



Shady dealings

How Atradius Dutch State Business fails to adequately screen the businesses it supports



CREDITS

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1

INTRODUCTION

In November 2013 Both ENDS published *Cover for what?*¹. The report described how the financing for Dutch exports regularly involves parties that are registered in tax havens. We showed that such complex transactions also may obtain export credit insurance from the Netherlands' state-backed export credit agency, Atradius Dutch State Business (Atradius DSB). While the multinational enterprises (MNEs) involved in such transactions may benefit from adopting aggressive tax avoidance positions, tax avoidance seriously undermines the ability of the countries where they operate to collect taxes, thus corroding their tax sovereignty and ability to finance public services such as health, education and infrastructure.

Cover for what? showed that it is highly probable that export credit agencies lacked the capacity to either screen parties involved in tax evasion and money laundering and/or exclude them from their portfolio. The report formulated a set of recommendations to increase the transparency of ECAs and to better regulate them (including self regulation) to assure improved alignment with international efforts to counter money laundering and tax evasion.

¹ See: http://www.bothends.org/uploaded_files/document/Cover_for_what.pdf

Export Credit Agencies

Governments of most industrialised countries operate export credit agencies (ECAs) to stimulate exports and private investment overseas. ECAs offer insurances, guarantees or credits to cover the risks of domestic private companies doing business abroad. Without ECAs many companies would not be able to mobilise finance from banks or other investors for such ventures. ECAs are vital agencies that provide support and leverage to corporations involved in exporting and making overseas investments as well as banks and other financiers providing trade finance.

ECAs have a persistent preference not to disclose much information about their activities, and thus they are rarely in the public eye. This lack of transparency contributes to their lack of accountability to local stakeholders, in particular in developing countries. ECAs formally harmonise some of their policies and operations through the European Union and the Organisation for Economic Cooperation and Development (OECD).

It is hard to come by exact figures but the total volume of new business globally underwritten by ECAs in the year 2014 is estimated to be €1.8 billion, nearly two trillion dollars. Of this some €150 billion is provided in cover for medium- and long-term export credits with credit periods of two years or more². Medium- and long-term export credits are usually government supported, while short term export credits are mostly provided under commercial market conditions.

Since the Netherlands has an export-oriented, open economy, the Dutch ECA, Atradius Dutch State Business (Atradius DSB) is one of the larger ECAs in Europe. Atradius DSB only provides cover for medium and long-term export credits. In 2014, Atradius DSB underwrote a total volume of €15.6 billion, of which €8.4 billion was for promises of cover and €7.1 billion was covered with an actual insurance policy³. Promises of cover are issued after an application for export credit insurance is approved. On the basis of this promise, the applicant can then continue to endeavour to finalise the export or investment transaction abroad. Only after a deal is successfully concluded is the actual insurance policy issued.

A substantial part of this business is targeted towards developing countries, and thus it has significant potential impacts on patterns of development. Despite this, Atradius DSB does not have a strong system of safeguards. In the year 2014 the Netherlands spent €4.3 billion on official development assistance⁴, clearly far less than the private flows underwritten by Atradius DSB.

Efforts to establish a dialogue on the findings of *Cover for what?* with Atradius DSB, the OECD and the European Commission have not been welcomed. Atradius DSB maintains that it has no mandate or competence to review tax governance and tax compliance as part of its due diligence systems. This stands in stark contrast with the OECD Guidelines for MNEs – which form the basis for the international Corporate Social responsibility (CSR) policies of the Dutch government, which include calls for corporate citizenship in the area of taxation⁵.

While many public authorities confirm that it is hard to effectively combat the complicated realities of aggressive corporate tax planning schemes, Dutch civil servants responsible for the export credit facility of the Dutch government maintain that signs of money laundering or tax evasion would be immediately apparent from the financial data that applicants for export credit insurance are required to submit.

This downplaying of tax evasion concerns in export credit-supported transactions, in combination with the suggestion that these concerns are unfounded, has led Both ENDS to revisit the issues raised in the 2013 report. This report, based on regular monitoring of the transactions that Atradius DSB discloses after issuing export credit insurance policies, suggests that the practices described in *Cover for what?* persist. It offers a detailed assessment and analysis of a number of new transactions that received cover from Atradius DSB while allowing room for aggressive tax planning allowing private companies to minimise payments due to the public sector.

METHODOLOGY

For this study specific transactions have been selected from the overview of supported transactions published by Atradius DSB in the years 2012-2015⁶ that showed a direct or indirect link to established tax havens such as Bermuda, the Cayman Islands or the Marshall Islands. This research is limited to three case studies involving three different companies that have structured the financing via tax havens. As such it is certainly not exhaustive. In the period 2012-2015, there may very well have been other such transactions that also obtained export credit insurance with Atradius DSB⁷.

As the selected examples show, capital intensive exports are often structured in complex ways and the existence of business dealings with tax havens is not always very clear as Atradius DSB is not required to report such relations.

The case studies covered in this research document the following exports:

1. Pipelaying support vessels (5 transactions)

This case study explores the financial structures covering the export of five specialised ships, built in a shipyard close to Rotterdam, which will be used to lay pipes for the offshore oil industry in Brazil.

2. Lithographic equipment for making computer chips (3 transactions)

This case study explores the financial structures covering the export of lithographic machines for computer chip-making industries in Germany and the USA.

3. Upgrading a Floating, Production, Storage and Offloading (FPSO) vessel (1 transaction)

This case study explores the financial structures covering the refurbishment and upgrading of an old vessel at a shipyard in Rotterdam to be used in the offshore oil industry of Brazil.

The case studies illustrate that by underwriting the exports of Dutch companies to business partners abroad that use a maze of subsidiaries in tax havens, Atradius DSB is implicated in forms of aggressive tax planning. This implies that the Dutch government itself may be indirectly implicating in undermining tax collection practices, both in the beneficiary countries and in the Netherlands, while also undermining Dutch and international efforts to fight against tax evasion practices.

This report once again calls on Atradius DSB to screen all applications for export credit insurance support for the use of tax havens by all actors involved in the transaction, and to exclude businesses that make use of tax havens from being serviced by companies that benefit from export credit insurances.

² Berne Union Statistics, 2010-2014, <http://www.berneunion.org/wp-content/uploads/2012/10/Berne-Union-2015-Charts-and-numbers-for-website.pdf>

³ Atradius DSB Annual Review 2014, p.2, <http://www.atradiusdutchstatebusiness.nl/dsben/publications/jaaroverzichten/> On 25-11-2015 the Dutch Ministry of Finance indicated in an email to Both ENDS that different – lower – figures are reported to the Dutch Parliament. The email suggested that “Atradius is taking into account a not very realistic extreme scenario, due to which the exposure looks bigger than it is in reality”.

⁴ Homogene Groep Internationale Samenwerking, Jaarverslag 2014, p.3, <https://www.rijksoverheid.nl/binaries/rijksoverheid/documenten/jaarverslagen/2015/05/21/jaarverslag-homogene-groep-internationale-samenwerking-hgis-2014/jaarverslag-homogene-groep-internationale-samenwerking-hgis-2014.pdf>

⁵ OECD Guidelines for Multinational Enterprises, edition 2011, chapter XI

⁶ <http://www.atradiusdutchstatebusiness.nl/publicaties/afgegevenpolissen/index.html>

⁷ For example we dropped one case study during this investigation, as it emerged that the debtor/buyer company involved in the transaction – structured via Guernsey – went bankrupt.

2

FIVE PIPE-LAYING SUPPORT VESSELS (PLSV 1-5)

In the period March 2012 to March 2014, Atradius DSB supported the export of five pipe-laying support vessels (PLSVs) by the Dutch shipbuilder IHC Offshore & Marine BV to a series of shell companies in Bermuda⁸ with export credit insurance for a maximum amount of €865 million (see TABLE 1). Further investigation of the companies involved reveals a web of tax haven based subsidiaries controlled by a shipping magnate, John Fredriksen, who as the richest man of Norway exchanged his Norwegian citizenship for that of Cyprus, mostly for tax reasons⁹.

The overview of transactions published on Atradius DSB's website¹⁰ indicates that each of the five PLSVs was supplied to a company specially set up to buy and operate it. Such companies are known as special purpose vehicles – subsidiary companies created to finance specific projects or purchases – that were set up by TL Offshore INC to buy these vessels from IHC Offshore & Marine BV. The Bermuda Registrar of Companies confirms the incorporation of these five companies in Bermuda¹¹ while their parent company, TL Offshore INC, is listed in the American state of Delaware¹². Both locations are well known as convenient places for companies to register themselves in order to evade the payment of taxes.

The Sapura Ōnix. Source: <http://www.technedbenelux.nl/>



⁸ Bermuda is one of 30 countries listed by the European Commission that is not doing enough to crack down on tax avoidance, see e.g.: <http://www.royalgazette.com/article/20150617/BUSINESS/150619764>
Bermuda is listed as a favourite tax haven by the privacy-promoting website Offshore Manual, https://www.offshore-manual.com/222_5.html

⁹ <http://www.businessinsider.com/john-fredriksen-richest-man-in-cyprus-2013-3>

¹⁰ <http://www.atradiusdutchstatebusiness.nl/publicaties/afgegevenpolissen/index.html>

¹¹ <https://www.roc.gov.bm/roc/rocweb.nsf/public+register/t+public+companies>

¹² <https://icis.corp.delaware.gov/Ecorp/EntitySearch/NameSearch.aspx>

TABLE 1: Supply of 5 Pipe Laying Support Vessels

Date	Country	Exporter	Debtor	Guarantor	Financier	Transaction	Maximum insured amount (€)
16 March 2012	Malaysia	IHC Offshore & Marine BV	TL Offshore PLSV 1 Ltd	Seadrill Offshore AS, Norway and Sapurecrest Petroleum Berhad Formerly Crest Petroleum, Malaysia	Not applicable	550 ton pipe-laying support vessel	165,317,400
16 March 2012	Malaysia	IHC Offshore & Marine BV	TL Offshore PLSV 2 Ltd	Seadrill Offshore AS, Norway and Sapurecrest Petroleum Berhad Formerly Crest Petroleum, Malaysia	Not applicable	550 ton pipe-laying support vessel	154,513,488
13 March 2014	Bermuda	IHC Offshore & Marine BV	TL Offshore PLSV 3 LTD	Seadrill Ltd c/o Seadrill Management as, Hamilton, Bermuda Sapurakencana Petroleum Berhad, Selangor Malaysia	ABN Amro NV, RABO bank, Utrecht, DBS Bank Limited, Singapore ING Bank NV, Amsterdam Deutsche Bank AG, Amsterdam The Royal Bank of Scotland Plc., Amsterdam	Supply of a pipe-laying support vessel	177,268,266
13 March 2014	Bermuda	IHC Offshore & Marine BV	TL Offshore PLSV 4 LTD	Seadrill Ltd c/o Seadrill Management, Hamilton, Bermuda Sapurakencana Petroleum Berhad, Selangor Malaysia	ABN Amro NV, RABO bank, Utrecht, DBS Bank Limited, Singapore ING Bank NV, Amsterdam Deutsche Bank AG, Amsterdam The Royal Bank of Scotland Plc., Amsterdam	Supply of one pipe-laying support vessel	182,847,995
13 March 2014	Bermuda	IHC Offshore & Marine BV	TL Offshore PLSV 5 LTD	Seadrill Ltd c/o Seadrill Management, Hamilton, Bermuda Sapurakencana Petroleum Berhad, Selangor Malaysia	ABN Amro NV, RABO bank, Utrecht, DBS Bank Limited, Singapore ING Bank NV, Amsterdam Deutsche Bank AG, Amsterdam The Royal Bank of Scotland Plc., Amsterdam	Supply of a pipe-laying support vessel	185,637,859
						TOTAL	865,585,008

GLOSSARY:

Date: Date of issue of insurance policy

Country: Name of country where risk for Atradius DSB is located and where it will recuperate eventual damage

Exporter: (Dutch) exporting company

Debtor: Name of company that borrowed money to finance the transaction

Guarantor: Name of company guaranteeing the loan

Financier: Name(s) of bank(s) financing the transaction

Transaction: Brief description of transaction

The five PLSVs are the Sapura Diamante, the Sapura Topázio, the Sapura Ônix, the Sapura Jade and the Sapura Rubi. They are all meant to install subsea pipelines between oil wells off the Brazilian coast and production centres. The vessels use a vertical pipe-laying system with two below-deck storage carousels with a storage space for 4,000 tons of pipes. In August 2015 the last of the vessels was launched¹³. All five ships are set to be employed by the Brazilian state oil company Petrobras

to develop oilfields at depths of up to 2,500m under the sea. Such oilfields are referred to as 'pre-salt' – as it is thought there are significant oil reserves below a thick layer of salt and rock. Petrobras is keen to present the pre-salt oil fields as a new *el dorado*¹⁴ and hopes their discovery will allow it to compete with the Arab oil-producing countries.

Following the supply of the vessels, Atradius DSB issued another round of export credit insurance policies

to IHC Offshore & Marine BV for the "construction and exploitation" of the same five vessels (see TABLE 2). Whereas the first round of export credit insurance policies were for the risks associated with the export itself, the second round of policies are meant to cover the risks associated with the operation of the ships. While the ships are owned by special purpose vehicles, registered in Bermuda, different special purpose vehicles registered in Vienna, Austria, are in charge of operating these ships.

TABLE 2: Construction and exploitation of 5 Pipe Laying Support Vessels

Date	Country	Exporter	Debtor	Guarantor	Financier	Transaction	Maximum insured amount (€)
22 May 2014	Brazil	IHC Offshore & Marine BV	Sapura Diamante GmbH, Vienna, Austria	Seadrill Ltd c/o Seadrill Management, Hamilton, Bermuda Sapurakencana Petroleum Berhad, Selangor Malaysia	ING Bank NV	Construction and exploitation of two support vessels	479,838,217
14 April 2015	Brazil	IHC Offshore & Marine BV	Sapura Topazio GmbH, Vienna, Austria Sapura Onix GmbH Sapura Jade GmbH Sapura Rubi GmbH	Seadrill Ltd c/o Seadrill Management, Hamilton, Bermuda Sapurakencana Petroleum Berhad, Selangor Malaysia	ING Bank NV, Amsterdam; KfW IPEX-Bank GmbH, Frankfurt am Main, Germany; ABN-AMRO Bank NV, Singapore Branch, Singapore; DZ Bank AG Deutsche Zentral-Genossenschaftsbank, Frankfurt am Main, Germany; Sumitomo Mitsui Banking Corporation, Brussels, Belgium; ING Bank, a Branch of ING-DiBa AG, Frankfurt am Main, Germany; Standartd Chartered Bank, Offshore Labuan, Labuan, Malaysia, RABO Bank, Utrecht	Construction and exploitation of three support vessels	749,041,268
TOTAL							1.228,879,485

GLOSSARY:

- Date:** Date of issue of insurance policy
- Country:** Name of country where risk for Atradius DSB is located
- Exporter:** (Dutch) exporting company
- Debtor:** Name of company that borrowed money to finance the transaction
- Guarantor:** Name of company guaranteeing the loan
- Financier:** Name(s) of bank(s) financing the transaction
- Transaction:** Brief description of transaction

Whereas Atradius DSB offered export credit insurance for a maximum amount of €865 million in relation to the supply of the ships, nearly €1,229 million was issued for their construction and exploitation. So the total export credit insurance issued for the risks involved in getting these five vessels into operation was well over €2 billion. At least twelve international banks operating from different parts of the world have been involved in the financing of these complex transactions.

BERMUDAN REGISTERED 'SHELL COMPANIES' ARE CENTRAL TO THE JOINT VENTURE

TL Offshore, the holding company owning the ships, is a subsidiary of SapuraKenCana Petroleum, a Malaysia-based company specialised in oil and gas exploration services¹⁵. The five Bermuda-based special purpose vehicles set up by TL Offshore acted as the buyer in the five transactions. In the first two transactions, which were insured in 2012, Atradius DSB considered the risk to be concentrated in Malaysia, the country of the parent company. In case of damage it will try to recuperate the costs from that

country. In the other three cases, which obtained insurance in 2014, the risk was concentrated in Bermuda, the country where the special purpose vehicles are registered. For the construction and exploitation of the vessels, the risks are reportedly located in Brazil, where the ships are intended to operate.

To mitigate losses in the event of a default by the debtor company, the guarantor companies accepted liabilities in these transactions. The role of guarantor in the supply transactions is split between the subsidiaries of the two parent companies involved in the joint venture. For TL Offshore 1 and 2, the guarantors are Seadrill Offshore AS (a Norwegian subsidiary) and SapuraCrest Petroleum Berhad (Malaysia). For TL Offshore 3, 4 and 5 – the guarantors are Seadrill Ltd (incorporated in Bermuda but managed from London) and SapuraKencana Petroleum Berhad (Malaysia). These last two companies also act as guarantors in the transactions covering the construction and exploitation of the vessels (see FIGURE 1).

¹³ IHC press release: <http://www.ihcmerwede.com/about-royal-ihc/media/news/article/royal-ihc-launches-fifth-pipelaying-vessel-for-sapura-navegacao-maritima/>

¹⁴ Petrobras magazine- Global Connections. <http://www.petrobras.com/en/magazine/post/deep-future.htm>

¹⁵ <http://ir.chartnexus.com/sapurakencana/onenew.php?id=35315&type=Announcement>

¹⁶ <http://www.forbes.com/sites/needrjetley/2015/02/25/oil-burns-a-hole-malysias-billionaires-reel-as-ringgit-slips/>

¹⁷ <http://www.reuters.com/article/2012/11/05/us-seadrill-sapurakencana-idUSBRE8A40BQ20121105>

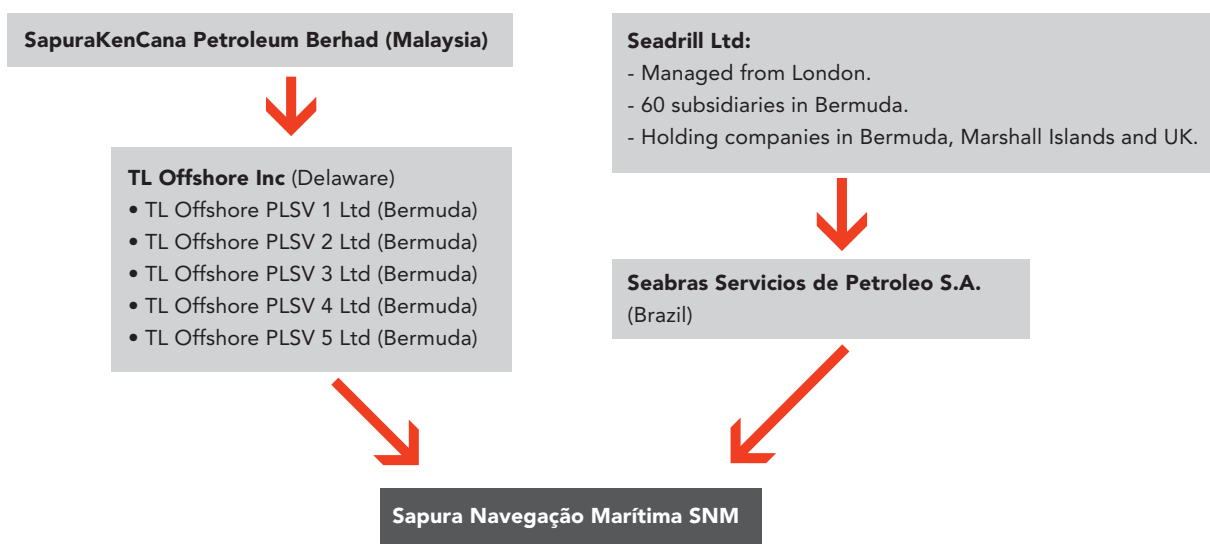
¹⁸ http://www.rigzone.com/news/oil_gas/a/127405/Seadrill_Sapura-Kencana_to_Build_Pipe_Laying_Support_Vessels_in_Holland

¹⁹ http://www.rgrdlaw.com/media/cases/313_Complaint.pdf

²⁰ <http://www.bloomberg.com/news/articles/2014-12-08/billionaire-fredriksen-boosts-seadrill-stake-after-shares-slump>

²¹ <http://www.ft.com/cms/s/0/7bb71982-682e-11e4-bcd5-00144feabdc0.html#axzz3k1Yd12Fr>

FIGURE 1: Joint venture between SapuraKenCana and Seadrill



SapuraKenCana is Asia's biggest provider of services to customers in the oil and gas industry, with clients that include ExxonMobil, Shell and BP. The main investors behind the company, brothers Shahril and Shahrizan Shamsuddin, saw their fortune cut by nearly 40% in 2015 following the drop in crude oil prices¹⁶.

Seadrill is a Bermuda incorporated offshore drilling company based in London. In 2012 it sold part of its Asian rigs business to SapuraKenCana in a deal worth €2.6 billion to fund its expansion into deep-water drilling¹⁷. Preceding that transaction the two companies set up a joint venture in 2011 to bid for contracts from the Brazilian state oil company, Petrobras. The joint venture has secured €3.7 billion in contracts to design, build and charter pipe-laying vessels to be used off the Brazilian coast¹⁸.

BOTH SEADRILL AND PETROBRAS POSE A RISK TO THE ECONOMIC FEASIBILITY OF THE PLSVS

Seadrill – the company that acts as guarantor in these transactions – is currently facing a class action lawsuit by its investors over allegedly making misleading statements regarding dividend payments that the company promised to make in summer 2014, only for it to cancel these in November the same year¹⁹. In a two-week period, from late November to early December 2014, the value of the company's shares dropped by 40%²⁰ wiping billions off its value. Also in November 2014, Seadrill's proposed Arctic exploration deal with the Russian state oil company Rosneft collapsed as a result of western sanctions²¹ and in December of the same year Goldman Sachs voiced serious concerns over Seadrill's solvency in the face of the continued drop in oil prices²².



John Fredriksen. Source: <http://www.hegnar.no>

In February 2015 Seadrill cancelled US\$ 1.1 billion in orders from Petrobras due to concerns over Petrobras' ability to access finance in response to Petrobras being almost totally excluded from capital markets as a consequence of a massive and ongoing corruption scandal²³. Seadrill's business with Petrobras accounts for 16% of the company's revenues²⁴ and Seadrill is significantly exposed to the turmoil in Petrobras and Brazil. SapuraKenCana has also been subject to serious write-downs in recent months – profits for the second quarter of 2015 fell by 77% owing to uncertainty in the crude oil market²⁵.

The contract between the joint venture of Seadrill and SapuraKenCana and their client Petrobras to design, build and charter vessels for eight years as part of Petrobras' expansion in drilling activities looks to be in serious trouble. The effects of the corruption scandal – Petrobras wrote off US\$ 2 billion from its 2014 financial results²⁶ – show no sign of easing off. The company is being forced to look for additional financing from the capital markets though in 2015 it already had a net debt load of US\$ 101 billion²⁷.

Yet despite the increased levels of uncertainty surrounding both Seadrill and Petrobras, Atradius DSB still decided to underwrite these transactions. The construction and exploitation of the five PLSVs clearly depend on the cash flows of the companies operating them. Concerns about Seadrill's solvency, the ongoing problems at Petrobras or the continued downturn in the oil industry did not inhibit Atradius DSB from issuing new export credit insurances for these vessels in 2014 and 2015.

SEADRILL'S USE OF SUBSIDIARIES IN TAX HAVENS

Documents deposited at the US Securities Exchange Commission reveal Seadrill Limited's company structure to include no fewer than 60 subsidiaries in Bermuda and a presence in other tax haven jurisdictions such as the Cayman Islands, Luxembourg, British Virgin Islands and the Marshall Islands²⁸. Other documents deposited at the Securities Exchange Commission show that Seadrill Limited is majority held by Hemen Holdings Ltd, a Cyprus-registered company controlled by shipping magnate John Fredriksen²⁹ – owner of the world's largest oil tanker fleet and Seadrill chairman since its inception in 2005.

In 2006 Mr Fredriksen famously abandoned his native Norway to obtain a Cypriot passport for tax reasons, claiming he “didn’t own anything”. An investigation by the Norwegian business daily *Dagens Næringsliv* revealed that he took €6.6 billion in dividends from his companies in eight years and controlled previously undeclared subsidiaries in Liberia, Jersey and Panama³⁰. In the 1980s Mr Fredriksen was jailed for four months on fraud charges³¹. In comments made to the *Wall Street Journal* he admitted that he shipped oil to apartheid South Africa during a trade embargo, stating that “everyone did it”³². In August 2014 two companies controlled by Mr Fredriksen – Arcadia Petroleum and Parnon Energy – agreed to pay US\$ 13 million to settle claims from the US Commodities and Futures Trading Commission that they illegally manipulated crude oil prices in 2008³³. In November 2015, the CEO of the Frederiksen Group, Mr Jo Ludner – who controls all Mr Fredriksen’s investments, including Seadrill – was arrested by the Norwegian police on corruption charges³⁴.

In the light of Mr Fredriksen’s track record and his companies’ extensive use of shady business constructions involving tax havens, his company standing as the guarantor of substantial risks for export credit insurance ought to have triggered enhanced due diligence by Atradius DSB. Currently Atradius DSB has no policies in place to review data on the guarantors’ tax record as part of its due diligence procedures. Companies which aggressively avoid contributing to the public finances of the beneficiary countries where they operate are non-compliant with the OECD Guidelines for MNEs³⁵. If the potential for aggressive tax planning schemes being a part of the complex and capital intensive transactions is not reviewed, there is clearly a real risk of Atradius DSB being complicit in such practices.

3

LITHOGRAPHIC EQUIPMENT FOR MAKING COMPUTER CHIPS

In 2013, Atradius DSB underwrote one, and in 2014 two, export transactions for lithographic equipment and associated programmes for a maximum amount of damage totalling €498 million. The exporter was the Dutch manufacturer of lithography machines ASML Netherlands BV and the buyer was a Cayman Islands incorporated company named GlobalFoundries Inc, owned by the government of Abu Dhabi.

²² <http://www.streetinsider.com/Analyst+Comments/Goldman+Sachs+Downgrades+Seadrill+Ltd.+%28SDRL%29+to+Sell%2C+Adds+to+Conviction+List/10111334.html>

²³ <http://www.ft.com/cms/s/0/40f7370a-b39c-11e4-9449-00144feab7de.html#axzz3klTrjDwK>

²⁴ See page 22 of Seadrill’s 2014 annual report: <http://www.seadrill.com/~media/Files/S/Seadrill/reports/2014/annual-report-2013-form-20-f.pdf>

²⁵ <http://subseaworldnews.com/2015/09/15/sapurakencana-in-profit-slump/>

²⁶ <http://www.wallstreetdaily.com/2015/05/05/petrobras-corrupti-on-debt/>

²⁷ <http://www.wsj.com/articles/brazils-petrobras-plans-to-raise-at-least-833-million-from-debt-issue-1440592686>

²⁸ <http://www.sec.gov/Archives/edgar/data/1351413/000144530514001358/exhibit81.htm>

²⁹ http://google.brand.edgar-online.com/EFX_dll/EDGARpro.dll?FetchFilingHtmlSection1?SectionID=8863354-737103-740631&SessionID=30fw6C3uBsn8WVN7

³⁰ Article is reposted in English here: <http://fredriksenwatch.blogspot.co.uk/2014/09/i-own-nothing-john-fredriksen-sets.html>

³¹ <http://www.bloomberg.com/news/articles/2012-09-09/ship-magnate-uses-gut-in-11-billion-bet-worst-since-70s-ending>

³² The Wall Street Journal: <http://www.wsj.com/articles/SB120700920323078811>

³³ <http://www.ft.com/cms/s/0/d4325690-1c7e-11e4-98d8-00144feabdc0.html#axzz3l3CD7MN8>

³⁴ The Financial Times, November 5, <http://www.ft.com/cms/s/0/2f1bd13e-83c7-11e5-8e80-1574112844fd.html#axzz3qp9OmjUb>

³⁵ OECD Guidelines for MNEs, 2011 Edition, chapter XI.

TABLE 3: Supply of 5 Pipe Laying Support Vessels

Date	Country	Exporter	Debtor	Guarantor	Financier	Transaction	Maximum insured amount (€)
22 January 2013	Germany	ASML Netherlands BV	Global Foundries Inc.	Globalfoundries Singapore Pte.Ltd. Globalfoundries Netherlands Holding BV Globalfoundries U.S. Inc. Globalfoundries Singapore (Tampines) Pte. Ltd. Globalfoundries Management Services Kimited Liability Company & Co. KG Globalfoundries Dresden Module One LLC Globalfoundries Dresden Module One Holding GmbH Globalfoundries Dresden Module One Limited Liability Company & Co. KG Globalfoundries Dresden Module Two LLC Globalfoundries Dresden	Société Générale SA	The supply of lithographic equipment and 'performance enhancement programmes'	201,714,255
20 November 2014	USA	ASML Netherlands BV	Global Foundries Inc., Grand Cayman	Globalfoundries Singapore Pte Ltd., Singapore Globalfoundries Netherlands Holding BV, Netherlands Globalfoundries U.S. Inc., USA Globalfoundries Singapore (Tampines) Pte. Ltd, Singapore Globalfoundries Management Services Limited Company & Co. KG Dresden, Germany Globalfoundries Dresden ModuleOne LLC, USA Globalfoundries Dresden ModuleOne HoldingGmbH, Germany Globalfoundries Dresden ModuleOne Limited Liability Company & Co. KG, Germany Globalfoundries Dresden ModuleTwo LLC, USA Globalfoundries Dresden ModuleTwo HoldingGmbH, Germany Globalfoundries Dresden ModuleTwo Limited Liability Company & Co. KG, Germany Globalfoundries (Netherlands) Cooperative	Société Générale SA, France, Australia and NewZealand Banking Group Limited, Singapore HSBC Bank Middle East Limited, United Arab Emirates, Bank of America, N.A. London Branch, Great Britain Morgan Stanley Bank, N.A., USA Deutsche Bank AG, London Branch, Great Britain Commerzbank AG Kantoor Amsterdam, Netherlands Citibank Europe plc, Ireland	The supply of lithographic equipment and 'performance enhancement programmes' for the equipment of chip making factories	132,865,655

Date	Country	Exporter	Debtor	Guarantor	Financier	Transaction	Maximum insured amount (€)
20 November 2014	Germany	ASML Netherlands BV	Global-foundries-Inc., Grand Cayman	Globalfoundries Singapore Pte Ltd., Singapore Globalfoundries Netherlands Holding B.V., Netherlands Globalfoundries U.S. Inc., USA Globalfoundries Singapore (Tampines) Pte. Ltd. Singapore Globalfoundries Management Services Limites Company & Co. KG Dresden, Germany Globalfoundries Dresden ModuleOne LLC, USA Globalfoundries Dresden ModuleOne HoldingGmbH, Germany Globalfoundries Dresden ModuleOne Limited Liability Company & Co. KG, Germany Globalfoundries Dresden ModuleTwo LLC, USA Globalfoundries Dresden ModuleTwo HoldingGmbH, Germany Globalfoundries Dresden ModuleTwo Limited Liability Company & Co. KG, Germany Globalfoundries (Netherlands) Cooperative	SociétéGénérale SA, France Australia and NewZealand Banking Group Limited, Singapore HSBC Bank Middle East Limited, United Arab Emirates Bank of America, N.A. London Branch, Great Britain Morgan Stanley Bank, N.A., USA Deutsche Bank AG, London Branch, Great Britain Commerzbank AG Kantoor Amsterdam, Netherlands Citibank Europe plc, Ireland	The supply of lithographic equipment and 'performance enhancement programmes' for the equipment of chip making factories	163,870,859
TOTAL							498,450,769

GLOSSARY:

- Date:** Date of issue of insurance policy
- Country:** Name of country where risk for Atradius DSB is located and where it will recuperate eventual damage
- Exporter:** (Dutch) exporting company
- Debtor:** Name of company that borrowed money to finance the transaction
- Guarantor:** Name of company guaranteeing the loan
- Financier:** Name(s) of bank(s) financing the transaction
- Transaction:** Brief description of transaction

GlobalFoundries is the world's third largest semi-conductor manufacturer by revenue³⁶. The group has its headquarters in Santa Clara, in California's Silicon Valley, and has manufacturing operations in Dresden (Germany), New York and Vermont (USA) and Singapore. Its New York micro-chip fabrication plant is one of the largest of its kind in the USA and forms part of the burgeoning New York 'Tech Valley'. As part of a rapid expansion, GlobalFoundries has embarked on a series of acquisitions to increase its production capacity – in 2009 it took over Chartered Semiconductor Manufacturing Ltd, a Singapore-based foundry, for US\$ 3.9 billion³⁷ and in 2015 it bought IBM's microelectronics division³⁸. As part of the deal it has a ten-year exclusive contract to supply IBM with 22-, 14- and 10-nanometre semiconductor processors and also has a research and development partnership³⁹.

The parent company – GlobalFoundries Inc. – is 100% owned by Mubadala Development Company PJSC, the private investment arm of the Government of Abu Dhabi. The GlobalFoundries Inc. holding is registered in the Cayman Islands⁴⁰. GlobalFoundries Inc. has a postal address in the infamous Uglund House in Grand Cayman⁴¹, where the international law firm Maples and Calder reportedly hosts some 19,000 international corporations⁴².

Born out of a 1984 joint venture between Dutch electronics giant Phillips and Advanced Semiconductor Materials International, ASML is now the world's leading developer and manufacturer of photolithography systems for the semiconductor industry. Put simply, the company manufactures machines that are used to produce computer chips such as central processing units. In 1995 the group launched an initial public offering on the Amsterdam – now known as Euronext – and the

New York-based NASDAQ stock exchanges to raise capital and further its expansion. In 2012 it sold 15% of the company's shares, worth US\$ 4.1 billion, to Intel Corp to fund its research into extreme-ultraviolet or EUV lithography⁴³. EUV is the next generation of computer chips, allowing for vast amounts of data to be stored on smaller chips which have a lower manufacturing cost.

GlobalFoundries' partnership with ASML is in part motivated by ASML's development of EUV lithography⁴⁴. ASML hopes to begin the production of its EUV capabilities in 2016, which would strengthen its already dominant position in the market.

DUTCH AND AMERICAN PUBLIC BACKING

The Atradius DSB website lists export credit insurances for three transactions between ASML and

GlobalFoundries – one in January 2013 to Germany and two in November 2014 to the USA and Germany – providing export credit cover for a maximum insured amount of €498 million. According to its website, GlobalFoundries hopes its expansion in New York will turn it into the world's most advanced semiconductor production facility⁴⁵. GlobalFoundries' Dresden operations are geared towards the production of 300 mm wafers and have a monthly manufacturing capacity of sixty thousand units⁴⁶ – the biggest of its kind in Europe⁴⁷.

To finance the export of American-made semiconductor manufacturing equipment for the expansion of its production plant (Fab 1) in Dresden, GlobalFoundries received a US\$ 1.03 billion direct loan from the US Export-Import Bank, the American export credit agency. The economic rationale for this public support is



GlobalFoundries' Fab 8 facility in Malta, New York



Fab 1 in Dresden, Germany

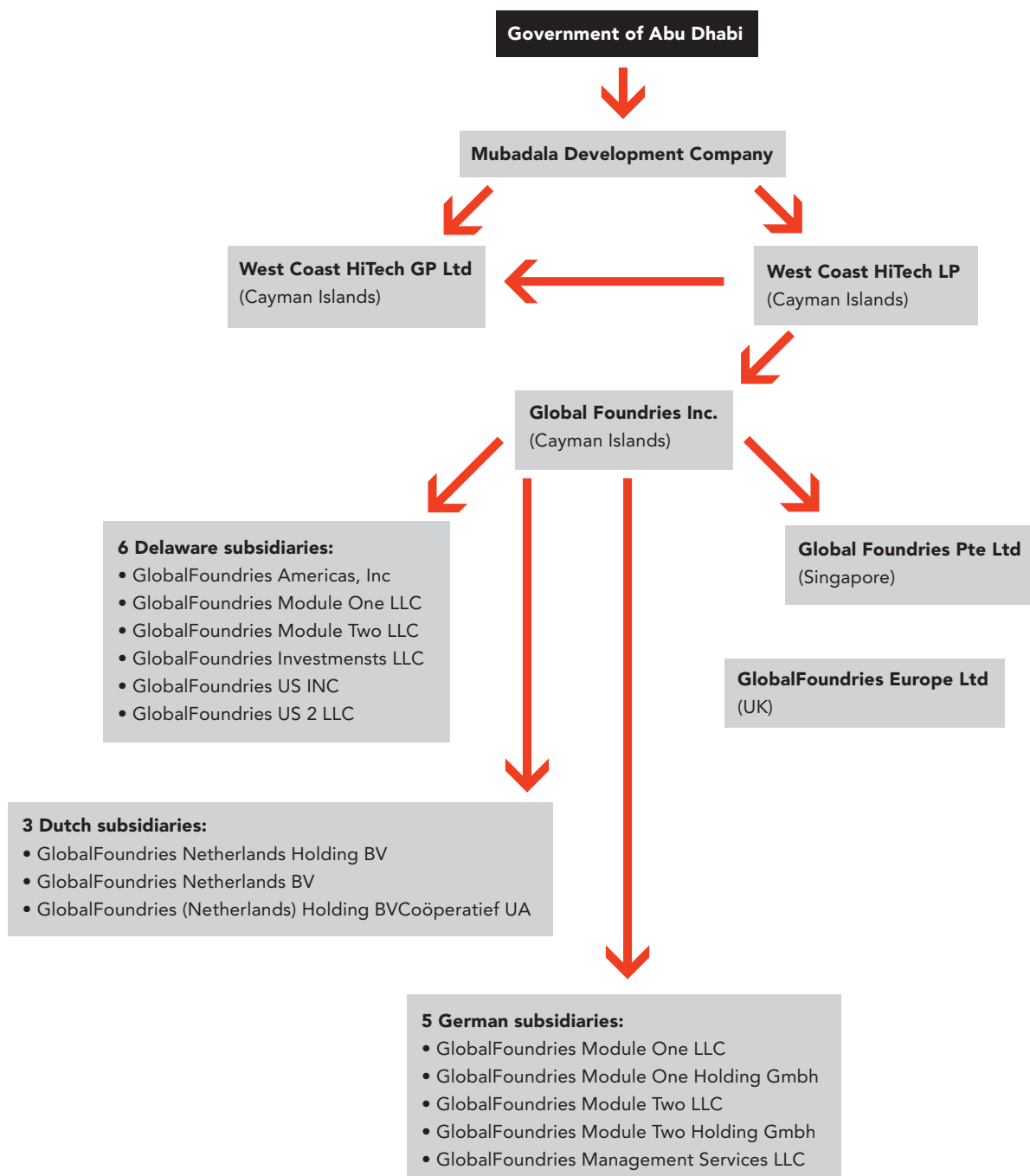
that it would support 10,000 high tech jobs in the USA⁴⁸. The company Applied Materials Inc. – also with its headquarters in Santa Clara (California) – supplies components to GlobalFoundries for the expansion of its production plant in Germany. The US Export-Import Bank's 2013 annual report states that the loan was made to GlobalFoundries Inc. – the mother company that is legally registered in the Cayman Islands⁴⁹.

GLOBALFOUNDRIES' CORPORATE STRUCTURES

Both ENDS has been in correspondence with Atradius DSB⁵⁰ who confirmed that while ASML supplied machinery to GlobalFoundries plants, the buyer and the borrower are not necessarily the same legal entity. Thus – as was the case of the US exports to the German plant – the borrower for the

transaction was GlobalFoundries Inc., the Cayman Islands parent company. American and other international corporations often register their business in offshore financial centres such as Uglan House in Grand Cayman to keep the profits out of the US. Tax havens such as the Cayman Islands levy a convenient 0% corporation tax⁵¹.

FIGURE 2: GlobalFoundries – Known global subsidiaries



On the Atradius DSB website twelve GlobalFoundries subsidiaries are listed as guarantors in the three transactions with ASML (see TABLE 4). Unconditional payment guarantees from several legal entities within the GlobalFoundries Group are part of the security package for the repayment obligations under the loan. Atradius DSB refers to GlobalFoundries Inc. as a financial holding, and the guarantors are operating companies under this holding which represent a substantial percentage of the assets and revenues of the group. The two Dutch subsidiaries of GlobalFoundries listed here have no physical presence in the Netherlands other than the same office address in Amsterdam's financial

district⁵². Similarly the three US-based subsidiaries are registered at a similar office address in Wilmington, Delaware⁵³. The registration of all the American GlobalFoundries' subsidiaries in Delaware is probably also motivated by tax planning considerations as the company has no economic activity in the state. Companies that are incorporated in Delaware do not pay tax for any economic activity undertaken outside the state. GlobalFoundries is incorporated at the same office in Delaware that is also technically the home of companies such as Apple, Google and Coca-Cola and the majority of Fortune 500 companies⁵⁴.

TABLE 4: Guarantors within the GlobalFoundries group

	Country	Subsidiary
1	Singapore	GlobalFoundries Singapore Pte Ltd
2	Singapore	GlobalFoundries Singapore (Tampines) Pte. Ltd
3	USA	GlobalFoundries US Inc.
4	USA	GlobalFoundries Dresden Module One LLC
5	USA	GlobalFoundries Dresden Module Two LLC
6	Germany	GlobalFoundries Dresden Module One Limited Liability Company (LLC) & Co. KG
7	Germany	GlobalFoundries Dresden Module One Holding GmbH
8	Germany	GlobalFoundries Dresden Module Two LLC & Co. KG
9	Germany	GlobalFoundries Dresden Module Two LLC & Co. KG
10	Germany	GlobalFoundries Management Services Limited Company & Co. KG Dresden
11	Netherlands	GlobalFoundries Netherlands Holding BV
12	Netherlands	GlobalFoundries (Netherlands) Cooperative

Data from GlobalFoundries Netherlands' 2014 annual accounts suggest that these subsidiaries mainly manage capital flows between different parts of the GlobalFoundries group, rather than generating any revenue themselves⁵⁵. Payments cover items such as royalty payments for the exchange of wafers between different companies within the group. The 2014 accounts confirm that GlobalFoundries has an advance pricing agreement, or so-called 'comfort letter', with the Dutch tax authorities, allowing it to negotiate with the Dutch authorities over the amount of tax it pays on future income. In the past such agreements have been the source of controversy and legal challenge: the European Commission recently ruled that the Dutch authorities' tax agreement with Starbucks constituted illegal state aid⁵⁶.

As well as having built a complex web of subsidiaries under a holding that is registered in a tax haven, GlobalFoundries also opted for highly complex financing structures for its purchase of lithographic equipment and 'performance enhancement programmes' for this equipment from ASML. The early 2013 transaction was financed through a single French bank, Société Générale SA. However the two transactions of late 2014 were financed through a consortium of eight banks based in seven different jurisdictions. According to Atradius DSB the choice of financing arrangement is entirely the decision of the buyer and borrower – i.e. GlobalFoundries. Atradius DSB admits that it only looks at the exporter involved in the transaction, as it only reviews whether the applicant for export credit insurance is Dutch and the export transaction contains sufficient Dutch substance⁵⁷. That the structuring of transactions may actually be built around business models that involve a clear possibility of tax avoidance is apparently of no concern to ADSB.

³⁶ Gartner market statistics: <http://www.gartner.com/newsroom/id/3027717>

³⁷ EE Times: http://www.eetimes.com/document.asp?doc_id=1171644

³⁸ GlobalFoundries press release: <http://globalfoundries.com/newsroom/press-releases/2015/07/01/globalfoundries-completes-acquisition-of-ibm-microelectronics-business>

³⁹ GlobalFoundries press release: <http://globalfoundries.com/newsroom/press-releases/2014/10/20/globalfoundries-to-acquire-ibm-s-microelectronics-business>

⁴⁰ Mubadala Development Company PJSC, Consolidated financial statements, 31 December 2014, p.48; [http://www.mubadala.com/annual-review-2014/en/media/MDC%20Consolidated%20Financial%20State-ments%20FY%202014.pdf](http://www.mubadala.com/annual-review-2014/en/media/MDC%20Consolidated%20Financial%20Statements%20FY%202014.pdf)

⁴¹ <https://www.onscope.com/ipowner/en/owner/797/addresses.html>. The address of GlobalFoundries Inc. in Ugland House is also confirmed in Delaware court documents: http://iknow.stpi.narl.org.tw/Post/Files/complaint/Complaint_pclass_12_A112_Semcon%20Tech%20LLC%20v.%20GlobalFoundries.pdf

⁴² <http://foreignpolicy.com/2012/01/24/house-of-19000-corporations/>

⁴³ Intel Corp press release: <http://www.intc.com/releasedetail.cfm?ReleaseID=690165>

⁴⁴ <https://www.asml.com/asml/show.do?ctx=5869&rid=51765>

⁴⁵ GlobalFoundries website: <http://www.globalfoundries.com/manufacturing/fab-8-overview>

⁴⁶ GlobalFoundries website: <http://globalfoundries.com/manufacturing/manufacturing-overview>

⁴⁷ GlobalFoundries website: <http://www.globalfoundries.com/newsroom/press-releases/2010-press-releases/2014/02/28/globalfoundries-expands-worldwide-manufacturing-capacity>

⁴⁸ Export-Import Bank press release: <http://www.exim.gov/news/ex-im-approves-1-billion-direct-loan-finance-export-us-manufacturing-equipment-germany>

⁴⁹ <http://www.exim.gov/sites/default/files/reports/annual/annual-report-2013.pdf>

⁵⁰ Email dd. 27 August 2015.

⁵¹ <http://www.tradingeconomics.com/cayman-islands/corporate-tax-rate>

⁵² Atrium building, Strawinskylaan 3051 Suite #21, 1077 ZX Amsterdam

⁵³ 2711 Centerville RD, Suite 400, Wilmington, DE 19808, USA, <https://icis.corp.delaware.gov/Ecorp/EntitySearch/NameSearch.aspx>

⁵⁴ <http://technical.ly/delaware/2014/09/23/why-delaware-incorporation/>

⁵⁵ Page 14 of GlobalFoundries Netherlands BV annual accounts 2014. Available from www.kvk.nl

⁵⁶ The European Commission http://ec.europa.eu/competition/state_aid/cases/253201/253201_1596706_60_2.pdf, and http://europa.eu/rapid/press-release_IP-15-5880_en.htm

⁵⁷ Email dd. 27 August 2015

4

UPGRADING A FLOATING, PRODUCTION, STORAGE AND OFFLOADING (FPSO) VESSEL

In July 2015 Atradius DSB provided export credit insurance for a maximum damage of €104 million to Damen Shiprepair Rotterdam BV as part of a project to upgrade the Teekay Petrojarl 1, a Floating Production, Storage and Offloading (FPSO) vessel used in the offshore oil industry. The upgrade is part of a larger transaction that will see the vessel being chartered by Queiroz Galvão Exploração e Produção SA (QGEP) – a Brazilian oil company currently mired in a corruption scandal.

TABLE 4: Upgrading a Floating, Production, Storage and Offloading vessel

Date	Country	Exporter	Debtor	Guarantor	Financier	Transaction	Maximum insured amount (€)
24 July 2015	Bermuda	Damen Shiprepair Rotterdam BV	Petrojarl 1	Teekay Offshore Partners LP	ABN AMRO Capital USA LLC	The refurbishment and upgrade of the FPSO Petrojarl 1	104,270,417

GLOSSARY:

Date: Date of issue of insurance policy

Country: Name of country where risk for Atradius DSB is located

Exporter: (Dutch) exporting company

Debtor: Name of company that borrowed money to finance the transaction

Guarantor: Name of company guaranteeing the loan

Financier: Name(s) of bank(s) financing the transaction

Transaction: Brief description of transaction

THE DAMEN GROUP

Founded in 1927 in the Dutch town of Hardinxveld-Giessendam, Damen is one of the largest privately owned Dutch companies. It operates from some 32 shipyards in 16 different countries around the globe. By cooperating with partner shipyards, the group can produce up to 150 vessels annually, close to their delivery destinations. The Damen Group receives substantial backing from the Dutch government – in 2014 alone Atradius DSB underwrote €610 million of Damen Group sales, representing 30% of the group's 2014 turnover⁵⁸.

THE TEEKAY CORPORATION – FROM NORWAY TO THE MARSHALL ISLANDS

The Teekay Corporation⁵⁹ began life as a small Norwegian tanker company focusing on the crude oil trade between the USA and South-East Asia in the 1970s. These days it is one of the biggest players in the energy transportation, storage and production business. It controls 158 vessels and carries crude oil, petroleum products and liquefied natural gas (LNG) around the world⁶⁰.

The Teekay Corporation has three main divisions: Teekay LNG Partners LP, Teekay Offshore Partners LP and Teekay Tankers Ltd – all of which are listed on the New York Stock Exchange but are incorporated in the Marshall Islands⁶¹. In total, Teekay has substantial control over at least 45 active subsidiaries in the Marshall Islands⁶². Companies based in the Marshall Islands, but not doing business there, are exempt from all taxes. This allows Teekay Corporation subsidiaries to avoid paying corporation tax in the countries in which they physically operate. It is most likely that Teekay's presence in the Marshall Islands – restricted to a trust company complex without any local operations⁶³ – is motivated by tax reasons. Teekay Corporation's 2014 annual report submitted to the American Securities and Exchange Commission suggests that the company is deliberately structured to avoid paying federal income taxes in the US under section 883 of the Internal Revenue Code for foreign-owned shipping companies. It also states that the company and its subsidiaries are not subject to taxes under the laws of the Marshall Islands⁶⁴.

⁵⁸ Damen website: <http://www.damen.com/en/about/key-figures>, and http://www.atradiusdutchstate-business.nl/Images/DGGF_overzicht_2014_tcm1008-170332.pdf

⁵⁹ <http://teekay.com/>

⁶⁰ US Securities and Exchange 20F document: <http://www.sec.gov/Archives/edgar/data/1308106/000119312512159093/d248168d20f.htm>

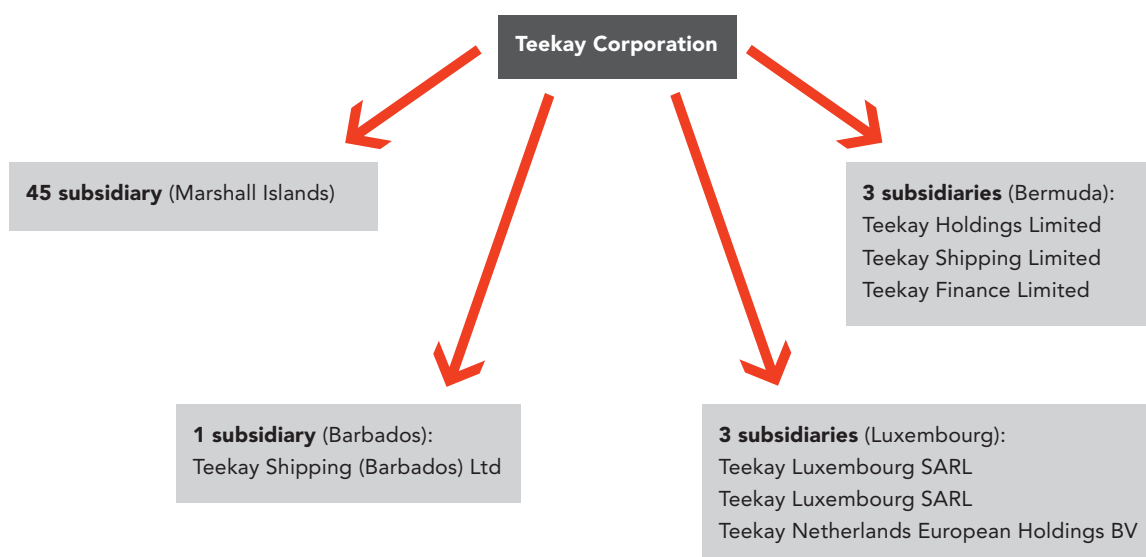
⁶¹ US Securities and Exchange: <http://www.sec.gov/Archives/edgar/data/911971/000119312514163511/d684501dex81.htm>

⁶² Search result on "Teekay" at: <https://www.register-iri.com/miCorporate/index.cfm/Corporate/results>

⁶³ [https://teekay.com/wp-content/uploads/2014/12/Teekay_Tankers_Ltd._-_Articles_ofIncorporation__Amendment__Bylaws.pdf](https://teekay.com/wp-content/uploads/2014/12/Teekay_Tankers_Ltd_-_Articles_ofIncorporation__Amendment__Bylaws.pdf)

⁶⁴ Teekay Corporation 2014 annual report, page 36: <http://teekay.com/wp-content/uploads/2015/04/TKC-20-F-2014-FINAL-2.pdf>

FIGURE 3: Teekay Corporation – subsidiaries located in tax havens



The fact that the corporation is registered in the Marshall Islands is of particular concern given that in June 2015 the European Commission released a list of the top 30 “non-cooperative jurisdictions” – or tax havens – that included the Marshall Islands⁶⁵. The move by the European Commission was part of a wider crackdown on multinational corporations who avoid paying tax. Also on the list was Bermuda, where the Teekay Corporation has three active subsidiaries⁶⁶. The European Commission’s activity in this area aims to protect Europe against external threats to its ability to collect taxes⁶⁷; companies that use such jurisdictions as part of their business structures are part of this threat.

THE NEWLY UPGRADED FPSO WILL BE CHARTERED BY BRAZILIAN OIL COMPANY QGEP

The Petrojarl 1 was a Teekay Petrojarl-managed FPSO, built in 1986 and used in the North Sea. In December 2014 the Teekay Corporation entered into an agreement with a consortium led by Brazilian oil company Queiroz Galvão

Exploração e Produção SA (QGEP) to supply an FPSO for the company’s oil field in the Santos Basin. Shortly after the agreement was signed, a Teekay subsidiary, Teekay Offshore Partners LP, acquired the Petrojarl 1 from its parent company for €57 million⁶⁸. The company’s accounts refer to the intra-company transaction as a transfer of net assets between entities under common control⁶⁹.



In June 2015 the European Commission included The Marshall Islands and Bermuda in its list of tax havens. Photo: Liberty Voice

TEXT BOX 1:

Queiroz Galvão Exploração e Produção SA – end user engulfed in corruption scandal

QGEP, the Brazilian oil company that will charter the upgraded FPSO Petrojarl 1, has been dragged into a string of corruption scandals that started with Petrobras and has now spread to other companies that are the beneficiaries of state contracts. In March 2015 the Brazilian federal police arrested Mr Dario de Queiroz Galvão Filho, QGEP's chief executive officer and main shareholder, as part of the investigation into the 'car-wash' corruption scandal⁷⁰. Mr de Queiroz Galvão Filho was allowed to leave prison in May and has been confined to house arrest pending the result of the investigation.

In June 2015 the Brazilian police raided the offices of the Queiroz Galvão Group⁷¹ – of which QGEP is a subsidiary – as part of an investigation into irregular payments made in a military programme between Brazil and France to build a nuclear powered submarine. Then in August 2015 a federal judge in Brazil ordered the freezing of €36 million in payments to QGEP on a number of public contracts whilst it investigates documentation relating to corrupt payments⁷². As reported in *Bloomberg*⁷³, the Brazilian federal police claim it has "strong evidence" that QGEP was involved in a price-fixing cartel to win public contracts. It has also been alleged that members of the de Queiroz Galvão family stashed millions in cash in the Geneva branch of HSBC⁷⁴.



QGEP chief executive officer Mr Dario de Queiroz Galvão Filho at a court appearance in June 2015. Photo: UOL

⁶⁵ European Commission press release: http://europa.eu/rapid/press-release_IP-15-5188_en.htm

⁶⁶ US Securities and Exchange: <http://www.sec.gov/Archives/edgar/data/911971/000119312514163511/d684501dex81.htm>

⁶⁷ European Commission press release: http://europa.eu/rapid/press-release_IP-15-5188_en.htm

⁶⁸ US Securities and Exchange Commission: <http://www.secinfo.com/d14D5a.m9B7y.2f.htm>

⁶⁹ Teekay document filed at US Securities and Exchange Commission. Page 7 <http://teekay.com/wp-content/uploads/2015/04/TOO-20-F-2014.pdf>

⁷⁰ Agência Brasil: <http://agenciabrasil.ebc.com.br/en/politica/noticia/2015-03/grupo-galvao-ceo-arrested-new-phase-operation-car-wash>

⁷¹ Buenos Aires Herald <http://www.buenosairesherald.com/article/195165/techint-distances-itself-from-brazil-oil-scandal>

⁷² Valor newspaper: <http://www.valor.com.br/politica/3997544/justica-bloqueia-r-163-milhoes-da-queiroz-galvao>

⁷³ Bloomberg: <http://www.bloomberg.com/news/articles/2015-02-13/hsbc-pitches-petrobras-tainted-oil-rig-bonds-nobody-wants>

⁷⁴ The Guardian: <http://www.theguardian.com/environment/2015/mar/20/petrobras-scandal-project-received-hundreds-of-millions-from-uk-taxpayers>



The Petrojarl 1



Atradius DSB's website⁷⁵ suggests that one of the many Marshall Islands subsidiaries of Teekay – Petrojarl 1 LLC – is the same Teekay subsidiary which awarded the contract for the upgrade of this vessel to Damen Shiprepair Rotterdam BV. The engineering, procurement and construction contract amounts to approximately US\$ 240 million, including the cost of acquiring the Petrojarl 1 and the installation activities of other Dutch sub-contractors. The upgraded FPSO is expected to start operations in early 2016 in the Atlanta oilfield, 185 km off the Brazilian coast. This oilfield is estimated to contain 260 million recoverable barrels of oil equivalent⁷⁶.

Under a five-year charter with QGEP, the Petrojarl 1 is expected to generate an annual cash flow of US\$ 55–60 million. Despite QGEP being implicated in the corruption scandals – see TEXT BOX 1 – that are tearing through the Brazilian establishment, a loan agreement for financing the upgrading of the Petrojarl 1 was signed on 29 June 2015 with a syndicate of banks led by ABN AMRO Capital USA LLC, a New York-based subsidiary of Dutch bank ABN AMRO which is registered in a Delaware trust office⁷⁷. Other banks participating in the loan agreement were Santander Bank NA and Nordea Bank Finland Plc⁷⁸. As indicated in Table 4 above, the involvement of these banks has not been disclosed by Atradius DSB.

Under this loan agreement a total amount of US\$ 180 million is provided to Petrojarl 1 LLC, registered in the Marshall Islands. The loan agreement makes extensive reference to the role of ABN AMRO as an agent for Atradius DSB in facilitating this loan for the banks mentioned. Thus it is evident that Atradius DSB must be fully aware of all the technical details of the manner in which the loan was structured. Therefore it can be concluded that Atradius DSB is fully aware that the borrowing company is

part of a holding that is making use of registrations in a range of tax havens, as outlined in FIGURE 3. Evidently this did not prevent Atradius DSB from providing cover for a Dutch shipyard doing business with this company.

Neither the corruption concerns in relation to QGEP, nor concerns about the possibility of Teekay aggressively evading the payment of taxes prevented Atradius DSB from issuing an export credit insurance policy a little more than three weeks after the loan agreement for the upgrading of the Petrojarl 1 was signed.

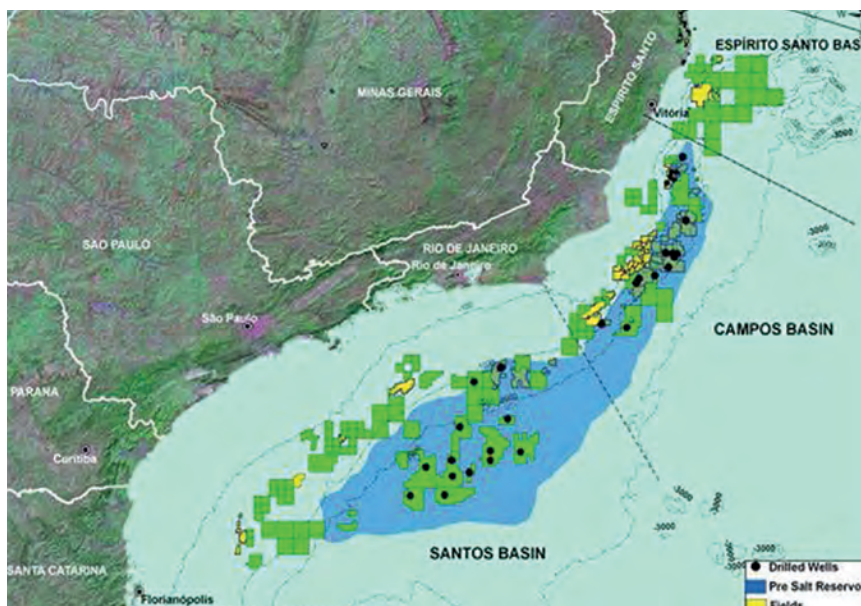
⁷⁵ Atradius DSB website: http://www.atradiusdutchstatebusiness.nl/Images/EKVpolissen2015_tcm1008-170531.pdf

⁷⁶ <http://teekay.com/blog/2014/12/17/teekay-offshore-awarded-new-fps0-contract-for-petrojarl-i-fps0-and-agrees-to-acquire-knarr-fps0/>

⁷⁷ Cf: <https://icis.corp.delaware.gov/Ecorp/EntitySearch/NameSearch.aspx>

⁷⁸ The loan agreement itself is published on the website of international law firm Latham & Watkins LLP: <https://lw.com/MLP-Portal/SiteAttachmentHandler.ashx?attachmentid=cca889c2-4f69-4f03-b7a2-94fd729b06a2>

The Santos Basin, off the Brazilian coast.
Source: <http://www.energy-pedia.com/>



5

CONCLUSION

In November 2013, Both ENDS published a study on Atradius DSB's support for complex export transactions that were structured via tax havens, and thus its potential underwriting of aggressive tax avoidance positions that corrode the tax sovereignty of beneficiary countries. In that study it emerged that the possibility of money laundering being part of such complex transactions could also not be excluded.

The present report, based on sustained and regular monitoring of transactions supported by Atradius DSB, firmly suggests that the practices previously criticised continue. We again challenge Atradius DSB to introduce effective screening to exclude export transactions that have a high probability of including tax evasion and money laundering from its insurance services.

The three case studies show that Dutch companies have been supplying capital goods to multinationals that are registered in tax havens and structured in such a way that they can easily be involved in business practices that benefit from aggressive tax planning. Such practices are non-compliant with the OECD Guidelines that require enterprises to comply with both the letter and spirit of the tax laws and regulations of the countries in which they operate and indicate that enterprises should treat tax governance and tax compliance as important elements of their oversight and broader risk management systems.

If Atradius DSB is not actively reviewing complex and capital-intensive export transactions for possible links to aggressive tax planning schemes, it risks failing to comply with the OECD Guidelines.

In the same way, Atradius DSB also seems to fail to screen Dutch exporters' business partners for potential involvement in corruption and fraudulent transactions. Two case studies indicate the links with business partners that have a record of shady business dealings. From the loan agreement that underlies the financing of the upgrading of the Petrojarl 1 FPSO, it emerges that the financier acting as agent for Atradius DSB did not hesitate to conclude a transaction with a company that was subject to criminal investigations for irregular payments and corruption. Again this raises questions about the effectiveness of Atradius DSB's screening policies.

By insuring Dutch companies that are supplying capital goods to business partners that use a maze of subsidiaries in tax havens, Atradius DSB risks being complicit with aggressive forms of tax planning. And as it acts on behalf of the Dutch state, the Netherlands is contributing to undermining the potential for beneficiary countries to tax these transactions effectively. Thus Atradius DSB is undermining international efforts to fight tax evasion.

Atradius DSB appears to concentrate its due diligence on the applicants for export credit insurance, i.e. companies that have the substance of their business located in the Netherlands. It does not necessarily review how or where the buyer or borrower of the Dutch goods arranges its financing. Whether the financiers or guarantors of such transactions use registrations in secrecy jurisdictions or tax havens does not seem to be a concern. The responsibility to avoid dealings with businesses with aggressive tax planning or corrupt business practices seems to be subordinate to Atradius DSB's aim to support Dutch companies doing business abroad.

In light of these conclusions we call on Atradius DSB to:

- **screen all applications for export credit insurance on the use by buyers or debtors of aggressive tax planning schemes;**
- **require all multinational companies involved in export transactions for which it provides cover to apply country-by-country reporting on the taxes they pay;**
- **exclude all business partners that make use of aggressive tax planning schemes from access to export credit insurances.**



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