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EESTI VABARIIGI ALALINE
ESINDUS EUROOPA LIIDU
JUURES

Rue Guimard, 11-13

1040 - Bruxelles

Teema: Riigiabi nr.N 387/2009 - Eesti

Käesoleva kirjaga saadab peasekretär Teile eespool nimetatud teemat käsitleva komisjoni otsuse, palvega anda see edasi välisministrile.

Peasekretäri nimel

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Lisa: K(2009)5697

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EUROPEAN COMMISSION

Brussels, 13.07.2009
K(2009)5697

Subject: State aid N 387/2009 – Estonia
"Compatible limited amounts of aid" (*Ühisturuga kokkusobiv piiratud summas antav abi*)

Sir,

1. PROCEDURE

- (1) By electronic notification of 26 June 2009, the Estonian authorities notified a temporary aid scheme ("*Ühisturuga kokkusobiv piiratud summas antav abi*") for granting limited amounts of compatible aid under the Temporary Framework for State aid measures to support access to finance in the current financial and economic crisis" (hereinafter referred to as the Temporary Framework)¹.
- (2) By electronic communication of 1st July 2009 and 2nd July 2009, the Estonian authorities submitted to the Commission further clarifications and confirmations.

2. DESCRIPTION

2.1. Objective of the aid scheme

- (3) Estonia considers that the financial crisis is affecting the real economy. Estonian economy has been in recession since 2nd quarter of 2008. During the first quarter of 2009 real GDP declined by 15,1 %.

¹ Communication from the Commission - Temporary framework for State aid measures to support access to finance in the current financial and economic crisis, OJ C 16 of 22 January 2009, as amended on 25 February 2009, OJ C 83, 7.4.2009, p.1. (http://ec.europa.eu/competition/state_aid/legislation/horizontal.html).

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- (4) According to the spring forecast of the Bank of Estonia (Central Bank)² in a worst-case scenario the economy would contract 15,3% over 2009 as a whole. Current situation has substantial impact on unemployment which has been rising since 3rd quarter of 2008.
- (5) According to Eurostat Estonian³ unemployment rate was 13,9 % in April 2009 (3,7% April 2008). At the same time number of persons unemployed almost tripled; nearly half of them have become unemployed due to layoffs, closings or bankruptcy of enterprises. According to the spring forecast of the Bank of Estonia, the number of the unemployed will rise from 53,500 in the end of 2008 to 98, 000 in the last quarter of 2009. In the 1st quarter of 2009 industrial production decreased 28,7 % compared to the same period of the previous year. Production in manufacturing has come down back to the level of 2003. Enterprises invested 10% less than year ago.
- (6) Also Estonian companies are suffering because of export markets downturn. Exports of goods decreased 25,5 % in the 1st quarter of 2009 compared to the same period of the previous year. As the conditions for issuing loans have roughened, the ratio of loans/deposits will decrease as quickly as it has risen during past few years (roughly 10 percent points in a year).
- (7) The scheme is expressly based on Article 87 (3) (b) ECT, as interpreted by paragraph 4.2.2 of the Temporary framework.

2.2. The nature and form of the aid

- (8) The aid will be provided in the form of transparent forms of aid, as defined by the General Block Exemption Regulation⁴, and in particular, in the form of *direct grants, loans* with an element which is calculated on the basis of the communication on the revision of the method for setting the reference and discount rates (2008/C14/02) and *public guarantees* where the aid element is calculated either on the basis of notified methodologies, or on the basis of the safe harbour premiums laid down in the annex A to the amended Temporary Framework.
- (9) The annual aid element (for both SMEs and large companies) resulting from the guarantee will be the difference between the safe-harbour premium rates set out in the Annex to the Temporary Framework and the annual premiums applied by Estonian authorities.

2.3. Legal basis

- (10) The legal basis for the notified scheme " will be a decree of" the Ministry of Economic Affairs and Communications" notified in a draft form (and which will be later adopted by the Estonian authorities) as well as a Regulation of the Minister of Agriculture to be adopted after the Commission approval, concerning amendment of the previous Regulation "*The procedure for application for market development*

² <http://www.eestipank.info/pub/en/press/Press/kommentaariid/Arhiiv/2009/225.pdf>

³ http://epp.eurostat.ec.europa.eu/cache/ITY_PUBLIC/3-02062009-AP/EN/3-02062009-AP-EN.PDF

⁴ OJ L 214, 9 August 2008, p. 3, Commission Regulation (EC) No 800/2008 of 6 August 2008 declaring certain categories of aid compatible with the common market in application of Articles 87 and 88 of the Treaty (General block exemption Regulation).

support and processing of an application, the list of eligible costs and the limit of support" from 26 March 2008.

2.4. Administration of the scheme

- (11) The notified scheme is a national framework scheme, allowing aid to be granted at all levels by the following three granting authorities: Foundation Enterprise Estonia "Ettevõtlike Arendamise Sihtasutus"), Credit and Export Guarantee Fund ("Krediidi ja Ekspordi Garantseerimise SA KredEx") and Estonian Agricultural Registers and Information Board (ARIB) ("Põllumajanduse Registreite ja Informatsiooni Amet"). The administration of the scheme is coordinated by the Ministry of Finance of Estonia.

2.5. Budget and duration of the measure

- (12) The Estonian authorities estimate that under the scheme aid not exceeding EEK 3198 mio (approx. EUR 204 mio) will be granted in 2009 and 2010.
- (13) Aid can be granted from the approval of the scheme by the Commission until 31 December 2010.

2.6. Beneficiaries

- (14) The scheme applies to SMEs and large firms.
- (15) The Estonian authorities confirmed that no aid under this scheme will be granted to large firms which were, on 1 July 2008, firms in difficulties in the meaning of point 2.1 of the Community guidelines on State aid for rescuing and restructuring for firms in difficulty⁵, nor to SMEs which were on that date firms in difficulties in the meaning of Art. 1 (7) of the General Block Exemption Regulation. SMEs are defined in line with annex I to the General Block Exemption Regulation.
- (16) The scheme may be applied to firms that were not in difficulty on 1 July 2008, but entered into difficulty thereafter as a result of the global financial and economic crisis. In particular, information will be obtained demonstrating that the beneficiary was not a company in difficulty on 1 July 2008.
- (17) The Estonian authorities estimate the number of beneficiaries will be over 1000 firms.

2.7. Sectoral scope, exclusion of export aid and aid favouring domestic over imported product

- (18) The scheme applies in all sectors, with the exception of the sectoral exclusions laid down in sections 4.2.2 (d) ("fisheries") and (h) ("primary production of agricultural products"; where this measure applies to undertakings active in the processing and marketing of agricultural products (as defined in Article 2.3 and 2.4 of Regulation (EC) 1857/2006), the amount of the aid is not fixed on the basis of the price or quantity of such products purchased from primary producers or put on the market by the undertakings concerned, or the aid is not conditional on being partly or entirely passed on to primary producers (section 4.2.2 (h), second sentence of the Temporary Framework).

⁵ OJ C 244, 1 October 2004, p. 2-17.

- (19) Export aid and aid favouring domestic over imported goods and services are excluded (section 4.2.2 (e) of the Temporary framework).

2.8. Basic elements of the scheme

- (20) The Estonian authorities confirm that the conditions laid down in section 4.2.2 for granting limited amounts of compatible aid will be fully met. In particular,
- the aid shall not exceed 500,000 € per undertaking, as laid down in section 4.2.2(a) of the Temporary framework. All figures used shall be gross, that is, before any deduction of tax or other charge. Where aid is awarded in a form other than a grant, the aid amount shall be the gross grant equivalent of the aid calculated under points (6) of this decision;
 - before granting the aid, the aid granting authorities shall obtain from the undertakings concerned a declaration about any *de minimis* aid (as defined in the Commission *de minimis*-Regulation⁶) or aid granted under this measure received during the current fiscal year (section 4.2.2 (g), first sentence);
 - the total amount of *de minimis* aid and aid granted under this measure per undertaking in the period 1.1.2008 to 31.12.2010 may not exceed €500,000 (section 4.2.2 (g), second sentence);
 - where the aid granted under this measure is to be combined with other compatible aid or with other forms of Community financing, the maximum aid intensities indicated in the relevant Guidelines or Block exemption regulations will be respected (section 4.7, last paragraph).

2.9. Monitoring and reporting, business secrets, language waiver

- (21) The Estonian authorities confirm that the monitoring and reporting obligations laid down in Section 6 of the Temporary Framework will be respected (e.g.: by 31 July 2009, a list of schemes put in place on the basis of the Temporary Framework must be provided to the Commission; detailed records regarding the granting of aid must be maintained for 10 years; by 31 October 2009 a report on the measures put in place should be provided).
- (22) The Commission notes that the Estonian authorities have confirmed that the notification does not contain business secrets.
- (23) The Estonian authorities confirm their acceptance that the Commission decision is adopted in the English language, due to exceptional circumstances.

3. ASSESSMENT

3.1. Legality of the measure

- (24) By notifying the aid measure before putting it into effect, the Estonian authorities respected their obligations under Article 88 (3) of the EC Treaty.

⁶ OJ L 379 Official Journal L 379, 28.12.2006

3.2. Existence of state aid

- (25) State resources are involved in the notified scheme since the aid is granted from national, regional and local resources, via the respective aid granting authorities at all levels.
- (26) The measure is selective since aid is awarded only to certain undertakings.
- (27) The measure conveys an advantage by making available limited amounts of compatible aid which would not be available to the beneficiaries without the measure.
- (28) The measure affects trade between Member States since the scheme is not limited to beneficiaries which are active in sectors where no intra-community trade exists.
- (29) The measure distorts or threatens to distort competition.
- (30) In view of the above, the Commission considers that the notified measure constitutes state aid within the meaning of Article 87 (1) of the EC Treaty. The Estonian authorities do not contest that conclusion.

3.3. Compatibility of the measure

- (31) Having established that the measure involves state aid within the meaning of Article 87 (1) of the EC Treaty, it is necessary to consider whether the above mentioned measure can be found compatible with the common market.
- (32) As described above under paragraphs 3 - 6 above, the recent developments in the Estonian economy point to an overall downturn when compared to previous period. The Estonian authorities have delivered economic data proving that the industrial production in the 1st quarter of 2009 fell by 28,7 % comparing to the same period of 2008. Production in manufacturing sector has reached the level of 2003, exports markets downturn significantly, and the export of goods fell by 25,5% in the 1st quarter of 2009 compared to the same period of the previous year. Consequently, the unemployment rate almost tripled (reaching 13,9% in April 2009/3,7% April 2008).
- (33) By granting limited compatible amounts of aid (EUR 500,000 per undertaking during 2009 and 2010) the Estonian authorities aim at supporting those undertakings that have been affected by a sudden shortage or unavailability of credit as a result of the credit crunch and therefore, anticipate producing effects across its entire economy. Thus, the measure aims at remedying a severe disturbance in the economy of the Estonian authorities by boosting the demand side of the economy.
- (34) By adopting the Temporary Framework, the Commission indeed acknowledged (section 4.1) the "seriousness of the current financial crisis and its impact on the overall economy of the Member States". The Commission concluded "that certain categories of State aid are justified, for a limited period, to remedy these difficulties and that they may be declared compatible with the common market on the basis of Article 87(3)(b)."
- (35) A measure of such a scale can be reasonably anticipated to produce effects across the entire Estonian economy. Furthermore, the measure has been designed to meet

the requirements of the additional category of aid ("Aid in the form of limited amounts") described in section 4.2.2 of the Temporary Framework.

- (36) The Commission accordingly considers that the notified measure is necessary, appropriate and proportionate to remedy a serious disturbance in the economy of a Member State and meets all the conditions of the Temporary Framework. In particular,
- The maximum aid amount will not exceed the cash equivalent of EUR 500,000 per undertaking (point 4.2.2 (a));
 - The measure is granted through an aid scheme in line with point 4.2.2 (b);
 - The aid granting authorities will obtain from the undertakings concerned a declaration about any *de minimis* aid or aid granted under this measure received during the current fiscal year (point 4.2.2 (g), first sentence) and will check that the total aid will not exceed 500 000 per undertaking during the period from 1 January 2008 to 31 December 2010. Thus, the cumulation rules with *de minimis* aid and aid for other purposes are respected (in particular point 4.2.2 (g) and point 4.7);
 - Firms in difficulty (situation of 1.7.2008) are excluded from eligibility under the scheme in compliance with point 4.2.2 (c);
 - Firms active in the fisheries sector are excluded from the scope of this measure (point 4.2.2 (d));
 - Undertakings active in the primary production of agricultural products are excluded from the scope of this measure. Aid to the processing and marketing of agricultural products is subject to the relevant conditions (point 4.2.2 (h));
 - Export aid and aid favouring domestic over imported goods and services are excluded (point 4.2.2 (e)).;
 - In line with point 4.2.2 (f) aid may be granted until 31.12.2010;
 - The monitoring and reporting rules laid down under point 6 of the Temporary Framework will be respected.

3.4. Conclusion

- (37) For these reasons, the Commission considers that the notified measure is in conformity with the Temporary Framework and considers it to be compatible with the Treaty on the basis of Article 87 (3) (b) EC.
- (38) The Commission notes that the Estonian authorities have confirmed that the notification does not contain business secrets.
- (39) The Commission notes that the Estonian authorities accepted that the decision is adopted in the English language, due to exceptional circumstances.

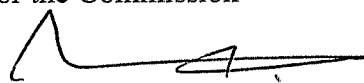
4. DECISION

(40) The Commission has accordingly decided

– to consider the notified aid scheme as compatible with the EC Treaty

(41) The Commission reminds the Estonian authorities to transmit the concrete implementing rules as soon as possible after the approval of the notified aid.

Yours faithfully,
For the Commission

A handwritten signature in black ink, appearing to be 'Neelie Kroes', written over a horizontal line.

Neelie Kroes
Member of the Commission