**Question:**

1) The definition of various types of "initial investment" (art. 2 (49) of Commission Regulation (EU) № 651/2014) sometimes are very complex. In practice, in certain cases it is not easy to distinguish between “setting up of a new establishment” and "diversification of the output of an establishment". We would like your opinion in which initial investment would fall a project where a company manufacturing certain types of products is intending to set up a new establishment (all the conditions for new establishment are respected). The acquired assets for the new establishment will be used for the production of products that are not previously produced from the company. In this case which type of initial investment occurred: “setting up of a new establishment” or "diversification of the output of an establishment into products not previously produced in the establishment" (pursuant to art. 2 (49) of Commission Regulation (EU) № 651/2014) or there are two types of "initial investment" at the same time. If there are two types of "initial investment" – i.e. “new establishment” and "diversification" under a single project how the limitation specified in Article 14 (7) of Commission Regulation (EU) № 651/2014 has to be applied.

*2)* According to your previous answers one of the characteristics of the initial investment related to “setting up of a new establishment” is that the establishment should be self-standing, not relying on joint technical resources with an existing establishment. If a company is setting up a new establishment for the manufacturing of products that are not previously produced from the company and will use the waste from an existing establishment (this existing establishment is independent and self-standing from the new establishment) as a production material for the activity in the new establishment, is this initial investment will still be considered as “setting up of a new establishment” or no?

**Reply:**

If all conditions for setting-up of a new establishment are respected (the establishment is independent and self-standing from the existing establishment and not relying on joint technical resources with the existing establishment etc), then the project would be considered "setting up of a new establishment" and not "diversification of the output of an establishment".  Therefore, conditions of Article 14(7) would not apply.

As longs as the new establishment is a self-standing establishment, it does not matter that it will use waste from the existing establishment.

Disclaimer: This reply does not represent a formal and definite position of the European Commission but is only an informal guidance provided by the services of DG Competition to facilitate the application of the GBER. It is therefore not binding and cannot create legal certainty or legitimate expectations.