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WORKING LANGUAGE

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Subject: **State aid SA.32104 (2010/N) – Estonia**
Prolongation of aid scheme N 387/09 Compatible limited amount of aid

Sir,

1. PROCEDURE

(1) By electronic notification of 16 December 2010, Estonia notified the prolongation of the abovementioned measure.

(2) By e-mail of 4 January 2011, the Estonian authorities provided additional information to the Commission.

2. DESCRIPTION OF THE MEASURE

(3) The existing aid scheme N 387/09 *Compatible limited amount of aid* was approved by the Commission in its Decision C(2009)5697 of 13 July 2009[1] on the basis of the Communication from the Commission – Temporary Community framework for State aid measures to support access to finance in the current financial and economic crisis[2] (the temporary Community framework).

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1 Case N 387/09 *Compatible limited amount of aid* (OJ C 294, 3.12.2009, p. 3).

2 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, 22.1.2009, p 1), as amended on 25 February 2009 (OJ C 83, 7.4.2009, p. 1).

T.E. hr. Urmas PAET
Välisminister
Islandi väljak 1
15049 Tallinn
ESTONIA

(4) The amendment to the existing aid scheme consists in a prolongation of the existing aid scheme until 31 December 2011, on the basis of Section 2.2 of the the Commission Communication on the Temporary Union framework for State aid measures to support access to finance in the current financial and economic crisis, as adopted by the Commission on 1 December 2010[3] (the temporary Union framework).

(5) The legal basis of the amended aid scheme is a Decree of the Estonian Minister of Economic Affaire and Communications[4].

(6) Article 1 of the draft Ministerial Decree lays down that prolonged aid scheme can be granted from 1 January 2011 to 31 December 2011 under the following conditions, which are based on Section 2.2 of the temporary Union framework:

(a) the beneficiary has submitted a complete application under the existing aid scheme no later than 31 December 2010;

(b) the aid does not exceed a cash grant of EUR 500 000 per undertaking; all figures used must 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 is the gross grant equivalent of the aid;

(c) the aid is granted to firms which were not in difficulty[5] on 1 July 2008; it may be granted to firms that were not in difficulty at that date but entered in difficulty thereafter as a result of the global financial and economic crisis;

(d) the aid scheme does not apply to firms active in the fisheries sector;

(e) the aid is not export aid or aid favouring domestic over imported products;

(f) prior to granting the aid, the granting authorities will obtain a declaration from the undertaking concerned, in written or electronic form, about any other aid falling within the scope of Commission Regulation (EC) No 1998/2006 of 15 December 2006 on the application of Articles 87 and 88 of the Treaty to de minimis aid[6] (the *de minimis* Regulation) and aid pursuant to this measure received from 1 January 2008 and will check that the aid will not raise the total amount of aid received by the undertaking during the period from 1 January 2008 to 31 December 2011 to a level above the ceiling of EUR 500 000;

(g) the aid scheme does not apply to undertakings active in the primary production of agricultural products[7]; it may apply to undertakings active in

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3 Communication from the Commission – Temporary Union framework for State aid measures to support access to finance in the current financial and economic crisis (not yet published in the Official Journal).

4 Not yet published.

5 As defined in point 2.1 of Communication from the Commission - the Community guidelines on State aid for rescuing and restructuring firms in difficulty (OJ C 244, 1.10.2004, p. 2).

6 OJ L 379, 28.12.2006, p. 5.

7 As defined in Article 2(2) of Commission Regulation (EC) No 1857/2006 of 15 December 2006 on the application of Articles 87 and 88 of the Treaty to State aid to small and medium-sized enterprises

the processing and marketing of agricultural products[8] unless the amount of the aid is 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 conditional on being partly or entirely passed on to primary producers;

(h) the aid is granted no later than 31 December 2011;

(i) the aid may not be cumulated with aid falling within the scope of the *de minimis* Regulation aid for the same eligible costs;

(j) the aid may be cumulated with other compatible aid or with other forms of Union financing provided that the maximum aid intensities indicated in the relevant guidelines or block exemptions Regulations are respected;

(k) in case of co-financing with the EU Structural Funds and other EU financing instruments, the applicable rules must be respected.

(7) Article 2 of the draft Ministerial Decree states that the conditions laid down in Article 1 thereof will be applied only after approval of the notification by the Commission.

(8) The Estonian authorities have indicated that all other elements of the existing aid scheme remains unchanged, with the exception that the aid scheme will be implemented by two granting authorities instead of three, as the Estonian Agricultural Registers and Information Board (ARIB) will no longer be able to grant aid under the amended aid scheme.

(9) The Estonian authorities have indicated that the planned budget of the measure for the period from 1 January 2008 to 31 December 2011 is EUR 13 million.

(10) The Estonian authorities have confirmed that the amended aid scheme will expire on 31 December 2011.

(11) The Estonian authorities have confirmed that the aid ceiling of EUR 500 000 will be applied regardless of whether the support for the aided project is financed entirely from State resources or partly financed by the Union.

(12) The Estonian authorities have confirmed that:

(a) the detailed rules of the monitoring and reporting requirements laid down in Council Regulation (EC) No 659/1999 of 22 March 1999 laying down detailed rules for the application of Article 93 of the EC Treaty[9] and Commission Regulation (EC) No 794/2004 of 21 April 2004 implementing Council Regulation (EC) No 659/1999 laying down detailed rules for the application of Article 93 of the EC Treaty[10] will be respected;

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active in the production of agricultural products and amending Regulation (EC) No 70/2001 (OJ L 358, 16.12.2006, p. 3).

8 As defined in Article 2(3) and (4) of Regulation (EC) No 1857/2006.

9 OJ L 83, 27.3.1999, p. 1.

10 OJ L 140, 30.4.2004, p. 1.

(b) a report on the measures put in place on the basis of temporary Union framework will be provided to the Commission by 15 September 2011 at the latest.

(13) The Estonian authorities have confirmed that the notification does not contain any confidential information which should not be disclosed to third parties and that, due to exceptional circumstances, they accept that this Decision is adopted in English as the authentic language.

3. ASSESSMENT

(14) In its Decision of 13 July 2009, the Commission considered that the scheme constitutes State aid within the meaning of Article 107(1) of the Treaty on the Functioning of the European Union (TFEU). The Commission found the measure to be compatible with the internal market on the basis of Article 107(3)(b) of the TFEU because it was apt to remedy a serious disturbance in the Estonian economy. To this end, the Commission had assessed the appropriateness, necessity and proportionality of the measure.

(15) In view of the continued volatility of financial markets and the uncertainty about the economic outlook, the Commission has decided that a prolongation until 31 December 2011 of certain measures set out in the temporary framework targeted at facilitating companies’ access to finance is justified in order to ensure a gradual return to normal State aid rules while limiting their impact on competition.

(16) The Commission observes that the extension of the scheme is a response to the continuing difficulties that enterprises in Estonia continue to experience in obtaining funding by the banks. Even though, in broad terms, the health of the banking sector has improved compared with the situation existing one year ago, the recovery is still fragile as the future evolution of financing remains uncertain. Thus the risk persists that the banking system may not be ready to sustain the recovery when credit demands picks up.

(17) Against this background, and taking into account the residual fragility of the recovery process and the possibility of setbacks in that process, the continuation of the existing aid scheme can be deemed necessary to facilitate companies’ access to finance. The Commission considers that an abrupt withdrawal of the scheme might put further stress on the recovery process. The Commission therefore considers that the prolongation of the scheme until the end of 2011 is appropriate, necessary and proportionate to remedy a serious disturbance in the Estonian economy.

(18) On the basis of the above, the notified prolongation of the existing aid scheme does not alter the Commission’s previous assessment in its Decision of 13 July 2009.

(19) On the basis of these considerations, the prerequisites for the compatibility of the scheme with Article 107(3)(b) of the TFEU that have been established by the temporary Community framework continue to apply. Furthermore, the Commission considers that the notified prolongation of the scheme until

31 December 2011 complies with the requirements set out in Section 2.2. of the temporary Union framework and is therefore compatible with the internal market.

(20) The Commission notes that the notification does not contain any confidential information which should not be disclosed to third parties and that, due to exceptional circumstances, Estonia has accepted that this Decision is adopted in English as the authentic language.

4. DECISION

(21) The Commission has accordingly decided not to raise any objections on the notified measure on the ground that it is compatible with the internal market on the basis of Article 107(3)(b) of the TFEU.

(22) The Commission reminds Estonia that, in accordance with Article 108(3) of the TFEU, all plans to modify this measure have to be notified to the Commission.

Yours faithfully,

For the Commission

Joaquín ALMUNIA
Vice-President