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**Subject: State aid SA.46727 (2016/N) – The Netherlands
Prolongation of the extension of reduced remittances for maritime
navigation to commercial cruising vessels – The Netherlands**

Sir,

1. PROCEDURE

- (1) On 27 October 2016, the Dutch authorities notified to the Commission the prolongation and amendment of an aid scheme allowing reductions in seafarer-related charges in accordance with Article 108(3) of the Treaty on the Functioning of the European Union ("TFEU").
- (2) The Commission first approved the scheme on 21 March 2007 ("the 2007 Decision").¹ The original duration of the scheme was six years. By Commission decision of 10 May 2012 ("the 2012 Decision")², the scheme was prolonged until 1 January 2017.
- (3) By letters dated 6 December 2016, 8 March 2017, 5 October 2017, 6 February 2018 and 8 June 2018 the Commission sent requests for additional information

¹ SA.19886 (N 447/2005), OJ C C 13315.6.2007, p. 3.

² SA.34004 (2011/N), OJ C 2013/C 1/01, 04.01.2013, p 5.

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to which the Dutch authorities replied by letters dated respectively 22 December 2016, 4 July 2017, 21 December 2017, 10 April 2018 and 3 October 2018.

2. DESCRIPTION

2.1. Measure

- (4) The scheme which is to be prolonged allows for a reduction of income tax and social security contributions ("wage taxes") paid by employers for the eligible crew members of wind-propelled "Commercial Cruising Vessels" ("CCVs").
- (5) CCVs are sailing ships that are seaworthy and used in commercial sailing. Recreational yachts are excluded from the scheme. The ship-owner is eligible for a reduction in wage taxes for maritime navigation only in the case of eligible seafarers working on board a vessel flying an EU/EEA flag³ and provided that the vessel meets the following conditions:
 - 1. The vessel is built in accordance with the Specifications for CCVs;
 - 2. A certificate of seaworthiness for an unlimited area has been issued for the vessel;
 - 3. The vessel has a length of at least 24 metres.
- (6) These criteria are specified to ensure that the measure benefits only CCVs constructed, equipped, and rigged for operation on the world market and which are hence exposed to global competition.
- (7) In the case of seafarers resident in an EU/EEA country, the reduction in wage taxes amounts to 40% of the seafarer's taxable wage. In the case of seafarers who are not resident in any EU/EEA country but who are subject to wage taxes in the Netherlands, the reduction amounts to 10% of the seafarer's taxable wage.
- (8) A detailed description of the features of the scheme is contained in the 2007 Decision in recitals 5 to 7 (objective of the measure), 11 to 12 (beneficiaries), 14 (eligible costs), 17 (aid intensity) and 18 (cumulation).

2.2. Legal basis

- (9) The legal basis for the scheme is the Salaries, Tax and Social Security Contributions (Reduced Remittances) Act (*"Wet vermindering afdracht loonbelasting en premie voor de volksverzekeringen"*).

2.3. Objective of the aid

- (10) The goal of the scheme is to strengthen the labour market position of EU/EEA seafarers on board CCVs by reducing their labour costs.⁴

³ Under the 2007 scheme the benefit of the reductions was restricted to seafarers working on board Dutch-flagged vessels.

⁴ See also recital 5 of the 2007 Decision.

2.4. Amendments

- (11) The Dutch authorities have agreed to remove the limitation of eligibility to Dutch-flagged vessels. Eligibility for the scheme has been expanded to qualifying ship-owners with seafarers on board any EU/EEA flagged vessel.

2.5. Budget

- (12) The overall budget for the notified prolongation of the aid scheme is EUR 6.6 million.

2.6. Duration

- (13) The scheme will be prolonged for a period of six years, from 1 January 2017 to 31 December 2022.

3. ASSESSMENT OF THE MEASURE

3.1. Existence of aid within the meaning of Article 107(1) TFEU

- (14) In the previous decisions on the scheme referred to in recital 2, the Commission concluded that the measure constitutes State aid within the meaning of Article 107(1) TFEU since the reduction in wage taxes involves the foregoing of State resources, confers a selective advantage on the beneficiary undertakings, and affects trade between Member States and distorts competition, as the beneficiaries are competitors of other shipping companies in the EU.⁵ Nothing in the notification of the present scheme alters that assessment.

3.2. Compatibility

3.2.1. Legal basis

- (15) Pursuant to Article 107 (3)(c) TFEU, aid to facilitate the development of certain economic activities or of certain economic areas may be considered compatible with the common market, where such aid does not adversely affect trading conditions to an extent contrary to the common interest.
- (16) The Commission has issued guidelines for the application of Article 107(3)(c) TFEU with regard to State aid to maritime transport (the "Maritime Guidelines")⁶. Aid in favour of the maritime sector must therefore be examined in the light of those Guidelines.

⁵ See recitals 19 to 23 of the 2007 Decision and recital 14 of the 2012 Decision.

⁶ Commission Communication C (2004) 43 – Community Guidelines on State aid to maritime transport, OJ C 13, 17.01.2004, p. 3.

3.2.2. Compliance with the rules of the Maritime Guidelines concerning labour-related costs

- (17) In the decisions mentioned in recital 2 the Commission found the scheme compatible with the internal market under Article 107(3)(c) TFEU and the Maritime Guidelines.⁷
- (18) Besides a prolongation, the present notification concerns the widening of the scope of the aid scheme as regards eligible vessels. The other elements of the scheme remain unaltered.
- (19) The Commission positively notes that the scheme is extended to seafarers employed on board of vessels flying any EU/EEA flag. Such an extension is apt to remove potential internal market barriers to provide maritime transport services in the Netherlands. Indeed, such extension is necessary for the Commission to authorise the notified aid measure, since a national flag requirement would be an aspect of the notified aid measure that would breach the EU internal market rules, while being so indissolubly linked to the object of the notified aid that it could not be evaluated separately from that aid.
- (20) The Dutch authorities have also demonstrated that the limits of financing established in section 11 of the Maritime Guidelines are complied with. In line with the provisions on the aid ceiling as set out in section 11 the aid amount does not exceed a reduction to zero of income taxation and social charges of seafarers.
- (21) For the above reasons, the Commission's assessment of the compatibility of the measure with the internal market remains unaltered.

4. CONCLUSION

- (22) The Commission has accordingly decided not to raise objections to the aid scheme intended to be implemented by the Netherlands on the grounds that the it is compatible with the internal market pursuant to Article 107(3)(c) of the Treaty on the Functioning of the European Union.

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Your request should be sent electronically to the following address:

European Commission,
Directorate-General Competition
State Aid Greffe

⁷ See recitals 27 to 31 of the 2007 Decision and recitals 16 to 20 of the 2012 Decision.

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Stateaidgreffe@ec.europa.eu

Yours faithfully
For the Commission

Margrethe VESTAGER
Member of the Commission