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OFFICE OF THE UNITED KINGDOM
PERMANENT REPRESENTATIVE TO THE
EUROPEAN UNION
Avenue d'Auderghem, 10

1040 BRUSSELS

Subject: State Aid n° N 43/2009 - United Kingdom

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UK Representation to the EU

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The Secretariat-General would be obliged if you would forward to the Secretary of State for Foreign and Commonwealth Affairs, the enclosed decision from the Commission on the subject specified above.

For the Secretary-General,


Karl VON KEMPIS

Encl.: C(2009) 803



EUROPEAN COMMISSION

Brussels, 4.02.2009
C(2009)803

Subject: **State aid N 43/2009 – United Kingdom**
 United Kingdom Framework "Small amounts of compatible aid"

Sir,

1. PROCEDURE

- (1) By electronic notification of 28 January 2009, the United Kingdom notified the United Kingdom Framework "Small amounts of compatible aid". By e-mail dated 29 January 2008, the United Kingdom transmitted additional information and amended the notification.

2. DESCRIPTION

2.1. Objective of the aid scheme

- (2) The United Kingdom considers that the financial crisis is affecting its whole economy at local, regional and country level. The notified measure is aimed at remedying a serious disturbance in the economy of the UK. The measure provides for the provision of small amounts of compatible aid to companies over the next two years.
- (3) The scheme is explicitly based on Article 87(3)(b) ECT, 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"¹ (hereinafter referred to as "Temporary Framework").

¹ OJ C 16, 22.1.2009, p.1.

The Rt Hon David MILIBAND
Secretary of State for Foreign Affairs
Foreign and Commonwealth Office
King Charles Street
London SW1A 2AH
United Kingdom

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 Regulation², and in particular, in the form of direct grants, reimbursable grants, interest rate subsidies, subsidised public loans with an element which is calculated on the basis of the communication on the revision of the method for setting the reference and discount rates (2008/C14/02) 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/C155/02 (applicable only to SMEs) or another method which might in future be accepted by the Commission in view of its application in a Commission exemption regulation or the de minimis regulation (EC) No 1998/2006, allowing to render public guarantees into a transparent form of aid.

2.3. Legal basis

- (5) The UK authorities indicate that the aid may be granted under any applicable legal basis in particular, the following:
- Local Government in Scotland Act 2003, section 20
 - Enterprise and New Towns (Scotland) Act 1990, as amended 1 April 2001, by Scottish Statutory Instrument 2001 No. 126;
 - Local Government Act 2000 Section 2
 - Government of Wales Act 2006 Section 60
 - Welsh Development Agency Act 1975 (Section1) as amended
 - The Industrial Development (Northern Ireland) Order 1982
 - The Industrial Development (Northern Ireland) Act 2002
 - Article 3 of the Energy Efficiency (Northern Ireland) Order 1999
 - Regional Development Agencies Act 1998
 - Local Government, Planning and Land Act 1980
 - Leasehold Reform, Housing and Urban Development Act 1993
 - Local Government Act 2000
 - Housing and Regeneration Act 2008
 - The Public Contracts Regulation SI2006 No 5
 - European Communities (Finance) Act 2008
 - Industrial Training Act 1982
 - Sustainable Communities Act 2007
 - National Lottery Act 1993
 - Environmental Protection Act 1990
 - Further Education and Training Act 2007
 - Industrial Development Act 1982
 - Learning and Skills Council Act 2000
 - Science and Technology Act 1965
 - Energy Act 2004.

² OJ L 214, 9 August 2008, p. 3. 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)

2.4. Administration of the scheme

- (6) The notified scheme is a national framework scheme, allowing aid to be granted at all levels, including the national, regional and local level and is applied in a decentralised way by all relevant aid awarding authorities.

2.5. Budget and duration of the measure

- (7) The aid volume available under this scheme has not yet been confirmed, but it is estimated by the UK authorities not to exceed £1 billion.
- (8) Aid under this scheme can be granted in 2009 and 2010.
- (9) The UK authorities confirm that no aid will be granted prior to Commission approval of the scheme.

2.6. Beneficiaries

- (10) The scheme applies to SMEs and large firms.
- (11) The UK 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 difficulty³, nor to SMEs which were on that date firms in difficulties in the 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.
- (12) 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.
- (13) The UK estimates the number of beneficiaries to exceed 1000 firms.

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

- (14) The scheme applies in 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"; exclusion of certain types of aid for the processing and marketing of agricultural products").
- (15) 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

- (16) The UK 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,

³ OJ C 244, 1 October 2004, p. 2-17.

- the aid shall not exceed 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. 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-Regulation⁴) or aid granted under this measure received during the current fiscal year (section 4.2.2 (g), first sentence).
- the UK 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 €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 being partly or entirely passed on to primary producers (section 4.2.2 (h), second sentence).

2.9. Monitoring and reporting, business secrets

- (17) The UK authorities confirm that the monitoring and reporting obligations laid down in Section 6 of the Temporary Framework will be respected.
- (18) The Commission notes that the UK authorities have confirmed that the notification does not contain business secrets.

3. ASSESSMENT

3.1. Legality of the measure

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

3.2. Existence of state aid

- (20) 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, country, regional, or local level.

⁴ OJ L 379 of Official Journal L 379, 28.12.2006

- (21) The measure is selective since it will be granted only to certain firms.
- (22) The measure conveys an advantage by making available limited amounts of aid which would not be available to the beneficiaries without the measure.
- (23) 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.
- (24) The measure distorts or threatens to distort competition.
- (25) 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 United Kingdom authorities do not contest that conclusion.

3.3. Compatibility of the measure

- (26) 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.
- (27) The measure aims at remedying a severe disturbance in the economy of the United Kingdom. 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)."
- (28) 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 EUR 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 the relevant conditions.
 - export aid and aid favouring domestic over imported goods and services are excluded;
 - 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

- (29) 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.

4. DECISION

- (30) 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