EUROPEAN COMMISSION

Brussels, 29.4.2009
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Subject: **State aid N 222/2009 – Slovak Republic**

Limited amounts of compatible aid under the Temporary Framework ("Schéma pre dočasné poskytovanie malej pomoci v Slovenskej republike počas trvania finančnej a hospodárskej krízy")

Sir,

1. PROCEDURE

(1) By electronic notification of 9 April 2009, the Slovak Republic notified a temporary aid scheme ("Schéma pre dočasné poskytovanie malej pomoci v Slovenskej republike počas trvania finančnej a hospodárskej krízy") for granting limited amounts of compatible aid under the Temporary 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].

(2) By electronic communication of 21 April 2009, the Slovak authorities submitted to the Commission further clarifications and confirmations.

2. DESCRIPTION

2.1. Objective of the aid scheme

(3) The Slovak Republic considers that the financial crisis starts affecting its real economy as a whole at national, regional and local level. According to the Slovak

[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 16 of 22 January 2009, as amended on 25 February 2009 (http://ec.europa.eu/competition/state_aid/legislation/horizontal.html).

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Statistical Office report[2] from February 2009, in the last months of the current year the economic crisis brought a significant weakening of foreign demand, which caused a decrease of Slovak export (-33,9% in January 2009 and -30,9% in February 2009) having a negative impact on the production output (-27% in January 2009 and -26.9% in February 2009), the labour market and the overall domestic demand. The unemployment in Slovakia increased by 13% over January 2009 and by 25.9% in February 2009. These developments point to a rapid slowdown in the Slovak economy resulting from a decline in external and domestic demand. The last official forecast of the National Bank of Slovakia indicates that the GDP will decrease by– 2.4% in 2009.

(4) The scheme is expressly based on Article 87 (3) (b) ECT, as interpreted by paragraph 4.2.2 of the 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[3], and in particular in the form of direct grants, non reimbursable grant and remission of penalties[4] for non payment of taxes or other kind of payment.

2.3. Legal basis

(6) The legal basis for the scheme is the "Schéma pre dočasné poskytovanie malej pomoci v Slovenskej republike počas trvania finančnej a hospodárskej krízy", as well as national law "Act n° 523/2004 on Budgetary Regulation of the public administration as amended, and Act n° 511/1992 as amended on tax and tariff administration and Act n°231/1999 as amended on investment incentives.

2.4. Administration of the scheme

(7) The notified scheme is a national framework scheme; allowing aid to be granted at all levels, including the national, regional, and local level, and can be applied by all relevant aid awarding authorities. The administration of the scheme is coordinated by the Ministry of Finance.

2.5. Budget and duration of the measure

(8) The Slovak authorities estimate that under the scheme aid not exceeding € 400 million will be granted in 2009 and 2010.

(9) Under the scheme, limited amounts of compatible aid can be granted as from its approval by the Commission until 31 December 2010.

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2 All figures represent inter annual growth, %.

3 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).

4 The measure concerns only the remission of penalties specifically foreseen in the Slovak law; e.g. penalties stipulated in Article 103 of the Act n°511/1992 as amended on tax and tariff administration.

2.6. Beneficiaries

(10) The scheme applies to SMEs and large firms.

(11) The Slovak 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[5], 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. In particular, information will be obtained demonstrating that the beneficiary was not a company in difficulty on 1 July 2008.

(13) The Slovak authorities estimate the number of beneficiaries will be over 1000 firms.

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

(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"; 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 of the Temporary Framework).

(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 Slovak 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 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*-Regulation[6]) or aid granted under this measure received during the current fiscal year (section 4.2.2 (g), first sentence);

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5 OJ C 244, 1 October 2004, p. 2-17.

6 OJ L 379 Official Journal L 379, 28.12.2006

- 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).

2.9. Monitoring and reporting, business secrets, language waiver

(17) The Slovak 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).

(18) The Commission notes that the Slovak authorities have confirmed that the notification does not contain business secrets.

(19) The Commission notes that the Slovak 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

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

3.2. Existence of state aid

(21) State resources are involved in the notified scheme since the aid is granted from federal and regional resources, via the respective aid granting authorities at federal and regional level.

(22) The measure is selective since aid is awarded only to certain undertakings.

(23) The measure conveys an advantage by making available limited amounts of compatible aid which would not be available to the beneficiaries without the measure.

(24) 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.

(25) The measure distorts or threatens to distort competition.

(26) 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 Slovak authorities do not contest that conclusion.

3.3. Compatibility of the measure

(27) 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.

(28) As described above under paragraph 3, the recent developments in the Slovak economy point to an overall downturn when compared to previous period. Typically, the country's small size makes the Slovak economy relatively susceptible to external shock than larger economies. The Slovak authorities have delivered economic data showing that in the last months of the current year the economic crisis brought a significant weakening of foreign demand, which caused a decrease of Slovak export (-33.9% in January 2009 and -30.9% in February 2009) having a negative impact on the production output (-27% in January 2009 and -26.9% in February 2009), the labour market and the overall domestic demand. The unemployment in Slovakia increased by 13% in January 2009 and by 25.9% in February 2009. These developments point to a rapid slowdown in the Slovak economy resulting from a decline in external and domestic demand. The last official forecast of the National Bank of Slovakia indicates that the GDP will decrease by 2.4% in 2009.

(29) By granting limited compatible amounts of aid (EUR 500,000 per undertaking during 2009 and 2010) the Slovak authorities aim at supporting those undertakings that have been 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 the Slovak Republic.

(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) A measure of such a scale can be reasonably anticipated to produce effects across the entire Slovak economy. Furthermore, the measure has been designed to meet the requirements of the additional category of aid ("Aid in the form of limited amounts") described in section 4.2.2 of the Temporary Framework.

(32) 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 (point 4.2.2 (a));

- The measure is granted through an aid scheme in line with point 4.2.2 (b);

- The aid granting authorities will obtain from the undertakings concerned a declaration about any *de minimis* aid or aid granted under this measure received during the current fiscal year (point 4.2.2 (g), first sentence) and will check that the total aid will not exceed 500 000 per undertaking during the period from 1 January 2008 to 31 December 2010. Thus, 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 1.7.2008) 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 (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 (point 4.2.2 (h));

- Export aid and aid favouring domestic over imported goods and services are excluded (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 under point 6 of the Temporary Framework will be respected.

3.4. Conclusion

(33) 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.

(34) The Commission notes that the Slovak authorities have confirmed that the notification does not contain business secrets. Furthermore, the Commission notes that the Slovak authorities have accepted that the decision is adopted in the English language, due to exceptional circumstances.

4. DECISION

(35) The Commission has accordingly decided

– to consider the notified aid scheme as compatible with the EC Treaty

(36) The Commission reminds the Slovak 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