



EUROPEAN COMMISSION

Brussels, 13.7.2020  
C(2020) 4871 final

<p>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 [...]</p>		<p style="text-align: center;">PUBLIC VERSION</p> <p>This document is made available for information purposes only.</p>
---	--	---

**Subject: State Aid SA.57116 (2020/N) – *The Netherlands*  
COVID-19: State loan guarantee and State loan for KLM**

Excellency,

**1. PROCEDURE**

- (1) By e-mail of 12 May 2020, registered by the European Commission on 12 May 2020 with reference number SA.57116, the Netherlands pre-notified the above mentioned measure. By e-mails of 19, 26 and 29 May and 4, 8 and 15 June 2020, the Netherlands submitted additional information. By e-mail of 26 June 2020, the Netherlands notified the measure in accordance with Article 108(3) of the Treaty on the Functioning of the European Union (“TFEU”). By e-mails of 29 June and 8 July 2020, the Netherlands submitted additional information.
- (2) The aid measure will take the form of: (i) a State loan guarantee and (ii) a subordinated loan granted by the State. The Netherlands notified the aid measure under the Temporary Framework for State aid measures to support the economy in the current COVID-19 outbreak, as amended (“the Temporary Framework”).<sup>1</sup>

---

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

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

- (3) The Netherlands exceptionally agrees to waive its rights deriving from Article 342 of the TFEU, in conjunction with Article 3 of Regulation 1/1958,<sup>2</sup> and to have this Decision adopted and notified in English.

## **2. DESCRIPTION OF THE MEASURE**

### **2.1. Objective of the measure**

- (4) The Netherlands considers that the COVID-19 outbreak has strongly affected its economy. From 9 March 2020, the Dutch government has taken exceptional national health measures in order to stop the further breakout of the COVID-19 virus. The Dutch authorities have also taken several restrictive measures in relation to the aviation sector. In particular, the Netherlands decided to follow the Commission's recommendation for a temporary restriction of non-essential travel from 19 March to 15 May 2020, in addition to which its authorities prohibited civil passenger air traffic from several countries, including China, South Korea, Iran, Italy, Spain and Austria.
- (5) Consequently, the aviation sector has suffered a serious loss of income. In that context, the Dutch authorities notified an individual aid measure to the airline Koninklijke Luchtvaart Maatschappij N.V. ("KLM").
- (6) KLM is a major network airline operating in the Netherlands. Due to the COVID-19 crisis the vast majority of KLM's aircrafts have been grounded for around 3 months and the sale of tickets has dropped drastically. Consequently, KLM is facing an acute shortage of liquidity.
- (7) The objective of the notified aid is a temporary liquidity support to KLM to address its liquidity shortage. The Dutch authorities provide that aid because the bankruptcy of KLM would further worsen the serious disturbance in the economy of the Netherlands.
- (8) The Dutch authorities claim that a well-functioning air transport network is instrumental for the economy of the country as a whole, which is export-oriented. In particular, the Dutch authorities consider that KLM is of key importance for the Dutch economy as KLM ensures the connectivity of the Netherlands with the Dutch regions overseas, with many destinations in Europe and the rest of the world. Furthermore, since the start of the COVID-19 outbreak, KLM has played an essential role in the repatriation of Union citizens and for the transport of medical equipment.
- (9) The measure is based on Article 107(3)(b) TFEU, in light of sections 3.2 and 3.3 of the Temporary Framework.

---

Framework for State aid measures to support the economy in the current COVID-19 outbreak, OJ C 112I , 4.4.2020, p. 1, by Communication from the Commission C(2020) 3156 final of 8 May 2020 on the Amendment of the Temporary Framework for State aid measures to support the economy in the current COVID-19 outbreak, OJ C 164, 13.5.2020, p. 3, and by Communication from the Commission C(2020) 4509 final of 29 June 2020 on the Amendment of the Temporary Framework for State aid measures to support the economy in the current COVID-19 outbreak, OJ C 218, 2.7.2020, p. 3.

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

## **2.2. The nature and form of aid**

- (10) The measure provides aid in the form of: (i) a State guarantee for loans provided by a bank consortium (the “State guarantee”) and (ii) a subordinated loan granted by the State (the “State loan”).

## **2.3. Legal basis and administration of the measure**

- (11) The national legal basis for the measure is Article 4.6 of the Dutch Government Accounts Act 2016<sup>3</sup>.
- (12) In addition, several agreements will be concluded between the Dutch State and the different parties involved:
- a Framework agreement between the Dutch State, KLM and the holding company Air France-KLM, setting out the general terms under which the Dutch State will provide support to KLM;
  - a State guarantee agreement between the Dutch State, KLM and the consortium of banks, setting out the conditions of the State guarantee;
  - a State loan agreement between the Dutch State and KLM, setting out the conditions of the State loan;
  - a Subordination agreement between the Dutch State, KLM and the consortium of banks, setting out the conditions under which the State loan will be subordinated to the loans granted by the bank consortium;
  - a State aid compliance agreement between the Dutch State, KLM and the consortium of banks, setting out certain obligations on KLM and the consortium of banks to ensure compliance of the aid measures with State aid rules.
- (13) The Dutch Ministry of Finance is responsible for granting and administering the measure.

## **2.4. Budget and duration of the measure**

- (14) The total budget of the measure will be a maximum of EUR 3.4 billion.
- (15) The State guarantee will cover 90 % of a loan provided by a bank consortium, which will amount to a maximum of EUR 2.4 billion. The maximum term of the guarantee is 6 years. The guarantee will cover the full term of the loan.
- (16) The State loan will amount to a maximum of EUR 1 billion with a maturity of 5.5 years. The interest rates for the State loan will be a coupon payable annually at a rate equal to EURIBOR 12 months plus a margin of 6.25 % the first year, 6.75 % for the second and third year, and 7.75 % for the fourth, fifth and sixth year.
- (17) The aid will be granted no later than 31 December 2020.

---

<sup>3</sup> Comptabiliteitswet 2016, <https://wetten.overheid.nl/BWBR0039429/2020-01-01>

## 2.5. Beneficiaries

- (18) The beneficiary of the measure is KLM, the largest Dutch airline with a hub at Schiphol airport. KLM is part of the Air France-KLM group, which is currently owned by the French State (14.3 %), the Dutch State (14.0 %), Delta Air Lines, Inc. (8.8 %), China Eastern Airlines (8.8 %), Causeway Capital Management LLC (6.9 %), Donald Smith & Co. Inc. (5.4 %), employees (3.7 %) and others (38 %).
- (19) The Dutch authorities confirmed that the Air France subsidiary of the Air France-KLM group is not the beneficiary of the aid measure.
- (20) The beneficiary of the measure was not already in difficulty within the meaning of the General Block Exemption Regulation (“GBER”)<sup>4</sup> on 31 December 2019. The measure is granted directly by the State to the beneficiary.

## 2.6. Main elements of the measure

### 2.6.1. *The State guarantee on a loan provided by a bank consortium*

#### 2.6.1.1. The loan provided by a bank consortium

- (21) According to the Dutch authorities, the State guarantee is the only option currently available for KLM to obtain a loan from a consortium of private banks.
- (22) The Dutch authorities consider that the guarantee provided by the State on such a loan is covered by the Temporary Framework. The aid in the form of a State guarantee will be channelled by the bank consortium to the final beneficiary, namely KLM.
- (23) The consortium of banks granting the guaranteed loan will be represented by a member of the consortium (the “Facility Agent”). Its role is of an administrative nature: it serves as the central point of communication between the lenders (i.e. the members of the bank consortium) and the borrower (i.e. KLM).
- (24) The maximum amount of the loan principal will be EUR 2.4 billion. For the year 2019, KLM’s annual wage bill (including social security premiums) was EUR 2.7 billion. The Dutch authorities confirm that the maximum loan principal is less than twice that wage bill (approximately EUR 5.4 billion).
- (25) The interest rate for the guaranteed loan will equal to EURIBOR 1 or 3 months (depending on the duration of the term chosen by KLM for the individual advances to be drawn by KLM) plus a margin of [...] %.<sup>5</sup>
- (26) The Dutch authorities confirm that the different parameters in the guarantee agreement and the guaranteed loan ensure that the advantage is passed on to the largest extent possible to KLM, as follows: (i) the interest rates offered under the guaranteed loan are considered to appropriately reflect the credit support given by

---

<sup>4</sup> As defined in Article 2(18) of 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 , 26.6.2014, p. 1.

<sup>5</sup> [...]

the Netherlands, (ii) the Facility Agent will, upon request from the Dutch authorities, request a member of the bank consortium to demonstrate to the Dutch authorities that it operates a mechanism that ensures that the advantages of the State guarantee are passed on to the largest extent possible to KLM, (iii) once KLM regains access to cheaper unguaranteed funding, KLM will be able to refinance the guaranteed loan without penalty on any interest payment date.

- (27) The guaranteed loan will be granted before 31 December 2020. The maximum term of the guaranteed loan is 5 years.
- (28) The proceeds of the guaranteed loan will be used for general corporate purposes, including refinancing of an existing credit facility agreement entered into before 19 March 2020. The Dutch authorities confirmed that the guaranteed loan will be used to finance KLM's investment needs and working capital needs.

#### 2.6.1.2. The State guarantee

- (29) The Dutch authorities consider that the Netherlands will grant the guarantee in accordance with all the conditions laid down in section 3.2 of the Temporary Framework.
- (30) The Dutch State will issue a guarantee to cover 90 % of the outstanding loan amount. The guarantee covers 90 % of the principal amount unpaid under the guaranteed loan. The guaranteed amount will decrease proportionately to continuously match the outstanding loan during its amortization over time. Losses will be incurred *pari passu*, proportionally (90/10) and under the same conditions by the State and the bank consortium.
- (31) [...]<sup>6 7 8</sup>
- (32) The State Aid Compliance Agreement prohibits the lenders from making any amendments, modifications or waivers that would adversely affect the State guarantee's compliance with the Temporary Framework.
- (33) The guarantee premium is set for a maximum period of 6 years as follows:
- 0.5 % of the total amount of the total loan amount (EUR 2.4 billion) for the first year;
  - 1 % of the total amount of the total loan amount for the second and third years;
  - 2 % of the total amount of the total loan amount for the fourth, fifth and sixth years.
- (34) The level of the State guarantee premium is set at the level of the minimum required by the Temporary Framework, so that KLM retains incentives to return to pure market financing once the current market situation stabilizes.

---

<sup>6</sup> [...]

<sup>7</sup> [...]

<sup>8</sup> [...]

- (35) The guarantee will be subject of an agreement between the parties, namely the Dutch State, KLM and the bank consortium, identifying the specific conditions for the mobilisation of the guarantee.
- (36) The Dutch government confirms that the guarantee on the loan of the bank consortium will cover the full maturity of the loan.
- (37) The guarantee can be granted by 31 December 2020 at the latest.
- (38) The amount of payments made by the Dutch State under the State guarantee will be added to the State loan.

#### 2.6.2. *The State loan*

- (39) The maximum amount of the State loan will be EUR 1 billion. The Dutch authorities confirm that this amount does not exceed two-thirds of the annual wage bill of KLM for the year 2019 (approximately EUR 1.8 billion).
- (40) The interest rates for the State loan will be a coupon payable annually at a rate equal to EURIBOR 12 months plus a margin of (i) 6.25 % for the first year, (ii) 6.75 % for the second and third years, and (iii) 7.75 % for the fourth, fifth and sixth years.
- (41) The State loan is subordinated to all unsecured and non-subordinated debt or bank loans. The State loan agreement contains the following subordination clause<sup>9</sup>:

[...]

- (42) The subordination agreement between the Dutch State, KLM and the bank consortium provides a number of assurances in favour of the bank consortium to protect the subordination of the State loan. In particular, the subordination agreement provides tools to the bank consortium to enforce that subordination in insolvency proceedings. For instance, a provision of the subordination agreement requires the State to actively inform the insolvency official<sup>10</sup> of the existence of the subordination and to turn over any amounts that should still be received by the bank consortium.
- (43) The proceeds of the State loan will be used for working capital cash flows, as the State loan can be used for general corporate purposes, including refinancing of an existing credit facility agreement entered into before 19 March 2020. The Dutch authorities confirmed that the State loan will be used to finance KLM's investment needs and working capital needs.
- (44) The State loan will have a duration of 5.5 years and it will be signed by 31 December 2020 at the latest.

---

<sup>9</sup> Clause 17.6 of the State loan agreement.

<sup>10</sup> An insolvency official is a person appointed to administer the reorganisation or liquidation of the company in case of insolvency.

### 2.6.3. *Additional conditions*

(45) The Dutch authorities will impose certain conditions in relation to the measure. Those conditions include conditions in the field of profit allocation, working conditions and sustainability.

(i) Sustainability and liveability

(46) The Dutch authorities will impose the following conditions in the field of sustainability and liveability:

- KLM commits itself to the objectives of the Dutch Draft Agreement on Sustainable Aviation dated 21 February 2019, including the objectives to reduce the carbon footprint in 2030 so that it does not exceed the 2005 level.
- KLM commits to the reduction of the CO2 emission per passenger kilometre by 50 % in 2030 compared to 2005.
- KLM will participate in the first Dutch sustainable aviation fuel factory. KLM commits itself to use a minimum of 14 % of sustainable aviation fuel in 2030.
- KLM commits itself to (i) the implementation of the plan to reduce hindrance, (ii) the action plan on ultra-fine particles, (iii) the action program on nitrogen and (iv) the implementation of agenda Air Rail.
- KLM will cooperate with the substantial reduction of the total number of flights at Schiphol airport to a maximum of 25,000.

(ii) Profit allocation

(47) The Dutch authorities will impose the following conditions in the field of profit allocation:

- No dividend will be distributed by KLM to its shareholders during the term of the financial support package. [...]
- [...]

(iii) Employment conditions of the management board and top management

(48) The Dutch authorities will impose conditions in the field of employment conditions of the management board and top management. In particular, for as long as the financial support package has not been repaid and terminated, the employment conditions of the management board and top management will be reduced by at least 20 % compared to the remuneration which they received in the financial year 2019. In particular, there will be no variable income during that period.

(iv) Improved performance and competitiveness

(49) The Dutch authorities will impose conditions in the field of performance and competitiveness, including:

- The profit-sharing scheme of the KLM employees will be suspended for as long as the support of the Dutch State has not been repaid and terminated.
- The employees of KLM will need to contribute to the recovery and efficiency improvement of KLM, notably by way of arrangements regarding employment terms.
- By 1 October 2020, a restructuring plan for KLM will be drawn up for the period until 2025. The objective of that plan will be a significant improvement of the profit margin of the company.
- The Dutch State will appoint a State agent at KLM, who will be responsible for monitoring KLM's compliance with the different commitments.

## **2.7. Cumulation**

- (50) The Dutch authorities confirm that aid granted under the measure may be cumulated with aid under de minimis Regulations<sup>11</sup> and/or Block Exemption Regulations<sup>12</sup>.
- (51) The Dutch authorities confirm that aid granted under the measure may be cumulated with aid granted under other measures approved by the Commission under other sections of the Temporary Framework provided the provisions in those specific sections are respected.
- (52) The Dutch authorities confirm that aid granted under section 3.2 of the Temporary Framework will not be cumulated with aid granted for the same underlying loan principal under its section 3.3 and vice versa.

## **2.8. Monitoring and reporting**

- (53) 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 granted under the measure on the comprehensive State aid website or Commission's IT tool within 12 months from the moment of granting<sup>13</sup>).
- (54) All the information regarding the granting of aid must be maintained for 10 years upon granting of the aid.

---

<sup>11</sup> 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) 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, 26.4.2012, p. 8).

<sup>12</sup> Commission Regulation (EU) No 651/2014.

<sup>13</sup> Referring to information required in Annex III to Commission Regulation (EU) No. 651/2014 and Annex III to Commission Regulation (EU) No 702/2014 and Annex III of the Commission Regulation (EU) No 1388/2014.



### **3. ASSESSMENT**

#### **3.1. Lawfulness of the measure**

- (55) 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**

- (56) 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.
- (57) The measure is imputable to the State, since it is granted and administered by the Dutch Ministry of Finance and it is based on Article 4.6 of the Dutch Comptabiliteitswet. It is financed through State resources, since it is financed by the budget of the State.
- (58) The measure confers an advantage on the beneficiary. First, without the State guarantee, KLM would not be able to obtain the envisaged loan under the same conditions. The State guarantee on loans thus confers an advantage on KLM by relieving it of costs that it would have had to bear under normal market conditions.
- (59) Second, the Commission also considers that the State loan confers an advantage to KLM considering that it would not be able to obtain the envisaged loan on the market under the same conditions. The Commission based its analysis on the following considerations:
- The financial situation of the aviation sector is particularly severe due to the COVID-19 crisis. In particular, KLM has been severely affected by that crisis. Under those circumstances, it appears very unlikely that KLM could obtain a loan on the market for the same amount and under the same conditions as those of the State loan.
  - The Commission notes that KLM could only obtain a loan from private banks thanks to the 90 % State guarantee. This is strong indication of KLM's difficulties to obtain liquidities on the capital market without State intervention.
  - In the current context of the COVID-19 crisis, the Commission is not aware of transactions carried out between private lenders and airlines that are similar to the State loan.
  - The Commission notes that the private shareholders of Air France-KLM group do not participate in the financing along with the Dutch State.
- (60) The advantage granted by the measure is selective, since it is awarded to only one undertaking.

- (61) The measure is liable to distort competition, since it strengthens the competitive position of the beneficiary. It also affects trade between Member States, since the beneficiary is active in a sector in which intra-Union trade exists.
- (62) 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**

- (63) 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.

#### *3.3.1. Contribution of the measure to remedy a serious disturbance in the economy*

- (64) 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*”.
- (65) 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*”.
- (66) According to the Dutch authorities, the measure adopted in support of KLM is justified in view of the particularly severe impact of the current COVID-19 crisis on the activities of KLM and the essential role played by KLM in the Dutch economy.
- (67) The COVID-19 crisis has dramatically affected KLM’s operations. Global lockdown measures, the inability of people to travel and almost complete halt of ticket sales of tickets, have resulted in a grounding of the vast majority of the KLM fleet.
- (68) The figures in Table 1 show the steep fall in number of passengers and freight for KLM in March and April 2020 compared to the same period in 2019, and while those in Table 2 show expectations for the rest of 2020 in relation to passengers.

**Table 1 - 2020 vs 2019 passenger and freight volumes comparison for March and April**

<u>Period</u>	<u>March 1-31</u>	<u>April 1-30</u>
#Passengers 2019	[...]	[...]
#Passengers 2020	[...]	[...]
Freight volume 2019	[...]	[...]
Freight volume 2020	[...]	[...]

Source: Dutch authorities

**Table 2: 2020 - projection for number of passengers**

<u>Period</u>	<u>May</u>	<u>Jun</u>	<u>July</u>	<u>Aug</u>	<u>Sep</u>	<u>Q4</u>
# Passengers 2019	[...]	[...]	[...]	[...]	[...]	[...]
# Passengers 2020	[...]	[...]	[...]	[...]	[...]	[...]

Source: Dutch authorities

- (69) The key role of KLM concerns in particular the following elements: (i) the role of KLM in the Dutch economy; (ii) the importance of KLM to guarantee Dutch connectivity; and (iii) the importance of KLM during COVID-19 crisis and to the Dutch economic recovery.

*(i) The role of KLM in the Dutch economy*

- (70) With some 36,600 employees, KLM is the Netherlands' second-largest private employer. That number only includes the KLM workforce, but excludes staff working at suppliers and their own suppliers in turn (facility services, security, ground handling services, subcontracted IT services, catering and maintenance suppliers) and other activities (Schiphol business activity, logistic centres, hotels, travel agents, education and so on.)
- (71) Besides the significant direct impact of KLM on the Dutch economy in terms of employment, the KLM network of destination also has a significant impact on Dutch connectivity and economy. In particular, the KLM network is vital for many key sectors in the Netherlands for business, trade, investment and cross-border cooperation and innovation with partners in Europe and across the world.
- (72) The KLM network is based at Schiphol airport, which is the third-largest airport in Europe, serving 71.7 million passengers in 2019 and offering direct links to 332 international destinations. Thanks to the KLM network, Schiphol is one of the largest airports in the world and a major asset of the open and internationally-oriented Dutch economy. Schiphol provides both the Netherlands and northwest Europe with access to a sophisticated continental and intercontinental route network that is a pillar of the Dutch and the regional economy.
- (73) Approximately 114,000 jobs and EUR 10.4 billion added value to the Dutch economy are related to economic activity in the aviation sector at Schiphol. In addition, as well as employment directly related to aviation, many supply chains, sectors as well as the general Dutch business community benefit from the international connectivity provided by KLM. KLM's extensive continental and

intercontinental route network underpins the Dutch national economy by facilitating business and trade and attracting international headquarters and investments to the Netherlands.

- (74) In addition to business travellers, Schiphol airport also allows tourists from across the world to travel to and from the Netherlands. On a yearly basis, KLM transports approximately 5 million tourists to and from Schiphol (approximately 2.5 million incoming and 2.5 million outgoing).
- (75) Schiphol airport operates direct connections to 194 cities and 38 countries in Europe. Some 50.5 million passengers from European cities flew to or from Schiphol in 2019, and 31 % of them transferred to another flight at Schiphol.
- (76) The significance of Schiphol is largely due to its hub function. The extensive network of intercontinental destinations could not be served if Schiphol were not a continental and intercontinental hub. Passengers from many, mainly European, cities transfer at Schiphol to fly to an intercontinental destination, and vice versa. The two functions, serving intercontinental destinations and operating a European network for transfer passengers, are inseparable and together form Schiphol's continental and intercontinental hub function.
- (77) The hub function is carried by the large intercontinental network of destinations of KLM and its partners. Out of more than 300 destinations served by Schiphol, KLM serves 165 direct destinations. Apart from its size, the KLM network distinguishes itself by frequency of flights as well as the year round character of flights to destinations.
- (78) The hub network at Schiphol is however very vulnerable, especially because of the specific Dutch context (such as the small home market), and is very dependent on the presence of KLM.
- (79) In early 2019, because of the public interest attached to the KLM network of destinations at Schiphol, the Dutch State took a 14 % interest in Air France-KLM group to safeguard the unique connectivity provided by KLM and its partners in the long-term. That investment reflected the importance of KLM and Air France-KLM group to the Dutch economy and society.

*(ii) Importance of KLM to Dutch connectivity*

- (80) The KLM network contributes to 53 % of direct connectivity from Schiphol Airport. The KLM network is crucial for the connectivity to and from the Netherlands for both passengers and cargo. In addition, KLM is very important for the connectivity of the Dutch regions overseas.
- (81) Approximately 50 % of passenger flights and 35 % of transported cargo from Schiphol is operated by KLM.
- (82) The KLM network is crucial due to its size, frequency of flights, all year flights and number of unique destinations. In particular:
  - 158 of all KLM destinations (95.8 %) are serviced by KLM at least four times per week;

- 71 routes to/from Schiphol are operated exclusively by KLM, which represent 22.9 % of KLM's destinations at Schiphol.
- (83) The hub function is carried by the large intercontinental network of destinations of KLM and its partners. On average, 60 % of KLM passengers are transfer passengers (65 % on intercontinental routes and 58 % on European routes). In the absence of transfer passengers, the Dutch market would be too small to continue the majority of those routes with direct flights on a regular and/or high frequency base, in particular for the business market.
  - (84) The hub network of Schiphol airport is therefore vital for the Dutch economy. However, it presents some vulnerability due to the small domestic market for intercontinental and transfer traffic. In addition, in the absence of the KLM network, Schiphol airport would likely lose its hub function with a strong impact on Dutch connectivity as there is no an alternative in the Netherlands.
  - (85) According to the Dutch authorities, recent research has shown that the absence of KLM network would lead to a loss of [...] % of flights from Schiphol airport and its hub role. In particular, many of the intercontinental connections would be lost especially to and from Asia and Africa.
  - (86) KLM also plays a crucial role for the connectivity of the Dutch regions overseas. Prior to the crisis, KLM flew daily to Curaçao, daily to Aruba and Bonaire (combination flight) and twice per week to Sint Maarten.

*(iii) Importance of KLM during the COVID-19 crisis and to Dutch economic recovery*

- (87) During the COVID-19 crisis KLM played a key role in maintaining air connectivity to and from the Netherlands. Many Dutch nationals and other EU residents were able to return home from across the world on dedicated repatriation flights. During the same period KLM played a vital role in the transport of medical equipment to the Netherlands. After the COVID-19 crisis, international connectivity will be key for business in the Netherlands to return to normal.
- (88) During the period of March 14 to May 6 2020, KLM operated 6,460 flights and carried 460,000 passengers. A large part of those passengers were repatriation passengers flying back home to the Netherlands, or destinations elsewhere in Europe or the rest of the world. KLM also operated 40 dedicated repatriation flights to destinations that were difficult to reach (e.g. Sydney).
- (89) KLM has set up an airlift between the Netherlands and China for the Dutch government. It consists of ten frequencies to Shanghai and four frequencies to Beijing. In addition, KLM maintained a weekly scheduled service to Curaçao twice a week up to the end of April. KLM also operated flights to Bonaire and Sint Maarten for the purpose of bringing medical personnel, relief supplies and evacuation.
- (90) According to the Dutch authorities, the aviation sector will continue to be vital for the Dutch economy and its recovery considering that the Dutch economy is open and very much internationally oriented.

- (91) In particular, more than 30 % of the Dutch GDP is related to external markets, for example by the export of high value, time-sensitive and/or perishable goods and services to destinations all over the world. The availability of worldwide international connectivity by air is one of the pillars to restore the exports of the Netherlands. The worldwide network that KLM maintains at Schiphol Airport is fundamental for the trade, business and tourist connectivity of the Netherlands with other Member States and the rest of the world. The presence of KLM will be key for re-starting the flow of goods, services and people across borders as soon as the greatest impact of COVID-19 has eased. KLM is the only airline that is practically able to maintain such an extensive coverage from the Netherlands.
- (92) Given the importance of KLM in the Dutch economy, the Commission considers that a failure of KLM would have serious consequences for the Dutch economy in the context of the current health and economic crisis.

*3.3.2. Compatibility of the State guarantee on loan with section 3.2 of the Temporary Framework*

- (93) The State guarantee meets all the conditions of the Temporary Framework.
- (94) The measure sets an annual guarantee premium of (i) 50 bps for the first year, (ii) 100 bps for the second and third years and (iii) 200 bps for the fourth, fifth and sixth years (recital (33)). It therefore complies with point 25(a) of the Temporary Framework.
- (95) The guarantee must be granted by 31 December 2020 at the latest (recital (37)). The measure therefore complies with point 25(c) of the Temporary Framework.
- (96) The maximum amount of the loan principal will be EUR 2.4 billion, which is less than twice KLM's 2019 annual wage bill (approximately EUR 5.4 billion). Therefore, the maximum loan amount covered by the guarantee is limited in line with point 25(d) of the Temporary Framework (recital (24)).
- (97) [...]
- (98) The duration of the guarantee does not exceed 6 years (recital (33)) and losses stemming from the loan are sustained proportionally and under the same conditions by the credit institutions and the State (recital (30)). Furthermore, when the size of the loan decreases over time, the guaranteed amount decreases proportionally (recital (30)). The measure therefore complies with point 25(f) of the Temporary Framework.
- (99) The guarantee relates to a working capital loan (recital (28)). The measure therefore complies with point 25(g) of the Temporary Framework.
- (100) The guarantee is granted to an undertaking that was not already in difficulty on 31 December 2019 (recital (18)). The measure therefore complies with point 25(h) of the Temporary Framework.
- (101) The Dutch authorities have confirmed that they will respect the monitoring and reporting rules laid down in section 4 of the Temporary Framework (recitals (53) and (54)).

- (102) The Commission considers that the measure complies with point 31 of the Temporary Framework as the banks providing the guaranteed loan pass on the advantages of the State guarantee to KLM to the largest extent possible:
- It is highly unlikely that KLM could obtain a EUR 2.4 billion loan on the market under the current circumstances. It is also highly unlikely that KLM could obtain a loan at such a low interest rate (i.e. EURIBOR plus [...] %) on the market under the current circumstances.
  - Once KLM regains access to cheaper unguaranteed funding, KLM will be able to refinance the guaranteed loan without penalty on any interest payment date.
  - The Facility Agent will, upon request from the Dutch authorities, request a member of the bank consortium to demonstrate that it operates a mechanism that ensures that the advantages of the State guarantee are passed on to the largest extent possible to KLM.

- (103) The applicable cumulation rules are respected since the Dutch authorities have confirmed that the State guarantee is not granted for the State loan (recital (52)).

*3.3.3. Compatibility of the State loan with section 3.3 of the Temporary Framework*

- (104) The State loan meets all the conditions of the Temporary Framework.
- (105) The State loan is subordinated to all unsecured and non-subordinated debt or bank loans. The applicable interest rate for such debt instrument must comply with the minimum interest rates referred to in point 27bis of the Temporary Framework. The interest rates for the State loan will be a coupon payable annually at a rate equal to EURIBOR 12 months plus a margin of (i) 6.25 % for the first year, (ii) 6.75 % for the second and third years, and (iii) 7.75 % for the fourth, fifth and sixth years (recital (40)). Therefore, the applicable interest rate complies with point 27bis of the Temporary Framework.
- (106) The State loan agreement will be granted by 31 December 2020 at the latest and is limited to a maximum of 5.5 years (recitals (44)). The measure therefore complies with point 27(c) of the Temporary Framework.
- (107) The maximum loan amount does not exceed two-thirds of the annual wage bill of KLM for the year 2019. Therefore, the measure complies with the requirement set out in the last sentence of point 27bis of the Temporary Framework (recital (39)).
- (108) Loans granted under the measure relate to working capital needs (recital (42)). The measure therefore complies with point 27(f) of the Temporary Framework.
- (109) The State loan is granted to a firm that was not in difficulty already on 31 December 2019 (recital (18)). The measure therefore complies with point 27(g) of the Temporary Framework.
- (110) The Dutch authorities confirm that the monitoring and reporting rules laid down in section 4 of the Temporary Framework will be respected (recitals (53) and (54)).

- (111) The Dutch authorities further confirm that the aid measure may only 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. In particular, the Dutch authorities have confirmed that the State guarantee is not granted for the State loan (recital (52)). Moreover, the overall amount of the loans granted to KLM by the bank consortium and the State loan (i.e. EUR 2.4 billion) is less than twice the annual wage bill of KLM for the year 2019 (including the social security premiums), which is approximately EUR 5.4 billion. The measure therefore complies with the cumulation rules set out in points 20, 24bis, and 26bis of the Temporary Framework.
- (112) 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.

#### **4. COMPLIANCE WITH INTRINSICALLY LINKED PROVISIONS OF DIRECTIVE 2014/59/EU AND REGULATION (EU) 806/2014**

- (113) Without prejudice to the possible application of Directive 2014/59/EU on bank recovery and resolution (“BRRD”)<sup>14</sup> and of Regulation (EU) 806/2014 on the Single Resolution Mechanism (“SRMR”),<sup>15</sup> in the event that an institution benefiting from the measures meets the conditions for the application of that Directive or of that Regulation, the Commission notes that the notified measure does not appear to violate intrinsically linked provisions of the BRRD.
- (114) In particular, aid granted by Member States to non-financial undertakings as final beneficiaries under Article 107(3)(b) TFEU in line with the Temporary Framework, which is channeled through credit institutions or other financial institutions as financial intermediaries, may also constitute an indirect advantage to those institutions.<sup>16</sup> Nevertheless, any such indirect aid granted under the measure does not have the objective of preserving or restoring the viability, liquidity or solvency of those institutions. The objective of the measure is to remedy the liquidity shortage faced by undertakings that are not financial institutions and to ensure that the disruptions caused by the COVID-19 outbreak do not undermine the viability of such undertakings. As a result, aid granted under the measure does not qualify as extraordinary public financial support under Article 2(1)(28) BRRD and Article 3(1)(29) SRMR.
- (115) Moreover, as indicated in recitals (26) and (102), the measure introduces safeguards in relation to any possible indirect aid in favour of the credit institutions or other financial institutions to limit undue distortions to competition. Such safeguards ensure that those institutions, to the largest extent possible, pass on the advantages provided by the measure to the final beneficiary.
- (116) The Commission therefore concludes that the measure does not violate any intrinsically linked provisions of the BRRD and the SRMR.

---

<sup>14</sup> OJ L 173, 12.6.2014, p. 190.

<sup>15</sup> OJ L 225, 30.7.2014, p. 1.

<sup>16</sup> Points 6 and 29 of the Temporary Framework.



## 5. 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](mailto:Stateaidgreffe@ec.europa.eu)

Yours faithfully,

For the Commission

Margrethe VESTAGER  
Executive Vice-President