EUROPEAN COMMISSION

Brussels, 17.10.2012
C(2012) 7133 final

Subject: State aid SA.33984 (2012/N) – United Kingdom
Green Investment Bank

Sir,

The Commission wishes to inform the United Kingdom (UK) that, having examined the information notified by your authorities on the matter referred to above, it has decided not to raise objections to the above-mentioned measure for the reasons set out below.

1. PROCEDURE

(1) On 24 August 2012, the UK authorities notified to the Commission the above-mentioned measure. The Commission requested additional information on 21 September 2012. The UK authorities replied on 25 and 27 September 2012[1].

2. DESCRIPTION OF THE MEASURE

2.1. Overview

(2) The UK authorities would like to establish and fund the Green Investment Bank (GIB) – a new institution with the objective of providing complementary financing to so-called "green projects" in the UK

[1] Several pre-notification contacts took place following the pre-notification of the measure by the UK authorities on 30 November 2011.

The Rt Hon William HAGUE
Secretary of State for Foreign Affairs
Foreign and Commonwealth Office
King Charles Street
London SW1A 2AH
United Kingdom

(3) The creation of the Green Investment Bank is part of the UK's response to the challenge linked to the UK's compliance with its international, EU and domestic legal obligations as regards carbon emissions. Those obligations result in particular from the Kyoto Protocol[2] (likely to be extended by the Durban Platform) and, at EU level, from the EU's climate and energy package of June 2009[3] (20-20-20 package) which sets carbon emission reduction targets for 2020 but also from directives regarding air quality (National emission ceilings Directive, Air quality directive, Petrol vapour Recovery directive), waste (Landfill waste directive)[4].

(4) According to the UK authorities, compliance with the 2020 carbon emission reduction targets implies acceleration in investment in green projects. According to experts, the corresponding funding needs will not be fully met by private investors. The reasons for that funding gap are linked to diverse market failures.

(5) Those market failures affect amongst others the financing of offshore wind power generation, waste infrastructure, non-domestic energy efficiency. They also affect other so-called green sectors: biofuels for transport, biomass, carbon capture and storage, marine energy and renewable heat. The remit of the GIB has been defined to cover those specific sectors, until the market failure is no longer observed or State aid approval for the GIB's operation has elapsed, whichever comes first.

(6) The UK sees the GIB as a way to address such market failures and close at least partially the funding gap arising until 2020. The GIB will first add capacity to the funding market of green projects within the sectors defined in the remit. However, its impact will not be limited solely to its GBP 3 billion lending power deriving from its capital base. GIB's investment activity will be guided by an additionality principle: GIB will, in many cases, finance projects alongside private investors.

(7) GIB's investment policy will seek to obtain a "crowding in" effect (i.e. attract private investments alongside its intervention). It will follow a "top up" approach: The GIB will co-invest, i.e. complement private funding in order to close the financing of the project. The GIB's intervention will also exercise a "signalling" effect. According to the UK, the mere fact that the GIB is ready to invest in a project will send a positive message to

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2 Kyoto protocol on the United Nations framework convention on climate change, 11 December 1997.

3 See Directive 2009/29/EC of the European Parliament and of the Council of 23 April 2009 amending Directive 2003/87/EC so as to improve and extend the greenhouse gas emission allowance trading scheme of the Community, OJ L 140, 5.6.2009, p. 63. ; Decision No 406/2009/EC of the European Parliament and of the Council of 23 April 2009 on the effort of Member States to reduce their greenhouse gas emissions to meet the Community's greenhouse gas emission reduction commitments up to 2020 ("Effort Sharing Decision"), OJ L 140, 5.6.2009, p. 136; Directive 2009/28/EC of the European Parliament and of the Council of 23 April 2009 on the promotion of the use of energy from renewable sources and amending and subsequently repealing Directives 2001/77/EC and 2003/30/EC ("Renewable energy Directive"), OJ L 140, 5.6.2009, p. 16; Directive 2009/31/EC - Directive of 23 April 2009 on the geological storage of carbon dioxide,. Directive 2009/31/EC of 23 April 2009 of the European Parliament and of the Council on the geological storage of carbon dioxide and amending Council Directive 85/337/EEC, European Parliament and Council Directives 2000/60/EC, 2001/80/EC, 2004/35/EC, 2006/12/EC, 2008/1/EC and Regulation (EC) No 1013/2006, OJ L 140, 5.6.2009, p. 114.

4 Council Directive 99/31/EC of 26 April 1999 on the landfill of waste, OJ L 182, 16.07.1999, p. 1.

potential private investors and positively influence their perception of the riskiness of the project and similar ones.

(8) Although legally an UK private law public company headquartered in Scotland and incorporated on 15 May 2012, the GIB will be entirely State-capitalised, State-owned and State-supervised. However, it will remain operationally independent from the Treasury. The GIB will not be a bank in the legal and prudential sense (see recital (15)).

(9) The GIB will be governed by a "double bottom line" principle. The "double bottom line principle" means that the GIB is expected at the same time (i) to self-finance its intervention beyond its initial capitalisation, (ii) to maximize the green impact of each of its investments. According to the UK authorities the GIB's investment policy will however mix concessional interventions (below market terms) containing aid with market-oriented interventions provided at terms comparable to those offered by commercial market operators.

(10) The UK has only notified the creation and capital injection into the GIB (so-called "level I aid"). Any GIB interventions containing aid (so-called "Level II aid") will require a separate approval.

(11) The Commission takes note that the UK intends to engage pre-notification negotiations on "level II aid" before 31 January 2013. The scope of the present decision is therefore strictly limited to level I aid (aid to the creation of the GIB itself). It does not prejudge in any way the position to be taken by the Commission as regards the investments/interventions by the GIB and whether such investments involve State aid. In particular this decision does not prejudge whether such aid would be considered compatible with the internal market.

2.2. The green economy in the UK

(12) The UK authorities define green growth as "environmentally sustainable, biodiverse, low-carbon and climate resilient growth in human prosperity".

(13) The UK estimates the investments required to fund the transition to a green economy to GBP 220 billion, of which GBP 110 billion is estimated to be required for the power sector alone[5]. Cumulative investment requirements prior to 2020 across the wider green economy in the UK are expected to exceed GBP 330 billion, with an annual investment requirement of close to GBP 50 billion in 2020.

(14) According to analysis presented by the UK authorities, UK companies active in the green sector have, on average over the last decade, raised around GBP 15 billion of investment each year. Fundraising efforts peaked in 2002-2004 with an annual amount exceeding GBP 20 billion before falling by almost 50% between 2005 and 2009. Investment raised

[5] Vivid economics, The Green Investment Bank: policy and finance context. Report prepared for the department of Business, Innovation and Skills, October 2011, § 3.1.

in 2010 reached GBP 18 billion[6], considerably short of the GBP 30 to GBP 50 billion required annually by 2020.

2.3. Architecture and funding of the GIB

(15) From an institutional point of view, GIB will take the form of a UK private law limited liability company, 100% owned by the State, but with a fully independent board. It will not be a bank in the legal and prudential sense and will not be granted any banking license. Consequently, it will not be subject to prudential rules nor be supervised by the Financial Supervisory Authority (FSA). It will be overseen only, as a State-owned company, by the National Accounting Office.

(16) Any change in the constitutional documents requires the agreement of the State (as sole shareholder), which will remain legally liable, in particular vis-à-vis the Commission for them. According to the UK authorities, the fact that those principles are not anchored in legislation but in GIB's constitutional documents does not result in a weaker degree of protection.

(17) The GIB will benefit from GBP 3,082 Billion State funds[7] during the current UK "spending period" (i.e. up to 2015). That amount includes main capital totaling GBP 3 billion transferred in three tranches until 2014/2015 as follows: up to GBP 775 million in 2012/2013, up to GBP 1000 million in 2013/2014 and up to GBP 1225 million in 2014/2015. In addition, GBP 82 million will be transferred for set up and running costs over the next three years according to the following expected schedule: GBP 29 million in 2012, GBP27 million in 2013 and GBP 26 million in 2014. The proceeds of maturing investment will be reinvested as well as profits. No distribution to the State is foreseen. The UK government intends to transfer to the GIB eligible investments (assets and liabilities) already made directly since April 2012 within the GBP 775 million envelope. Those eligible investments will be counted against the overall GBP 3 billion capital.

2.4. Intervention policy of the GIB

2.4.1. Principles of intervention

(18) The GIB's investment policy will be guided by four key principles: (i) sectoral focus, (ii) double bottom line, (iii) additionality and (iv) so-called last resort lending to close the funding gap when private participation is not enough to close it.

- Sectoral focus or remit

[6] Vivid economics, The Green Investment Bank: policy and finance context. Report prepared for the department of Business, Innovation and Skills, October 2011, § 3.3.

[7] The funds will be transferred as follows: GBP 804 million in 2012/2013, 1,027 billion in 2013/14 and the balance (GBP 1,251 billion) in 2014/2015. For comparison, the Big Society Capital (case SA 33683) has a global capitalisation of GBP 0,6 billion.

(19) First, the GIB shall invest only in precisely identified environmental subsectors. Most of its investments will be made in three "priority sectors": (a) offshore wind power generation, (b) waste infrastructure, (c) non-domestic energy efficiency (NDEE). The balance will be directed towards five "non-priority sectors": biofuels for transport, biomass, carbon capture and storage (CCS), marine energy and renewable heat. The remit of the GIB has been defined to cover those specific sectors, until the market failure is no longer observed or State aid approval for the GIB's operation has elapsed, whichever comes first.

- Double bottom line

(20) Second, the GIB will be subject to a double bottom line constraint. Its investment policy should target at the same time two distinct objectives: first, maximizing its environmental effect, second, achieving an average overall nominal return target (which has been fixed at 3,5% p.a. after operating costs excluding set up costs but before tax).

(21) According to the UK authorities, that double bottom line approach should result in the GIB investing whenever possible but not exclusively on so-called commercial terms to ensure both reaching the green objectives and sufficient profitability. As pointed out in recital (11), the assessment of the measure does not address or take a position on the GIB's interventions. No notification has been made of State aid involved in any of the interventions foreseen by the GIB, whether on so-called commercial terms or not. Only the aid to the creation of the GIB has been notified by the UK authorities.

- Additionality

(22) Third, the GIB´s investment policy shall adhere to the principle of additionality by avoiding crowding out and working to crowd in. The GIB will therefore seek to invest always alongside private co-investors.

- Last resort lending

(23) Fourth, the GIB will act as a so-called last resort lender to close a funding gap when private participation is not enough to close it. It will complement market funding once that funding has dried out. Through specific procedures, it will verify that each project in which it invests has effectively been denied either completely or partially financing by the market.

(24) That principle will include a so-called due diligence procedure. The GIB will satisfy itself that its investment is additional to the private sector so that the GIB does not provide finance where applicants are able to obtain it elsewhere on similar terms and conditions.

(25) More specifically, the GIB will include in its terms and conditions the following demands from applicants: (i) disclosure of all financiers (at least three) that have been approached for finance, (ii) disclosure of the responses received from each of those financiers, including the details of any offers received, (iii) disclosure of the identity of the financiers and the terms upon which finance has been agreed in the event that partial financing has been secured, (iv) disclosure of any available further evidence of the reasons why only insufficient finance is available.

2.4.2. Instruments of intervention

(26) The GIB will intervene through the following instruments: equity, debt underwriting and syndication for senior debt, mezzanine and junior debt, and guarantees (excluding the use of derivatives). The UK expects the GIB to be the sole provider of junior debt in most individual projects. According to the UK authorities, the GIB's intervention vehicles will include contingent debt, since that instrument[8] is particularly adapted to project finance when a construction risk is involved.

(27) As regards investment decision-making process, investment projects will be subject to an opinion of the Chief Investment Officer on its compliance with the GIB's current risk portfolio. It will be reviewed by the investment committee as to whether (i) it fits into the GIB's strategic priorities, (ii) it fits within the desired target or model portfolio, (iii) the deal is "market additional" (i.e. it is "crowding in" private funds).

(28) Those principles are anchored in the constitutive documents of GIB, namely the mission statement and the operating principles. The scope of the GIB intervention (priority and non-priority sectors) is anchored in the "Strategic framework". The Strategic framework and its updates are to be negotiated with the State for each spending period (i.e. every four to five years).

2.4.3. Remit – detailed description

(29) The GIB’s interventions will be solely focused on following sectors of the green economy. Three sectors have been identified as priority sectors: (i) offshore wind power generation, (ii) waste infrastructure and (iii) non-domestic energy efficiency. The GIB may also intervene in some clearly specified “non-priority” sectors: (iv) biofuels for transport, (v) biomass, (vi) carbon capture and storage, (vii) marine energy and (viii) renewable heat generation.

2.4.3.1. Priority sectors

- Offshore wind power generation

(30) Due to the UK’s natural potential, offshore wind power generation is expected to play an important role in achieving the UK's renewable energy obligations. As the sector is maturing, first generation projects (“round one”: close to the shore and small in size) give way to “round two” projects (further out to sea and with larger turbines) and “round three” projects (with a much larger capacity, around three times that of those of round one and two combined).

- Waste infrastructure

(31) Waste infrastructure facilities include (i) pre-treatment, (ii) recycling and reprocessing and (iii) energy generation. According to the UK authorities, the first two types of facilities

[8] Contingent debt provides access to a capped amount of debt on set terms. The borrower has full discretion as to the amount to be drawn (within the cap).

reduce greenhouse gas emissions while the last two reduce demand for fossil fuels. All three contribute to divert waste from landfill.

(32) Under the landfill directive, the UK has a target for reduction of biodegradable municipal waste to 35% of the 1995 volume.

- Non-domestic energy efficiency (NDEE)

(33) According to the UK authorities, NDEE contributes to reducing overall energy consumption. Energy efficiency measures help to meet renewable energy targets: assuming a given growth rate of low-carbon energy generation, energy efficiency measures increase mechanically the relative importance of renewable energy sources by reducing the total energy need.

2.4.3.2. Non-priority sectors

- Biofuels for transport

(34) Most commonly used biofuels include bioethanol and biodiesel. They are blended with fossil fuels in variable proportions. Second-generation biofuels are being developed from alternative feedstock such as cellulose.

(35) GIB intervention will be limited to biofuel refineries projects (excluding ancillary infrastructure investment) and to second-generation biofuels.

- Biomass power

(36) Biomass power projects generate heat energy through the combustion of organic feedstock including wood, straw, energy crops, manure and organic waste.

(37) The GIB's interventions in the biomass sector will focus projects that use biomass as the primary fuel power generation as either greenfield dedicated plants or conversion, or the co-firing of biomass materials with conventional fossil fuels.

- Carbon capture and storage (CCS)

(38) CCS technology enables carbon dioxide to be extracted from fuel or exhaust gas, transported to storage facilities and stored away from the atmosphere.

(39) The GIB's interventions in the CCS sector will focus on combustion plants, carbon dioxide storage facilities, transport pipeline infrastructure, in particular “trunk” and “oversized” pipelines that have capacity to transport carbon dioxide from multiple emitters and/or injection, and storage facilities as well as the installation of monitoring and measurement technology.

- Marine energy generation

(40) Marine energy generation technologies include wave power, tidal stream (energy extracted from water flows) and tidal range (barrage).

(41) The GIB's interventions will focus on development and operation of complete marine energy projects.

- Renewable heat generation

(42) Renewable energy generation include technologies that avoid the use of fossil fuels such as biomass boilers, biogas production, geothermal and solar thermal.

(43) The GIB's interventions will focus on non-domestic deployment and include projects involving heat from biodegradable waste incineration.

2.5. The GIB as an instrument to address market failures and help closing funding gap for green projects

2.5.1. Market failures

2.5.1.1. Overall market failures

(44) According to the UK, the creation of the GIB is a way to address a range of market failures affecting often simultaneously the financing of green projects in the sectors it has specified. Those market failures are linked to capacity constraints (i), asymmetry of information (ii) and risk aversion (iii).

- Capacity constraints (in terms of available funds)

(45) Traditional investors, such as utilities or independent projects developers, have no longer sufficient funding capacity to fund the projects which need to be accelerated in view of the achievement of a low carbon economy as envisaged by the UK.

(46) Prudential regulations in the banking (Basel III)[9] and in the insurance (solvency II)[10] have increased capital requirements and therefore have adversely affected the profitability of long-term debt finance. The appetite of financial institutions for risky project finance has therefore decreased, especially in areas where track records of projects either do not exist or are insufficient.

(47) The UK authorities claim that institutional investors are insufficiently present in the green sector since they primarily direct their investments towards investment grade debt instruments in mature sectors.

- Asymmetry of information

(48) Imperfection of information or lack thereof leads to principal-agent issues that affect the trust of investors in the green sectors covered in the remit of the GIB and investors' willingness to invest in them.

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[9] See the Directive proposal CRD IV.to strengthen the regulation of the banking sector, see http://ec.europa.eu/internal_market/bank/regcapital/new_proposals_en.htm

[10] Directive 2009/138/EC of the European Parliament and of the Council of 25 November 2009 on the taking-up and pursuit of the business of Insurance and Reinsurance (Solvency II), OJ L 335 , 17.12.2009 p. 1.

(49) The difficulty to extract value from all the information gains associated with being the "first mover" in a given type or class of investment limits the investment appetite of private investors for first of a kind projects or new financing structure or leads them to require an extra premium.

- Risk aversion

(50) Information asymmetry leads to risk aversion: it is difficult to assess projects in a context where track records are insufficient or inexistent because of uncertainties regarding construction costs, technology reliability and performance as well as policy and counterparty risk.

(51) Risk aversion is also increased by public policy uncertainties linked to the lack of track record in long-term consistent investment policies in those sectors.

2.5.1.2. Evidence of market failures specific to each sector of intervention

(i) Offshore wind

(52) Utilities play a predominant role as a source of capital in offshore wind projects. However, in the current crisis utilities face balance sheet constraints resulting from general deleveraging of the sector, as well as depressed margins linked to the increase in risk premium charged by markets for refinancing. In reaction, utilities have implemented debt reduction strategies that include asset disposal and cost reduction programmes[11].

(53) More specifically, unfavorable pricing, accounting and credit agency treatment of project finance debt has further discouraged the involvement of utilities in project financing of offshore wind because the current rating position of utilities following crisis-driven downgrading (two to three notches above non-investment grade) make them particularly sensitive to further downgrades.

(54) Moreover, according to the UK authorities, offshore wind power generation is experiencing a lack of investors other than utilities. Given the novel nature of the sector, investors have a negative perception of the risk/return relationship in offshore wind. According to interviews conducted by the Department of Business, Innovation and Skills (BIS), most institutional investors thought returns in offshore do not exceed returns in onshore whereas risk is in fact significantly higher[12]. That sector-specific risk is perceived as particularly high given the complexity of construction phase (uncertainties surrounding costs and schedules), limited operational track record, uncertainties over turbine installation and long-term performance. Costs for research and due diligence costs for offshore also higher than for onshore wind.

[11] See KPMG global energy institute, Green power 2012: The KPMG Renewable Energy M&A Report.

[12] Vivid economics, the economics of the Green investment Bank: costs and benefits, rationale and value for money, August 2011, § 3.4.8.

2.5.1.3. Waste infrastructure

(55) The main sources of capital for waste infrastructure projects are local authorities, existing waste management companies, private equity and bank debt.

(56) The sector is affected by some specific market failures such as uncertainties regarding feedstock supply, especially for projects that do not benefit from long-term supply contracts from a local authority[13]. The lack of proven track record is also felt in certain areas such as anaerobic digestion facilities (there are only 78 facilities currently operating in the UK, only two using gasification technology and only one using autoclave technology).

2.5.1.4. Non domestic energy efficiency

(57) Both large and small NDEE projects are affected by specific market failures. They result from high sunk costs (energy efficient equipment often has no recoverable value), size of projects (relative size is small and therefore increases transaction costs) and limited standardization.

2.5.1.5. Non priority sectors

(i) Biofuels for transport

(58) Biofuel facilities have been traditionally largely financed by equity provided by a range of industrial players including oil majors, global chemical companies, food producers and traders, often with a UK foothold.

(59) Sector-specific market failures include perceived risks around scale-up of technology: despite the relatively well-proven underlying technology for first generation biofuels, scaling up the technological solution has resulted in increased production costs and various operational challenges. It adds to the intrinsic technical complexity of organizing biofuel production operations.

(60) Technological challenges resulting from the scaling up of operations include the need to manage larger scale drier facilities to prepare the animal feed by-product, dried distillers grains and solubles as well as the rescaling of de-odorising equipment (regenerative thermal oxidizers). Such challenges and the best means of resolving them have been shown by experience drawn from various projects including the Ensus and the Vivergo plants.

(61) Those challenges are compounded for second generation biofuel projects (such as cellulosic bioethanol and biobutanol).

(62) Another market failure is linked to concerns around supply of feedstocks since long-term fully fixed contracts are rare.

[13] Norton Rose/Tolvik: the future of waste – A continuing opportunity.

(63) As a result, according to the UK authorities, investors have developed a negative sentiment towards the biofuels sector in general and are demanding significant premium pricing on their capital, lower project financial leverage and higher levels of guarantees from engineering procurement and construction contractors than customary in the renewables sector.

(ii) Biomass power

(64) Biomass power funding relies primarily on major utilities (in the form of corporate balance sheet investments) and small independent power project developers. Both are currently affected by balance sheet constraints.

(65) Another failure arises from specific uncertainties linked to limited commercial development, especially as regards the construction phase. Another source of major uncertainty results from price fluctuations of both biomass and fuel. Biomass feedstock is exposed to competition, seasonality, location and availability of supply and foreign exchange risk (since the UK relies on imported biomass). Given the structural volatility of fuel prices, profitability of biomass projects is affected by major uncertainties (both on the expenses and income sides).

(66) Last, the track record in long-term public policies in the biomass sector is considered insufficient by potential investors and has led to delayed investments (e.g., by Drax in 2008 and E.On).

(iii) Carbon capture and storage (CCS)

(67) According to the UK, no complete commercial scale CCS is currently operational anywhere in Europe. The sector is perceived as novel not because of its technologies as such but because their application, integration and commercial packaging is unprecedented.

(68) Market failures experienced in the CCS sector include risk aversion linked to uncertainties surrounding construction risk, the operational performance of assets with high sunk costs as well as a lack of information linked to the absence of track record from previous projects.

(iv) Marine energy generation

(69) Marine energy generation projects are predominantly financed by utilities and technology suppliers, such as ABB, BAE systems, Rolls-Royce and Siemens. Among the market failures affecting marine energy generation are transaction costs linked to the average relative limited size of projects, lack of track record linked to the novelty of technologies involved (which are mostly still in a demonstration phase) and risk aversion linked to technology uncertainties.

(v) Renewable heat generation

(70) As a capital-intensive sector, non-domestic renewable heat generation is affected by a shortage of available funding. It is mostly due to market failures related to risk aversion because of concerns around security of feedstock supply and perceived uncertainties in demand for large-scale projects. Those market failures are compounded by the lack or imperfection of information on operation and maintenance, resulting from the fact that technology is not stabilized.

2.5.2. Presence of a funding gap

(71) The market failures detailed above and the identification of funding needs result in a funding gap in each sector of intervention (see Chart 1) that overall totals GBP 47 Billion.

Chart 1

Cumulative GIB financing gap

GIB Sector	Financing need by 2020 (£bn)	Financing gap by 2020 (£bn)
Offshore wind	60.0	12.0
Waste - Commercial MSW & LACW	3.7	0.5
Waste - C&I	2.0	1.0
NDEE	23.0	18.4
Biofuels for transport	2.5	2.5
Biomass power	10.0	4.4
CCS	4.2	1.6
Marine energy	1.5	0.6
Renewable heat generation	8.3	5.6
Total	**115**	**47**

(72) As regards offshore wind power generation, according to the UK, national utilities are the only significant market participants committed to invest at an approximate rate of 1 GW p.a through to 2015. According to Vivid economics, those commitments would translate into GBP 40 billion additional investment. This would lead to an approximate capacity of 10 GW, which is significantly below the central scenario of 15 GW. To achieve the latter target would require GBP 60 billion in investment. Taking into account that GBP 8 billion have already been invested, the identified funding gap for offshore wind amounts to GBP 12 billion.

(73) As regards waste infrastructure, the UK estimates the total funding gap at GBP 1,5 billion. It corresponds to an identified funding gap of GBP 0,5 billion for municipal and local waste (Local Authority Collected Waste (LACW) and Municipal Solid Waste (MSW)) and of GBP 1 Billion for commercial and industrial waste (C&I waste). This reflects the medium case in both cases where project finance requirements have been respectively estimated to GBP 2,2 billion for LACW and MSW and to GBP 2.0 billion for C&I waste with an estimated available private sector funding of respectively GBP 1,7 billion (GBP

0.4 billion equity and GBP 1.3 billion debt) and GBP1.0 Billion (GBP 0.8 billion equity and GBP 0.2 billion debt).

(74) As regards NDEE, out of an overall market size of GBP 23 billion, the funding gap has been estimated by the BIS at GBP 18.4 billion.

(75) As regards biofuels, the extrapolation of current trends of the biofuel supply/demand balance […][*] and an assumption of capital expenditures of GBP 0,75/litre for bioethanol production leads the UK to identify an overall funding gap of GBP 2.5 billion corresponding to GBP 1.2 billion for bioethanol and GBP 1.3 billion for biodiesel.

(76) As regards biomass power, the funding gap has been estimated at GBP 4.4 billion out of an investment requirement of up to GBP 10 billion as anticipated by Oxera. To date, biomass project developers and sponsors of coal power capacity have approached the UK government for financing due to the unavailability of debt funding for GBP 2 billion each.

(77) As regards CCS, the UK estimates the 2030 possible capacity to be 10 GW[14] whereas projects currently in the selection process (covering the 2012-2016 period) and already selected projects (2016-2020) lie between 2.9 GW and 4.3 GW. Taking into account a GBP 1 billion government investment in current competition projects, funding requirements amount from GBP 2.1 to 6.2 billion. Available capital from corporate and private equity has been estimated between GBP 1.275 and 3.15 billion while available bank debt may reach 0.16 to 0.46 Billion. Those estimates lead to a funding gap of between GBP 0.665 and 2.59 billion with a median value of GBP 1.6275 billion.

(78) As regards marine energy generation, total capital investment required to achieve the scale up of 300 MW generation is likely to exceed GBP 1 billion. According to Oxera, it would translate into a funding gap of GBP 0.4 to 0.7 billion by 2020[15].

(79) As regards renewable heat generation, according to Oxera's estimations, renewable heat required to meet 2020 UK's targets amounts to 73 TWh[16] which, given an estimated unit cost of GBP 0,78 billion per GW, translates into funding requirements for capital investment of around GBP 9.8 billion by 2020. Assuming available private funding equivalent to the capital costs necessary to fund 73 TWh fossil fuel capacity, the funding gap would reach GBP 7.7 billion. Even by assuming a doubling of private investment capacity to GBP 4.2 billion, the funding gap would reach GBP 5.6 billion.

[*] Confidential information.

14 According to DECC central scenario and the low scenario by Poyry.

15 Data used include reports from Ernst and Young "Cost and financial support for wave, tidal stream and tidal range generation in the UK, 2010 and ARUP "Reviex of the generation costs and deployment potential of renewable electricity technologies in the UK", October 2011.

16 Which is consistent with NERA's lead scenario; see NERA Design of the renewable heat incentive. Study for the Department of Energy and climate change, February 2010 and the Committee on climate change's central scenario (70 TWh).

3. POSITION OF THE MEMBER STATE

(80) The United Kingdom states that the scope of its notification is limited to the fund injection into the GIB, its design and therefore the resulting aid to the GIB. It forms the level I notification. It does not encompass potential aid to projects and/or co-investors that will be subject to a latter independent notification (level II notification).

(81) According to the United Kingdom, the creation and GBP 3 billion capitalisation of the GIB is efficient since it is guided by the additionality principle and will have a "crowding in" effect. It will contribute to close the existing funding gap well beyond the amount of public monies injected into the GIB.

(82) Given the State resources involved, given the fact that the GIB receives an economic advantage since the UK government accepts a return on its GBP 3 Billion investment below sector comparable levels (since 3.5% p.a. is a return below the acceptable level in the banking sector), and given the selective nature of its advantage, the United Kingdom does not deny the fact that the proposed measure contains State aid.

(83) However, it submits that the proposed measure is compatible under Article 107(3)(c) TFEU since it is aimed at a well-defined objective of common interest, namely accelerating the meeting of the UK's binding environmental obligations and commitments at international, EU and domestic levels including obligations relating to the reduction of greenhouse gas emissions, the generation of renewable energy, decarbonisation and the diversion of waste from landfill and improvement in water and air quality.

(84) In essence, the United Kingdom justifies the creation and the capitalisation of the Green Investment Bank by the fact that the funding market for green projects is affected by several, compounded market failures. Given a funding need for the wider green economy of GBP 330 billion, those failures lead by 2020 to a total funding gap of GBP 47 billion for projects within the scope of the GIB.

(85) As regards the impact on inter-State trade, the United Kingdom accepts that the deployment of level I funds to the GIB is likely to have an effect on inter-State trade vis-à-vis the provision of finance.

(86) The United Kingdom however contends that effects on trade and competition will be limited and that the GIB will not have more than a negligible effect on inter-State trade lending due to the minimal size of the GIB's interventions in the provision of debt finance and equity finance to green projects within its clearly specified remit and due to the fact that the GIB will be required to prevent crowding out.

(87) As regards potential distortions of competition linked to lending and debt investment of the GIB, the United Kingdom contends that the GIB will not distort competition since: (i) its remit is designed to ensure that GIB's investments address financial market failures in very specific sectors only; (ii) those market failures result in an insufficiency of financing for green projects within the GIB's remit and therefore in considerable excess demand for debt and to a lesser extent, equity financing of such projects; and (iii) the GIB's funding

appears insignificant when compared to the cumulative funding gap of GBP 47 billion to arise by 2020 or the funding need of approximately GBP 50 billion p.a. expected by 2020.

4. ASSESSMENT

4.1. Presence of State aid

4.1.1. Legal Basis

(88) By virtue of Article 107(1) TFEU "any aid granted by a Member State or through State resources in any form whatsoever which distorts or threatens to distort competition by favouring certain undertakings or the production of certain goods shall, in so far as it affects trade between Member States, be incompatible with the internal market."

(89) In order for a measure to constitute State aid within the meaning of Article 107(1) TFEU it has to fulfil four conditions. Firstly, the aid is granted by Member State or through State resources. Secondly, the measure confers a selective advantage to certain undertakings or the production of certain goods. Thirdly, the measure must be liable to affect trade between Member States. Fourthly, the measure must distort or threaten to distort competition in the internal market.

4.1.2. State resources

(90) The concept of State aid applies to any advantage granted directly or indirectly, financed out of State resources, granted by the State itself or by any intermediary body acting by virtue of powers conferred on it. As has been stated by the Court, for the measures to be qualified as State aid within the meaning of Article 107(1) TFEU, they have to derive from the State's resources, either indirectly or directly and they have to be imputable to the State.

(91) Since the GIB will be funded only by the State capitalisation the monies injected into the Green Investment Bank necessarily contain State resources.

4.1.3. Selective economic advantage

(92) To constitute State aid, a measure must confer on recipients an economic advantage. To verify whether an undertaking has benefited from an economic advantage, the Commission applies the criterion of the "market economy investor/creditor principle". The assessment makes no distinction between the different types of beneficiaries in terms of their legal structure or ownership (public or private). The principles of non-discrimination and equality do not exempt public authorities or public companies from complying with EU competition rules.

(93) The State's investment of capital is considered to confer an economic advantage within the meaning of Article 107(1) TFEU if it would not have been provided by a private undertaking under the same market conditions. If the (monetary) compensation that the State receives in exchange for the equity investments is lower than what a private investor

would have requested under such circumstances, the investment target receives an economic advantage.

(94) In the case at hand, the presence of an economic advantage could be localised at two levels: (i) at level I, aid to the GIB and (ii) at level II, aid to the investors investing alongside the GIB and to the projects themselves. The present decision assesses only the upstream level I, i.e. the fund injection into the GIB. The question as to whether the GIB's interventions contain aid to final projects and/or co-investors is not within the scope of the current notification from the UK. The UK will ensure that the activities of the GIB are in compliance with the State aid rules. Should there be aid involved at either the level of the investors or downstream (level II), the UK will notify the relevant measures to the Commission. The level II aid will be subject to a later notification and separate decision(s) of the Commission.

(95) Therefore, the present decision limits the analysis of the economic advantage to the GBP 3 082 million fund injection measure and hence to the GIB itself. This decision is without prejudice to the examination of the level II activities under the State aid rules vis-à-vis their beneficiaries.

(96) The GIB derives an undisputable advantage which it would not receive from a private investor in a market economy from the following facts.

(97) First, from a financial point of view, the rate of return objective assigned by the State (3,5 % per annum) is significantly lower than the return that would have been claimed by private investors, especially given the risk profile of the business model and prevailing market circumstances. Moreover, unlike commercial banks, the GIB will not distribute dividends to its owners but will be allowed to capitalise the entirety of its future profits. That renunciation by the Member State of resources which would be expected by a private investor clearly gives a selective advantage to the GIB. Moreover, the GIB having received capital for free, will still price its interventions on commercial terms whenever possible, so that a certain amount of the resulting advantage might remain in the GIB and would not then be completely passed through to the final projects.

(98) Second, the UK notification makes it clear that the creation of the GIB is driven by the need to comply with the international, EU and domestic legal obligation of the United Kingdom as regards carbon emissions. The UK authorities confirm that the GIB will be created in order to address market failures, due to which projects necessary to reach the 2020 environmental objectives cannot access sufficient funding. Those motives are not the primary consideration of market economy investors, if indeed they would be a consideration for them at all.

4.1.4. Distortions of competition and effect on trade

(99) When aid granted by a Member State strengthens the position of an undertaking compared with other undertakings competing on the internal market, the latter must be regarded as affected by that aid. In accordance with settled case-law[17], for a measure to distort

[17] Case T-214/95 Het Vlaamse Gewest v Commission [1998] ECR II-717.

competition it is sufficient that the recipient of the aid competes with other undertakings on markets open to competition. Distortions of competition and effects on trade are assumed to be present when the measure is selective, that is, when the aid improves the market position of the aid beneficiary vis-à-vis its competitors.

(100) Within the level I analysis, potential distortions of competition are present at the level of the funding market.

(101) The mere fact that the UK authorities create a new bank with an initial capital of GBP 3 billion of which will be in competition with existing financial institutions creates an effect on competition on the market.

(102) Furthermore the GIB will not, as an ad hoc State- owned financial institution, face the same constraints that other market investors in terms of remuneration of capital.

(103) As regards effect on trade, the Commission notes that the GIB's interventions are restricted to projects physically implemented in the UK, irrespective of the nationality of the project sponsors and/or investors. The Commission notes that the funding market of such big-scale project is by nature international. It also notes that most green markets are also international. It therefore considers that aid granted through the GIB has an impact on trade and in this particular case on the funding market.

4.1.5. Conclusion

(104) For the reasons set out above, the Commission takes the view that the public funding provided to the GIB involves State aid within the meaning of Article 107(1) TFEU.

(105) The Commission notes that, to the best of its knowledge, the UK has respected the stand still obligation under article 108 (3).

4.2. Compatibility of the aid to the GIB itself

4.2.1. Assessment scope

(106) Compatibility analysis of the aid will have to be performed at two distinct levels: (i) upstream, at the level of support to the GIB (level I) (ii) at the level of the co-investors of GIB sponsored projects and downstream, at the level of the projects themselves (level II).

(107) The present decision assesses only the compatibility of intervention at level I, i.e. capital injection for the creation of the GIB. Thus, the Commission will assess whether it is necessary to create such an institution, whether creation of the GIB targets in an adequate way the need of common interest and whether the GIB will implement that objective in an appropriate way.

(108) It is planned that the UK authorities will notify separately scheme(s) regarding aid to be provided by the GIB to ultimate beneficiaries, in line with relevant State aid rules. It is also envisaged that the GIB might provide support in line with the General Block

Exemption Regulation[18]. Finally, as envisaged by the UK authorities, the GIB might provide funding along with commercial operators and exactly on the same terms, with the same risks, maturities and returns ("pari passu") so that the GIB's intervention may be free of aid. Such an assessment is however outside the scope of the present decision.

(109) As a consequence, the State aid analysis within the framework of the current decision will be restricted to the aid to the GIB itself resulting from the GBP 3 082 million fund injection. That analysis is without prejudice to the examination of the level II activities under the State aid rules vis-à-vis their beneficiaries.

4.2.2. Legal basis for the assessment: Assessment under Article 107(3)(c) TFEU

(110) The Commission must establish if the aid identified above can be found compatible with the internal market. Article 107(3) TFEU provides for certain exemptions to the general rule of incompatibility set out in Article 107(1) TFEU.

(111) In particular, Article 107(3)(c) 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.

(112) The notified measure does not fall within any existing Commission communication setting out the rules for implementing Article 107(3) TFEU, and therefore the Commission will assess the measure directly under Article 107(3)(c) TFEU.

(113) To examine the measure's compatibility directly under Article 107(3)(c) TFEU, the Commission has to assess its positive and negative effects. The Commission takes into account whether the aid measure is aimed at a well-defined EU objective, is an appropriate instrument, well-targeted and proportionate to the targeted objective and does not adversely affect trading conditions to an extent contrary to the common interest. Positive and negative elements will be weighted and balanced against each other.

(114) The Commission therefore cannot overlook the fact that the GIB will not be legally subject to the same regulatory environment as financial institutions from the private sector. However, the Commission notes that this element does not add excessively to the risks of distortions of competition linked to the overall design of the measure.

(115) The measure under consideration can be deemed well-designed to address the defined objective if: (i) it effectively remedies the market failures it targets to achieve a well-defined objective of common interest (i.e. its interventions could not have been performed by market forces), (ii) it is an appropriate instrument, (iii) it possesses an incentive effect, (iv) it remains proportional, (v) its adverse effects on trade and competition remains commensurate with its objective.

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[18] 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, 9.82008, p. 3.

4.2.3. Targeting a well-defined objective of common interest

(116) The Commission must assess whether the creation and capitalisation of the GIB meets a clearly defined objective of common interest, which stands as a pre-condition for compliance with Article 107(3)(c). Furthermore, the Commission has to examine whether the notified measure is suitable to attain that objective.

(117) The Commission notes that the definition of where the GIB will intervene targets "green sectors" that can contribute to achieving a low carbon emissions economy. The Commission further observes that the lowering of carbon emission constitutes a commitment contracted by the UK within the framework of the EU's climate and energy package of June 2009 (20-20-20 package). The 20-20-20 package constitutes a well-defined objective of European common interest.

(118) The Commission acknowledges that the funding market of green projects is affected by a market failure due to capacity constraints and by a resulting funding gap.

(119) The Commission notes that the existence of a funding gap does not imply that the projects supported by the GIB need aid[19] or contribute to the EU 2020 objectives individually. However, the Commission considers that it has been demonstrated by the UK authorities that in view of the need to accelerate investment in the "green sectors", the market most likely will not be able to take up all those investments as they may compete for the same funding with other (not green) investments.

(120) As regards the evidence of a funding gap, the Commission notes that it results at least in part from the market failures experienced in the sectors in which the GIB will intervene. The Commission also notes that it is widened by the conjunction of an increasing funding demand and increased constraints on funding capacities and/or willingness of traditional investors, be they utilities or project lending from banking institutions.

(121) The Commission notes that the creation of the GIB addresses market failures affecting the funding of green projects in the sectors within the remit of the GIB. Indeed, the GBP 330 billion investment amount required prior to 2020 translates into an annual GBP 30 to 50 billion investment requirement and into a cumulative funding gap across sectors of GBP 47 billion until 2020.

4.2.3.1. Appropriateness

(122) The Commission has to examine whether the creation of the GIB is an adequate response to address the existing market failures and close the funding gap.

(123) The Commission notes that the intervention scope of the GIB is precisely defined and restricted to eight sectors with a concentration on three. Those eight intervention sectors are differentiated between three priority sectors and five "non-priority" ones[20]. The Commission observes that the sectoral breakdown of the investment provided in the two

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19 The UK has several State aid schemes in place to support green investments.

20 See recital (19) supra.

scenarios of the business plan is approximately reflecting the relative level of funding gap identified. Offshore wind power generation and NDEE make up half of the projected investment while they represent 64,7% of the gap.

(124) The Commission notes that the principle of additionality clearly focusses the GIB's intervention on the aim of closing the funding gap while not crowding out competition.

4.2.3.2. Presence of an incentive effect

(125) The Commission must examine whether the creation of the GIB embeds an incentive effect so as to stimulate market forces' response to the existing market failures and funding gap.

(126) The Commission notes that the GIB relies on a "topping up" approach and is thus focused on limited interventions in key parts of the financing structure that will "unlock" the potential of projects.

(127) The Commission thus observes that the GIB's interventions are designed to influence risk perception by providing at least subjective comfort to the potential investors on the level of riskiness of the project.

(128) The GIB's intervention is then likely to have a "signalling effect", not only on projects but also on sectors.

(129) Last, the Commission remarks that the expertise deployed by the GIB will build knowledge in each of its sectors of intervention, in particular through the constitution of an investment track record.

4.2.3.3. Proportionality

(130) The Commission has to assess whether the aid provided by the measure is proportionate to the targeted objective (i.e. whether it would not be possible to reach the same outcome with a lesser amount) and limited to the minimum necessary.

(131) The Commission first notes that the notified capitalisation level of the GIB (GBP 3 billion) remains limited in comparison with the cumulative funding gap identified for the period up to 2020 (GBP 47 billion).

(132) The Commission also notes that the GIB's intervention is governed by an additionality principle ("top up" investment approach). The GIB aims at not being the sole investor in a project but will invest along other, private investors.

(133) The adherence of the GIB to the additionality principle means that the GIB's intervention will leverage private funds and thus exercise a mobilisation effect. That mobilisation effect is sizeable: it has been rated by the UK authorities between two and six times the GIB's investment amount. It means that GIB's intervention will be leveraged by the crowding-in of private funds. The additionality principle thus maximizes the impact of the

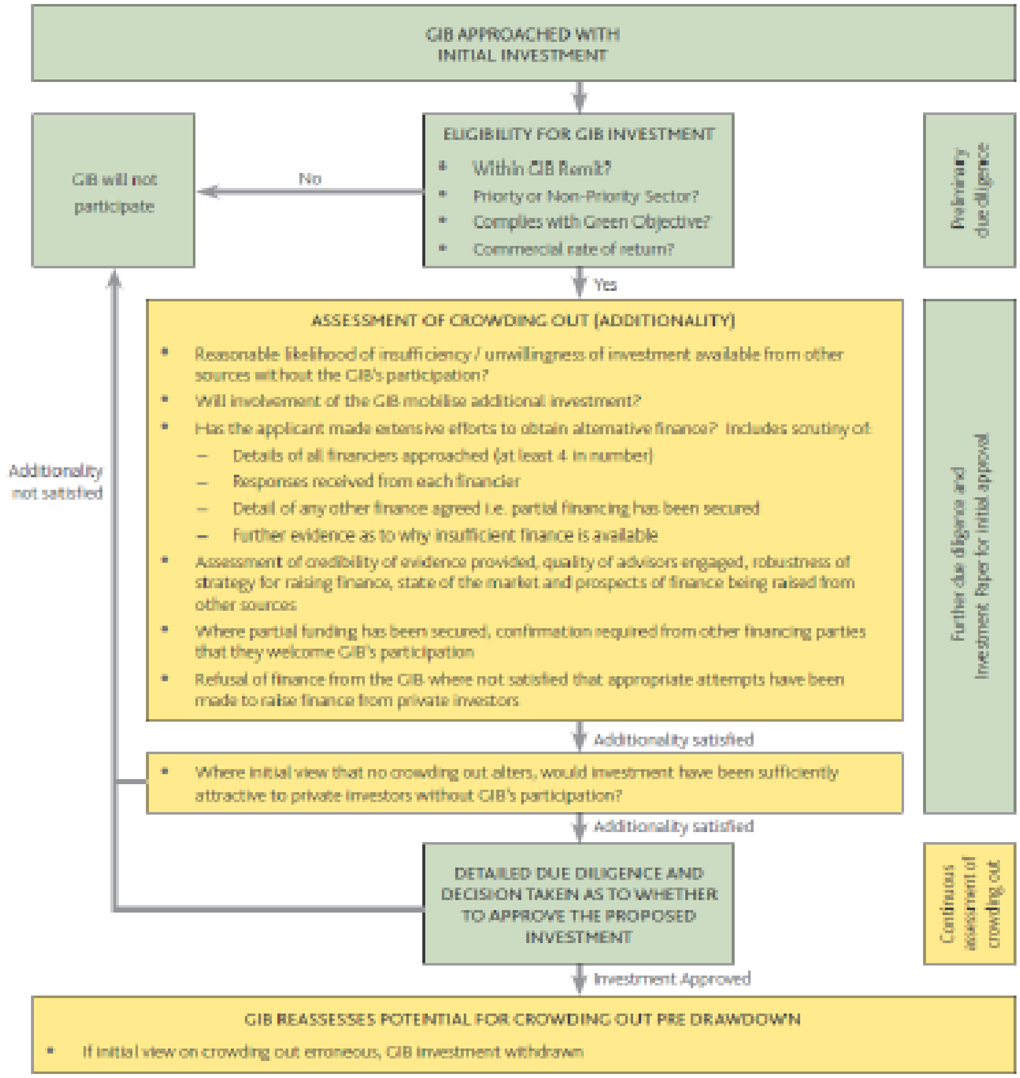
public monies entrusted to the GIB, while at the same time keeping the public intervention limited to the minimum necessary.

(134) In addition, the Commission notes that the GIB is subject to a "double bottom line": the GIB's investment policy should be designed so as to implement at the same time an objective of green impact and an average nominal return target over the medium-term of 3,5% pa. This target setting translates into the fact that the GIB will stick whenever possible to market pricing and conditions in each of its interventions.

(135) The Commission further notes that, as a principle of operation, each intervention of the GIB should be "last resort". The GIB will step in only when the projects which belong to the sectors within its remit face funding refusals at market or reasonable terms and/or when the amount raised is insufficient.

(136) In consequence, the GIB will apply a precisely defined and compulsory due diligence procedure (see § 25 and 26 supra). A recap of that due diligence process is mapped out in Table 2.

Table 2



(137) The Commission also notes that the GIB's portfolio investment policy will be subject to minimal ex ante defined dispersion rules: By 2015-2016, a single sector cannot represent more than 60% of the portfolio; a single investment cannot represent more than 20% of the portfolio; no more than two-thirds of the portfolio can be invested within a single financial year.

(138) In addition, the Commission notes that the interventions sectors of the GIB will be subject to periodic review towards the end of each spending period, to review the existence of market failures. The UK authorities will submit to the Commission at the end of the current spending period a notification to prolong or review the remit of the GIB's operations to ensure compliance of the level I aid to the GIB with State aid rules.

(139) The Commission concludes that aid to the GIB is proportional and limited to the minimum necessary in light of the facts that: the GIB's capitalisation is limited in comparison to the funding gap; the GIB is governed by principles of additionality (top up investment approach), double bottom line and last resort lending; those principles are anchored in GIB's operational procedures; and the GIB's remit will be subject to review on a regular basis.

4.2.4. Effect on trade and distortions of competition

(140) The Commission must examine whether the aid provided to the GIB through the GBP 3 082 million public fund injection triggers disproportionate distortions of competition and detrimental effects on trade within the internal market.

(141) The Commission points out that the creation and capitalisation of the GIB is motivated by the existence of market failures leading to a funding gap affecting specific green sectors within its intervention scope. The Commission further notes that the UK authorities have provided evidence of such market failures and of the resulting funding gap.

(142) The Commission points that the GIB's interventions are not primarily aimed at providing cheaper funding. Instead, they aim to add funding capacity and to exercise a signalling effect. GIB will thus intervene whenever possible on market terms on a risk-adjusted basis. This results from the specificity of the market failures affecting the sectors within the scope of the GIB. Given these specificities, intervention of the GIB should have a limited impact on price. A sizeable impact on price would suggest that the nature of the market failure has changed.

(143) Besides, the Commission observes that the GIB will be guided by the additionality principle and will complement private investments to the extent necessary to make the project happen.

(144) The Commission then observes that the GIB will act as a last resort lender in practical terms since, as part of its investment policy and procedures, the GIB will require concrete evidence from any potential investees that they have been unable to obtain sufficient funding at a reasonable market rate and it will subsequently assess the credibility of that evidence.

(145) Furthermore, the Commission notes that the GIB's activities and consequently its distortion of the existing banking sector in the UK will be limited, since the amounts provided by the GIB are not substantial when compared to the lending market in general and are targeted at specific, well-defined sectors where market failures for the provision of the full amount of needed funding have been identified.

(146) Finally, the Commission underlines again that the final interventions by the GIB will need to be compatible with State aid rules. Therefore, as regards the interventions containing aid, the UK authorities will have to notify either aid schemes to be realised by the GIB or any ad hoc aid if not granted within an approved scheme. As a result, the activity of the GIB should not lead to unnecessary distortions of competition. As regards other, market-oriented interventions, the GIB will need to be able to demonstrate upon request of the

Commission that the market economy investor principle (MEIP) has been duly respected. As regards the justification for those market-oriented interventions, any capital provided to such projects needs to be assessed on the basis of an ex-ante business plan to ensure MEIP compliance.

(147) The Commission notes that the capital injection to the GIB is to be used to address market failures in the sectors in which the GIB will intervene, i.e. to offer funding which is not supplied by the commercial operators, even though such funding is needed to attain the common objective. At the same time the UK authorities indicate that part of the GIB's intervention will be provided in compliance with the MEIP, i.e. on conditions that would be acceptable for a commercial operator searching to generate a maximum profit. The Commission considers that addressing market failure in line with the MEIP is only possible if, in the particular area, the market provides an offer at acceptable terms, but not in sufficient volume. Thus, the GIB might intervene to increase the supply at exactly the same terms. Such a situation is the only one where the Commission considers that the GIB would respect its remit and at the same time provide funding in line with the MEIP.

(148) The Commission notes that such MEIP interventions need to be at the conditions acceptable for commercial operators and for comparable situations. Interventions can only be considered *pari passu* and therefore aid exempt if they entail exactly the same risks, for a same maturity and offer the same return. It cannot be claimed that an intervention by the GIB complies with the MEIP if one cannot find any example of a comparable transaction with similar return funded by commercial operators without any involvement of the State.

(149) Taking those considerations into account, the Commission considers that the creation of GIB will not lead to undue distortions of competition.

4.2.5. Balancing test

(150) In the light of the above mentioned elements, the Commission has to balance the effects of the aid measure and to determine the magnitude of the risk of competition distortions. Subsequently, the Commission has to determine whether such distortions adversely affect trading conditions to an extent contrary to the common interest.

(151) In this case, although important uncertainties surround the exact magnitude as well as the evolution of the market failures affecting green sectors, the Commission considers that in view of the existence of a funding gap and the inability to close it with private means, the setting up of the GIB is necessary to help achieve the UK's targets in reduction of carbon emissions.

(152) The Commission further notes that both the fact that the GIB operates under an additionality principle and the fact that its interventions follow a "top up" approach and a "lender of last resort" approach will contribute to leverage the GIB's action. Those principles will also optimize the GIB's intervention by maximizing its positive impact on the funding gap while at the same time minimizing adverse consequences and risks of crowding out in the market.

(153) However, the Commission observes that the risks of distortions of competition can increase over time as the acceleration of investments, which is one of the main reasons for creating the GIB, may reduce the funding gap. As the market failures fade, the need for the GIB to operate in the specific sectors of its remit will decrease and the risk of crowding out competition will increase. Because regular reviews (every four to five years) are planned, the Commission considers that there are limited risks of crowding out competition in those particular sectors where a market failure currently exists.

(154) The Commission therefore cannot overlook the fact that the GIB will not be legally subject to the same regulatory environment as financial institutions from the private sector. However, the Commission notes that this element does not add excessively to the risks of distortions of competition linked to the overall design of the measure.

(155) In conclusion, the Commission considers that the aid measure is unlikely to either create undue distortions of competition in the notified period or to adversely affect the functioning of the internal market during that period. It also does not result in significant disparities between undertakings established in different Member States or in the location of the production factors within the EU.

(156) In conclusion, the Commission considers the aid to the GIB compatible with the internal market on the basis of Article 107(3)(c) TFEU for the four-year period from the day of the adoption of this decision. Continuation of GIB's activity beyond that period will require formal notification and approval by the Commission.

5. CONCLUSION

(157) The Commission concludes that the measure notified by the UK authorities constitutes State aid within the meaning of Article 107(1) TFEU. That aid benefits to the Green Investment Bank itself. The aid measure can be found compatible on the basis of Article 107(3)(c) TFEU.

(158) The Commission notes that : (i) the creation of the GIB reflects an innovative approach towards the stimulation of green investments, (ii) the GIB intervenes in nascent and/or rapidly expanding sectors, (iii) the market failures that justify the creation and intervention of the GIB are per se of a temporary nature, (iv) important uncertainties surround the pace at which such failures will be closed, (v) the impact of the GIB's intervention on the phasing out of market failures is currently unknown and may vary accordingly to economic and financial developments. The Commission therefore deems it necessary to review the measure for the future and to re-assess its prolongation and in the light of the operational practice of the GIB and feedback from stakeholders. That re-assessment will be done at the latest four years from the day of this decision.

(159) The compatibility of the aid measure to the GIB by the present decision is thus limited to the amount notified (GBP 3 082 million). Any further fund injection exceeding that limit shall require a formal notification. Any granting of additional resources, including (but not limited to) the granting of the right to borrow, directly or indirectly under the umbrella of any institution must be examined by the Commission and requires a specific

notification. Any additional sectors which are not among the sectors clearly defined in the remit of the GIB also require formal notification and approval by the Commission. The Commission reminds the UK authorities that the notified measure is limited to a four-year period from the date of the adoption of the present decision. Any extension of the measure beyond four years requires formal notification from the UK authorities and approval by the Commission.

6. DECISION

The Commission considers that the GBP 3 082 million injection of funds into the GIB is compatible with the internal market on the basis of Article 107(3)(c) TFEU and has accordingly decided not to raise objections to the notified measure.

That approval is strictly limited to that capital injection of GBP 3 082 million. The approval covers only the specific remit of the Green Investment Bank. That approval would fall should any additional resources, including (but not limited to) the right to borrow, directly or indirectly, be granted to the GIB without prior approval of the Commission.

This approval does not extend to any potential aid to projects and/or co-investors resulting from GIB interventions, which are subject to separate decisions.

In any case, the present approval is limited to a four-year period from the date of the adoption of the present decision. Any extension of the measure beyond that four-year period requires formal notification and approval from the Commission.

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Directorate for State Aid
State Aid Greffe
B-1049 Brussels
Fax No: (0032) 2-296.12.42

Yours faithfully,

For the Commission

Joaquín ALMUNIA
Vice-President