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Subject: Case SA.46664 (2017/N) – The Netherlands
State guarantee on senior debt funding for loans to shipping companies

Sir,

1. PROCEDURE

(1) In October 2016, the Dutch authorities informally communicated to the Commission their intention to grant a State guarantee to support the availability of credit for small and medium-sized ship-owners active in the regional shipping sector ("the measure"). According to the Dutch authorities, this guarantee would not involve State aid since a market-oriented guarantee premium would be paid to the State.

(2) From October 2016 to June 2017, the Dutch authorities and the Commission services held several telephone conferences where the Dutch authorities provided additional information about the measure. The Dutch authorities and the Commission also exchanged a number of e-mails during that period among others to clarify the method to determine the guarantee premium.

(3) By letter of 21 July 2017, the Netherlands agreed to waive its rights deriving from Article 342 of the Treaty on the Functioning of the European Union ("TFEU") in conjunction with Article 3 of Regulation 1/1958[1] and to have this Decision adopted and notified in English.

[1] Council Regulation No 1 determining the languages to be used by the European Economic Community (OJ 17, 6.10.1958, p. 385).

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(4) Following the abovementioned pre-notification contacts, the Dutch authorities formally notified the measure for reasons of legal certainty on 24 July 2017.

2. BACKGROUND

(5) According to the Dutch authorities, the availability of debt funding for small and medium-sized enterprises ("SMEs") has declined over recent years. Despite banks being in better shape than some years ago they would be reluctant to finance SMEs among others due to perceived risks and higher solvency demands on banks in relation to some asset classes (e.g. shipping loans) or debtors (SMEs). The specialised nature of the maritime transportation industry and the long duration of lending engagements would also constitute obstacles to the availability of credit.

(6) The Dutch authorities consider that European regional shipping is the transportation backbone of intra-EU trade. Regional shipping includes roughly ships up to a carrying capacity of 15 000 tonnes deadweight and these vessels sail between any port in the range of the Baltic – St. Petersburg area, counter clockwise to the North Sea and British Isles through to Biscay, the Western Mediterranean, Eastern Mediterranean, Bosporus and Black Sea. It also includes North Africa and the Levant. As this is a capital-intensive sector, the Dutch authorities consider it of paramount importance to alleviate bottlenecks in lending to the sector. In particular, small and medium-sized ship-owners in this sector should in their view be assisted by new sources of lending i.e. other than the traditional banks retreating from the regional shipping sector.

(7) The Dutch private NESEC Foundation[2] has proposed a plan to support the availability of financing for the exploitation of vessels engaged in regional shipping. NESEC has been providing mezzanine and participation finance to the Dutch and Northwest European short-sea shipping sector. NESEC now wants to address the financing bottleneck that has arisen since the financial crisis by starting to provide senior secured finance for small and medium-sized ship-owners active in the regional shipping sector. To achieve this purpose NESEC intends to launch the NESEC Shipping Debt Fund ("NSDF").

(8) The NSDF will take the form of a special purpose vehicle ("SPV") and have the following basic characteristics. The asset side of the SPV's balance sheet will consist of approximately 40 loans of about EUR 4 million to EUR 15 million each, totalling EUR 250 million. These loans will have an average interest of approximately 6.25%. The tenor of the loans granted by the NSDF will be five years. The repayment of the principal during this five-year period will be determined using a 14-year amortisation profile: this means that the majority of the principal of the loan will still be outstanding at the end of the fifth year when the loan has contractually to be repaid.[3] The borrowers will finance the repayment of their five-year loans at maturity (or earlier) through e.g. sales of vessels or loan refinancing with other financiers. The portfolio will be diversified between various ship types to reduce concentration risk. The liability side of the SPV's

[2] NESEC was established in 1946 by a number of individuals with strong ties to the Dutch maritime sector. In its 70-year history, NESEC has been involved in transactions that dealt with 800 vessels.

[3] It is a common practice in shipping finance that the duration of a loan is shorter than the underlying loan profile implies. When their loan expires, ship-owners either sell their vessels or refinance or restructure the loan either with the same or with another bank or investor.

balance sheet shall also amount to EUR 250 million and will be raised with institutional investors and will be topped up by a very limited amount of equity if deemed necessary to achieve the targeted rating on the funding and/or to attract investors to subscribe to that funding. The aim is to involve about five institutional investors for approximate amounts of EUR 50 million each. Any surplus cash after pay out of the NSDF's recurring costs (e.g. fixed coupons paid to its funders, operational expenses) and repayment of the funding loans will be assigned to a financial buffer. If necessary, this buffer (which is equivalent to retained earnings) will be used to absorb losses and/or to accelerate repayment of the funding loans hence reducing the risk of a call on the State guarantee.

(9) NESEC, via its 100% subsidiary NFM, would act as fund manager for the NSDF in exchange for a fee. NFM will source investment opportunities, conduct due diligence and manage all assets under management. The management of NFM is bound by predetermined investment criteria and restrictions and investment decisions for the NSDF are steered by an investment committee. Figure 1 shows a simplified presentation of the structure of the NSDF and the State guarantee.

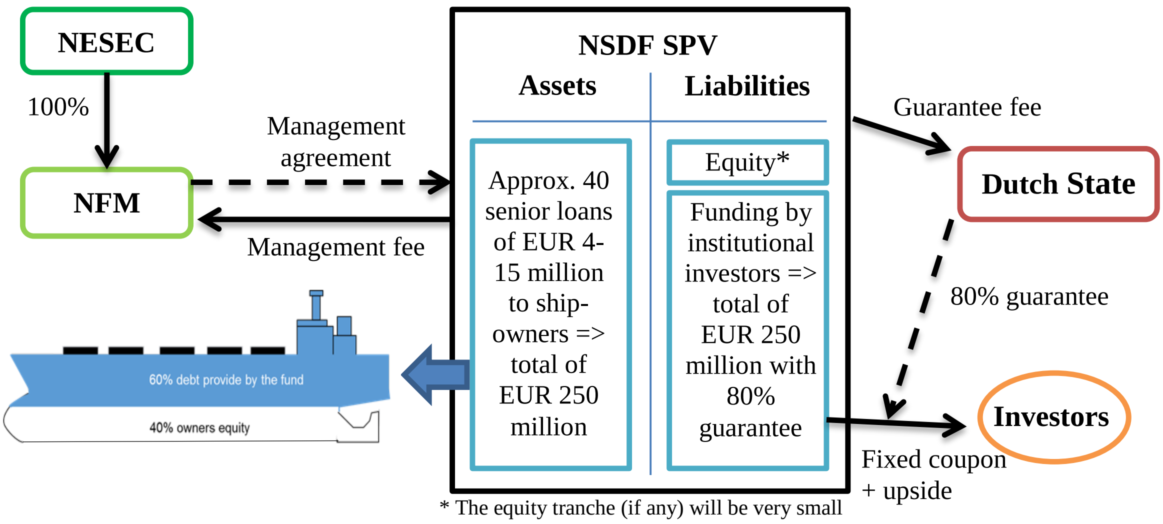

Figure 1: Structure of NSDF and State guarantee

(10) The Dutch authorities note that investing in mortgage-backed shipping debt is a novelty for institutional investors. Despite good loss records (regional) shipping would be considered novel by such investors and they would generally lack understanding of the sector. However, the Dutch authorities argue that long term exploitation of capital goods like vessels would fit well with the long term duration of institutional funds. In order to induce institutional investors to enter the segment and give this type of long-term finance a lift-off, NESEC has made an application for a guarantee following a call for proposals by the Dutch State.

3. DESCRIPTION OF THE NOTIFIED MEASURE

(11) In October 2014, the Dutch authorities launched a call for proposals[4] for new market initiatives to broaden and increase the supply of financing for SMEs. The Minister of Economic Affairs offered to guarantee up to 80% of the funding of

[4] The call for proposals was published in the Dutch Official Journal of 30 October 2014, nr. 31083.

new SME finance providers to enable them to grant loans. The maximum amount to be guaranteed by the State for the selected proposals combined was capped at EUR 400 million and a market oriented guarantee premium would be charged to exclude any State aid.

(12) Following an open and competitive process, the Dutch authorities selected eight proposals absorbing the total guarantee budget of EUR 400 million. Two additional qualifying proposals were put on reserve making a total of 10 qualified proposals. In the second quarter of 2016, the largest applicant (which would have used EUR 240 million of the total guarantee budget) decided to withdraw. This created room for another candidate, NESEC, to move forward from the reserve list on which it had been put initially as its proposal required EUR 200 million from the guarantee budget. Against this background, negotiations with NESEC started in the second quarter of 2016.

3.1. The guarantee

(13) Under a guarantee agreement the Dutch State will partially guarantee the repayment of the up to EUR 250 million debt provided by institutional investors to the NSDF. More specifically, the guarantee covers 80% of the nominal amount of EUR 250 million and is provided on a *pari passu* basis. This means that investors retain a 20% risk on the funding they provide to the NSDF. In other words the effect of the guarantee is that, for every EUR 1 of funding that would not be recovered from the cash flow (interest, instalments, fees) generated by the portfolio of mortgage-backed shipping loans on the asset side of the NSDF, investors stand to lose EUR 0.20. The guarantee will cover losses incurred by investors on their notes issued by the NSDF. In the event of a liquidation of the NSDF, the Dutch State and investors will benefit from the proceeds in a 80:20 ratio on final calculation. The guarantee would be awarded for a period of seven years[5] which is equal to the maturity of the senior notes issued by the NSDF and sold to the institutional investors. While the guarantee will in principle end after year seven, the Dutch State can decide to prolong it twice, for a year each time (i.e. the maximum duration of the guarantee can thus be nine years) if at the end of year seven not all loans have been repaid yet. By choosing to prolong the guarantee, the State would enable the orderly wind-down of the remaining loans (e.g. by granting more time to find external refinancing). The NSDF will however actively monitor and admonish its debtors to exit timely (i.e. before the end of year seven) and the prolongation option is there only as a fall-back for the few cases (if any) where this objective cannot be met. The Dutch State can set further terms and conditions to its guarantee.

3.2. The credit rating of the NSDF

(14) The Dutch authorities have informed the Commission that the NSDF will be rated by an independent credit rating agency ("the Agency")[6]. The Agency in question has been registered as a European Rating Agency by the European Securities and Markets Authority ("ESMA") in compliance with Regulation (EC) 1060/2009 and has been recognized as an External Credit Assessment Institution pursuant to Regulation (EU) 575/2013. There is also a European Banking Authority mapping

[5] This covers the two year ramp up period and five year holding period of the NSDF.
[6] The identity of this credit rating agency is known to the Commission.

for the Agency's ratings and its ratings are accepted by the Agency's national financial regulator.

(15) The NSDF aims to obtain a rating in the range BBB- to BBB+, taking into account the cost of the guarantee but not the protection of the State guarantee. The Agency will perform its assessment on the basis of the information provided by the NSDF (see also recital (21) for the commitments in this respect) and will lay down its conclusion in a report, justifying the rating.

3.3. Pricing of the State guarantee

(16) The pricing of the State guarantee shall be on market terms in order to ensure the aid-free nature of the measure. In particular, it shall be at least as high as the corresponding guarantee premium benchmark that can be found on the financial markets. The market benchmark is determined taking into account the following:

(a) A basket of single name seven-year credit default swaps ("CDS") covering Dutch Euronext listed (financial and non-financial) companies which benefit from a rating in the range of BB+ to BBB+ (or equivalent) by any acknowledged rating agency.

(b) The composition of the baskets has been fixed over the six months period covering Q4 2016 and Q1 2017 and has been submitted to the Commission by the Dutch authorities (see Annex 1). When the rating for a company in the basket changes so that it falls outside the ratings represented in the basket, it will leave the basket.

(c) For each seven-year CDS price as part of the benchmark baskets, the average of mid-prices over the last two completed quarters[7] before the start of the guarantee period is taken from the default database in Bloomberg for each single name CDS. Then a simple average over the resulting prices is taken to arrive at the CDS basket benchmark value. That average is then used for each year of the guarantee period.

(d) For the calculation of the guarantee premium, the CDS benchmark basket will be used that corresponds to the credit rating of the NSDF as determined by the Agency.

(e) For each year of the seven-year guarantee period, the guarantee premium as determined in line with the above steps will be paid on the outstanding guaranteed amount. If the Dutch State chooses to extend the guarantee, up to a maximum of nine years, the price of the same guarantee premium remains applicable on the outstanding guaranteed amount at that time.

4. POSITION OF THE NETHERLANDS

(17) The Netherlands has notified the measure for reasons of legal certainty and submits that the State guarantee will be provided at market terms and therefore does not contain State aid within the meaning of Article 107(1) TFEU.

[7] This means for instance that if the guarantee period would start running in the first quarter of 2018, the average of the CDS mid-prices is taken over the third and fourth quarter of 2017.

(18) The Netherlands has based the methodology to determine the guarantee premium on the one approved by the Commission in its decision of 10 February 2016[8]. In that decision, the Commission concluded that a scheme whereby the Italian State guarantees the senior tranches of securitization structures did not contain State aid since the State is remunerated at a level which a market operator would require.

(19) The Netherlands provides the following Commitments (the "Commitments") as an integral part of the measure notified.

(20) The Netherlands commits to implement the guarantee at the terms described in this Decision, in particular concerning the terms of the guarantee (duration, amount, etc.) and the guarantee remuneration.

(21) Furthermore, the Netherlands commits to provide to the Agency full access to at least the following information:

(a) The detailed investment guidelines used by the NSDF;

(b) A model portfolio that reflects the type of loans that the NSDF intends to grant;

(c) Sufficient background on NFM, which acts as fund manager for the NSDF, and its key staff;

(d) The operational setup of the NSDF and the composition of its investment committee;

(e) The expected cash flows of the NSDF and their timings including among others the interest received on the loans, the management fees paid to NFM, the fixed coupons paid to its funders, and the other operational expenses (legal, financial);

(f) The guarantee pricing methodology to allow the Agency to include the guarantee fee payments to the State in the cash flow model.

(22) The Netherlands also commits that where information is not available, assumptions will be made on a prudent basis.

(23) Finally, the Netherlands, commits to submit a copy of the external rating report to the Commission as soon as it is available. The Netherlands will also send the Commission the final guarantee premium determined on the basis of this rating and the methodology described in this Decision once it has been calculated.

5. ASSESSMENT OF THE MEASURE

(24) The Netherlands has notified the measure to the Commission as no aid for reasons of legal certainty. The Commission therefore has to assess whether the guarantee described in section 3 is free of State aid within the meaning of Article 107(1) TFEU.

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[8] See Commission decision in case SA.43390 (2016/N), OJ C 161, 04.05.2016, p. 5.

(25) By virtue of Article 107(1) TFEU *"any aid granted by a Member State or through State resources in any form whatsoever which distorts or threatens to distort competition by favouring certain undertakings or the production of certain goods shall, in so far as it affects trade between Member States, be incompatible with the internal market."*

(26) To constitute State aid within the meaning of Article 107(1) TFEU, a measure has to fulfil four conditions. First, the aid is granted by a Member State or through State resources. Second, the measure confers a selective advantage to certain undertakings or the production of certain goods. Third, the measure must be liable to affect trade between Member States. Fourth, the measure must distort or threaten to distort competition in the internal market.

(27) The measure will be granted on the basis of the Framework Act[9] on Subsidies of the Dutch Ministry of Economic Affairs on an agreement between the State and the NSDF. If used, the guarantee payments will be made from public resources. The Commission therefore concludes that the measure is imputable to the State and that it is financed through State resources.

(28) Given that the measure is granted only to the NSDF and not to other providers of shipping finance, it is by its nature selective. In light of the characteristics of the financial services markets (including shipping finance) in the Union which feature high levels of exchanges and trade, the measure is capable of affecting trade between Member States. If it were to provide an advantage to the NSDF or its investors which they could not obtain on the market, the measure would be capable of distorting competition.

(29) In the following, the Commission will therefore assess whether the measure provides an advantage to the NSDF or to its investors.

5.1. Guarantee Notice

(30) In the Commission Notice on the application of Articles 87 and 88 of the EC Treaty to State aid in the form of guarantees[10] (the "Guarantee Notice"), the Commission has laid out conditions under which individual guarantee measures can be considered not to include State aid.

(31) According to point 3.2 of the Guarantee Notice, regarding individual State guarantees, such guarantees can be considered free of State aid under the following conditions:

(a) The borrower is not in financial difficulty;

(b) The guarantee amount can be properly measured[11] when it is granted;

(c) The guarantee cannot cover more than 80% of the outstanding debt or other financial obligation;

(d) A market-oriented price is paid for the guarantee;

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9 Law of 29 February 1996, as amended.

10 OJ C 155, 20.6.2008, p. 10.

11 The Guarantee Notice specifies that this means that the guarantee must be linked to a specific financial transaction, for a fixed maximum amount and limited in time.

(32) On the basis of the notification, the Commission notes that three of the four conditions (i.e. (a), (b) and (c)) above are clearly fulfilled. In particular:

(a) The NSDF cannot be considered to be in financial difficulty as it has been newly established for the sole purposes of providing senior financing to ship-owners and its investment criteria do not allow the granting of loans to shipping companies in financial difficulty;

(b) The size of the NSDF is limited to EUR 250 million. Given the 80% guarantee this means that the maximum guaranteed amount is EUR 200 million. Furthermore, the duration of the guarantee is limited to maximum nine years (i.e. two years ramp up period, five years holding period, and two possible extensions of one year each at the full discretion of the State);

(c) The guarantee is limited to 80% of the outstanding loan and any losses are sustained proportionally and in the same way by the investors and the State.

(33) The Commission will for this reason only assess further whether a market-oriented price is paid for the guarantee (condition (d)). Therefore, the Commission first assesses the risk taken by the State when providing such a guarantee and then whether that risk is remunerated under the proposed remuneration structure in a manner that it would be acceptable for a private operator under normal market conditions.

5.2. Risk taken by the State

(34) The risk assumed by the State for the 80% guarantee is the risk of non-performance of the NSDF on its obligations to return the principal amount of debt over the lifetime of the Fund to institutional investors. For pricing of the guarantee the risk of the portfolio of shipping loans has to be assessed. This, in turn, is based on the performance of individual shipping loans.

(35) The regional shipping sector is characterised by a relatively old age profile, an expected natural reduction of the fleet, and few new vessels being built. Although market conditions are hard to predict, experts assumed that the downturn in the short sea-shipping sector has bottomed out[12]. A report published by the Commission's Directorate General for Mobility and Transport[13] underlines similar conclusions of expected future trading increases, in particular in the Baltic and Mediterranean area (respectively 2.2% and 1.95% average annual growth). This should create room for fleet renewal in particular towards new well-designed fuel-efficient and low emissions vessels.

(36) The regional shipping sector is also characterised by a large diversification of vessel specification. Such (semi-)specialised vessels are considered to be more resistant to economic change as they are – in many cases – multifunctional and

[12] The European Short Sea Market in Perspective, Volume III (2015), a Maritime by Holland report, p.2.

[13] Analysis of recent trends in EU shipping and analysis and policy support to improve the competitiveness of short sea shipping in the EU, June 2015, European Commission Directorate-General for Mobility and Transport, p.99.

relatively easy to modify for other types of cargo[14]. As a result, such ships are more deployable compared to vessels specialised in deep-sea shipping, which in turn has a positive effect on their resale value.

(37) The NSDF's investment criteria aim to secure a balanced loan portfolio between various ship types in addition to borrower selection on the basis of NESEC's experience and market knowledge and a proprietary scorecard methodology[15]. The NSDF has stipulated to adhere to a model portfolio, which ensures a large variety of vessels to be financed. Given the current overcapacity in the container market – which is expected to continue for some time to come – the NSDF will hold back financing opportunities in this segment. The NSDF will also install a reputable and experienced investment committee[16] to optimise the decision making process in order to minimise undesired transactions. This investment committee will among others ensure that the NSDF will adhere to its investment criteria. These criteria among others put restrictions on the type and characteristics of vessels that can be invested in, the maximum that can be invested in one single vessel, and the maximum of total commitments in loan financing any one borrower or its group.

(38) In case of default of the borrower, a sufficiently low loan-to-value ("LTV") is the key risk mitigating factor to reduce the loss resulting from the default through the sale of the ship which serves as the collateral. An LTV of less than 100% provides a cushion against a significant fall in the resale value of a vessel. In case of a sale of a vessel triggered by the lender, the cushion of value over outstanding debt enables the lender to – most likely – recover his exposure. The Dutch authorities consider that, due to their flexible deployability, there is always demand for regional shipping vessels. Recent forced fleet sales – for example those of the Dutch Flinter shipping company[17] – would indicate that auctioned fleet sales remain an effective means of selling vessels of this nature. Generally, a value cushion (i.e. 1-LTV) of 40% is considered material in the sector. The investment criteria of the NSDF require that the LTV of its portfolio cannot exceed 65%. Above that, the maximum LTV per vessel shall be 60% for 85% of the NSDF portfolio and shall be maximum 70% for 15% of the NSDF portfolio. This means that the value cushion for NSDF's portfolio at inception would be 35%. The value cushion then increases over time as the loans are repaid.

(39) As explained above (see recital (32)), the maximum exposure of the State is clearly defined. In addition, the rating provided by the Agency will give a clear indication of the risk associated with the NSDF. When determining the rating, the

[14] Examples include the conversion of: a dry cargo vessel to a project cargo carrier for windmill parts, a dry cargo vessel to a cement carrier by installing tanks, or a chemical carrier to a mineral oil tanker.

[15] The propriety scorecard is an expert rating system that covers a range of subjects pertaining to a ship-owning company in order to arrive at a credit score. Subjects that are covered include the company's history, commercial strength, financial standing and ratio's, and administrative process and reporting. This scorecard forms part of the assessment by the Agency to determine NSDF's credit rating.

[16] The investment committee is made up of the CEO, the chief risk officer/chief financial officer and two members of the supervisory body of NFM. Decisions are made unanimously meaning means that each member has the right to halt a transaction. The two members of the supervisory body of NFM are selected on the basis of their knowledge and experience in their respective fields of expertise. One member has expertise in credit risk, banking and finance while the other member's expertise is in ship operation, ship construction and commercial viability. The credit rating assessment by the Agency pays adequate attention to the composition and background of the investment committee.

[17] This company was declared bankrupt in November 2016.

Agency will take into account the abovementioned elements (see recitals (35) to (38)). Furthermore, the build-up of a financial buffer to absorb losses (see recital (8)) limits the likelihood that the State guarantee has to be called. Finally, since the investors carry 20% of the risk themselves, they have every incentive to ensure that the NSDF limits its losses.

5.3. Remuneration

(40) Given the clear limits on the exposure taken by the State, the Commission takes the view that remuneration for the guarantee at market terms would ensure that the State is acting according to the market economy operator principle. In that case, the State guarantee would not give rise to any selective advantage for the NSDF or its investors.

(41) With respect to the proposed pricing methodology, the Commission observes that the type of guarantee envisaged by the Netherlands is not currently offered in the Dutch market. Therefore, no direct comparison with observable market fees for the same guarantee can be made. However, the Commission considers that it is possible to find market benchmarks which would indicate the adequate level of remuneration for equivalent levels of risk incurred as reflected by the external rating of the NSDF, and the duration of the exposure of the State.

(42) The pricing formula proposed by the Netherlands consists of two elements:

(a) The construction of an appropriate benchmark index for market prices (the "benchmark");

(b) The choice of an appropriate remuneration rate based on the benchmark;

(43) The Commission will consider these two elements in turn.

5.3.1. The benchmark

(44) The benchmark is constructed as a basket containing multiple securities. All securities are CDS on Dutch listed companies. The precise company names are chosen such that for a specific rating of the NSDF – which can be either BBB-, BBB, or BBB+ – they benefit themselves from ratings corresponding to the target rating plus or minus one notch[18].

(45) The Commission considers that due to the underlying companies' sizes and ratings, the market for the single name CDS which enter the benchmark is sufficiently liquid so that they represent reliable market price indicators.

(46) The baskets for the three possible ratings for the NSDF are fixed and are provided in the Annex 1. The Commission considers that the construction is appropriate as a market benchmark as it reflects the geographic risk even though it does not include transport or shipping companies[19]. This approach is consistent with the Commission's case practice (see footnote 8 for the relevant case). Using a simple

[18] One notch corresponds to the smallest increment on the rating scale. Correspondingly, the difference between BBB and BBB+ is one notch and the single name CDS deemed appropriate as reference points for a company with BBB rating benefit from ratings of BBB-, BBB or BBB+.

[19] No such Dutch companies fall within the targeted rating classes or have a single name CDS available.

average over all values in the basket also reduces sufficiently the idiosyncratic risk towards each single company in the basket.

(47) Further, the Commission takes positive note of the fact that for each CDS, instead of the current spot mid-price, the average over the previous six months of close mid-prices is used for the purpose of calculating the value of the benchmark basket. That feature compensates for volatility in the CDS prices.

5.3.2. The remuneration rate

(48) The remuneration rate reflects the fact that the actual market price of such a guarantee will depend not only on the level of risk implied by the NSDF's rating and priced based on the CDS benchmark, but also on how long the State will retain its exposure to the risk that it guarantees. Since the guarantee period has a duration of seven years, it is appropriate to use the 7-year CDS price as the remuneration rate for the guarantee. This remuneration rate is then applied to the actually outstanding guaranteed amount.

(49) As explained above (see recital (13)), in case not all loans have been repaid yet at the end of year seven and therefore the guaranteed funding has not been entirely repaid at its contractual maturity date, instead of triggering the guarantee and paying out the investors, the Dutch State has the option to prolong the guarantee (and the underlying guaranteed funding, without needing the agreement of the investors) with maximum two years to nine years in total. If the State decides to prolong for one or two years, the guarantee premium will continue to be based on the 7-year benchmark CDS. The Commission considers that it is a useful option for the State as guarantor. Indeed, if there is remaining exposure at the end of year seven, the investors would be entitled to call the guarantee and the State would have to pay out 80% of that exposure. The State would then have to enforce its claims on the vessels and would have to try to sell them. Alternatively, by prolonging the guarantee and the underlying funding, the State gives more time to the NSDF to try to collect proceeds of the remaining loans (i.e. refinancing can be sought by the ship-owner, the loan can be sold to a third party, and enforcement of the collateral remains an option). This delays the payment by the State under the guarantee and could potentially allow reducing the payment under the guarantee. However, it is only at the end of year seven that the information will be available to calculate whether it is more interesting or not to prolong the guarantee. It is therefore only at that moment that it would be possible to assess whether, by exercising this option, the State would act as any market economy creditor. The present decision therefore does not prejudge whether the use of that prolongation option by the State, if used, would comply with the behaviour of a market economy creditor and thereby escape the qualification of State aid.

(50) Based on the preceding considerations, the Commission comes to the conclusion that the pricing approach ensures that the remuneration of the guarantee to the State corresponds to the level and duration of the risk the State takes. For this reason, the Commission concludes that the State is acting according to the market economy operator principle and that a market-oriented price is paid for the guarantee.

5.4. Conclusion

(51) The measure proposed by the Dutch authorities meets the cumulative criteria enumerated by the Guarantee Notice for a measure to be free of aid. It should therefore be concluded that the measure contains no State aid within the meaning of Article 107(1) TFEU.

6. CONCLUSION

The Commission has decided not to raise objections to the measure notified by the Netherlands, in light of the commitments made by that Member State. On that basis, the Commission has accordingly decided that the measure does not constitute State aid within the meaning of Article 107(1) TFEU.

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European Commission,
Directorate-General Competition
State Aid Greffe
B-1049 Brussels
Stateaidgreffe@ec.europa.eu

Yours faithfully
For the Commission

Margrethe VESTAGER
Member of the Commission

CERTIFIED COPY
For the Secretary-General,

Jordi AYET PUIGARNAU
Director of the Registry
EUROPEAN COMMISSION

Annex 1 – Benchmark baskets

1) First Basket
Used for BBB- rating of the Fund

Arcelor Mittal
Post NL
Heineken
DSM N.V.
KPN N.V.
Wolters Kluwer N.V.
Reed Elsevier N.V.
Ahold Delhaize N.V.

2) Second Basket
Used for BBB rating of the Fund

Post NL
Wolters Kluwer N.V.
Philips
NN Group N.V.
DSM N.V.
Ahold Delhaize N.V.
KPN

3) Third Basket
Used for BBB+ rating of the Fund

Akzo Nobel
DSM N.V.
Heineken
Philips
Reed Elsevier
Post NL
Wolters Kluwer N.V.