EUROPEAN COMMISSION

Brussels, 28.7.2020
C(2020) 5313 final

In the published version of this decision, some information has been omitted, pursuant to articles 30 and 31 of Council Regulation (EU) 2015/1589 of 13 July 2015 laying down detailed rules for the application of Article 108 of the Treaty on the Functioning of the European Union, concerning non-disclosure of information covered by professional secrecy. The omissions are shown thus […]. Where possible the information omitted has been replaced by ranges of figures or a general description.

PUBLIC VERSION

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Subject: State Aid SA.57985 (2020/N) – The Netherlands COVID-19: State loans for Travel Guarantee Funds

Excellency,

1. PROCEDURE

(1) By electronic notification of 16 July 2020, the Netherlands notified aid in the form of subsidised interest rates for loans to funds operating package travel guarantee schemes (“the measure”) under the Temporary Framework for State aid measures to support the economy in the current COVID-19 outbreak, as amended (“the Temporary Framework”).


H.E. Mr. Stef BLOK
Minister of foreign affairs
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(2) The Netherlands exceptionally agrees 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\(^2\) and to have this Decision adopted and notified in English.

2. DESCRIPTION OF THE MEASURE

(3) The Netherlands considers that the COVID-19 outbreak has started to affect 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, to ensure that the disruptions caused by the outbreak do not undermine the viability of the undertakings and thereby to preserve the continuity of economic activity during and after the outbreak.

(4) Since 9 March 2020, following the outbreak of COVID-19 in the Netherlands, the Dutch authorities have adopted several measures to prevent the spread of the virus. These include travel and circulation restrictions, cancellations of mass events, closure of businesses such as sports clubs, coffee shops, restaurants, bars, etc.

(5) According to the Dutch authorities, the most recent macro-economic developments show that the Dutch economy contracted by 1.7% in the first quarter of 2020. Household consumption was down 2.7%, the largest quarterly decrease on record. The Purchasing Managers’ Index (PMI) for the Dutch industry recorded the largest decrease ever from March to April 2020, from 50.5 (anything above 50 signifies expansion) to 41.3, the lowest level since May 2009. The IMF forecast in April that the Dutch economy would contract by 7.5% in 2020.

(6) The Dutch authorities have explained that the COVID-19 outbreak affects all economic sectors. Analyses carried out by banks and different ministries show that, at present, hospitality, culture, recreation, tourism, retail, culture and transport are the most affected.

(7) As a result of the COVID-19 outbreak and travel restrictions implemented on a worldwide scale starting in March 2020, travel operators have been forced to cancel travel packages on an unprecedented scale. Travel operators are obliged to provide travellers with a full refund in such cases. Refunding all cancelled packages would cause massive strain on the liquidity position of these travel operators to an extent where many would face insolvency.

(8) In the Netherlands, travel operators offering package travel and linked travel arrangements secure all payments made by or on behalf of travellers, in case relevant services are not performed as a consequence of travel operators’ insolvency, by paying a fee linked to their revenues into a fund. There are five such funds in the Netherlands.

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\(^2\) Regulation No 1 determining the languages to be used by the European Economic Community, OJ 17, 6.10.1958, p. 385.
To ward off the possibility of market collapse of the travel operating industry, these funds have decided to support travel operators issuing so-called ‘Corona vouchers’ to cover all payments made by or on behalf of travellers, by including these vouchers in their respective guarantee schemes. In this way, travel operators can offer travellers vouchers that are a credible alternative to direct repayment, encouraging their use by travellers. The ‘Corona vouchers’ cover no more than 100% of the amount of the payment made by the traveller.

Despite these ‘Corona vouchers’, which aim to protect the liquidity position of the travel operators (and, therefore, that of the funds), the Dutch authorities expect that the liquidity position of the funds will be severely negatively affected in the short term because of bankruptcies of travel operators. If the funds could no longer cover payments made by or on behalf of travellers, this could set off a vicious circle whereby ‘Corona vouchers’ lose their credibility, travellers demand direct refunds, and travel operators face insolvency.

The purpose of the scheme is to lend liquidity to the funds to ensure their ability to cover all payments due to issuing travel operators’ insolvency (whether direct payments or ‘Corona vouchers’).

The Netherlands confirmed that the aid under the measure is not conditioned on the relocation of a production activity or of another activity of the beneficiary from another country within the EEA to the territory of the Member State granting the aid. This is irrespective of the number of job losses actually occurred in the initial establishment of the beneficiary in the EEA.

The compatibility assessment of the measure is based on Article 107(3)(b) TFEU, in light of sections 2 and 3.3 of the Temporary Framework.

**2.1. The nature and form of aid**

The measure provides aid in the form of subsidised interest rates on loans. This is further explained in Section 2.7.

**2.2. Legal basis**

The legal bases for the measure are grant agreements (hereafter also referred to as loan agreements) between the Ministry of Economic Affairs and Climate Policy and each individual Fund that operates package travel guarantee schemes. The grant agreements are signed in accordance with 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**

The State Secretary of Economic Affairs and Climate Policy is responsible for administering the measure. The loans are granted directly by the State.

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3 “Overeenkomst tot het verstrekken van een geldlening door de Staat der Nederlanden”.

2.4. Budget and duration of the measure

(17) The total maximum nominal amount of the loans under the measure for all funds combined is EUR 165 million. Aid may be granted under the measure as from its approval until no later than 31 December 2020, i.e. the date by when the loan agreements need to be signed. Loans need to be requested no later than 1 December 2020. The funds can draw upon the loans until 31 July 2021 at the latest.

2.5. Beneficiaries

(18) The direct beneficiaries are the five funds in the Netherlands that operate package travel guarantee schemes: Stichting Garantiefonds Reisgelden (SGR), Stichting Garantiefonds Reisgelden Zakelijk (SGR Z), Garantiefonds voor Gespecialiseerde Touroperators (GGTO), STO Garant, and VZR Garant.

(19) The five funds that benefit from the measure include both SMEs and large enterprises. Financial institutions are excluded as eligible final beneficiaries.

(20) 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”)5 on 31 December 2019.

2.6. Sectoral and regional scope of the measure

(21) The measure is open to all funds that operate package travel guarantee schemes in the Netherlands.

2.7. Basic elements of the measure

(22) Loans granted under the measure have a fixed annual interest rate of 2% and a maturity of 6 years, to be counted from the date the loan agreement between the Ministry of Economic Affairs and Climate Policy and the fund concerned is signed. The loan agreements stipulate that funds can draw upon the loan only to the extent that all bank guarantees covering the same liabilities are exhausted and only once the fund’s own equity drops below a certain floor. SGR, for example, can only draw upon the loan once its equity has decreased by [45-75]% from its current level. A decrease in equity of [45-75]% will be required for the other funds as well, however this rate will be modified in accordance with the financial position of the fund concerned. Before being able to take up any tranches of the loan, the funds have to draw down on their reserve capital up to the minimum threshold a fund should have before it becomes insolvent under national law.

(23) The loan agreements have to be signed by 31 December 2020 at the latest, and funds can draw upon the loan under the loan agreement until 31 July 2021 at the latest. The annual interest rate of 2% is owed on the amount of the tranches borrowed, and the funds are required to start paying off the loan, quarterly and linearly, as of 1 April 2022. To be able to pay off the principal of the loan, travel operators will start to pay higher fees, each of them to the respective fund to

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which they are affiliated. The fees are linked to the specific travel packages that were booked and cancelled with the travel operator concerned. Higher fees are due as soon as the funds concerned start paying off loans taken up under the measure. The Dutch authorities have confirmed that these conditions will be mirrored in the support which will be provided upon request to the other funds.

(24) SGR covers 90% of the package travel market in the Netherlands and has estimated that travel operators that participate in its fund will have been forced to cancel paid package tours for a total amount of EUR 900 million by the end of 2020. According to SGR, this exposure concerns almost entirely cancellations covered by ‘Corona vouchers’ (which cover at most 100% of the payment made), as the past and current experience has shown that practically all customers accept ‘Corona vouchers’ instead of immediate cash refunds. By reference to its equity of EUR 80 million, bank guarantees of EUR 210 million covering travellers’ payments, and its estimation that around 15% of travel operators participating in its fund will face insolvency proceedings, SGR has estimated its liquidity needs at EUR 150 million over the next 12 months. By analogy with and in proportion to SGR, the Dutch authorities have estimated the total liquidity needs of all five funds at EUR 165 million. The loans will therefore cover the funds’ working capital needs. By comparison, according to the Dutch authorities the total annual turnover of travel operators in the Netherlands, based on the year 2019, is between EUR 5.8 and 6.1 billion.

(25) The Dutch authorities consider that the maximum loan amounts provided for in points 27(d)(i) and 27(d)(ii) of the Temporary Framework would be highly insufficient to cover the funds’ liquidity needs, since there is only a marginal link between the wage bills or turnover of the funds and the payments the funds may have to cover as a result of travel operators’ insolvencies. SGR, for example, would be entitled to a loan amounting to only EUR 1.1 million based on point 27(d)(i) of the Temporary Framework (twice its annual wage bill), and to EUR 250 000 based on point 27(d)(ii) of the Temporary Framework (25% of the beneficiary’s total turnover in 2019), both less than 0.1% of the turnover of the travel operator sector (see previous recital). Each fund will therefore have to certify its liquidity needs from the moment of the granting for the coming 12 (in the case of SGR) or 18 (in the case of the other funds) months in line with point 27(d)(iii) of the Temporary Framework. SGR has certified its liquidity needs to be EUR 150 million, as explained in the previous recital.

2.8. Cumulation

(26) The Dutch authorities confirm that the funds may not cumulate the loans with either aid under the de minimis Regulations and/or with aid under the General Block Exemption Regulation. 

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The Dutch authorities confirm that aid granted under the measure to the funds may not be cumulated with aid provided under the different sections of the Temporary Framework.

2.9. Monitoring and reporting

The Dutch authorities confirm 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 above EUR 100 000 granted under the measure on the comprehensive national State aid website or Commission’s IT tool within 12 months from the moment of granting).

3. Assessment

3.1. Lawfulness of the measure

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

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.

The measure is imputable to the State, since it is administered by State Secretary of Economic Affairs and Climate Policy (recital (16)) and it is based on the Framework Act for subsidies for the ministry of Economic Affairs and Climate Policy and the ministry of Agriculture, Nature and Food Quality, adopted by the Dutch State (recital (15)). It is financed through State resources, since it is financed by public funds.

The measure confers an advantage on the five travel guarantee funds in the form of subsidised interest rates on loans (recital (14)). The measure thus relieves those beneficiaries of costs which they would have had to bear under normal market conditions.

The advantage granted by the measure is selective, since it is awarded only to the five funds in the Netherlands that operate package travel guarantee schemes (see recital (18) above), excluding the financial sector (recital (19)).

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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.

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

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.

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”.

By adopting the Temporary Framework on 19 March 2020, the Commission acknowledged (in 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”.

The measure aims at facilitating the access of the funds to external finance at lower rates 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.

The importance of the measure to ensure liquidity for the funds during the COVID-19 outbreak is of a scale which can be reasonably anticipated to produce effects across the entire Dutch travel industry. 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.

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 applicable interest rates for loans granted under the measure are higher than the base rate of -0.15% available at the moment of notification (1 year IBOR or equivalent for the Netherlands in July 2020 as published by the Commission) plus the highest credit margin of 2% for large enterprises for the 4th-6th years. This rate amounts to -0.15% + 2% = 1.85%, whereas the base rates calculated in accordance with Communication from the Commission on the revision of the method for setting the reference and discount rates (OJ C 14, 19.1.2008, p. 6).
scheme provides for annual flat rate interest rates of 2% (recital (22)). The level of credit risk margins is modulated through a flat credit risk margin for the entire duration of the loan which is higher than the minimum credit risk margin for each year for each type of beneficiary. The measure therefore complies with Point 27(a) of the Temporary Framework;

- The loan contracts are signed by 31 December 2020 at the latest and are limited to a maximum of 6 years from the granting of those contracts. The funds cannot draw upon the loans as of the signature of the loan agreements, but only unless and until all bank guarantees covering the liabilities are exhausted and once the fund’s own equity drops below a certain floor (recital (22)). It is only at this stage that the liquidity needs actually come due. These triggering circumstances are dependent on the exercise of bank guarantees and possible travel operators’ insolvencies, which could result in delays in the short-term needs for liquidity to be apparent to the funds. Accordingly, under these exceptional circumstances, the Commission considers that the possibility given to the beneficiaries to draw upon the loan (signed by 31 December 2020) until 31 July 2021 corresponds to short-term needs of liquidity and it is thus justified. The measure therefore complies with point 27(c) of the Temporary Framework.

- For loans with a maturity beyond 31 December 2020, the maximum loan amount per beneficiary is limited in line with point 27(d)(iii) of the Temporary Framework (recital (25)). The Commission considers it justified to increase the amount of the loans by reference to point 27(d)(iii) of the Temporary Framework since, in the case of funds which operate package travel guarantee schemes, the wage costs and turnover of the beneficiaries are not directly linked to their liquidity needs, meaning that the maximum loan amounts laid down in points 27(d)(i)&(ii) are not appropriate proxies of the maximum liquidity needs. The amount of the loan to the funds (EUR 165 million) corresponds to approximately 2.8% of the total turnover of the travel industry in the Netherlands in 2019 (recital (24)). The Commission considers the total turnover of the travel industry in the Netherlands might be taken into account to determine the proportionality of the measure, since the reimbursement capacity of the funds is determined by sales of travel packages and linked travel arrangements by the travel industry. More importantly, the loans can only be used when and if the reimbursement capacity of the funds is seriously jeopardised. As underlined in recital (22), the loan agreements stipulate that funds can draw upon the loan only to the extent that all bank guarantees covering the same liabilities are exhausted and only once the fund’s own equity drops below a certain floor. SGR, for example, can only draw upon the loan once its equity has decreased by [45-75]% from its current level. The measure therefore complies with point 27(d)(iii) of the Temporary Framework.

- Loans granted under the measure relate to working capital needs (recital (24)). The measure therefore complies with point 27(f) of the Temporary Framework.
• The funds receiving the loans do not qualify as a firm in difficulties (situation as of 31 December 2019) within the meaning of the GBER. The measure therefore complies with point 27(g) of the Temporary Framework.

(42) The Dutch authorities confirm that the monitoring and reporting rules laid down in section 4 of the Temporary Framework will be respected (recital (28)). The Dutch authorities further confirm that the aid under the measure cannot be cumulated with aid under de minimis Regulations, aid under the General Block Exemption Regulation or aid provided under the different sections of the Temporary Framework (recitals (26) and (27)).

(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 since it meets all the relevant conditions of the Temporary Framework.

(44) The measure is also in line with the objective pursued by Commission Recommendation (EU) 2020/648\(^\text{10}\) to make vouchers an attractive and reliable alternative to reimbursement in money.

\(^{10}\) Commission Recommendation (EU) 2020/648 of 13 May 2020 on vouchers offered to passengers and travellers as an alternative to reimbursement for cancelled package travel and transport services in the context of the COVID-19 pandemic, OJ L 151, 14.5.2020, p. 10–16.
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.

If this letter contains confidential information, which should not be disclosed to third parties, please inform the Commission within fifteen working days of the date of receipt. If the Commission does not receive a reasoned request by that deadline, you will be deemed to agree to the disclosure to third parties and to the publication of the full text of the letter in the authentic language on the Internet site: http://ec.europa.eu/competition/elojade/isef/index.cfm.

Your request should be sent electronically to the following address:

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

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