



EUROPEAN COMMISSION

Brussels, 24.4.2020
C(2020) 2786 final

PUBLIC VERSION

This document is made available for
information purposes only.

**Subject: State Aid SA.57107 (2020/N) – The Netherlands
COVID-19: Subsidised interest rates scheme**

Excellency,

1. PROCEDURE

- (1) By electronic notification of 23 April 2020, the Netherlands notified aid in the form of subsidised interest rates for loans under the Temporary Framework for State aid measures to support the economy in the current COVID-19 outbreak, as amended (“the Temporary Framework”).¹ The Dutch authorities submitted a revised notification on 24 April 2020.
- (2) The Dutch authorities confirm that the notification does not contain confidential information.
- (3) The Netherlands exceptionally agrees to waive its rights deriving from Article 342 TFEU, in conjunction with Article 3 of Regulation 1/1958,² and to have this Decision adopted and notified in English.

¹ Communication from the Commission - Temporary framework for State aid measures to support the economy in the current COVID-19 outbreak, 19 March 2020, OJ C 91I, 20.3.2020, p. 1-9, as amended by Communication from the Commission C(2020) 2215 final of 3 April 2020 on the Amendment of the Temporary Framework for State aid measures to support the economy in the current COVID-19 outbreak, OJ C 112I, 4.4.2020, p. 1-9.

² Regulation No 1 determining the languages to be used by the European Economic Community, OJ 17, 6.10.1958, p. 385.

His Excellency Mr. Stef Blok, Minister for Foreign Affairs
Rijnstraat 8
NL - 2515 XP The Hague
The Netherlands

2. DESCRIPTION OF THE MEASURE

- (4) The Netherlands considers that the COVID-19 outbreak is affecting the real economy. The measure forms part of an overall package of measures and aims to ensure that sufficient liquidity remains available in the market, to counter the liquidity shortage faced by undertakings because of the outbreak and to preserve the continuity of economic activity during and after the outbreak.
- (5) The measure is expressly based on Article 107(3)(b) of the Treaty on the Functioning of the European Union (“TFEU”), as interpreted by Sections 2 and 3.3 of the Temporary Framework.

2.1. The nature and form of aid

- (6) The measure provides aid in the form of subsidised interest rates for loans.

2.2. National legal basis

- (7) The legal basis for the measure is Articles 2 and 6 of the Framework Act for Subsidies for the Ministry of Economic Affairs and Climate Policy and the Ministry of Agriculture, Nature and Food Quality.

2.3. Administration of the measure

- (8) The Minister of Economic Affairs and Climate Policy is responsible for administering the measure. The Regional Development Agencies (*Regionale OntwikkelingsMaatschappij*) are in charge of the implementation of the measure.

2.4. Budget and duration of the measure

- (9) The estimated budget of the measure is EUR 100 million.
- (10) Aid may be granted under the measure as from its approval until no later than 31 December 2020.

2.5. Beneficiaries

- (11) The final beneficiaries of the measure are small and medium-sized enterprises (“SMEs”)³ active in the Netherlands, predominantly financed externally with equity, venture capital or microcredit. However, financial institutions are excluded as eligible final beneficiaries.

³ As defined in Annex I of the Commission Regulation (EU) No 651/2014 of 17 June 2014 declaring certain categories of aid compatible with the internal market in application of Articles 107 and 108 of the Treaty, OJ L 187 of 26.6.2014, p. 1.

- (12) Aid may not be granted under the measure to undertakings that were already in difficulty within the meaning of the General Block Exemption Regulation (“GBER”)⁴ on 31 December 2019.

2.6. Sectoral and regional scope of the measure

- (13) The measure is open to all sectors except the financial sector. It applies to the whole territory of the Netherlands.

2.7. Basic elements of the measure

2.7.1. Nature and maturity of eligible instruments

- (14) The measure provides for financing in the form of investment and working capital loans with a maximum maturity of five years. In principle, the maturity of the loans is three years and may be extended twice by one year. The possibility for extension is provided already in the initial loan agreement. The loans are meant to provide fresh emergency funding to SMEs to bridge the gap towards sustainable funding arrangements.

2.7.2. Maximum amount of eligible instruments

- (15) The overall amount of the loans per beneficiary does not exceed EUR 2 million and, in any event, does not exceed the liquidity needs from the moment of granting for the coming 18 months, based on self-certification by the beneficiary of its liquidity needs.
- (16) The Dutch authorities justified the determination of the maximum loan amount per beneficiary on the basis of a beneficiary’s self-certification of its liquidity needs (in accordance with point 27(d)(iii) of the Temporary Framework) by reference to the need to have a measure in place which can – from an administrative viewpoint – be implemented in an efficient manner. The Dutch authorities expect a large number of applications, which will have to be dealt with in a short period of time, also in view of the nature of the current crisis in which companies relatively urgently need liquidity to overcome short-term cash problems.

2.7.3. Period for signing loan contracts

- (17) The loan contracts are signed by 31 December 2020 at the latest.

⁴ As defined in Article 2(18) of the Commission Regulation (EU) No 651/2014 of 17 June 2014 declaring certain categories of aid compatible with the internal market in application of Articles 107 and 108 of the Treaty, OJ L 187 of 26.6.2014, p. 1, Article 2(14) of the Commission Regulation (EU) No 702/2014 of 25 June 2014 declaring certain categories of aid in the agricultural and forestry sectors and in rural areas compatible with the internal market in application of Articles 107 and 108 of the Treaty, OJ L 193 of 1.7.2014, p.1, and Article 3(5) of the Commission Regulation (EU) No 1388/2014 of 16 December 2014 declaring certain categories of aid to undertakings active in the production, processing and marketing of fishery and aquaculture products compatible with the internal market in application of Articles 107 and 108 of the Treaty, OJ L 369 of 24 December 2014, p. 37.

2.7.4. *Applicable interest rates*

- (18) The loans are granted at all-in flat interest rates between 200 and 500 basis points per year for the entire duration of the loan. The Dutch authorities confirmed that:
- (i) the credit risk margin will always be higher than 25 basis points per year; and
 - (ii) the minimum all in interest rate will always be at least 10 basis points per year.

2.7.5. *Additional provisions*

- (19) Eligible undertakings may submit applications for loans via a centralised online portal. The applications are transferred to the Regional Development Agencies, which decide on the issuance of the loans based on an assessment of the eligibility and the economic viability of the applicants.
- (20) For loans above EUR 250 000, the shareholders of the beneficiary should co-finance at least 25% of the loan amount.
- (21) The repayment of the loan may take place either at the end of each calendar quarter or at the end of the maturity of the loan.
- (22) The profit and losses of the measure are borne by the Dutch State with the Regional Development Agencies receiving an administrative fee which is deemed to be below the applicable market rates.

2.8. **Cumulation**

- (23) The Dutch authorities confirmed that aid under the notified measure may be cumulated with aid under *de minimis* Regulations⁵ or the General Block Exemption Regulation⁶ provided the provisions and cumulation rules of those Regulations are respected.
- (24) The Dutch authorities confirmed that aid under the notified measure may be cumulated with aid under measures approved by the Commission under other

⁵ Commission Regulation (EU) No 1407/2013 of 18 December 2013 on the application of Articles 107 and 108 of the Treaty on the Functioning of the European Union to *de minimis* aid (OJ L 352, 24.12.2013, p.1), Commission Regulation (EU) No 1408/2013 of 18 December 2013 on the application of Articles 107 and 108 of the Treaty on the Functioning of the European Union to *de minimis* aid in the agriculture sector (OJ L 352, 24.12.2013 p. 9), Commission Regulation (EU) No 717/2014 of 27 June 2014 on the application of Articles 107 and 108 of the Treaty on the Functioning of the European Union to *de minimis* aid in the fishery and aquaculture sector (OJ L 190, 28.6.2014, p. 45) and Commission Regulation (EU) No 360/2012 of 25 April 2012 on the application of Articles 107 and 108 of the Treaty on the Functioning of the European Union to *de minimis* aid granted to undertakings providing services of general economic interest (OJ L 114 of 26.4.2012, p. 8).

⁶ Commission Regulation (EU) No 651/2014 of 17 June 2014 declaring certain categories of aid compatible with the internal market in application of Articles 107 and 108 of the Treaty, OJ L 187 of 26.6.2014, p. 1, Commission Regulation (EU) No 702/2014 of 25 June 2014 declaring certain categories of aid in the agricultural and forestry sectors and in rural areas compatible with the internal market in application of Articles 107 and 108 of the Treaty, OJ L 193 of 1.7.2014, p.1, and Commission Regulation (EU) No 1388/2014 of 16 December 2014 declaring certain categories of aid to undertakings active in the production, processing and marketing of fishery and aquaculture products compatible with the internal market in application of Articles 107 and 108 of the Treaty, OJ L 369 of 24 December 2014, p. 37.

sections of the Temporary Framework provided the provisions in those specific sections are respected.

- (25) The Dutch authorities confirmed that aid granted under Section 3.2 of the Temporary Framework shall not be cumulated with aid granted for the same underlying loan principal under Section 3.3 and vice versa. Aid granted under Section 3.2 and Section 3.3 may be cumulated for different loans provided the overall amount of loans per beneficiary does not exceed the thresholds set out in point 25(d) or in point 27(d) of the Temporary Framework.
- (26) A beneficiary may benefit in parallel from multiple schemes under Section 3.3 provided the overall amount of loans per beneficiary does not exceed the thresholds set out in point 27(d) of the Temporary Framework.

2.9. Monitoring and reporting

- (27) The Dutch authorities confirmed that they will respect the monitoring and reporting obligations laid down in Section 4 of the Temporary Framework (including the obligation to publish relevant information on each individual aid granted under the measure on the comprehensive State aid website or Commission's IT tool within 12 months from the moment of granting⁷).

3. ASSESSMENT

3.1. Legality of the measure

- (28) By notifying the measure before putting it into effect, the Dutch authorities have respected their obligations under Article 108(3) TFEU.

3.2. Existence of State aid

- (29) For a measure to be categorised as aid within the meaning of Article 107(1) TFEU, all the conditions set out in that provision must be fulfilled. First, the measure must be imputable to the State and financed through State resources. Second, it must confer an advantage on its recipients. Third, that advantage must be selective in nature. Fourth, the measure must distort or threaten to distort competition and affect trade between Member States.
- (30) The measure is imputable to the State, since it is administered by the Minister of Economic Affairs and Climate Policy and it is based on Articles 2 and 6 of the Framework Act for Subsidies for the Ministry of Economic Affairs and Climate Policy and the Ministry of Agriculture, Nature and Food Quality. It is financed through State resources, since it is financed by public funds.
- (31) The measure confers an advantage on its beneficiaries in the form of subsidised interest rates on loans. The measure thus relieves those beneficiaries of costs which they would have had to bear under normal market conditions.

⁷ Referring to information required in Annex III of the Commission Regulation (EU) No. 651/2014 of 17 June 2014 and of Annex III of the Commission Regulation (EU) No 702/2014 and Annex III of the Commission Regulation (EU) No 1388/2014 of 16 December 2014. The nominal value of the underlying instrument may be inserted per beneficiary.

- (32) The advantage granted by the measure is selective, since it is awarded only to certain undertakings that meet the conditions in recital (12), while financial institutions are excluded as eligible final beneficiaries.
- (33) The measure is liable to distort competition, since it strengthens the competitive position of its beneficiaries. It also affects trade between Member States, since those beneficiaries are active in sectors in which intra-Union trade exists.
- (34) In view of the above, the Commission concludes that the measure constitutes aid within the meaning of Article 107(1) TFEU. The Dutch authorities do not contest that conclusion.

3.3. Compatibility

- (35) Since the measure involves aid within the meaning of Article 107(1) TFEU, it is necessary to consider whether that measure is compatible with the internal market.
- (36) Pursuant to Article 107(3)(b) TFEU the Commission may declare compatible with the internal market aid “*to remedy a serious disturbance in the economy of a Member State*”.
- (37) By adopting the Temporary Framework on 19 March 2020, the Commission acknowledged (Section 2) that “*the COVID-19 outbreak affects all Member States and that the containment measures taken by Member States impact undertakings*”. The Commission concluded that “*State aid is justified and can be declared compatible with the internal market on the basis of Article 107(3)(b) TFEU, for a limited period, to remedy the liquidity shortage faced by undertakings and ensure that the disruptions caused by the COVID-19 outbreak do not undermine their viability, especially of SMEs*”.
- (38) The measure aims at facilitating the access of firms to external finance at a time when the normal functioning of credit markets is severely disturbed by the COVID-19 outbreak and that outbreak is affecting the wider economy and leading to severe disturbances of the real economy of Member States.
- (39) The measure is one of a series of measures conceived at national level by the Dutch authorities to remedy a serious disturbance in their economy. The importance of the measure to stimulate lending to enterprises during the COVID-19 outbreak is widely accepted and the measure is of a scale which can be reasonably anticipated to produce effects across the entire economy of the Netherlands. Furthermore, the measure has been designed to meet the requirements of a specific category of aid (“Aid in the form of subsidised interest rates for loans”) described in Section 3.3 of the Temporary Framework.
- (40) The Commission accordingly considers that the measure is necessary, appropriate and proportionate to remedy a serious disturbance in the economy of a Member State and meets all the conditions of the Temporary Framework. In particular:
- The loans are granted at all in flat interest rates between 200 and 500 basis points per year for the entire duration of the loan, while the Dutch authorities confirmed that: (i) the credit risk margin will always be higher than 25 basis points per year; and (ii) the minimum all in interest rate will

always be at least 10 basis points per year (recital (18)). The measure therefore complies with point 27(b) of the Temporary Framework.

- The loan contracts are signed by 31 December 2020 at the latest and are limited to maximum five years (recitals (14) and (17)). The measure therefore complies with point 27(c) of the Temporary Framework.
- The maximum loan amount per beneficiary is limited in line with point 27(d)(iii) of the Temporary Framework (recital (15)). As explained in recital (16), the Commission considers that the Dutch have properly justified the application of point 27(d)(iii) of the Temporary Framework. Notably the loan amount may not exceed the company's actual liquidity needs. This is done to ensure the proportionality of the aid granted under the measure and is justified for reasons of administrative simplicity given the need to deal swiftly with a large number of loan applications.
- The loans relate to investment and working capital needs (recital (14)). The measure therefore complies with point 27(f) of the Temporary Framework.
- Undertakings already in difficulty on 31 December 2019 are excluded from benefitting from the measure (recital (12)). The measure therefore complies with point 27(g) of the Temporary Framework.

- (41) Section 3.4 of the Temporary Framework does not apply directly, since the aid under the measure is not provided through credit institutions and other financial institutions as financial intermediaries. In particular, the Regional Development Agencies, which are in charge of the implementation of the measure, act on behalf of the Dutch State. In any event, as explained in recital (22), the profit and losses of the measure will be borne by the Dutch State with the Regional Development Agencies receiving an administrative fee which is deemed to be below the applicable market rates.
- (42) The Commission is satisfied that the monitoring and reporting rules laid down in Section 4 of the Temporary Framework will be respected (recital (27)). Furthermore, the Commission notes that the aid under the notified measure may be cumulated with other aid provided the specific provisions in the sections of the Temporary Framework are respected and the cumulation rules of the relevant Regulations are respected (recitals (23) to (26)).
- (43) The Commission therefore considers that the measure is necessary, appropriate and proportionate to remedy a serious disturbance in the economy of a Member State pursuant to Article 107(3)(b) TFEU and meets all the relevant conditions of the Temporary Framework.

4. CONCLUSION

The Commission has accordingly decided not to raise objections to the aid on the grounds that it is compatible with the internal market pursuant to Article 107(3)(b) of the Treaty on the Functioning of the European Union.

Yours faithfully,

For the Commission

Margrethe VESTAGER
Executive Vice-President

CERTIFIED COPY
For the Secretary-General,

Jordi AYET PUIGARNAU
Director of the Registry
EUROPEAN COMMISSION