TYÖ- JA ELINKEINOMINISTERIÖ
ARBETS- OCH NÄRINGSMINISTERIET
MINISTRY OF EMPLOYMENT AND THE ECONOMY

TEM/1005/05.06.01/2016

3 June 2016

European Commission
DG Competition

HT.4691
Targeted revision of the General block exemption Regulation - Comments by Finland

The Ministry of Employment and the Economy coordinates matters related to the EU State aid rules in Finland. With reference to the European Commission's public consultation (HT.4691) on a targeted revision of the General block exemption Regulation (Regulation (EU) No 651/2014) the Ministry hereby delivers its comments on the Commissions draft Regulation amending the General block exemption Regulation.

Yours Sincerely,

Deputy Director General Antti Riivari

Ministerial Adviser Liisa Lundelin-Nuortio

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On 7 March 2016 the European Commission published a draft Regulation amending Regulation (EU) No 651/2014 declaring certain categories of aid compatible with the internal market in application of Articles 107 and 108 of the Treaty (hereinafter the General Block Exemption Regulation, GBER). As its response to the public consultation organized by the Commission on the draft Regulation, Finland would like to make the following comments on the Commission's proposals. These comments have been prepared after hearing the views of the relevant national authorities and stakeholders.

In general, Finland welcomes the Commission's proposal to extend the scope of application of the GBER by including investment aid granted to regional airports and to maritime and inland ports. Finland also supports the other proposals to extend the scope of application, including the amendments concerning regional operating aid, the higher notification thresholds for aid for culture and heritage conservation, and the definition of sale and lease of tangible assets as transparent aid. The extension of the scope of application of the GBER would further reduce the administrative burden related to State aid procedures, and would also enable the Commission to further focus State aid supervision to aid which will play a key role in terms of competition in the internal market.

In addition, please find below Finland's detailed comments on the draft Regulation and an estimate of the administrative burden savings for Finland.

Article 2, point 48 – Definition of 'sparsely populated areas'

The definition of 'sparsely populated areas' proposed in the draft Regulation refers to the NUTS definitions, and the current reference to the Regional Aid maps would be deleted. Finland would like to point out that the proposed amendment would not only have an impact on State aid granted under the Regional aid Chapter of the GBER but would also cover articles that refer to 'remote region', that is Article 51 on Social aid for transport and the new Article 56a on investment aid for regional airports. Even though the proposed definition is very clear, it may reduce legal certainty especially among local authorities, who may find it difficult to determine whether their region is part of a sparsely populated area in statistical terms.

TYÖ- JA ELINKEINOMINISTERIÖ
PL 32 (Aleksanterinkatu 4)
00023 Valtioneuvosto • Puh. 029 506 0000
Faksi 09 1606 2160 • www.tem.fi

ARBETS- OCH NÄRINGSMINISTERIET
PB 32 (Alexandersgatan 4)
00023 Statsrådet •Tfn 029 506 0000
Fax 09 1606 2160 • www.tem.fi

MINISTRY OF EMPLOYMENT AND THE ECONOMY
P.O. Box 32 (Aleksanterinkatu 4)
FI-00023 Government •Tel. +358 29 506 0000
Fax +358 9 1606 2160 • www.tem.fi

In this regard, in Finland's view, it should be confirmed in the Regulation that the amendment of the definition will not affect aid granted by Member States under the GBER to sparsely populated areas in respect of the areas approved in the Member States' Regional Aid maps for 1.7.2014-31.12.2020. Regarding practical considerations, it should also be made clear that no additional checks on the population density will be needed at the time of granting the aid, and that the Regional aid maps for 2014-2020 will be an adequate reference point for the aid authorities. Finland would prefer that the reference to the Regional Aid maps for 2014-2020 is maintained in the definition, if possible.

Article 2, points 155 and 156 – Definition of port infrastructure and port superstructure

As the Commission states in point 5 of the recital of the draft Regulation, maritime port infrastructure investments are necessary, in particular, for the adaptation of port access infrastructure and port infrastructure and superstructure to the increased size and complexity of the fleet, to the use of alternative fuel infrastructure and to stricter requirements on the environmental performance. Finland supports this view. For these reasons, the proposed definitions of *'port infrastructure'* and/or *'port superstructure'* in Article 2 of the GBER should, in Finland's view, explicitly also cover *the infrastructure needed for the use of alternative fuel (for example liquefied natural gas, LNG) by vessels and for the implementation of stricter requirements on the environmental performance, as long as this infrastructure is part of the port infrastructure or port superstructure.* The eligible costs of these port infrastructure investments should be covered by Article 56b on investment aid for maritime ports.

Article 4 – Notification thresholds

The notification thresholds proposed by the Commission for investment aid and operating aid for culture and heritage conservation, as well as those proposed for investment aid for maritime ports, are fairly high in relation to project sizes and aid volumes on the Finnish market. Consequently, we would not be in favour of any higher notification thresholds.

Article 7(1) – Simplified cost options

In the sentence to be added, there is a reference to the simplified cost options set out in Articles 67 and 68 of Regulation 1303/2013. In addition, a reference to Article 14(1) of Regulation 1304/2013 on the European Social Fund could also be included.

Article 12(2) – Monitoring of automatically granted fiscal aid

Finland supports the new requirement proposed by the Commission that Member States shall set up an appropriate control mechanism in the case of schemes under which fiscal aid is granted automatically based on tax declarations of the beneficiaries, and where there is no ex ante control to ensure that all compatibility conditions are met for each beneficiary. In our view, the minimum requirements for the Member States' control mechanism (once per fiscal year, at least ex post and on a sample basis) proposed by the Commission will leave discretion for Member States on how to organize the monitoring of automatic tax schemes. By setting only the minimum requirements as proposed by the Commission, the increase of the administrative burden on the beneficiaries and national administrations would be kept as low as possible.

Article 22(2) – Aid for start-ups

For start-up aid, a new additional condition for eligibility is included in the draft Regulation as a new point (a): the newly registered small enterprise should *start an activity that is new for this enterprise*. In our view, in the case of unlisted small enterprises and for up to five years following their registration or start of economic activity, the activity of the enterprise is new *per se*, and the proposed new condition in (a) does not seem necessary or clearly justified. It goes without saying, however, that the exclusion from eligibility of such new enterprises which have solely been established to continue an activity of an 'old' company in order to be eligible for aid for start-ups is justified.

In regard to the condition that the enterprise has not been formed through a merger, Finland proposes an addition to point (c) of Article 22(2), as follows: If, however, *enterprises that each are individually eligible for start-up aid merge to become a single enterprise, the new enterprise should also be eligible for start-up aid.* In such cases, the five-year eligibility period in Article 22 should start from the earliest of the registration dates of the merging start-up enterprises.

Article 54(4)(2) – Aid schemes for audiovisual works - territorial spending obligations

As the interpretation of the conditions included in Article 54(4) on territorial spending obligations related to aid schemes for audiovisual works has proven to be quite complicated in practice, we welcome the clarifications proposed by the Commission.

Articles 56b and 56c – Investment aid for maritime ports and inland ports

As one of the conditions for investment aid for maritime ports and inland ports that would be included in the GBER, the Commission proposes that any concession or other entrustment for the rental or operation of the port infrastructure to a third party shall not exceed *a maximum duration of 30 years*. Finland supports the proposed maximum duration of 30 years and would not be in favour of a longer duration.

Estimate of the administrative burden savings for Finland

The Commission has asked Member States to provide an estimate of the administrative burden savings that they would experience.

Extending the scope of application of the GBER would further reduce the administrative burden related to State aid procedures. The impact of this burden reduction for Finland would, in practice, be restricted mainly to investment aid granted to regional airports and ports. In the case of investment aid granted to maritime and inland ports, the notification threshold values proposed by the Commission are, from Finland's perspective, so high that public support for port investment projects would, in practice, almost always be exempted from the obligation to notify the Commission in advance, provided that the requirements of the GBER are met in other respects. The granting of investment aid for regional airports would, as a rule, also be made on the basis of the GBER. Only a small number of such State aid measures are anticipated in Finland during the period 2017-2020, and so the administrative burden saving due to extending the scope of application would, in practice, be quite small (in all, an estimated maximum of 0.5-1.0 man-year).

Raising the notification threshold values concerning investment aid and operating aid granted for culture and heritage conservation would not have any effect in practice from Finland's perspective, as the threshold values currently incorporated in the block exemption regulation are, in practical terms for cultural support, already sufficiently high from Finland's viewpoint.