



EUROPEAN COMMISSION

Brussels, 08.06.2009  
C(2009)4333

**Subject: State aid N 272/2009 – Lithuania**  
**Measure "Limited amounts of compatible aid in the form of guarantees to credit institutions for loans taken by SMEs and large enterprises during the financial and economic crisis"**

Sir,

## **1. PROCEDURE**

- (1) By electronic notification of 6 May 2009, Lithuania notified the measure "Limited amounts of compatible aid in the form of guarantees to credit institutions for loans taken by SMEs and large enterprises during the financial and economic crisis". Additional information was required by the Commission services on 14 May 2009 (D/52085), 15 May 2009 (D/52102) and 18 May (D/52123). The Lithuanian authorities submitted further information by e-mails dated 15 May 2009 (A/11843), 18 May 2009 (A/11936; A/11957) and 1 June 2009 (A/13383).

## **2. DESCRIPTION**

### **2.1. Objective of the aid scheme**

- (2) Lithuania considers that the financial and economic crisis starts affecting the real economy.
- (3) According to the Lithuanian authorities, most macroeconomic indicators and the forecasts show that Lithuania's economy will experience a decline this year. The fourth quarter of 2008 was a turning point, as the economy dived into the recession phase. The GDP declined by 10.9 per cent in the first quarter 2009 against the same period in 2008. In the first quarter 2009, the gross value added was decreasing severely in both production and service industries. According to the Central Bank of Lithuania, GDP is expected to fall by 15.6 per cent in 2009 and by 4.5 per cent

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in 2010. The unemployment rate more than tripled since the first quarter of 2008, rising from 4.3 per cent in March 2008 to 15.5 per cent in March 2009. Retail turnover in the first quarter 2009 fell by 30.0 per cent at constant prices versus the same period in 2008. In addition, Lithuania's exporters also faced a decline in demand and settlement problems in key foreign trade markets. In January–February 2009 against January–February 2008, exports decreased by 21.8 per cent.

- (4) The aim of the notified scheme is to grant temporary aid to small and medium-sized enterprises (SMEs) as well as large undertakings that have been affected by a sudden shortage or unavailability of credit as a result of the global financial and economic crisis. The notified measure is explicitly based on Article 87(3)(b) of the EC Treaty, and relies on section 4.2.2 of the Commission communication "Temporary framework for State aid measures to support access to finance in the current financial and economic crisis"<sup>1</sup> (hereinafter referred to as "Temporary Framework").

## **2.2. The nature and form of the aid**

- (5) The aid will be provided in the form of transparent forms of aid, as defined by the General Block Exemption Regulation<sup>2</sup>, and in particular in form of public guarantees. To calculate the aid element of these guarantees, the Lithuanian authorities will use as benchmark the safe-harbour premiums laid down in the Annex of the Temporary Framework. The annual aid element resulting from the guarantee will be calculated as the difference between the safe-harbour premium rates laid down in the Annex of the Temporary Framework and the annual premiums applied by the Lithuanian authorities.

## **2.3. Legal basis**

- (6) The legal basis for the scheme is "Government Resolution on the approval of the Regulations for the provision of credit guarantees to credit institutions for credits taken by SMEs and large enterprises" and "Regulations for the provision of credit guarantees to credit institutions for credits taken by SMEs and large enterprises".
- (7) The Regulations will be applied after its approval by the Commission.

## **2.4. Administration of the scheme**

- (8) The notified scheme will be implemented by the State owned limited liability company "INVEGA"<sup>3</sup>.

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<sup>1</sup> 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.

<sup>2</sup> 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.

<sup>3</sup> The Lithuanian authorities confirm that INVEGA only acts as a financing intermediate between the Government and beneficiaries. INVEGA is the State owned guarantee institution and 100 per cent of its share capital belongs to the State. The Ministry of Economy has the responsibilities of INVEGA's supervision. Guarantees issued by INVEGA are considered as "state" guarantees and liabilities

## **2.5. Budget and duration of the measure**

- (9) The Lithuanian authorities estimate that the total expected budget of the measure shall not exceed LTL 150 million. It is foreseen to use only national budget sources to cover INVEGA's guarantee losses resulting from this measure.
- (10) Aid under this scheme can be granted until 31 December 2010.

## **2.6. Beneficiaries**

- (11) The scheme applies to small and medium-sized enterprises (SMEs) and large undertakings.
- (12) The Lithuanian authorities confirm 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 difficulty<sup>4</sup>, 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.
- (13) Lithuania estimates the number of beneficiaries to be between 51 and 100 firms.

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

- (14) The notified measure is applicable on the whole territory of Lithuania.
- (15) The scheme applies in all sectors, with 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 market by the undertakings concerned, or the aid is conditional on being partly or entirely passed on to primary producers.
- (16) Export aid and aid favouring domestic over imported goods and services are excluded (section 4.2.2 (e) of the Temporary framework).
- (17) The scheme is also excluding the following sectors:
- manufacturing of alcoholic beverages, tobacco products, arms;
  - provision of financial or legal services;
  - gambling or organisation of betting.

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overtaken by INVEGA are considered under the law on State Debt. Any benefit from the notified State aid measure will not remain with INVEGA, but will be passed on entirely to beneficiaries under the scheme.

<sup>4</sup> OJ C 244, 1.10.2004, p. 2.

## 2.8. Basic elements of the scheme

(18) The Lithuanian 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 national scheme provides that

- 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 charge. The gross grant equivalent of aid (calculated as defined under paragraph 5 of this decision) is discounted using the reference rate for Lithuania approved by the European Commission and aggregating 100 basis points to its basis rate.
- INVEGA shall provide public guarantees to credit institutions for working capital loans taken by SMEs and large undertakings active in the manufacturing and service sectors. The public guarantees have to be awarded before 31 December 2010.
- The maximum guarantee period for working capital loans under the notified measure is until 31 December 2015. However, the Lithuanian authorities estimate that the average guarantee period will be three years.
- INVEGA guarantees shall be provided to credit institutions that entered into agreements with INVEGA regarding the co-operation in providing credit guarantees for credits taken by SMEs and large undertakings.
- The maximum credit that can be provided with INVEGA guarantee cannot exceed the annual amount of the borrower's payroll for 2008 and related tax expenditures.
- INVEGA guarantees the repayment of up to 80% of the credit amount to the credit institution.
- The maximum guaranteed amount of INVEGA, irrespective of repaid shares of credits, per enterprise or enterprise group shall not exceed LTL 5 million (ca. EUR 1.5 million).
- The maximum amount of credits guaranteed by INVEGA per enterprise or enterprise group shall not exceed LTL 20 million (ca. EUR 5.8 million)<sup>5</sup>.
- To calculate the gross grant equivalent of guarantee, as benchmark the safe-harbour premiums laid down in Annex of the Temporary Framework shall be used. The grant equivalent of aid for start-up firms is the difference between 3.8% mentioned in Annex of the Temporary Framework and the annual premium rate applied by the Lithuanian authorities. A start-up undertaking is an

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<sup>5</sup> The Lithuanian authorities indicate that a large enterprise or enterprise group will have the possibility to receive several loans and guarantees, but the cumulated amount of loans and guarantees shall not exceed the maximum ceilings.

undertaking registered in the Register of Legal Entities no later than three years ago from the moment of granting the aid.

- Before granting the aid, the aid granting authority shall obtain from the undertakings concerned a declaration about any *de minimis* aid (as defined in the Commission *de minimis* Regulation<sup>6</sup>) or aid granted under this measure received during the current fiscal year (section 4.2.2 (g), first sentence of the Temporary Framework).
- The aid to be granted under the present measure must not be combined with *de minimis* aid for the same eligible costs.
- If the beneficiary has already received *de minimis* aid prior to the entry into force of the notified measure, the sum of the aid received under this measure and the *de minimis* aid received must not exceed EUR 500 000 between 1 January 2008 and 31 December 2010 (section 4.2.2.g, second sentence).
- Where the aid granted under this measure is to be combined with other compatible aid or with other forms of Community financing, the maximum aid intensities indicated in the relevant Guidelines or Block exemption regulations will be respected (section 4.7, last paragraph).

## **2.9. Monitoring and reporting, language of decision, business secrets**

- (19) The Lithuanian authorities confirm that the monitoring and reporting obligations laid down in Section 6 of the Temporary Framework will be respected (i.e. 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.
- (20) The Lithuanian authorities confirm that the notification does not contain business secrets.
- (21) The Lithuanian authorities confirm that, in view of the urgency of the measure, they exceptionally accept that the Commission decision is adopted in the English language.

## **3. ASSESSMENT**

### **3.1. Legality of the measure**

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

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<sup>6</sup> 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.

### **3.2. Existence of state aid**

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

### **3.3. Compatibility of the measure**

- (29) 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.
- (30) 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)".
- (31) The notified measure aims to remedy a serious disturbance of Lithuanian economy. The importance of guarantee measures to stimulate lending by private banks to firms during the current credit crunch is widely accepted by economic commentators and a measure of such a scale can be reasonably anticipated to produce effects across the entire Lithuanian economy. Furthermore, the measure has been designed to meet the requirements of the additional category of aid ("Limited amount of aid") described in section 4.2.2 of the Temporary Framework.
- (32) As described above, the recent developments in the Lithuania economy point to an overall economic slowdown when compared to previous periods. The GDP declined by 10.9 per cent in the first quarter 2009 against the same period in 2008. According to the Central Bank of Lithuania, GDP is expected to fall by 15.6 per cent in 2009 and by 4.5 per cent in 2010. The unemployment rate more than tripled since the first quarter of 2008, rising from 4.3 per cent in March 2008 to 15.5 per cent in March 2009.
- (33) The Lithuanian authorities emphasise that banks have tightened credit issuance conditions not only for small and medium-sized enterprises, but also for the large companies.

(34) 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 maximum aid amount will not exceed the cash equivalent of EUR 500 000 per undertaking (in line with point 4.2.2 (a) of the Temporary framework);
- The measure is granted through an aid scheme (in line with point 4.2.2 (b) of the Temporary framework);
- The cumulation rules with *de minimis* aid and aid for other purposes are respected (in line with points 4.2.2 (g) and 4.7 of the Temporary framework)).
- Firms in difficulty (situation of 1.7.2008) are excluded from eligibility under the scheme (in line with point 4.2.2 (c) of the Temporary framework).
- Firms active in the fisheries sector are excluded from the scope of this measure (in line with point 4.2.2 (d) of the Temporary framework).
- 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 certain conditions (in line with point 4.2.2 (h) of the Temporary framework)<sup>7</sup>.
- Export aid and aid favouring domestic over imported goods and services are excluded (in line with point 4.2.2 (e) of the Temporary framework).
- Aid may be granted until 31.12.2010 (in line with point 4.2.2 (f) of the Temporary framework)).
- The monitoring and reporting rules laid down in point 6 of the Temporary Framework will be respected.

### **3.4. Conclusion**

(35) 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).

(36) The Commission notes that the Lithuanian authorities have confirmed that the notification does not contain business secrets, and that Lithuania has agreed that the decision be adopted in English as its authentic language.

## **4. DECISION**

(37) The Commission has accordingly decided

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<sup>7</sup> Also other sectors are excluded from the scope of the notified scheme (see paragraph (17) of this decision).

- To consider the notified aid scheme as compatible with the EC Treaty under Article 87(3)(b).
- (38) The Commission reminds the Lithuanian authorities 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