



EUROPEAN COMMISSION

Brussels, 09.06.2009
C(2009)4589

**Subject: State aid N 82/B/2009 – Finland
Guarantee scheme under the Temporary Framework (run by
Finnvera)**

Sir,

1. PROCEDURE

- (1) By electronic notification of 13 February 2009, Finland notified a guarantee scheme under the "Temporary Community framework for State aid measures to support access to finance in the current financial and economic crisis" (hereinafter referred to as the Temporary Framework)¹. The Commission requested further information on 26 February (D/50906), 20 March (D/51654), and 26 May 2009 (D/52242). By communication of 26 February (A/4695), 29 April (A/10408), and 29 May 2009 (A/13069), Finland amended the notification.

2. DESCRIPTION

2.1. Objective of the aid scheme

- (2) Finland considers that the financial and economic crisis is affecting its whole economy. According to the Finnish National Statistical Office, Finland entered into recession in the fourth quarter of 2008 when GDP contracted by nearly 2 % year-on-year. According to latest forecasts by the Bank of Finland, Finland's GDP is estimated to decrease by 5% in 2009 and by 1-1.5% in 2010. The total value of Finland's export was 35% lower in January 2009 than in January 2008. The fall in

¹ Communication from the Commission - Temporary framework for State aid measures to support access to finance in the current financial and economic crisis, OJ 83 from 7.4.2009, pg.1 (consolidated version).

Ulkoministeri Alexander STUBB
Merikasarmi
PL 176,
FIN - 00161 Helsinki

exports was followed by cuts in industrial output, which lead to much higher unemployment throughout all industry sectors. The bulk of the labour market adjustment is forecast to take place in 2009, when unemployment is forecast to jump to nearly 9% of the labour force from a rate of slightly above 6% recorded in the previous year.

- (3) The notified measure aims at improving the access of firms to investment and working capital loans in order to compensate for the insufficient loan activity by private banks resulting from the financial crisis.
- (4) The scheme is expressly based on Article 87(3)(b) ECT, as interpreted by paragraph 4.3.2 of the Commission communication "Temporary framework".

2.2. The nature and form of the aid

- (5) The aid will be provided in the form of subsidised guarantees for investment and working capital loans.

2.3. Legal basis

- (6) The Finnish authorities indicate that the legal basis of the aid is *Law concerning the specialised financing company of the State* (443/1998), in particular Art. 2 thereof, and *Law concerning credit and guarantee activities of the specialised financing company of the State* (445/1998), in particular Art. 2-4 thereof.

2.4. Administration of the scheme

- (7) The notified scheme allows aid to be granted at central, regional and local level. It is applied by Finnvera².

2.5. Budget and duration of the measure

- (8) The aid volume available under this scheme is estimated by the Finnish authorities not to exceed guarantees of 190 million EUR, with an aid equivalent not exceeding 25 million EUR³.
- (9) Under the scheme, guarantees can be granted as from the approval of the scheme by the Commission until 31 December 2010.

² Finnvera plc is a specialised financing company owned by the State of Finland. A statutory requirement for Finnvera is to operate on a self-sustainable basis. The benefit from the scheme's credit or guarantee loss compensation does not remain with Finnvera, but is passed on to undertakings as lower loans and guarantee prices. The operating expense margin of Finnvera (currently 1.0%) aims at covering the operating expenses incurred.

³ In line with the footnote (*) to the Annex to the Temporary Framework, the safe harbour premiums contained therein are used as benchmark to establish the aid equivalent of aid granted in form of guarantees. Alternatively, Finland will calculate the guarantee element in line with the provisions laid down in Art 5(1) (c) of the GBER.

2.6. Beneficiaries

- (10) The beneficiaries of the scheme are all undertakings, whatever their location and size.
- (11) No guarantees will be granted to large firms which were, on 1 July 2008, firms in difficulty in the meaning of point 2.1 of the Community guidelines on State aid for rescuing and restructuring for firms in difficulty⁴, nor to SMEs which were on that date firms in difficulty within the meaning of Art. 1 (7) of the General Block Exemption Regulation⁵. The scheme may apply to firms that were not in difficulty at that date but entered into difficulty thereafter as the result of the global financial and economic crisis.

2.7. Sectoral and regional scope of the scheme

- (12) The scheme applies to the whole territory of Finland, and is open to all sectors of the economy.

2.8. Basic elements of the scheme

- (13) The guarantees under the scheme relate to both (initial and replacement) investments and working capital loans.
- (14) The guarantee may not exceed 90 % of the loan for the duration of the loan.
- (15) The guaranteed maximum loan may 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.
- (16) In the case of companies created after 01.01.2008, the maximum loan may not exceed the estimated annual wage bill for the first two years in operation.
- (17) For SMEs, a reduction of up to 25% of the annual premium to be paid for new loan guarantees may be granted in accordance with the safe-harbour provisions provided in the Annex to the Temporary Framework. SMEs are defined in accordance with annex I of the General Block Exemption Regulation⁶.
- (18) For large companies, a reduction of up to 15% of the annual premium for new guarantees calculated on the basis of the same safe-harbour provisions may be granted.
- (19) For companies which do not have a credit history or a rating based on a balance sheet approach (such as certain special purpose companies or start-up companies), Member States may grant a reduction up to 15% (25% for SMEs) on the specific

⁴ OJ C 244, 1.10.2004, pp. 2-17.

⁵ OJ L 214, 9.08..2008, pp. 3-47, Commission Regulation (EC) No 800/2008 of 6 August 2008 declaring certain categories of aid compatible with the common market in application of Articles 87 and 88 of the Treaty (General block exemption Regulation).

⁶ Commission Regulation (EC) No 800/2008 of 6 August 2008 declaring certain categories of aid compatible with the common market in application of Articles 87 and 88 of the Treaty, OJ L 214, 9.8.2008, pp. 3-47

safe-harbour premium set at 3.8 % in the Commission Notice on the application of Articles 87 and 88 of the EC Treaty to State aid in the form of guarantees⁷. However, the premium can never be lower than the premium which would be applicable to the parent company or companies.

- (20) When the aid element in a guarantee scheme is calculated through methodologies notified and approved by the Commission, a similar reduction of up to 25% of the annual premium to be paid for new loan guarantees for SMEs and up to 15% for large companies is granted.
- (21) The reduction of the guarantee premium can be applied during a period of up to 2 years following the granting of the aid. Where the duration of the underlying loan exceeds 2 years, the safe-harbour premiums set out in the Annex to the Temporary Framework may be applied for an additional maximum period of 8 years. No further reduction may be applied to these guarantee premiums in this case under the present scheme. The maximum duration of guarantees under the notified scheme is limited to ten years.
- (22) The determination of the applicable safe harbour premium takes place on the basis of the situation of the beneficiary (credit rating) at the date of granting the aid. The categories of collateralisation are defined in line with footnote 2 to the reference rate communication⁸, and will be established by Finnvera who is granting the guarantee.

2.9. Cumulation

- (23) The aid ceilings and cumulation maxima fixed under this scheme will apply regardless of whether the support for the aided project is financed entirely from State resources or partly financed by the Community.
- (24) The temporary aid measure may not be cumulated with *de minimis* aid⁹ for the same eligible costs.
- (25) Where *de minimis* aid was granted for the same purpose at an earlier stage and from 01.01.2008, it will be deducted from the aid equivalent of the guarantee fee reductions under the present scheme.
- (26) Guarantees under this scheme may be cumulated with other compatible aid, which are not *de minimis* aid, or with other forms of Community financing provided that the maximum aid intensities indicated in the relevant Guidelines or Block Exemptions Regulations are respected.

⁷ OJ C 155, 20.6.2008

⁸ Commission Communication on the revision of the method for setting the reference and discount rates, OJ C 14 of 19.1.2008, pp. 6-9.

⁹ OJ L 379, 28.12.2006, p. 5.

2.10. Monitoring and reporting, language of decision, business secrets

- (27) The Finnish authorities confirm that the monitoring and reporting obligations laid down in Section 6 and footnote 23 of the Temporary Framework will be respected (e.g., by 31 July 2009, a list of schemes put in place on the basis of the Temporary Framework must be provided to the Commission; detailed records regarding the granting of aid must be maintained for 10 years; by 31 October 2009 a report on the measures put in place should be provided). In particular, information will be obtained demonstrating that the beneficiary was not a company in difficulty on 1 July 2008.
- (28) The Finnish authorities confirm that the notification does not contain business secrets.
- (29) The Finnish authorities confirm their acceptance that the Commission decision is adopted in the English language, due to exceptional circumstances.

3. ASSESSMENT

3.1. Legality of the measure

- (30) By notifying the aid measure before putting into effect, the Finnish authorities respected their obligations under Article 88 (3) of the EC Treaty.

3.2. Existence of state aid

- (31) State resources are involved in the notified scheme since the loan guarantees are made available by federal, regional and municipal organisations.
- (32) The measure is selective since guarantees are awarded only to certain undertakings.
- (33) The measure confers an advantage by relieving the beneficiaries of costs which they would have to bear under normal market conditions since, without the intervention by the State, the beneficiaries would obtain loans only at higher costs, if at all.
- (34) The measure affects trade between Member States since the scheme is not limited to beneficiaries which are active in sectors where no intra-community trade exists.
- (35) In view of the above, the Commission considers that the notified measure constitutes State aid within the meaning of Article 87 (1) of the EC Treaty. The Finnish authorities do not contest that conclusion.

3.3. Compatibility of the measure

- (36) Having established that the measure involves state aid within the meaning of Article 87 (1) of the EC Treaty, it is necessary to consider whether the above mentioned measure can be found compatible with the common market.
- (37) The measure aims at facilitating the access of firms to external finance in a period of time where the normal functioning of credit markets is severely disturbed through the financial crisis, and where the financial crisis ("credit crunch") is

affecting the wider economy and is leading to severe disturbances of the real economy of Member States.

- (38) By adopting the Temporary Framework, the Commission indeed acknowledged (section 4.1) the "seriousness of the current financial crisis and its impact on the overall economy of the Member States". The Commission concluded "that certain categories of State aid are justified, for a limited period, to remedy these difficulties and that they may be declared compatible with the common market on the basis of Article 87(3)(b)."
- (39) The notified measure is one of a series of measures¹⁰ conceived at national level by the Finnish authorities to remedy a serious disturbance in their economy. The importance of guarantee measures to stimulate lending by private banks to enterprises of all sizes during the current credit crunch is widely accepted by economic commentators and the measure of a scale which can be reasonably anticipated to produce effects across the entire Finnish economy. Furthermore, the measure has been designed to meet the requirements of the additional category of aid ("Aid in the form of guarantees") described in section 4.3.2 of the Temporary Framework.
- (40) The Commission accordingly considers that the notified measure is necessary, appropriate and proportionate to remedy a serious disturbance in the economy of a Member State and meets all the conditions of the Temporary Framework. In particular,
- The safe-harbour premiums are established on the basis of the provisions defined in Art. 4.3.2. of the Temporary Framework Communication. The reductions of the applicable premiums are limited to 25% for SMEs, and 15% for large undertakings.
 - The cumulation rules regarding combination with de minimis aid and aid for other purposes, as laid down in section 4.7 of the Temporary Framework, are respected.
 - In accordance with Article 4.3.2.f) the Temporary Framework Communication guarantees under this scheme are limited to 90% of the risk resulting from the loan, and this exposure rate must not be increased during the duration of the loan contract. The maximum loan amount per beneficiary, which may be covered by guarantees under the present scheme, is limited in line with the provisions of section 4.3.2.d) of the Temporary Framework.
 - In conformity with Article 4.3.2.g) of the Temporary Framework Communication the benefit of guarantees under this scheme is limited to investment and working capital loans.
 - As required by Article Article 4.3.2.e) and h) of the Temporary Framework Communication guarantees under the scheme can be granted until 31 December 2010, and the reduced annual premiums can be applied for a maximum of two years following the granting of the aid. Where market guarantee fees for

¹⁰ See N 224/09.

guarantees under this scheme are established on the basis of the safe harbour premiums laid down in the Temporary Framework, they can be applied for a maximum of eight years following the period of two years during which the reduction could be applied. Guarantees under the present scheme are limited to ten years.

- In conformity with Article 4.3.2.i) of the Temporary Framework Communication firms in difficulty (situation as of 1.7.2008) are excluded from benefitting from the scheme.
- The Finnish authorities have confirmed that the monitoring and reporting rules laid down in Article 6 of the Temporary Framework Communication will be respected.

3.4. Conclusion

- (41) For these reasons, the Commission considers that the notified measure is in conformity with the Temporary Framework and considers it to be compatible with the Treaty on the basis of Article 87 (3) (b) EC. The Commission notes that the Finnish authorities have confirmed that the notification does not contain business secrets, and that Finland accepts that the decision be adopted in the English language.

4. DECISION

- (42) The Commission has accordingly decided
- to consider the notified aid scheme as compatible with the EC Treaty
- (43) The Commission reminds the Finnish authorities of their commitment to transmit the concrete implementing rules as soon as possible after the approval of the notified aid.

Yours faithfully,
For the Commission

Neelie KROES
Member of the Commission