



EUROPEAN COMMISSION

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Subject: State aid N 286/2009 – Romania
Temporary aid scheme for granting aid in form of guarantees

Sir,

1. PROCEDURE

- (1) By electronic notification of 11 May 2009, Romania 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. By communication of 19 May 2009, Romania amended the notification.

2. DESCRIPTION

2.1. Objective of the aid scheme

- (2) Romania considers that the financial crisis is affecting the real economy. 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. The Commission 2009 spring forecast is forecasting Romanian GDP to shrink by 4 % in 2009. The unemployment rate stands at 5.6 % (in March 2009) compared to 3.9% in April 2008. The Romanian Government wishes to provide support to maintain investment and in turn help maintain jobs and minimise GDP contraction. The notified measure provides for aid in the form of loan guarantees. The Romanian authorities provided extensive

¹ Communication from the Commission - Temporary framework for State aid measures to support access to finance in the current financial and economic crisis, OJ C 83 of 7 April 2009.

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data and information showing that particularly lending conditions and credit availability remain significantly negative.

- (3) The scheme is expressly based on Article 87(3)(b) ECT, as interpreted by paragraph 4.3.2 of the Temporary framework.

2.2. The nature and form of the aid

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

2.3. Legal basis

- (5) The legal basis for the scheme is General Terms and Conditions for a State Aid Guarantee Scheme Designed to Support Access to Finance in the Current Economic and Financial Crises in combination with Law n° 96/2000 and Government Decision n° 534/2007.

2.4. Administration of the scheme

- (6) The scheme is a national framework scheme. State-owned Export-Import Bank of Romania (hereinafter referred to as EximBank) will guarantee the loans granted by commercial banks to undertakings on behalf of the Romanian State.

2.5. Budget and duration of the measure

- (7) The Romanian authorities estimate that the guaranteed amount of loans will not exceed RON 450 million and the aid amount will not exceed RON 20.34 million in period 2009-2010.
- (8) Under the scheme, guarantees can be granted as from its approval until 31 December 2010.

2.6. Beneficiaries

- (9) The potential beneficiaries of the scheme are SMEs and large enterprises.
- (10) 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 difficulty², nor to SMEs which were on that date firms in difficulty within the meaning of Art. 1 (7) of the General Block Exemption Regulation³. The scheme may apply to firms that were not in difficulty at that date but entered in difficulty thereafter as the result of the global financial and economic crisis.

² OJ C 244, 1.10.2004, pp. 2-17.

³ 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).

2.7. Sectoral and regional scope of the scheme

- (11) The scheme applies to the whole territory of Romania, and is open to all sectors of the economy⁴.

2.8. Basic elements of the scheme

- (12) The guarantees under the scheme may relate to both investment and working capital loans.
- (13) The guarantee may not exceed 90 % of the loan for the duration of the loan.
- (14) 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. In the case of companies created after 1.1.2008, the maximum loan may not exceed the estimated annual wage bill for the first two years in operation.
- (15) The Romanian scheme uses less rating categories than the Annex to the Temporary framework (5 instead of 8) but it consists in merging some of the rating categories of the Annex to the Temporary framework (the conversion table is presented in Annex). The safe-harbour premiums are always equal or higher than the ones of the Temporary framework.
- (16) For SMEs, a reduction of up to 25% of the annual premium to be paid for new loan guarantees may be granted. SMEs are defined in accordance with Annex I of the General Block Exemption Regulation⁵.
- (17) For large companies, a reduction of up to 15% of the annual premium for new guarantees may be granted.
- (18) 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), a reduction up to 15% (25% for SMEs) may be granted on the specific 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 guarantees⁶. However, the premium can never be lower than the premium which would be applicable to the parent company or companies.
- (19) The reduction of the guarantee premium can be applied during a period of up to 2 years following the granting of the aid.
- (20) Where the duration of the underlying loan exceeds 2 years, the safe-harbour premiums may be applied for the remaining period of the guarantee. The overall duration of the public guarantee will not exceed 4 years in the case of working capital loans, 6 years in the case of investment loans.

⁴ They are few sectoral exclusion: armament, gambling, tobacco, alcohol and real estate.

⁵ 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

⁶ OJ C 155, 20.6.2008

- (21) 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 communication⁷.

2.9. Cumulation

- (22) 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.
- (23) The temporary aid measure may not be cumulated with *de minimis* aid⁸ for the same eligible costs.
- (24) Where *de minimis* aid was granted for the same purpose at an earlier stage and from 1.1.2008, it will be deducted from the aid equivalent of the guarantee fee reductions under the present scheme.
- (25) 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.

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

- (26) The monitoring and reporting obligations laid down in Section 6 and footnote 23 of the Temporary framework are 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.
- (27) The Romanian authorities confirm that the notification does not contain business secrets
- (28) The Romanian 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

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

⁷ 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.

⁸ OJ L 379, 28.12.2006, p. 5.

3.2. Existence of state aid

- (30) State resources are involved in the notified scheme since the loan guarantees are made available by national, regional and municipal organisations.
- (31) The measure is selective since guarantees are awarded only to certain undertakings.
- (32) 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. The favouring of certain undertakings means that competition is distorted or threatened to be distorted.
- (33) 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.
- (34) 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 Romanian authorities do not contest that conclusion.

3.3. Compatibility of the measure

- (35) 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.
- (36) 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.
- (37) 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)."
- (38) According to the Commission's spring 2009 forecast, Romania's GDP in 2009 is expected to decline by 4 %. Unemployment was forecast to increase from 5.8 % in 2008 to 8 % in 2009.
- (39) The notified measure is conceived at national level by the Romanian 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 economy.
- (40) 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.

(41) 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,

- As explained in the table in Annex (safe-harbour premiums conversion table), the safe-harbour premiums of the Romanian scheme are fully compatible with the provisions defined in Art. 4.3.2. of the Temporary framework. 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 line with Article 4.3.2. (i) of the Temporary framework firms in difficulty (situation as of 1.7.2008) are excluded from benefitting from the scheme.
- In conformity with Article 4.3.2. (g) of the Temporary framework the benefit of guarantees under this scheme is limited to investment and working capital loans.
- In accordance with Article 4.3.2. (f) of the Temporary framework 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.
- As required by 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. For the remaining period the safe-harbours mentioned in the Annex to the Temporary framework will be applied but without any reduction. The overall period of the public guarantees will not exceed 10 years.
- The monitoring and reporting rules laid down in Article 6 of the Temporary framework are respected.

3.4. Conclusion

(42) 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 Romanian authorities have confirmed that the notification does not contain business secrets, and that Romania accepts that the decision be adopted in the English language.

4. DECISION

- (43) The Commission has accordingly decided to consider the notified aid scheme as compatible with the EC Treaty.

Yours faithfully,
For the Commission

Janez POTOČNIK
Member of the Commission

Annex

Safe-harbour premiums conversion table (in basis points)

Rating categories		Collateralisation						
Romanian scheme	Temporary framework	High		Normal		Low		
		Romanian scheme	Temporary framework	Romanian scheme	Temporary framework	Romanian scheme	Temporary framework	
A	AAA	55	40	80	40	80	40	
	AA+		40		55		80	80
	AA							
	AA-							
A+	40	55	80	80	80			
A								
A-								
B	BBB+ BBB BBB-	80	55	100	80	100	80	
C	BB+ BB	100	80	200	200	200	200	
D	BB- B+	200	200	380	380	630	380	
	B B-		200		380		630	
E	CCC and below	630	380	630	630	980	980	