



EUROPEAN COMMISSION

Brussels, 30.12.2008  
C(2008)9025 endgültig

**Subject:**        **State aid N 668/2008 – Germany**  
                          **Federal Framework "Small amounts of compatible aid"**

Sir,

## **1. PROCEDURE**

- (1) By electronic notification of 23 December 2008, Germany notified the Federal Framework "Small amounts of compatible aid" ("Bundesregelung Kleinbeihilfen"). By emails dated 23 and 24 December 2008, and communication of 29 December 2008, Germany transmitted additional information and amended the notification and the underlying Federal Framework.

## **2. DESCRIPTION**

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

- (2) Germany considers that the financial crisis starts affecting the real economy. The notified measure is part of a wider package of measures aimed at remedying a serious disturbance in the economy of Germany.
- (3) The scheme is explicitly based on Article 87(3)(b) ECT, 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").

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<sup>1</sup> Communication from the Commission, not yet published in the OJ. The temporary framework was adopted and entered into force on 17 December 2008.

Seiner Exzellenz Herrn Dr. Frank-Walter Steinmeier  
Bundesminister des Auswärtigen  
Werderscher Markt 1  
D-11017 Berlin

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

- (4) 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 the form of direct grants, reimbursable grants, interest rate subsidies, subsidized public loans with an element which is calculated on the basis of the Commission reference rate system 2008, and public guarantees where the aid element is calculated either on the basis of the safe harbour rules laid down in the Commission guarantee communication 2008 (applicable only to SMEs) or another method, accepted by the Commission in view of its application in a Commission exemption regulation or the de minimis regulation 2006, allowing to render public guarantees into a transparent form of aid.

## **2.3. Legal basis**

- (5) The legal basis for the scheme is the "Regelung zur vorübergehenden Gewährung geringfügiger Beihilfen im Geltungsbereich der Bundesrepublik Deutschland während der Finanz- und Wirtschaftskrise" ("Bundesregelung Kleinbeihilfen")<sup>3</sup> of the Federal Ministry for the Economy and Technology of 29.12.2008, as communicated on 29 December 2008, and the applicable budgetary laws at Federal and Länder level, as well as budgetary rules applicable at local level. The "Regelung" will enter into force upon its approval by the Commission.

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

- (6) The notified scheme is a Federal framework scheme, allowing aid to be granted at Federal, regional (Länder), and local level, and is applied in a decentralised way by all relevant economic policy actors.

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

- (7) The aid volume available under this scheme has not yet been definitely adopted, but is estimated by the German authorities not to exceed € 2 billion.
- (8) Aid under this scheme can be granted in 2009 and 2010.

## **2.6. Beneficiaries**

- (9) The scheme applies to SMEs and large firms. Its geographic scope is not limited.
- (10) The German 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 difficulty<sup>4</sup>, nor to SMEs which were on that date firms in difficulties in the

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<sup>2</sup> OJ L 214, 9 August 2008, pg. 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)

<sup>3</sup> "Regulation for the temporary granting of small amounts of aid within the territory of the Federal Republic of Germany during the duration of the financial and economic crisis"

<sup>4</sup> OJ C 244, 1 October 2004, pg. 2-17.

meaning of Art. 1 (7) of the General Block Exemption Regulation. SMEs are defined in line with annex I to the General Block Exemption Regulation.

(11) Germany estimates the number of beneficiaries to exceed 1000 firms.

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

(12) 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"; exclusion of certain types of aid for the processing and marketing of agricultural products").

(13) 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**

(14) The German authorities confirm that the conditions laid down in section 4.2.2 for granting small amounts of compatible aid will be fully met. In particular, the Federal Framework provides that

- the aid shall not exceed 500,000 € per undertaking, as laid down in section 4.2.2(a) of the Temporary framework for State aid measures to support access to finance in the current financial economic crisis; All figures used shall be gross, that is, before any deduction of tax or other charge. Where aid is awarded in a form other than a grant, the aid amount shall be the gross grant equivalent of the aid.
- 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 de minimis-Regulation<sup>5</sup>) or aid granted under this measure received during the current fiscal year (section 4.2.2 (g), first sentence).
- 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 does not exceed 500,000€ (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)
- 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

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<sup>5</sup> OJ L 379 of Official Journal L 379, 28.12.2006

being partly or entirely passed on to primary producers (section 4.2.2 (h), second sentence).

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

- (15) The German authorities confirm that the monitoring and reporting obligations laid down in Section 6 of the Temporary Framework will be respected.
- (16) The German authorities confirm that the notification does not contain business secrets.
- (17) The German 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**

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

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

- (19) State resources are involved in the notified scheme since the aid is granted from national, regional and local state resources, via the respective aid granting authorities at national, regional, or local level.
- (20) The measure is selective since it will be granted only to certain firms.
- (21) The measure conveys an advantage by making available small amounts of aid which would not be available to the beneficiaries without the measure.
- (22) 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.
- (23) The measure distorts or threatens to distort competition.
- (24) 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 German authorities do not contest that conclusion.

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

- (25) 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.
- (26) The measure aims at remedying a severe disturbance in the economy of Germany. By adopting the Temporary Framework on 17 December 2008, 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)."

The notified measure is designed to contribute to remedy a serious disturbance in the economy of a Member State and is designed to meet the requirements of the additional category of aid ("compatible limited amount of aid") described in section 4.2.2 of the Temporary Framework. The Commission considers that the notified measure meets all the conditions of the Framework: In particular,

- The maximum aid amount will not exceed the cash equivalent of 500,000€;
- The measure is granted through an aid scheme;
- The cumulation rules with de minimis aid and aid for other purposes are respected.
- Firms in difficulty (situation of 1.7.2008) are excluded from eligibility under the scheme.
- Firms active in the fisheries sector are excluded from the scope of this measure.
- 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.
- Aid may be granted until 31.12.2010.
- The monitoring and reporting rules laid down in the Temporary Framework will be respected.

### **3.4. Conclusion**

- (27) 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). The Commission notes that the notification does not contain business secrets, and that Germany has agreed that the decision be adopted in English as its authentic language.

## **4. DECISION**

- (28) 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

*Neelie KROES*  
Member of the Commission