

Unclassified

DAF/COMP/GF/WD(2010)4



Organisation de Coopération et de Développement Économiques
Organisation for Economic Co-operation and Development

11-Jan-2010

English - Or. English

**DIRECTORATE FOR FINANCIAL AND ENTERPRISE AFFAIRS
COMPETITION COMMITTEE**

DAF/COMP/GF/WD(2010)4
Unclassified

Global Forum on Competition

COMPETITION, STATE AIDS AND SUBSIDIES

Contribution from Lithuania

-- Session I --

This contribution is submitted by Lithuania under session I of the Global Forum on Competition to be held on 18 and 19 February 2010.

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JT03276837

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NEW FUNCTIONS OF THE COMPETITION COUNCIL OF LITHUANIA AND OVERVIEW OF STATE AID PROVIDED IN LITHUANIA

-- Lithuania --

1. New functions of the Competition Council

1. After Lithuania's accession to the EU the Competition Council faced the task to adapt its activities to the essentially new environment in the area of state aid monitoring. The material changes in the aforementioned area introduced certain basic changes in the functions performed by the Competition Council in this respect. Upon the accession amendments to the Law on Competition providing for the new functions of the Competition Council in State aid area became effective. The amendments to the Law establish the role of the Competition Council as a coordinating authority in the field of State aid. Acting in accordance with the European Commission legal acts governing State aid and exercising its functions set forth in the Article 48 of the Law on Competition the Competition Council has been maintaining its closest relations with the European Commission and public authorities of the Republic of Lithuania for the purpose of discussion State aid issues, submitting its comments and proposals to the draft regulations of the European Commission, preparing responses to a number of questionnaires submitted by the European Commission. To make the measures provided for in the State aid action plan on the application of more efficient and simplified procedures operational it is of utmost importance to ensure an enhanced liability of Member States for the proper application of legal provisions. An event of profound importance in this respect was the adoption of the Commission Regulation (EC) No 800/2008 declaring certain categories of aid compatible with the common market in application of Articles 87 and 88 of the Treaty. The enactment of this Regulation as well as other legal acts governing State aid markedly enhanced the role of the Competition Council as authority coordinating the provision of State aid.

2. In accordance with the amended national Law on Competition the Competition Council performs the following functions:

- participates in the submission of the notifications and annual reports (other information) on State aid to the European Commission,
- provides consultations concerning the application of the State aid acquis to the State aid providers,
- accumulates information on State aid provided in Lithuania (including the de minimis aid),
- performs the education and public awareness, as well as other coordination activities, i.e., acts as a moderator between the European Commission and Lithuania, participates in the activities of the Advisory Committee on State Aid established by the European Commission, etc.

1.1 Participation in the submission of information to the European Commission:

3. A very important area of activity of the Competition Council is the submission of notifications on State aid and the annual State aid reports to the European Commission. The procedure for the submission of the notifications has been defined by the Resolution of the Government of the Republic of Lithuania of

2004. The Resolution of the Government stipulates that State aid providers are obligated, in advance, to notify the Competition Council of all State aid proposals subject to the requirement to be notified to the European Commission as defined by the EU regulations. Prior to passing the decision to grant State aid subject to block exemption provisions State aid providers also submit the information to the Competition Council on such State aid. The State aid providers submit such information by completing the notification forms established by relevant EU regulations.

4. Furthermore, the above Resolution of the Government stipulates that State aid providers shall submit to the Competition Council annual reports on the provided State aid by schemes of State aid approved by the European Commission (i.e., - annual reports on existing State aid). The annual reports on provided State aid under block exemption regulations have to be submitted to the Competition Council not later than one month preceding the expiry of the time limit for the submission of annual reports to the European Commission.

5. The Competition Council forward all the received information to the European Commission. As defined in the Resolution of the Government, upon receipt of the notification on State aid the Competition Council examine whether the notification has been properly completed, i.e., whether the submitted notification forms and annexes thereto are complete and all the supporting documents have been attached. The correctly completed notification the Competition Council by electronic form submit to the European Commission. In the event the notification has not been adequately completed the Competition Council notify the State aid provider thereof with an instruction to correct (supplement) the State aid notification, and indicating in writing the faults of the State aid notification.

1.2 Provision of consultations

6. Another important area of activity of the Competition Council after Lithuania's accession to the EU is the provision of consultations on issues related to State aid. The authority provides consultations and advice to State aid providers on all issues related to completing the State aid notification forms. The Competition Council analyses State aid projects submitted by State aid providers and assess the compliance of such projects with the requirements of the relevant EU legislation, draws up appropriate conclusions concerning such notifications and provides proposals. As set forth in the relevant Resolution of the Government concerning the submission of the notification to the European Commission, upon the request of State aid providers, prior to forwarding the notification to the European Commission the Competition Council shall perform the expert examination of the notification and furnish to the State aid providers its conclusions and recommendations concerning the compliance of the intended State aid to the requirements of the relevant EU regulations. The expert examination of the intended State aid notified to the Competition Council may also be performed in cases where no such requests have been filed by the State aid provider; however, the Competition Council has sufficient grounds to question the compatibility of the intended State aid with the requirements of the relevant EU regulations. It should be noted that in such cases, provided no objections are raised by the State aid provider, the State aid notification shall be forwarded to the European Commission only following such expert examination of the notification. State aid providers are entitled, at any stage of the expert examination of the notification performed by the Competition Council, request the Competition Council to submit the notification to the European Commission. In such event the expert examination of the notification shall be suspended and the notification shall be forwarded to the European Commission in an established order. In this case the State aid provider shall apply to the Competition Council with a request to suspend the expert examination of the State aid project and request that the notification be forwarded to the European Commission. As stipulated in the relevant Resolution of the Government the time limit for the submission of conclusions and recommendations concerning the compliance of the State aid to the EU requirements shall not be longer than 2 months from the date of the submission of the request of the State aid provider to the Competition Council to perform the expert examination of the State aid project, or the beginning of such examination in

cases where the expert examination is performed without having received the respective request from the State aid provider. Such *ex ante* assessment of the intended State aid by the Competition Council is expected to help avoid difficulties and problems arising in relation to the provision of aid in contravention of the relevant EU requirements. The properly developed national programs and experts adequately trained to implement such programs constitute an extremely important precondition for the successful absorption of resources made available by the European Union Structural and Cohesion Funds.

7. Alongside it must be noted that in accordance with the provisions of the European Community law only the EU institutions (the European Commission included) are authorised to assess the compatibility of State aid with the Common market. Therefore the conclusions drawn up by the Competition Council concerning the compatibility of the State aid projects may only be of advisory nature.

1.3 Accumulation of information on State aid

8. All information on State aid provided in Lithuania is accumulated in the State aid Register. The Central State aid Register was established in the year 2005. The Register includes not only the data on State aid meeting the criteria set forth in Art. 87(1) of the Treaty, but also the data on *de minimis* aid.

1.4 Representation of the Lithuania's position

9. Another important area of the activity of the Competition Council is the representation of the position of Lithuania in relation to State aid issues, i.e.:

- 1) representation of the position of Lithuania in dealing with various issues related to State aid (in particular issues defined in Regulation (EC) No. 659/1999);
- 2) representation of Lithuania in the Advisory Committee on State Aid set up within the European Commission in accordance with the above regulation;
- 3) participation in the meetings convened by the European Commission considering the State aid issues.

1.5 Activity aimed at enhancing the public awareness:

10. Activity aiming at enhancing public awareness on State aid issues has always been and will remain an extremely important area of activity and the function of the Competition Council. All measures has to be taken to educate State aid providers and business community on issues related to State aid and the measures envisaged by the European Commission within the framework of the new State aid policy.

2. Volumes of state aid

11. According to the data available to the CC, the value of State aid granted in Lithuania during 2007 amounted to LTL 612.17m (EUR 177.3 m). The rate of the national State aid in relation to the GDP (at current prices) in 2007 accounted for 0.63 percent, in 2006 – 0.54 percent. For comparison: the EU-25 average in 2006 was 0.6 percent, in 2007 – 0.5 percent, the EU-15 average in 2006 and 2007 – 0.5 percent, and that of 12 new EU Member States in 2006 and 2007 – 0.8 percent. The average national State aid per working person in 2007 was LTL 399.01 (EUR 115.56), in 2006 – LTL 295.21 (EUR 85.57). The tables and graphs presented in the “Statistics” section show that in 2007, the volume of granted State aid was significantly higher than in 2006 (EUR 128.27 m), and in 2005 (EUR 119.16 m). According to the data available to the CC, the volumes of aid to agriculture increased by LTL 167.77 m (EUR 48.58 m). The increase is accounted for the support of LTL 127.05 m to entities engaged in agricultural activities who have sustained damage due to the fact that their agricultural plans had perished or suffered because of

severe meteorological phenomena in 2006. State aid to industry and services in 2007 was only marginally larger than in 2006, accounting to LTL 186.13 m (EUR 53.91 m), in 2006 – LTL 184.85 m (EUR 53.54 m). In 2007, as compared to the period 2004-2006, higher volumes of the State aid were allocated to environmental protection, implementation of the employment programmes, professional development. This readjustment of State aid structure comes in compliance with the objectives defined by the European Council to provide less but more targeted State aid, with higher volumes of aid resources channelled to horizontal general purpose objectives, i.e. regional development, small and medium-sized enterprises, research, development and innovations, and the implementation of employment programmes. Notably, the volumes of State aid as presented here do not include the funds received from the EU structural funds. The breakdown data of State aid:

Table 1: Total National State Aid in Lithuania in 2007¹

Aid forms Sector	A1	A2	B1	C1	C2	D1	Total (LTLm)	Total (MEUR)
1.1. Agriculture	249.57	173.64	0.27				423.48	122.65
1.2. Fisheries	2.56						2.56	0.74
2. Industry/services	91.72	94.41					186.13	53.91
2.1. Horizontal aid	77.75	63.74					141.49	40.98
2.1.1. Research, development and innovations								
2.1.2. Environmental protection	6.60	56.44					63.04	18.26
2.1.3. SMEs	8.59						8.59	2.49
2.1.4. Trade								
2.1.5. Energy efficiency								
2.1.6. Investments								
2.1.7. Employment programs	13.90						13.90	4.03
2.1.8. Professional development	48.66						48.66	14.09
2.1.9. Privatisation								
2.1.10. Rescue/restructuring		7.30					7.30	2.11
2.2. Sectoral aid		11.95					11.95	3.46
2.2.1. Steel industry								
2.2.2. Ship-building								
2.2.3. Transport		11.95					11.95	3.46
2.2.4. Coal industry								
2.2.5. Synthetic fibre								
2.2.6. Other sectors								
2.3. Regional aid	13.97	18.72					32.69	9.47
Total:	343.85	268.05	0.27				612.17	177.30
Manufacturing and services:	91.72	82.46					174.18	50.45

Explanations of symbolic markings:

A1 – not recovered aid: grants, subsidies

A2 – tax exemptions, tax relief, write-off of late interest and penalties, other exemptions

B1 – different types of increase of the state-owned equity of enterprise or increase of its value

C1 – soft loans

C2 – tax deferrals

D1 – State guarantees

1. Compensations for the provision of the services of general economic interest are not included.

Table 2: Total National State Aid in Lithuania in 2000-2007 (MEUR)

Year Indicators	2000	2001	2002	2003	2004	2005	2006	2007
Total national State aid	68.70	39.73	74.96	40.67	120.38	119.16	128.27	177.30
Of which:								
- manufacturing and services	42.07	17.26	44.03	25.56	25.34	25.66	53.54	50.45
- agriculture and fishery	0.43	0.82	1.43	0.74	89.63	93.50	74.73	123.39
- transport	26.20	21.65	29.50	14.37	5.41	-	-	3.46

Table 3: Total National State Aid in Lithuania in 2000-2007

Year Indicators	2000	2001	2002	2003	2004	2005	2006	2007
MEUR	68.70	39.73	74.96	40.67	120.38	119.16	128.27	177.30
EUR per employee	43.32	26.11	53.31	28.28	83.81	80.85	85.57	115.56
% of GDP (at current prices)	0.57	0.29	0.51	0.25	0.66	0.58	0.53	0.62
% of national budget expenditures	2.81	1.36	2.22	1.12	2.85	2.41	2.46	2.91
% of national budget deficit	66.50	13.21	23.50	12.42	55.73	71.77	119.27	50.60
Average population (m)	3.50	3.48	3.47	3.45	3.43	3.41	3.39	3.37

Table 4: Methods of Granted National State Aid in 2000-2007

	A1	A2	B1	C1	C2	D1	Total (LTL m)	Total (MEUR)
State aid 2000	225.55	7.45	0.06	0.01	0.07	22.48	255.62	68.70
State aid 2001	87.99	24.50	0.00	0.07	27.54	0.00	140.10	39.73
State aid 2002	93.09	127.19			38.45	0.07	258.8	74.96
State aid 2003	50.03	46.22	11.62	0.34	32.13	0.00	140.34	40.67
State aid 2004	202.79	183.33	13.40	0.03	15.69	0.40	415.64	120.38
State aid 2005	205.30	205.80	0.35				411.45	119.16
State aid 2006	243.88	198.86	0.12				442.86	128.27
State aid 2007	343.85	268.05	0.27				612.17	177.30

Explanations of symbolic markings:

A1 – not recovered aid: grants, subsidies

A2 – tax exemptions, tax relief, write-off of late interest and penalties, other exemptions

B1 – different types of increase of the state-owned equity of enterprise or increase of its value

C1 – soft loans

C2 – tax deferrals

D1 – state guarantees

Table 5: State Aid Assessed by Resolutions of the European Commission in 2008

State aid notification registration in the EC	Title of the aid	Beneficiary sector	Purpose of the aid	Duration of the aid scheme	Decision of the Commission	Decision date
28-07-2007	No. 497/2007 Creation of broadband data transfer network in Lazdijai and Alytus municipalities	Telecommunications	Creation of broadband communications infrastructure		Approved	16-07-2008
19-10-2007	No. 666/2007 Aid for reimbursement of insurance premiums	Agriculture	To promote voluntary insurance from the damage caused by diseases of animals and plants, natural disasters and unfavourable weather conditions	Until 31-12-2013	Approved	13-02-2008
14-11-2007	No. 737/2007 Aid for reimbursement of guarantee payments	Agriculture	To reimburse the guarantee payment in respect of loans from credit institutions	Until 31-12-2013	Approved	13-02-2008
11-21-2007	No. 682/2007 Partial compensation for costs of insurance undertakings resulting from the payment of insurance payments for losses caused by drought	Agriculture	Partial compensation for costs of insurance undertakings resulting from the payment of insurance payments for losses caused by drought	Until 31-12-2013	Approved	03-06-2008
21-11-2007	No. 683/2007 Compensation of losses caused by transmittable animal diseases	Agriculture	Compensate losses for animal breeders in relation to the liquidation of the outbreaks of transmittable animal diseases	Until 31-12-2013	Approved	22-07-2008
17-12-2007	No. 755/ 2007 Aid for reimbursement of credit interest (except the purchase of land)	Agriculture	To reimburse the credit interest paid for the credits from credit institutions to implement investment projects	Until 31-12-2013	Approved	30-04-2008
19-12-2007	No. 764/2007 Aid to the Lithuanian Power Station	Energy	Construction of a 400MW Combined Cycle Gas Turbine		Not State aid within the meaning of Art. 87(1) of the EC Treaty	13-02-2008
15-04-2008	No. 197/2008 Regional aid for energy sector	Energy	Regional development	Until 31-12-2013	Approved	06-17-2008
19-11-2008	No. 587/2008 Aid for reimbursement of credit interest (except the purchase of land)	Agriculture	To reimburse the credit interest paid for the credit from credit institutions to implement investment projects	Until 31-12-2013	Approved	12-17-2008