EUROPEAN
COMMISSION

Brussels, XXX
[…](2012) XXX draft

Paper of the services of DG Competition containing draft guidelines on regional State aid for 2014-2020

(Text with EEA relevance)

Contents

INTRODUCTION

1. On the basis of Articles 107(3)(a) and (c) of the Treaty on the Functioning of the European Union (TFEU), the Commission may consider compatible with the internal market State aid to promote the economic development of certain disadvantaged areas within the European Union[1]. This kind of State aid is known as regional aid.

2. The objective of geographical development distinguishes regional aid from other forms of aid, such as aid for research, development and innovation, employment, training or the environment, which pursue other objectives of common interest in accordance with Article 107(3) of the TFEU, [albeit sometimes with higher rates of aid in the disadvantaged areas in recognition of the specific difficulties which they face[2].]

3. Regional aid can only play an effective role if it is used sparingly and proportionately and is concentrated on the most disadvantaged regions of the European Union. In particular, the permissible aid ceilings should reflect the relative seriousness of the problems affecting the development of the regions concerned. Furthermore, the advantages of the aid in terms of the development of a less-favoured region must outweigh the resulting distortions of competition[3]. The weight given to the advantages of the aid is likely to vary according to the derogation applied, so that a greater distortion of competition can be accepted in the case of the most disadvantaged regions covered by Article 107(3)(a) than in those covered by Article 107(3)(c)[4].

4. The primary objective of State aid control in the field of regional aid is to allow aid for regional development while ensuring a level playing field between Member States, in particular by preventing subsidy races that may occur when they try to attract or retain businesses in disadvantages areas of the EU, and to limit the effects of regional aid on trade and competition to the minimum necessary.

5. In these guidelines, the Commission sets out the conditions under which regional aid may be considered to be compatible with the internal market and establishes the criteria for identifying the areas that fulfil the conditions of Articles 107(3)(a) and (c) of the TFEU.

6. Regional aid can be effective in promoting the economic development of disadvantaged areas only when it is targeted on certain areas[5] and when it is awarded to induce additional investment or economic activity in those areas. In certain very limited, well-identified cases, the handicaps of an area in terms of attracting or

---

1 Areas eligible for regional aid under Article 107(3)(a) of the TFEU, commonly referred to as 'a' areas, tend to be the more disadvantaged within the EU in terms of economic development. Areas eligible under Article 107(3)(c) of the TFEU, referred to as 'c' areas, also tend to be disadvantaged but to a lesser extent.

2 [Regional top-ups for aid granted for such purposes are therefore not considered as regional aid.]

3 See in this respect the judgment of the Court of Justice in Case 730/79, Philip Morris [1980], ECR 2671, paragraph 17 and in Case C-169/95, Spain v Commission [1997], ECR I-148, paragraph 20.

4 See in this respect the judgment of the Court of First Instance in T-380/94, AIUFFASS and AKT v Commission [1996], ECR II-2169, paragraph 54.

5 Each Member State may identify these areas in a regional aid map on the basis of the conditions laid down in Section 5.

maintaining economic activity may be so severe or permanent so that investment aid alone may not be sufficient to allow the development of that area. Only in such cases, regional investment aid may be supplemented by regional operating aid not linked to an investment[6].

7. In the Communication on State aid modernisation of 8 May 2012[7], the Commission announced three objectives of modernising State aid control:

(a) to foster sustainable, smart and inclusive growth in a competitive internal market;

(b) to focus Commission ex ante scrutiny on cases with the biggest impact on the internal market while strengthening the cooperation with Member States in State aid enforcement;

(c) to streamline the rules and provide for faster decisions.

8. In particular, the Communication called for a common approach in the revision of the different guidelines and frameworks based on strengthening the internal market, promoting more effectiveness in public spending through a better contribution of State aid to the objectives of common interests, greater scrutiny on the incentive effect, on limiting the aid to the minimum, and on the potential negative effects of the aid on competition and trade.

1. SCOPE AND DEFINITIONS

1.1. Scope of regional aid

9. Large companies tend to be less affected than small and medium enterprises (SMEs)[8] by regional handicaps for investing or maintaining economic activity in a less developed area. Firstly, large companies can more easily obtain capital and credit on global markets and are less constrained by the more limited offer of financial services in a particular disadvantaged region. Investments by large undertakings can produce economies of scale that reduce location-specific initial costs and, in many respects, are not tied to the region in which the investment takes place. Secondly, large companies making investments usually possess a considerable bargaining power vis-à-vis the authorities, which might lead to aid being awarded without due justification. Finally, large companies are more likely to be significant players on the market concerned and, consequently, the investment for which the aid is awarded may modify the conditions of competition in that market. As a result, the incentive effect and proportionality of such aid might not be ensured, leading to significant distortions of competition.

10. In view of potentially high distortive effects, regional aid cannot be awarded to large undertakings for their investments in areas eligible for regional aid under Article 107(3)(c) of the TFEU. Furthermore, large undertakings cannot receive operating aid even in regions eligible for aid under Article 107(3)(a) of the TFEU. Large companies may, however, receive operating aid in outermost regions as defined

6 For the definitions of these concepts see paragraphs 16(k) and 16(p).

7 COM/2012/0209 final.

8 As defined in in Commission recommendation of 6 May 2003 concerning the definition of micro, small and medium-sized enterprises (OJ L 124, 20.5.2003, p. 36).

under Article 349 of the TFEU and in sparsely populated areas as defined in paragraph 144(b) of these guidelines.

11. Regional aid may also not be awarded to firms in difficulties within the meaning of the Community guidelines on State aid for rescuing and restructuring firms in difficulty[9].

12. Regional aid to the coal[10], steel[11] and synthetic fibres[12] sectors shall not be considered to be compatible with the internal market.

13. Operating aid may not be awarded to undertakings whose principal activity falls under Section K 'Financial and insurance activities' of the NACE Rev. 2 statistical classification of economic activities[13] or to undertakings that perform intra-group activities and whose principal activity falls under classes 70.10 'Activities of head offices' or 70.22 'Business and other management consultancy activities' of NACE Rev. 2.

14. These guidelines shall apply to regional aid in all sectors of economic activity[14], apart from fisheries and aquaculture[15], agricultural[16] and transport sector[17] which are subject to special rules laid down by specific legal instruments, which might derogate partially or totally from these guidelines.

15. Broadband network infrastructures, energy-related and environmental infrastructures and RDI infrastructures may benefit from regional investment aid if, in addition to the conditions of these regional aid guidelines, they comply with the specific conditions referred to below. In the case of broadband network infrastructures: (i) the aid may be granted only in areas where no comparable infrastructures[18] are available;

---

[9] OJ L 244, 1.10.2004, p.2. As explained in paragraph 20 of those Guidelines, given that its very existence is in danger, a firm in difficulty cannot be considered an appropriate vehicle for promoting other public policy objectives until such time as its viability is assured

[10] 'Coal' means high-grade, medium-grade and low-grade category A and B coal within the meaning of the international codification system for coal laid down by the United Nations Economic Commission for Europe.

[11] As defined in Annex IV.

[12] As defined in Annex IV.

[13] As laid down in Regulation (EC) No 1893/2006 of the European Parliament and of the Council of 20 December 2006 establishing the statistical classification of economic activities NACE Revision 2 and amending Council Regulation (EEC) No 3037/90 as well as certain EC Regulations on specific statistical domains (OJ L 393, 30.12.2006, p. 1). Regulation as amended by Commission Regulation (EC) No 973/2007 of 20 August 2007 amending certain EC Regulations on specific statistical domains implementing the statistical classification of economic activities NACE Revision 2 (OJ L 216, 21.8.2007, p. 10).

[14] Following the expiry on 31 December 2013 of the Framework on State aid to shipbuilding (OJ C 364, 14.12.2011, p. 9.), regional aid to shipbuilding is also covered by these guidelines.

[15] As covered by Council Regulation (EC) No 104/2000 of 17 December 1999 on the common organisation of the markets in fishery and aquaculture products (OJ L 17, 21.1.2000, p. 22).

[16] i.e. the primary production, processing and marketing of agricultural products listed in Annex I of the TFEU.

[17] i.e. air transport, maritime transport, road transport, rail transport and transport by inland waterway.

[18] In view of paragraph 51 of the Broadband Guidelines a subsidized network should ensure a 'step change' in terms of broadband availability in the area concerned, i.e. the subsidized network brings significant new capabilities to the market in terms of availability and capacity, speeds and competition. The subsidized network shall be compared to the existing as well as concretely planned network roll-outs in line with paragraph 63 of the Broadband Guidelines [Communication from the Commission EU Guidelines for the application of state aid rules in relation to the rapid deployment of broadband networks [C(2012)9609] [reference to the OJ to be included once the guidelines are published].

(ii) the networks for which aid is granted must provide wholesale access to all third party operators on an open and non-discriminatory basis and (iii) the aid beneficiary shall be selected on the basis of a competitive tender in accordance with paragraphs 78(c) and (d) of the broadband guidelines[19]. *[In the case of energy-related infrastructure, the scope of the eligible costs for investments relating to energy generation shall be subject to consultation on the energy and environmental State aid guidelines and to the consultation on generation adequacy, capacity mechanisms and the internal market in electricity. The same holds for the definition of compatibility conditions in the energy field. The relevant additional conditions for environmental infrastructure or RDI infrastructure corresponding to some of the key objectives of the energy and environmental state aid guidelines and the RDI guidelines will be integrated in the draft text of these regional aid guidelines once the discussions on those guidelines are sufficiently advanced.]*

1.2. Definitions

16. For the purposes of these guidelines, the following definitions shall apply:

(a) "'a' areas" and "'c' areas" means those areas designated in a regional aid map in application of the provisions of Articles 107(3)(a) and (c) of the TFEU;

(b) 'date of award of the aid' means the date when the Member State took a legally binding commitment to award the aid that can be invoked before the national judge;

(c) 'ad hoc aid' means individual aid not awarded on the basis of a scheme;

(d) 'gross grant equivalent' (GGE) means the discounted value of the aid expressed as a percentage of the discounted value of the eligible costs. The GGE is calculated at the time of award of the aid on the basis of the reference rate applicable on that date;

(e) 'eligible costs' means, for the purpose of investment aid, investment or wage costs;

(f) 'investment aid' means aid awarded for an initial investment;

(g) 'investment costs' include tangible and intangible assets that are part of an initial investment;

(h) 'tangible assets' means assets relating to land, buildings and plant, machinery and equipment. If the economic activity of the beneficiary is in the transport sector movable assets are not considered as eligible costs;

(i) 'intangible assets' means assets acquired through a transfer of technology, such as patent rights, licences, know-how or unpatented technical knowledge;

(j) 'wage costs' means the total amount actually payable by the beneficiary ,of the aid in respect of employment concerned, comprising the gross wage before tax, and the compulsory social security contributions over a defined period of time;

(k) 'initial investment' means:

---

[19] Communication from the Commission EU Guidelines for the application of state aid rules in relation to the rapid deployment of broadband networks [C(2012)9609] [reference to the OJ to be included once the Guidelines are published].

– an investment in tangible and intangible assets related to: 1) the setting-up of a new establishment; 2) the extension of the capacity of an existing establishment; 3) the diversification of the output of an establishment into products not previously produced in the establishment; or 4) a fundamental change in the overall production process of an existing establishment, or;

– an acquisition of assets directly linked to an establishment provided the establishment has closed or would have closed if it had not been purchased, and is bought by an investor unrelated to the seller. The sole acquisition of the shares of an undertaking shall not qualify as initial investment.

(l) 'large investment project' means an initial investment with eligible costs exceeding EUR 50 million, calculated at prices and exchange rates on the date of award of the aid;

(m) 'maximum aid intensities' means the percentages laid down in subsection 5.4 and reflected in the regional aid map and to be applied to the eligible costs.

(n) 'job creation' means a net increase in the number of employees directly employed in a particular establishment compared with the average over the previous 12 months. Any jobs lost during that 12-month period must therefore be deducted from the apparent number of jobs created during the same period.

(o) 'number of employees' means the number of annual labour units (ALU), namely the numbers of persons employed full time in one year; persons working part-time and employed in seasonal work will be counted in ALU fractions;

(p) 'operating aid' means aid to reduce an undertaking's current expenditure that is not related to an initial investment. This includes costs categories such as personnel costs, materials, contracted services, communications, energy, maintenance, rent, administration, etc., but excludes depreciation charges and the costs of financing if these have been included in the eligible costs when granting regional investment aid. Operating aid may be based on actual costs but may be granted in the form of periodic instalments to cover expected costs (periodic lump sum payments).

(q) 'regional aid map' means the list of areas designated by a Member State in compliance with the conditions laid down in these guidelines and approved by the Commission;

(r) 'adjusted aid amount' means the allowable maximum aid amount for a large investment project that is calculated according to the following formula: maximum aid amount = $R \times (50 + 0.50 \times B + 0.34 \times C)$, where R is the maximum aid intensity allowed in the area concerned, excluding the increased aid intensity for SMEs, B is the eligible costs between EUR 50 million and EUR 100 million, and C is the eligible costs between EUR 100 and EUR 500 million[20]. The scale is presented below:

[20] This is calculated on the basis of the official exchange rates prevailing on the date on which the aid is granted.

Eligible costs	Scaled down aid intensity
Up to EUR 50 million	100 % of the regional ceiling
For the part between EUR 50 million and EUR 100 million	50 % of the regional ceiling
For the part between EUR 100 million and EUR 500 million	34 % of the regional ceiling

(s) ‘single investment project’ means any initial investment started by the same beneficiary (at group level) in a period of three years from the date of start of works on another aided investment in the same NUTS 3 region.

(t) ‘start of works’ means either the start of construction works on the investment, or the first firm commitment to order equipment or other commitment that makes the investment irreversible, whichever is the first in time. Preparatory works such as obtaining permits and conducting preliminary feasibility studies are not considered as start of works.

(u) ‘SMEs’ means undertakings that fulfil the conditions laid down in Commission recommendation of 6 May 2003 concerning the definition of micro, small and medium-sized enterprises[21].

2. NOTIFIABLE REGIONAL AID

17. In principle, Member States must notify regional aid pursuant to Article 108(3) of the TFEU, with the exception of measures that fulfil the conditions laid down in a block exemption Regulation adopted by the Commission pursuant to Article 1 of Council Regulation (EC) No 994/98 of 7 May 1998 on the application of Articles 92 and 93 of the Treaty establishing the European Community to certain categories of horizontal State aid[22].

18. In particular, investment aid schemes targeted at specific sectors of economic activity and specific forms of operating aid schemes remain subject to the notification obligation pursuant to Article 108 (3) of the TFEU because of higher risks of distortion of competition and trade. In addition, the following two categories of individual investment aid remain subject to the notification obligation: 1) aid granted on the basis of an existing aid scheme or outside a scheme the amount of which is above the notification threshold laid down in paragraph 22 below and 2) any investment aid (potentially) linked to a closure of the same or a similar activity in the EEA regardless of the aid amount.

2.1. Investment aid schemes targeted at specific sectors of economic activity

19. As a general rule, investment aid should be awarded under multi-sectoral schemes which should form an integral part of a regional development strategy with clearly defined objectives. Investment aid schemes targeted at specific sectors of economic activity must be notified.

20. The Commission considers that a scheme is targeted at specific sectors of economic activity whenever it covers only one or a limited number of activities within manufacturing or services. Schemes aimed at tourism activities or processing and marketing of non-Annex I agricultural products are not considered to be targeted at

21 OJ L 124, 20.5.2003, p. 36.

22 OJ L142, 14.5.1998, p. 1.

specific sectors of economic activity. However, schemes which include the possibility to grant investment aid also to the shipbuilding sector must be notified.

2.2. Individual investment aid above the notification threshold

21. A Member State must notify aid for an investment project, if the aid awarded from all sources exceeds the maximum allowable aid amount that an investment with eligible costs of EUR 100 million can receive in accordance with the adjusted maximum aid intensity, as referred to in paragraph 16(r).

22. The notification thresholds for the maximum aid intensities laid down in subsection 5.4 are summarised in the table below:

Aid intensity	20 %	25 %	30 %	35 %	50 %
Notification threshold	EUR 15 million	EUR 18.75 million	EUR 22.5 million	EUR 26.25 million	EUR 37.5 million

23. For investments that form a single investment project, the Member State must notify the aid for the project with the most recent start of works for which the notification threshold is exceeded.

2.3. Individual investment aid (potentially) linked to a closure of the same or a similar activity in the EEA

24. The Commission considers that aid that lead to the relocation of existing capacity within the EEA might have seriously distortive effects on competition and trade between Member States. In particular, aid given in one region may put a premature end to existing economic activity in the other region and may expose the economy of the latter region to significant adjustment costs due to frictions in the labour market and in the redeployment of invested capital.

25. Therefore, Member States must notify investment aid for any project by large enterprises or SMEs where the beneficiary has closed down a similar productive activity in the EEA in the two years preceding the award of aid or where the beneficiary plans to close down such an activity in the two years after the investment is completed.

2.4. Regional operating aid schemes

26. Regional operating aid is normally prohibited. Exceptionally, however, such aid may be awarded in ‘a’ areas, including the outermost areas, and in areas with a very low population density, provided that it is justified in terms of its contribution to regional development and that its level is proportional to the difficulties or handicaps its seeks to alleviate.

27. Accordingly, because of the higher risk of distortion to competition and trade, the following regional operating aid schemes must be notified: 1) Aid to reduce certain specific difficulties faced by SMEs in ‘a’ areas; 2) Aid to compensate for certain additional costs (other than transport costs) in the outermost regions; 3) Aid to prevent or reduce depopulation in areas with a very low population density.

3. COMPATIBILITY ASSESSMENT OF REGIONAL AID

28. In assessing whether a notified aid measure can be considered compatible with the internal market, the Commission analyses whether the design of the measure ensures

that the positive impact of the aid measure in reaching an objective of common interest outweighs its potential negative effects on trade and competition. For this purpose, the Commission will consider whether each of the following criteria is met:

(a) Contribution to a well-defined objective of common interest: for regional aid the main objective is to address in particular equity considerations, namely furthering economic cohesion in the EU by helping to reduce the gap between the development levels of the various regions of the EU.

(b) Absence of market delivery of the equity objective: in order to be effective, the aid should address a well-defined market failure or equity concern. In the context of these guidelines, this element of the compatibility test is fulfilled if the regions concerned are included in approved regional aid maps that shows which areas are eligible for aid under the derogations provided for in Article 107 (3) (a) and (c) TFEU (see section 5).

(c) Appropriateness of the aid measure: an aid measure will not be considered compatible if other less distortive policy instruments or aid instruments allow reaching the same positive contribution to regional development.

(d) Incentive effect of the aid: the aid must change the behaviour of the undertaking in such a way that it engages in additional activity contributing to the development of an area which it would not carry out without the aid or it would carry out in a restricted or different manner or location.

(e) Aid limited to the minimum: the aid must be limited to the minimum needed to induce additional investment or activity in the area concerned.

(f) Avoidance of undue negative effects: the negative effects of the aid measure in terms of distortion of competition and impact on trade between Member States must be limited; this in practice leads to the exclusion of certain types of measures or beneficiaries (see subsection 1.1) and identification of cases where the negative effects are likely to outweigh any positive effects (see paragraphs 122 and 123 below).

(g) Transparency: Aid shall be awarded in a transparent manner; in particular, it must be ensured that the Member States, economic operators, the interested public and the Commission have easy access to all relevant acts and pertinent information about the aid awarded thereunder.

29. If at least one of the above criteria is not met, the measure will not be considered to be compatible with the internal market. In all other cases, the Commission will conduct a balancing test of the positive effects in terms of contribution to the development of the area against the identified potential distortions of competition and trade;

30. Moreover, if a State aid measure or the conditions attached to it (including its financing method when it forms an integral part of it) entail a non-severable violation of EU law, the aid cannot be declared compatible with the internal market[23].

31. In this section the Commission presents the conditions under which for notified regional aid it will assess the above criteria. Where applicable specific conditions for individual investment aid and operating aid will be mentioned.

[23] See for instance Case C-156/98 *Germany* v *Commission* [2000] ECR I-6857, paragraph 78 and Case C-333/07 *Régie Networks v Rhone Alpes Bourgogne* [2008] ECR I-10807, paragraphs 94-116.

3.1. Contribution to a common objective

32. The objective of regional aid is to reduce the development gap between regions in the European Union. Through its equity or cohesion objective regional aid may contribute to the achievement of the Europe 2020 strategy delivering an inclusive and sustainable growth.

3.1.1. General conditions

33. Regional aid schemes should form an integral part of a regional development strategy with clearly defined objectives and should be consistent with and contribute towards these objectives.

34. This would be the case in particular for measures implemented in accordance with regional development strategies defined in the context of the European Regional Development Fund (ERDF), the European Social Fund, the Cohesion Fund, the European Agricultural Fund for Rural Development or the European Maritime and Fisheries Fund in view of contributing towards the objectives of the Europe 2020 strategy.

35. For aid schemes outside an operational programme financed from the cohesion policy funds, Member States should demonstrate that the measure is consistent and contributes to the development strategy of the area concerned. For this purpose, Member States can rely on evaluations of past State aid schemes, impact assessments made by the granting authorities, or expert opinions.

36. To ensure that the aid scheme contributes to this development strategy, it must include a system that will enable the granting authorities to prioritise and select the investment projects according to the objectives of the scheme (e.g. on the basis of a formal scoring approach). For schemes that implement priorities identified in an operational programme supported by funds under the Common Strategic Framework, the Member State may base the prioritisation and selection of projects on the outcome of similar procedures used for operations supported by those funds.[24]

37. When awarding the aid under a scheme to individual investment projects, the granting authority must verify and confirm that the selected project will contribute towards the objective of the scheme and thus towards the development strategy of the area concerned.

38. To ensure that the investment makes a real and sustained contribution to the development of the area concerned, the investment must be maintained in the area concerned for at least five years, or three years for SMEs, after its completion[25].

39. If the aid is calculated on the basis of wage costs, the posts must be filled within three years of the completion of works. Each job created through the investment must be maintained within the area concerned for a period of five years from the date the post was first filled. For investments done by all SMEs, Member States may reduce this five-year period for the maintenance of an investment or jobs to a minimum of three years.

[24] For broadband network infrastructure the aid beneficiary must be selected on the basis of a competitive tender in light of paragraph 78 c) and d) of the Broadband Guidelines.

[25] This provision shall not prevent the replacement of plant or equipment that has become outdated within the minimum period due to technological change, provided that the economic activity is retained in the area concerned for the minimum period.

40. To ensure that the investment is viable, the Member State must ensure that the beneficiary provides a financial contribution of at least 25 % of the eligible costs, through its own resources or by external financing, in a form that is exempt of any public financial support[26].

41. To avoid that State aid measures would lead to environmental harm, Member States must also ensure that an environmental impact assessment is performed when it is required by national or EU law.

42. For ad hoc aid, the Member State must demonstrate that the project is coherent with and contributes towards the development strategy of the area concerned and that the aid fulfils the same conditions as investment aid awarded on the basis of a scheme, unless otherwise mentioned.

3.1.2. Individual investment aid

43. To demonstrate the regional contribution of investment aid, Member States may use the following indicators that can be both direct (e.g. direct jobs created) and indirect (e.g. local innovation):

(a) The number of direct <u>jobs</u> created by the investment is an important indicator of the contribution to regional development. The quality of the jobs created and the required skill level should also be considered.

(b) An even higher number of new jobs might be created in the local (sub-)supplier network, helping to better integrate the investment in the region concerned and ensuring more widespread spillover effects. The number of <u>indirect jobs</u> created will therefore also be taken into account.

(c) A commitment by the beneficiary to enter into widespread <u>training</u> activities to improve the skills (general and specific) of its workforce will be considered as a factor that contributes to regional development. Emphasis will also be put on providing traineeships, especially for young people and on training that improves the knowledge and employability of workers outside the undertaking. General or specific training for which training aid is approved will not be counted as a positive effect of the regional aid to avoid double counting.

(d) External economies of scale or other benefits from a regional development viewpoint may arise as a result of proximity (<u>clustering effect</u>). Clustering of undertakings in the same industry allows individual plants to specialise more, which leads to increased efficiency. However, the importance of this indicator in determining the contribution to regional development depends on the state of development of the cluster.

(e) Investments embody technical knowledge and can be the source of a significant <u>transfer of technology (knowledge spillovers)</u>. Investments taking place in technology intensive industries are more likely to involve technology transfer to the recipient region. The level and the specificity of the knowledge dissemination are also important in this regard.

(f) The projects' contribution to the region's ability to create new technology through local innovation can also be considered. Co-operation of the new

[26] This is not the case e.g. for subsidised loans, public equity-capital loans or public participations which do not meet the market investor principle, state guarantees containing elements of aid, or public support granted within the scope of de minimis rule.

production facility with local higher education institutions can be considered positively in this respect.

(g) The duration of the investment and possible future follow-on investments are an indication of a durable engagement of a company in the region.

44. Member States can also refer to the business plan of the aid beneficiary which could provide information on the number of jobs to be created, salaries to be paid (increase in household wealth as spill-over effect), volume of sales from local producers, turnover generated by the investment and benefiting the area possibly through additional tax revenues.

3.1.3. Operating aid schemes

45. Operating aid may be considered to be compatible with the internal market if it is awarded for the following objectives:

(a) to reduce certain specific difficulties faced by SMEs in ‘a’ areas;

(b) to compensate for certain additional costs (other than transport costs) incurred in outermost regions as a direct effect of one or several of the permanent handicaps referred to in Article 349 of the TFEU[27];

(c) to prevent or reduce depopulation in very sparsely populated areas[28].

46. The Commission will therefore consider that aid that is intended to address those problems contributes towards regional development.

47. The Member State must demonstrate the existence and importance of those problems in the area concerned.

3.2. Absence of market delivery of the equity objective

48. In order to assess whether State aid is effective in reaching the objective of common interest, it is necessary to have first a diagnosis of the problem to be addressed. State aid should be targeted towards situations where aid can bring about a material improvement that the market cannot deliver itself. This holds especially in a context of scarce public resources.

49. In the present context, for areas included in the regional aid map according to the rules developed in section 5 below, the Commission considers that the market is not delivering the expected equity objectives without state intervention and therefore these areas should be eligible for the provision of State aid under Article 107(3) (a) and (c) TFEU.

3.3. Appropriateness of regional aid

3.3.1. Appropriateness among alternative policy instruments

3.3.1.1. Investment aid schemes

50. Regional investment aid is not the only policy instrument available to Member States to support investment and job creation in disadvantaged regions. Member States can

[27] i.e. remoteness, insularity, small size, difficult topography and climate, and economic dependence on a few products.

[28] Very sparsely populated areas should in principle correspond to NUTS 2 regions with less than 8 inhabitants per km² (based on Eurostat data on population density for 2010) or to parts of such NUTS 2 regions. Those areas may however extend to smaller adjacent areas with less than 8 inhabitants per km².

use other measures such as infrastructure development, enhancing the quality of education and training, or improvements in the business environment.

51. Member States shall indicate why regional aid is an appropriate instrument to tackle the common objective of equity or cohesion when introducing a scheme outside an operational programme financed from the cohesion policy funds.

52. If a Member State decides to put in place a sectoral aid scheme outside an operational programme financed from the cohesion policy funds, it shall demonstrate the advantages of such an instrument compared to a multi-sectoral scheme or other policy options. The Commission will in particular take account of impact assessments of the proposed aid scheme the Member State may make available.

3.3.1.2. Individual investment aid

53. For ad hoc aid, the Member State must demonstrate how the development of the area concerned is better ensured by such aid than by aid under a scheme or other types of measures.

3.3.1.3. Operating aid schemes

54. The Member State must demonstrate that the aid is appropriate to achieve the objective of the scheme, in relation to the problems that the aid is intended to address. To demonstrate that the aid is appropriate, the Member State shall calculate the aid amount ex ante as a fixed sum covering the expected additional in costs over a given period, rather than to establish it on the basis of costs and revenues as they are incurred. In the latter situation, there are typically few incentives for the company to contain costs and to develop the business over time[29].

3.3.2. Appropriateness among different aid instruments

55. Regional aid can be awarded in various forms. The Member State should however ensure that the aid is awarded in the form that is likely to generate the least distortions of trade and competition. In this respect, if the aid is awarded in forms that provide a direct pecuniary advantage (e.g. direct grants, exemptions or reductions in taxes, social security or other compulsory charges, or the supply of land, goods or services at favourable prices, etc.), the Member State must demonstrate why other potentially less distortive forms of aid that such as repayable advances or forms of aid that are based on debt or equity instruments (e.g. low-interest loans or interest rebates, state guarantees, the purchase of a share-holding or an alternative provision of capital on favourable terms) are not appropriate.

56. For aid schemes implementing the objectives and priorities of operational programmes, the financing instrument chosen in this programme is considered to be an appropriate instrument.

3.4. Incentive effect

3.4.1. General conditions

57. Regional aid can only be found compatible with the Treaty, if it has an incentive effect. An incentive effect occurs when the aid changes the behaviour of an

29 However, where future costs and revenue developments are surrounded by a high degree of uncertainty and there is a strong asymmetry of information, the public authority may also wish to adopt compensation models that are not entirely ex ante, but rather a mix of ex ante and ex post (e.g. using claw backs such as to allow sharing of unanticipated gains).

undertaking in such a way that is engages in additional activity contributing to the development of an area which it would not carry out without the aid or it would carry out in a restricted or different manner or location. The aid must not subsidise the costs of an activity that an undertaking would anyhow incur and must not compensate for the normal business risk of an economic activity.

58. The existence of an incentive effect can be proven in two possible scenarios:

1. The aid gives an incentive to adopt a positive investment decision because an investment that would otherwise not be sufficiently profitable for the beneficiary can take place in the area concerned[30] (*scenario 1*, investment decision) or

2. The aid gives an incentive to opt to locate a planned investment in the relevant area rather than elsewhere because it compensates for the net handicaps and costs linked to a location in the area concerned (*scenario 2*, location decision).

59. If the aid does not change the behaviour of the beneficiary by stimulating (additional) investment in the area concerned, it can be considered that the same investment would take place in the region even without the aid. Such aid lacks incentive effect to achieve the regional objective and cannot be approved as compatible with the internal market. However, for regional aid awarded to investments necessary to achieve standards set by EU law, the aid may be considered to have an incentive effect, if in absence of the aid, it would not have been sufficiently profitable for the beneficiary to make the investment in the area concerned, thereby leading to the closure of an existing establishment in that area.

60. Works on the project must not start before the decision by the public authorities to award the aid has been adopted. As regards investment aid subject to notification, the act awarding the aid must be made conditional on the Commission decision approving the aid.

61. If works begin before the adoption of the decision of the awarding authorities referred to in paragraph 60, the whole project will not be eligible for aid.

62. A standard application form annexed to these Guidelines must be used.[31] In the application form, beneficiaries must explain what would have happened without aid (i.e. counterfactual) by indicating what scenario described in paragraph 58 above applies.

63. If the aid is awarded to a large enterprise on the basis of a scheme, the granting authority must require from the beneficiary evidence of the incentive effect of the aid, as referred to in paragraphs 62-65.

64. Large companies must submit documentary evidence in support of the counterfactual described in the application form.

65. The granting authority should carry out a credibility check of the counterfactual and confirm that regional aid has the required incentive effect described in paragraph 58. A credible counterfactual means that it is genuine and relates to the decision-making factors prevalent at the time of the decision by the beneficiary regarding the investment.

---

30 Such investments may create conditions allowing further investments that are viable without additional aid.

31 See Annex V.

3.4.2. *Individual investment aid*

66. For notifiable cases, the Member State must demonstrate to the Commission the existence of an incentive effect of the aid. It needs to provide clear evidence that the aid effectively has an impact on the investment choice or the location choice[32]. It must specify which scenario applies. To allow a comprehensive assessment, the Member State must provide not only information concerning the aided project but also a comprehensive description of the counterfactual scenario, in which no aid is awarded to the beneficiary by any Member State.

67. In *scenario 1*, the Member State could prove the existence of the incentive effect of the aid by providing company documents that show that the investment would not be sufficiently profitable without the aid.

68. In *scenario 2*, the Member State could prove the incentive effect of the aid by providing company documents that show a comparison has been made between the costs and benefits of locating in the area concerned and the alternative area. The Commission verifies whether such comparative scenarios are realistic.

69. The Member States are, in particular, invited to rely on official board documents, risk assessments (including the assessment of location-specific risks), financial reports, internal business plans, expert opinions and other studies related to the investment project under assessment. Documents containing information on demand forecasts, cost forecasts, financial forecasts, documents that are submitted to an investment committee and that elaborate on various investment scenarios, or documents provided to the financial institutions could help to verify the incentive effect.

70. In this context, and in particular in *scenario 1*, the level of profitability can be evaluated by reference to methodologies which are standard practice in the particular industry concerned, and which may include methods to evaluate the net present value of the project (NPV), the internal rate of return (IRR) or the average return on capital employed (ROCE).

71. If the aid does not change the behaviour of the beneficiary by stimulating (additional) investment in the area concerned, there is no positive effect for the region. Furthermore, if the aid has no incentive effect to achieve the equity or cohesion objective, such aid can be considered as free money for the company. Therefore, aid will not be approved in cases where it appears that the same investment would take place in the region even without the aid.

3.4.3. *Operating aid schemes*

72. For operating aid schemes, the incentive effect of the aid is present if it is likely that, in the absence of aid, the level of economic activity in the area or region concerned would be significantly reduced due to the problems that the aid is intended to address.

73. The Commission will therefore consider that the aid induces additional economic activity in the areas or regions concerned if the Member State has demonstrated the existence and importance of those problems in the area concerned (cf. paragraphs 47 and 54).

---

[32] The counterfactual scenarios are described in paragraph 58.

3.5. Proportionality of the aid / aid limited to the minimum

3.5.1. General conditions

74. In principle, for any regional aid to be considered to be proportional the amount of the aid must be limited to the minimum needed to induce additional investment or activity in the area concerned.

75. As a general rule, individually notifiable aid will be considered to be limited to the minimum if the aid amount corresponds to the net extra costs of implementing the investment in the area concerned, compared to the counterfactual in the absence of aid. Likewise, for individual investment aid under a notified scheme awarded to large undertakings, the Member State must ensure that the aid amount corresponds to the net extra costs of implementing the investment in the area concerned, compared to the counterfactual in the absence of aid.

76. To ensure predictability and a level playing field, the Commission further applies maximum aid intensities for investment aid. For notified schemes, these maximum aid intensities serve as safe harbours for SMEs: as long as the aid intensity remains below the maximum, the criterion of 'aid limited to the minimum' is deemed to be fulfilled. For all other cases, the maximum aid intensities constitute a minimum requirement for proportionality, the aim of which is to prevent the use of State aid for projects where the ratio between aid amount and eligible costs is to be deemed high and potentially distortive.

77. The maximum aid intensities are modulated in function of three criteria: 1) the socio-economic situation of the area concerned, as a proxy for the extent to which the area is in need of further development and, potentially, the extent to which it suffers from a handicap in attracting and maintaining economic activity[33]; 2) the size of the beneficiary as proxy for the specific difficulties to finance or implement a project in the area, and 3) the size of the investment project, as indicator for the expected level of distortion of competition and trade. Accordingly, higher aid intensities (and, potentially, higher resulting distortions of trade and competition) are allowed the less developed the target region is, and if the aid beneficiary is an SME. For large investment projects the aid intensity is scaled down using the mechanism set out in paragraph 16(r) and capped at the amount that can be given for a project with eligible costs of EUR 500 million.

78. For European Territorial Cooperation measures, the aid ceiling of the area in which a project is located shall apply to all beneficiaries participating in the European Territorial Cooperation project, provided that the eligible costs are attributed to an initial investment project. If a project has several locations, the aid ceiling applicable to this project is the one which applies to the area where the largest amount of aid is granted because one of the initial investments is located in an assisted area. However, in ‘c’ areas these provisions are applicable only to SMEs in line with the provisions of point 9 of these guidelines.

79. Investment aid must respect the maximum aid intensity or the scaled down intensity for large investment projects. Where aid is awarded to a beneficiary for several projects started during the three year period and is therefore considered to be part of a single investment, the aid must be scaled down for the aided project by which the

---

33 See subsection 5.4 on regional aid maps.

EUR 50 million threshold is exceeded. No SME bonuses may be awarded to large investment projects.

80. The maximum aid intensity and aid amount per project must be calculated by the granting authority when awarding the aid. The aid intensity must be calculated on the basis of a gross grant equivalent either in relation to the total eligible investment or wage costs declared by the aid beneficiary when applying for aid.

81. If investment aid calculated on the basis of investment costs is combined with regional investment aid calculated on the basis of wage costs, the total aid must not exceed the highest aid amount resulting from either calculation on the basis of the maximum allowable aid intensity.

82. Investment aid may be awarded concurrently under several regional aid schemes or cumulated with ad hoc aid, provided that the total aid from all sources does not exceed the maximum allowable aid intensity per project that must be calculated in advance by the first granting authority.

3.5.1.1. Aid calculated on the basis of investment costs

83. The eligible assets should be new, except for SMEs and in the case of acquisition of an establishment[34].

84. For SMEs, the costs of preparatory studies and consultancy costs linked to the investment may also be considered eligible up to 50% of the actual costs incurred.

85. For aid awarded for a fundamental change, the eligible costs must exceed the depreciations realised regarding the activity to be modernised in the course of the preceding three fiscal years. If the new activity replaces an existing activity, and uses the assets previously used for the replaced activity, the eligible costs allocated to the new investment must exceed by at least 200 % the book value of the assets that have become obsolete or are reused, as registered in the fiscal year preceding the start of works.

86. Costs related to the acquisition of the tangible assets under lease can be taken into account only under the following conditions:

(a) For the lease of land and buildings, the lease must continue for at least five years after the anticipated date of completion of the investment for large companies, and three years for SMEs

(b) For the lease of plant or machinery, the lease must take the form of financial leasing and contains an obligation to purchase the asset at the expiry of the term of the lease.

87. In the case of acquisition of an establishment[35] only the costs of buying the assets from third parties unrelated to the buyer should be taken into consideration. The transaction must take place under market conditions. The assets for the acquisition of which aid has already been awarded prior to the purchase should be deducted.

88. For large enterprises costs of intangible assets are eligible only up to a limit of 50 % of the total eligible investment costs for the project. For SMEs, the full costs related to intangible assets may be taken into consideration.

---

[34] Defined under paragraph 16(k).

[35] See footnote34.

89. Eligible intangible assets must remain associated with the recipient area eligible for regional aid and must not be transferred to other regions. The intangible assets must fulfil the following conditions:

(a) They must be used exclusively in the establishment receiving the aid;

(b) They must be amortisable;

(c) They must be purchased from parties with no legal, economic or financial links under market conditions.

90. The intangible assets must be included in the assets of the undertaking and must remain associated with the project for which the aid is awarded for at least five years (three years for SMEs).

3.5.1.2. Aid calculated on the basis of wage costs

91. Regional aid may also be calculated by reference to the expected wage costs arising from job creation as a result of an initial investment. Aid can compensate only the wage costs of the person hired calculated over a period of two years and the resulting intensity cannot exceed the applicable aid intensity in the area concerned.

3.5.2. Individual investment aid

92. For *scenario 1* situations (investment decision) the Commission will verify whether the aid amount exceeds the minimum necessary to render the project sufficiently profitable, e.g. increases its IRR beyond the sectoral or firm specific benchmark or hurdle rate. When not available, normal rates of return applied by the company in other investment projects, the cost of capital of the company as a whole or returns commonly observed in the industry concerned can be also used as a benchmark.

93. In *scenario 2*, for a location incentive, the Commission will compare the net present value of the investment for the target area with the net present value of the investment in the alternative location. All relevant costs and benefits must be taken into account, including for example administrative costs, transport costs, training costs not covered by training aid and also wage differences. However, where the alternative location is in the EEA, subsidies granted in that other location are not to be taken into account.

94. Calculations used for the analysis of the incentive effect can also be used to assess if the aid is proportionate. The Member State must demonstrate the proportionality on the basis of documentation such as that referred to in paragraph 69.

95. The aid intensity must not exceed the allowable adjusted aid intensity.

3.5.3. Operating aid

96. The Member State must demonstrate that the level of the aid is proportionate to the problems that the aid is intended to address.

97. In particular, the following general conditions must be fulfilled:

(a) The aid must be determined in relation to a predefined set of eligible costs that are a fully attributable to the problems that the aid is intended to address, as demonstrated by the Member State. The aid must be limited to a certain proportion of those eligible costs and must not exceed those costs.

(b) The aid amount per beneficiary must be proportional to the level of the problems actually experienced by each beneficiary.

98. For aid to compensate for certain additional costs (other than transport costs) in the outermost regions, the eligible costs must be fully attributable to one or several of the permanent handicaps referred to in Article 349 of the TFEU. Those additional costs must exclude transport costs and any additional costs that may be attributable to other factors and must be quantified in relation to the level of costs incurred by similar undertakings established in other regions of the Member State concerned.

99. For aid to reduce certain specific difficulties faced by SMEs in 'a' areas, the level of the aid must be reduced over the duration of the scheme[36].

3.6. Negative effects

3.6.1. General considerations

100. The Commission identifies two main potential distortions of competition and trade caused by regional aid. These are product market distortions (which lead mainly to allocative inefficiencies) and location effects (which may lead to both allocative inefficiencies and distributional concerns).

101. One potentially harmful effect of State aid is that it prevents the market mechanism to deliver efficient outcomes through the reward of the most efficient producers and the pressure on the least inefficient to improve, restructure or exit the market. A substantial capacity expansion induced by State aid in an underperforming market (as defined further below) might in particular unduly distort competition, as the creation or maintenance of overcapacity could lead to a squeeze on profit margins, a reduction of competitors' investments or even their exit from the market. This might lead to a situation where competitors that would otherwise be able to stay on are forced out of the market as a consequence of State aid. It may also prevent firms from entering the market and it may weaken incentives for competitors to innovate. This results in inefficient market structures which are also harmful to consumers in the long run. Further, the presence of aid may make (potential) beneficiaries complacent or more risk seeking. The long run effect on the overall performance of the sector is likely to be negative.

102. Aid may also have distortive effects in terms of increasing or maintaining substantial market power on the part of the beneficiary. Even where aid does not strengthen substantial market power directly, it may do so indirectly, by discouraging the expansion of existing competitors or inducing their exit or discouraging the entry of new competitors.

103. Apart from distortions on the product markets, regional aid by nature also affects the location of economic activity. Where one area attracts an investment due to the aid, another area loses out on that opportunity. These negative effects in the areas adversely affected by aid may be felt through lost economic activity and lost jobs including those at the level of subcontractors. It may also be felt in a loss of positive externalities (*e.g.* clustering effect, knowledge spillovers, education and training, etc.).

104. The geographical specificity of regional aid distinguishes it from other forms of horizontal aid. It is a particular characteristic of regional aid that it is intended to influence the choice made by investors about where to locate investment projects. When regional aid is off-setting the additional costs stemming from the regional

[36] Including when operating aid schemes are notified to prolong existing aid measures.

handicaps and supports additional investment in assisted areas without attracting it away from other assisted areas, it is contributing not only to the development of the region, but also to cohesion and ultimately benefits the whole Union. With regard to the potential negative location effects of regional aid, these are already limited to a certain degree by regional aid maps, which define exhaustively the areas eligible to grant regional aid, taking account of the equity and cohesion policy objectives, and the eligible maximum aid intensities. However, an understanding of what would have happened in the absence of the aid remains important to appraise the actual impact of the aid in the cohesion objective.

105. In appraising the effects of investment aid, the Commission distinguishes between the two counterfactual scenarios described in paragraphs 92 and 93 above.

106. In scenario 1 cases, the Commission places particular emphasis on the negative effects linked with the build-up of overcapacity in declining industries, the prevention of exit, and the notion of substantial market power. Where the capacity created by the project takes place in a market which is structurally in absolute decline, the Commission could consider it to be a negative element, which is unlikely to be compensated by any positive element.

107. If the counterfactual analysis suggests that without the aid the investment would have gone ahead in another location in the EEA (scenario 2) which belongs to the same geographical market considering the product concerned, and if the aid is proportional, possible outcomes in terms of overcapacity or substantial market power would in principle be the same regardless of the aid. In such cases, the Commission is principally concerned with negative effects linked with the alternative location.

3.6.2. Investment aid schemes

108. Investment aid schemes shall not lead to significant distortions of competition and trade. In particular, even in case distortions may be considered limited at individual level (provided all conditions for investment aid are fulfilled), on a cumulative basis schemes might still lead to high levels of distortions. Such distortions might concern the output markets by creating or aggravating a situation of overcapacity or creating, increasing or maintaining the substantial market power of some recipients in a way that will negatively affect dynamic incentives. Overall aid under schemes might also lead to a significant loss of economic activity in other areas of the EEA. In case of a scheme focussing on certain sectors, the risk of such distortions is even more pronounced.

109. Therefore, the Member State has to demonstrate that these negative effects will be limited to the minimum taking into account, for example, the size of the projects concerned, the individual and cumulative aid amounts, the expected beneficiaries as well as the characteristics of the targeted sectors. In order to enable the Commission to assess the likely negative effects, the Member State might submit any impact assessment at its disposal as well as ex-post evaluations carried out for similar predecessor schemes.

110. When awarding the aid under a scheme to individual projects, the granting authority must verify and confirm that the aid does not serve to attract the investment away from a region with a higher or the same regional aid intensity as the target region. In the case of investment projects undertaken by SMEs, this verification can be based on the declaration of the firm in the application form in the Annex V.

111. The Commission may require the Member State to limit the duration of certain schemes (normally to four years or less) and to conduct an evaluation of those schemes, as described in Section 4.

3.6.3. *Individual investment aid*

3.6.3.1. Distortions on product markets

112. In order to identify and assess the potential distortions of competition and trade, Member States should provide evidence permitting the Commission to (i) identify the product markets concerned (i.e. products affected by the change in behaviour of the aid beneficiary) and (ii) identify the competitors and customers/consumers affected.

113. The Commission will use various criteria to assess these potential distortions, such as market structure of the product concerned, performance of the market (declining or growing market), selection process of the aid beneficiary, entry and exit barriers, product differentiation.

114. A systematic reliance on State aid by an undertaking might indicate that the undertaking is not able to withstand competition on its own or that it enjoys undue advantages compared to its competitors.

115. The Commission distinguishes two main sources of potential negative effects on product markets: (i) cases of significant capacity expansion which leads to or deteriorates an existing situation of overcapacity, especially in a declining market and (ii) cases where the aid beneficiary holds substantial market power.

116. In order to evaluate whether the aid may serve to create or maintain inefficient market structures, the Commission will take into account the additional production capacity created by the project and whether the market is underperforming.

117. Where the market in question is growing, there is normally less reason to be concerned that the aid will negatively affect dynamic incentives or will unduly impede exit or entry.

118. More concern is warranted when markets are in decline. In this respect the Commission distinguishes between cases for which, from a long-term perspective, the relevant market is structurally in decline (i.e. shows a negative growth rate), and cases for which the relevant market is in relative decline (i.e. shows a positive growth rate, but does not exceed a benchmark growth rate).

119. Underperformance of the market will normally be measured compared to the EEA GDP over the last three years before the start of the project (benchmark rate); it can also be established on the basis of projected growth rates in the coming 3 to 5 years. Indicators could be the foreseeable future growth of the market concerned and the resulting expected capacity utilisation rates, as well as the likely impact of the capacity increase on competitors through its effects on prices and profit margins.

120. In certain cases, the growth of the product market in the EEA may not be appropriate to assess the effects of aid, in particular if the geographic market is worldwide and there is only limited production or consumption of the products concerned within the EEA. In such cases, the Commission will consider the effect of the aid on market structures, in particular, its potential to crowd out producers in the EEA.

121. In order to evaluate the existence of substantial market power, the Commission will take into account the position of the beneficiary over a period of time before

receiving the aid and the expected market position after finalizing the investment. The Commission will take account of market shares of the beneficiary, as well as the market shares of its competitors and other factors, where relevant, including for example the market structure by looking at the concentration in the market, possible barriers to entry[37], buyer power[38] and barriers to expansion or exit.

3.6.3.2. Location effects

122. In scenario 2 cases, where without aid the investment would have been located in a region with a higher or the same regional aid intensity as the target region this will constitute a negative effect that is unlikely to be compensated by any positive elements because it runs counter to the very rationale of regional aid.

123. Where the beneficiary closes down the same or a similar activity in another area in the EEA and relocates this activity to the target area, if there is a causal link between the aid and this relocation, this will constitute a negative effect that is unlikely to be compensated by any positive elements.

124. When appraising notified measures, the Commission should have all necessary information to consider whether the State aid would result in a substantial loss of jobs in existing locations within the EEA.

3.6.4. Operating aid schemes

125. If the aid is necessary and proportional to achieve the common objective described in subsection 3.1.3 above, the negative effects of the aid are likely to be compensated by the positive effects. However, in some cases, the aid may result in change to the structure of the market or to the characteristics of a sector or industry which could significantly distort competition through barriers to market entry or exit, substitution effects, or displacement of trade flows. In those cases, the identified negative effects are unlikely to be compensated by any positive elements.

126. The Commission may require the Member State to limit the duration of certain schemes (normally to four years or less) and to conduct an evaluation of those schemes, as described in Section 4.

3.7. Transparency

3.7.1. Schemes

127. Member States shall publish on a central website at least the following information on the State aid measures: the full text of the approved aid scheme and its implementing provisions, granting authority, name of the individual beneficiaries, aid amount, aid intensity, and expected benefits of the project for regional development[39]. Such information shall be published after the granting decision has

---

37 These entry barriers include legal barriers (in particular intellectual property rights), economies of scale and scope, access barriers to networks and infrastructure. Where the aid concerns a market where the aid beneficiary is an incumbent, possible barriers to entry may exacerbate the potential substantial market power wielded by the aid beneficiary and thus the possible negative effects of that market power.

38 Where there are strong buyers in the market, it is less likely that an aid beneficiary can increase prices. vis-à-vis these strong buyers.

39 According to paragraph 37 above, the granting authority must verify the positive effects of the subsidized project and must confirm that on the basis of the evidence brought by the beneficiary it will contribute to the development of the region

been taken, shall be kept for at least 10 years and shall be available for the general public without restrictions.[40]

3.7.2. Individual aid

128. For individual aid, the information required under paragraph 127 shall be made public on the same conditions as above.

4. EVALUATION

129. The evaluations referred to in paragraphs 111 and 126 shall address the following issues: (1) whether the assumptions and conditions which led to the compatibility decision have been realised; (2) the effectiveness of the aid measure in light of its pre-defined objectives; (3) its impact on markets and competition and that no undue distortive effects arise under the duration of the aid scheme that is contrary to the interests of the Union.

130. Given its objectives and in order not to put disproportionate burden on Member States and on smaller aid projects, this only applies for aid schemes with large aid budgets, containing novel characteristics or when significant market, technology or regulatory changes are foreseen. The evaluation shall be carried out by an expert independent from the state aid granting authority on the basis of a common methodology[41] and shall be made public. The evaluation shall be submitted to the Commission in due time to allow for the assessment of the possible prolongation of the aid scheme and in any case upon expiry of the scheme. The precise scope and modalities of the evaluation shall be defined in the approval decision of the aid measure. Any subsequent aid measure with a similar objective shall take into account the results of that evaluation.

5. REGIONAL AID MAPS

131. In this section the Commission lays down the criteria for identifying the areas that fulfil the conditions of Articles 107(3)(a) and (c) of the TFEU. The areas that fulfil these conditions must be identified on a regional aid map notified to the Commission for approval before regional aid can be awarded to enterprises located in the designated areas. The maps shall also specify the maximum aid intensities applicable in these areas.

5.1. Population coverage eligible for regional aid

132. Given that the award of regional State aid derogates from the general prohibition of State aid laid down in Article 107(1) of the TFEU, the Commission considers that the combined overall population coverage of 'a' and 'c' areas in the Union must be lower than that of the non-designated areas. The total coverage of those designated areas should therefore be significantly less than 50 % of the Union's population.

133. In the Guidelines on national regional aid for 2007-2013[42] the overall coverage of the 'a' and 'c' areas was set at 42 % of the EU-25 population (45.5 % of the EU-27

[40] This information should be regularly updated (for example every six months) and shall be available in non-proprietary formats.

[41] Such a common methodology may be provided by the Commission.

[42] OJ C 54, 4.3.2006, p. 13.

population). The Commission considers that this level of initial overall population coverage should be maintained in absolute terms.

134. Accordingly, the overall coverage ceiling of the 'a' and 'c' areas shall be set at [42 %] of the EU-27 population for the period 2014-2020[43].

5.2. The derogation in Article 107(3)(a)

135. Article 107(3)(a) of the TFEU provides that 'aid to promote the economic development of areas where the standard of living is abnormally low or where there is serious underemployment, and of the regions referred to in Article 349, in view of their structural, economic and social situation' may be considered to be compatible with the internal market. According to the Court of Justice, 'the use of the words "abnormally" and "serious" in Article [107](3)(a) shows that the exemption concerns only areas where the economic situation is extremely unfavourable in relation to the [Union] as a whole'[44].

136. The Commission considers that the conditions laid down in Article 107(3)(a) of the TFEU are fulfilled for NUTS 2 regions[45] that have a gross domestic product (GDP) per capita below 75 % of the Union's average[46].

137. Accordingly, a Member State may designate the following areas as 'a' areas:

(a) NUTS 2 regions whose GDP per capita in purchasing power standards (PPS)[47] is below 75 % of the EU-27 average (based on the average of the last three years for which Eurostat data are available[48]);

(b) the regions referred to in Article 349 of the TFEU (hereinafter 'outermost regions')[49].

138. The eligible 'a' areas are listed per Member State in Annex I.

---

43 This ceiling is set using population data for 2010. The ceiling will correspond to […] % of the EU-28 population following the accession of Croatia to the EU.

44 Judgment 14 October 1987 in Case 248/84 *Germany* v *Commission* (ECR 1987, p. 4036, paragraph 19); judgment of 14 January 1997 in Case C-169/95 *Spain* v *Commission* (ECR 1997, p. I-148, paragraph 15); and judgment of 7 March 2002 in Case C-310/99 *Italy* v *Commission* (ECR 2002, p. I-2289, paragraph 77).

45 Commission Regulation (EC) No 105/2007 of 1 February 2007 amending the annexes to Regulation (EC) No 1059/2003 of the European Parliament and of the Council on the establishment of a common classification of territorial units for statistics (NUTS) (OJ L 39, 10.2.2007, p. 1) and Regulation (EC) No 176/2008 of the European Parliament and of the Council of 20 February 2008 amending Regulation (EC) No 1059/2003 on the establishment of a common classification of territorial units for statistics (NUTS) by reason of the accession of Bulgaria and Romania to the European Union (OJ L 61, 5.3.2008, p. 1). The data used in these guidelines are based on the NUTS 2006 nomenclature.

46 The reference to regions with a GDP per capita below 75 % of the [Community] average was introduced by the Commission communication on the method for the application of Article 92(3)(a) and (c) to regional aid (OJ C 212, 12.8.88, p. 2).

47 In all subsequent references to GDP per capita in these guidelines, GDP is measured in PPS.

48 The data cover the period 2008-2010. In all subsequent references to GDP per capita in relation the EU-27 average, data shall be based on the average of Eurostat regional data for 2008-2010.

49 Currently: Guadeloupe, French Guiana, Martinique, Réunion, Saint-Martin, the Azores, Madeira and the Canary Islands. In accordance with European Council Decision (2010/718/EU) of 29 October 2010 amending the status with regard to the European Union of the island of Saint-Barthélemy (OJ L 325, 9.12.2010, p. 4), from 1 January 2012, Saint-Barthélemy ceased to be an outermost region and became an overseas country or territory referred to in Part Four of the TFEU. In accordance with European Council Decision (2012/419/EU) of 11 July 2012 amending the status of Mayotte with regard to the European Union (OJ L 204, 31.7.2012, p. 131), from 1 January 2014, Mayotte shall cease to be an overseas country or territory and shall become an outermost region.

5.3. The derogation in Article 107(3)(c)

139. Article 107(3)(c) of the TFEU provides that 'aid to facilitate the development of certain economic activities or of certain economic areas, where such aid does not adversely affect trading conditions to an extent contrary to the common interest' may be considered to be compatible with the internal market. According to the Court of Justice, '[t]he exemption in Article [107](3)(c) […] permits the development of certain areas without being restricted by the economic conditions laid down in Article [107](3)(a), provided such aid "does not adversely affect trading conditions to an extent contrary to the common interest". That provision gives the Commission power to authorise aid intended to further the economic development of areas of a Member State which are disadvantaged in relation to the national average'[50].

140. The total coverage ceiling for 'c' areas in the Union (hereinafter '"c" coverage') is obtained by deducting the population of the eligible 'a' areas in the Union from the overall coverage ceiling laid down in paragraph 134.

141. There are two categories of 'c' areas:

(a) areas that fulfil certain pre-established conditions and that a Member State may therefore designate as 'c' areas without the need for any further justification (hereinafter 'predefined "c" areas');

(b) areas that a Member State may, at its own discretion, designate as 'c' areas provided that the Member State demonstrates that such areas fulfil certain socioeconomic criteria (hereinafter 'non-predefined "c" areas').

5.3.1. Predefined 'c' areas

5.3.1.1. Specific allocation of 'c' coverage for predefined 'c' areas

142. The Commission considers that each Member State concerned must have sufficient 'c' coverage to be able to designate as 'c' areas the areas that were designated as 'a' areas in the preceding regional aid map during the period 2011-2013[51] and whose GDP per capita remains significantly below the EU-27 average.

143. The Commission also considers that each Member State concerned must have sufficient 'c' coverage to be able to designate as 'c' areas the areas that have a low population density[52].

144. Accordingly, the following areas shall be considered as predefined 'c' areas:

(a) Former 'a' areas with a GDP per capita below 90 % of the EU-27 average: NUTS 2 regions that were designated as 'a' areas during the period 2011-2013 and whose GDP per capita is less than 90 % of the EU-27 average;

(b) Sparsely populated areas: NUTS 3 regions with less than 12.5 inhabitants per km² (based on Eurostat data on population density for 2010).

---

50 Judgment 14 October 1987 in Case 248/84 *Germany* v *Commission* (ECR 1987, p. 4036, paragraph 19).

51 The list of 'a' areas was amended in 2011 (cf. Communication of the Commission on the review of the State aid status and the aid ceiling of the statistical effect regions for the period 1.1.2011-31.12.2013 (OJ C 222, 17.8.2010, p. 2)).

52 The possibility for those Member States concerned to designate areas with a low population density as 'c' areas was introduced by the Commission notice, addressed to Member States and other interested parties, concerning an amendment to Part II of the communication on the method for the application of Article 93(3)(a) and (c) to regional aid (OJ C 364, 20.12.94, p. 8).

145. Each Member State concerned shall receive a specific allocation of ‘c’ coverage corresponding to the population of the predefined ‘c’ areas in that Member State. The specific allocation of predefined ‘c’ coverage may only be used to designate predefined ‘c’ areas. The specific allocation of predefined ‘c’ coverage is set out per Member State in Annex I.

5.3.1.2. Designation of predefined ‘c’ areas

146. A Member State may designate as ‘c’ areas the predefined ‘c’ areas referred to in paragraph 144.

147. For sparsely populated areas, a Member State should in principle designate NUTS 3 regions with less than 12.5 inhabitants per km². However, a Member State may designate parts of NUTS 3 regions with less than 12.5 inhabitants per km² or other contiguous areas adjacent to those NUTS 3 regions, provided that the areas designated have less than 12.5 inhabitants per km² and that their designation does not exceed the specific allocation of ‘c’ coverage referred to in paragraph 143, 144(b) and 145 above.

5.3.2. Non-predefined ‘c’ areas

5.3.2.1. Method for the allocation of non-predefined ‘c’ coverage among Member States

148. The total coverage ceiling for non-predefined ‘c’ areas in the Union is obtained by deducting the population of the eligible ‘a’ areas and of the predefined ‘c’ areas from the overall coverage ceiling laid down in paragraph 134. The non-predefined ‘c’ coverage is distributed among the Member States (with the exception of Member States whose entire territory is eligible as an ‘a’ area) using the method laid down in Annex II.

5.3.2.2. Safety net and minimum population coverage

149. To ensure continuity in the regional aid maps and a minimum scope of action for all Member States, the Commission considers that each Member State should not lose more than half of its total coverage compared to the preceding period and that each Member State should have a minimum population coverage.

150. Accordingly, by way of derogation from the overall coverage ceiling laid down in paragraph 134[53], the ‘c’ coverage for each Member State concerned shall be increased as necessary so that the total ‘a’ and ‘c’ coverage of each Member State is not reduced by more than 50 % compared to the period 2007-2013 and that each Member State has a population coverage of at least 7.5 % of its national population.

151. The non-predefined ‘c’ coverage, including the safety net and the minimum population coverage, is set out per Member State in Annex I.

5.3.2.3. Designation of non-predefined ‘c’ areas

152. The Commission considers that the criteria used by Member States for designating ‘c’ areas should reflect the diversity of situations in which the award of regional State aid may be justified. The criteria should therefore address certain socioeconomic, geographical or structural problems and provide sufficient safeguards that the award of regional State aid will not adversely affect trading conditions to an extent contrary to the common interest.

---

53 This provision increases the overall coverage to […] % of the EU-27 population.

153. Accordingly, a Member State may designate as 'c' areas the non-predefined 'c' areas defined on the basis of the following criteria:

(a) Criterion 1: contiguous areas of at least 100 000 inhabitants[54] located in NUTS 2 or NUTS 3 regions that have:

– a GDP per capita below the EU-27 average, or;

– an unemployment rate above 115 % of the national average[55].

(c) Criterion 2: NUTS 3 regions of less than 100 000 inhabitants that have:

– a GDP per capita below the EU-27 average, or;

– an unemployment rate above 115 % of the national average.

(d) Criterion 3: islands and contiguous areas characterised by similar geographical isolation (e.g. peninsulas or mountain areas) that have:

– a GDP per capita below the EU-27 average[56], or;

– an unemployment rate above 115 % of the national average[57], or;

– less than 5 000 inhabitants.

(e) Criterion 4: NUTS 3 regions, or parts of NUTS 3 regions that form contiguous areas, that are adjacent to an 'a' area or that share a land border with a country outside the European Economic Area (EEA) or the European Free Trade Association (EFTA).

(f) Criterion 5: contiguous areas of at least 50 000 inhabitants[58] that are undergoing major structural change or are in serious relative decline, provided that such areas are not located in NUTS 3 regions or contiguous areas that fulfil the conditions to be designated as predefined areas or under Criteria 1 to 4. The Member State must demonstrate that the applicable conditions are fulfilled by comparing the areas concerned with the situation of other similar areas in the Union on the basis of socioeconomic indicators.

154. For the purpose of the criteria referred to in paragraph 153, the notion of contiguous areas shall refer to whole local administrative unit 2 (LAU 2)[59] areas or to a group of whole LAU 2 areas. A group of LAU 2 areas shall be considered to form a

---

54 This population threshold shall be reduced to 50 000 inhabitants for Member States that have a non-predefined 'c' coverage of less than 1 million inhabitants or to 10 000 inhabitants for Member States whose total population is below 1 million inhabitants.

55 For unemployment, calculations should be based on Eurostat regional data, using the average of the last three years for which such data are available (at the moment of the notification of the regional aid map). Except as otherwise indicated, this provision shall apply in all subsequent references to the unemployment rate in relation to the national average.

56 For determining if such islands and contiguous areas have a GDP per capita below the EU-27 average, the Member State may refer to data provided by its national statistical office or other recognised sources.

57 For determining if such islands and contiguous areas have an unemployment rate above 115 % of the national average, the Member State may refer to data provided by its national statistical office or other recognised sources.

58 This population threshold shall be reduced to 25 000 inhabitants for Member States that have a non-predefined 'c' coverage of less than 1 million inhabitants or to 10 000 inhabitants for Member States whose total population is below 1 million inhabitants.

59 This provision shall apply to LAU 1 areas if those areas have a smaller population than the LAU 2 area which they form part of.

contiguous area if each of those areas in the group shares an administrative border with another area in the group. If one or more of the LAU 2 areas in such a group have a population that exceeds the minimum population required for contiguous areas under Criteria 1 or 5 (including the reduced population thresholds for those criteria), the Member State may designate parts of those areas, provided that the population of each part is at least 75 % of the minimum population required under the applicable criterion.

155. Compliance with the population coverage allowed for each Member State shall be determined on the basis of the most recent data on the total resident population of the areas concerned, as published by the national statistical office.

5.4. Maximum aid intensities applicable to regional investment aid

156. The Commission considers that the maximum aid intensities applicable to regional investment aid must take into account the nature and scope of the disparities between the levels of development of the regions in the Union. The aid intensities should therefore be higher in 'a' areas than in 'c' areas.

5.4.1. Maximum aid intensities in 'a' areas

157. The aid intensity in 'a' areas must not exceed:

(a) 50 % GGE in NUTS 2 regions whose GDP per capita is below 45 % of the EU-27 average;

(b) 35 % GGE in NUTS 2 regions whose GDP per capita is between 45 % and 60 % of the EU-27 average;

(c) 25 % GGE in NUTS 2 regions with a GDP per capita above 60 % of the EU-27 average.

158. The maximum aid intensities laid down in paragraph 157 may be increased by up to 10 percentage points in outermost regions that have a GDP per capita below 75 % of the EU-27 average or by up to 5 percentage points in other outermost regions.

159. The maximum aid intensities laid down in paragraph 157 in may be increased by up to 20 percentage points for small enterprises or by up to 10 percentage points for medium-sized enterprises.

5.4.2. Maximum aid intensities in 'c' areas

160. As noted in paragraph 9, the Commission considers that, in 'c' areas, the direct negative effects of regional investment aid to large enterprises are likely to outweigh any positive effects. As a consequence, regional investment aid in 'c' areas should be restricted to SMEs.

161. Accordingly, the aid intensity in 'c' areas must, in principle, not exceed 30 % GGE for small enterprises or 20 % GGE for medium-sized enterprises.

162. In the former 'a' areas with a GDP per capita below 90 % of the EU-27 average the aid intensities may be increased by up to 5 percentage points from 1 January 2014 to 31 December 2017.

163. If a 'c' area is adjacent to an 'a' area, the maximum aid intensity allowed in that 'c' area may be increased as necessary so that the difference in aid intensity between both areas does not exceed 15 percentage points.

5.5. Notification and declaration of compatibility

164. Following the publication of these guidelines in the *Official Journal of the European Union*, each Member State should notify to the Commission, without delay, a single regional aid map applicable from 1 January 2014 to 31 December 2020. Each notification must include the information requested in the form laid down in Annex III.

165. The Commission shall examine such notifications on the basis of these guidelines. At the conclusion of its examination, the Commission shall adopt decisions approving one regional aid map for each Member State. Each regional aid map shall be published in the *Official Journal of the European Union* and shall constitute an integral part of the regional aid guidelines.

5.6. Amendments

5.6.1. Population reserve

166. At its own initiative, a Member State may decide to establish a reserve of national population coverage consisting of the difference between the national coverage ceiling for that Member State, as allocated by the Commission[60], and the coverage used for the ‘a’ and ‘c’ areas designated in its regional aid map.

167. Where a Member State has decided to establish such a reserve, it may, at any time, use the reserve to add new ‘c’ areas in its map until its national coverage ceiling is reached. For this purpose, the Member State may refer to the latest available socioeconomic data provided by its national statistical office or other recognised sources. The population of the ‘c’ areas concerned shall be calculated on the basis of the population data used for establishing the initial map.

168. The Member State must notify to the Commission each use of its population reserve prior to putting such amendments into effect.

5.6.2. Mid-term review of ‘c’ areas

169. The Commission shall conduct a mid-term review of the ‘c’ areas in 2017.

170. A Member State may amend the list of ‘c’ areas contained in its regional aid map (within the limit of its national ‘c’ coverage ceiling, on the basis of the population data used for establishing its map) from 1 January 2018 to 31 December 2020. Those amendments may not exceed 50 % of each Member State’s ‘c’ coverage.

171. For this purpose, the Member State may refer to data on GDP per capita and unemployment rate provided by its national statistical office or other recognised sources, using the average of the last three years for which such data are available (at the moment of the notification of the amended map). The population of the ‘c’ areas concerned shall be calculated on the basis of the population data used for establishing the initial map.

172. The Member State must notify to the Commission such amendments not later than 1 April 2017 and prior to putting them into effect.

[60] Cf. Annex II.

6. ENTRY INTO FORCE AND APPLICABILITY

173. These Guidelines enter into force on the day of their publication in the *Official Journal of the European Union*. The Commission will apply these guidelines for the compatibility assessment of all regional aid to be awarded after 31 December 2013. Regional aid unlawfully awarded or to be awarded before 1 January 2014 will be assessed in accordance with the rules in force at the date on which the aid was awarded.

174. Since they must be coherent with the regional aid map, notifications of regional aid schemes, or aid measures to be awarded after 31 December 2013, cannot normally be considered complete until the regional aid map has been adopted for the Member State concerned in accordance with the arrangements described in subsection 5.5. Accordingly, the Commission will not normally examine notifications of regional aid schemes which are to apply after 31 December 2013, or aid to be awarded after that date, until the adoption of the regional aid map for the Member State concerned.

175. The Commission considers that the implementation of these guidelines will lead to substantial changes in the rules applicable to regional aid throughout the EU. Furthermore, in the light of the changed economic and social conditions prevailing in the EU, it appears necessary to review the continuing justification for and effectiveness of all regional aid schemes, including both investment aid and operating aid schemes. For these reasons, the Commission proposes the following appropriate measures to Member States pursuant to Article 108(1) of the TFEU:

- Member States shall limit the application in time of all existing, not block exempted regional aid schemes and of all regional aid maps to aid to be awarded on or before 31 December 2013;
- Member States shall amend other existing horizontal aid schemes providing specific treatment for aid to projects in assisted areas in order to ensure that aid to be awarded after 31 December 2013 complies with the regional aid map in force on the date the aid is awarded.
- Member States shall confirm their acceptance of the proposals above by [….] 2013.

176. It should be noted that block exempted regional aid schemes under the General Block Exemption Regulation 800/2008 (GBER)[61] and the Block Exemption Regulation of regional investment aid[62] expire at the end of 2013, and that the transitional period of six months allowed for the application of certain block exempted schemes under the GBER after its expiry does not apply to regional aid.

7. REVISION

177. The Commission may decide to review or amend these guidelines at any time if this should be necessary for reasons associated with competition policy or in order to take account of other EU policies and international commitments.

---

61 Commission Regulation (EC) No 800/2008 of 6 August 2008 declaring certain categories of aid compatible with the common market in application of Articles 87 and 88 of the Treaty (General block exemption Regulation), OJ L 214, 9.8.2008, p. 3.

62 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 (Block Exemption Regulation for regional aid), OJ L 302, 1.11.2006, p. 29.

Annex I

Regional aid coverage per Member State for 2014-2020

Belgium	NUTS regions	GDP[63]	Population[64]
Predefined 'c' areas (former 'a' areas[65])	BE32 Prov. Hainaut	##.##	##.##
Non-predefined 'c' areas	—	—	##.##
Total population coverage 2014-2020	—	—	##.##

Bulgaria	NUTS regions	GDP	Population
'a' areas	BG31 Severozapaden	##.##	##.##
	BG32 Severen tsentralen	##.##	##.##
	BG33 Severoiztochen	##.##	##.##
	BG34 Yugoiztochen	##.##	##.##
	BG41 Yugozapaden	##.##	##.##
	BG42 Yuzhen tsentralen	##.##	##.##
Total population coverage 2014-2020	—	—	100.0

Czech Republic	NUTS regions	GDP	Population
'a' areas	CZ02 Střední Čechy	##.##	##.##
	CZ03 Jihozápad	##.##	##.##
	CZ04 Severozápad	##.##	##.##
	CZ05 Severovýchod	##.##	##.##
	CZ06 Jihovýchod	##.##	##.##
	CZ07 Střední Morava	##.##	##.##
	CZ08 Moravskoslezsko	##.##	##.##
Total population coverage 2014-2020	—	—	##.##

Denmark	NUTS regions	GDP	Population
Non-predefined 'c' areas	—	—	##.##
Total population coverage 2014-2020	—	—	##.##

63 GDP per capita in PPS, average for 2008-2010 (EU-27 = 100 %).

64 Percentage of national population (2010 population).

65 Former 'a' areas with a GDP per capita below 90 % of the EU-27 average. [NB: For the purposes of this annex, the predefined 'c' areas are considered on the basis of GDP per capita data for 2007-2009 (for the threshold of 90 % of the EU-27 average) and Eurostat data on population density for 2009.]

Germany	NUTS regions	GDP	Population
Predefined ‘c’ areas (former ‘a’ areas)	DE41 Brandenburg - Nordost	##.##	##.##
	DE80 Mecklenburg-Vorpommern	##.##	##.##
	DED1 Chemnitz	##.##	##.##
	DED2 Dresden	##.##	##.##
	DEE0 Sachsen-Anhalt	##.##	##.##
	DEG0 Thüringen	##.##	##.##
Non-predefined ‘c’ areas	—	—	##.##
Total population coverage 2014-2020	—	—	##.##

Estonia	NUTS regions	GDP	Population
‘a’ areas	EE00 Eesti	##.##	100.0
Total population coverage 2014-2020	—	—	100.0

Ireland	NUTS regions	GDP	Population
Non-predefined ‘c’ areas	—	##.##	##.##
Total population coverage 2014-2020	—	—	##.##

Greece	NUTS regions	GDP	Population
‘a’ areas	GR11 Anatoliki Makedonia Thraki	##.##	##.##
	GR12 Kentriki Makedonia	##.##	##.##
	GR14 Thessalia	##.##	##.##
	GR21 Ipeiros	##.##	##.##
	GR23 Dytiki Ellada	##.##	##.##
Predefined ‘c’ areas (former ‘a’ areas)	GR13 Dytiki Makedonia	##.##	##.##
	GR22 Ionia Nisia	##.##	##.##
	GR25 Peloponnisos	##.##	##.##
	GR41 Voreio Aigaio	##.##	##.##
	GR43 Kriti	##.##	##.##
Predefined ‘c’ areas (sparsely populated areas)	GR243 Evrytania	—	##.##
Non-predefined ‘c’ areas	—	—	##.##

Total population coverage 2014-2020	—	—	##.##

Spain	NUTS regions	GDP	Population
‘a’ areas	ES43 Extremadura	##.##	##.##
	ES70 Canarias	##.##	##.##
Predefined ‘c’ areas (former ‘a’ areas)	ES42 Castilla-la Mancha	##.##	##.##
	ES61 Andalucia	##.##	##.##
Predefined ‘c’ areas (sparsely populated areas)	ES242 Teruel	—	##.##
	ES417 Soria	—	##.##
Non-predefined ‘c’ areas	—	—	##.##
Total population coverage 2014-2020	—	—	##.##

France	NUTS regions	GDP	Population
‘a’ areas	FR91 Guadeloupe	##.##	##.##
	FR92 Martinique	##.##	##.##
	FR93 Guyane	##.##	##.##
	FR94 Réunion	##.##	##.##
	Saint-Martin*	:	:
	Mayotte*	:	:
Non-predefined ‘c’ areas	—	—	##.##
Total population coverage 2014-2020	—	—	##.##

* Saint-Martin and Mayotte are outermost regions but are not included in the 2006 NUTS nomenclature as their administrative status was modified under national law in 2007 and 2011 respectively.

Italy	NUTS regions	GDP	Population
‘a’ areas	ITF3 Campania	##.##	##.##
	ITF4 Puglia	##.##	##.##
	ITF5 Basilicata	##.##	##.##
	ITF6 Calabria	##.##	##.##
	ITG1 Sicilia	##.##	##.##
Non-predefined ‘c’ areas	—	—	##.##
Total population coverage 2014-2020	—	—	##.##

Cyprus	NUTS regions	GDP	Population

Non-predefined ‘c’ areas	—	—	##.##
Total population coverage 2014-2020	—	—	##.##

Latvia	NUTS regions	GDP	Population
‘a’ areas	LV00 Latvija	##.##	100.0
Total population coverage 2014-2020	—	—	100.0

Lithuania	NUTS regions	GDP	Population
‘a’ areas	LT00 Lietuva	##.##	100.0
Total population coverage 2014-2020	—	—	100.0

Luxembourg	NUTS regions	GDP	Population
Non-predefined ‘c’ areas	—	—	##.##
Total population coverage 2014-2020	—	—	##.##

Hungary	NUTS regions	GDP	Population
‘a’ areas	HU21 Közép-Dunántúl	##.##	##.##
	HU22 Nyugat-Dunántúl	##.##	##.##
	HU23 Dél-Dunántúl	##.##	##.##
	HU31 Észak-Magyarország	##.##	##.##
	HU32 Észak-Alföld	##.##	##.##
	HU33 Dél-Alföld	##.##	##.##
Non-predefined ‘c’ areas	—	—	##.##
Total population coverage 2014-2020	—	—	##.##

Malta	NUTS regions	GDP	Population
Predefined ‘c’ areas (former ‘a’ areas)	MT00 Malta	##.##	100.0
Total population coverage 2014-2020	—	—	100.0

Netherlands	NUTS regions	GDP	Population
Non-predefined ‘c’ areas	—	—	7.5
Total population coverage 2014-2020	—	—	7.5

Austria	NUTS regions	GDP	Population
Non-predefined ‘c’ areas	—	—	##.##
Total population coverage 2014-2020	—	—	##.##

Poland	NUTS regions	GDP	Population
‘a’ areas	PL11 Łódzkie	##.##	##.##
	PL21 Małopolskie	##.##	##.##
	PL22 Śląskie	##.##	##.##
	PL31 Lubelskie	##.##	##.##
	PL32 Podkarpackie	##.##	##.##
	PL33 Świętokrzyskie	##.##	##.##
	PL34 Podlaskie	##.##	##.##
	PL41 Wielkopolskie	##.##	##.##
	PL42 Zachodniopomorskie	##.##	##.##
	PL43 Lubuskie	##.##	##.##
	PL51 Dolnośląskie	##.##	##.##
	PL52 Opolskie	##.##	##.##
	PL61 Kujawsko-Pomorskie	##.##	##.##
	PL62 Warmińsko-Mazurskie	##.##	##.##
	PL63 Pomorskie	##.##	##.##
Non-predefined ‘c’ areas	—	—	##.##
Total population coverage 2014-2020	—	—	##.##

Portugal	NUTS regions	GDP	Population
‘a’ areas	PT11 Norte	##.##	##.##
	PT16 Centro (PT)	##.##	##.##
	PT18 Alentejo	##.##	##.##
	PT20 Região Autónoma dos Açores	##.##	##.##
	PT30 Região Autónoma da Madeira	##.##	##.##
Non-predefined ‘c’ areas	—	—	##.##
Total population coverage 2014-2020	—	—	##.##

Romania	NUTS regions	GDP	Population

‘a’ areas	RO11 Nord-Vest	##.##	##.##
	RO12 Centru	##.##	##.##
	RO21 Nord-Est	##.##	##.##
	RO22 Sud-Est	##.##	##.##
	RO31 Sud – Muntenia	##.##	##.##
	RO41 Sud-Vest Oltenia	##.##	##.##
	RO42 Vest	##.##	##.##
Total population coverage 2014-2020	—	—	##.##

Slovenia	NUTS regions	GDP	Population
‘a’ areas	SI01 Vzhodna Slovenija	##.##	##.##
Non-predefined ‘c’ areas	—	—	##.##
Total population coverage 2014-2020	—	—	##.##

Slovakia	NUTS regions	GDP	Population
‘a’ areas	SK02 Západné Slovensko	##.##	##.##
	SK03 Stredné Slovensko	##.##	##.##
	SK04 Východné Slovensko	##.##	##.##
Total population coverage 2014-2020	—	—	##.##

Finland	NUTS regions	GDP	Population
Predefined ‘c’ areas (sparsely populated areas)	FI131 Etelä-Savo	—	##.##
	FI133 Pohjois-Karjala	—	##.##
	FI134 Kainuu	—	##.##
	FI1A2 Pohjois-Pohjanmaa	—	##.##
	FI1A3 Lappi	—	##.##
Non-predefined ‘c’ areas	—	—	##.##
Total population coverage 2014-2020	—	—	##.##

Sweden	NUTS regions	GDP	Population
Predefined ‘c’ areas (sparsely populated areas)	SE312 Dalarnas län	—	##.##
	SE321 Västernorrlands län	—	##.##
	SE322 Jämtlands län	—	##.##
	SE331 Västerbottens län	—	##.##

	SE332 Norrbottens län	—	##.##
Total population coverage 2014-2020	—	—	##.##

United Kingdom	NUTS regions	GDP	Population
‘a’ areas	UKK30 Cornwall and the Isles of Scilly	##.##	##.##
	UKL1 West Wales and The Valleys	##.##	##.##
Predefined ‘c’ areas (sparsely populated areas)	UKM61 Caithness & Sutherland and Ross & Cromarty	—	##.##
	UKM63 Lochaber, Skye & Lochalsh, Arran & Cumbrae and Argyll & Bute	—	##.##
	UKM64 Eilean Siar (Western Isles)	—	##.##
Non-predefined ‘c’ areas	—	—	##.##
Total population coverage 2014-2020	—	—	##.##

Annex II

Method for the allocation of non-predefined ‘c’ coverage among Member States

The Commission shall determine the non-predefined ‘c’ coverage for each Member State concerned by applying the following method:

1. For each Member State, the Commission shall identify those NUTS 3 regions in the Member State concerned that are not situated in any of the following areas:
   – eligible ‘a’ areas listed in Annex I;
   – former ‘a’ areas with a GDP per capita below 90 % of the EU-27 average;
   – sparsely populated areas.
2. Within the NUTS 3 regions identified under Step 1, the Commission shall identify those that have either:
   – a GDP per capita[66] below the national GDP per capita disparity threshold[67], or;
   – an unemployment rate above the national unemployment disparity threshold[68], or above 150 % of the national average, or;
   – a GDP per capita below 90 % of the EU-27 average, or;
   – an unemployment rate above 125 % of the EU-27 average.
3. The allocation of non-predefined ‘c’ coverage for Member State i (A_i) is determined according to the following formula (expressed as a percentage of the EU-27 population):

   $A_i = p_i / P \times 100$

   where:

   p_i is the population[69] of the NUTS 3 regions in Member State i identified under Step 2.

   P is the sum of the population of the NUTS 3 regions in the EU-27 identified under Step 2.

---

66 All GDP per capita and unemployment data referred to in this annex are based on the average of the last three years for which Eurostat data are available, i.e. 2008-2010 for GDP per capita and 2009-2011 for unemployment. If data at NUTS 3 level are not available for any given years, the data for the NUTS 2 region in which those NUTS 3 regions are situated are used.

67 The national GDP per capita disparity threshold for Member State i (TG_i) is determined according to the following formula (expressed as a percentage of national GDP per capita):

$$(TG)_i = 85 \times ((1 + 100 / g_i) / 2)$$

where: g_i is the GDP per capita of Member State i, expressed as a percentage of the EU-27 average.

68 The national unemployment rate disparity threshold for Member State i (TU_i) is determined according to the following formula (expressed as a percentage of the national unemployment rate):

$$(TU)_i = 115 \times ((1 + 100 / u_i) / 2)$$

where: u_i is the national unemployment rate of Member State i, expressed as a percentage of the EU-27 average.

69 Population figures for NUTS 3 regions are established on the basis of the population data used by Eurostat to calculate the regional GDP per capita for 2010.

Annex III

Form for providing information on the regional aid maps

4. A Member State must provide information for each of the following categories of areas proposed for designation, if applicable:

   – ‘a’ areas;

   – former ‘a’ areas with a GDP per capita below 90 % of the EU-27 average;

   – sparsely populated areas;

   – non-predefined areas ‘c’ areas designated on the basis of Criterion 1;

   – non-predefined areas ‘c’ areas designated on the basis of Criterion 2;

   – non-predefined areas ‘c’ areas designated on the basis of Criterion 3;

   – non-predefined areas ‘c’ areas designated on the basis of Criterion 4;

   – non-predefined areas ‘c’ areas designated on the basis of Criterion 5;

5. Under each category, a Member State must provide the following information for each proposed area:

   – identification of the area (using the NUTS 2 or NUTS 3 region code of the area, the LAU 2 or LAU 1 code of the areas that form the contiguous area or other official denominations of the administrative units concerned);

   – the proposed aid intensity in the area for the period 2014-2020 or, for former ‘a’ areas with a GDP per capita below 90 % of the EU-27 average, for the periods 2014-2016 and 2017-2020 (indicating any increase of aid intensity as under paragraphs 158, 162 or 163, if applicable);

   – the total resident population of the area, as under paragraph 155.

6. For the sparsely populated areas and the non-predefined areas designated on the basis of Criteria 1-5, a Member State must provide adequate proof that each of the applicable conditions laid down in paragraphs 147 and 153-155 is fulfilled.

Annex IV

Definition of the steel sector

For the purpose of these guidelines, ‘steel sector’ means all activities related to the production of one or more of the following products:

(a) pig iron and ferro-alloys: pig iron for steelmaking, foundry and other pig iron, spiegeleisen and high-carbon ferro-manganese, not including other ferro-alloys;

(b) crude and semi-finished products of iron, ordinary steel or special steel: liquid steel cast or not cast into ingots, including ingots for forging semi-finished products: blooms, billets and slabs; sheet bars and tinplate bars; hot-rolled wide coils, with the exception of production of liquid steel for castings from small and medium-sized foundries;

(c) hot finished products of iron, ordinary steel or special steel: rails, sleepers, fishplates, soleplates, joists, heavy sections 80 mm and over, sheet piling, bars and sections of less than 80 mm and flats of less than 150 mm, wire rod, tube rounds and squares, hot-rolled hoop and strip (including tube strip), hot-rolled sheet (coated or uncoated), plates and sheets of 3 mm thickness and over, universal plates of 150 mm and over, with the exception of wire and wire products, bright bars and iron castings;

(d) cold finished products: tinplate, terneplate, blackplate, galvanized sheets, other coated sheets, cold-rolled sheets, electrical sheets and strip for tinplate, cold-rolled plate, in coil and in strip;

(e) tubes: all seamless steel tubes, welded steel tubes with a diameter of over 406.4 mm.

Definition of the synthetic fibres sector

For the purpose of these guidelines, ‘synthetic fibres sector’ means:

(a) extrusion/texturisation of all generic types of fibre and yarn based on polyester, polyamide, acrylic or polypropylene, irrespective of their end-uses; or

(b) polymerisation (including polycondensation) where it is integrated with extrusion in terms of the machinery used; or

(c) any ancillary process linked to the contemporaneous installation of extrusion/texturisation capacity by the prospective beneficiary or by another company in the group to which it belongs and which, in the specific business activity concerned, is normally integrated with such capacity in terms of the machinery used.

Annex V

Application form for regional investment aid:

- Information about the aid beneficiary:

- Name, location of main seat, main sector of activity (NACE Code),
- Declaration of firm not in difficulty as defined under the rescue and restructuring guidelines
- Declaration relating to aid (both de minimis and State aid) already received for other projects in the last 3 years in the same NUTS 3 area where the new investment will be located. Declaration of regional aid received or to be received for the same project by other granting authorities.

- Information about the project/activity to be supported:

- Short description of the investment project.
- Short description of expected positive effects for the area concerned (e.g. number of jobs created or safeguarded, R&D&I activities, training activities, creation of a cluster)
- Relevant legal basis (national, EU or both)
- Planned start-end date of the project
- Location(s) of the project

- Information about the financing of the project:

- Investments and other costs linked to it, cost benefit analysis for notified aid measures
- Total eligible costs
- Aid amount requested
- Aid intensity

- Information about the need for aid and its expected impact:

- Short explanation of the need for aid and its impact on the investment decision or location decision. Alternative location in absence of aid should be indicated.
- Declaration of absence of an irrevocable agreement between the beneficiary and contractors to conduct the project