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Subject: State aid N 356/2007 – Finland – R&D Aid Scheme

Dear Sir,

1. PROCEDURE

- (1) By letter dated 26 June 2007, registered at the Commission on the same date, the Finnish authorities notified, according to Article 88(3) of the EC Treaty, the modification of the approved aid scheme “Grants and loans for technological research and development” (State aid No N 269/2003¹). The scheme was notified on the basis of the Community Framework for State aid for Research and Development and innovation² (thereinafter "the R&D&I Framework").
- (2) The Commission asked the Finnish authorities for additional information by letter dated 23 July 2007. The Finnish authorities responded by letter dated 4 September 2007. The Finnish authorities submitted additional information on 20 September 2007 and 19 October 2007. The Commission asked for additional information on 26 October 2007, to which the Finnish authorities responded on 20 November 2007. The Finnish authorities submitted additional information on 21 December 2007.

¹ OJ C 67, 17.03.2004, p. 9

² OJ C 323, 30.12.2006, p. 1

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2. DESCRIPTION OF THE MEASURE

2.1. Objective

- (3) The objective of the measure is to support research and development (R&D) in Finland. The measure provides aid for R&D projects, technical feasibility studies and industrial property right costs for SMEs.
- (4) The notification extends and modifies the existing aid scheme "Grants and loans for technological research and development", approved by the Commission decision N 269/2003. The existing scheme is valid until 31.08.2008. The current notification proposes to extend the scheme until 31.12.2013 and increase the annual budget from EUR 226 million to EUR 300 million. A number of other modifications have been proposed in order to bring it in line with the R&D&I Framework. The Finnish authorities declared that appropriate measures have been taken and thus the existing aid scheme has been amended, where necessary.

2.2. Legal basis, granting authority, budget and duration

- (5) The legal basis of the scheme is the Act on Discretionary Government Transfers 688/2001 (*Valtionavustuslaki*, 688/2001) and the Act on the General Terms and Conditions of Business Subsidies 786/1997 (*Laki yritystuen yleisistä ehdoista*, 786/1997).
- (6) The granting authority is the Finnish Funding Agency for Technology and Innovation, TEKES (thereinafter – TEKES, the Agency).
- (7) The annual budget of the scheme is EUR 300 million and the total budget amounts to EUR 1.8 billion. The scheme will be financed from the national budget and from the European Regional Development Fund (thereinafter - ERDF).
- (8) The duration of the scheme is from the date of the Commission approval to 31.12.2013. The Finnish authorities confirmed that the notified scheme will only be put in effect after the Commission has approved it.

2.3. Aid instrument

- (9) Aid will be provided in the form of non-repayable direct grants and soft unsecured loans. Both forms of aid can be granted for the same project, provided the aid does not exceed the aid intensity thresholds set out by the R&D&I Framework.
- (10) The loan may be interest-free and unsecured. It may also be granted as a subordinated loan. The loan shall be repaid in annual instalments. The repayment period is up to 10 years, with a grace period of 5 years. The loan duration can be extended for another 10 years, with the maximum grace period of up to 10 years, in case R&D activities or the economic exploitation of R&D results are significantly delayed beyond the time planned.
- (11) Two types of soft loans are envisaged under the scheme. In the first case, the loan amount may not exceed the aid intensity thresholds set out by the R&D&I Framework. The loan amount, therefore, equals to the maximum grant amount eligible under the R&D&I Framework. In the second case, the loan may cover up to 80% of the eligible project costs. The aid amount shall be the grant equivalent of the aid which comprises the grant equivalent of an interest subsidy and a portion of the loan converted to a grant

in case of project failure. The Finnish authorities confirmed that the combined aid element will not exceed the aid intensity thresholds set out by the R&D&I Framework.

- (12) The grant equivalent of an interest rate subsidy shall be the difference between the market interest rate and the interest rate charged to the beneficiary (estimated at 1%). Loans payable in several instalments shall be discounted to their value at the moment of being granted. The Finnish authorities confirmed that the base rate and the margin used for calculating the aid element and for discounting purposes will be defined according to the Commission definition of the reference and discount rates³.
- (13) Considering the risky nature of unsecured loans for R&D projects under the scheme, the estimated risk margin is 7.5 percentage points. In case of converting a loan to a subordinated loan, an additional aid element resulting from the additional premium (2.5 percentage points) charged for a subordinated loan will be reflected in the calculation of the grant equivalent of an interest rate subsidy.
- (14) In case of project failure, a part of the loan may be written-off and converted to a grant. To determine the aid amount of the written-off loan, the loan will be discounted to its value at the moment of being granted. The maximum amount of the written-off loan is determined by the difference between the maximum aid intensity thresholds set out by the R&D&I Framework and the interest rate subsidy.
- (15) In case of the loan conversion to a grant, the accrued interest rate subsidy will be calculated only for the part of the loan that exceeds the maximum aid thresholds set out by the R&D&I Framework. This is because the beneficiary would have anyway received the aid in the form of a grant up to the maximum aid thresholds.
- (16) After converting the loan to a grant, the remaining outstanding loan principle shall be repaid on market terms from the date of the conversion or continue to benefit from an interest rate subsidy. In the latter case, it will be ensured that the combined aid resulting from the accrued interest rate subsidy, the written-off loan portion and the additional interest rate subsidy for the outstanding loan principle will not exceed the aid intensity thresholds set out by the R&D&I Framework.
- (17) When writing-off the loan in case of project failure or extending its duration and/or grace period, the granting authority will make a new calculation of the aid element to ensure that the extension does not exceed the maximum aid intensity thresholds set out by the R&D&I Framework.
- (18) In its original loan agreement, the granting authority will indicate the amount of an interest rate subsidy contained in a soft loan throughout the loan period. The original loan decision will also indicate the maximum aid thresholds allowed for the project under the R&D&I Framework. The loan agreement will point out that the loan repayment terms may only be changed within the maximum aid intensity thresholds set out by the R&D&I Framework.

³ The Finnish authorities confirmed that when the Commission's new Communication on the revision of the method for setting the reference and discount rates comes into effect, the base rate and margin will be adjusted to the levels set forth in the communication, should they change.

(19) The tables below illustrate the calculation of the aid element under the scheme:

EXAMPLES OF HOW TEKES CALCULATES AID INTENSITY OF A PRODUCT DEVELOPMENT LOAN

In the examples the loan is granted for 60% of the eligible costs.

Under the R&D&I Framework the maximum aid is 35% of the project's eligible costs.

1. Tekes aid intensity calculation for a loan whose repayment conditions are unchanged.

	Values	Outstanding loan capital	Instalment	Date	Loan interest	Interest subsidy	Current value of interest subsidies
Loan total	120.000,00	120.000,00	0,00	1/01/2007	0,00	0,00	
Loan interest	1,00%	120.000,00	0,00	1/01/2008	1.200,00	13.032,00	11.650,28
Margin	7,50%	120.000,00	0,00	1/01/2009	1.200,00	13.032,00	10.415,05
Commission reference interest	4,36%	120.000,00	0,00	1/01/2010	1.200,00	13.032,00	9.310,79
Interest subsidy	10,86%	120.000,00	0,00	1/01/2011	1.200,00	13.032,00	8.323,61
Market interest	11,86%	120.000,00	0,00	1/01/2012	1.200,00	13.032,00	7.441,10
Eligible costs	200.000,00	120.000,00	24.000,00	1/01/2013	1.200,00	13.032,00	6.652,15
		96.000,00	24.000,00	1/01/2014	960,00	10.425,60	4.757,48
		72.000,00	24.000,00	1/01/2015	720,00	7.819,20	3.189,80
		48.000,00	24.000,00	1/01/2016	480,00	5.212,80	1.901,07
		24.000,00	24.000,00	1/01/2017	240,00	2.606,40	849,75
							64.491,09

Aid at time of loan award **64.491,09**

Aid as
percentage of
eligible costs **32,25%**

2. Tekes aid intensity calculation in connection with handling write-off of a loan for an unsuccessful project

	Values	The loan capital for the interest rate subsidy calculation	Instalment	Date	Loan interest	Interest subsidy	Current value of interest subsidies
part of the loan							
capital that exceeds the maximum	50.000,00	50.000,00	0,00	1/01/2007	0,00	0,00	
loan interest	1,00%	50.000,00	0,00	1/01/2008	500,00	5.430,00	4.854,28
margin	7,50%	50.000,00	0,00	1/01/2009	500,00	5.430,00	4.339,60
Commission reference interest	4,36%	50.000,00	0,00	1/01/2010	500,00	5.430,00	3.879,50
Interest subsidy	10,86%	50.000,00	0,00	1/01/2011	500,00	5.430,00	3.468,17
Market interest	11,86%	50.000,00	0,00	1/01/2012	500,00	5.430,00	3.100,46
Eligible costs	200.000,00	81.413,18	16.282,64	1/01/2013	814,13	8.841,47	4.513,11
		65.130,54	16.282,64	1/01/2014	651,31	7.073,18	3.227,68
		48.847,91	16.282,64	1/01/2015	488,48	5.304,88	2.164,10
		32.565,27	16.282,64	1/01/2016	325,65	3.536,59	1.289,77
		16.282,64	16.282,64	1/01/2017	162,83	1.768,29	576,51
							31.413,18

Determination of the maximum loan write-off

Project maximum aid level	70.000,00	19.642,01	interest subsidy before write-off
Interest subsidy to be taken into account	31.413,18	11.771,17	interest subsidy after write-off
Maximum loan write-off	38.586,82		
Remaining capital payable	81.413,18		

2.4. Beneficiaries

- (20) Companies carrying out economic activities, including research organisations and innovation intermediaries carrying out economic activities, are eligible for aid under the scheme. The estimated number of beneficiaries is over 1000 annually.
- (21) Research organisations shall perform economic activities, including contractual research on behalf of undertakings, on market conditions. If the research organisation carries out both economic and non-economic activities, in order to avoid cross-subsidisation of its economic activities, the two kinds of activities and their costs and funding will be separated.
- (22) When granting the SME bonus or in case of the measure specifically targeting SMEs, the beneficiaries shall comply with the SME definition as defined by the Community legislation⁴. Eligible beneficiaries shall have their legal domicile or an operating site in Finland or must establish such in the course of the application proceedings.
- (23) The scheme is not sector-specific and is not restricted geographically. The Finnish authorities confirmed that the scheme shall not impose any conditions restricting the exploitation of the research results in the European single market (European Economic Area and Switzerland).
- (24) Aid for products listed in Annex I to the EC Treaty shall be provided in accordance to the provisions of the R&D&I Framework. Aid to undertakings in difficulty within the meaning of the Community Guidelines on State aid for rescue and restructuring undertakings in difficulty⁵ is excluded from the scope of the scheme.

2.5. Collaborative research between undertakings and research organisations

- (25) The research organisations taking part in a collaboration project will not be funded through the scheme and shall obtain funding from other sources. Collaborative research between enterprises and research organisations where both parties share costs, risks and rewards shall comply with one of the following conditions in order to ensure that there is no indirect aid to undertakings through favourable conditions of cooperation:
 - (a) The participating undertakings bear the full costs of the project, or
 - (b) The results which do not give rise to intellectual property rights (IPR) may be widely disseminated and any IPR fully allocated to the research entities. The results of publicly financed R&D&I projects will be available to Community industry on a non-discriminatory basis, or
 - (c) The public entities will receive from enterprises compensation equivalent to the market price for the IPR resulting from the research project, and the results which do not give rise to IPR may be widely distributed.

2.6. Eligible activities and costs

- (26) The projects fall under the R&D stages of fundamental research, industrial research and experimental development in the meaning of point 2.2 (e), (f) and (g) of the

⁴ OJ L 124, 20.05.2003, p. 36.

⁵ OJ C 244, 1.10.2004, p. 2.

R&D&I Framework. The results of fundamental research must be widely disseminated. The aid for technical feasibility studies shall be preparatory to industrial research and experimental development.

- (27) When a project encompasses different tasks, each task and the associated eligible costs shall be allocated to a specific category of R&D. A project may encompass both industrial research and experimental development. Fundamental research cannot be combined with the other R&D stages.
- (28) The eligible costs of R&D projects are:
- (a) personnel costs (directly involved or assisting with R&D);
 - (b) costs of instruments and equipment to the extent and for the period used for the research project. If such instruments and equipment are not used for the full life for the research project, only the depreciation costs corresponding to the life of the research project, as calculated on the basis of good accounting practice, are eligible;
 - (c) costs of buildings and land, to the extent and for the duration used for the research project. With regard to buildings, only the depreciation costs corresponding to the life of the research project, as calculated on the basis of good accounting practice are eligible. For land, the costs of commercial transfer or actually incurred capital costs are eligible;
 - (d) costs of contractual research, technical knowledge and patents bought or licensed from outside sources at market prices, where the transaction has been carried out at arm's length and there is no element of collusion involved, as well as the costs of consultancy and equivalent services used exclusively for the research activity⁶;
 - (e) additional overhead incurred directly as a result of the research project;
 - (f) other direct costs of research activities, such as travel expenses and the costs of materials, suppliers and equipment.
- (29) The eligible costs of the aid for industrial property rights for SMEs are:
- (a) costs preceding the grant of the right in the first legal jurisdiction, including costs relating to the preparation, filing and prosecution of the application as well as costs incurred in renewing the application before the right has been granted (acquisition of industrial rights by SMEs);
 - (b) translation and other costs incurred in order to obtain the granting or validation of the right in other legal jurisdictions;
 - (c) costs incurred in defending the validity of the right during the official prosecution of the application and possible opposition proceedings, even if such costs occur after the right is granted.

⁶ The Finnish authorities confirmed that services purchased in the common market will be treated on a uniform basis.

2.7. Aid intensities

- (30) The basic aid intensities for R&D projects are 100% for fundamental research, 50% for industrial research and 25% for experimental development. For industrial research and experimental development the measure provides a 20% bonus for small companies and a 10% bonus for medium-sized companies. In addition, a 15% bonus may be added under the following conditions:
- i. there shall be at least two undertakings which are independent of each other and the following conditions are fulfilled: no single undertaking must bear more than and 70 % of the eligible costs of the collaboration project and the project must involve collaboration with at least one SME or be cross-border, that is to say, the research and development activities are carried out in at least two different Member States;
 - ii. there shall be effective collaboration between an undertaking and a research organisation, particularly in the context of co-ordination of national R&D policies, and the following conditions are fulfilled: the research organisation bears at least 10 % of the eligible project costs and the research organisation has the right to publish the results of the research projects insofar as they stem from research implemented by that organisation.
 - iii. only in case of industrial research, if the results of the project are widely disseminated through technical and scientific conferences or published in scientific or technical journals or in open access repositories (databases where raw research data can be accessed by anyone), or through free or open source software.
- (31) The maximum aid intensities for R&D projects, combined with the bonuses, are:
- (a) 100% for fundamental research;
 - (b) for industrial research, up to 80% for small companies, up to 75% for medium-sized companies, and up to 65% for large companies
 - (c) for experimental development, up to 60% for small companies, up to 50% for medium-sized companies, and up to 40% for large companies
- (32) The basic aid intensities for technical feasibility studies, as calculated on the basis of the study costs are:
- (a) for SMEs, 75% for studies preparatory to industrial research and 50% for studies preparatory to experimental development,
 - (b) for large enterprises, 65% for studies preparatory to industrial research and 40% for studies preparatory to experimental development.
- (33) The aid to SMEs for industrial property right costs shall be up to the same level of aid as would have qualified as R&D aid in respect of the research activities which led to the industrial property rights concerned.
- (34) The aid intensities will be established for each research category. In case of collaborative research the aid intensities will be established for each participating undertaking.

2.8. Cumulation

- (35) Cumulation of the aid for the same eligible costs up to the maximum allowed aid intensities of the relevant Community framework is allowed. This limitation does not apply to aid granted in accordance with the Community guidelines on State aid to promote risk capital investments in SME⁷. Aid under the scheme will not be cumulated with *de-minimis* support in respect of the same eligible expenses if this would circumvent the maximum aid intensities laid down in the R&D&I Framework.

2.9. Incentive effect and necessity of aid

- (36) The aided activity must not have commenced prior to the aid application by the beneficiary. The incentive effect of the aid to large enterprises will be verified ex-ante using the indicators, such as increase in project size, increase in scope, increase in speed, increase in total amount spent on R&D. In the annual reports, the Finnish authorities will demonstrate how they have assessed the incentive effect of the aid before granting it.
- (37) The Finnish authorities committed to notify aid amounts for projects under the scheme which exceed the following thresholds (per undertaking, per project): EUR 20 million for predominantly fundamental research, EUR 10 million for predominantly industrial research and EUR 7.5 million for all other projects.

2.10. Reporting and monitoring

- (38) The Finnish authorities committed to comply with the reporting and monitoring requirements set forth in section 10 of the R&D&I Framework. The Finnish authorities undertook to submit annual reports on the implementation of the notified aid scheme which will also include the information on the incentive effect. The annual reports will contain information on the name of the beneficiary, the aid amount per beneficiary, the aid intensity and the sectors in which the aided projects are undertaken.
- (39) The Finnish authorities committed to communicate the internet address to the Commission where the full text of the scheme will be published. The scheme will not be implemented until the information has been published on the internet. In case an individual aid granted under the scheme exceeds EUR 3 million, the Finnish authorities will provide the Commission with the information requested in the standard form laid down in the Annex to the R&D&I Framework.

3. EXISTENCE OF AID

3.1. Existence of Aid

- (40) The Commission has assessed the existence of aid in relation to Article 87 (1) of the EC Treaty.

3.1.1. Direct State aid to enterprises

- (41) Insofar as aid is awarded to enterprises and research organisations or innovation intermediaries engaged in economic activity, the proposed scheme falls under Art.87 (1) EC. The notified scheme is funded through the national budget and the ERDF, and

⁷ OJ C 194 of 18.8.2006, p. 2.

therefore through State resources. It favours a limited number of undertakings that are to be selected during the implementation of the scheme. Hence, the measure is selective. In addition, the aid may improve the overall financial condition of the aid recipients and enhance their market position. The undertakings concerned may operate on markets subject to intra-Community trade. It must therefore be assumed that the aid is likely to distort competition and thereby affect trade between Member States. Hence, the scheme therefore constitutes state aid within the meaning of Article 87 (1) of the EC Treaty.

3.1.2. Indirect State aid to enterprises through research in collaboration with publicly funded research organisations

- (42) According to point 3.2.2 of the R&D&I Framework, in case of collaboration projects carried out jointly by enterprises and publicly funded research organisations, the Commission considers that no indirect State aid is granted to the enterprises through the research organisation due to the favourable conditions of the collaboration if one of the following conditions is fulfilled:
- (a) The participating enterprises bear the full cost of the project.
 - (b) The results which do not give rise to intellectual property rights may be widely disseminated and any intellectual property rights to the R&D&I results which result from the activity of the research organisation are fully allocated to the research organisation.
 - (c) The research organisation receives from the participating enterprises compensation equivalent to the market price for the intellectual property rights which result from the activity of the research organisation carried out in the project and which are transferred to the participating enterprises. Any contribution of the participating enterprises to the costs of the research organisation shall be deducted from such compensation.
- (43) The conditions of collaborative research carried out jointly by enterprises and research organisations (point 2.5) are in line with point 3.2.2 of the R&D&I Framework. The Finnish authorities assured that in order to avoid a cross-subsidisation of any economic activities of the research organisations via the public funding of the non-economic activities, these two kinds of activities and their costs and funding will be clearly separated.
- (44) According to point 3.2.1 of the R&D&I Framework, contractual research carried out by a research organisation on behalf of an undertaking will not entail indirect State aid if the research organisation provides its services at a market price or if there is no market price, at a price which reflects its full costs plus a reasonable margin. The research organisations shall receive the market price for contractual research (point 2.4, paragraph 21), in line with point 3.2.1 of the R&D&I Framework.
- (45) Hence, the Commission concludes that collaborative research between undertakings and research organisations and contractual research on behalf of undertakings does not constitute indirect State aid to undertakings within the meaning of Article 87 (1) of the EC Treaty and Article 61 (1) of the EEA Agreement.

3.2. Lawfulness of the aid

- (46) The Finnish authorities have fulfilled their obligation according to Article 88 (3) of the EC Treaty by notifying the scheme before its implementation. The scheme's entry into force is subject to the Commission's approval.

4. ASSESSMENT

- (47) The notified scheme will provide aid for R&D activities, namely for R&D projects, technical feasibility studies and industrial property right costs for SMEs. These activities are provided for in section 5 of the R&D&I Framework.
- (48) Pursuant to section 2.1 of the R&D&I Framework, it does not apply to aid for undertakings in difficulty within the meaning of the Community Guidelines on State aid for rescue and restructuring undertakings in difficulty⁸. Such undertakings will be excluded from the scope of the notified scheme (point 2.4, paragraph 24).
- (49) The Commission notes that Finland has complied with Section 10.2 of the R&D&I Framework by taking appropriate measures to bring the existing aid scheme in line with the R&D&I Framework.

4.1. Compatibility of aid instruments

- (50) Where aid is awarded in a form other than a grant, the aid amount shall be the grant equivalent of the aid, pursuant to point 2.2(c) of the R&D&I Framework. The aid payable in several instalments shall be discounted to its value at the moment of granting. The interest rate to be used for discounting purposes and for calculating the aid amount of a soft loan shall be the reference rate applicable at the time of aid, defined in accordance to the Commission notice on the method for setting the reference and discount rates⁹. According to the notice, in situations involving a particular risk the base rate may be increased. In such cases, the premium may amount to 400 basis points or more if no private bank would have agreed to grant the relevant loan.
- (51) The calculation of the grant equivalent of the interest rate subsidy (point 2.3, paragraphs 12-19), in line with the provisions of point 2.2(c) of the R&D&I Framework and the Commission notice on Reference and Discount Rates.

4.2. Aid for R&D projects

- (52) As outlined above (point 2.6, paragraph 26), projects eligible for aid under the measure will fall within one or more of the R&D stages defined in line with point 2.2 e), f) and g) of the R&D&I Framework. The aid intensities (point 2.7) correspond to the basic aid intensities under point 5.1.2 of the R&D&I Framework, bonuses will be granted in compliance with point 5.1.3.a) and 5.1.3.b) (i-iii) of the R&D&I Framework and the method for establishing the aid intensities (point 2.7, paragraph 34) is in line with point 5.1 of the R&D&I Framework. The eligible costs (point 2.6) are in conformity with the eligible cost categories set forth in point 5.1.4 of the R&D&I Framework. The

⁸ OJ C 244, 1.10.2004, p. 2.

⁹ The Commission notice on the Method for Setting the Reference and Discount Rates, OJ C 273 of 9.9.1997, p. 3.

Commission can therefore conclude that the aid for R&D projects is in line with point 5.1 of the R&D&I Framework.

4.3. Aid for technical feasibility studies

- (53) As indicated above (point 2.6, paragraph 26), the aid for technical feasibility studies is preparatory to industrial research and experimental development. The aid intensities, as calculated on the basis of the study costs (point 2.7, paragraph 31), do not exceed the aid intensities foreseen in point 5.2 of the R&D&I Framework. The Commission can therefore conclude that the aid for technical feasibility studies is in line with the R&D&I Framework.

4.4. Aid for industrial property rights costs for SMEs

- (54) The aid intensity and the eligible costs of the aid to SMEs for the costs associated with obtaining and validating patents and other industrial property rights (point 2.6, paragraph 29 and point 2.7, paragraph 33) comply with point 5.3 of the R&D&I Framework. The aid for industrial property rights costs for SMEs is therefore in line with the R&D&I Framework.

4.5. Cumulation

- (55) Section 8 of the R&D&I Framework stipulates that, where the expenditure eligible for aid for R&D&I is eligible in whole or in part for aid for other purposes, the common portion will be subject to the most favourable ceiling under the applicable rules. This limitation does however not apply to aid granted in accordance with the Community guidelines on State aid to promote risk capital investments in SME¹⁰. Also, aid for R&D&I shall not be cumulated with de minimis support in respect of the same eligible expenses in order to circumvent the maximum aid intensities laid down in the Framework.
- (56) The cumulation rules under the scheme (point 2.8) comply with point 8 of the R&D&I Framework.

4.6. Incentive effect and necessity of aid

- (57) As required by section 6 of the R&D&I Framework, State aid must have an incentive effect, i.e. result in the recipient changing its behaviour so that it increases its level of R&D&I activity. As for aid schemes, point 6 of the R&D&I Framework stipulates that for project aid and feasibility studies where the beneficiary is an SME and where the aid is up to EUR 7.5 million for a project per SME, the incentive effect is automatically met, provided the aided activity has not commenced prior to the aid application by the beneficiary. As outlined above (point 2.9, paragraph 36), the scheme complies with the incentive effect conditions set forth in point 6 of the R&D&I Framework.
- (58) As for project aid for large undertakings, for SME project aid where the aid exceeds EUR 7.5 million for a project per SME, the presence of an incentive effect has to be verified at the moment of the application. Annual reports shall be submitted to the Commission demonstrating how the incentive effect has been assessed before granting the aid, in accordance with the criteria specified in section 6 of the R&D&I Framework. Based on the commitment by the Finnish authorities to verify the

¹⁰ OJ C 194, 18.8.2006, p. 2.

incentive effect and to demonstrate the incentive effect in annual reports (point 2.9, paragraph 36), section 6 of the R&D&I Framework is complied with.

- (59) Pursuant to Section 7.1 of the R&D&I Framework, the Commission will carry out a more detailed assessment of certain aid measures, which accordingly have to be notified individually. Firstly, this concerns individual notification rules pursuant to the Block Exemption Regulations. Secondly, this concerns certain schemes governed by the R&D&I Framework. Section 7.1 of the R&D&I Framework sets forth specific aid-intensity thresholds and categories of projects subject to this individual notification requirement, namely: the aid above EUR 20 million in case of predominantly fundamental research, EUR 10 million in case of predominantly industrial research, EUR 7.5 million for all other cases. The Finnish authorities committed to notify the individual aid, as specified above (point 2.9, paragraph 37), in accordance with point 7.1 of the R&D&I Framework.
- (60) The Commission can therefore conclude that the scheme complies with the incentive effect and individual notification requirements of the R&D&I Framework.

4.7. Transparency of the measure

- (61) Pursuant to point 10.1.1 of the R&D&I Framework, annual reports must be submitted to the Commission. Beyond the requirements set out in Regulation (EC) No 659/1999¹¹ and Commission Regulation (EC) No 794/2004¹², the reports must contain, for each measure, information as to the name of the beneficiary, the aid amount per beneficiary, the aid intensity, the sectors of activity where the aided projects are undertaken, including also the information necessary to demonstrate the incentive effect of aid. The Finnish authorities undertook to observe this reporting obligation (point 2.10) and thus comply with the reporting obligations.
- (62) According to Point 10.1.2 of the R&D&I Framework, when examining R&D&I aid schemes, the Commission will systematically require the Member State concerned to publish the full text of all final aid schemes on the internet and to communicate the internet address of the publication to the Commission. The scheme must not be applied before the information is published on the internet. Based on information provided by the Finnish authorities (point 2.10, paragraph 39), the requirement set out in point 10.1.2 of the R&D&I Framework is met.
- (63) Point 10.1.3 of the R&D&I Framework stipulates that whenever R&D&I aid exceeds EUR 3 million, Member States must provide the Commission with the information requested in the standard form laid down in the Annex to the R&D&I Framework. Besides, Member States must ensure that detailed records regarding the granting of aid for all R&D&I measures are maintained. Such records, which must contain all information necessary to establish that the eligible costs and maximum allowable aid intensity have been observed, must be maintained for 10 years from the date on which the aid was granted. Finland undertook to maintain records in accordance with point 10.1.3 of the R&D&I Framework.
- (64) The Commission can therefore conclude that the scheme complies with the transparency requirements of the R&D&I Framework.

¹¹ OJ L 83, 27.3.1999, p. 1.

¹² OJ L 140, 30.4.2004, p. 1.

4.8. Conclusion

- (65) Based on the above reasoning, the Commission concludes that the measure is in line with the Community Framework for State aid for Research and Development and Innovation.

5. DECISION

- (66) The Commission concludes that the notified State aid measure, "R&D Aid Scheme", which amends the existing State aid scheme "Grants and loans for technological research and development" No N 269/2003, is compatible with the common market, pursuant to Article 87(3)(c) of the EC Treaty. It accordingly decided not to raise objections to the notified measure.
- (67) The Commission reminds the Finnish Government that, in accordance with Article 88 (3) of the EC Treaty, all plans to refinance, alter or change this aid scheme have to be notified to the Commission.
- (68) Prior to implementing the scheme, the Finnish Government shall publish the full text of the final aid scheme on the internet and communicate it to the Commission.
- (69) The Commission further reminds the Finnish Government to submit annual reports on the implementation of the notified scheme which comprise the information demonstrating the incentive effect.

If this letter contains confidential information, which should not be disclosed to third parties, please inform the Commission within fifteen working days of the date of receipt. If the Commission does not receive a reasoned request by that deadline, you will be deemed to agree to the disclosure to third parties and to the publication of the full text of the letter in the authentic language on the Internet site: http://ec.europa.eu/community_law/state_aids/index.htm

Your request should be sent by registered letter or fax to:

European Commission
Directorate-General for Competition
Directorate for State Aid
State Aid Greffe
B – 1049 Brussels
Fax No.: +32 2 296 12 42

Yours faithfully,
For the Commission

Neelie KROES
Member of the Commission