



EUROPEAN COMMISSION

Brussels, 15.05.2009
C(2009)4014

Subject: State aid No. N 118/2009 – Malta
Temporary aid scheme for granting limited amounts of compatible aid

Sir,

1. PROCEDURE

- (1) By electronic notification of 27 February 2009, Malta notified a temporary aid scheme for granting limited amounts of compatible aid. Additional information was required by the Commission services on 3 March 2009 (D/50880) and on 16 April 2009 (D/51656). The Maltese authorities submitted further information by e-mails dated 3 April 2009 (A/8089) and 11 May 2009 (A/11164).

2. DESCRIPTION

2.1. Objective of the aid scheme

- (2) The Maltese authorities consider that the financial crisis is affecting the whole economy. They indicate that recent developments in the Maltese economy point to an overall economic slowdown when compared to previous periods, largely reflecting developments in the manufacturing and tourism sectors.
- (3) During 2008, annual real GDP growth amounted to only 1.6 per cent compared to around 3.5 per cent in the previous three years, largely reflecting a slowdown during the fourth quarter of 2008 when real GDP declined by 1.2 per cent compared to an average growth of 2.5 per cent recorded during the first three quarters of 2008. Exports recorded a yearly decline of 14.0 per cent, largely reflecting a 25.3 per cent decline during the fourth quarter of the same year. These developments were reflected in a net export deficit of 5.8 per cent of GDP during

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2008 and 7.5 per cent of GDP during the last quarter of the year. This, in turn, reflects a deteriorating labour market due to a sluggish export sector. The Maltese authorities emphasise that the country's small size and openness make the Maltese economy relatively more susceptible to external shocks than larger and less open economies. The substantial number of Maltese companies working on reduced labour hours provides early signals of a worsening labour market performance. The manufacturing¹ and hotels and restaurants sectors² (which together contribute to almost one-fourth of Malta's gross value added) were the worst hit sectors by the global economic slowdown.

- (4) The aim of the notified scheme is to grant temporary aid to undertakings that have been affected by a sudden shortage or unavailability of credit as a result of the global financial and economic crisis. It will help to maintain current employment and possibly will help to stimulate the creation of new jobs. The scheme provides for the provision of limited amounts of compatible aid to undertakings until the end of 2010.
- (5) The scheme is explicitly based on Article 87(3)(b) EC Treaty, and relies on section 4.2.2 of the Commission communication "Temporary Community framework for State aid measures to support access to finance in the current financial and economic crisis"³ (hereinafter referred to as "Temporary Framework").

2.2. The nature and form of the aid

- (6) The aid will be provided in the form of transparent forms of aid, as defined by the General Block Exemption Regulation⁴, and in particular, in the form of a direct grant.

2.3. Legal basis

- (7) The Maltese authorities indicate that the legal basis of the aid is a new draft Legal Notice that will deal with temporary measures to support access to finance in the current financial and economic crisis. This new Legal Notice is to be published under the Maltese Enterprise Act, Chapter 463 of the Laws of Malta.

¹ The Maltese authorities indicate that during the last quarter of 2008, the manufacturing sector recorded a decline in output of approximately 10.5 per cent compared to a decline of 5.8 per cent recorded during January-September 2008.

² The Maltese authorities stipulate that whilst tourism departures recorded a significant increase during the year to the first three quarters of 2008 (7.8 per cent), a decline of 10.3 per cent was recorded in the last quarter of the same year. As explained by the Maltese authorities, the slowdown in the tourism sector is also evident in the yearly decline in value added recorded by the hotels and restaurants sector which amounted to 9.5 per cent in the fourth quarter of 2008. According to the Maltese authorities, this is indicative of a significantly negative performance by the tourism sector, particularly when compared to an annual growth rate of 3.9 per cent recorded during the first three quarters of 2008.

³ 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, the consolidated version published in OJ C 83, 7.4.2009, p. 1.

⁴ 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), OJ L 214, 9.8.2008, p. 3.

2.4. Administration of the scheme

- (8) The notified scheme is a national scheme which will be applied by the Malta Enterprise Corporation⁵, the aid granting authority.

2.5. Budget and duration of the measure

- (9) The aid volume available under this scheme is estimated by the Maltese authorities to be EUR 40 million. The aid scheme will be financed through the national budget.
- (10) Aid under this scheme can be granted in 2009 and 2010.
- (11) The Maltese authorities confirm that no aid will be granted prior to Commission approval of the scheme.

2.6. Beneficiaries

- (12) The scheme applies to small and medium-sized enterprises ("SMEs") and large firms. Its geographic scope is not limited.
- (13) The Maltese authorities confirmed that no aid under this scheme will be granted to large firms which were, on 1 July 2008, firms in difficulties in the meaning of point 2.1 of the Community guidelines on State aid for rescuing and restructuring for firms in difficulty⁶, nor to SMEs which were on that date firms in difficulties in the meaning of Article 1(7) of the General Block Exemption Regulation. SMEs are defined in line with Annex I to the General Block Exemption Regulation.
- (14) The scheme may be applied to firms that were not in difficulty on 1 July 2008, but entered into difficulty thereafter as a result of the global financial and economic crisis.
- (15) The Maltese authorities estimate that the number of beneficiaries will range from 101 to 500 firms.

2.7. Sectoral scope, exclusion of export aid and aid favouring domestic over imported products

- (16) The scheme applies to all sectors, with the exception of the sectoral exclusions laid down in sections 4.2.2 (d) ("fisheries") and (h) ("primary production of agricultural products"); it shall apply to undertakings active in the processing and marketing of agricultural products 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

⁵ The Maltese authorities confirm that the Malta Enterprise Corporation only acts as a financing intermediate between the Government of Malta and beneficiaries. Malta Enterprise Corporation is a non-profit organisation that promotes entrepreneurship and innovation in the region of Malta. It already acts as the implementing agency for a number of State aid measures on behalf of the Government of Malta. Any benefit from the notified State aid measure will not remain with the Malta Enterprise Corporation, but will be passed on entirely to the undertakings assisted under the scheme.

⁶ OJ C 244, 1.10.2004, p. 2.

market by the undertakings concerned, or the aid is conditional on being partly or entirely passed on to primary producers.

- (17) Export aid and aid favouring domestic over imported goods and services are excluded (section 4.2.2 (e) of the Temporary framework).

2.8. Basic elements of the scheme

- (18) The Maltese authorities confirm that the conditions laid down in section 4.2.2 for granting limited amounts of compatible aid will be fully met. In particular:

- the aid shall not exceed EUR 500 000 per undertaking, as laid down in section 4.2.2(a) of the Temporary framework. All figures used shall be gross, that is, before any deduction of tax or other charges;
- before granting the aid, the aid granting authorities shall obtain from the undertakings concerned a declaration about any *de minimis* aid (as defined in the Commission Regulation on *de minimis* aid⁷) or aid granted under this measure received during the current fiscal year (section 4.2.2 (g), first sentence);
- the Maltese authorities confirm that aid may not be cumulated with *de minimis* support in respect of the same eligible costs. The total amount of *de minimis* aid and aid granted under this measure per undertaking in the period 1.1.2008 to 31.12.2010 may not exceed EUR 500 000 (section 4.2.2 (g), second sentence);
- where the aid granted under this measure is to be combined with other compatible aid, the maximum aid intensities indicated in the relevant Guidelines or Block exemption regulations will be respected (section 4.7, last paragraph);
- where this measure applies to undertakings active in the processing and marketing of agricultural products (as defined in Article 2.3 and 2.4 of Regulation (EC) 1857/2006), the amount of the aid is not 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 not conditional on being partly or entirely passed on to primary producers (section 4.2.2 (h), second sentence).

2.9. Monitoring, reporting and business secrets

- (19) The Maltese authorities confirm that the monitoring and reporting obligations laid down in Section 6 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.

⁷ 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, OJ L 379, 28.12.2006, p. 5.

- (20) The Commission notes that the Maltese authorities confirm that the notification does not contain confidential business secrets.

3. ASSESSMENT

3.1. Legality of the measure

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

3.2. Existence of state aid

- (22) State resources are involved in the notified scheme since the aid is granted from national state resources, via the respective aid granting authority Malta Enterprise Corporation.
- (23) The measure is selective since it will be granted only to certain firms.
- (24) The measure conveys an advantage by making available limited amounts of aid which would not be available to the beneficiaries without the measure.
- (25) 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.
- (26) The measure distorts or threatens to distort competition.
- (27) 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 Maltese authorities do not contest that conclusion.

3.3. Compatibility of the measure

- (28) 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.
- (29) As described above, the recent developments in the Maltese economy point to an overall economic slowdown when compared to previous periods. Typically, the country's small size and openness make the Maltese economy relatively more susceptible to external shocks than larger economies. During 2008, annual real GDP growth amounted to only 1.6 per cent compared to around 3.5 per cent in the previous three years, largely reflecting a slowdown during the fourth quarter of 2008 when real GDP declined by 1.2 per cent compared to an average growth of 2.5 per cent recorded during the first three quarters of 2008. Exports recorded a yearly decline of 14.0 per cent, largely reflecting a 25.3 per cent decline during the fourth quarter of the same year.
- (30) Apart from the turmoil facing international banking and credit institutions, the current international economic situation has resulted in direct shocks to the Maltese economy, particularly through a drop in tourism arrivals (mainly from the countries worst hit by the international economic situation, where any further reductions over the coming months may have adverse effects throughout the economy) and a fall in demand for goods manufactured in Malta threatening various manufacturers which

are additionally faced with the burden of purchasing all their raw materials from the international markets currently running at higher prices.

- (31) Therefore, by granting limited compatible amounts of aid (EUR 500 000/undertaking during 2009/2010) the Maltese authorities aim at supporting undertakings that have been particularly affected by a sudden shortage or unavailability of credit as a result of the credit crunch and therefore, anticipate producing effects across its entire economy that is relatively dependant on external demand. Thus, the measure aims at remedying a severe disturbance in the economy of Malta.
- (32) 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)."
- (33) 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 additional category of aid ("Compatible limited amount of aid") described in section 4.2.2 of the Temporary Framework, in particular:
- The maximum aid amount will not exceed the cash equivalent of EUR 500 000 in line with point 4.2.2 (a).
 - The measure is granted through an aid scheme in line with point 4.2.2 (b).
 - The cumulation rules with *de minimis* aid and aid for other purposes are respected (in particular point 4.2.2 (g) and point 4.7).
 - Firms in difficulty (situation of 1 July 2008) are excluded from eligibility under the scheme in compliance with point 4.2.2 (c).
 - Firms active in the fisheries sector are excluded from the scope of this measure (in line with point 4.2.2 (d)).
 - Undertakings active in the primary production of agricultural products are excluded from the scope of this measure. Aid to the processing and marketing of agricultural products is subject to the relevant conditions (in line with point 4.2.2 (h)).
 - Export aid and aid favouring domestic over imported goods and services are excluded (in line with point 4.2.2 (e)).
 - In line with point 4.2.2 (f), aid may be granted until 31.12.2010.
 - The monitoring and reporting rules laid down in point 6 of the Temporary Framework will be respected.

3.4. Conclusion

- (34) 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 EC Treaty on the basis of Article 87(3)(b). The Commission notes that the notification does not contain business secrets.

4. DECISION

- (35) The Commission has accordingly decided
- to consider the notified aid scheme as compatible with the EC Treaty under Article 87(3)(b).

Yours faithfully

For the Commission

Louis MICHEL
Member of the Commission