EUROPEAN COMMISSION

Brussels, 13.11.2009
C(2009)8956 final

Subject: State aid n° N 478/2009 - Romania
Individual State Guarantee for Ford Romania SA

Sir,

1 PROCEDURE

(1) After prenotification contacts, on 7 August 2009 Romania notified a guarantee measure in favour of Ford Romania SA (hereinafter: "Ford Romania" or "the company") in order to secure a loan that will be granted to the company by the European Investment Bank (hereinafter: "EIB").

(2) On 20 August and 6 October 2009 Romania submitted further information.

2 DESCRIPTION OF THE MEASURE

2.1 The Beneficiary

(3) The State guarantee has the purpose to ensure the financing of Ford Motor Company's (hereinafter: "Ford") investment project in Craiova, located in *Dolj* County, South-West of Romania. The beneficiary of the planned measure is the legal entity Ford Romania.

(4) Ford Romania is owned by Ford Capital BV with a 97.57% stake, and Automobile Craiova SA (hereinafter: "ACSA") owning 2.43%. Ford Capital BV's sole shareholder is Ford which also owns 96% of ACSA[1].

[1] 4% of ACSA belongs to minority shareholders.

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(5) Hence, Ford Romania's ultimate parent company is Ford, which is also the holding company of the entire Ford group. It has its registered headquarters in Dearborn, Michigan, USA. Ford is an international manufacturer and supplier of passenger cars and light commercial vehicles, operating at a global scale. At the European level, Ford of Europe[2] provides coordination of all Ford entities.

(6) Ford Romania has no separate credit rating; neither does its direct parent company, Ford Capital BV. According to the notified information, the ultimate mother company, Ford, has a credit rating by Standard and Poor's of CCC+. The Commission will assume the same rating for Ford Romania in this decision.

2.2 Ford's Investment Project

(7) The investment at stake concerns a development project of a new low-Co2 engine at different plants of the Ford group and subsequent production of vehicles with the engine. The overall project involves not only the Romanian plant but also Ford Werke GmbH in Germany (hereinafter: "Ford Germany"), where research and development (hereinafter: "R&D") activities are carried out.

(8) Since Ford Romania has no R&D facilities, the engine as well as the vehicles will be developed by Ford Germany. These vehicles developed in Germany will be solely produced in Romania and the engines developed in Germany will be produced both in Romania and in Germany.

(9) The overall project requires investments at both the Romanian and German plants. The total project costs at the level of the Ford group are estimated at EUR 1.69 billion over a period of 5 years.

(10) By decision of 30 April 2008[3] the Commission authorised an ad hoc aid under the Guidelines on national regional aid for 2007-2013[4] to Ford Romania linked to the investment project described above. The approved aid amounts to EUR 143 million and takes the form of a direct grant.[5]

2.3 The EIB Loan

(11) The loan to be covered by the notified guarantee measure is granted by the EIB, which lends[6] a total of EUR 600 million to Ford of Europe[7] for the realisation of the joint project, whereby EUR 400 million are granted to Ford Romania and EUR 200 million to Ford Germany.

(12) The Romanian authorities informed the Commission that the exact terms of the loan agreement are still under negotiation between the EIB and Ford Romania. The main elements for the Romanian part of the loan are as follows.

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[2] Ford of Europe is not a legal entity, rather a coordination vehicle.
[3] Case N 767/2007; OJ C 238, 17.9.2008, page 4.
[4] OJ C 54, 4.3.2006, pages 13-45.
[5] The Commission decision foresaw that the beneficiary must provide a financial contribution of at least 25% of the eligible costs in a form which is free of any public support. The total project costs at Craiova exceed the eligible costs of EUR 600 million under the regional aid decision, amounting to over EUR 1 billion, out of which Ford provides EUR 535 million from its own funds.
[6] The loan was approved on 12 April 2009.
See EIB website: http://www.eib.org/projects/pipeline/2008/20080582.htm?lang=-en
[7] EIB is implementing an EU wide lending programme mandated by the European Council.

(13) The principal amounts to EUR 400 million; the loan can be used for the defined project only which is to be completed in line with the description and timing. As regards disbursement, there is a flexible drawdown with maximum of 10 tranches over 24 months. The loan can be repaid as a single amount or in instalments; within 5 years from drawdown.

(14) The interest on the loan is EURIBOR + 200 bps. In addition, Ford will pay a handling fee of EUR 0.8 million (corresponding to 20 bps) and will reimburse EIB's external legal advice fees estimated at EUR 350,000.

(15) Concerning the 20% part which is not covered by the State guarantee (EUR 80 million), Ford will provide cash collateral. The EIB loan has first rank in event of default or insolvency. There is also a financial covenant in place that Ford of Europe will keep a minimum cash level of EUR 700 million to be formally advised on a regular basis. Finally, there are further warranties in place on Ford's operations in Romania including maintenance, legal compliance, and a requirement of no change in project scope.

2.4 The State Guarantee

(16) The total loan amount of EUR 600 million shall be backed 80% by the German and Romanian State for the amounts of EUR 160 million and EUR 320 million, respectively, shown in Table 1. As set out above, EIB assumes the risk for the remaining 20% (i.e. EUR 120 million), which shall be covered by cash collaterals of Ford.

Table 1: Breakdown of the EIB loan to the Ford entities

	Ford Romania	**Ford Germany**
EUR 600 million loan granted by the EIB	EUR 400 million	EUR 200 million
Securities		
80% government guarantee	*EUR 320 million*	*EUR 160 million*
20 % risk assumed by EIB (Ford cash collaterals)	*EUR 80 million*	*EUR 40 million*

(17) The Romanian guarantee will be granted by the Ministry of Public Finances[8].

(18) The guarantee will cover 80% of the EUR 400 million granted to Ford Romania. The premium paid by Ford Romania amounts to 380 basis points. Ford Romania will provide the following collaterals for the State guarantee.

Table 2: Collateralisation of the State guarantee

Security	**Value 2009 (EUR million)**
[…]* share pledge […]	[…]
Existing buildings	[…]
New equipment […]	[…]
Cash […]	[…]
Land […]	[…]

(19) Romania submitted an independent expert report by CMF Consulting SA[9] on the valuation of the pledged assets.

[8] The Romanian authorities committed to submit the decree on the guarantee as soon as available.

* Covered by the obligation of professional secrecy.

3 ROMANIA'S POSITION

(20) Romania has notified[10] its plans to grant the guarantee for the EIB loan as State aid pursuant to Article 88(3) EC Treaty.

(21) Romania takes the view that the guarantee is compatible with the Treaty in view of the provisions of the Commission's communication "Temporary framework for State aid measures to support access to finance in the current economic and financial crisis"[11] (hereinafter: "the TF").

(22) In particular, the Romanian authorities hold that the intended measure fulfils all criteria of point 4.3.2 of the TF for the assessment of State guarantees, given that: the required premium of 380 basis points is the safe harbour value under the TF for large CCC rated companies with high collateralisation (4.3.2.b); the guarantee is granted before 31 December 2010 (4.3.2.e); the guarantee, which relates to an investment loan (4.3.2.g), is 80% and thus it does not exceed 90 % of the loan (4.3.2.f); and the aid is granted to a firm which was not in difficulty on 1 July 2008 (4.3.2.i).

(23) Moreover, the Romanian authorities also claim that the maximum loan does not exceed the relevant total wage bill of the beneficiary (4.3.2.d). In particular, Romania suggests that when assessing the wage bill requirement, Commission should take into account the fact that the project is a joint undertaking between Romania and Germany and include the combined wage bill of Ford Romania and Ford Germany.

4 ASSESSMENT

4.1 Existence of State Aid

(24) Article 87(1) EC Treaty provides that 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.

(25) For the sake of clarity, it should be underlined that only the State guarantee notified by Romania (to be granted to Ford Romania) is covered by the present decision, and not the EIB loan as such or the German State guarantee.[12]

(26) As regards the application of the State aid criteria of Article 87(1) EC to the notified guarantee measure, the Commission considers the following.

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[9] Value Analysis of the Proposed Security / Collateral for Romania Guarantee to Ford and European Investment Bank; CMF Consulting SA; 17 June 2009.

[10] Romania notified the measure as an individual case. It shall be noted, however, that Romania has an approved aid scheme (Case N 286/2009, Commission decision of 5 June 2009, not yet published). However, the Romanian TF guarantee scheme applies much higher guarantee premiums than it would be allowed under the TF. Therefore the planned measure, although its guarantee premium is compatible under the TF, would be not covered by the approved scheme.

[11] OJ C 16, 2.1.2009, p. 1, as amended by Commission Communication of 25 February 2009 (a consolidated version of the TF was published on 7 April 2009, see OJ C 83, p.1.).

[12] The guarantee is granted under an approved TF aid scheme (N 27/2009 Befristete Regelung Bürgschaften, Commission decision of 27.02.2009; OJ C 152, 4.7.2009, p.4.)

(27) The State guarantee is granted by the Ministry of Public Finances and it involves State resources since, in the event Romania would actually have to pay out money under the guarantee, the necessary funds would be drawn from the State budget, which is consequently burdened by the financial risk linked to the guarantees.

(28) The guarantee is selective since it is granted to a single undertaking, Ford Romania, at the discretion of the Romanian Government.

(29) Moreover, in order to establish whether the guarantee contains State aid, the Commission must also assess whether it provides an advantage to Ford Romania. A State measure is not State aid unless it provides the beneficiary with an economic good he would not otherwise have been able to obtain on similar market terms. Account should be taken of the possibilities for a beneficiary to obtain equivalent financial resources by having recourse to the capital market. State aid is not involved where a new funding source is made available on conditions which would be acceptable for a private operator under the normal conditions of a market economy.

(30) In view of the present market benchmark premiums[13] for guarantees in the automotive sector for a similar rating and similar collaterals, it appears excluded that Ford Romania would have been able to obtain a similar guarantee at the same price (i.e. 380 basis points) on the market.

(31) Finally, as there is extensive trade in cars and car engines within the Community, the advantage granted to Ford of Romania by means of the guarantees would be liable to affect trade between the Member States.

(32) The State guarantee therefore contains State aid within the meaning of Article 87(1) EC Treaty.

4.2 Compatibility of the measure

(33) The Commission will in the following assess the compatibility of the State guarantee against the criteria in section 4.3 of the TF[14].

(34) Annex 1 to the TF contains the safe-harbour provisions for guarantees. For large companies such as Ford, the Member State may grant a reduction of up to 15% of the annual premium for new guarantees in accordance with these safe-harbour provisions[15]. It shall be noted, however, that Romania does not intend to apply this reduction and will charge the safe-harbour premium.

[13] See Commission decision of 5 June 2009 in case N 80/2009 State guarantees in favour of Volvo cars; OJ C 172, 24.7.2009, p.1. In this case, the Commission came to the conclusion that an annual guarantee premium of 12.6% for a CCC- company could be currently considered market conform.

[14] In a previous decision (N 80/2009 State guarantees in favour of Volvo cars, see footnote 13) the Commission assessed the compatibility of a guarantee measure to a car maker as an individual case under the TF.

[15] This reduction in the premium may be applied for a maximum of two years following the granting of the guarantee. If the duration of the underlying loan exceeds 2 years, Member States may apply for an additional maximum period of 8 years the safe-harbour premiums set out in Annex 1 to the TF without reduction.

(35) For a company with a CCC+ credit rating, such as Ford, the safe-harbour minimum premium indicated in Annex 1 of the TF is 380 basis points, provided that the guarantee has high collateralisation, defined for these purposes as a loss given default hereinafter: "LGD") below or equal to 30%[16].

(36) The Commission considers that Romania has provided credible evidence that high-quality assets collateral is available that would allow Romania to ensure a LGD of less than 30%, i.e. a high collateralisation of the guarantees within the meaning of the TF. Romania submitted an independent valuation report confirming the estimated market value of the collaterals.

(37) In its value analysis, CMF evaluated the following pledges:

- […] share pledge […][17];
- Existing buildings;
- New equipment […];
- […] cash […].

(38) Moreover, the land occupied by Ford Romania, currently owned by ACSA, to be transferred to the direct ownership of Ford Romania[18] has been also evaluated.

(39) On the basis of the of the expert report's estimations, the value of the collaterals[19] evolves as follows during the duration of the guarantee.

Table 3: Evolution of the value of the collaterals during the lifespan of the State guarantee

EUR million*	**2009**	**2010**	**2011**	**2012**	**2013**	**2014**
Existing Buildings	[…]	[…]	[…]	[…]	[…]	[…]
New equipment	[…]	[…]	[…]	[…]	[…]	[…]
Cash	[…]	[…]	[…]	[…]	[…]	[…]
Land	[…]	[…]	[…]	[…]	[…]	[…]
Total value of asset collaterals	**[…]**	**[…]**	**[…]**	**[…]**	**[…]**	**[…]**
Share pledge	*[…]*	*[…]*	*[…]*	*[…]*	*[…]*	*[…]*
Total value of collaterals (assets plus shares)	*[…]*	*[…]*	*[…]*	*[…]*	*[…]*	*[…]*

* Rounded figures

(40) The Commission notes that during the entire duration of the loan the collateralisation is below a LGD of 30% (i.e.: the pledge is always higher than EUR 224 million, 70% of EUR 320 million), even if the share pledge is disregarded.

(41) On this basis, the Commission is satisfied that the guarantees will be highly collateralised within the meaning of the TF.

[16] See footnote 20 to the TF.

[17] As regards the share pledge, CMF estimates the value of the stake at EUR […] million. It shall be noted, however, that in the present case the Commission finds it more appropriate to focus only on the asset pledges, in order to avoid possible double counting.

[18] In the notification, Ford Romania submitted a written commitment by Ford Romania, that the land will be included in the collaterals as soon as the transfer of ownership from ACSA to Ford Romania will be completed. This is expected early next year.

[19] The expert applies for the asset evaluation a […]% of the estimated orderly liquidation value ([…]% recovery rate minus […]%).

(42) Under section 4.3.2 (d) of the TF the maximum loan must not exceed the total annual wage bill of the beneficiary (including social charges as well as the cost of personnel working on the company site but formally in the payroll of subcontractors) for 2008. In the case of companies created on or after 1 January 2008, the maximum loan must not exceed the estimated annual wage bill for the first two years in operation.

(43) Romania argues that in the present case, the underlying investments at the German and Romanian plants (i.e. the R&D activities in Germany and subsequent manufacturing in Romania with re-supplies to the German plant) can be considered as a single project and the loan amount of EUR 600 million is intended to finance the entire venture. The project comprises two sites in two different Member States, which, however is financed from one source.

(44) Therefore, the Romanian authorities suggest that for the sake of the wage bill calculation, the combined wage bill of Ford Romania and Ford Germany are taken into account. The German authorities agreed formally to this approach by letters of 17 July and 30 October 2009.

(45) This argumentation of the Romanian authorities is reinforced by the fact that Ford Romania will produce the vehicles and engines as a contract manufacturer for Ford Germany. The latter will bear the risk of commercialisation of the products.

(46) More importantly, the EIB constantly evaluated the transaction as one project[20] carried at two different locations, although technically consisting of two separate loans. EIB considers Ford of Europe as the ultimate beneficiary for a common project carried out at two different European locations (Germany and Romania).

(47) Following the EIB's rationale, the Commission accepts that this specific project forms a single venture. Consequently, the Commission considers that insofar the planned investment is a joint Romanian/German project financed from a single source, the combined wage bill of the two loan recipients can be taken into account for the sake of the wage bill calculation.

(48) The Romanian authorities provided Ford Romania's labour cost figures for 2008[21], which amounts to EUR […] million.

(49) By letters of 17 July and 30 October 2009, Germany accepted the inclusion of a part of Ford Germany's total annual wage bill[22] (EUR […] million) for the sake of the State aid assessment and also acknowledged that no further guarantees might be given under the TF for this part of the wage bill.

(50) The condition enshrined in section 4.3.2 (d) of the TF is thus met.

(51) The Commission further notes that he Romanian authorities intend to implement the measure immediately after the Commission's approval, i.e. not later than 31 December 2010. The condition of point 4.3.2 (e) of the TF is thus fulfilled.

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[20] See EIB website: http://www.eib.org/projects/pipeline/2008/20080582.htm?lang=-en .

[21] Ford Romania is a company created before 1 January 2008, thus the wage bill of the year 2008 must be looked at.

[22] The total annual wage bill of Ford Germany amounts to EUR […] billion.

(52) The guarantee covers 80% of the loan amount and thus it does not exceed 90%, which meets point 4.3.2 (f) of the TF.

(53) According to Annex 1 to the TF, the safe-harbour premium for a highly collateralised guarantee to an undertaking with Ford's rating is 380 basis points. As regards the guarantee premium, the Commission records that Romania will charge 380 basis points for the guarantee and will not apply the 15% reduction of the safe-harbour premium allowed for under the TF, rather the full safe-harbour premium without the reduction will be applied. This is in line with point 4.3.2 (h) of the TF.

(54) Furthermore, the beneficiary must not have been in difficulty within the meaning of the Rescue and restructuring guidelines (hereinafter R&R guidelines) on 1 July 2008.

(55) Hereto, Romania has argued that Ford Romania is a Ford subsidiary integrated in the Ford group of companies. At the European level, Ford of Europe provides coordination of all Ford entities. Ford of Europe was profitable before 1 July 2008 and expects to become profitable again, before the end of 2009; furthermore, Ford of Europe is debt-free.

(56) In addition, the worldwide group as such was not in difficulties on 1 July 2008 and still is not in difficulties. Ford has constantly refused the financial support that the US government had offered since it does not require such support. In April 2009 Ford has reduced its debt by USD 9.9 billion and lowered its annual interest expense by USD 500 million.

(57) Moreover, the lender of the underlying loan, EIB did not consider Ford as a company in difficulty. According to its statute, EIB is only allowed to lend to companies not encountering financial difficulties.

(58) In view of this (and considering also that Ford is still not in difficulty today), the Commission accepts that Ford was not in difficulty on 1 July 2008 and therefore it fulfils point 4.3.2 (i) of the TF.

(59) Finally, the Commission accepts Romania's argument that since it does not intend to grant any reduction of the safe-harbour premium, the cumulation rule is not applicable to this case.

(60) Finally, Romania has committed to comply with the reporting and monitoring provisions of point 6 of the TF.

(61) The Commission consequently finds that the notified State guarantee complies with all the conditions in section 4.3 of the TF.

5 CONCLUSION

(62) For the reasons indicated above, the Commission finds that the notified measure is compatible with the common market on the basis of Article 87(3)(b) of the EC Treaty.

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Yours faithfully,
For the Commission

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