in my position and responsibility as minister of Finance, and based on the information at my disposal, that:

#### *Declaration on the European Agricultural Guarantee Fund (EAGF) and the European Agricultural Fund for Rural Development (EAFRD):*

- (1) The functioning of the systems setup in the Netherlands, including measures for the management and control of resources from the European Agricultural Guarantee Fund (EAGF) and the European Agricultural Fund for Rural Development (EAFRD) for the financial year 16 October 2009 to 15 October 2010, provide, to the best of my knowledge, reasonable assurance on the legality and regularity of underlying transactions, as well as of the eligibility of payment requests;
- (2) The expenditure and revenue up to a total amount of € 957,918,236.14 debit or credit to the European Agricultural Guarantee Fund (EAGF) and the European Agricultural Fund for Rural Development (EAFRD) as included in the consolidation statement for the financial year 16 October 2009 to 15 October 2010 issued by the Dutch payment agencies are, to my best knowledge, legal, regular, correct and complete up to the level of the beneficiary;
- (3) Pending claims up to a total amount of € 15,239,847.05 for the European Agricultural Guarantee Fund (EAGF) and the European Agricultural Fund for Rural Development (EAFRD) as included in the consolidation statement for the financial year 16 October 2009 to 15 October 2010 issued by the Dutch payment agencies are, to the best of my knowledge, legal, regular, correct and complete.

#### *Declaration on the European Fisheries Fund (EFF):*

- (1) The functioning of the systems setup in the Netherlands, including measures for the management and control of resources from the 2007-2013 program "Perspectives for a sustainable fisheries sector" co-funded by the European Fisheries Fund, for the 2007-2013 period, for the year 1 January 2009 to 31 December 2009, provide, to the best of my knowledge, reasonable assurance on the legality and regularity of underlying transactions, as well as of the eligibility of payments;



- (2) The expenditure and revenue up to a total amount of € 27,491,736.64 (EFF co-financing € 8,247,520.99) debit or credit to the European Fisheries Fund (EFF), as included in the consolidation statement issued by the Certifying Authority and in payment claims to the Commission covering the period 1 January 2009 to 31 December 2009, are, to the best of my knowledge, legal, regular, correct and complete up to the level of the beneficiary;
- (3) Pending claims up to a total amount of € 0.00 for the European Fisheries Fund (EFF) as included in the consolidation statement issued by the Certifying Authority and in payment claims to the Commission covering the period 1 January 2009 to 31 December 2009 are, to the best of my knowledge, legal, regular, correct and complete.

*Declaration on the European Regional Development Fund (ERDF):*

- (1) The functioning of the systems setup in the Netherlands, including measures for the management and control of resources from the 2007-2013 European Regional Development Fund for the year 1 January 2009 to 31 December 2009, provide, to the best of my knowledge, reasonable assurance on the legality and regularity of underlying transactions, as well as the eligibility of payment requests;
- (2) The expenditure and revenue up to a total amount of € 121,818,635.58 of eligible costs (ERDF co-financing € 50,991,766.43) debit or credit to the European Fund for Regional Development (ERDF), as included in the consolidation statement issued by the Certifying Authority and in payment claims to the Commission covering the period 1 January 2009 to 31 December 2009, are, in the context of the information in the explanatory note and taking into consideration the following reservation and insecurity, to the best of my knowledge and based on European and national legislation in force, in all material aspects legal, regular, correct and complete up to the level of the beneficiary, excluding an amount of € 1,031,302.00 of excessive expenditure in the expenditure state that have been corrected in 2010 and in the context of the following explanatory note.
- (3) Pending claims up to a total amount of € 0,00 to the European Fund for Regional Development (ERDF), as included in the consolidation statement issued by the Certifying Authority and in payment claims to the Commission covering the period 1 January 2009 to 31 December 2009 are, to the best of my knowledge, legal, regular, complete and correct.



Regarding the declaration on the European Regional Development Fund and as a result of the report of the Audit Authority, the following reservation should be taken into account:

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- a The maximum error rate for the total amount up to € 121,818,635.58 (EFF co-financing € 50,991,766.43) is 1.67%. However, the individual operational programmes "North" and "South" exceed the European tolerability threshold of 2%. The maximum error rates of the Dutch operational programmes are: "North" 2.03%, "South" 2.53%, "East" 0.35%, "West" 1.69%. The error rates are maximums and can be adjusted downward as a result of conciliatory procedures.
- b Audit Authority findings on Management Authorities present an uncertainty on the eligibility of € 1,031,302.00 regarding a payment claim to the Commission of € 1,501,191.00. In the maximum error rate of 1.67% this uncertainty is not taken into account. The Management Authority concerned has corrected the total of payment claims to the Commission for this uncertainty and therefore (cumulative) the Management Authority has not claimed incorrect amounts by the Commission.

*Declaration on the European Social Fund (ESF):*

- (1) The functioning of the systems setup in the Netherlands, including measures for the management and control of resources from the 2007-2013 European Social Fund operational program CCI2007NL052PO001 for the year 1 January 2009 to 31 December 2009 provide, to the best of my knowledge reasonable assurance on the legality and regularity of underlying transactions, as well as the eligibility of payment requests, taking into account the reservation below;
- (2) The expenditure and settlements up to a total amount of € 120,901,589.90 of eligible costs (ESF co-financing € 50,787,406.95) credit or debit to the European Social Fund (ESF) program as included in the consolidation statement issued by the Dutch Certifying Authority and in payment requests covering the period 1 January 2009 to 31 December 2009, are, in the context of the information above and to the best of my knowledge, legal, regular, correct and complete to the level of the final beneficiary, excluding an amount of € 14,107,299.00 of excessive minimum positions and over-realizations in the context of the information below;
- (3) Pending claims up to the amount of € 0.00 to the European Social Fund, as included in the consolidation statement issued by the Certifying Authority and in payment claims to the Commission covering the period 1 January 2009 to 31 December 2009 are, to the best of my knowledge, legal, regular, complete and correct.



Regarding the declaration on the European Social Fund, a reservation should be taken into account for the amount of € 14,107,299.00. This reservation has been made for two reasons. First of all, the payment request of December 2009 includes minimum amounts on projects not yet completely audited and checked on the spot by the Management Authority. On completing the audits and checks on the spot it appeared that some of the declarations were too high (cumulative amount of € 13,718,573.00). This amount has been corrected in the payment request of April 2010 and therefore this has no overall financial consequences for either the Commission or the beneficiaries. Secondly, the payment request of December 2009 included amounts exceeding the funding decision by a total of € 388,726.00. This amount has been corrected in the payment request for July 2010 and as a result this has no overall financial consequences for either the Commission or beneficiaries. Since the reservation of € 14,107,299.00 has been corrected in payment requests of April and July 2010 and no excessive amounts have been paid out to beneficiaries, these irregularities are no longer a part of the cumulative state of irregularities that is yearly issued by the Commission. The error rate as presented in the cumulative state of irregularities, after the corrections, is 1.77% of the total eligible costs.

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After the irregularities were discovered, the Management Authority has taken immediate corrective measures to make sure this does not happen again in the future. First of all, project amounts are only included if controls and checks on the spot have been completed. Secondly, governance on completing controls has been strengthened so that a more regular stream of control reports is issued and throughput time is shortened. Finally, controls on not exceeding the maximum amount of funding has been strengthened.

*Declaration on EU Migration Funds (the European Fund for Integration of Third-country nationals, EIF, and External Borders Fund, EBF):*

- (1) The functioning of the systems setup in the Netherlands, including measures for the management and control of resources from the European Fund for Integration of Third-country Nationals (EIF) and the External Borders Funds (EBF) for the year program 2007 provide, to the best of my knowledge, reasonable assurance on the legality and regularity of underlying transactions, as well as the eligibility of payment requests;
- (2) The total eligible costs from the European Fund for Integration of Third-country Nationals (EIF) up to a total amount of € 577,906.08 (EIF co-financing € 254,772.93) and the total eligible costs from the External Borders Fund (EBF) up to a total amount of € 687,425.92 (EBF co-financing € 469,745.43), as included in the year program



2007 and in payment requests to the Commission are, to the best of my knowledge, legal, regular, correct and complete up to the level of the beneficiary and in the context of the information in the explanatory note (annex);

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- (3) Pending claims up to the amount of € 732,749.44 to the External Borders Fund (EBF) and pending claims up to the amount of € 204,485.59 to the European Fund for Integration of Third-country nationals (EIF), as included in the list of pending claims on the year program 2007 for both funds, are, to the best of my knowledge, legal, regular, complete and correct.

According to the best of my knowledge, surveys and corrections on the approval of payment requests to the Commission are accounted for in the annex.

The confirmations and reservations in this declaration are restricted to matters of material consequence, are a direct result of audits and bar inherent insecurities due to the interpretation of EU-legislation.

Jan Kees de Jager

Minister of Finance of the Netherlands



## **Explanatory note**

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Regarding this statement, the following should be taken into account:

### *Control statement regularity:*

The audit services have declared that for the European Agricultural Guarantee Fund, the European Agricultural Fund for Rural Development, the European Fisheries Fund, the European Fund for Rural Development and the European Social Fund, all payment requests to the Commission are legal and regular in material aspects and up to the level of the beneficiary, based on European and national legislation in force. The legitimacy declaration on payment requests issued by the audit service of the Ministry of Justice and Security covers this for the European Fund for Integration of Third-country nationals and the External Borders Fund.

### *Accountability threshold*

The following criteria apply for reporting special points of interest:

- Is there a financial or political risk?
- Is it a substantive qualitative improvement in the execution of European funding regulations?
- Is a wide range of executioners affected?

The following criteria apply for what is finally accounted for in the sub-declarations:

- Investigation of qualitative aspects points to serious shortcomings of national control systems; and
- Irregularities resulting from these shortcomings for the sample concerned exceed the tolerability threshold of 2%; and
- The effect cannot be annulled by corrective measures.

A tolerability threshold of 2% applies for claims and excessive funding on the level of different funds or operational programmes (as far as amounts are not corrected).

### *Approval European Commission*

In the end the European Commission decides on the EU-conformity of national implementation and execution of EU-legislation. Consequently, there is an inherent risk regarding the scope and size of corrections by the Commission.



## **Common Agricultural Policy**

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### *Declaration of paying agencies*

The payment agencies "Dienst Regelingen" and "Dienst Landelijk Gebied" have, in their payment claims to the Commission, conform Council Regulation (EG) no. 1290/2005, for the period 16 October 2009 to 15 October 2010, issued a declaration that management and control systems offer reasonable assurance on the legality and regularity of underlying transactions.

### *Declaration of the certifying body*

The certifying body has, in its payment claims to the Commission, conform article 60 of Council Regulation no. 1198-2006 d.d. 27 July 2006, for the period 1 January 2009 to 31 December 2009, issued a declaration that measures taken by the Management Authority are sufficiently effective and offer reasonable assurance on the legality and regularity of underlying transactions.

### *Declaration of the Audit Authority*

The Audit Authority has, conform article 61 of the abovementioned regulation, for the period 1 July 2009 to 30 June 2010, confirmed the correctness of the declaration of the certifying body. Even though the system for the functioning of systems is sound, the Audit Authority made several recommendations that have been taken into account by the certifying body. The Audit Authority will give its opinion on the follow-up in its next investigation.

## **ERDF**

For the period 1 January 2009 to 31 December 2009 the management and control systems of the Management Authorities of the four operational programmes comply with the obligations set down in articles 58 to 62 of Council Regulation no. 1083/2006 and heading 2 of Commission Regulation no. 1828/2006. The systems have functioned properly with the exception of several points of improvement that require the Management Authorities to take action in the short term so as to limit the financial risk for the European Union, in as far as these systems (Key Requirements) have been included in the controls of the Audit Authority. In selecting points of special interest the Audit Authority made use of its findings.

De maximum error in the regularity of eligible cost of 1,67% is the result of the maximum error presented by the Audit Authority at the 4 Management Authorities (North, West, South and East) and results, for all 4 programmes together, in an error rate below the EU-threshold of 2%. However, it should be noted that the insecurity of € 1.031.302 has not



been taken into account and that the conciliatory procedure between auditors and audittees has not yet been finalised. The various error rates for different programmes is as follows: OP North 2,03%, OP South 2,53%, OP East 0,35%, OP West 1,69%. The Ministry of Economic Affairs, Agriculture & Innovation has been asked to resolve the interpretational issue on EU-legislation.

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#### *Declaration Certifying Authority*

The Certifying Authority has, conform article 60 of Council Regulation no. 1083/2006 d.d. 11 July 2006, for the period 1 January 2009 to 31 December 2009, drafted expenditure statements and made certified payment requests to the Commission.

#### **Audit Authority**

##### *1 Opinion on management and control systems*

The Audit Authority has, conform article 62 of the abovementioned regulation, for the period 1 July 2009 to 30 June 2010, issue the opinion that management and control systems functioned properly, except that several improvements are imperative so as to limit the financial risks (score 2). The Audit Authority drew up several recommendations that the Certifying Authority has taken into account. The Audit Authority will give its opinion on the follow-up in its next investigation. Score 2 means that a significant improvement has been made compared to last years' opinion on the functioning of management and control systems (for the period 1 July 2008 to 30 June 2009).

Regarding the Certifying Authority the Audit Authority scores the certifying procedure with a score 3. This means that it is necessary that improvements are made in the short term. The Audit Authority recommends to develop an adequate control trail and motivate conclusions properly. The Certifying Authorities has indicated that it has given prompt follow-up to the recommendations. This will be checked by the Audit Authority in the 2010-2011 audit cycle.

##### *2 Control statement*

As indicated in the declaration a total amount of € 121.818.635,- has been claimed by the Commission. The Audit Authority's opinion on regularity is that a maximum of 1,67% is erroneous. The final percentage depends on the abovementioned conciliatory procedure. The minister of ELI will monitor the follow-up on recommendations made by the audit authority.



### *3 Scope of systems investigation Key Requirements*

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For all programmes Key Requirements 6 (accountability of standardized systems of Management Authorities) and Key Requirements 4 (Adequate procedures for recoveries and dropped amounts of the Certifying Authority) have not been included by the Audit Authority in its opinion. Regarding Key Requirement 6 the Audit Authority is in discussion with the Commission on issues as interpretation, approach and professional judgment. Regarding Key Requirement 4 there are not yet any recoveries and dropped amounts.

For Management Authority OP North Key Requirements 1 and 3 have not yet been audited by the Audit Authority. This is due to delays in the investigation. Key Requirements 1 and 3 deal with respectively clear description, allocation and the separation of functions within en between Management Authorities and intermediate bodies, adequate procedures for managing requests for grants, adequate information and strategy to support beneficiaries.

#### *State of play actions for improvement 2010*

Based on the opinion of the Audit Authority on the sub-declaration for 2008 it was concluded that the functioning of management and control systems should be improved on several points. The main recommendations of the Audit Authority were:

- 1 Develop and execute control plans;
- 2 Transparency on executed controls and motivation of Management Authorities;
- 3 Provide sufficient information to beneficiaries.

The minister of Economic Affairs, Agriculture and Innovation concludes that the abovementioned recommendations have been carried out properly. This has resulted in a significant improvement in the opinion on system audits (scored 2). This score means that the management and control system in place functions properly, but that further improvement can still be made.

### **Migration Funds**

The Ministers of Interior and Kingdom Relations are responsible for the management of the European Refugee Fund (ERF), the External Borders Fund (EBF) the European Fund for Integration of Third-country Nationals (EIF) and the External Borders Funds (EBF). In 2010 expenditure in the Netherlands was limited to the European Fund for Integration of Third-country Nationals (EIF) and the European External Borders Fund (EBF). Therefore, the declaration is limited to these two funds. Payment claims



relate to the annual programme 2007 of the EBF and EIF; the eligibility period spans from 1 January 2007 to 31 December 2009.

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In last sub-declaration the following two remarks (that do not have any financial consequences) were made:

- 1 Transparent control trail on progress reports of the programme secretary of Migration Funds; and
- 2 The manual of the Certifying Authority does not sufficiently take into account the adjusted regulations for Migration Funds.

Actions have led to improved transparency on the Migration Funds control trail. Additionally, the Certifying Authority has drafted an addendum on adjusted legislation for Migration Funds to the administrative organization and sent it to the Commission.

From the project audits carried out by the Audit Authority appeared that costs accounted for the majority did not comply with legislation. This conclusion corresponds to findings from the programme secretary of the Migration Funds. So as to come to a correct final report, the programme secretary was obliged to carry out substantial corrections. Developments are monitored and if necessary action is taken. The final report includes a positive opinion of the Audit Authority of management and control systems and expenditure claims.

### **Annexes**

Consolidation statement Common Agriculture Policy 2010

Settled financial corrections Common Agricultural Policy 2010

Pending investigations Common Agricultural Policy of the Commission

Consolidation statement EFF 2009

Overview pending and not yet finalised investigations EFF of the European Commission

Consolidation statement sub-declaration ERDF 2009

Declaration statement ESF

Dropped and collected amounts ESF

Migration Funds – information on pending investigations by the Commission

Payment claims European Integration Fund

List of pending recoveries European Integration Fund

Payment claims European External Border Fund

List of pending recoveries European External Borders Fund


**Annex Consolidation statement Common Agriculture Policy 2010**

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Chapter	EAGF	Expenditure 16 Oct 09 - 15 Oct 10 €	Corrections €	Final 2010 €
05 02 01	Cereals	10.283.674,52	0,00	10.283.674,52
05 02 02	Rice	0,00	0,00	0,00
05 02 03	Refunds on non-Annex 1 products	8.998.416,33	0,00	8.998.416,33
05 02 04	Food programmes	0,00	0,00	0,00
05 02 05	Sugar	12.798,15	0,00	12.798,15
05 02 06	Olive oil	0,00	0,00	0,00
05 02 07	Textile plants	936.085,36	0,00	936.085,36
05 02 08	Fruit and vegetables	84.703.231,36	0,00	84.703.231,36
05 02 09	Products of wine-growing sector	0,00	0,00	0,00
05 02 10	Promotion	3.790.348,87	0,00	3.790.348,87
05 02 11	Other plant products / measures	4.131.640,45	0,00	4.131.640,45
05 02 12	Milk and milk products	98.238.901,77	0,00	98.238.901,77
05 02 13	Beef and veal	2.543.046,61	0,00	2.543.046,61
05 02 14	Sheepmeat and goatmeat	0,00	0,00	0,00
05 02 15	Pigmeat, eggs and poultry, beekeeping and other animal products	1.282.747,85	0,00	1.282.747,85
05 02 16	Sugar Restructuring Fund	5.425.035,20	0,00	5.425.035,20
	<b>Total 0502</b>	<b>220.345.926,47</b>	<b>0,00</b>	<b>220.345.926,47</b>
05 03 01	Decoupled direct aids	684.866.657,57	-2.463,89	684.864.193,68
05 03 02	Other direct aids	122.070.505,17	1.763,99	122.072.269,16
05 03 03	Additional amounts of aid	47.734,95	0,00	47.734,95
	<b>Total 0503</b>	<b>806.984.897,69</b>	<b>-699,90</b>	<b>806.984.197,79</b>
05 04 01	Rural development financed by the EAGGF-Guarantee section - Programming period 2000-2006	0,00	0,00	0,00
	<b>Total 0504</b>	<b>0,00</b>	<b>0,00</b>	<b>0,00</b>
05 07 01 06	Accounting clearance of previous years' accounts with regard to shared management expenditure under the EAGGF Guarantee Section (previous measures) and under the EAGF	613.690,32	0,00	613.690,32
05 07 01 07	Conformity clearance of previous years' accounts with regard to shared management expenditure under the EAGGF Guarantee Section (previous measures) and under the EAGF	0,00	0,00	0,00
	<b>Total 050701</b>	<b>613.690,32</b>	<b>0,00</b>	<b>613.690,32</b>
050702	Settlement of disputes	0,00	0,00	0,00
	<b>Total 050702</b>	<b>0,00</b>	<b>0,00</b>	<b>0,00</b>
67 01 00	Clearance of EAGF accounts – Assigned revenue	-46.378.976,11	0,00	-46.378.976,11
67 02 00	EAGF Irregularities – Assigned revenue	-5.422.970,23	714.745,04	-4.708.225,19
67 03 00	Superlevy from milk producers – Assigned revenue	-45.191.933,51	0,00	-45.191.933,51
	<b>Total 67</b>	<b>-96.993.879,85</b>	<b>714.745,04</b>	<b>-96.279.134,81</b>



68 01 00	Temporary restructuring amounts – Assigned revenue	-36.477.524,16	0,00	-36.477.524,16
68 02 00	Irregularities concerning the temporary restructuring fund – Assigned revenue	0,00	0,00	0,00
68 03 00	Clearance with regard to the temporary restructuring fund – Assigned revenue	0,00	0,00	0,00
	<b>Total 68</b>	<b>-36.477.524,16</b>	<b>0,00</b>	<b>-36.477.524,16</b>
	<b>Grand total</b>	<b>894.473.110,47</b>	<b>714.045,14</b>	<b>895.187.155,61</b>

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<b>AXIS</b>	<b>EAFRD</b>	<b>Expenditure 16 Oct 09 - 15 Oct 10 €</b>	<b>Corrections €</b>	<b>Final 2010 €</b>
1	Improving the competitiveness of agriculture and forestry	14.911.735,53	-215.343,39	14.696.392,14
2	Improving the environment and the countryside	20.277.007,06	-2.726.430,89	17.550.576,17
3	Improving quality of life in rural areas and diversification of the rural economy	21.780.969,33	-268.922,31	21.512.047,02
4	Leader	8.625.191,83	0,00	8.625.191,83
5	Technical assistance	346.873,37	0,00	346.873,37
	<b>Total</b>	<b>65.941.777,12</b>	<b>-3.210.696,59</b>	<b>62.731.080,53</b>
	<b>Total EAGF + EAFRD</b>	<b>960.414.887,59</b>	<b>-2.496.651,45</b>	<b>957.918.236,14</b>



Decision	Amount
2009/721 EU	28,244,904.49
2010/152 EU	18,134,071.62
2010/258 EU	677,834.96
<b>Total</b>	<b>47,056,811.07</b>

*2009/721 EU (€ 28,244,904.49)*

This lump sum financial correction is a result of deficiencies in the system for registration of arable land, administrative controls, checks on the spot and the administering of sanctions in the years 2005, 2006 and 2007 ad. € 16.63 million., as concluded by the audit service of the Commission. In response to the findings of the audit service an action plan has been running from 2008 onwards and has largely been finalised. As a consequence, payment claims for the EAGF and the EAFRD have been corrected in 2010. For juridical reasons, the ministry of Economic Affairs, Agriculture & Innovation has decided to compensate beneficiaries for the amount that they would have to pay according to the new system for the registration of arable land. In November 2010 the Commission carried out a follow-up audit and concluded that improvements have been made but that the system has to be improved on certain aspects.

An additional corrective measure was taken for insufficient substitute checks on the spot regarding the execution of agricultural produce for the years 2001 to 2003 ad € 9.64 million. Customs service has reported to the Commission that as of 2006 the substitute checks will be conform with EU-legislation (2010/152/EU).

Finally, this decision includes a financial correction for exceeding the financial maximum in the multi-annual programme for rural development 2000-2006. This is the result of ambiguities in EU-legislation regarding interim budgetary adjustments ad € 1.87 million. The issue has been cleared for the new period (2007-2013).

*2010/152 EU (€ 18,134,071.62)*

This lump sum correction is a result of the management and control of company registers for supportive measures regarding meat premium for the years 2004 to 2006 ad € 6.79 million.

Corrective measures were taken ad € 10.41 million regarding substitute checks on the spot at the export of agricultural produce for the years 2003 to 2005. The customs service has reported to the Commission that from 2006 onwards substitute checks are carried out in line with EU-legislation.



A corrective measure ad € 0.9 for errors found in checks on the spot regarding accounting approval 2004 and 2005.

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*2010/258 EU (€ 677,834.96)*

This is on the implementation of the 50/50 rules (regulation 885/2006), for long pending claims per 15 October 2009. With reference to the approval of accounts 2009, 50% of non-collected amounts of earlier years have been restored to the Commission.



## Pending investigations Common Agricultural Policy of the Commission

### Financial corrections to be settled in 2011

Decision	Amount
2010/668 EU	€ 29,303,218.08
<b>Total</b>	<b>€ 29,303,218.08</b>

This lump sum correction is a result of shortcomings in controls on payments to producers of potato starch for the years 2003 to 2008 ad € 28.9 million. The intermediate body has advised the Commission the revise the correction downward (2% of the budget i.o. 10%). The ministry will take the decision to the Court in Luxemburg.

An additional corrective measure is made due to support payments to producers of dried fodder and seeds because of shortcomings in sampling for the years 2005 to 2007 ad € 0.4 million. The ministry will not appeal this decision and has taken corrective measures to prevent this from happening again in the future.

### Pending investigations and proposals for corrections

Proposal	Amount
GMO vegetables and fruits	€ 22,691,407.91
Cross compliance	€ 6,688,195.21
Hectares eligible for aid	€ 2,242,382.95
Rural development	€ 2,018,471.00
Slaughter premium	€ 35,188,272.07
<b>Total</b>	<b>€ 35,188,272.07</b>

### *Operational programmes vegetables and fruits*

This survey is on controls of grants for the period 2005 to 2007 paid to acknowledged producer organisations on multiannual operational programmes aimed at improving the sales, quality and environmental protection (regulation no. 1432/2003 and regulation no. 1433/2003). The audit service of the Commission has made a proposal for a correction ad € 22.7 million. Reason for this proposal is the interpretation of acknowledgement criteria for producer organisations and the eligibility of costs. A conciliation procedure has been finalised. The Commission partly takes over the advice of the intermediate body. The ministry is in discussion with the Commission on the recoveries.



*Operational programmes vegetables and fruits (II)*

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This is a follow-up audit executed in 2009. The investigation covers the years 2007 and 2008.

*Cross compliance income support (proposal € 6.7 million)*

This investigation concern the control and implementation of cutbacks in 2006 and 2007, as described in regulation no. 1782/2003 and regulation no. 796/2004 on the subjects of animal welfare, environment and animal health. The audit service of the Commission has proposed a correction ad € 6.7 million. The conciliation procedure is not yet finalised. A follow-up audit is planned from 28 March to 1 April 2011.

*Establishing support schemes (proposal € 2.2 million)*

The audit service of the Commission has proposed a correction of € 2.2 million for the implementation of budgetary rules for the single payment scheme in 2006 en the calculation of flax and hemp in the period 2006 to 2009 (Regulation no. 795/2004 and Regulation no. 796/2004). The ministry decided not to enter a conciliatory procedure.

*Rural development controls (proposal € 2 million)*

This investigation concerns controls on agro-environmental measures in the operational programme for rural development in de Netherlands 2007-2013 (Regulation no. 1974/2006 and Regulation 1975/2006). The audit service of the Commission has made a proposal for a correction ad € 2 million for the implementation of controls and sanctions in 2007 and 2008. The ministry decided not to enter a conciliatory procedure.

*Controls slaughter premium (proposal € 1.5 million)*

This investigation concerns the income support to keepers of bovine animals in 2008 (Regulation no. 796/2004 and Regulation no. 1973/2004). The audit service of the Commission has made a proposal for a correction ad € 1,5 million for the implementation of controls and sanctions, based on the calculations of the ministry on the real risk for the EAGF). The ministry decided not to enter a conciliatory procedure.

*Controls on the export refunds organisation of markets for sugar*

This investigation concerns the control on grants paid to exporters of sugar in 2006 and 2007 (Regulation no. 2913/92 and Regulation no. 800/1999). The customs service controls the export declaration as a basis for funding. The investigation has not yet been finalised.



*Certification of accounts (financial year 2007)*

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This investigation concerns remarks on the administrative approval of the EAGF payment request on the year 2007 (Regulation no. 885/2006). The investigation has not yet been finalised.

*Certification of accounts (financial years 2006-2009)*

This investigation concerns the completeness of accounting information regarding EAGF regulations for the years 2006 to 2009 (Regulation no. 885/2006). The investigation has not yet been finalised.

*Administrative after-controls*

This investigation concerns the implementation of administrative after-controls on paid-out grants, as prescribed in Regulation no. 4045/89 in 2006 on the establishment of grants by the Food and Consumer Product Safety Authority in the Netherlands. The investigation has not yet been finalised.

*Export refunds*

This investigation concerns an export refund from 1996 on the export of milk powder. The investigation has not yet been finalised.


**Annex Consolidation statement EFF 2009**
**Operational programme "Perspectives for a sustainable fisheries sector"**
**(CCI:2007NL14FPO001)**

<b>Priority axis</b>	<b>Eligible payment claims</b>	<b>EFF contribution</b>
Adaptation of the EU fishing fleet	€ 27,491,736.64	€ 8,247,520.99
Aquaculture, inland fishing, processing and marketing of fishery and aquaculture products	0	0
Measures of common interest	0	0
Sustainable development of fisheries areas	0	0
Technical assistance	0	0
<b>Total</b>	<b>€ 27,491,736.64</b>	<b>€ 8,247,520.99</b>

<b>Operational programme</b>	<b>Amount recovery procedure</b>	<b>EFF contribution</b>
Perspectives for a sustainable fisheries sector	0	0
<b>Total</b>	<b>0</b>	<b>0</b>



**Annex**                      **Overview pending and not yet finalised investigations EFF of the European Commission**

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*System audit 2009*

This investigation of the European Commission concerns the execution of audit authority activities as is prescribed in Regulation no. 1198/2006. This investigation is started in October 2010 and has not yet been finalised.

**Operational programme "North Netherlands"**

Priority axis	Eligible payment claims	ERDF contribution
1 Knowledge economy, entrepreneurship and innovation	€ 15,854,508.36	
2 Attractive regions	€ 5,281,678.60	
3 The urban dimension	€ 9,415,959.97	
4 Technical assistance	€ 803,570.36	
<b>Total</b>	<b>€ 31,355,717.29</b>	<b>14,208,094.79</b>

**Operational programme "South Netherlands"**

Priority axis	Eligible payment claims	ERDF contributions
1 Knowledge economy, entrepreneurship and innovation	€ 8,207,347.02	
2 Attractive regions	€ 1,927,034.71	
3 The urban dimension	€ 7,380,034.93	
4 Technical assistance	€ 2,393,912.75	
<b>Total</b>	<b>€ 19,908,329.41</b>	<b>€ 7,349,725.63</b>

**Operational programme "West Netherlands"**

Priority axis	Eligible payment claims	ERDF contributions
1 Knowledge economy, entrepreneurship and innovation	€ 25,119,192.68	
2 Attractive regions	€ 464,607.00	
3 The urban dimension	€ 21,877,864.50	
4 Technical assistance	€ 38,535	
<b>Total</b>	<b>€ 47,500,199.18</b>	<b>€ 19,003,928.68</b>

**Operational programme "East Netherlands"**

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Priority axis	Eligible payment claims	ERDF contributions
1 Knowledge economy, entrepreneurship and innovation	€ 18,746,888.32	
2 Attractive regions		
3 The urban dimension	€ 3,195,547.88	
4 Technical assistance	€ 1,111,953.00	
<b>Total</b>	<b>€ 23,054,389.70</b>	<b>€ 10,430,017.33</b>

<b>Grand total</b>	<b>€ 121,818,635.58</b>	<b>€ 50,991,766.43</b>
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**Recovery procedures**

Operational programme	Amount recovery procedure	ERDF contribution
North	0	0
South	0	0
West	0	0
East	0	0

**Operational programme and expenditure statement**  
**= statement by MA, necessary for SFC2007 entry**

Operational programme (from SFC2007)						
Priority	Fund	Community	National Public	National Private	Total	Rate % (0)
1	ESF	€ 199.200.657,00	€ 298.800.986,00	€ 0,00	€ 498.001.643,00	40,00
2	ESF	€ 182.600.602,00	€ 273.900.903,00	€ 0,00	€ 456.501.505,00	40,00
3	ESF	€ 415.001.369,00	€ 62.942.719,00	€ 511.142.509,00	€ 985.086.397,00	41,96
4	ESF	€ 33.200.109,00	€ 33.200.109,00	€ 0,00	€ 66.400.218,00	50,00
<b>Total</b>		€ 830.002.737,00	€ 668.844.717,00	€ 511.142.509,00	€ 2.009.989.963,00	41,29

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Other	EIB
	€ 0,00
	€ 0,00
	€ 0,00
	€ 0,00
	€ 0,00

**Expenditure statement**

Priority axis	Fund	Objective	Calculation base (1)	Total expenditure (2)	Corresponding public contribution (3)	Percentage % (4)	EU contribution
1	ESF	Regional Competitiveness and Employment	Total costs	€ 5.691.804,00	€ 5.691.804,00	40,00	€ 2.276.721,60
2	ESF	Regional Competitiveness and Employment	Total costs	€ 57.800.140,00	€ 57.800.140,00	40,00	€ 23.120.056,00
3	ESF	Regional Competitiveness and Employment	Total costs	€ 41.221.313,33	€ 16.710.534,00	41,96	€ 17.296.463,07
4	ESF	Regional Competitiveness and Employment	Total costs	€ 16.188.332,57	€ 16.188.332,57	50,00	€ 8.094.166,28
<b>Grand total</b>				<b>€ 120.901.589,90</b>	<b>€ 96.390.810,57</b>	<b>41,29</b>	<b>€ 50.787.406,95</b>

(1) Public contribution or total (= standard total) (2) TEC (3) Not used in 'Total costs' calculation base (4) Entered by SFC2007 from OP.

**Breakdown of expenditure statement. Breakdown of total certified eligible expenditure by year.**

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Year	Amount of expenditure (in euros)
2007	€ 30.601.762,23
2008	€ 80.862.611,66
2009	€ 9.437.216,01
2010	€ 0,00
2011	€ 0,00
2012	€ 0,00
2013	€ 0,00
2014	€ 0,00
2015	€ 0,00
<b>Grand total 2007-2015</b>	<b>€ 120.901.589,90</b>

(4) By year: the breakdown in this table must agree with the payments by the beneficiaries in the year concerned. If this breakdown cannot be established precisely, the best possible estimate must be given.

Annex Dropped and collected amounts ESF

Statement on withdrawn and recovered amounts and pending recoveries - programming period 2007-2013  
 = statement by MA, necessary for compulsory withdrawn and recovered amounts and pending recoveries CA  
 Statement on withdrawn and recovered amounts and pending recoveries

MA [redacted] date 22-12-2009

A	B	C	D	E	F	G	H	I	J	K	L	N	O
Irregularities	Priority axis	Project name	Project number	Irregular TEC	Irregular public contribution	EU cofinancing rate (% of TEC)	Irregular EU contribution	Withdrawn TEC	Recoverable TEC	Date withdrawn and/or recoverable	TEC recovered	Date of recovery	If older than 3 months, recovery measures taken
1.				€ 0,00	€ 0,00	0,00%	€ 0,00	€ 0,00	€ 0,00	dd-mm-yy	€ 0,00	dd-mm-yy	€ 0,00
2.				€ 0,00	€ 0,00	0,00%	€ 0,00	€ 0,00	€ 0,00	dd-mm-yy	€ 0,00	dd-mm-yy	€ 0,00
3.				€ 0,00	€ 0,00	0,00%	€ 0,00	€ 0,00	€ 0,00	dd-mm-yy	€ 0,00	dd-mm-yy	€ 0,00
4.				€ 0,00	€ 0,00	0,00%	€ 0,00	€ 0,00	€ 0,00	dd-mm-yy	€ 0,00	dd-mm-yy	€ 0,00
5.				€ 0,00	€ 0,00	0,00%	€ 0,00	€ 0,00	€ 0,00	dd-mm-yy	€ 0,00	dd-mm-yy	€ 0,00
6.				€ 0,00	€ 0,00	0,00%	€ 0,00	€ 0,00	€ 0,00	dd-mm-yy	€ 0,00	dd-mm-yy	€ 0,00
7.				€ 0,00	€ 0,00	0,00%	€ 0,00	€ 0,00	€ 0,00	dd-mm-yy	€ 0,00	dd-mm-yy	€ 0,00
8.				€ 0,00	€ 0,00	0,00%	€ 0,00	€ 0,00	€ 0,00	dd-mm-yy	€ 0,00	dd-mm-yy	€ 0,00
etc				€ 0,00	€ 0,00	0,00%	€ 0,00	€ 0,00	€ 0,00	dd-mm-yy	€ 0,00	dd-mm-yy	€ 0,00
<b>Grand total</b>				<b>€ 0,00</b>	<b>€ 0,00</b>	<b>0,00%</b>	<b>€ 0,00</b>	<b>€ 0,00</b>	<b>€ 0,00</b>		<b>€ 0,00</b>		<b>€ 0,00</b>

Notes to the columns

A) This is a cumulative statement, i.e. every irregularity per MA that has consequences for the expenditure statement (withdrawals) or will have (recoverable) is included separately and will provisionally not be eliminated.

E) The amount of the beneficiary's irregular expenditure (TEC) already included in an expenditure statement.

F) The amount of the irregularity in corresponding public contributions already included in an expenditure statement.

G) The cofinancing rate in the priority axis as included in the OP.

H) The amount of the irregularity in the EU contribution already included in an expenditure statement.

I) The amount of irregular TEC eliminated directly from the expenditure statement.

J) The amount of irregular TEC eliminated from the expenditure statement only after receipt.

K) Date on which recovery (collectible amount) is initiated.

L) The TEC of the amount recoverable actually recovered.

M) Date on which the amount collected is recovered. If the amount collected is recovered in instalments, the date of the final receipt.



In a letter addressed to the permanent representative of the Netherlands the DG Justice and Security of the commission has announced that the European Commission intends to audit the Dutch management and control systems for the European Integration Fund.

This audit is based on article 31, first and second paragraph, of the Council Decision of 27 June 2007 establishing the European Fund for the Integration of third-country nationals for the period 2007-2013 as part of the general programme "Solidarity and Management of Migration Flows" (2007/435/EG, Pb. L168/18 of 28 June 2007).

On 4 November 2010 the European Commission sent the final audit report, including a follow-up action plan, to the Dutch authorities. The Netherlands is invited to inform the Commission on the implementation of the action plan within 4 months.

The following 7 findings can be found in the audit report:

- Establishment of a responsible, Certifying and Audit Authority;
- Independent Audit Authority of a delegated body;
- Selection and approval process: violation of the principle of equal treatment of all applicants;
- Selection and approval process: lack of clear grounds for exclusion;
- Selection and approval process: lack of a clear audit trail for the registration of applications;
- Lack of monitoring projects;
- Insufficient audit trail on the payment process.

Final report on the execution of the annual programme															
Table 1: detailed financial statement															
(all figures in euros)															
Actions	Projects	Ref. priority	Ref. Specific priority (1)	Programmed by MS			Set at MS level			Actual figures accepted by the competent authority (costs borne by beneficiaries and final EU contribution) e)					
				Total programmed costs (a)	EU contribution (b)	% EU contribution (c = b/a)	Total eligible costs (d)	EU contribution (e)	% EU contribution (f = e/d)	Total eligible costs (g)	EU contribution payable (h)	% EU contribution (i = h/g)	EU contribution paid (j)	Payable by EU / recoverable by competent authority (k = h-j)	
	Total Action 1			2.205.810	1.102.905	50%	0	0	0	0	0	0	0	0	0
	Total Action 2			500.000	250.000	50%	419.857,23	209.928,61	50%	197.044,46	18.985,31	10%	167.942,88	-148.957,57	
	Total Action 3			250.000	125.000	50%	382.919,95	191.459,96	50%	242.713,95	97.639,95	40%	153.167,97	-55.528,02	
	Technical assistance			143.498,19	143.498,19	100%	143.498,19	143.498,19	100%	138.147,67	138.147,67	100%	143.498,19	-5.350,52	
	<b>TOTAL</b>			<b>3.099.308,19</b>	<b>1.621.403,19</b>	<b>52 %</b>	<b>946.275,38</b>	<b>544.886,76</b>	<b>58 %</b>	<b>577.906,08</b>	<b>254.772,93</b>	<b>44%</b>	<b>464.609,04</b>	<b>-209.836,11</b>	

**Annex List of pending recoveries European Integration Fund**

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Final report of the implementation of the year programme.  
Member State: the Netherlands

**Situation on: 15 December 2010**

Reference	Year	Project	Total recovery	EU-funding recovery	In annual report	Reason for recovery
Action 2	2007	<..>	-€ 148,957.57	-€ 148,957.57	yes	Non-eligible costs
Action 3	2007	<..>	-€ 55,528.02	-€ 55,528.02	yes	Non-eligible costs

Final report on the execution of the annual programme															
Table 1: detailed financial statement															
(all figures in euros)															
Actions	Projects	Ref. priority	Ref. Specific priority (1)	Programmed by MS			Set at MS level			Actual figures accepted by the competent authority (costs borne by beneficiaries and final EU contribution) e)					
				Total programmed costs (a)	EU contribution (b)	% EU contribution (c = b/a)	Total eligible costs (d)	EU contribution (e)	% EU contribution (f = e/d)	Total eligible costs (g)	EU contribution payable (h)	% EU contribution (i = h/g)	EU contribution paid (j)	Payable by EU / recoverable by competent authority (k = h-1)	
Total Action 1				2.205.810	1.102.905	50%	0	0	0	0	0	0	0	0	0
Total Action 2				500.000	250.000	50%	419.857,23	209.928,61	50%	197.044,46	18.985,31	10%	167.942,88	-148.957,57	
Total Action 3				250.000	125.000	50%	382.919,96	191.459,96	50%	242.713,95	97.639,95	40%	153.167,97	-55.528,02	
Technical assistance				143.498,19	143.498,19	100%	143.498,19	143.498,19	100%	138.147,67	138.147,67	100%	143.498,19	-5.350,52	
<b>TOTAL</b>				<b>3.099.308,19</b>	<b>1.621.403,19</b>	<b>52 %</b>	<b>946.275,38</b>	<b>544.886,76</b>	<b>58 %</b>	<b>577.906,08</b>	<b>254.772,93</b>	<b>44 %</b>	<b>464.609,04</b>	<b>-209.836,11</b>	



**Annex List of pending recoveries European External Borders Fund**

<b>Final report on the implementation of the annual programme</b>							
<b>Table 2. List of pending recovery orders</b>							
<b>Member State: THE NETHERLANDS</b>							
<b>Fund: 2007</b>							
<b>Situation at 15/12/2010</b>							
<b>Reference</b>	<b>Annual Programme</b>	<b>Project</b>	<b>Total amount to be recovered</b>	<b>EC contribution to be recovered</b>	<b>Disorder from the notified financial report (Y/N)</b>	<b>Reasons for recovery</b>	
<b>Action 1</b>	<b>2007</b>	<b>&lt;.&gt;</b>	<b>10.400,84</b>	<b>10.400,84</b>	<b>Y</b>	<b>Ineligible costs Underspending of the budget</b>	
<b>Action 2</b>	<b>2007</b>	<b>&lt;.&gt;</b>	<b>722.348,80</b>	<b>722.348,80</b>	<b>Y</b>	<b>Ineligible costs Underspending of the budget</b>	



## Appendix 2 Abbreviations

<b>Abbreviation</b>	<b>Meaning</b>
AID	General Inspectorate
B&W	Municipal Executive
BZK	Ministry of the Interior and Kingdom Relations
CAP	Common agricultural policy
DG	Directorate-General
DICTU	ICT Implementation Service (LNV)
DLG	Government Service for Sustainable Rural Development
EAFRD	European Agricultural Fund for Rural Development (as from 2007)
EAGF	European Agricultural Guarantee Fund (as from 2007)
EBF	European External Borders Fund
EFF	European Fisheries Fund (as from 2007)
EIF	European Integration Fund
EL&I	Ministry of Economic Affairs, Agriculture and Innovation
ERDF	European Regional Development Fund
ESF	European Social Fund
EU	European Union
FEZ	Financial and Economic Affairs Department (LNV)
GNI	Gross National Income
I&A	Ministry for Immigration and Asylum Policy
LNV	former Ministry of Agriculture, Nature and Food Quality
nVWA	New Food and Consumer Product Safety Authority
PEF	European Funds Programme Secretariat
RF	European Return Fund
SZW	Ministry of Social Affairs and Employment
V&J	Ministry of Security and Justice
VAT	Value Added Tax



## Appendix 3 Glossary

### **Assurance**

A declaration on information issued by an auditor.

### **Audit**

A systematic, independent and documented process to investigate and evaluate the activities and results of an organisation.

### **Audit authority**

A body designated by the member state for each operational programme that is responsible for verifying the proper operation of the management and control system. The audit authority is functionally independent of the managing authority and the certifying authority.

### **Audit committee**

Headed by a ministry's secretary-general, the audit committee considers audit issues within a ministry, partly on the basis of the audit department's reports. The audit department's director and the director of the Central Financial and Economic Affairs Department are committee members.

### **Audit department**

Ministry audit department that periodically investigates operational management and policy implementation as well as carrying out the statutory audit of the ministry's annual report.

### **Certification**

An official declaration that something is valid or satisfies a standard.

### **Certifying authority**

A body designated by the member state to certify expenditure declarations and payment applications before they are sent to the European Commission.

### **Claim**

A legally enforceable right to a sum of money from a third party, often through the recovery of an undue payment.

### **Conformity**

The state of being in agreement with the regulations (of the European Union).



### **Conformity assessment**

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An assessment of whether the requirements (of the European Union) have been satisfied.

### **Consolidation statement**

A statement of aggregate expenditures/payments.

### **Cross-compliance**

Specific conditions in the field of public health, animal health, plant health, the environment and animal welfare that farmers must comply with in order to qualify for full assistance.

### **Eligibility**

Compliance with criteria set by the European Commission on the receipt of aid from European funds.

### **Executive Board**

The Executive Board forms the administrative head of a ministry. It supports the ministry and is responsible for policy development, policy implementation and management.

### **Final beneficiary**

The ultimate recipient of aid.

### **Guidance notes**

Documents in which the European Commission provides instructions on, for example, authorisation and audit.

### **Intermediate body**

Body acting under the responsibility of a managing or certifying authority or one that carries out tasks on behalf of such an authority.

### **Irregularities**

Any infringement of a provision of Community law resulting from an act or omission by an economic operator which has, or would have, the effect of prejudicing the general budget of the Communities either by reducing or losing revenue accruing from own resources collected directly on behalf of the Communities, or by charging an unjustified item of expenditure to the Community budget.



### **Management report**

A management report provides information on a service's results (activities and findings) and thus renders account to the principal (and supervisor).

### **Managing authority**

A body designated by the member state to manage an operational programme.

### **Material errors**

Errors are of material importance if they exceed a certain acceptable percentage.

### **Materiality**

The degree of inaccuracy that is acceptable.

### **Operational programme**

A document submitted by a member state and approved by the European Commission setting out a development strategy based on a coherent body of priorities whose achievement requires assistance from a fund.

### **Paying agency**

A body that makes payments on behalf of the European Commission.

### **Phases in administrative processes**

1. Design: description and organisation of the process;
2. Existence: a process with activities is in place that is consistent with the design;
3. Operation: the process works throughout the entire period in accordance with the design and does what it was set up for.

### **Plausibility test**

A test of the sub-declarations and associated assurance reports performed by the Minister of Finance to determine that the contents of the documents are plausible.

### **Reference period**

The period in respect of which an opinion is expressed.

### **Reliability**

The extent to which information is true.



### **Reperformance**

The repetition of certain audit procedures.

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### **Reservation**

An exception from a declaration issued.

### **Review**

An assessment of the adequacy of audit procedures already carried out.

### **Statement of assurance**

A statement signed by the director of a paying agency declaring that:

- the accounts presented give, to the best of his knowledge, a true, complete and accurate view of the expenditure and revenue for the financial year;
- the system provides reasonable assurance on the legality and regularity of the underlying transactions.

### **System audit**

An audit of a system as a whole; an investigation of whether and to what extent the system satisfies the set requirements.

### **Third-party report**

A third-party report is a statement by an independent body (third-party) on whether a process in an organisation satisfies pre-agreed criteria.

### **Tolerance level**

Quantitative tolerance levels represent a financial limit above which an error or uncertainty becomes important (material).

### **Uncertainty**

The extent to which it cannot be determined whether expenditures or receipts are presented regularly and truthfully.



## Literature

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