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**PUBLIC VERSION  
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**Subject: State aid N715/06, Finland. Tax Exemption to Finnvera Oyj**

Sir,

**1. PROCEDURE**

1. By letter dated 31 of October 2006, registered on the same date, the Finnish authorities notified the Commission, pursuant to Article 88 (3) of the EC Treaty, of an income tax exemption in favour of Finnvera Oyj.
2. The Commission requested further information by letters dated 23 November 2006, 9 March 2007 and 7 June 2007, which the Finnish authorities submitted by letters dated respectively of 16 February 2007, 4 May 2007 and 5 July 2007. By letters dated 6 July 2007 and 10 July 2007, Finland transmitted additional information to the Commission.

**2. DESCRIPTION OF THE NOTIFIED MEASURE**

3. The measure at hand consists of an income tax exemption in favour of the State-owned company Finnvera Oyj (hereinafter "Finnvera"). Finnvera's tax exemption will be formalized through an Act from the Parliament. Indeed, the Income Tax Act will be amended by defining Finnvera as a corporation exempt from income tax
4. Finnvera is a financing company which supplements the financial market and promotes the development of enterprises, regions and export. According to its Establishment Act<sup>1</sup>, the purpose of the company is to provide financing services to

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<sup>1</sup> Act on the State-Owned Specialised Financing Company (443/1998).

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promote and develop business, particularly that of small and medium-sized enterprises (domestic financing activities), and to promote and develop the exports and internationalisation of enterprises (export guarantee and special guarantee activities). Practically, the company pursues financing activities by granting and administering credits, guarantees and other contingent liabilities and by making capital investments.

5. The activities of Finnvera are divided into 5 areas which are 1) microfinancing, 2) regional financing, 3) growth and internationalisation, 4) export financing and 5) capital investments activities.
6. Finnvera's activities are restricted to administering State Aid schemes and, in that context, grants financing only to undertakings eligible for State support and in compliance with the relevant EC legislation concerning State aid.
7. Finnvera Group includes several subsidiaries, namely Veraventure Oy and Aloitusrahasto Vera Oy, which invest in regional funds only to supplement the financial market in equity investments and act on behalf of the State, Matkailunkehitys Nordia Oy, which is a venture capital fund investing in travel industry enterprises when the latter cannot obtain financing on market-terms, and Spikera Oy and Kiinteistö Oy Puffeti Fastighets Ab, which mainly operate as service providers to Finnvera (management of Finnvera's assets, holdings and real estate).
8. It has however to be noted that the tax exemption will not be applied to its above mentioned subsidiaries.
9. The income tax rate in Finland is 26 %, which means that the exemption in favour of Finnvera will be of approximately EUR 10-15 million per year.

### **3. ASSESSMENT**

10. Pursuant to Article 87(1) of the EC Treaty, “any aid granted by a Member State or through State resources in any form whatsoever which distorts or threatens to distort competition by favouring certain undertakings or the production of certain goods shall, in so far as it affects trade between Member States, be incompatible with the common market”.
11. As regards the tax exemption at hand, the Commission must first analyse whether this measure confers an advantage through state resources to Finnvera.
12. According to the Establishment Act of Finnvera<sup>2</sup>, the latter shall promote the State's regional policy goals and focus its operations on market failures in the supply of financing services. Moreover, the company shall concentrate only on the core task assigned to it, and shall not exercise other tasks.
13. As a consequence and as confirmed by the Finnish authorities, Finnvera is currently not allowed to grant market-based financing which would compete with the commercial banks since it aims to mend the financial market failures and is therefore restricted to administering State aid schemes. It has indeed to be recalled that

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<sup>2</sup> See footnote n°1 above.

Finnvera's activities are restricted to administering State Aid schemes in compliance with the relevant EC legislation concerning State aid.

14. Moreover, it results from the notification that Finnvera will be legally obliged to pass on the whole amount of the tax exemption to its customers. Indeed, Finnvera will be statutorily obliged to pass on the whole amount of the exemption to its customers, by taking it into account in the pricing of its financing.
15. Finland states that, as regards the requirement that the entire amount of the advantage is transferred to the final beneficiaries, it is required separate book-keeping's performance in its two main fields of business, namely, on the one hand, domestic financing and, on the other hand, export guarantee and special guarantee activities.
16. As it is impossible to predict ex ante the taxable profit of the company, two funds have been established by law and any annual profit recorded by Finnvera, whatever its origin, will be transferred to one of those funds depending on the activity concerned<sup>3</sup>. The annual profit cannot be used for other purposes or transferred outside the company.
17. In that context, Finland emphasises that the tax benefit that would not have been already transferred to clients will be left in the relevant fund to be transferred later or to cover credit losses. As a consequence, on the longer run, this will allow Finnvera to reach the self-sustainability goal fixed by the State and the funds allocated to Finnvera by the State will be thus reduced.
18. Therefore, the Commission considers that the income tax exemption will not confer any advantage to Finnvera<sup>4</sup>.
19. The Commission concludes that no State aid within the meaning of Article 87(1) of the EC Treaty is granted to Finnvera insofar as Finnvera transfers the totality of the tax exemption to its customers and limits its activity to the administration of State Aid schemes.
20. Second, as regards Finnvera's customers, Finland has undertaken that the proceeds resulting from the tax exemption will be transferred only to undertakings eligible for State support and in compliance with the relevant EC legislation concerning State aid. More precisely, Finland has undertaken that the tax exemption will be taken into account in the calculations made for individual financing decisions in accordance with relevant State aid legislation. Thus, before taking a decision on financing, it will be checked that the maximum support levels laid down by the Commission are respected and that the cumulation rules of support are complied with. In addition, it does not result from the examination by the Commission of the State aid schemes currently administered by Finnvera that those are not in line with State aid law.

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<sup>3</sup> See Act Amending the Act on the State-Owned Specialised Financing Company (987/2006). See also Act on the State Guarantee Fund (444/1998) and Act on Credits and Guarantees provided by the State-Owned Specialist Financing Company (445/1998).

<sup>4</sup> See, to that effect, Commission Decisions of 3 July 2001 in Case N465/00, Finland - Entrepreneur loans (OJ C 328, 23.11.2001, p. 4), and of 24 May 2005 in Case N638/03, Finland - Finnvera plc's loan and guarantee scheme to fisheries.

21. Third, as regards Finnvera's subsidiaries, it has to be recalled that the tax exemption will not be applied to the latter.
22. Concerning Veraventure Oy and Matkailunkehitys Nordia Oy, it must be observed that they are not active on competitive markets. Moreover, the Finnish authorities have confirmed that the financing provided by them has so far been in compliance with the Communication of the Commission on State aid and risk capital<sup>5</sup>. As regards Aloitusrahasto Vera Oy, its financings did not constitute State aid since they were granted in accordance with Commission Regulation (EC) No 69/2001 of 12 January 2001 on the application of Articles 87 and 88 of the EC Treaty to *de minimis* aid<sup>6</sup>.
23. Furthermore, Finland stated that all interventions of those subsidiaries will be in line with the Community guidelines of 2006 on State aid to promote risk capital investments in small and medium-sized enterprises<sup>7</sup>, as from their entry into force.
24. Finally, as regards Spikera Oy and Kiinteistö Oy Puffeti Fastighets Ab, it has to be noted that even if they currently operate mainly as service providers to Finnvera (management of Finnvera's assets, holdings and real estate), a minor part of their activities remains commercial.
25. In that context, Finland confirmed that no illegal and/or incompatible State support is, or will be, granted to them or through them. Besides, this commitment is in conformity with Finnvera's legal obligation to transfer into two funds any annual profit recorded, whatever its origin, and to pass on the whole amount of the exemption only to its customers, for the achievement of its regional policy goals<sup>8</sup>.
26. In the light of the above, the Commission takes note of Finland's commitment that any financing granted by Finnvera to any undertaking shall comply with Articles 87 and 88 of the EC Treaty.
27. In any case, the Commission considers that the present decision not to raise objections to the income tax exemption in favour of Finnvera itself is without prejudice to the general power conferred to the Commission to examine under State aid rules any support granted by Finnvera or Finnvera's subsidiaries to any undertaking they invest in.

#### **4. CONCLUSION**

28. In view of the above assessment, the Commission has accordingly decided not to raise any objection to the present notification on the grounds that the income tax exemption will not confer any aid to Finnvera.
29. This conclusion is without prejudice to the general power of the Commission in examining any aid granted by Finnvera or/and by Finnvera's subsidiaries to any undertaking.

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<sup>5</sup> OJ C 235, 21.08.2001, p. 3.

<sup>6</sup> OJ L 10, 13.1.2001, p. 30.

<sup>7</sup> OJ C 194, 18.8.2006, p. 2.

<sup>8</sup> See paragraphs 14 to 17 above.

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Yours faithfully,

For the Commission

Neelie Kroes  
Member of the Commission