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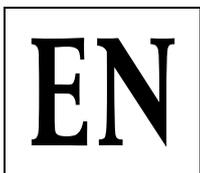
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⁽¹⁾ Text with EEA relevance

II

(Information)

INFORMATION FROM EUROPEAN UNION INSTITUTIONS AND BODIES

COMMISSION

Communication from the Commission on the results of the risk evaluation and the risk reduction strategies for the substances: zinc oxide; zinc sulphate; trizinc bis(orthophosphate)**(Text with EEA relevance)**

(2008/C 155/01)

Council Regulation (EEC) No 793/93 of 23 March 1993 on the evaluation and control of the risks of existing substances ⁽¹⁾ involves the data reporting, priority setting, risk evaluation and, where necessary, development of strategies for limiting the risks of existing substances.

In the framework of Regulation (EEC) No 793/93 the following substances have been identified as priority substances for evaluation in accordance with Commission Regulation (EC) No 2268/95 ⁽²⁾ concerning the second list of priority substances as foreseen under Regulation (EEC) No 793/93:

- zinc oxide,
- zinc sulphate,
- trizinc bis(orthophosphate).

The rapporteur Member State designated pursuant to this Regulation has completed the risk evaluation activities with regard to man and the environment for those substances in accordance with Commission Regulation (EC) No 1488/94 of 28 June 1994 laying down the principles for the assessment of risks to man and the environment of existing substances ⁽³⁾ and has suggested a strategy for limiting the risks in accordance with Regulation (EEC) No 793/93.

The Scientific Committee on Toxicity, Ecotoxicity and the Environment (SCTEE) and the Scientific Committee on Health and Environmental Risks (SCHER) have been consulted and have issued an opinion with respect to the risk evaluations carried out by the rapporteur. These opinions can be found on the website of the Scientific Committees.

Article 11(2) of Regulation (EEC) No 793/93 stipulates that the results of the risk evaluation and the recommended strategy for limiting the risks shall be adopted at Community level and published by the Commission. This Communication, together with the corresponding Commission Recommendation 2008/468/EC ⁽⁴⁾, provides the results of risk evaluations ⁽⁵⁾ and strategies for limiting the risks for the above mentioned substances.

⁽¹⁾ OJ L 84, 5.4.1993, p. 1.

⁽²⁾ OJ L 231, 28.9.1995, p. 18.

⁽³⁾ OJ L 161, 29.6.1994, p. 3.

⁽⁴⁾ OJ L 161, 20.6.2008.

⁽⁵⁾ The comprehensive Risk Assessment Report, as well as a summary thereof, can be found on the Internet site of the European Chemicals Bureau:
<http://ecb.jrc.it/existing-substances/>

The results of the risk evaluation and strategies for limiting the risks provided for in this communication are in accordance with the opinion of the Committee set up pursuant to Article 15(1) of Regulation (EEC) No 793/93.

ANNEX

PART 1

CAS No: 1314-13-2

Einecs No: 215-222-5

Structural formula:	ZnO
Einecs name:	Zinc oxide
IUPAC name:	Zinc oxide
Rapporteur:	The Netherlands
Classification ⁽¹⁾ :	N; R50-53

The risk assessment is based on practices related to the life-cycle of the substance produced in or imported into the European Community as described in the risk assessment forwarded to the Commission by the Member State Rapporteur. The risk assessment has been conducted in accordance with the methodology for metals applicable at the time and in line with the Technical Guidance Document on Risk Assessment in support of Commission Regulation (EC) No 1488/94 on risk assessment for existing substances.

The risk assessment has, based on the available information, determined that in the European Community the substance is mainly used in rubber compounding material, in glass and ceramic products. Other uses are as a corrosion inhibitor in paint, as raw material for the production of zinc chemicals, as fuel and lubricant additives, and as a zinc addition in fertilisers, animal feeds and human vitamin elements. Uses as nanomaterials have not been assessed.

RISK ASSESSMENT

A. Human health

The conclusion of the assessment of the risks to

WORKERS

is that there is a need for specific measures to limit the risks. This conclusion is reached because of:

- concerns for metal fume fever as a consequence of acute inhalation toxicity during welding of zinc coated steel,
- concerns for systemic effects, as a consequence after repeated dermal exposure and repeated combined exposure (inhalation and dermal) arising from use of paint containing zinc oxide.

The conclusion of the assessment of the risks to

CONSUMERS

is that there is at present no need for further information and/or testing or for risk reduction measures beyond those which are being applied. This conclusion is reached because:

- the risk assessment shows that risks are not expected. Risk reduction measures already being applied are considered sufficient.

The conclusion of the assessment of the risks to

HUMANS EXPOSED VIA THE ENVIRONMENT

is that there is at present no need for further information and/or testing or for risk reduction measures beyond those which are being applied. This conclusion is reached because:

- the risk assessment shows that risks are not expected. Risk reduction measures already being applied are considered sufficient.

⁽¹⁾ The classification of the substance is established by Commission Directive 2004/73/EC of 29 April 2004 adapting to technical progress for the 29th time Council Directive 67/548/EEC on the approximation of the laws, regulations and administrative provisions relating to the classification, packaging and labelling of dangerous substances (OJ L 152, 30.4.2004, p. 1, amended by OJ L 216, 16.6.2004, p. 3).

The conclusion of the assessment of the risks to

HUMAN HEALTH (physicochemical properties)

is that there is at present no need for further information and/or testing or for risk reduction measures beyond those which are being applied. This conclusion is reached because:

- the risk assessment shows that risks are not expected. Risk reduction measures already being applied are considered sufficient.

B. Environment

Conclusions are given on local scenarios only. The conclusions regarding the regional risks to the environment as described in the risk assessment for zinc metal (Einecs No 231-175-3) apply as well.

The conclusions of the assessment of the risks to

ATMOSPHERE

is that there is at present no need for further information and/or testing or for risk reduction measures beyond those which are being applied. This conclusion is reached because:

- the risk assessment shows that risks are not expected. Risk reduction measures already being applied are considered sufficient.

The conclusions of the assessment of the risks to the

AQUATIC ECOSYSTEM INCLUDING SEDIMENT

1.1. is that there is a need for specific measures to limit the risks for the specific scenarios listed below. This conclusion is reached because of:

- concerns for effects on the local aquatic (including sediment) environment as a consequence of exposure arising from the production at one site (sediment only) and from the use in the glass processing industry, ferrites industry (sediment only), varistor industry, catalysts processing, lubricants formulation, paints processing, cosmetics pharmaceuticals formulation and cosmetics pharmaceuticals private use (sediment only). For a number of production sites and processing scenarios (having emissions to water) no immediate concern has been identified but a potential risk at local scale cannot be excluded due to possible existence of high regional background concentrations of zinc.

1.2. is that there is at present no need for further information and/or testing or for risk reduction measures beyond those which are being applied for all local scenarios, including concerning secondary poisoning, except for those listed under point 1.1 above. This conclusion is reached because:

- the risk assessment shows that risks are not expected. Risk reduction measures already being applied are considered sufficient.

The conclusion of the assessment of the risks to the

TERRESTRIAL ECOSYSTEM

2.1. is that there is a need for specific measures to limit the risks. This conclusion is reached because of:

- concerns for the local terrestrial environment as a consequence of exposure arising from use in the glass processing industry, formulation of lubricants and formulation of cosmetics pharmaceuticals.

2.2. is that there is at present no need for further information and/or testing or for risk reduction measures beyond those which are being applied, for all local scenarios, including concerning secondary poisoning, except for those listed under point 2.1 above. This conclusion is reached because:

- the risk assessment shows that risks are not expected. Risk reduction measures already being applied are considered sufficient.

The conclusion of the assessment of the risks to

MICRO-ORGANISMS IN THE SEWAGE TREATMENT PLANT

3.1. is that there is a need for limiting the risks for some, but not all, local scenarios. This conclusion is reached because of:

- concerns for micro-organisms in the sewage treatment plant as a consequence of exposure arising from the use in the glass processing industry, varistor industry, catalysts processing, lubricants formulation, paints processing and cosmetics pharmaceuticals formulation.

3.2. is that there is at present no need for further information and/or testing or for risk reduction measures beyond those which are being applied for all local scenarios, except for those listed under point 3.1 above. This conclusion is reached because:

- the risk assessment shows that risks are not expected. Risk reduction measures already being applied are considered sufficient.

STRATEGY FOR LIMITING RISKS

For WORKERS

The legislation for workers' protection currently into force at Community level is generally considered to give an adequate framework to limit the risks of zinc oxide to the extent needed and shall apply. Furthermore, based on the results of the risk assessment report, it is recommended:

- to establish at Community level occupational exposure limit values for welding fumes according to Directive 98/24/EC ⁽¹⁾ or Directive 2004/37/EC ⁽²⁾ as appropriate.

For the ENVIRONMENT

It is recommended:

- to consider under Directive 2008/1/EC ⁽³⁾ and Directive 2000/60/EC ⁽⁴⁾ if additional risk management is needed for other sources of zinc emissions than those from the produced and imported chemical (for instance natural sources, mining activities, historical pollution and the use of other zinc compounds), which the risk reduction strategy has identified as contributing significantly to the emissions of zinc to the aquatic compartment,
- to facilitate permitting and monitoring under Directive 2008/1/EC, zinc oxide should be included in the ongoing work to develop guidance on 'Best Available Techniques' (BAT).

PART 2

CAS No: 7733-02-0

Einecs No: 231-793-3

Structural formula:	ZnSO ₄
Einecs name:	Zinc sulphate
IUPAC name:	Zinc sulphate
Rapporteur:	The Netherlands
Classification ⁽⁵⁾ :	Xn; R22 R41 N; R50-53

The risk assessment is based on practices related to the life-cycle of the substance produced in or imported into the European Community as described in the risk assessment forwarded to the Commission by the Member State Rapporteur. The risk assessment has been conducted in accordance with the methodology for metals applicable at the time and in line with the Technical Guidance Document on Risk Assessment in support of Regulation (EC) No 1488/94 on risk assessment for existing substances.

The risk assessment has, based on the available information, determined that in the European Community the substance is mainly used for the production of fertilisers and pesticides, for agriculture pharmaceutical purposes such as feedstuff additives, and in the chemical industry. Other uses are applications in the viscose production, as flotation agent in the mining industry, as corrosion inhibitor in the galvanising industry and in water treatment processes. Uses as nanomaterials have not been assessed.

⁽¹⁾ OJ L 131, 5.5.1998, p. 11.

⁽²⁾ OJ L 158, 30.4.2004, p. 50.

⁽³⁾ OJ L 24, 29.1.2008, p. 8.

⁽⁴⁾ OJ L 327, 22.12.2000, p. 1.

⁽⁵⁾ The classification of the substance is established by Commission Directive 2004/73/EC of 29 April 2004 adapting to technical progress for the 29th time Council Directive 67/548/EEC on the approximation of the laws, regulations and administrative provisions relating to the classification, packaging and labelling of dangerous substances (OJ L 152, 30.4.2004, p. 1, amended by OJ L 216, 16.6.2004, p. 3).

RISK ASSESSMENT**A. Human health**

The conclusion of the assessment of the risks to

WORKERS

is that there is at present no need for further information and/or testing or for risk reduction measures beyond those which are being applied. This conclusion is reached because:

- the risk assessment shows that risks are not expected. Risk reduction measures already being applied are considered sufficient.

The conclusion of the assessment of the risks to

CONSUMERS

is that there is at present no need for further information and/or testing or for risk reduction measures beyond those which are being applied. This conclusion is reached because:

- the risk assessment shows that risks are not expected. Risk reduction measures already being applied are considered sufficient.

The conclusion of the assessment of the risks to

HUMANS EXPOSED VIA THE ENVIRONMENT

is that there is at present no need for further information and/or testing or for risk reduction measures beyond those which are being applied. This conclusion is reached because:

- the risk assessment shows that risks are not expected. Risk reduction measures already being applied are considered sufficient.

The conclusion of the assessment of the risks to

HUMAN HEALTH (physicochemical properties)

is that there is at present no need for further information and/or testing or for risk reduction measures beyond those which are being applied. This conclusion is reached because:

- the risk assessment shows that risks are not expected. Risk reduction measures already being applied are considered sufficient.

B. Environment

Conclusions are given on local scenarios only. The conclusions regarding the regional risks to the environment as described in the risk assessment for zinc metal (Eines No 231-175-3) apply as well.

The conclusions of the assessment of the risks to

ATMOSPHERE

is that there is at present no need for further information and/or testing or for risk reduction measures beyond those which are being applied. This conclusion is reached because:

- the risk assessment shows that risks are not expected. Risk reduction measures already being applied are considered sufficient.

The conclusions of the assessment of the risks to the

AQUATIC ECOSYSTEM INCLUDING SEDIMENT

1.1. is that there is a need for specific measures to limit the risks. This conclusion is reached because of:

- concerns for effects on the local aquatic environment as a consequence of exposure arising from the use by the agricultural fertiliser industry (formulation). For the use in agricultural feed industry (formulation) no immediate concern has been identified but a potential risk at local scale cannot be excluded due to possible existence of high regional background concentrations of zinc,
- concerns for effects on sediment dwelling organisms as a consequence of local exposure arising from the use in the agricultural fertiliser industry (formulation), agricultural feed industry (formulation) and chemical industry (processing). For a number of processing scenarios no immediate concern has been identified but a potential risk at local scale cannot be excluded due to possible existence of high regional background concentrations of zinc.

1.2. is that there is at present no need for further information and/or testing or for risk reduction measures beyond those which are being applied for all local scenarios, including concerning secondary poisoning, except for those listed under point 1.1 above. This conclusion is reached because:

- the risk assessment shows that risks are not expected. Risk reduction measures already being applied are considered sufficient.

The conclusion of the assessment of the risks to the

TERRESTRIAL ECOSYSTEM

2.1. is that there is a need for specific measures to limit the risks. This conclusion is reached because of:

- concerns for the local terrestrial environment as a consequence of exposure arising from the use in chemical industry (processing), agricultural pesticide industry (processing) and agricultural fertiliser industry (formulation).

2.2. is that there is at present no need for further information and/or testing or for risk reduction measures beyond those which are being applied, for all local scenarios, including concerning secondary poisoning, except for those listed under point 2.1 above. This conclusion is reached because:

- the risk assessment shows that risks are not expected. Risk reduction measures already being applied are considered sufficient.

The conclusion of the assessment of the risks to

MICRO-ORGANISMS IN THE SEWAGE TREATMENT PLANT

3.1. is that there is a need for limiting the risks. This conclusion is reached because of:

- concerns for micro-organisms in the sewage treatment plant as a consequence of exposure arising from the use in chemical industry (processing), agricultural pesticide industry (processing) and agricultural fertiliser industry (formulation).

3.2. is that there is at present no need for further information and/or testing or for risk reduction measures beyond those which are being applied for all local scenarios, except for those listed under point 3.1 above. This conclusion is reached because:

- the risk assessment shows that risks are not expected. Risk reduction measures already being applied are considered sufficient.

STRATEGY FOR LIMITING RISKS

For ENVIRONMENT

It is recommended:

- to consider under Directive 2008/1/EC ⁽¹⁾ and Directive 2000/60/EC ⁽²⁾ if additional risk management is needed for other sources of zinc emissions than those from the produced and imported chemical (for instance natural sources, mining activities, historical pollution and the use of other zinc compounds), which the risk reduction strategy has identified as contributing significantly to the emissions of zinc to the aquatic compartment,
- to facilitate permitting and monitoring under Directive 2008/1/EC, zinc sulphate should be included in the ongoing work to develop guidance on 'Best Available Techniques' (BAT).

PART 3

CAS No: 7779-90-0

Einecs No: 231-944-3

Structural formula:	$Zn_3(PO_4)_2$
Einecs name:	Trizinc bis(orthophosphate)
IUPAC name:	Trizinc bis(orthophosphate)
Rapporteur:	The Netherlands
Classification ⁽³⁾ :	N; R50-53

The risk assessment is based on practices related to the life-cycle of the substance produced in or imported into the European Community as described in the risk assessment forwarded to the Commission by the Member State Rapporteur. The risk assessment has been conducted in accordance with the methodology for metals applicable at the time and in line with the Technical Guidance Document on Risk Assessment in support of Regulation (EC) No 1488/94 on risk assessment for existing substances.

⁽¹⁾ OJ L 24, 29.1.2008, p. 8.

⁽²⁾ OJ L 327, 22.12.2000, p. 1.

⁽³⁾ The classification of the substance is established by Commission Directive 2004/73/EC of 29 April 2004 adapting to technical progress for the 29th time Council Directive 67/548/EEC on the approximation of the laws, regulations and administrative provisions relating to the classification, packaging and labelling of dangerous substances (OJ L 152, 30.4.2004, p. 1, amended by OJ L 216, 16.6.2004, p. 3).

The risk assessment has, based on the available information, determined that in the European Community the substance is mainly used as an active inorganic anticorrosive pigment in primers and paints for corrosion protection of metal substrates in paint, lacquers and varnishes industry. Uses as nanomaterials have not been assessed.

RISK ASSESSMENT

A. Human health

The conclusion of the assessment of the risks to

WORKERS

is that there is at present no need for further information and/or testing or for risk reduction measures beyond those which are being applied. This conclusion is reached because:

- the risk assessment shows that risks are not expected. Risk reduction measures already being applied are considered sufficient.

The conclusion of the assessment of the risks to

CONSUMERS

is that there is at present no need for further information and/or testing or for risk reduction measures beyond those which are being applied. This conclusion is reached because:

- the risk assessment shows that risks are not expected. Risk reduction measures already being applied are considered sufficient.

The conclusion of the assessment of the risks to

HUMANS EXPOSED VIA THE ENVIRONMENT

is that there is at present no need for further information and/or testing or for risk reduction measures beyond those which are being applied. This conclusion is reached because:

- the risk assessment shows that risks are not expected. Risk reduction measures already being applied are considered sufficient.

The conclusion of the assessment of the risks to

HUMAN HEALTH (physicochemical properties)

is that there is at present no need for further information and/or testing or for risk reduction measures beyond those which are being applied. This conclusion is reached because:

- the risk assessment shows that risks are not expected. Risk reduction measures already being applied are considered sufficient.

B. Environment

Conclusions are given on local scenarios only. The conclusions regarding the regional risks to the environment as described in the risk assessment for zinc metal (Einecs No 231-175-3) apply as well.

The conclusions of the assessment of the risks to

ATMOSPHERE

is that there is at present no need for further information and/or testing or for risk reduction measures beyond those which are being applied. This conclusion is reached because:

- the risk assessment shows that risks are not expected. Risk reduction measures already being applied are considered sufficient.

The conclusions of the assessment of the risks to the

AQUATIC ECOSYSTEM INCLUDING SEDIMENT

1.1. is that there is a need for specific measures to limit the risks. This conclusion is reached because of:

- concerns for effects on the local aquatic environment (including sediment) as a consequence of exposure arising from the use by the paint industry (formulation and processing).

1.2. is that there is at present no need for further information and/or testing or for risk reduction measures beyond those which are being applied for all local scenarios, including concerning secondary poisoning, except for those listed under point 1.1 above. This conclusion is reached because:

- the risk assessment shows that risks are not expected. Risk reduction measures already being applied are considered sufficient.

The conclusion of the assessment of the risks to the

TERRESTRIAL ECOSYSTEM

2.1. is that there is a need for specific measures to limit the risks. This conclusion is reached because of:

- concerns for the local terrestrial environment as a consequence of exposure arising from the use by the paint industry (formulation).

2.2. is that there is at present no need for further information and/or testing or for risk reduction measures beyond those which are being applied, for all local scenarios, including concerning secondary poisoning, except for those listed under point 2.1 above. This conclusion is reached because:

- the risk assessment shows that risks are not expected. Risk reduction measures already being applied are considered sufficient.

The conclusion of the assessment of the risks to

MICRO-ORGANISMS IN THE SEWAGE TREATMENT PLANT

3.1. is that there is a need for limiting the risks. This conclusion is reached because of:

- concerns for micro-organisms in the sewage treatment plant as a consequence of exposure arising from the use in the paint industry (formulation and processing).

3.2. is that there is at present no need for further information and/or testing or for risk reduction measures beyond those which are being applied for all local scenarios, except for those listed under point 3.1 above. This conclusion is reached because:

- the risk assessment shows that risks are not expected. Risk reduction measures already being applied are considered sufficient.

STRATEGY FOR LIMITING RISKS

For ENVIRONMENT

It is recommended:

- to consider under Directive 2008/1/EC ⁽¹⁾ and Directive 2000/60/EC ⁽²⁾ if additional risk management is needed for other sources of zinc emissions than those from the produced and imported chemical (for instance natural sources, mining activities, historical pollution and the use of other zinc compounds), which the risk reduction strategy has identified as contributing significantly to the emissions of zinc to the aquatic compartment,
- to facilitate permitting and monitoring under Directive 2008/1/EC, trizinc bis(orthophosphate) should be included in the ongoing work to develop guidance on 'Best Available Techniques' (BAT).

⁽¹⁾ OJ L 24, 29.1.2008, p. 8.

⁽²⁾ OJ L 327, 22.12.2000, p. 1.

Commission Notice on the application of Articles 87 and 88 of the EC Treaty to State aid in the form of guarantees

(2008/C 155/02)

This Notice replaces the Commission Notice on the application of Articles 87 and 88 of the EC Treaty to State aid in the form of guarantees (OJ C 71, 11.3.2000, p. 14).

1. INTRODUCTION

1.1. Background

This Notice updates the Commission's approach to State aid granted in the form of guarantees and aims to give Member States more detailed guidance about the principles on which the Commission intends to base its interpretation of Articles 87 and 88 and their application to State guarantees. These principles are currently laid down in the Commission Notice on the application of Articles 87 and 88 of the EC Treaty to State aid in the form of guarantees ⁽¹⁾. Experience gained in the application of this Notice since 2000 suggests that the Commission's policy in this area should be reviewed. In this connection, the Commission wishes to recall for instance its recent practice in various specific decisions ⁽²⁾ with respect to the need to undertake an individual assessment of the risk of losses related to each guarantee in the case of schemes. The Commission intends to further make its policy in this area as transparent as possible so that its decisions are predictable and that equal treatment is ensured. In particular, the Commission wishes to provide small and medium-sized enterprises (hereafter 'SMEs') and Member States with safe-harbours predetermining, for a given company and on the basis of its financial rating, the minimum margin that should be charged for a State guarantee in order to be deemed as not constituting aid within the scope of Article 87(1) of the Treaty. Likewise, any shortfall in the premium charged in comparison with that level could be deemed as the aid element.

1.2. Types of guarantee

In their most common form, guarantees are associated with a loan or other financial obligation to be contracted by a borrower with a lender; they may be granted as individual guarantees or within guarantee schemes.

However, various forms of guarantee may exist, depending on their legal basis, the type of transaction covered, their duration, etc. Without the list being exhaustive, the following forms of guarantee can be identified:

- general guarantees, i.e. guarantees provided to undertakings as such as opposed to guarantees linked to a specific transaction, which may be a loan, an equity investment, etc.,
- guarantees provided by a specific instrument as opposed to guarantees linked to the status of the undertaking itself,
- guarantees provided directly or counter guarantees provided to a first level guarantor,
- unlimited guarantees as opposed to guarantees limited in amount and/or time. The Commission also regards as aid in the form of a guarantee the more favourable funding terms obtained by enterprises whose legal form rules out bankruptcy or other insolvency procedures or provides an explicit State guarantee or coverage of losses by the State. The same applies to the acquisition by a State of a holding in an enterprise if unlimited liability is accepted instead of the usual limited liability,
- guarantees clearly originating from a contractual source (such as formal contracts, letters of comfort) or another legal source as opposed to guarantees whose form is less visible (such as side letters, oral commitments), possibly with various levels of comfort that can be provided by this guarantee.

⁽¹⁾ OJ C 71, 11.3.2000, p. 14.

⁽²⁾ For example: Commission Decision 2003/706/EC of 23 April 2003 on the aid scheme implemented by Germany entitled 'Guarantee schemes of the Land of Brandenburg for 1991 and 1994' — State aid C 45/98 (ex NN 45/97) (OJ L 263, 14.10.2003, p. 1); Commission Decision of 16 December 2003 on the guarantee schemes in ship financing — Germany (N 512/03) (OJ C 62, 11.3.2004, p. 3); Commission Decision 2006/599/EC of 6 April 2005 on the aid scheme which Italy is planning to implement for ship financing (OJ L 244, 7.9.2006, p. 17).

Especially in the latter case, the lack of appropriate legal or accounting records often leads to very poor traceability. This is true both for the beneficiary and for the State or public body providing it and, as a result, for the information available to third parties.

1.3. Structure and scope of the Notice

For the purpose of this Notice:

- (a) 'guarantee scheme' means any tool on the basis of which, without further implementing measures being required, guarantees can be provided to undertakings respecting certain conditions of duration, amount, underlying transaction, type or size of undertakings (such as SMEs);
- (b) 'individual guarantee' means any guarantee provided to an undertaking and not awarded on the basis of a guarantee scheme.

Sections 3 and 4 of this Notice are designed to be directly applicable to guarantees linked to a specific financial transaction such as a loan. The Commission considers that, owing to their frequency and the fact that they can usually be quantified, these are the cases where guarantees most need to be classed as constituting State aid or otherwise.

As in most cases the transaction covered by a guarantee would be a loan, the Notice will further refer to the principal beneficiary of the guarantee as the 'borrower' and to the body whose risk is diminished by the State guarantee as the 'lender'. The use of these two specific terms also aims to facilitate understanding of the rationale underpinning the text, since the basic principle of a loan is broadly understood. However, it does not ensue that Sections 3 and 4 are only applicable to a loan guarantee. They apply to all guarantees where a similar transfer of risk takes place such as an investment in the form of equity, provided the relevant risk profile (including the possible lack of collateralisation) is taken into account.

The Notice applies to all economic sectors, including the agriculture, fisheries and transport sectors without prejudice to specific rules relating to guarantees in the sector concerned.

This Notice does not apply to export credit guarantees.

1.4. Other types of guarantee

Where certain forms of guarantee (see point 1.2) involve a transfer of risk to the guarantor and where they do not display one or more of the specific features referred to in point 1.3, for instance insurance guarantees, a case-by-case analysis will have to be made for which, as far as is necessary, the applicable Sections or methodologies described in this Notice will be applied.

1.5. Neutrality

This Notice applies without prejudice to Article 295 of the Treaty and thus does not prejudice the rules in Member States governing the system of property ownership. The Commission is neutral as regards public and private ownership.

In particular, the mere fact that the ownership of an undertaking is largely in public hands is not sufficient in itself to constitute a State guarantee provided there are no explicit or implicit guarantee elements.

2. APPLICABILITY OF ARTICLE 87(1)

2.1. General remarks

Article 87(1) of the Treaty states that any aid granted by a Member State or through State resources in any form whatsoever which distorts or threatens to distort competition by favouring certain undertakings or the production of certain goods shall, in so far as it affects trade between Member States, be incompatible with the common market.

These general criteria equally apply to guarantees. As for other forms of potential aid, guarantees given directly by the State, namely by central, regional or local authorities, as well as guarantees given through State resources by other State-controlled bodies such as undertakings and imputable to public authorities ⁽³⁾, may constitute State aid.

In order to avoid any doubts, the notion of State resources should thus be clarified as regards State guarantees. The benefit of a State guarantee is that the risk associated with the guarantee is carried by the State. Such risk-carrying by the State should normally be remunerated by an appropriate premium. Where the State forgoes all or part of such a premium, there is both a benefit for the undertaking and a drain on the resources of the State. Thus, even if it turns out that no payments are ever made by the State under a guarantee, there may nevertheless be State aid under Article 87(1) of the Treaty. The aid is granted at the moment when the guarantee is given, not when the guarantee is invoked nor when payments are made under the terms of the guarantee. Whether or not a guarantee constitutes State aid, and, if so, what the amount of that State aid may be, must be assessed at the moment when the guarantee is given.

In this context the Commission points out that the analysis under State aid rules does not prejudice the compatibility of a given measure with other Treaty provisions.

2.2. Aid to the borrower

Usually, the aid beneficiary is the borrower. As indicated under point 2.1, risk-carrying should normally be remunerated by an appropriate premium. When the borrower does not need to pay the premium, or pays a low premium, it obtains an advantage. Compared to a situation without guarantee, the State guarantee enables the borrower to obtain better financial terms for a loan than those normally available on the financial markets. Typically, with the benefit of the State guarantee, the borrower can obtain lower rates and/or offer less security. In some cases, the borrower would not, without a State guarantee, find a financial institution prepared to lend on any terms. State guarantees may thus facilitate the creation of new business and enable certain undertakings to raise money in order to pursue new activities. Likewise, a State guarantee may help a failing firm remain active instead of being eliminated or restructured, thereby possibly creating distortions of competition.

2.3. Aid to the lender

2.3.1. Even if usually the aid beneficiary is the borrower, it cannot be ruled out that under certain circumstances the lender, too, will directly benefit from the aid. In particular, for example, if a State guarantee is given *ex post* in respect of a loan or other financial obligation already entered into without the terms of this loan or financial obligation being adjusted, or if one guaranteed loan is used to pay back another, non-guaranteed loan to the same credit institution, then there may also be aid to the lender, in so far as the security of the loans is increased. Where the guarantee contains aid to the lender, attention should be drawn to the fact that such aid might, in principle, constitute operating aid.

2.3.2. Guarantees differ from other State aid measures, such as grants or tax exemptions, in that, in the case of a guarantee, the State also enters into a legal relationship with the lender. Therefore, consideration has to be given to the possible consequences for third parties of State aid that has been illegally granted. In the case of State guarantees for loans, this concerns mainly the lending financial institutions. In the case of guarantees for bonds issued to obtain financing for undertakings, this concerns the financial institutions involved in the issuance of the bonds. The question whether the illegality of the aid affects the legal relations between the State and third parties is a matter which has to be examined under national law. National courts may have to examine whether national law prevents the guarantee contracts from being honoured, and in that assessment the Commission considers that they should take account of the breach of Community law. Accordingly, lenders may have an interest in verifying, as a standard precaution, that the Community rules on State aid have been observed whenever guarantees are granted. The Member State should be able to provide a case number issued by the Commission for an individual case or a scheme and possibly a non-confidential copy of the Commission's decision together with the relevant reference to the *Official Journal of the European Union*. The Commission for its part will do its utmost to make available in a transparent manner information on cases and schemes approved by it.

⁽³⁾ See Case C-482/99, *France v Commission* (Stardust) [2002] ECR I-4397.

3. CONDITIONS RULING OUT THE EXISTENCE OF AID

3.1. General considerations

If an individual guarantee or a guarantee scheme entered into by the State does not bring any advantage to an undertaking, it will not constitute State aid.

In this context, in order to determine whether an advantage is being granted through a guarantee or a guarantee scheme, the Court has confirmed in its recent judgments ⁽⁴⁾ that the Commission should base its assessment on the principle of an investor operating in a market economy (hereafter referred to as the 'market economy investor principle'). Account should therefore be taken of the effective possibilities for a beneficiary undertaking to obtain equivalent financial resources by having recourse to the capital market. State aid is not involved where a new funding source is made available on conditions which would be acceptable for a private operator under the normal conditions of a market economy ⁽⁵⁾.

In order to facilitate the assessment of whether the market economy investor principle is fulfilled for a given guarantee measure, the Commission sets out in this Section a number of sufficient conditions for the absence of aid. Individual guarantees are covered in point 3.2 with a simpler option for SMEs in point 3.3. Guarantee schemes are covered in point 3.4 with a simpler option for SMEs in point 3.5.

3.2. Individual guarantees

Regarding an individual State guarantee, the Commission considers that the fulfilment of all the following conditions will be sufficient to rule out the presence of State aid.

- (a) The borrower is not in financial difficulty.

In order to decide whether the borrower is to be seen as being in financial difficulty, reference should be made to the definition set out in the Community guidelines on State aid for rescuing and restructuring firms in difficulty ⁽⁶⁾. SMEs which have been incorporated for less than three years shall not be considered as being in difficulty for that period for the purposes of this Notice.

- (b) The extent of the guarantee can be properly measured when it is granted. This means that the guarantee must be linked to a specific financial transaction, for a fixed maximum amount and limited in time.
- (c) The guarantee does not cover more than 80 % of the outstanding loan or other financial obligation; this limitation does not apply to guarantees covering debt securities ⁽⁷⁾.

The Commission considers that if a financial obligation is wholly covered by a State guarantee, the lender has less incentive to properly assess, secure and minimise the risk arising from the lending operation, and in particular to properly assess the borrower's creditworthiness. Such risk assessment might, due to lack of means, not always be taken over by the State guarantor. This lack of incentive to minimise the risk of non-repayment of the loan might encourage lenders to contract loans with a greater than normal commercial risk and could thus increase the amount of higher-risk guarantees in the State's portfolio.

⁽⁴⁾ See Case C-482/99 referred to in footnote 3.

⁽⁵⁾ See Commission Communication on the application of Article 92 and 93 of the EC Treaty to public shareholdings (Bulletin of the European Communities No 9-1984); Joined Cases 296/82 and 318/82, *Netherlands and Leeuwarder Papierwarenfabriek BV v Commission* [1985] ECR 809, paragraph 17. Commission Communication on the application of Articles 92 and 93 of the EC Treaty and Article 61 of the EEA Agreement to State aid in the aviation sector (OJ C 350, 10.12.1994, p. 5), points 25 and 26.

⁽⁶⁾ OJ C 244, 1.10.2004, p. 2.

⁽⁷⁾ For the definition of 'debt securities', see Article 2(1)(b) of Directive 2004/109/EC of the European Parliament and of the Council of 15 December 2004 on the harmonisation of transparency requirements in relation to information about issuers whose securities are admitted to trading on a regulated market and amending Directive 2001/34/EC (OJ L 390, 31.12.2004, p. 38). Directive as last amended by Directive 2008/22/EC (OJ L 76, 19.3.2008, p. 50).

This limitation of 80 % does not apply to a public guarantee granted to finance a company whose activity is solely constituted by a properly entrusted Service of General Economic Interest (SGEI) ⁽⁸⁾ and when this guarantee has been provided by the public authority having put in place this entrustment. The limitation of 80 % applies if the company concerned provides other SGEIs or other economic activities.

In order to ensure that the lender effectively bears part of the risk, due attention must be given to the following two aspects:

- when the size of the loan or of the financial obligation decreases over time, for instance because the loan starts to be reimbursed, the guaranteed amount has to decrease proportionally, in such a way that at each moment in time the guarantee does not cover more than 80 % of the outstanding loan or financial obligation,
- losses have to be sustained proportionally and in the same way by the lender and the guarantor. In the same manner, net recoveries (i.e. revenues excluding costs for claim handling) generated from the recuperation of the debt from the securities given by the borrower have to reduce proportionally the losses borne by the lender and the guarantor. First-loss guarantees, where losses are first attributed to the guarantor and only then to the lender, will be regarded as possibly involving aid.

If a Member State wishes to provide a guarantee above the 80 % threshold and claims that it does not constitute aid, it should duly substantiate the claim, for instance on the basis of the arrangement of the whole transaction, and notify it to the Commission so that the guarantee can be properly assessed with regards to its possible State aid character.

- (d) A market-oriented price is paid for the guarantee.

As indicated under point 2.1, risk-carrying should normally be remunerated by an appropriate premium on the guaranteed or counter-guaranteed amount. When the price paid for the guarantee is at least as high as the corresponding guarantee premium benchmark that can be found on the financial markets, the guarantee does not contain aid.

If no corresponding guarantee premium benchmark can be found on the financial markets, the total financial cost of the guaranteed loan, including the interest rate of the loan and the guarantee premium, has to be compared to the market price of a similar non-guaranteed loan.

In both cases, in order to determine the corresponding market price, the characteristics of the guarantee and of the underlying loan should be taken into consideration. This includes: the amount and duration of the transaction; the security given by the borrower and other experience affecting the recovery rate evaluation; the probability of default of the borrower due to its financial position, its sector of activity and prospects; as well as other economic conditions. This analysis should notably allow the borrower to be classified by means of a risk rating. This classification may be provided by an internationally recognised rating agency or, where available, by the internal rating used by the bank providing the underlying loan. The Commission points to the link between rating and default rate made by international financial institutions, whose work is also publicly available ⁽⁹⁾. To assess whether the premium is in line with the market prices the Member State can carry out a comparison of prices paid by similarly rated undertakings on the market.

The Commission will therefore not accept that the guarantee premium is set at a single rate deemed to correspond to an overall industry standard.

⁽⁸⁾ Such an SGEI must comply with Community rules such as Commission Decision 2005/842/EC of 28 November 2005 on the application of Article 86(2) of the EC Treaty to State aid in the form of public service compensation granted to certain undertakings entrusted with the operation of services of general economic interest (OJ L 312, 29.11.2005, p. 67), and the Community framework for State aid in the form of public service compensation (OJ C 297, 29.11.2005, p. 4).

⁽⁹⁾ Such as Table 1 on agencies' credit ratings to be found in the Bank for International Settlements Working Paper No 207, available at: <http://www.bis.org/publ/work207.pdf>

3.3. Valuation of individual guarantees for SMEs

As an exception, if the borrower is an SME ⁽¹⁰⁾, the Commission can by way of derogation from point 3.2(d) accept a simpler evaluation of whether or not a loan guarantee involves aid. In that case, and provided all the other conditions laid down in points 3.2(a), (b) and (c) are met, a State guarantee would be deemed as not constituting aid if the minimum annual premium ('safe-harbour premium' ⁽¹¹⁾) set out in the following table is charged on the amount effectively guaranteed by the State, based on the rating of the borrower ⁽¹²⁾:

Credit quality	Standard & Poor's	Fitch	Moody's	Annual safe-harbour premium
Highest quality	AAA	AAA	Aaa	0,4 %
Very strong payment capacity	AA +	AA +	Aa 1	0,4 %
	AA	AA	Aa 2	
	AA -	AA -	Aa 3	
Strong payment capacity	A +	A +	A 1	0,55 %
	A	A	A 2	
	A -	A -	A 3	
Adequate payment capacity	BBB +	BBB +	Baa 1	0,8 %
	BBB	BBB	Baa 2	
	BBB -	BBB -	Baa 3	
Payment capacity is vulnerable to adverse conditions	BB +	BB +	Ba 1	2,0 %
	BB	BB	Ba 2	
	BB -	BB -	Ba 3	
Payment capacity is likely to be impaired by adverse conditions	B +	B +	B 1	3,8 %
	B	B	B 2	6,3 %
	B -	B -	B 3	
Payment capacity is dependent upon sustained favourable conditions	CCC +	CCC +	Caa 1	No safe-harbour annual premium can be provided
	CCC	CCC	Caa 2	
	CCC -	CCC -	Caa 3	
	CC	CC		
In or near default	SD	DDD	Ca	No safe-harbour annual premium can be provided
	D	DD	C	
		D		

⁽¹⁰⁾ 'SMEs' refer to small and medium-sized enterprises as defined in Annex I to Regulation (EC) No 70/2001 on the application of Articles 87 and 88 of the EC Treaty to State aid to small and medium-sized enterprises (OJ L 10, 13.1.2001, p. 33). Regulation as last amended by Regulation (EC) No 1976/2006 (OJ L 368, 23.12.2006, p. 85).

⁽¹¹⁾ These safe-harbour premiums are established in line with the margins determined for loans to similarly rated undertakings in the Communication from the Commission on the revision of the method for setting the reference and discount rates (OJ C 14, 19.1.2008, p. 6). Following the study commissioned by the Commission on that topic: (http://ec.europa.eu/comm/competition/state_aid/studies_reports/full_report.pdf, see pages 23 and 156-159 of the study), a general reduction of 20 basis points has been taken into account. This reduction corresponds to the difference in margin for a similar risk between a loan and a guarantee in order to take into account the additional costs specifically linked to loans.

⁽¹²⁾ The table refers to the rating classes of Standard & Poor's, Fitch and Moody's, which are the rating agencies most frequently used by the banking sector in order to link their own rating system, as described in point 3.2(d). However, ratings do not need to be obtained from those specific rating agencies. National rating systems or rating systems used by banks to reflect default rates are equally acceptable provided they supply the one-year probability of default as this figure is used by rating agencies to rank companies. Other systems should allow for a similar classification through this ranking key.

The safe-harbour premiums apply to the amount effectively guaranteed or counter-guaranteed by the State at the beginning of each year concerned. They must be considered as the minimum to be applied with respect to a company whose credit rating is at least equal to those given in the table ⁽¹³⁾.

In the case of a single upfront guarantee premium, the loan guarantee is deemed to be free of aid if it is at least equal to the present value of the future guarantee premiums as indicated above, the discount rate used being the corresponding reference rate ⁽¹⁴⁾.

As outlined in the table above, companies with a rating corresponding to CCC/Caa or worse cannot benefit from this simplified methodology.

For SMEs which do not have a credit history or a rating based on a balance sheet approach, such as certain special purpose companies or start-up companies, the safe-harbour premium is set at 3,8 % but this can never be lower than the premium which would be applicable to the parent company or companies.

These margins may be revised from time to time to take account of the market situation.

3.4. Guarantee schemes

For a State guarantee scheme, the Commission considers that the fulfilment of all the following conditions will rule out the presence of State aid:

- (a) the scheme is closed to borrowers in financial difficulty (see details in point 3.2(a));
- (b) the extent of the guarantees can be properly measured when they are granted. This means that the guarantees must be linked to specific financial transactions, for a fixed maximum amount and limited in time;
- (c) the guarantees do not cover more than 80 % of each outstanding loan or other financial obligation (see details and exceptions in point 3.2(c));
- (d) the terms of the scheme are based on a realistic assessment of the risk so that the premiums paid by the beneficiaries make it, in all probability, self-financing. The self-financing nature of the scheme and the proper risk orientation are viewed by the Commission as indications that the guarantee premiums charged under the scheme are in line with market prices.

This entails that the risk of each new guarantee has to be assessed, on the basis of all the relevant factors (quality of the borrower, securities, duration of the guarantee, etc). On the basis of this risk analysis, risk classes ⁽¹⁵⁾ have to be defined, the guarantee has to be classified in one of these risk classes and the corresponding guarantee premium has to be charged on the guaranteed or counter-guaranteed amount;

- (e) in order to have a proper and progressive evaluation of the self-financing aspect of the scheme, the adequacy of the level of the premiums has to be reviewed at least once a year on the basis of the effective loss rate of the scheme over an economically reasonable time horizon, and premiums adjusted accordingly if there is a risk that the scheme may no longer be self-financing. This adjustment may concern all issued and future guarantees or only the latter;
- (f) in order to be viewed as being in line with market prices, the premiums charged have to cover the normal risks associated with granting the guarantee, the administrative costs of the scheme, and a yearly remuneration of an adequate capital, even if the latter is not at all or only partially constituted.

As regards administrative costs, these should include at least the specific initial risk assessment as well as the risk monitoring and risk management costs linked to the granting and administration of the guarantee.

⁽¹³⁾ For example, a company to which a bank assigns a credit rating corresponding to BBB-/Baa3 should be charged a yearly guarantee premium of at least 0,8 % on the amount effectively guaranteed by the State at the beginning of each year.

⁽¹⁴⁾ See the Communication referred to in footnote 11 providing that: 'The reference rate is also to be used as a discount rate, for calculating present values. To that end, in principle, the base rate increased by a fixed margin of 100 basis points will be used' (p. 4).

⁽¹⁵⁾ See further details in footnote 12.

As regards the remuneration of the capital, the Commission observes that usual guarantors are subject to capital requirement rules and, in accordance with these rules, are forced to constitute equity in order not to go bankrupt when there are variations in the yearly losses related to the guarantees. State guarantee schemes are normally not subject to these rules and thus do not need to constitute such reserves. In other words, each time the losses stemming from the guarantees exceed the revenues from the guarantee premiums, the deficit is simply covered by the State budget. This State guarantee to the scheme puts the latter in a more favourable situation than a usual guarantor. In order to avoid this disparity and to remunerate the State for the risk it is taking, the Commission considers that the guarantee premiums have to cover the remuneration of an adequate capital.

The Commission considers that this capital has to correspond to 8 % ⁽¹⁶⁾ of the outstanding guarantees. For guarantees granted to undertakings whose rating is equivalent to AAA/AA- (Aaa/Aa3), the amount of capital to be remunerated can be reduced to 2 % of the outstanding guarantees. Meanwhile, with regard to guarantees granted to undertakings whose rating is equivalent to A+/A- (A1/A3), the amount of capital to be remunerated can be reduced to 4 % of the outstanding guarantees.

The normal remuneration of this capital is made up of a risk premium, possibly increased by the risk-free interest rate.

The risk premium must be paid to the State on the adequate amount of capital in all cases. Based on its practice, the Commission considers that a normal risk premium for equity amounts to at least 400 basis points and that such risk premium should be included in the guarantee premium charged to the beneficiaries ⁽¹⁷⁾.

If, as in most State guarantee schemes, the capital is not provided to the scheme and therefore there is no cash contribution by the State, the risk-free interest rate does not have to be taken into account. Alternatively, if the underlying capital is effectively provided by the State, the State has to incur borrowing costs and the scheme benefits from this cash by possibly investing it. Therefore the risk-free interest rate has to be paid to the State on the amount provided. Moreover, this charge should be taken from the financial income of the scheme and does not necessarily have to impact the guarantee premiums ⁽¹⁸⁾. The Commission considers that the yield of the 10-year government bond may be used as a suitable proxy for the risk-free rate taken as normal return on capital;

- (g) in order to ensure transparency, the scheme must provide for the terms on which future guarantees will be granted, such as eligible companies in terms of rating and, when applicable, sector and size, maximum amount and duration of the guarantees.

3.5. Valuation of guarantee schemes for SMEs

In view of the specific situation of SMEs and in order to facilitate their access to finance, especially through the use of guarantee schemes, two specific possibilities exist for such companies:

- the use of safe-harbour premiums as defined for individual guarantees to SMEs,
- the valuation of guarantee schemes as such by allowing the application of a single premium and avoiding the need for individual ratings of beneficiary SMEs.

⁽¹⁶⁾ Corresponding to the capital requirements laid down in Article 75 of Directive 2006/48/EC of the European Parliament and of the Council of 14 June 2006 relating to the taking up and pursuit of the business of credit institutions (OJ L 177, 30.6.2006, p. 1) read in conjunction with Annex VI (paragraph 41 onwards) thereto.

⁽¹⁷⁾ For a guarantee to a BBB rated company amounting to 100, the reserves to be constituted thus amount to 8. Applying 400 basis points (or 4 %) to this amount results in annual capital costs of $8 \% \times 4 \% = 0,32 \%$ of the guaranteed amount, which will impact the price of the guarantee accordingly. If the one-year default rate anticipated by the scheme for this company is, for instance, 0,35 % and the yearly administrative costs are estimated at 0,1 %, the price of the guarantee deemed as non-aid will be 0,77 % per year.

⁽¹⁸⁾ In that case, and provided the risk-free rate is deemed to be 5 %, the annual cost of the reserves to be constituted will be, for the same guarantee of 100 and reserves of 8 to be constituted, $8 \% \times (4 \% + 5 \%) = 0,72 \%$ of the guaranteed amount. Under the same assumptions (default rate of 0,35 % and administrative costs of 0,1 %), the price of the guarantee would be 0,77 % per year and an additional charge of 0,4 % should be paid by the scheme to the State.

The conditions of use of both rules are defined as follows:

Use of safe-harbour premiums in guarantee schemes for SMEs

In line with what is proposed for simplification purposes in relation to individual guarantees, guarantee schemes in favour of SMEs can also, in principle, be deemed self-financing and not constitute State aid if the minimum safe-harbour premiums set out in point 3.3 and based on the ratings of undertakings are applied ⁽¹⁹⁾. The other conditions set out in points 3.4(a), (b) and (c) as well as in point 3.4(g) still have to be fulfilled, and the conditions set out in points 3.4(d), (e) and (f) are deemed to be fulfilled by the use of the minimum annual premiums set out in point 3.3.

Use of single premiums in guarantee schemes for SMEs

The Commission is aware that carrying out an individual risk assessment of each borrower is a costly process, which may not be appropriate where a scheme covers a large number of small loans for which it represents a risk pooling tool.

Consequently, where a scheme only relates to guarantees for SMEs and the guaranteed amount does not exceed a threshold of EUR 2,5 million per company in that scheme, the Commission may accept, by way of derogation from point 3.4(d), a single yearly guarantee premium for all borrowers. However, in order for the guarantees granted under such a scheme to be regarded as not constituting State aid, the scheme has to remain self-financing and all the other conditions set out in points 3.4(a), (b) and (c) as well as in points 3.4(e), (f) and (g) still have to be fulfilled.

3.6. No automatic classification as State aid

Failure to comply with any one of the conditions set out in points 3.2 to 3.5 does not mean that the guarantee or guarantee scheme is automatically regarded as State aid. If there is any doubt as to whether a planned guarantee or guarantee scheme constitutes State aid, it should be notified to the Commission.

4. GUARANTEES WITH AN AID ELEMENT

4.1. General

Where an individual guarantee or a guarantee scheme does not comply with the market economy investor principle, it is deemed to entail State aid. The State aid element therefore needs to be quantified in order to check whether the aid may be found compatible under a specific State aid exemption. As a matter of principle, the State aid element will be deemed to be the difference between the appropriate market price of the guarantee provided individually or through a scheme and the actual price paid for that measure.

The resulting yearly cash grant equivalents should be discounted to their present value using the reference rate, then added up to obtain the total grant equivalent.

When calculating the aid element in a guarantee, the Commission will devote special attention to the following elements:

- (a) whether in the case of individual guarantees the borrower is in financial difficulty. Whether in the case of guarantee schemes, the eligibility criteria of the scheme provide for exclusion of such undertakings (see details in point 3.2(a)).

The Commission notes that for companies in difficulty, a market guarantor, if any, would, at the time the guarantee is granted charge a high premium given the expected rate of default. If the likelihood that the borrower will not be able to repay the loan becomes particularly high, this market rate may not exist and in exceptional circumstances the aid element of the guarantee may turn out to be as high as the amount effectively covered by that guarantee;

⁽¹⁹⁾ This includes the provision whereby for SMEs which do not have a credit history or a rating based on a balance sheet approach, the safe-harbour premium is set at 3,8 % but this can never be lower than the premium which would be applicable to the parent companies.

- (b) whether the extent of each guarantee can be properly measured when it is granted.

This means that the guarantees must be linked to a specific financial transaction, for a fixed maximum amount and limited in time. In this connection the Commission considers in principle that unlimited guarantees are incompatible with Article 87 of the Treaty;

- (c) whether the guarantee covers more than 80 % of each outstanding loan or other financial obligation (see details and exceptions in point 3.2(c)).

In order to ensure that the lender has a real incentive to properly assess, secure and minimise the risk arising from the lending operation, and in particular to assess properly the borrower's creditworthiness, the Commission considers that a percentage of at least 20 % not covered by a State guarantee should be carried by the lender ⁽²⁰⁾ to properly secure its loans and to minimise the risk associated with the transaction. The Commission will therefore, in general, examine more thoroughly any guarantee or guarantee scheme covering the entirety (or nearly the entirety) of a financial transaction except if a Member State duly justifies it, for instance, by the specific nature of the transaction;

- (d) whether the specific characteristics of the guarantee and loan (or other financial obligation) have been taken into account when determining the market premium of the guarantee, from which the aid element is calculated by comparing it with the premium actually paid (see details in point 3.2(d)).

4.2. Aid element in individual guarantees

For an individual guarantee the cash grant equivalent of a guarantee should be calculated as the difference between the market price of the guarantee and the price actually paid.

Where the market does not provide guarantees for the type of transaction concerned, no market price for the guarantee is available. In that case, the aid element should be calculated in the same way as the grant equivalent of a soft loan, namely as the difference between the specific market interest rate this company would have borne without the guarantee and the interest rate obtained by means of the State guarantee after any premiums paid have been taken into account. If there is no market interest rate and if the Member State wishes to use the reference rate as a proxy, the Commission stresses that the conditions laid down in the communication on reference rates ⁽²¹⁾ are valid to calculate the aid intensity of an individual guarantee. This means that due attention must be paid to the top-up to be added to the base rate in order to take into account the relevant risk profile linked to the operation covered, the undertaking guaranteed and the collaterals provided.

4.3. Aid element in individual guarantees for SMEs

For SMEs, the simplified evaluation system outlined in point 3.3 can also be applied. In that case, if the premium for a given guarantee does not correspond to the value set as a minimum for its rating class, the difference between this minimum level and the premium charged will be regarded as aid. If the guarantee lasts more than a year, the yearly shortfalls are discounted using the relevant reference rate ⁽²²⁾.

Only in cases clearly evidenced and duly justified by the Member State concerned may the Commission accept a deviation from these rules. A risk-based approach still has to be respected in such cases.

4.4. Aid element in guarantee schemes

For guarantee schemes, the cash grant equivalent of each guarantee within the scheme is the difference between the premium effectively charged (if any) and the premium that should be charged in an equivalent non-aid scheme set up in accordance with the conditions laid down in point 3.4. The aforementioned theoretical premiums from which the aid element is calculated have therefore to cover the normal risks

⁽²⁰⁾ This is based on the assumption that the corresponding level of security is provided by the company to the State and the credit institution.

⁽²¹⁾ See the Communication referred to in footnote 11.

⁽²²⁾ See further details in footnote 14.

associated with the guarantee as well as the administrative and capital costs ⁽²³⁾. This way of calculating the grant equivalent is aimed at ensuring that, also over the medium and long term, the total aid granted under the scheme is equal to the money injected by the public authorities to cover the deficit of the scheme.

Since, in the case of State guarantee schemes, the specific features of the individual cases may not be known at the time when the scheme is to be assessed, the aid element must be assessed by reference to the provisions of the scheme.

Aid elements in guarantee schemes can also be calculated through methodologies already accepted by the Commission following their notification under a regulation adopted by the Commission in the field of State aid, such as Commission Regulation (EC) No 1628/2006 of 24 October 2006 on the application of Articles 87 and 88 of the Treaty to national regional investment aid ⁽²⁴⁾ or Commission Regulation (EC) No 1857/2006 of 15 December 2006 on the application of Articles 87 and 88 of the Treaty to State aid to small and medium-sized enterprises active in the production of agricultural products and amending Regulation (EC) No 70/2001 ⁽²⁵⁾, provided that the approved methodology explicitly addresses the type of guarantees and the type of underlying transactions at stake.

Only in cases clearly evidenced and duly justified by the Member State concerned may the Commission accept a deviation from these rules. A risk-based approach still has to be respected in such cases.

4.5. Aid element in guarantee schemes for SMEs

The two simplification tools outlined in point 3.5 and relating to guarantee schemes for SMEs can also be used for aid calculation purposes. The conditions of use of both rules are defined as follows:

Use of safe-harbour premiums in guarantee schemes for SMEs

For SMEs, the simplified evaluation system outlined above in point 3.5 can also be applied. In that case, if the premium for a given category in a guarantee scheme does not correspond to the value set as a minimum for its rating class ⁽²⁶⁾, the difference between this minimum level and the premium charged will be regarded as aid ⁽²⁷⁾. If the guarantee lasts more than a year, the yearly shortfalls are discounted using the reference rate ⁽²⁸⁾.

Use of single premiums in guarantee schemes for SMEs

In view of the more limited distortion of competition that may be caused by State aid provided in the framework of a guarantee scheme for SMEs, the Commission considers that if an aid scheme only relates to guarantees for SMEs, where the guaranteed amount does not exceed a threshold of EUR 2,5 million per company in this given scheme, the Commission may accept, by way of derogation from point 4.4, a valuation of the aid intensity of the scheme as such, without the need to carry out a valuation for each individual guarantee or risk class within the scheme ⁽²⁹⁾.

⁽²³⁾ This calculation can be summarised, for each risk class, as the difference between (a) the outstanding sum guaranteed, multiplied by the risk factor of the risk class ('risk' being the probability of default after inclusion of administrative and capital costs), which represents the market premium, and (b) any premium paid, i.e. (guaranteed sum × risk) – premium paid.

⁽²⁴⁾ OJ L 302, 1.11.2006, p. 29.

⁽²⁵⁾ OJ L 358, 16.12.2006, p. 3.

⁽²⁶⁾ This includes the possibility whereby SMEs which do not have a credit history or a rating based on a balance sheet approach, the safe-harbour premium is set at 3,8 % but this can never be lower than the premium which would be applicable to the parent company or companies.

⁽²⁷⁾ This calculation can be summarised, for each risk class, as the outstanding sum guaranteed multiplied by the difference between (a) the safe-harbour premium percentage of that risk class and (b) the premium percentage paid, i.e. guaranteed sum × (safe-harbour premium – premium paid).

⁽²⁸⁾ See further details in footnote 11.

⁽²⁹⁾ This calculation can be summarised, irrespective of the risk class, as the difference between (a) the outstanding sum guaranteed, multiplied by the risk factor of the scheme ('risk' being the probability of default after inclusion of administrative and capital costs), and (b) any premium paid, i.e. (guaranteed sum × risk) – premium paid.

5. COMPATIBILITY WITH THE COMMON MARKET OF STATE AID IN THE FORM OF GUARANTEES

5.1. General

State guarantees within the scope of Article 87(1) of the Treaty must be examined by the Commission with a view to determining whether or not they are compatible with the common market. Before such assessment of compatibility can be made, the beneficiary of the aid must be identified.

5.2. Assessment

Whether or not this aid is compatible with the common market will be examined by the Commission according to the same rules as are applied to aid measures taking other forms. The concrete criteria for the compatibility assessment have been clarified and detailed by the Commission in frameworks and guidelines concerning horizontal, regional and sectoral aid⁽³⁰⁾. The examination will take into account, in particular, the aid intensity, the characteristics of the beneficiaries and the objectives pursued.

5.3. Conditions

The Commission will accept guarantees only if their mobilisation is contractually linked to specific conditions which may go as far as the compulsory declaration of bankruptcy of the beneficiary undertaking, or any similar procedure. These conditions will have to be agreed between the parties when the guarantee is initially granted. In the event that a Member State wants to mobilise the guarantee under conditions other than those initially agreed to at the granting stage, then the Commission will regard the mobilisation of the guarantee as creating new aid which has to be notified under Article 88(3) of the Treaty.

6. REPORTS TO BE PRESENTED TO THE COMMISSION BY THE MEMBER STATES

In accordance with general monitoring obligations⁽³¹⁾, in order to further monitor new developments on the financial markets and since the value of State guarantees is difficult to assess and changes over time, the constant review, pursuant to Article 88(1) of the Treaty, of State guarantee schemes approved by the Commission is of particular importance. Member States shall therefore submit reports to the Commission.

For aid guarantee schemes, these reports will have to be presented at least at the end of the period of validity of the guarantee scheme and for the notification of an amended scheme. The Commission may however consider it appropriate to request reports on a more frequent basis, depending on the case.

For guarantee schemes, for which the Commission has taken a non-aid decision, and especially when no solid historic data exists for the scheme, the Commission may request, when taking its non-aid decision for such reports to be presented, thereby clarifying on a case-by-case basis the frequency and the content of the reporting requirement.

Reports should include at least the following information:

- (a) the number and amount of guarantees issued;
- (b) the number and amount of guarantees outstanding at the end of the period;
- (c) the number and value of defaulted guarantees (displayed individually) on a yearly basis;
- (d) the yearly income:
 1. income from the premiums charged;
 2. income from recoveries;
 3. other revenues (e.g. interest received on deposits or investments);

⁽³⁰⁾ See Competition law applicable to State aid in the European Community:
http://ec.europa.eu/comm/competition/state_aid/legislation/legislation.html
For sector specific State aid legislation, see for agriculture:
http://ec.europa.eu/agriculture/stateaid/leg/index_en.htm
and for transport:
http://ec.europa.eu/dgs/energy_transport/state_aid/transport_en.htm

⁽³¹⁾ Such as those laid down in particular by Commission Regulation (EC) No 794/2004 of 21 April 2004 implementing Council Regulation (EC) No 659/1999 laying down detailed rules for the application of Article 93 of the EC Treaty (OJ L 140, 30.4.2004, p. 1). Regulation as last amended by Regulation (EC) No 271/2008 (OJ L 82, 25.3.2008, p. 1).

- (e) the yearly costs:
 - 1. administrative costs;
 - 2. indemnifications paid on mobilised guarantees;
- (f) the yearly surplus or shortfall (difference between income and costs); and
- (g) the accumulated surplus or shortfall since the beginning of the scheme ⁽³²⁾.

For individual guarantees, the relevant information, mainly that referred to in points (d) to (g), should be similarly reported.

In all cases, the Commission draws the attention of Member States to the fact that correct reporting at a remote date presupposes correct collection of the necessary data from the beginning of the use of the scheme and their aggregation on a yearly basis.

The attention of Member States is also drawn to the fact that for non-aid guarantees provided individually or under a scheme, although no notification obligation exists, the Commission may have to verify that the guarantee or scheme does not entail aid elements, for instance following a complaint. In that case, the Commission will request information similar to that set out above for reports from the Member State concerned.

Where reports already have to be presented following specific reporting obligations established by block exemption regulations, guidelines or frameworks applicable in the State aid field, those specific reports will replace the reports to be presented under the present guarantee reporting obligation provided the information listed above is included.

7. IMPLEMENTING MEASURES

The Commission invites Member States to adjust their existing guarantee measures to the stipulations of the present Notice by 1 January 2010 as far as new guarantees are concerned.

⁽³²⁾ If the scheme has been active for more than 10 years, only the last 10 annual amounts of shortfall or surplus are to be provided.

Non-opposition to a notified concentration
(Case COMP/M.5044 — Bridgepoint/Pret a Manger)

(Text with EEA relevance)

(2008/C 155/03)

On 2 April 2008, the Commission decided not to oppose the above notified concentration and to declare it compatible with the common market. This decision is based on Article 6(1)(b) of Council Regulation (EC) No 139/2004. The full text of the decision is available only in English and will be made public after it is cleared of any business secrets it may contain. It will be available:

- from the Europa competition website (<http://ec.europa.eu/comm/competition/mergers/cases/>). This website provides various facilities to help locate individual merger decisions, including company, case number, date and sectoral indexes,
 - in electronic form on the EUR-Lex website under document number 32008M5044. EUR-Lex is the on-line access to European law (<http://eur-lex.europa.eu>).
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IV

(Notices)

NOTICES FROM EUROPEAN UNION INSTITUTIONS AND BODIES

COMMISSION

Euro exchange rates ⁽¹⁾

19 June 2008

(2008/C 155/04)

1 euro =

Currency	Exchange rate	Currency	Exchange rate		
USD	US dollar	1,5481	TRY	Turkish lira	1,9015
JPY	Japanese yen	166,94	AUD	Australian dollar	1,6344
DKK	Danish krone	7,4591	CAD	Canadian dollar	1,5712
GBP	Pound sterling	0,78630	HKD	Hong Kong dollar	12,0893
SEK	Swedish krona	9,4030	NZD	New Zealand dollar	2,0432
CHF	Swiss franc	1,6196	SGD	Singapore dollar	2,1211
ISK	Iceland króna	126,95	KRW	South Korean won	1 592,61
NOK	Norwegian krone	8,0365	ZAR	South African rand	12,3936
BGN	Bulgarian lev	1,9558	CNY	Chinese yuan renminbi	10,6472
CZK	Czech koruna	24,110	HRK	Croatian kuna	7,2482
EEK	Estonian kroon	15,6466	IDR	Indonesian rupiah	14 377,20
HUF	Hungarian forint	240,45	MYR	Malaysian ringgit	5,0468
LTL	Lithuanian litas	3,4528	PHP	Philippine peso	68,898
LVL	Latvian lats	0,7040	RUB	Russian rouble	36,6520
PLN	Polish zloty	3,3677	THB	Thai baht	51,738
RON	Romanian leu	3,6671	BRL	Brazilian real	2,4880
SKK	Slovak koruna	30,355	MXN	Mexican peso	15,9748

⁽¹⁾ Source: reference exchange rate published by the ECB.

NOTICES FROM MEMBER STATES

Information communicated by Member States regarding State aid granted under Commission Regulation (EC) No 1857/2006 on the application of Articles 87 and 88 of the EC Treaty to State aid to small and medium-sized enterprises active in the production of agricultural products and amending Regulation (EC) No 70/2001

(2008/C 155/05)

Aid No: XA 273/07

Member State: Republic of Slovenia

Region: Območje občine Rače-Fram

Title of aid scheme or name of company receiving individual aid:

Dodeljevanje državnih pomoči za programe razvoja kmetijstva in podeželja v občini Rače-Fram

Legal basis:

Pravilnik o dodeljevanju državnih pomoči, pomoči de minimis in izvajanju drugih ukrepov razvoja kmetijstva in podeželja v občini Rače-Fram

Annual expenditure planned under the scheme or overall amount of individual aid granted to the company:

2007: EUR 72 500

2008: EUR 72 500

2009: EUR 72 500

2010: EUR 72 500

2011: EUR 72 500

2012: EUR 72 500

2013: EUR 72 500

Maximum aid intensity:

1. *Investment in agricultural holdings for primary production:*

- up to 50 % of eligible costs in less-favoured areas or up to 40 % of eligible costs in other areas,
- up to 50 % of eligible costs for investment in other areas, if the investment is made by young farmers within five years of setting up their farm, is included in the business plan and meets the conditions set out in Article 22 of Regulation (EC) No 1857/2006.

The purpose of the aid is investment to restore farm features and to purchase equipment to be used for agricultural production, to invest in permanent crops, to improve farmland and to manage pastures.

2. *Conservation of traditional landscapes and buildings:*

- up to 60 % of eligible costs, or up to 75 % in less-favoured areas, for investment to conserve the heritage features of productive assets, provided that the investment does not entail any increase in the production capacity of the farm,
- up to 100 % of eligible costs for investment for the purposes of conserving non-productive heritage located on farms (sites of archaeological and historical interest),
- additional aid may be granted at a rate of up to 100 % to cover the extra costs incurred by using traditional materials necessary to maintain the heritage features of buildings.

3. *Aid towards the payment of insurance premiums:*

- the amount of municipal co-financing is the difference between the amount of co-financing of insurance premiums from the national budget and up to 50 % of eligible costs of insurance premiums for insuring crops and fruit and insuring livestock against disease.

4. *Aid for land reparation:*

- up to 70 % of eligible legal and administrative costs incurred.

5. *Aid to encourage the production of quality agricultural products:*

- the aid is granted in the form of subsidised services to cover up to 70 % of costs and does not involve direct payments to producers.

6. *Provision of technical support:*

- up to 70 % of eligible costs concerning education and training, consultancy services, the organisation of forums, competitions, exhibitions and fairs, the dissemination of scientific findings, and publications, such as catalogues and websites. The aid is granted in the form of subsidised services and does not involve direct payments to producers

Date of implementation:

October 2007 (The aid will not be granted until a summary has been published on the European Commission's website)

Duration of scheme or individual aid award: Until 31 December 2013

Objective of the aid: To support SMEs

Reference to Articles of Regulation (EC) No 1857/2006 and eligible costs:

Chapter II of the draft Rules on granting State aid and *de minimis* aid and implementing other rural development measures in the municipality of Rače-Fram includes measures constituting State aid in accordance with the following Articles of Commission Regulation (EC) No 1857/2006 of 15 December 2006 on the application of Articles 87 and 88 of the Treaty to State aid to small and medium-sized enterprises active in the production of agricultural products and amending Regulation (EC) No 70/2001 (O) L 358, 16.12.2006, p. 3):

- Article 4: Investment in agricultural holdings,
- Article 5: Conservation of traditional landscapes and buildings,
- Article 12: Aid towards the payment of insurance premiums,
- Article 13: Aid for land reparation,
- Article 14: Aid to encourage the production of quality agricultural products,
- Article 15: Provision of technical support

Economic sector(s) concerned: Agriculture

Name and address of the granting authority:

Občina Rače-Fram
Grajski trg 14
SLO-2327 Rače

Website:

<http://www.race-fram.si/dokument.aspx?id=2829>

Other information: The measure for the payment of insurance premiums to insure crops and fruit includes the following adverse climatic events which can be assimilated to natural disasters: spring frost, hail, lightning, fire caused by lightning, storm and floods.

The municipality's Rules meet the requirements of Regulation (EC) No 1857/2006 concerning the measures to be adopted by the municipality and the general provisions applicable (steps preceding grant of aid, cumulation, transparency and monitoring of aid)

Aid No: XA 276/07

Member State: Republic of Slovenia

Region: Območje občine Kostanjevica na Krki

Title of aid scheme or name of company receiving individual aid:

Finančna sredstva za ohranjanje in spodbujanje razvoja kmetijstva in podeželja v občini Kostanjevica na Krki

Legal basis:

Pravilnik o ohranjanju in spodbujanju razvoja kmetijstva in podeželja v občini Kostanjevica na Krki za programsko obdobje 2007–2013

Annual expenditure planned under the scheme or overall amount of individual aid granted to the company:

2007: EUR 11 000

2008: EUR 20 000

2009: EUR 30 000

2010: EUR 30 000

2011: EUR 30 000

2012: EUR 30 000

2013: EUR 30 000

Maximum aid intensity:1. *Investment in agricultural holdings:*

- 50 % of eligible costs in less-favoured areas,
- 40 % of eligible costs in other areas,
- where the share of aid for investment in farms applies to young farmers within five years of setting up, the farmer concerned must be under 40 years of age, have acquired ownership for the first time, be permanently resident at the farm, undertake to conduct activity in accordance with the farm management plan, and to remain as the head and owner of the agricultural holding for at least five years after receiving the aid, the share of public funding is 10 % higher,
- the aid is to be granted for investment in the restoration of farm features and the purchase of equipment to be used for agricultural production, and for investment in permanent crops, farmland improvement and pasture management.

2. *Conservation of traditional landscapes and buildings:*

- up to 100 % of real costs in the case of non-productive features,
- up to 60 % of actual costs, or up to 75 % in less-favoured areas, in the case of productive assets on farms (farm buildings: granaries, drying frames, beehives, mills, sawmills), provided that the investment does not entail any increase in the production capacity of the farm,

— additional aid may be granted at a rate of up to 100 % to cover the extra costs incurred by using traditional materials necessary to maintain the heritage features of buildings.

3. *Aid towards the payment of insurance premiums:*

— the amount of municipal co-financing is the difference between the amount of co-financing of insurance premiums from the national budget and up to 50 % of eligible costs of an insurance premium for insuring crops and fruit and insuring livestock against disease.

4. *Aid for land reparation:*

— up to 100 % of eligible legal and administrative costs.

5. *Aid to encourage the production of quality agricultural products:*

— aid is to be granted at a rate of up to 100 % of costs in the form of subsidised services and must not involve direct payments of money to producers.

6. *Provision of technical support in the agricultural sector:*

— aid is to be granted at a rate of up to 100 % of costs concerning training courses and consultations, the organisation of forums, fairs and exhibitions, the dissemination of scientific knowledge and publications. The aid is to be granted in the form of subsidised services and must not involve direct payments of money to producers

Date of implementation:

October 2007 (The aid will not be granted until a summary has been published on the European Commission's website)

Duration of scheme or individual aid award:

Until 31 December 2013

Objective of aid: To support agricultural holdings, micro-businesses

Reference to Articles of Regulation (EC) No 1857/2006 and eligible costs:

Chapter II of the draft Rules on preserving and promoting the development of agriculture and rural areas in the municipality of Kostanjevica na Krki for the programming period 2007-2013 includes measures constituting State aid in accordance with the following Articles of Commission Regulation (EC) No 1857/2006 of 15 December 2006 on the application of Articles 87 and 88 of the Treaty to State aid to small and medium-sized enterprises active in the production of agricultural products and amending Regulation (EC) No 70/2001 (OJ L 358, 16.12.2006, p. 3):

- Article 4: Investment in agricultural holdings,
- Article 5: Conservation of traditional landscapes and buildings,
- Article 12: Aid towards the payment of insurance premiums,
- Article 13: Aid for land reparation,

— Article 14: Aid to encourage the production of quality agricultural products,

— Article 15: Provision of technical support in the agricultural sector

Economic sector(s) concerned: Agriculture

Name and address of granting authority:

Občina Kostanjevica na Krki
Ljubljanska cesta 7
SLO-8311 Kostanjevica na Krki

Website:

<http://www.uradni-list.si/1/ulonline.jsp?urlid=200787&dhid=91625>

Other information: The measure for the payment of insurance premiums to insure crops and fruit includes the following adverse climatic events which can be assimilated to natural disasters: spring frost, hail, lightning, fire caused by lightning, storm and floods.

The municipality's Rules meet the requirements of Regulation (EC) No 1857/2006 concerning the measures to be adopted by the municipality and the general provisions applicable (steps preceding grant of aid, cumulation, transparency and monitoring of aid)

Signature of person responsible

Župan
Mojmir PUSTOSLEMŠEK

Aid No: XA 277/07

Member State: Republic of Slovenia

Region: Območje občine Videm

Title of aid scheme or name of company receiving individual aid:

Dodeljevanje državnih pomoči za programe razvoja podeželja v občini Videm

Legal basis:

Pravilnik o dodeljevanju državnih pomoči in drugih pomoči, ter ukrepov za programe razvoja podeželja v občini Videm

Annual expenditure planned under the scheme or overall amount of individual aid granted to the company:

2007: EUR 12 074

2008: EUR 12 500

2009: EUR 13 000

2010: EUR 13 500

2011: EUR 14 000

2012: EUR 14 500

2013: EUR 15 000

Maximum aid intensity:1. *Investment in agricultural holdings for primary production:*

- up to 50 % of eligible investment in less-favoured areas,
- up to 40 % of eligible investments in other areas,
- up to 50 % of eligible costs in other regions, in the case of investments made by young farmers within five years of setting up.

The aid is to be granted for investment in the restoration of farm features and the purchase of equipment to be used for agricultural production, and for investment in permanent crops, farmland improvement and pasture management.

2. *Conservation of traditional landscapes and buildings:*

- up to 60 % of actual costs, or 75 % in less-favoured areas, for investment in productive assets on farms, provided that the investment does not entail any increase in the production capacity of the farm,
- up to 100 % of eligible costs for investment for the purposes of conserving non-productive heritage features located on agricultural holdings (sites of archaeological or historical interest),
- additional aid may be granted at a rate of up to 100 % to cover the extra costs incurred by using traditional materials necessary to maintain the heritage features of the building.

3. *Aid towards the payment of insurance premiums:*

- municipal support for cofinancing is the difference between the amount of co-financing of insurance premiums from the national budget and up to 50 % of eligible costs of an insurance premium for insuring crops and fruit and insuring livestock against disease.

4. *Aid for land reparation:*

- up to 100 % of eligible legal and administrative costs, including survey costs.

5. *Aid to encourage the production of quality agricultural products:*

- aid is to be granted at a rate of up to 100 % of costs in the form of subsidised services and must not involve direct payments of money to producers.

6. *Provision of technical support in the agricultural sector:*

- aid is to be granted at a rate of up to 100 % of costs concerning education and training for farmers, replacement services during the absence of the farmer on

account of illness or holidays, consultancy services provided by third parties, the organisation of forums, competitions, exhibitions and fairs, and publications such as catalogues and websites. The aid is to be granted in the form of subsidised services and must not involve direct payments of money to producers

Date of implementation:

October 2007 (The aid will not be granted until a summary has been published on the European Commission's website)

Duration of scheme or individual aid award:

Until 31 December 2013

Objective of aid: To support SMEs

Reference to Articles of Regulation (EC) No 1857/2006 and eligible costs:

Chapter II of the draft Rules on granting State aid and other aid and measures for rural development programmes in the municipality of Videm includes measures constituting State aid in accordance with the following Articles of Commission Regulation (EC) No 1857/2006 of 15 December 2006 on the application of Articles 87 and 88 of the Treaty to State aid to small and medium-sized enterprises active in the production of agricultural products and amending Regulation (EC) No 70/2001 (OJ L 358, 16.12.2006, p. 3):

- Article 4: Investment in agricultural holdings,
- Article 5: Conservation of traditional landscapes and buildings,
- Article 12: Aid towards the payment of insurance premiums,
- Article 13: Aid for land reparation,
- Article 14: Aid to encourage the production of quality agricultural products,
- Article 15: Provision of technical support in the agricultural sector

Economic sector(s) concerned: Agriculture

Name and address of granting authority:

Občina Videm
Videm pri Ptuj 54
SLO-2284 Videm pri Ptuj

Website:

<http://ls.lex-localis.info/UravnoGlasiloObcin/VsebinaDokumenta.aspx?SectionID=fddd663f-924f-4244-9a05-d3389bdf4bbc>

Other information: The measure for the payment of insurance premiums to insure crops and fruit includes the following adverse climatic events which can be assimilated to natural disasters: spring frost, hail, lightning, fire caused by lightning, storm and floods.

The municipality's Rules meet the requirements of Regulation (EC) No 1857/2006 concerning the measures to be adopted by the municipality and the general provisions applicable (steps preceding grant of aid, cumulation, transparency and monitoring of aid)

Signature of person responsible

Direktorica občinske uprave
občine Videm
Mag. Darinka RATAJC

Aid No: XA 278/07

Member State: Republic of Slovenia

Region: Območje občine Jesenice

Title of aid scheme or name of company receiving individual aid:

Programi razvoja podeželja v občini Jesenice 2007–2013

Legal basis:

Pravilnik o dodelitvi pomoči za ohranjanje in razvoj kmetijstva, gozdarstva in podeželja v občini Jesenice (II. poglavje Pravidnika)

Annual expenditure planned under the scheme or overall amount of individual aid granted to the company:

Annual expenditure planned:

2007: EUR 39 642

2008: EUR 40 476

2009: EUR 41 312

2010: EUR 42 147

2011: EUR 42 981

2012: EUR 43 884

2013: EUR 44 805

Maximum aid intensity:

1. *Investment in agricultural holdings for primary production:*

- up to 50 % of eligible costs in less-favoured areas and up to 40 % of eligible costs for investment in other areas.

The aid is to be granted for investment in the restoration of farm features and the purchase of equipment to be used for agricultural production, and for investment in permanent crops, farmland improvement and pasture management.

2. *Aid for the conservation of traditional buildings:*

- up to 100 % of eligible costs in the case of non-productive features,
- up to 60 % of eligible costs for investment in productive assets, provided that the investment does not entail any increase in the production capacity of the farm, or 75 % in less-favoured areas.

3. *Aid towards the payment of insurance premiums:*

- the difference between the amount of co-financing of insurance premiums from the national budget and up to 50 % of eligible costs of an insurance premium for insuring crops and fruit and insuring livestock against disease.

4. *Aid for land reparation:*

- up to 50 % of actual legal and administrative costs incurred.

5. *Aid for providing technical support in the agricultural sector:*

- up to 50 % of eligible costs concerning education and training for farmers, consultancy services, the organisation of forums, competitions, exhibitions and fairs, publications, catalogues and websites, and replacement services for farmers. The aid is to be granted in the form of subsidised services and does not involve direct payments of money to producers

Date of implementation:

October 2007 (The aid will not be granted until a summary has been published on the European Commission's website)

Duration of scheme or individual aid award: Until 31 December 2013

Objective of aid: To support SMEs

Reference to Articles of Regulation (EC) No 1857/2006 and eligible costs:

Chapter II of the draft Rules on granting aid for the preservation and development of agriculture, forestry and rural areas in the municipality of Jesenice includes measures constituting State aid in accordance with the following Articles of Commission Regulation (EC) No 1857/2006 of 15 December 2006 on the application of Articles 87 and 88 of the Treaty to State aid to small and medium-sized enterprises active in the production of agricultural products and amending Regulation (EC) No 70/2001 (OJ L 358, 16.12.2006, p. 3):

- Article 4: Investment in agricultural holdings,
- Article 5: Conservation of traditional landscapes and buildings,

- Article 12: Aid towards the payment of insurance premiums,
- Article 13: Aid for land re-parcelling,
- Article 15: Provision of technical support in the agricultural sector

Economic sector(s) concerned: Agriculture

Name and address of granting authority:

Občina Jesenice
Cesta železarjev 6
SLO-4270 Jesenice

Website:

http://www.uradni-list.si/_pdf/2007/Ur/u2007087.pdf

Other information: The measure for the payment of insurance premiums to insure crops and fruit includes the following adverse climatic events which can be assimilated to natural disasters: spring frost, hail, lightning, fire caused by lightning, storm and floods.

The municipality's Rules meet the requirements of Regulation (EC) No 1857/2006 concerning the measures to be adopted by the municipality and the general provisions applicable (steps preceding grant of aid, cumulation, transparency and monitoring of aid)

V

(Announcements)

PROCEDURES RELATING TO THE IMPLEMENTATION OF THE COMPETITION
POLICY

COMMISSION

Prior notification of a concentration
(Case COMP/M.5046 — Friesland/Campina)

(Text with EEA relevance)

(2008/C 155/06)

1. On 12 June 2008, the Commission received a notification of a proposed concentration pursuant to Article 4 of Council Regulation (EC) No 139/2004 ⁽¹⁾ by which the undertakings Zuivelcoöperatie Friesland Foods U.A. ('Coöperatie Friesland', the Netherlands) and its subsidiary Koninklijke Friesland Foods NV ('Friesland', the Netherlands) enter into a full merger within the meaning of Article 3(1)(a) of the Council Regulation with Zuivelcoöperatie Campina U.A. ('Coöperatie Campina', the Netherlands) and its subsidiary Campina BV ('Campina', the Netherlands).

2. The business activities of the undertakings concerned are:

- for undertaking Friesland: procurement and processing of raw milk, development, production and selling of dairy and non-dairy products for individual consumers and industrial customers,
- for undertaking Campina: procurement and processing of raw milk, development, production and selling of dairy and non-dairy products for individual consumers and industrial customers.

3. On preliminary examination, the Commission finds that the notified transaction could fall within the scope of Regulation (EC) No 139/2004. However, the final decision on this point is reserved.

4. The Commission invites interested third parties to submit their possible observations on the proposed operation to the Commission.

Observations must reach the Commission not later than 10 days following the date of this publication. Observations can be sent to the Commission by fax ((32-2) 296 43 01 or 296 72 44) or by post, under reference number COMP/M.5046 — Friesland/Campina, to the following address:

European Commission
Directorate-General for Competition
Merger Registry
J-70
B-1049 Bruxelles/Brussel

(1) OJL 24, 29.1.2004, p. 1.

Prior notification of a concentration
(Case COMP/M.5182 — Shell/BP/AFS/GlobeFuel)

Candidate case for simplified procedure

(Text with EEA relevance)

(2008/C 155/07)

1. On 10 June 2008, the Commission received a notification of a proposed concentration pursuant to Article 4 of Council Regulation (EC) No 139/2004 ⁽¹⁾ by which the undertaking Shell Deutschland Oil GmbH ('SDO', Germany), belonging to the Shell group ('Shell', United Kingdom), Deutsche BP AG ('Deutsche BP', Germany), belonging to the BP group ('BP', United Kingdom) and AFS Aviation Fuel Services GmbH ('AFS', Germany), ultimately jointly controlled by BP and the Lufthansa group ('Lufthansa', Germany) acquire within the meaning of Article 3(1)(b) of the Council Regulation joint control over GlobeFuel Systems & Services GmbH ('GlobeFuel', Germany) by way of purchase of shares.

2. The business activities of the undertakings concerned are:

- for SDO: active in the exploration, production and sale of oil and natural gas as well as production and sale of oil products and chemicals,
- for Deutsche BP: active in the exploration, development and production of oil and gas as well as refining, manufacturing and marketing of oil products and petrochemicals,
- for AFS: provider of into-plane services, i.e. aircraft refuelling services and active in the construction of fuel depots, development and advisory services in the field of refuelling vehicle construction, and transport logistics,
- for GlobeFuel: provider of integrated IT solutions for into-plane services.

3. On preliminary examination, the Commission finds that the notified transaction could fall within the scope of Regulation (EC) No 139/2004. However, the final decision on this point is reserved. Pursuant to the Commission Notice on a simplified procedure for treatment of certain concentrations under Council Regulation (EC) No 139/2004 ⁽²⁾ it should be noted that this case is a candidate for treatment under the procedure set out in the Notice.

4. The Commission invites interested third parties to submit their possible observations on the proposed operation to the Commission.

Observations must reach the Commission not later than 10 days following the date of this publication. Observations can be sent to the Commission by fax ((32-2) 296 43 01 or 296 72 44) or by post, under reference number COMP/M.5182 — Shell/BP/AFS/GlobeFuel, to the following address:

European Commission
Directorate-General for Competition
Merger Registry
J-70
B-1049 Bruxelles/Brussel

⁽¹⁾ OJ L 24, 29.1.2004, p. 1.

⁽²⁾ OJ C 56, 5.3.2005, p. 32.

Prior notification of a concentration
(Case COMP/M.5158 — Strabag/Kirchhoff)

(Text with EEA relevance)

(2008/C 155/08)

1. On 10 June 2008, the Commission received a notification of a proposed concentration pursuant to Article 4 of Council Regulation (EC) No 139/2004⁽¹⁾ by which the undertaking Strabag SE ('Strabag', Austria) which is controlled by Rasperia Trading Limited ('Rasperia', Cyprus), which in turn is controlled by Mr Oleg Deripasky who controls Basic Element Company ('Basic Element', Russia), Raiffeisen-Holding Niederösterreich-Wien reg. Gen.m.b.H ('Raiffeisen Holding', Austria), Uniqa Versicherungen AG ('Uniqa', Austria) and Dr Hans Peter Haselsteiner acquires within the meaning of Article 3(1)(b) of the Council Regulation control of the whole of the undertaking F. Kirchhoff AG ('Kirchhoff', Germany) by way of purchase of shares.

2. The business activities of the undertakings concerned are:

- for Strabag: construction services and building materials,
- for Rasperia/Basic Element: activities in energy, commodities, aviation, engineering, financial services, construction, construction materials,
- for Raiffeisen Holding: holding of participations in various industries,
- for Uniqa: insurances,
- for Dr Hans Peter Haselsteiner: participation in Strabag,
- for Kirchhoff: construction and building materials.

3. On preliminary examination, the Commission finds that the notified transaction could fall within the scope of Regulation (EC) No 139/2004. However, the final decision on this point is reserved.

4. The Commission invites interested third parties to submit their possible observations on the proposed operation to the Commission.

Observations must reach the Commission not later than 10 days following the date of this publication. Observations can be sent to the Commission by fax ((32-2) 296 43 01 or 296 72 44) or by post, under reference number COMP/M.5158 — Strabag/Kirchhoff, to the following address:

European Commission
Directorate-General for Competition
Merger Registry
J-70
B-1049 Bruxelles/Brussel

⁽¹⁾ OJL 24, 29.1.2004, p. 1.

Prior notification of a concentration
(Case COMP/M.5186 — Investor AB/Altor/Lindorff JV)

Candidate case for simplified procedure

(Text with EEA relevance)

(2008/C 155/09)

1. On 11 June 2008, the Commission received a notification of a proposed concentration pursuant to Article 4 of Council Regulation (EC) No 139/2004 ⁽¹⁾ by which the undertakings Investor AB ('Investor', Sweden), and Altor Fund II and Altor 2003 (together 'Altor', Sweden) acquire within the meaning of Article 3(1)(b) of the Council Regulation joint control of the undertaking Lindorff Group AB ('Lindorff', Sweden), currently solely controlled by Altor 2003 Fund, by way of purchase of shares.

2. The business activities of the undertakings concerned are:

- for Investor: investment holding company, listed on the Stockholm Stock exchange,
- for Altor: private equity investment funds, with portfolio companies active in a variety of industrial sectors,
- for Lindorff: debt collection services to clients in the banking, finance, telecommunications, commerce, utilities and the public sector.

3. On preliminary examination, the Commission finds that the notified transaction could fall within the scope of Regulation (EC) No 139/2004. However, the final decision on this point is reserved. Pursuant to the Commission Notice on a simplified procedure for treatment of certain concentrations under Council Regulation (EC) No 139/2004 ⁽²⁾ it should be noted that this case is a candidate for treatment under the procedure set out in the Notice.

4. The Commission invites interested third parties to submit their possible observations on the proposed operation to the Commission.

Observations must reach the Commission not later than 10 days following the date of this publication. Observations can be sent to the Commission by fax ((32-2) 296 43 01 or 296 72 44) or by post, under reference number COMP/M.5186 — Investor AB/Altor/Lindorff JV, to the following address:

European Commission
Directorate-General for Competition
Merger Registry
J-70
B-1049 Bruxelles/Brussel

⁽¹⁾ OJ L 24, 29.1.2004, p. 1.

⁽²⁾ OJ C 56, 5.3.2005, p. 32.