Subject: N59/2008 – Finland
Tax Exemption for Bio Fuels Used for Heating and Stationary Motors

Sir,

1. PROCEDURE

1. By electronic notification SANI 943 validated on 31/01/2008 the Finnish Authorities notified the Commission of a Scheme consisting of operating aid in the form of a tax exemption for liquid products from biomass (bio liquids) used for heating and stationary motors (the Scheme). By letters dated 08/05/2008 and 27/06/2008, the Finnish Authorities provided further information.
2. **DESCRIPTION OF THE MEASURE**

2.1. **Instrument and Objective of the Scheme**

2. The Scheme consists of a full tax exemption from energy tax and so called strategic stockpile fee\(^1\) for bio liquids used for the same purposes as light fuel oil i.e. for heating, stationary diesel motors, or working machines.

3. The purpose of the Scheme is to increase the use of biomass based liquids for energy uses enumerated above displacing fossil light fuel oil to reduce CO2 emissions.

2.2. **Supported Bio Liquids**

4. The Scheme defines the supported bio liquid as liquid fuel for energy purposes produced from biomass. The supported liquids shall fulfil the requirements set forth in Article 16 of the Council Directive 2003/96/EC of 27 October 2003 on restructuring the Community framework for the taxation of energy products and electricity (the Energy Tax Directive)\(^2\). Biomass is defined as the biodegradable fraction of products, waste and residues from agriculture (including vegetal and animal substances), forestry and related industries, as well as the biodegradable fraction of industrial and municipal waste.

5. The Finnish Authorities submit that the Scheme is meant for supporting all types of bio liquids. However, in practical terms bio diesel (RME) is the most common available substitute for light fuel oil used for heating and stationary motors.

6. In case liquid fuel blends are produced, the Finnish Authorities have set up a system ensuring that only the biodegradable part of the bio liquid receives support.

2.3. **Beneficiaries**

7. The Finnish Authorities consider that beneficiaries are any and all undertakings within the meaning of the EC Treaty active in the production of bio liquids as the exemption on energy taxes increases demand for bio liquids.

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1 € 0.035 levied per litre light fuel oil and/or equivalent fuel on top of the energy tax to cover the costs incurred by the State for the maintenance strategic stockpiles of fuels. The strategic stockpile fee is levied as part of the excise duty for energy products in accordance with the applicable community and national legislation. Both the amount of stockpile fee and the excise duty are assessed on the basis of the volume of the product with a temperature of + 15°C (so-called normal litre).

8. The Finnish Authorities further exclude the possibility that the supported activity would consist of primary production of products mentioned in Annex I to the EC Treaty, or that the beneficiaries would be active in the field of fisheries and aquaculture.

9. The estimated number of beneficiaries is 11-50.

2.4. Duration

10. The duration of the Scheme is 01/01/2008-31/12/2013. Finland will not implement the Scheme prior to its authorization by the Commission.

2.5. Budget

11. The notified budget is € 60 million i.e. € 10 million p.a.

2.6. Cumulation of Aid

12. The Finnish Authorities exclude cumulation with other State aid measures (including any and all de minimis aid\(^3\)) for the same extra costs.

2.7. Extra Costs

13. To illustrate the extra costs incurred to the producer of the bio liquid, the Finnish Authorities have provided the following table\(^4\):

<table>
<thead>
<tr>
<th>Production costs for 1000 litres of bio diesel (RME) compared with the costs of fossil fuel (light fuel oil); all items in €</th>
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<tbody>
<tr>
<td>A) Raw materials</td>
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<tr>
<td>B) Labour</td>
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<tr>
<td>C) Capital repayments</td>
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<tr>
<td>D) Intermediate processing</td>
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<tr>
<td>E) Transport costs</td>
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\(^4\) As explained supra (point 5), bio diesel (RME) is the only available substitute for light fuel oil used for heating and stationary motors in practical terms, and therefore the calculations are based on these two products.
14. The calorific value of the fuels used in the calculation is 10 kWh per litre for light fuel oil, and 9.3 kWh per litre for bio diesel (RME). The coefficient is thus 1,075269. The rape price used is the average price in 2007 (€ 280 per tonne). The calculation takes into account the pressing and esterification of rape oil, and the revenue from the by-products rape feed (€ 240 per tonne) and glycerol (€ 200 per tonne). The transport costs correspond to distribution costs of diesel oil, € 0.09 per litre, in 2008.

15. The Finnish Authorities commit to exclude over-compensation by controlling the level of compensation, to limit the amount aid in case the aid level would lead to over-compensation, and to provide the Commission with adequate reports on the implementation of the Scheme in order to permit the Commission to verify that there is no over-compensation.

2.8. Sustainability Criteria

16. The Finnish Authorities submit that the aid favours bio liquids that fulfil the sustainability criteria set out in Article 15 of the proposal for a Directive of the European Parliament and the Council on the promotion of the use of energy from renewable sources (the Draft RES Directive), and any and all other applicable sustainability criteria during the duration of the Scheme.

17. The feedstock of the liquids is mostly rape. Turnip rape is used to a small degree. The purpose of the Finnish Authorities is to ensure that bio liquids receiving State Aid are always sustainable.

| F) Revenue from the sales of by-products | -572 |
| G) Production costs (A+B+C+D+E+F) | 952 |
| H) Profit margin calculated to G (5% p.a.) | 48 |
| I) Total (G+H) | 999 |
| J) Applicable taxes (excluding VAT) | 87 |
| K) Tax exemption | 87 |
| L) Price for bio diesel (RME) (I+J-K) | 999 |
| M) Reference price (excluding VAT) to light fuel oil containing the same amount of energy content as 1000 liters of bio diesel (RME)* | 541 |
| Difference (L-M) | 458 |
18. The liquids concerned shall create 36% over all savings in terms of CO2, which is in line with the criteria set out in Article 15, as well as the values in accordance with Article 17 and the methodology laid down in Annex VII of the Draft RES Directive.

3. **Assessment**

3.1. **Presence of State Aid under Article 87(1) of the EC Treaty**

19. The scheme constitutes State aid within the meaning of Article 87(1) of the EC Treaty. The Scheme is selective, as it favours only the beneficiaries, the producers of bio liquids who receive an advantage enabling the producers to increase the sales of bio liquids.

20. The advantage is financed from State resources as Finland foregoes tax revenue otherwise payable according to the applicable law.

21. The Measure has a potential to distort competition and affect trade between member states. The Notified aid will strengthen the position of the beneficiaries, undertakings active in markets – energy products – where there is intra-community trade.

3.2. **Legality of the Aid**

22. By notifying the Measure before its implementation, the Finnish Authorities have fulfilled their obligation according to Article 88(3) of the EC Treaty. Any disbursements will only be made after the authorization of the Notified Measure by the Commission.

3.3. **Compatibility of the Aid with Article 87(3)(c) of the EC Treaty**

23. The Commission finds that the Notified Measure can be found compatible with Article 87(3)(c) of the EC Treaty, since it complies with the provisions of the new Community Guidelines on State Aid for Environmental Protection (the Environmental Guidelines)\(^5\). The Scheme can be authorized as it complies with the Energy Tax Directive.

24. The Scheme was notified on 31/01/2008. According to point 204 of the Environmental Guidelines, the Commission will apply these Guidelines to all notified aid measures in respect of which it is called upon to take a decision after the Guidelines are published in the Official Journal, even where the projects were notified prior to their publication. The publication of the Environmental Guidelines took place on 01/04/2008.

\(^5\) OJ C 82, 01.04.2008, p. 01.
Community Guidelines on State Aid for Environmental Protection are replaced, and the assessment of compatibility follows the new rules.

25. According to point 70 of the Environmental Guidelines, renewable energy sources mean i.a. biomass products. The supported bio liquid is derived from biomass and fulfils the definition of renewable energy source.

26. Point 101 of the Environmental Guidelines stipulates that State aid for renewable energy sources may be justified if there is no mandatory Community standard concerning the share of energy from renewable sources for individual undertakings.

27. The Commission notes that there are no mandatory Community standards in force concerning the share of energy from renewable sources for individual undertakings in this field. Therefore, aid to the production of bio liquids may be authorized.

28. According to point 107 of the Environmental Guidelines, operating aid for the production of renewable energy may be justified in order to cover the difference between the cost of producing energy from renewable energy sources and the market price of the form of energy concerned. Finland has demonstrated extra costs, and that the compensation remains inferior to these costs (point 13 supra).

29. Point 109 of the Environmental Guidelines further stipulates in its sub point c) that the Commission will be amenable to operating aid for the production of renewable energy from biomass exceeding the amount of investment where Member States can show that the aggregate costs borne by the undertakings after plant depreciation are still higher than the market prices of the energy. The calculations referred to in point 13 supra also demonstrate that the aggregate costs borne by the undertakings after plant depreciation exceed the market prices of the energy.

30. According to Article 16 of the Energy Tax Directive Member States may apply an exemption or a reduced rate of taxation under fiscal control to certain taxable products. The Scheme aims at supporting biomass based energy products referred to in Article 16. The Finnish Authorities commit to adjust the exemption in taxation to take account of changes in raw material prices to avoid over-compensating for the extra costs involved in the manufacture of the supported bio liquids.

31. Therefore, the Scheme can be authorized as it complies with Article 16 of the Energy Tax Directive.

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OJ C 37, 03.02.2001, p. 03.
4. CONCLUSION

32. The Commission has accordingly decided not to raise objections to the Notified Measure, because the aid can be found compatible with the common market in accordance with Articles 87(3)(c) of the EC Treaty and Article 61(3)(c) of the EEA Agreement, since it complies with the provisions of the Environmental Guidelines.


34. The Commission notes that the Finnish Authorities commit to adapt the Scheme in accordance with any changes to the applicable law in connection with the adoption of the Directive of the European Parliament and the Council on the promotion of the use of energy from renewable sources.

35. 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 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
State Aid Registry
B-1049 Brussels
Fax No: + 32-2-296 12 42

For the Commission

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