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**WORKING LANGUAGE**

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**Subject: State aid N 359/07 - FINLND  
“Prolongation and modification of aid scheme N 75/02 for the energy  
sector”**

Excellency,

The Commission wishes to inform Finland that, having examined the information supplied by your authorities on the matter referred to above, it has decided to raise no objections to the aid measure.

## **I. PROCEDURE**

1. By electronic notification of 27 June 2007, the Finnish authorities notified, according to Article 4(2) of Regulation (EC) n° 794/2004 of 21 April 2004<sup>1</sup> implementing Council Regulation (EC) No 659/1999 laying down detailed rules for the application of Article 93 of the EC Treaty<sup>2</sup>, the above-mentioned measure. The Commission requested further clarification on the measure by letters of 19 July and 25 September 2007. With the letters of 25 July and 27 September 2007 the Finnish authorities replied.
2. This notification concerns a prolongation and a modification of aid scheme N 75/02<sup>3</sup> for the energy sector which was approved on 21 June 2002.

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<sup>1</sup> OJ L 140, 30.04.2004, p. 1.

<sup>2</sup> OJ L 83, 27.03.1999, p. 1.

<sup>3</sup> OJ C 271, 7.11.2002, p.3.

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3. In the notification, the Finnish authorities held that the energy aid scheme respects the conditions laid down in the Community guidelines on State aid for environmental protection<sup>4</sup> hereafter referred to as 'the environmental aid guidelines'.

## **II. DETAILED DESCRIPTION OF THE AID**

4. The notified measure is intended to replace a scheme (N 75/02 – Modification of aid scheme for the energy sector) that had previously been notified to and approved by the Commission. The objective of the notified scheme is to promote renewable energy generation and use, energy savings of efficiency of generation and use, decrease of damage to environmental and environmental burden caused by energy generation and its use, security of supply and diversification of sources. The expected annual energy savings are estimated at 250 GWh and the expected annual CO<sub>2</sub> savings are estimated at 100.000 t.
5. Energy aid can be granted for investment and feasibility projects. An investment project refers to investment in fixed assets and the related preparation, follow-up and information dissemination. A feasibility project refers to energy audits and analyses, other investment-related surveys and studies on the development of a new method or service. Aid will not be granted for surveys related to the routine business establishment, expansion, profitability, development, planning, marketing, testing or other corresponding studies of an individual enterprise.
6. The following projects are eligible for support: promoting production and the use of renewable energy; promoting energy conservation or enhancing efficient energy production and use; reducing environmental hazards arising from energy production and consumption; otherwise enhancing the security and versatility of energy supply.
7. Projects mentioned in point 6 may be co-financed from the European Regional Development Fund. Aid under the notified scheme shall not per se and/or when combined with other public subsidies exceed the abovementioned aid intensities. As far as Structural Fund programmes are concerned, their administrative handling will follow the provisions of the national Structural Funds Act.
8. Energy aid may be granted to enterprises, municipalities and other corporations. Aid will not be granted to housing corporations or apartment buildings, establishment projects receiving state subsidies or farms or projects to be implemented in connection with them.
9. Furthermore, projects referred to in Article 6 of the Kyoto Protocol to the UN Framework Convention on Climate Change (Joint Implementation projects) to be implemented in Finland are not eligible for aid.
10. Investments falling under the EU/ETS are not eligible with the exception of project employing the newest technology. In this situation the support is granted only for the part of the investment consisting of newest technology. According to the Finnish authorities this is motivated by the fact that the scheme is meant to encourage the uptake of newest technologies.
11. The following costs of an investment project are eligible, insofar as these represent the extra investment expenditure necessary to meet the environmental objectives:

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<sup>4</sup> OJ C 37, 3.2.2001, p.5.

- a.) Preparation and design costs;
  - b.) Costs of buildings, machinery and equipment, installation costs and costs related to their modifications and repairs.
  - c.) Costs arising from the purchase of land directly related to the investment and from the construction of electric lines and costs arising from the connection fee charged to the distribution network operator by the electricity producer; land costs may be a maximum of 10% of the project's eligible total expenditure;
  - d.) Costs ensuing from construction of a pipe to be connected to a district-heating network;
  - e.) The costs of civil engineering work and the supervision of construction work;
  - f.) The costs of clearance and earth works;
  - g.) Commissioning costs and costs arising from training operating personnel required for commissioning. In this context, commissioning refers to the act of operating, testing and adjusting a system or unit for the first time to ensure that it functions according to the specified performance;
  - h.) Costs of project-related information dissemination; and
  - i.) Costs of investment follow-up, to a maximum of one year from the commissioning of the investment.
  - j.) Costs related to feasibility studies for the various types of projects (salaries of the participants in the project and related indirect labour costs, equipment, accessories, software, travel, information dissemination, other direct or overhead expenses).
12. According to the information provided by the Finnish authorities the aid is granted only to the energy savings part - which is separated and identified from the whole part analyses – is based on pay back period. Projects with a pay period of less than 2 or 3 years won't be supported. Capacity increases and other advantages will be calculated into the pay-back period.
13. The maximum aid intensity of eligible costs granted on the basis of project-specific considerations is:
- I. 40% in energy audits, analyses and other feasibility projects;
  - II. 40% in investment projects promoting wind energy production or solar energy use;
  - III. 40% in investment projects containing new technology that promotes energy conservation or production or the use of renewable energy;
  - IV. 30% in investment projects containing conventional technology that promotes energy conservation or production or the use of renewable energy<sup>5</sup>;
  - V. 30% in investment projects reducing the environmental hazards of energy production or consumption;
  - VI. 25% in investment projects enhancing the security and versatility of energy supply<sup>6</sup>.

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<sup>5</sup> This concerns only projects implemented by municipalities.

<sup>6</sup> The contribution to these projects will stay under the minimis (OJ CL 379, 28.12.2006, p.5) threshold.

14. In projects falling under subsection I (energy audits, analyses and other feasibility projects), the aid intensity can be raised by 10 percentage points, when the aid recipient is either an SME within the meaning of Commission Recommendation 2003/361/EC of 6 May 2003 concerning the definition of micro, small and medium-sized enterprises<sup>7</sup> or a municipality.
15. In projects receiving energy aid, the aid recipient's own financing must account for at least 25% of the total funding of the project.

#### **Legal basis**

16. Government decree in the General Conditions on Awarding Energy Grants.

#### **Budget and duration**

17. The following budget is foreseen: for 2008 26 million, for 2009 27 million, for 2010: 30 million and for 2011:32 million. For 2012 there is at the moment no estimation of the budget.

### **III. ASSESSMENT**

#### **Existence of State aid and legality**

18. Article 87(1) of the 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*”.
19. Under the notified scheme, enterprises may receive grants for investing in energy projects which contribute to the improvement of the environment. These measures amount to preferential treatment of the recipient firms, give them an advantage or an incentive compared with other firms and thereby distort or threaten to distort competition. Aid may be granted to firms or markets on which there is or could be trade between Member States or on which firms from other Member States might wish to participate. The scheme could therefore affect trade between Member States. The scheme is funded through State resources. The notified measure therefore constitutes aid within the meaning of Article 87(1) of the EC Treaty and Article 61(1) of the EEA Agreement.
20. Finland has complied with its obligation to notify the aid in accordance with Article 88(3) of the Treaty.

#### **Compatibility with the common market**

21. The Commission has assessed the possibilities for granting an exemption under article 87(3)(c) of the EC Treaty for this aid scheme based on the environmental aid guidelines, section E.1. on the rules applicable to investment aid. The Commission finds that an exemption can be granted for the following reasons:
22. The renewable energy sources covered by the notified scheme are line with the definition of renewable energy sources used in Article 2(a) of Directive 2001/77/EC<sup>8</sup>.

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<sup>7</sup> OJ L 124, 20.05. 2003, p. 36,

<sup>8</sup> Directive 2001/77/EC of the European Parliament and the Council of 27 September 2001 on the promotion of electricity produced from renewable energy sources in the internal market, OJ L 283 of 27.10.2001, p.33. Article 2 (a) of this directive lists the following renewable energy sources: wind, solar, geothermal, wave, tidal, hydropower and biomass, landfill gas, sewage treatment plant gas and biogases. Article 2 (b) lays down that biomass shall mean the biodegradable fraction of products, waste and residues

Therefore, the scheme applies to renewable energy source within the meaning of point 6 of the environmental aid guidelines.

23. The maximum aid intensities foreseen for investment projects in renewable energy, energy saving and other investment project leading to the reduction of the environmental hazards of energy production or use are in accordance with the paragraphs 29, 30, 32 and 35 of the environmental aid guidelines.
24. The purpose of the Scheme is to promote renewable energy generation and use; energy savings or efficiency of generation and energy use; decrease of damage to environmental and environmental burden caused by energy generation where firms undertake investment in the absence of mandatory Community standards or where they have to undertake investment in order to comply with national standards that are more stringent than the applicable Community standards. Investments of the kind referred to in points 29 to 32 may also be carried out by small or medium-sized enterprises, and can therefore be granted an increase of 10 percentage points gross.
25. The eligible costs foreseen for the investment projects carried out under the notified scheme are in accordance with paragraphs 36 and 37 of the environmental guidelines. The investments concerned shall only be investments which are strictly necessary in order to meet environmental objectives. Eligible costs shall be confined strictly to the extra investment costs necessary to meet the environmental objectives. In all cases, eligible costs shall be calculated net of the benefits accruing from any increase in capacity, cost savings engendered during the first five years of the life of the investment and additional ancillary production during that five-year period.
26. The Finnish authorities confirmed that in order for the feasibility studies to be eligible, the applicants must prove that these are necessary for and directly linked to an investment project.
27. No operating aid will be awarded under the notified scheme.
28. The Finnish authorities have stated that aid under the notified scheme may not – when combined with other public subsidies – exceed the abovementioned aid intensities.

#### **IV. CONCLUSION**

The Commission has accordingly decided not to raise objections to the notified project at hand as the State aid can be found compatible with the common market pursuant to Article 87(3)(c) of the EC Treaty, since it respects the conditions laid down in the environmental aid guidelines.

The Commission reminds the Finnish Authorities that, in accordance with Article 88 (3) of the EC Treaty, plans to change this scheme have to be notified to the Commission pursuant to provisions of Commission Regulation (EC) No 794/2004 implementing Council Regulation (EC) No 659/1999 laying down detailed rules for the application of Article 93 [now 88] of the EC Treaty (OJ L 140, 30.4. 2004, p.1).

The Commission also reminds the Finnish Authorities that they may have to adapt the notified measures in accordance with any appropriate measures possibly foreseen in connection with adoption of future revised Environmental Guidelines.

If this letter contains confidential information which should not be disclosed to third parties, please inform the Commission within 15 working days of the date of receipt. If the

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from agriculture (including vegetal and animal substances), forestry and related industries, as well as the biodegradable fraction of industrial and municipal waste.

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](http://ec.europa.eu/community_law/state_aids)

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

European Commission  
Directorate-General of Competition  
State Aid Registry  
B-1049 BRUSSELS

Telefax n°: + 32-2-296.12.42

Please, mention the name and number of the case in all the correspondence.

Yours faithfully,

For the Commission

*Neelie KROES*  
Member of the Commission