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***Case No COMP/M.6995 - REGGEBORGH/ BOSKALIS/
VSMC***

Only the English text is available and authentic.

**REGULATION (EC) No 139/2004
MERGER PROCEDURE**

Article 6(1)(b) NON-OPPOSITION
Date: 29/10/2013

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EUROPEAN COMMISSION

Brussels, 29.10.2013
C(2013) 7335 final

In the published version of this decision, some information has been omitted pursuant to Article 17(2) of Council Regulation (EC) No 139/2004 concerning non-disclosure of business secrets and other confidential information. The omissions are shown thus [...]. Where possible the information omitted has been replaced by ranges of figures or a general description.

PUBLIC VERSION

MERGER PROCEDURE

To the notifying parties:

Dear Sir,

**Subject: Case No COMP/M.6995 – Reggeborgh/ Boskalis/ VSMC
Commission decision pursuant to Article 6(1)(b) of Council Regulation
No 139/2004¹**

- (1) On 24 September 2013, the European Commission received notification of a proposed concentration pursuant to Article 4 of Council Regulation (EC) No 139/2004 by which the undertakings Reggeborgh and Koninklijke Boskalis Westminster N.V. acquire within the meaning of Article 3(1)(b) of the Merger Regulation joint control of the whole of the undertaking Visser & Smit Marine Contracting B.V. by way of purchase of shares.²

1. THE PARTIES

- (2) Reggeborgh is a family owned Dutch group holding investments in several industries. The investments include the trade and supply of petroleum products, construction services, telecom networks and real estate services.

¹ OJ L 24, 29.1.2004, p. 1 ('the Merger Regulation'). With effect from 1 December 2009, the Treaty on the Functioning of the European Union ('TFEU') has introduced certain changes, such as the replacement of 'Community' by 'Union' and 'common market' by 'internal market'. The terminology of the TFEU will be used throughout this decision.

² Publication in the Official Journal of the European Union No C 285, 1.10.2013, p. 3.

- (3) Koninklijke Boskalis Westminster N.V. (“Boskalis”) is a Dutch maritime services company active in dredging, maritime infrastructure services, offshore transport, towage and salvage as well as inland infrastructure.
- (4) Visser & Smit Marine Contracting (“VSMC”) is a Dutch company active in the installation, maintenance and replacement of subsea power cables and other multi-purpose cables. VSMC is currently wholly-owned and controlled solely by Reggeborgh.

2. THE OPERATION

- (5) Pursuant to the terms of a draft Share Purchase Agreement of 23 September 2013, Boskalis will indirectly acquire 50% of the shares in VSMC from Reggeborgh. Furthermore, pursuant to the terms of a draft Shareholders’ Agreement of 23 September 2013, Boskalis and Reggeborgh (the "Notifying Parties") will have equal voting rights in the shareholders' meeting, the management board and the supervisory board of VSMC. The annual business plan of VSMC will be approved by the shareholders' meeting (see Article 6.3 Shareholders' Agreement) where both Reggeborgh and Boskalis will have veto rights (as there will be no special voting thresholds). Both Boskalis and Reggeborgh will thus have the possibility of blocking actions which determine the strategic commercial behaviour of VSMC. They will thus jointly control VSMC.
- (6) VSMC has been active in the laying of subsea power cables for a number of years and has its own management dedicated to its day-to-day operations as well as access to sufficient resources in terms of finance and assets. VSMC does not and will not make any substantial purchases from or sales to its parent companies and is set up for indefinite duration. VSMC thus constitutes a full-functional joint venture.

3. EU DIMENSION

- (7) The undertakings concerned have a combined aggregate world-wide turnover of more than EUR 5 000 million [Reggeborgh: EUR [...] ; Boskalis: EUR [...]]. Each of them has a Union-wide turnover in excess of EUR 250 million [Reggeborgh: EUR [...]; Boskalis: EUR [...]]. Neither Reggeborgh nor Boskalis achieve more than two-thirds of their Union turnover in one and the same Member State. The notified transaction therefore has a Union dimension under Article 1(2) of the Merger Regulation.

4. COMPETITIVE ASSESSMENT

- (8) The Parties are active in different steps of the maritime construction of offshore wind farms. Boskalis has started investing to enter the market for subsea cable laying services for wind farms where VSMC is active. As a consequence, the merger leads to the elimination of a potential competitor. Moreover, Boskalis provides various services which are vertically related or complementary to the activities of VSMC, including dredging and dredging-related activities such as landfall.

4.1. Horizontal Overlaps

4.1.1. Relevant Product Markets: installation of subsea cables

- (9) VSMC is exclusively active in the field of installation, maintenance and replacement of subsea power cables. Subsea cables generally include communication cables, power cables and umbilicals.³
- (10) As VSMC is not yet active in subsea communication cables and umbilicals (although VSMC has the technical capabilities to lay the latter cables), such cables will not be discussed further.
- (11) There are four different types of subsea power cables: (i) array cables connect offshore energy production platforms to the central manifold and possible sub-manifolds; (ii) export cables connect the platform to the coast to export the generated electricity; (iii) interconnectors connect different islands and countries to each other allowing for flexibility of supply and (iv) electrification cables connect offshore platforms to the coast to provide electricity to the platforms. VSMC's activities are focused on subsea power cables for wind farms, which only concern array and export cables but it is also able to lay other types of cables.

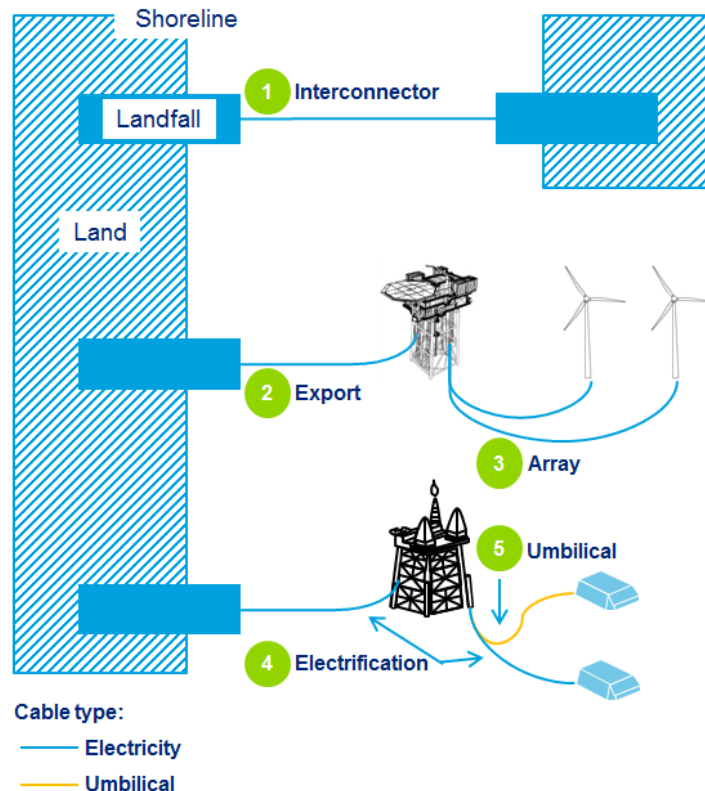


Figure 1 Illustration of the different types of subsea power cables and of umbilicals, page 3 of Annex 17 of the Form CO

- (12) Array cables have a relatively thin diameter (60-100 mm), as they transport the power of only one wind turbine, and are relatively short (up to 10 km). Export cables are wider (200-250 mm) and longer (10-50 km). Both cables are generally laid in shallow waters. The main assets required to lay subsea cables are ships which are specially built or commissioned for that purpose.

³ Umbilicals are multi-purpose cables for the transport of control, energy (electric, hydraulic) and chemicals to subsea oil and gas wells, subsea manifolds and other remote controlled subsea systems. These are in fact very sophisticated remote control cables.

- (13) The Notifying Parties submit that the relevant product market is the market for the installation, repair and maintenance of all types of subsea power cables and of umbilicals. Further sub-segmentation is not appropriate due to considerations of supply-side substitutability.
- (14) Although the Commission has already assessed in previous decisions, the market for construction of offshore wind farms and its possible segmentations,⁴ it has not assessed the connection of a wind farm to the grid in any further detail and has thus not identified any further potential sub-segments for subsea cable laying activities related to wind farms (array or export). Such sub-segmentations could be based on, for example, (i) the type of cable installed, (ii) the depth in which the cable is installed or (iii) the type of cable laying activity, for example subsea cable installation or maintenance.
- (15) The market investigation showed that generally, cable laying service providers are able to lay different types of cables. The method for laying cables depends however on the water depth, the cable length and weight, environmental protection regulation, ground conditions and voltage.⁵ Significant time and/or investment (for example in the purchase or the commissioning of vessels with the required specific equipment such as a turntable) could be required to start cable laying services for different types of cables, depending on the length and weight of the cable and the water depth.⁶ The number of different types of vessels a contractor controls or can source will determine how many different depths the contractor can handle.⁷
- (16) The majority of suppliers typically provide subsea cable laying services for different depths.⁸ However, some suppliers are restricted to certain depths as different water depths require different assets.⁹ Since there is no consensus as to how to segment the market according to different depths,¹⁰ and since all major subsea cable laying services providers are active at all water depths relevant for offshore wind farms,¹¹ it is sufficient, for the purposes of the assessment of the notified transaction, to examine the impact of the proposed transaction on the overall market for subsea cable laying, regardless of the depth.
- (17) The market investigation was inconclusive whether inspection, repair and maintenance services should be considered as part of the same product market as the installation of subsea cables. However, since almost all major subsea cable laying providers are active on this segment,¹² it is sufficient, for the purposes of the

⁴ Case COMP/M.6315 – *Hochtief/Geosea/Beluga Hochtief Offshore JV*, paragraphs 24-26.

⁵ See replies to question 6 of the Questionnaire to Competitors of 26 September 2013 and question 6 of the Questionnaire to Customers of 26 September 2013.

⁶ See replies to question 7 of the Questionnaire to Competitors of 26 September 2013.

⁷ See reply by a customer to question 7 of the Questionnaire to Customers of 26 September 2013.

⁸ See replies to question 8 of the Questionnaire to Competitors of 26 September 2013 and question 7 of the Questionnaire to Customers of 26 September 2013.

⁹ See replies to question 7 and 8 of the Questionnaire to Competitors of 26 September 2013 and questions 6 and 7 of the Questionnaire to Customers of 26 September 2013.

¹⁰ See replies to questions 8, 8.1 and 8.2 of the Questionnaire to Competitors of 26 September 2013.

¹¹ See replies to questions 8, 8.1 and 8.2 of the Questionnaire to Competitors of 26 September 2013.

¹² See replies to questions 15 and 16 of the Questionnaire to Competitors of 26 September 2013 and replies to question 11 of the Questionnaire to Customers of 26 September 2013.

assessment of the notified transaction, to examine the impact of the proposed transaction on the overall market for subsea cable laying without further segmenting it.

- (18) One of the main recent developments in construction and connection of wind farms is the development of EPC services. EPC (engineering, procurement and construction) is a way of operating where one operator becomes responsible for the engineering, procurement and construction of all or several elements of the construction of a wind farm. This means that his contractor will have to subcontract all elements that he cannot perform himself, and take upon himself the connected interface risk.
- (19) The Commission tried to assess whether the supply of EPC services constitutes a relevant market of its own. The market investigation showed that a slight majority of cable laying service providers are able to offer EPC services. While the smaller players cannot offer complete service packages, the bigger ones do have the necessary assets, financial and technical capabilities.¹³ All major cable laying services providers confirmed that they had EPC capabilities.¹⁴ Smaller players would need on the other hand significant time/investment to establish themselves as an EPC service provider.¹⁵
- (20) In any event, for the purposes of the assessment of the notified transaction, the exact delineation of the relevant product markets as regards the type of cables or the existence of a specific EPC market can be left open since the notified transaction does not raise serious doubts as to its compatibility with the internal market even under the narrowest approach.

4.1.2. Relevant Geographic Markets

- (21) The Notifying Parties submit that the market for the installation, repair and maintenance of all types of subsea power cables and umbilicals is global in scope. The Notifying Parties consider that all the undertakings active or potentially active in this market can and do mobilise assets for the performance of work on a global scale. However, the Notifying Parties submit that the United States and China should not be included in this global market as very few projects in these countries are open to foreign contractors.
- (22) A large majority of the customers who responded to the market investigation consider that cable laying services providers can offer their services on a worldwide basis but also point out that there are some advantages in purchasing cable laying services from a provider based in the same region of the world (such as the EEA) as the location of the project (for example optimization of logistics, cost and time saving, better knowledge of the local conditions).¹⁶ Similarly, a majority of cable laying services providers confirmed that they are able to provide services anywhere in the world but acknowledged advantages in providing services in the same region.¹⁷

¹³ See replies to question 10 of the Questionnaire to Competitors of 26 September 2013 and question 8 of the Questionnaire to Customers of 26 September 2013.

¹⁴ See replies to question 10.2 of the Questionnaire to Competitors of 26 September 2013.

¹⁵ See replies to question 11 of the Questionnaire to Competitors of 26 September 2013.

¹⁶ See replies to questions 12 and 15 of the Questionnaire to Customers of 26 September 2013.

¹⁷ See replies to questions 17, 18 and 21 of the Questionnaire to Competitors of 26 September 2013.

(23) For the purposes of the assessment of the notified transaction, the issue whether the geographic market is worldwide or EEA-wide in scope can be left open since the notified transaction does not raise serious doubts as to its compatibility with the internal market under any possible approach.

4.1.3. Competitive Assessment

(24) VSMC has provided market share estimates at the EEA level on the basis of the length of the installed cables, the value of the cable laying projects and the number of projects (called “count” in the table below). Market shares vary considerably year on year due to the bidding procedures prevalent in the market.

| Subsea cable laying (EEA) | | VSMC market shares | | | | | | | | |
|---------------------------|--------|--------------------|----------|----------|----------|----------|----------|----------|----------|----------|
| | | 2010 | | | 2011 | | | 2012 | | |
| | | Length | Value | Count | Length | Value | Count | Length | Value | Count |
| All cables | | [10-20]% | [20-30]% | [5-10]% | [10-20]% | [30-40]% | [0-5]% | [10-20]% | [10-20]% | [0-5]% |
| Array export | and | [20-30]% | [20-30]% | [40-50]% | [60-70]% | [60-70]% | [50-60]% | [20-30]% | [10-20]% | [10-20]% |
| | Export | [20-30]% | [30-40]% | [60-70]% | [60-70]% | [50-60]% | [50-60]% | [0-5]% | [0-5]% | [0-5]% |
| | Array | [20-30]% | [20-30]% | [30-40]% | [60-70]% | [60-70]% | [50-60]% | [30-40]% | [30-40]% | [20-30]% |

¹⁸ This market share includes VSMC’s market share on a stand-alone basis ([10-20]%) as well as the market share achieved in cooperation with [a third party] ([5-10%]) which was [...].

¹⁹ VSMC’s market share stand-alone ([20-30%]); market share achieved in cooperation with [a third party] ([10-20%]).

²⁰ VSMC’s market share stand-alone ([0-5%]); market share achieved in cooperation with [a third party] ([0-5%]).

²¹ VSMC’s market share stand-alone ([30-40%]); market share in cooperation with [a third party] ([20-30%]).

²² VSMC’s market share stand-alone ([40-50%]); market share in cooperation with [a third party] ([20-30%]).

²³ VSMC’s market share stand-alone ([30-40%]); market share in cooperation with [a third party] ([10-20%]).

²⁴ VSMC’s market share stand-alone ([10-20%]); market share in cooperation with [a third party] ([50-60%]).

²⁵ VSMC’s market share stand-alone ([10-20%]); market share in cooperation with [a third party] ([50-60%]).

²⁶ VSMC’s market share stand-alone ([20-30%]); market share in cooperation with [a third party] ([20-30%]).

- (25) On average, VSMC's market share has been approximately [20-30]% over the past five years for all different types of cables and [30-40]% on average for cables for offshore wind farms (around [30-40]% on export and [40-50]% on array).
- (26) Boskalis is not active in the cable laying market in the EEA. At this stage, the only cable laying project in which Boskalis is involved is an interconnector between Java and Bali in Indonesia. This pilot project [...]. Despite this lack of projects in the EEA, several customers who responded to the Commission's requests for information considered that, in light of past offers which were considered technically and commercially aligned with market practice and its offshore experience and reputation, Boskalis could have entered this market in the EEA.²⁷ Moreover, Boskalis has invested in assets to start competing in the market by commissioning the construction of the vessel "Ndurance" (to be delivered [shortly]). The Ndurance is a multipurpose vessel which, when equipped with a turntable, is suitable for the laying of cables in shallow water. [...].
- (27) The proposed transaction therefore leads to the elimination of a new entrant or, at least, of a potential competitor.
- (28) However, as submitted by the Notifying Parties, there are a number of other competitors active in the market. VSMC's most important competitors are the large cable manufacturing companies Prysmian, ABB, and Nexans which are vertically integrated downstream into laying subsea cables and which control the access to the cables. However, there is also competition from dredging companies (Van Oord), offshore gas and oil specialists (Technip), burial specialists (Deep Ocean) and cable installers (JD Contractor).
- (29) As can be seen from the table below, VSMC will be facing a number of important competitors such as Prysmian (with estimated market shares between [5-10]% and [10-20]% depending on the segment concerned), ABB (with estimated market shares between [0-5]% and [10-20]% depending on the segment concerned), and Technip (with estimated market shares between [0-5]% and [20-30]% depending on the segment concerned).

²⁷ See replies to question 26 to Questionnaire to Customers of 26 September 2013.

| | Average market shares 2008 - 2012 | | | | | | | | | | | |
|---------------------------|-----------------------------------|----------|----------|------------|----------|----------|----------|----------|----------|----------|----------|----------|
| Subsea cable laying (EEA) | All cables | | | Renewables | | | Export | | | Array | | |
| | Length | Value | Count | Length | Value | Count | Length | Value | Count | Length | Value | Count |
| VSMC | [10-20]% | [20-30]% | [0-5]% | [30-40]% | [30-40]% | [20-30]% | [20-30]% | [20-30]% | [20-30]% | [40-50]% | [30-40]% | [30-40]% |
| Prismian | [10-20]% | [10-20]% | [0-5]% | [10-20]% | [10-20]% | [10-20]% | [10-20]% | [10-20]% | [10-20]% | [10-20]% | [10-20]% | [5-10]% |
| ABB | [5-10]% | [5-10]% | [0-5]% | [5-10]% | [10-20]% | [0-5]% | [10-20]% | [10-20]% | [0-5]% | -- | -- | -- |
| Nexans | [5-10]% | [5-10]% | [0-5]% | -- | -- | -- | -- | -- | -- | -- | -- | -- |
| Technip | [5-10]% | [10-20]% | [0-5]% | [10-20]% | [10-20]% | [10-20]% | [10-20]% | [10-20]% | [10-20]% | [10-20]% | [10-20]% | [20-30]% |
| JD Contractor | [0-5]% | [0-5]% | [0-5]% | [5-10]% | [5-10]% | [5-10]% | [10-20]% | [5-10]% | [10-20]% | -- | -- | -- |
| Deep Ocean | -- | -- | -- | [5-10]% | [5-10]% | [0-5]% | -- | -- | -- | -- | -- | -- |
| Van Oord | -- | -- | -- | [5-10]% | [5-10]% | [5-10]% | -- | -- | -- | [10-20]% | [10-20]% | [5-10]% |
| Unknown | [20-30]% | [10-20]% | [70-80]% | -- | -- | -- | -- | -- | -- | -- | -- | -- |
| Other | [5-10]% | [10-20]% | [10-20]% | [5-10]% | [5-10]% | [10-20]% | [10-20]% | [10-20]% | [20-30]% | [20-30]% | [20-30]% | [20-30]% |

- (30) This wide array of potential suppliers ensures that competition will remain active in the subsea cable laying markets post-transaction. Moreover these markets are bidding markets where the Commission generally considers that the market shares of the parties are less central to the competition analysis than the question whether there are a sufficient number of credible, established competitors to guarantee competition for future contracts.²⁸
- (31) A large majority of customers confirmed that there would be enough suppliers competing on the market after the transaction.²⁹ In addition, several customers pointed out that the proposed transaction would have positive effects on the market because it will provide a stable and experienced contractor, which combines different sectors of activity.³⁰ A large majority of customers also considered that, after the transaction, VSMC will not have an advantage over its competitors in the repair and maintenance segment.³¹
- (32) It should be noted that, together with the Ndurance, VSMC would have, after the transaction, two vessels for the laying of cables which are particularly suitable for export cables. The majority of competitors who responded to the Commission's

²⁸ COMP/M.4367, APW/APSA/Nordic Capital/Capio, paragraph 56.

²⁹ See replies to question 24 of the Questionnaire to Customers of 26 September 2013.

³⁰ See replies to question 33.2 of the Questionnaire to Customers of 26 September 2013.

³¹ See replies to question 30 of the Questionnaire to Competitors of 26 September 2013.

requests for information indicated that access to the Ndurance will provide VSMC with a competitive advantage, as the additional capacity and the beaching capabilities of such a high-class vessel will make it a more attractive contractor for larger projects. VSMC will have more flexibility in bidding for different types of projects.³²

- (33) However, a majority of customers who responded to the market investigation do not consider the Ndurance as an advantage. While it is the largest vessel currently on the market, customers expect that other competitors will order new vessels themselves.³³ This last point was confirmed by the market investigation: for instance, Van Oord has commissioned a new vessel suitable for the laying of export cables which will be operational by the end of 2014;³⁴ Jan de Nul is currently building a new vessel which should be ready by 2015;³⁵ and Siem Offshore contractors should launch a new vessel in the coming years.³⁶
- (34) Moreover, as regards the laying of export cables in particular, it should be noted that VSMC is competing with cable manufacturers such as Prysmian and ABB which also have access to suitable vessels. These competitors are particularly strong as they have access to the cables which are the essential input, and, according to the Notifying Parties, generally win EPCs for turnkey projects (i.e. including cable manufacturing and transport and installation) for the export cable segment and decide afterwards whether they would sub-contract the cable laying.³⁷
- (35) Finally, it should be noted that, according to the Notifying Parties, there are typically 3 to 4 companies to bid for EPCs for turnkey projects (i.e. including cable manufacturing and transport and installation) for export cables, which confirms that there are alternative suppliers on this market.
- (36) In light of all the above, the Commission concludes that the proposed transaction does not raise serious doubts as to its compatibility with the internal market as regards the market(s) for subsea cable laying services.

4.2. Vertical and Conglomerate Aspects

- (37) The transaction will combine the capabilities of VSMC in subsea laying cable services and the ability of Boskalis to offer a range of services and goods in the maritime construction industry, in particular for the construction of offshore wind farms, including (i) dredging and dredging related services; (ii) rental and lease of maritime construction ships; (iii) subsea supporting services for offshore construction; and (iv) installation of subsea structures.

³² See replies to question 32 of the Questionnaire to Competitors of 26 September 2013.

³³ See replies to question 25 of the Questionnaire to Customers of 26 September 2013.

³⁴ See minutes of the conference call of 14 October 2013.

³⁵ See http://www.jandenu.com/sites/default/files/equipment-item/pdfs/06.MPV_EN_-_V2013-5_-_JDN8628_-_DP2_CLV_TSV_SRIV_0.pdf

³⁶ See Annex 16 to the Form CO and <http://www.siemoffshore.com/Default.aspx?ID=224>.

³⁷ See reply to question 1 of the RFI dated 14 October 2013.

4.2.1. Relevant Product Markets

4.2.1.1. Dredging and dredging related services

- (38) The Notifying Parties submitted, in line with Commission precedents, that dredging concerns the activity whereby soil or other materials are removed from the bottom of the sea or inland waters and transported for storage, land reclamation or other use.³⁸
- (39) In previous decisions, the Commission considered that the market for dredging services can be sub-segmented into a market for large dredging projects and a market for small dredging projects of up to EUR 5 million that are in general carried out by smaller companies using smaller equipment.
- (40) A majority of competitors and customers who responded to the Commission's requests for information confirmed the established sub-segmentation between large international and small national projects. In particular, the competitive conditions - *i.e.* the number and identity of the market players, prices and required assets and know-how - for both categories are significantly different.³⁹ The market investigation was inconclusive whether the amount of EUR 5 million should be raised.⁴⁰
- (41) Among the various dredging-related activities performed by Boskalis, landfall is of particular relevance for the cable laying market. Landfall services concern the bringing of a cable onto the shore. Depending on water depths, environmental and soil conditions, this can be done by using different techniques (i) pulling; (ii) float & sink; (iii) horizontal directional drilling⁴¹ and (iv) micro-tunnelling.⁴²
- (42) In any event, for the purposes of the assessment of the notified transaction, the exact delineation of the relevant product markets can be left open since the notified transaction does not raise serious doubts as to its compatibility with the internal market even under the narrowest approach.

4.2.1.2. Rental and Lease of Vessels

- (43) The Notifying Parties submit, in line with Commission precedents, that the market for the renting of specialised vessels to the offshore industry is driven by construction firms' need to free up capital and avoid paying for expensive assets which are not used. These vessels are used in connection with the installation, repair, maintenance and operation of offshore facilities (wind, oil, gas, etc.). They are specifically

³⁸ See Cases COMP/M.1877 – *Boskalis/HBG*, paragraph 8 and COMP/M.2503 – *HBG/Ballast Nedam/Baggeren*, paragraph 8.

³⁹ See replies to question 22 of the Questionnaire to Competitors of 26 September 2013 and question 16 of the Questionnaire to Customers of 26 September 2013.

⁴⁰ See replies to question 22 of the Questionnaire to Competitors of 26 September 2013 and question 16 of the Questionnaire to Customers of 26 September 2013.

⁴¹ Horizontal directional drilling is the activity permitting the passage of the subsea cable into pre-built, protective conduit as it comes near shore. Generally the conduit leads the subsea cable under the beach by quite some distance, which requires horizontal directional drilling. Then the subsea cable comes up into a small oceanfront facility where the actual termination point is. Although Reggeborgh is active in horizontal directional drilling, Boskalis is not and therefore the transaction has no impact on this activity.

⁴² See replies to question 12 of the Questionnaire to Competitors of 26 September 2013 and question 9 of the Questionnaire to Customers of 26 September 2013.

designed for the transportation and lifting of heavy structures. As such, they are not substitutable with any other type of vessels.⁴³

- (44) More precisely, in this vessel rental market, a distinction should be made between array and exports cable markets. Regarding export cables, the Notifying Parties argue that most cable layers use their own vessels to lay export cables (even if there are examples of use of non-dedicated vessels for such activities) and this will also be the case for VSMC and Boskalis. Regarding array cables, the Notifying Parties argue that vessels for the laying of array cables are a commodity largely available on the market, with no possibility to foreclose and that Boskalis has only two ships that could be possibly adapted for use as cable-laying vessel by VSMC.
- (45) In any event, for the purposes of the assessment of the notified transaction, the exact delineation of the relevant product markets can be left open since the notified transaction does not raise serious doubts as to its compatibility with the internal market even under the narrowest approach.

4.2.1.3. Subsea Supporting Services

- (46) The Notifying Parties submit that the market for subsea supporting services for offshore construction includes diving services, survey and positioning services, remote operated vehicle services, pipe-carriers, cargo barges etc. These services are ancillary to the services of installing, replacing and maintaining cables or umbilicals.
- (47) In any event, for the purposes of the assessment of the notified transaction, the exact delineation of the relevant product markets can be left open since the notified transaction does not raise serious doubts as to its compatibility with the internal market even under the narrowest approach.

4.2.1.4. Offshore Construction

- (48) The Notifying Parties submit that this market is not vertically related to the market for the installation, maintenance and replacement of subsea power cables and umbilicals. It is however complementary to these activities since it can be expected that some operators may offer projects for tender that include both the construction of the foundations of wind turbines and the laying of the cables.
- (49) The Commission has in previous decisions considered the market for the construction of offshore wind farms, but ultimately left open whether a possible sub-segmentation for the procurement and installation of wind farm foundations was appropriate.⁴⁴
- (50) In any event, for the purposes of the assessment of the notified transaction, the exact delineation of the relevant product markets can be left open since the notified transaction does not raise serious doubts as to its compatibility with the internal market even under the narrowest approach.

4.2.2. *Relevant Geographic Markets*

- (51) The Notifying Parties submit that the market for large dredging projects is global in scope, excluding the United States and China as very few projects are open to foreign

⁴³ See Case COMP/M.6315 – *Hochtief/Geosea/Beluga Hochtief Offshore JV*, paragraph 22.

⁴⁴ See Case COMP/M.6315 - *Hochtief/Geosea/Beluga Hochtief Offshore JV*, paragraphs 24-26.

contractors. The Commission has already defined the market for large dredging projects as worldwide or at least EEA-wide in scope.⁴⁵

- (52) As regards landfall, the market investigation confirmed that while most companies active in markets for landfall are active globally, customers generally prefer a contractor located in their region, often due to mobilization costs and geographical knowledge.⁴⁶
- (53) The Notifying Parties submit that the markets for the rental and lease of ships, subsea supporting services and foundations for offshore wind turbines are global in scope (excluding the United States and China).
- (54) In any event, for the purposes of the assessment of the notified transaction, the exact delineation of the relevant geographic markets can be left open since the notified transaction does not raise serious doubts as to its compatibility with the internal market even under the narrowest approach.

4.2.3. *Competitive Assessment*

4.2.3.1. Dredging and dredging related services

- (55) Dredging is sometimes used to bury the subsea cables but not in all cases. The cable laying projects where VSMC used the services of dredging companies are large projects with a value in excess of EUR 5 million. As regards large dredging projects, Boskalis estimates its worldwide market share between [10-20]% with Jan de Nul, Van Oord and DEME having slightly higher or comparable market shares. In the EEA, the Notifying Parties estimate that Boskalis' market share is [30-40]% but this includes both small and large projects ([10-20]% for large projects and [10-20]% for small projects).
- (56) With respect to landfall activities, Boskalis estimates its worldwide market share around [20-30]%. Other large players active in this area include Jan de Nul, Van Oord and DEME, which are of a comparable size as Boskalis. The Notifying Parties have indicated that landfall activities are practically non-existent in Europe outside the array and export cables industry and explained that Boskalis won two out of the five projects awarded between 2010 and 2013.
- (57) In the light of the presence of several competitors in the dredging-related activities and particularly landfall where the three other suppliers are of comparable size and scope as Boskalis, the transaction does not raise serious doubts as regards its impact on dredging and landfall.

4.2.3.2. Rental and Lease of Vessels

- (58) A majority of respondents to the market investigation confirmed that vessels for the laying of array cables are widely available in the market. Internal documents from the parties show that at least 25 vessels can be used for the laying of array cables. Even though the number of vessels potentially available will be reduced by two units, competitors believe there will remain an adequate number of players active and

⁴⁵ See Cases COMP/M.1877 – *Boskalis/HBG*, paragraph 15 and COMP/M.2503 – *HBG/Ballast Nedam/Baggeren*, paragraph 14.

⁴⁶ See replies to questions 25 and 28 of the Questionnaire to Competitors of 26 September 2013 and questions 19-22 of the Questionnaire to Customers of 26 September 2013

competing on the market to meet the relevant demand. Therefore the transaction does not raise serious doubts as regards its impact on rental and lease of vessels.

4.2.3.3. Subsea Supporting Services

- (59) Boskalis' market share as regards subsea supporting services for offshore construction would be [0-5]% at worldwide level and [0-5]% at EEA level. Given these minimal market shares of Boskalis, the transaction does not raise serious doubts as regards its impact on subsea supporting services.

4.2.3.4. Offshore Construction

- (60) As regards foundations for wind turbines, the parties have not been able to provide market shares but indicate that Bokalis' activities in this field have been so far limited to one project: the West Duddon Sands Park in the UK. No concerns were voiced in the market investigation as regards this market and therefore the transaction does not raise serious doubts with respect to offshore construction.

4.2.3.5. EPC contracts

- (61) Some competitors have expressed concerns that the merged entity's ability to cover the whole range of services in maritime construction and its strong financial capacities will be detrimental to small independent competitors, in particular in EPC projects where it could offer larger service packages at a cheaper price which could drive some competitors out of the market.
- (62) First, it should be noted that the merged entity will not be the only player able to offer a range of services: for instance, Van Oord or Tideway (member of the DEME group) also have dredging capacities. Moreover, companies such as Van Oord, DEME and Hochtief are able to offer EPC packages for the "balance of plant", i.e. including the cable laying but also the construction of the foundation and the base of a wind turbine (but not the construction or installation of the turbine itself).⁴⁷
- (63) Second, there are still a number of contracts for laying cables that are not awarded on an EPC basis, thereby enabling smaller independent players to be active on the market. According to the Notifying Parties' estimates, EPC contracts for turnkey projects accounted for 37% of the total length of export cables contracted during the period 2007- 2012 and 20% of the total length of array cables during the same period. These numbers should increase to 69% and 28% respectively for the 2013-2014 period.
- (64) Third, despite the trend for more EPCs because (i) the customers (mostly utilities companies) try to reduce interfaces and shift some of the risks to the off-shore contractors, and (ii) the banks are financing more and more projects and have a strong preference for limiting the number of contracts,⁴⁸ it remains possible for smaller players to bid as sub-contractors or as part of consortia.

⁴⁷ See minutes of the conference call of 14 October 2013. According to the Notifying Parties, there have been very few "balance of plant" projects awarded up until now.

⁴⁸ See minutes of the call of 14 October 2013.

- (65) In light of all the above, the Commission concludes that the proposed transaction does not raise serious doubts as to its compatibility with the internal market as regards the markets related to subsea cable laying services.

5. CONCLUSION

- (66) For the above reasons, the European Commission has decided not to oppose the notified operation and to declare it compatible with the internal market and with the EEA Agreement. This decision is adopted in application of Article 6(1)(b) of the Merger Regulation.

*For the Commission
(signed)*

*Joaquín ALMUNIA
Vice-President*