

1 Stöd till LNG-infrastruktur (Hamina) (SA.42889)

1.1 Description of the state aid case

LNG (liquefied natural gas) can be used as a fuel in applications such as marine traffic and heavy road traffic. The emissions of LNG are considerably lower than the emissions generated by current marine fuels.

LNG terminals enable the transportation of natural gas to areas outside the natural gas network. This diversifies and helps to secure energy supply. It also reduces emissions, particularly in industry in which other fossil fuels are used as an energy source. LNG terminals also provide a way of boosting competition on the natural gas market and give energy buyers more choice.

In summer 2012, an international working group led by Denmark and partly funded by the Commission released its report and recommendations concerning LNG infrastructures in Northern Europe¹. TRAFI² from Finland participated in this project. In January 2013, the EU Commission presented its programme proposal, schedule and regulation proposals concerning the use of alternative fuels. In spring 2013, the Finnish government prepared an Environmental Strategy for Transport 2013-2020³, which identified LNG as a potential solution for reducing emissions in maritime transport. Moreover, the LNG action plan was highlighted in the national Maritime transport strategy in spring 2014.^{4 5}

A separate LNG Action Plan was prepared by the Ministry of Transport and Communications in 2013⁶. The purpose of the action plan was to enhance the use of LNG in maritime transport through developing a national LNG infrastructure, considering the adoption of financial incentives (state aid) to promote the use of LNG, and being active internationally in promoting favourable international regulations and guidelines towards the use of LNG.

In October 2013, a government decree was issued regarding investment aid for LNG terminals⁷. Based on this decree, investments in the construction of a national LNG terminals network have been supported with a total of approximately 93 million EUR.^{8 9} Investment support has been granted to Manga LNG Oy's LNG

¹ <http://www.dma.dk/news/Sider/Finalreport.aspx>

² Finnish Transport Safety Agency, <http://www.trafi.fi/en>

³ <http://www.lvm.fi/en/-/a-new-environmental-strategy-for-transport-792216>

⁴ <https://www.lvm.fi/documents/20181/797516/Julkaisuja+9-2014/7144ca93-55db-4470-89c9-ae5a67587b84?version=1.0>

⁵ http://ec.europa.eu/competition/elojade/isef/case_details.cfm?proc_code=3_SA_42889

⁶ http://www.kaasuyhdistys.fi/sites/default/files/pdf/esitykset/20130424_kevatkokous/LNG-toimintaohjelma.pdf

⁷ <http://www.finlex.fi/fi/laki/alkup/2013/20130707?search%5Btype%5D=pika&search%5Bpika%5D=707%2F2013>

⁸ http://tem.fi/en/article/-/asset_publisher/fem-projekt-ansoker-om-investeringsstod-for-Ing-terminal

terminal in Tornio, Skangass Oy's LNG terminal in Pori, Oy Aga Ab's terminal in Rauma, and Haminan Energia Oy's LNG terminal in Hamina. New projects will no longer be granted investment support from the investment support programme.

The Hamina LNG terminal is supported with a grant of 27 660 000 EUR, which covers 30 per cent of acceptable costs (92 200 000 EUR).¹⁰

1.2 Implementation of the state aid case

All national state aid decisions are structured in the same way and follow the same principles, even though the underlying legal basis is different. All aid is granted from the national budget and does not include any EU related funds.

The preparation of the state aid cases started during the preparation of the government decree. The original objective was to notify a state aid programme covering 3–5 investment aid decisions. However, it was soon realised that this was not appropriate. Instead, the subsequent four aid decisions were prepared in three different ways.

The first case in Tornio was based on the General Block Exemption regulation, which allows such aid in assisted regions (provisions concerning environmental investments). The next two cases in Pori and Rauma were prepared together and were notified based on the Art. 107(3)(c) TFEU Certain econ. activities/areas. The final one in Hamina was based on both Art. 107(3)(c) TFEU Certain econ. activities/areas and the Guidelines on State aid for environmental protection and energy 2014-2020. What made Hamina different from the other three is the fact that it will be connected to the natural gas pipeline, while the other three are not.

The discussions with the Commission started based on the accepted government decree. The first visit to the Commission included both state aid and topical experts from the Ministry of Transport and Communications and the Ministry of Economic Affairs and Employment. The visit included discussions with DG COMP, but also with DG MOVE and DG ENER. Both the latter supported the initiative to support LNG terminal network in Finland.

After the first meeting and follow-up discussions, the preparation of the Tornio case moved forward separately based on the GBER. The decision was finally made in September 2014. The terminal is currently under construction and is planned to become operational in early 2018.

The next two cases in Pori and Rauma were prepared together. The main rationale for these cases was environmental, i.e. reduction of sulphur and carbon emissions mainly in marine transport, but also in heavy traffic and industry. The secondary justification was the security of supply with of gas in Finland. Pori and Rauma

⁹ <http://tem.fi/en/investment-support-for-lng-terminals>

¹⁰ http://tem.fi/en/article/-/asset_publisher/haminan-energielle-lng-terminaalien-rakentamiseen-lahes-28-miljoonaa-eur-1

were finally decided in September 2014.¹¹ Investment in Pori moved forward fast and the terminal became operational in summer 2016. Delays in the decision process have resulted in the Rauma case being put on hold; the Ministry will consider cancelling the aid decision unless the case moves forward soon.

The Hamina case was prepared somewhat later than the other three cases, and thus benefitted greatly from experiences gained from those, especially Pori and Rauma. The decision was made in December 2014.¹² The main rationale for the Hamina case was the security of supply of gas in Finland, and a second reason was the reduction of emissions in marine and heavy traffic.

Based on the Finnish approach regarding state aid cases, the preparation was done in collaboration between LNG (terminal) specialists and state aid experts at the Ministry of Economic Affairs and Employment. After the first visit to the respective Commission DGs, the work was carried out by experts and group managers at the ministry. Subsequent interaction with DG COMP during the pre-notification and notification processes took place either in the form of emails or visits to DG COMP to discuss technical details. Issues related to the Hamina case were sometimes discussed also during other visits to DG COMP, where the main purpose was to discuss other unrelated state aid cases. Higher level representatives from the ministry raised the issue of LNG terminals during their visits to the Commission at the time, but state aid cases were not discussed specifically.

The topical experts preparing the notification were also in contact with the applicants (that is, industry). The purpose of this interaction was to keep the applicants informed and thereby give some indication of when the decisions might be expected, and to get further information from them needed in the notification process. Companies were not encouraged to be in contact with the Commission directly.

The ministry did not employ external experts such as law firms or consultants during the notification process.

There were no particular key moments during the notification of the Hamina case. The most difficult questions had already been addressed and solved during the preparation of the Pori and Rauma notifications. There were also no visits to the DG COMP to discuss the Hamina case specifically.

The key issue in the cases of Pori and Rauma was how to ensure third party access. It was mainly about ensuring common understanding of how the regulations are interpreted in these specific cases. This has been resolved in the aid decisions.

¹¹<http://tem.fi/documents/1410877/2656861/Tukip%C3%A4%C3%A4t%C3%B6s+Pori/c8f0cd57-b598-47cf-9e1c-a930aaf8a0fb> and <http://tem.fi/documents/1410877/2656861/Tukip%C3%A4%C3%A4t%C3%B6s+Rauma/37b2c7b1-49db-4b9f-b0d8-6ce0d1656981>, Commission decision:

http://ec.europa.eu/competition/elojade/isef/case_details.cfm?proc_code=3_SA_39515

¹²<http://tem.fi/documents/1410877/2656861/Tukip%C3%A4%C3%A4t%C3%B6s+Hamina/b24b03c4-754f-4f02-813f-f625ddd06cd>, Commission decision:

http://ec.europa.eu/competition/elojade/isef/case_details.cfm?proc_code=3_SA_42889

The other issue during the notification was related to the Natural Gas directive.¹³ Most of the LNG terminals in Europe are connected to natural gas pipelines. Hence, the aid to these terminals and its potential impact on the natural gas markets must be assessed. This was a somewhat challenging task in the cases of Pori and Rauma, since they are not connected to the natural gas pipelines. The solution accepted by the Commission was based on a comparative analysis between the natural gas directive and national legislation. This was not an issue in the case of Hamina, since it is connect to the pipeline.

It is worth mentioning that the attitude of DG COMP changed considerably during the notification process. At first, the attitude was very critical, but towards the end of the process it became quite constructive. This was probably due to the increased understanding of the LNG state aid cases in general and specifically in Finland, which was further supported by internal discussions within the Commission between DG COMP, DG MOVE and DG ENER.

As the pre-notification of Pori, Rauma and Hamina cases proceeded partly in parallel (Hamina training the other two) the pre-notification process took a relatively long time. However, the subsequent actual notification process proceeded swiftly as all key issues had been resolved during the pre-notification.

As noted earlier, of the four state aid decisions, one investment is already completed and in operation (Pori), one is under construction and will become operational in 2018 (Tornio) and one is on hold and might be cancelled. The construction of the Hamina LNG terminal is planned to begin in 2017. No state aid is planned for further LNG terminals at this time.

1.3 Key factors for success

The Commission had already accepted a small number of LNG terminal aid cases in other EU countries before the Finnish cases. Hence, the Commission had some prior knowledge regarding similar state aid cases. However, the Finnish cases were somewhat different as the rationale for state aid was mainly based on reducing marine transport emissions and securing the availability of gas in Finland.

The experts based approach combining both topical and state aid experts as well as the interaction with DG COMP, but also directly with DG MOVE and DG ENER were very important during the process. This was further supported by interaction with the applicants (industry). This allowed the experts involved in the preparation of the pre-notification and notification documents as well as national decisions to gain access to all relevant information directly.

The interactive expert based approach was also perceived positively by the Commission, which can be seen in DG COMP's change of attitude during the notification processes.

¹³ <http://eur-lex.europa.eu/legal-content/en/ALL/?uri=CELEX:32009L0073>

The potential disadvantage of this approach might be related to the duration of the process. On the one hand, well prepared professional documents are likely to reduce time needed for the process. However, active lobbying and political influence may pressure the Commission to prioritise some state aid cases, hence speeding these up and subsequently prolonging others. While there is no clear evidence of this, these LNG notification processes did take longer than expected.

1.4 Conclusions and Lessons learned

The unique features for this state aid case were the fact that it was part of a state aid initiative which for the applicants in Finland appears as one single aid programme, but which to the Commission consists of four individual decisions based on three different legal bases.

The reasons for this were:

Connection to the natural gas pipelines. Only Hamina in Finland is connected, whereas most LNG terminals in Europe are connected.

Possibility to use GBER, i.e. an assisted region. This was possible only in the case of Tornio.

Atypical rationale for LNG terminal network, i.e. maritime transport emissions. Most of the other LNG terminal aid decisions in Europe have been based on securing the availability of gas in a specific country or region. The secondary justification has been environmental. However, this has been related to industrial use of LNG instead of fossil fuels.

Interaction with the Commission – not limited only to DG COMP – is important. While high-level and political influence and pressure might in some cases speed up the notification process, it has to be complemented with real knowledge and professional preparation. Lobbying and political pressure without solid argumentation and sufficient state aid competences is unlikely to have any positive impact. However, carefully used at specific times, it may help speed up the notification process. More important than direct lobbying towards DG COMP is gaining understanding and support from the other relevant DGs (in this case MOVE and ENER).

1.5 Interviews

Name, title/role	Organisation	Date
Pekka Grönlund, Senior Adviser, responsible for handling State aid cases related to energy	Ministry of Economic Affairs and Employment, Energy Department	2016-10-11
Olli Hyvärinen, Senior Adviser, State aid law	Ministry of Economic Affairs and Employment, Labour and Trade Department, Competition Policy	2016-10-31

2 Stöd till St1 biobränsleanläggning (SA.42776)

2.1 Description of the state aid case

Bio-based fuels are important in reducing emissions. The Commission has set a target to reach 10 per cent share of renewable energy sources in transport by 2020.¹⁴ Finland has adopted even more ambitious objective of 20 per cent.¹⁵

Biofuels are made from biomass, which refers to the biodegradable parts of products, waste and remains of biological origin, originating in agriculture, forestry and related lines of production as well as fishing and aquaculture, and the biodegradable components in industrial and municipal waste. First generation biofuels are fuels that have been derived from sources like starch, sugar, animal fats and vegetable oil. The oil is obtained using the conventional techniques of production. Some of the most popular types of first generation biofuels are: biodiesel, vegetable oil, biogas and bioalcohols. Second generation biofuels refer to fuels that are produced from biomass generally not used for food production. Hence, these biomasses are either specifically grown for the production of biofuels or are based on other non-food sources such as forest based biomasses.

Second generation biofuels are double counted with respect to the 10 per cent EU or in this case 20 per cent national biofuel target. The main reason for this is that they do not compete for food production in the way first generation biofuel production does. Second generation biofuels require more processing and are therefore typically more expensive to produce. However, particularly in countries with ample sources of biomass suitable for second generation biofuel production such as Finland with large forests, second generation biofuels are attractive because of their lower environmental impact, but even more importantly because they reduce the dependency on foreign sources of fuel.

The decision to support investments in second generation biofuel production in Finland is based on various climate change, energy and transport policies and strategies. These include e.g.

- Government programme¹⁶
- The national energy and climate strategy¹⁷
- Act on the promotion of the use of biofuels for transport (446/2007)¹⁸
- The Act on biofuels and bioliquids (393/2013)

¹⁴ <http://www.biofuelstp.eu/biofuels-legislation.html>

¹⁵ <http://tem.fi/en/biofuels>

¹⁶ http://valtioneuvosto.fi/documents/10184/1427398/Ratkaisujen+Suomi_FI_YHDISTETTY_netti.pdf/801f523e-5dfb-45a4-8b4b-5b5491d6cc82

¹⁷ <http://tem.fi/en/energy-and-climate-strategy>

¹⁸ <http://www.finlex.fi/fi/laki/ajantasa/2007/20070446>

The original national aid for supporting investments in biofuel production was connected to the Commission NER 300 programme.¹⁹ Finland announced three bio refinery projects to this programme, of which one was eventually funded. The two remaining applications were cancelled. The remaining national funding reserved for these bio refinery projects was later allocated to a new call, which focused on bio refineries and especially fuels for transport purposes and attracted eight applications. The St1 Kajaani 2nd generation biofuel production plant was one of the six eligible applications from this call and the decision to support it was made in August 2014. This decision was conditional to the acceptance of the notification, which eventually came in December 2015.

The aid is in the form of a grant of 12 MEUR and covers 35.7 per cent of eligible costs. The eligible costs are based on a calculation between the real investment in second generation biofuel production and an alternative investment on an equal capacity first generation biofuel production. The national aid decision refers to 30 per cent of investment costs, which complies with the Commission 35.7 per cent of eligible costs. The funding comes from national funds and does not include any EU related funds.

Since the investment was related to the production of a fuel necessary to fulfil the distribution obligation of biofuels, it was not possible to apply the provisions of the GBER.²⁰ The aid for St1 biofuel production investment in Kajaani had to be notified separately under the TFEU 108(3). The specific national legal basis was the Government decree (1063/2012) “General Terms of Granting Energy Support”, i.e. the “Energy aid” granted to companies, municipalities and other organisations for climate and environment investments and studies that promote:²¹

- The production or use of renewable energy
- Energy saving or more efficient energy production or use
- The reduction of environmental damage caused by energy production or consumption

Energy aid is particularly intended for promoting the introduction and market launch of new energy technologies. The primary aim of the aid is to launch investments by increasing their profitability and minimising the financial risks associated with the introduction of new technology.

The main underlying rationale for the aid was national climate change objectives and especially the target to reach 20 per cent of renewable energy sources in transport by 2020. The project complies with the Act on Biofuels and Bioliquids as well as with the sustainability criteria of the Renewable Energy Directive²² as it

¹⁹ http://ec.europa.eu/clima/policies/lowcarbon/ner300/index_en.htm

²⁰ The investment is made in Kajaani, which is in an assisted region and hence in principle eligible for regional aid.

²¹ <http://tem.fi/en/energy-aid>

²² <https://ec.europa.eu/energy/en/topics/renewable-energy/renewable-energy-directive>

uses a non-food raw material (saw dust). Secondary justifications included securing access to transport fuels, and enhancing innovation activities related to advanced biofuels. The latter is based on strong competences and industrial know-how in forest biomasses and the presence of one of the leading biofuel producer (Neste) globally.

2.2 Implementation of the state aid case

The preparation of the notification and aid decision happened at the same time as the new EU State aid guidelines in 2013-14. The St1 case was discussed in connection with other aids in preparation at the time in meetings with the Commission. Only one technical meeting with the Commission was arranged during the pre-notification process to discuss specifically the St1 case.

The participation in working groups connected to the EU State aid regulations and guidelines reform allowed the St1 case to be discussed informally with relevant DG COMP experts regularly. This approach of the DG COMP to discuss Member state cases during these workshops was very useful in reaching a common understanding of issues relevant to these types of aid cases.

The preparation was carried out by experts and group leaders at the ministry and thus followed the general approach adopted in Finland for State aid notifications. The preparation was done in collaboration between State aid, bio based fuels and renewable energy experts from the Ministry of Economic Affairs and Employment. The company was not in direct contact with DG COMP. As a principle, the ministry does not reveal the names of specific case handlers at DG COMP to the applicants. The notification processes were managed and all interaction with relevant stakeholders was coordinated from the ministry.

The St1 case was one of the first notifications of aid to 2nd generation biofuel production in Europe. As the DG COMP had no prior experience of similar cases, it was challenging and time consuming to explain both the logic of using forest based biomasses for fuel production in the Nordic region, particularly because of the Commissions environmental and sustainability concerns.

There other key challenge related to the notification of the St1 case was with the contrafactual required by the Commission. The approach taken by the DG COMP is based on the assumption that an investment would be made in any case. The reason for this approach can probably be explained with the distribution requirement, i.e. distributors such as St1 have to reach 20 per cent target by 2020, hence biofuels have to be produced and subsequently the capacity has to be built.

The eligible costs can only be those costs which exceed the contrafactual, i.e. the investment that would be made without the aid. In reality, no investment would be made without the aid, since the alternative for St1 would be to acquire the bio-based fuel from the market and not to produce it in Finland.

First, the ministry suggested that a comparative cost could be used as the basis for calculating the contrafactual. However, this was not accepted by DG COMP. Eventually a contrafactual was created based on an imaginary investment on a similar capacity 1st generation biofuel production. The calculation of the contrafactual case was made in collaboration between the ministry and the applicant (St1) with the help of external consultants. The applicant provided calculations with and without aid for the Kajaani case, whereas the calculation of the contrafactual case was done by the ministry with the help of external consultants.

After the contrafactual case was agreed and accepted by DG COMP, the rest of the pre-notification process went without specific problems. The process was, however, challenging and took a long time for various reasons. First, because it was one of the first of its kind and the Commission had no prior experience. Secondly, because of the approach taken by DG COMP to require a contrafactual in the form of an alternative investment. While this may perhaps be explained by the distribution requirement, another approach could have been to simply assess the incentive effect, i.e. would this investment have been made without aid or not. In this case the answer would have been clear given the huge difference in investment cost and bio based fuel prices, i.e. the pure market based economic calculations would not have made the investment profitable enough to justify it.

A third reason for the delays during the notification processes was the personnel changes at DG COMP. The case handler changed twice during the notification processes. Finally, the notification processes coincided with the preparation of the new State aid regulations and guidelines at the Commission. The workload of DG COMP was obviously higher than normal at the time. There were uncertainties of what the new regulations and guidelines would eventually be and how they would be applied to specific cases.

Eventually, the pre-notification process was completed in summer 2015. Even though all open questions had been resolved during the pre-notification process, it took a further six months until the final notification was accepted by the Commission in December 2015. It was not clear why it took the Commission six months to accept the final notification, where everything was already clear and resolved. As the ministry – and more importantly the company St1 – were waiting for the final acceptance and it was not coming, an informal contact was made at the Commissioner level. The responsible minister was earlier a Commissioner and he directly approached the DG COMP Commissioner who he knew personally to inquire why the final notification took so long.

There was some suspicion that perhaps the aid cases from larger Member states or those lobbying with a louder voice might have been prioritised and therefore the final notification took so long. However, it was not possible to verify if this was the case or what other reasons there might have been. Other than, of course, the fact that the Commission has in its procedures allowed itself up to six months to either accept a notification or ask for further information.

The St1 2nd generation biofuel production plant is now under construction and is planned to become operational by the end of 2017. No plans exist currently to provide aid for further biofuel production investments.

2.3 Key factors for success

The rationale for the aid was primarily EU and national climate strategies and more specifically reaching the EU-level 10 per cent and the even more ambitious national level 20 per cent transport biofuel distribution target and at the same time securing access to transport fuels and promote biofuel related innovation in Finland. The resources were initially allocated to the Commission NER 300 call, but became later available for a new national call.

The main challenges/obstacles were related to the case being first of its kind, the need to comply with the contrafactual requirement, the need to deal with personnel changes at DG COMP, and because of the timing of the notification processes, which coincided with the reform of the EU State aid regulations and guidelines.

The Finnish approach in State aid cases is expert based and rarely relies on political level contacts. Even though in this particular case one such high-level contact was made, it was limited to an attempt to speed up the notification process after all issues were already resolved at expert level. There seems to be no experience of using political or other high-level lobbying to get “dubious” cases accepted in Finland.

2.4 Conclusions and Lessons learned

The unique features of this case are related to its geographical location (Nordic region and the role and potential uses of forest based biomasses), country specific targets that go beyond EU-level targets (20 per cent distribution requirement by 2020 instead of 10 per cent), and that the specific St1 case was one of the first of its kind.

Other countries in the Nordic region can benefit from the experiences, especially related to geographical location. Furthermore, the approach taken by the Commission to require a contrafactual and how this can be resolved and calculated may be utilised in other state aid cases.

There has already been some interest from other Nordic countries towards this case. Particularly regarding the rationale for supporting the production of a biofuel that must eventually be produced or acquired somehow because of the distribution requirement.

2.5 Interviews

Name, title/role	Organisation	Date
Pekka Grönlund, Senior Adviser, responsible for handling State aid	Ministry of Economic Affairs and Employment, Department of	2016-10-11

cases related to energy	Energy	
Olli Hyvärinen, Senior Adviser, State aid law	Ministry of Economic Affairs and Employment, Labour and Trade Department, Competition Policy	2016-10-31

3 Modifiering av SDE+ systemet (SA.39399) och Stöd till laddinfrastruktur (SA.39399)

3.1 Description of the state aid cases

The Netherlands have a centralised state-aid policy which includes monitoring and, if necessary, assistance to planned measures related to sustainable development. The cause of this policy is 2014/C/200/01 enforcing prohibitions on cumulative effects of subsidies and other kinds of support eventually amounting to state aid. The case study at hand describes shortly two instruments that have had to deal with state aid:

The **Stimuleringsregeling Duurzame Energie** (Stimulation instrument sustainable energy) instrument provides subsidy for financing the un-economic part of sustainable energy, i.e.: pays for a gap in market price difference by guaranteeing a minimum rate. The Netherlands Enterprise Agency (RVO) is responsible for assessing state aid rule compliance through the MilieuSteunKader (environmental support framework) assessment. In case of doubt the RVO approaches the enterprise and supports it in the process by liaising them to Economic Affairs. In these cases, enterprises are offered standard accountants statements and spreadsheets for calculations on the amount and kind of subsidies acquired and income generated by the project for biomass, solar, wind, geothermal and waste incineration.²³

Green Deals are assessed per deal on state aid compliance. The Deals themselves contain a clause that they are compliant with state aid or will be brought into compliance by the relevant ministries. They are under the responsibility of the ministry of Economic Affairs with “support from the Netherlands Enterprise Agency” for administrative and non-executive matters.²⁴

In the case of **Other instruments** and ad-hoc arrangements, possibly by lower authorities, ministries such as the Ministry of infrastructure and environment (in the case of environmental subsidies) are informed by any authority issuing a subsidy higher than €500 000 with at least the following parameters:

- Name of beneficiary
- Nuts-2 region of beneficiary
- NACE group level of beneficiary
- Type of beneficiary: SME or not
- Date, amount and length of period of subsidy

²³ <http://www.rvo.nl/subsidies-regelingen/sde/milieusteunkader-msk>

²⁴ <http://www.greendeals.nl/wp-content/uploads/2016/04/GD198-Elektrisch-Rijden-2016-2020.pdf> and <http://www.greendeals.nl/gd198-elektrisch-vervoer-2016-2020/>

These parameters are then used by the ministry to fulfil the publication obligation towards the European Union.²⁵

3.2 Implementation of the state aid case

The exact flow of actions is described below, based on an interview with a state-aid expert from the Ministry of Economic Affairs.

State aid affairs are the end-responsibility of the ministry of economic affairs. They liaise towards the EU for *notifications*. Each ministry has state aid experts throughout departments that collaborate with policymakers to cover the state aid aspects. They perform the primary internal state aid screening on the five aspects:

- The aid is granted to an undertaking carrying out an economic activity
- The aid is financed through state resources
- This aid comprises an economic advantage that would not be obtained through normal commercial way (non-market conformity)
- The measure is selective: it applies to one or more undertakings in a particular sector / region
- The measure distorts competition (potentially) and (is likely to) cause an adverse effect on trade in the EU

The Ministry of Economic Affairs has the final responsibility in state-aid affairs and is the only department whose state-aid experts liaise with the EC. This means that if a possible issue is found in some ministry, the internal state aid expert goes to the state aid department with Economic Affairs to see where a problem lies and how it might be resolved. They then try to adapt the regulation in such a way that state aid is no longer an issue. This is an iterative, internal procedure. If the state aid issue remains, a multi-step process starts for reporting or notification of the EC. It involves one or both of two facilities the EC has set up:

- **SARI (State Aid Reporting Interactive)** is always used, and is the only one used when state aid is compliant with EU 651/2014. If compliance is the case, reporting will be done by gathering the required information and feeding it into SARI. The ministry strives to make all regulations compliant because it is the easiest procedure. Ministries are the only government entities using SARI: reporting by lower authorities is delegated to the relevant ministry (of the internal, environment, economic affairs, etc).
- **SANI (State Aid Notification Interactive)**. Some means of support are too large or targeted to be compliant. Then a notification procedure needs to be started through SANI.

The ministry of Economic affairs is the only party handling the SANI process. SANI should be filed at most 20 days after enactment of the government interven-

²⁵ <https://zoek.officielebekendmakingen.nl/stcrt-2016-21851.odt>

tion. Because of this short delay, a significantly longer prior trajectory exists. It involves three steps:

- **Informal discussion** to “test the water” for a suggested intervention
- **Pre-notification** to prepare all necessary documents and perform background research wherever necessary, within the relevant DGs
- **Notification** of the intervention with subsequent discussion in the council of ministers. A notification is also assessed by all relevant DGs of the Commission

The Dutch government does not frequently make use of either procedure because they are labour intensive for both them and the EC. To minimise the frequency of procedures, regulations and interventions are developed as broad instruments for multiple technologies and sectors (such as SDE+). Enterprises rarely deal with state aid: The RVO informs them (with self-checks among others, see pages above) and if necessary they are liaised with the Dutch government who then takes it up. This rarely happens, only for the largest wind turbine parks for example.

As for the green deals, there is no generic state aid policy. In the deal itself there is a paragraph on state aid that if necessary, the national government will take up the issue and perform all actions required to resolve it.

The interviewee states that an intervention only rarely is forbidden after a notification. This is because the rules are quite clear on what is (not) allowed. Also, she mentioned that one should only start a SANI procedure if one is really sure about seeing it through. Thus, this is used only for interventions that the state really wishes to do, and there are no regulatory “experiments” that are pulled back after a short while. This is because the EC puts in a lot of effort, too, and do not like to see efforts wasted unnecessarily.

3.3 Key factors for success

State aid rarely forms an issue in the Dutch policy design because the issue is taken into consideration from the start through an organised process with a clear role division. Because of the centralised expertise offered by the Ministry of Economic Affairs and the gathered experience, cases are usually in a highly advanced state before they proceed to the Commission. Once there, the process is more procedural than political and rarely leads to issues.

3.4 Conclusions and lessons learned

Though state aid is a sensitive issue, the Dutch and European procedures seem to have depoliticised it to such an extent that, if the issue is taken on board from the beginning and a well-prepared case is brought to the commission, there is no barrier. Frequent contacts and careful adjustments facilitate the process, while a central department ensure that the Commission has a counterpart that they know and trust.

3.5 Interview

Name, title/role	Organisation	Date
Dr.s H.M. Verhagen	Ministry of Economic affairs	2016-10-11