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REPORT FROM THE COMMISSION

State Aid Scoreboard

Report on state aid granted by the EU Member States

- Autumn 2012 Update –

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SUMMARY OF THE REPORT'S CONCLUSIONS

Total expenditure on non-crisis State aid further decreased in the EU in 2011 to €64.3 billion or 0.5% of EU GDP, when compared to previous years. While, generally speaking, Member States continued their efforts to reduce overall aid levels, a substantial part of the decrease is probably due to tougher budget conditions in many Member States. That drop in expenditure obviously contributed to the overall trend of lower State aid expenditure over the period 2006-2011. It remains to be seen in the coming years whether that downward trend continues or levels out in the long-term.

Aid earmarked for horizontal objectives of common interest continued to be high, comprising roughly 90% of total aid granted to industry and services. Block-exempted aid increased further to about 32.5% of total aid granted to industry and services, compared to previous years, confirming the upward trend seen since 2006. Overall, aid granted under block exemption and through notified schemes remained high (roughly 87.5%) whereas individual aid, under scrutiny by the Commission, remained low.

Activities to recover incompatible aid continued and this aid was recovered from beneficiaries.

In 2011, fewer new aid measures aimed at supporting the financial sector were authorised by the Commission. The total amount of aid approved from 2008 until 1 October 2012 was €5058.9 billion (40.3% of EU GDP). However, most of the measures approved since 2008 are still in operation due to continuing market tensions.

The **aid to the financial sector in 2011, totalling €714.7 billion or 5.7% of EU GDP**, was mainly to provide guarantee support and liquidity support and was concentrated in a few Member States.

With respect to aid granted under the temporary framework, no new aid measures were introduced by Member States, except a few for agriculture, while some existing measures authorised in 2009 and 2010 were prolonged. In 2011, €4.8 billion in aid was granted under the temporary framework which was less than in previous years. The total amount of aid used under the temporary framework (€37.5 billion), remained well below the total amount of approved aid (€82.9 billion).

The 2012 update of the State Aid Scoreboard provides a synopsis of the information submitted this year by Member States in their annual reports on State aid expenditure in 2011.

As in previous Scoreboards, aid amounts are divided into non-crisis aid and crisis aid, for methodological reasons and to avoid distorting the picture of trends in State aid expenditure due to the large aid amounts granted to the financial sector[1].

For non-crisis aid, a synopsis is provided of State aid expenditure in 2011, accompanied by an overview of trends in State aid granted to industry and services (by comparing expenditure over the periods 2006-2008 and 2009-2011). A distinction is made by type of aid, i.e. block-exempted aid, schemes and individual aid (individual aid granted under a scheme and *ad hoc* aid).

Crisis aid is presented in the form of an overview of the aid amounts approved (1 October 2008 until 1 October 2012) and aid amounts used (1 October 2008 until 31 December 2011), by type of instrument, i.e. recapitalisation, guarantees, impaired assets and liquidity measures. Information on aid granted under the Temporary Community Framework for State aid measures to support access to finance in the current financial and economic crisis (the temporary framework)[2] is provided in the form of the approved aid amounts and the aid amounts used.

Finally, an update is provided on what has been achieved in the enforcement of State aid rules.

It is noted that the EFTA Surveillance Authority also publishes an annual scoreboard[3] giving updates on the volume of State aid granted by Iceland, Liechtenstein and Norway.

The State Aid Scoreboard is composed of a summary report, adopted by the college of Commissioners, focusing on key facts, conclusions and trends in State aid granted by Member States and a Staff Working Document 'Facts and figures on State aid in the EU Member States' (SWD), attached to the report to provide factual background.

State aid in the current economic context

EU GDP showed very moderate growth in 2011, well below 1 % on average. Overall, private and public spending was still low and had started to rise only slowly. Unemployment in the EU was above 10 %, and the intensifying sovereign-debt crisis also weighed heavily on the EU economy.

Since the crisis situation in the financial sector continued, Member States also had to prolong their bank support in order to maintain confidence in the sector and in particular to enable banks to provide credit to the real economy.

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1 Crisis aid is expressed by (i) the committed amount of aid and (ii) the used amount of aid. The committed amount (pledged volume of aid) represents the overall maximum amount of State aid measures adopted by Member States and approved by the Commission. The used amount expresses the actual volume of the aid measure implemented by a Member State. The methodology used for calculating crisis aid is further explained in the Commission's Staff Working Paper. Non-crisis aid is normally expressed by the aid element and total expenditure is expressed accordingly, both in absolute volume and in % of GDP, in order to present comparable information.

2 Consolidated version of the Communication from the Commission - Temporary Community framework for State aid measures to support access to finance in the current financial and economic crisis; OJ C 83, 7.4.2009, p. 1; as amended by OJ C 261, 31.10.2009, p. 1, and OJ C 303, 15.12.2009, p. 6. Prolongation of the temporary framework; OJ C 6, 11.1.2011, p. 5.

3 See http://www.eftasurv.int/press--publications/scoreboards/state-aid-scoreboards/.

Overall, the Commission's State aid control policy has again been one of the key factors in ensuring the coordinated implementation of the unprecedented rescue measures, without creating undue competition distortion in the internal market.

1. STATE AID IN 2011

1.1. Non-crisis aid

Total non-crisis State aid amounted to € 64.3 billion, or 0.5 % of EU[4] GDP[5], in 2011. Aid to industry and services amounted to € 52.9 billion, or 0.42 % of EU GDP[6], aid to agriculture accounted for € 8.7 billion, or 0.07 % of EU GDP, aid to fisheries amounted to € 109 million, or 0.001 % of EU GDP, and transport aid stood at € 2.2 billion, or 0.02 % of EU GDP.

The five largest granters of aid to industry and services represent approximately 60 % of the total, € 39 billion in terms of volume; they are Germany (€ 13.6 billion), France (€ 12.3 billion), United Kingdom (€ 4.8 billion), Spain (€ 4.5 billion) and Italy (€ 3.8 billion). The ranking is different in terms of % of GDP; in this case, most aid is granted by Malta (1.6 %), Greece (1.2 %), Finland (1.2 %), Hungary (1.1 %) and Slovenia (1.1 %).

Notified subsidies to railways[7] in 2011 amounted to € 32.3 billion[8], or represent 0.25 % of EU GDP.

1.2. Crisis aid

In respect of crisis-related aid granted to the financial sector, recapitalisation and impaired asset relief stood at € 31.7 billion, or 0.25 % of EU GDP, and the overall volume of average outstanding guarantees, including new guarantees, and liquidity measures amounted to € 682.9 billion, representing 5.4 % of EU GDP. By 1 October 2012, all Member States except Bulgaria, Czech Republic, Estonia, Malta, and Romania had had financial crisis measures approved by the Commission.

The aid amount used under the temporary framework amounted to € 4.8 billion in 2011, or 0.037 % of EU GDP. All Member States except Cyprus had aid measures approved under the temporary framework.

4 'EU' means all Member States of the European Union.

5 Total non-crisis State aid comprises aid granted to industry and services, coal, agriculture, fisheries and transport, but excludes, due to lack of comparable data, subsidies to the railway sector and aid in compensation for services of general economic interest. Amounts refer to the aid element (or gross grant equivalent in the case of guarantees and loans) contained in the State aid measure unless stated otherwise. For more details, see the methodological notes included in the SWD.

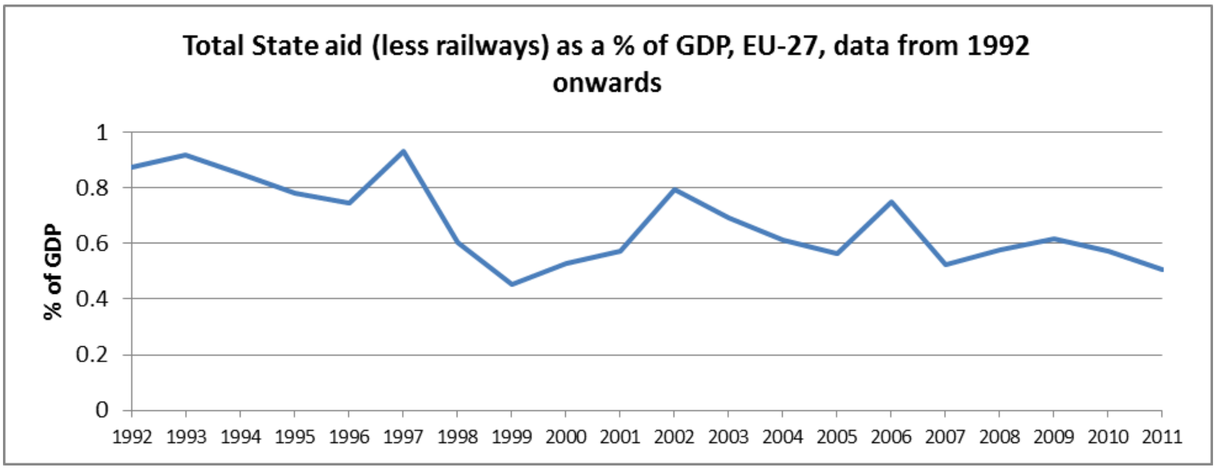
6 Coal aid, as part of sectoral aid and thus coming under industry and services, stood at € 2.3 billion, which represents 4.2 % of total aid to industry and services.

7 The information on subsidies to railways differs in scope and detail from that collected from Member States on aid granted to industry and services in accordance with Annex III A of Commission Regulation (EC) No 794/2004 (OJ L 140, 30.4.2004, p.1). Aggregation into a single State aid total is thus not possible.

8 At the time of finalising this report, information on subsidies to railways had not been submitted by Czech Republic, Italy, Luxembourg, the Netherlands, Portugal, and Slovakia. Cyprus and Malta have no railway operators.

2. Trends and patterns of expenditure on non-crisis State aid in the Member States

Figure 1[9]: Total State aid (non-crisis aid) as % of GDP (EU-27; data from 1992 onwards)



Overall, non-crisis State aid expenditure has been on a long-term downward trend since the 1980s, when it stood at approximately 2 % of EU GDP. It fell to about 1 % of EU GDP in the 1990s and decreased further to around 0.5 % of EU GDP after 2004[10], except in 2006. A moderate increase was seen in 2008 and 2009, but in 2010 and 2011 the figure was again around 0.5 % of EU GDP.

Over the short term, non-crisis State aid expenditure has been roughly stable at a low level for many years, as is also suggested by the underlying trends, 0.64 % of EU GDP in 2006-2008 to 0.58 % of EU GDP in 2009-2011. On the one hand, Member States appear to have maintained their State aid discipline and increased non-crisis aid only in some areas where a response to the financial and economic crisis was needed, despite the fact that many Member States granted substantial aid amounts to the financial sector. On the other hand, in 2011 in particular, many Member States may have been forced to reduce aid volumes as a result of tougher budget constraints, which does not exclude the possibility that expenditure may be shifted into coming years or that expired aid measures may be reintroduced at a later stage.

Due to the particular features of aid to agriculture, fisheries and transport, the following sections on the levels and orientation of non-crisis aid (2.1 and 2.2) only deal with aid to industry and services.

2.1. State aid to industry and services

Looking at the trend, i.e. comparing aid expenditure between the periods 2006-2008 and 2009-2011, a slight increase can be seen for the period 2009-2011 when the aid volume amounted to €60.0 billion or 0.48 % of EU GDP, whereas in the preceding period it stood at €58.6 billion or 0.47 % of EU GDP. In the light of the reasons given above, it would not be reasonable to conclude that a long-term increase in State aid can already be observed or that the one-off effect of 2009 is still contributing to the overall increase in that period. In any event, it appears more likely that the trend will reverse due to the lower expenditures in 2010 and 2011.

9 Source: DG Competition; GDP figures: Eurostat.

10 See previous Scoreboards for more about the reasons for the past decline in State aid expenditure, which can found on DG Competition's website: http://ec.europa.eu/competition/state_aid/studies_reports/archive/scoreboard_arch.html.

With regard to the lower aid expenditure on industry and services in 2011, some Member States have cut back expenditure due to budget constraints or may well stretch expenditure plans over more years to maintain strict budget discipline. Lower sectoral aid granted in 2011 contributed to the decrease. Thus, more aid was earmarked for horizontal objectives, in particular to give support to regional development, promote environmental protection and continue investing in research and development. Overall, that development indicates that Member States were able to respond flexibly to economic constraints but also to changing economic needs.

Block-exempted aid[11] increased substantially in 2011. More generally, Member States continued to grant aid through schemes, which indicates that they favoured such tools in order to give support to a large number of enterprises without prior individual notification to the Commission.

2.2. State aid for horizontal objectives of common interest

The concept of horizontal aid, which covers aid not granted to specific sectors of the economy, derives from the Treaty on the Functioning of the European Union (TFEU)[12]. It leaves room for the Commission to make policy choices under which State aid can be considered compatible with the internal market in order to provide effective support to common policy objectives.

As in previous years, the three main objectives in 2011 for which Member States granted aid were: regional development, safeguarding the environment including fostering energy saving and promoting the use of renewable energies, and research, development and innovation ('R&D&I'). Aid to SMEs and aid for creating of employment and promoting training were less used by Member States.

Out of a total of € 52.9 billion, or 0.42 % of EU GDP granted to industry and services, 89.7 % of the aid was earmarked for horizontal objectives. Regional aid amounted to € 14.0 billion, or 0.11 % of EU GDP, followed by environmental protection, including energy saving, which stood at € 12.4 billion, representing 0.09 % of EU GDP, and R&D&I aid, which amounted to € 10 billion, or 0.08 % of EU GDP. Those three objectives accounted for approximately two-thirds of total aid to industry and services.

The trend, with horizontal aid increasing by approximately 0.2 % of EU GDP between the periods 2006-2008 and 2009-2011, shows that Member States have evidently been making efforts to earmark aid for horizontal objectives over past years. In only a few Member States has the level of horizontal aid been below 50 %.

Sectoral aid[13], which represented roughly 10.3 % of total aid granted to industry and services, amounting to € 5.5 billion, or 0.04 % of EU GDP, continued to decrease in 2011. Less aid was granted to the coal sector and the manufacturing and non-manufacturing sectors.

[11] For more details, see chapters 2.2.2.1 and 4 in the SWD.

[12] For instance, Article 107(3)(a) TFEU with respect to regional aid, Article 107(3)(b) TFEU on the execution of an important project of common European interest.

[13] Rescue and restructuring aid is included in sectoral aid.

3. STATE AID GRANTED TO THE FINANCIAL SECTOR AND SUPPORT FOR THE REAL ECONOMY

3.1. State aid to the financial sector

3.1.1. Context

The turmoil in the financial markets, which continued in 2011, was triggered by the financial crisis in 2008 and called for massive intervention by European governments to curb the adverse effects of the shock. State aid to financial institutions was crucial for restoring confidence in the financial sector and avoiding a systemic crisis.

In view of the worsening of the sovereign debt crisis in mid 2011, the Member States and the Commission agreed on a package of measures to strengthen banks' capital and provide guarantees for their liabilities (the banking package)[14].

3.1.2. Aid amounts approved and used between 1 October 2008 and 1 October 2012

Between 1 October 2008[15] and 1 October 2012, the Commission approved aid to the financial sector totalling €5058.9 billion (40.3% of EU GDP). The bulk of the aid was authorised in 2008 when €3394 billion (27.7% of EU GDP) was approved, mainly comprising guarantees on banks' bonds and deposits. After 2008, the aid approved focused more on recapitalisation of banks and impaired asset relief rather than on guarantees, while more recently a new wave of guarantee measures was approved mainly by those countries experiencing an increase in their sovereign spreads, such as Spain and Italy.

Between 2008[16] and 2011, the overall amount of aid used amounted to €1615.9 billion (12.8% of EU GDP). Guarantees accounted for the largest part amounting to roughly €1084.8 billion (8.6% of EU GDP), followed by recapitalisation €322.1 billion (2.5% of EU GDP), impaired assets €119.9 (0.9% of EU GDP) and liquidity measures €89 billion (0.7% of EU GDP).

3.1.3. Aid amounts approved and used in 2011

In 2011, the Commission approved aid to the financial sector amounting to €274.4 billion (2% of EU GDP). The new aid approved was concentrated in a few countries and involved guarantees for €179.7 billion, liquidity measures for €50.2 billion, recapitalisations for €38.1 billion and impaired asset relief for €6.4 billion.

The overall volume of aid used in 2011 amounted to €714.7 billion, or 5.7% of EU GDP. Outstanding guarantees stood at €521.8 billion and new guarantees issues amounted to €110.9 billion. Liquidity interventions amounted to €43.7 billion and new liquidity provided in 2011 stood at €6.5 billion. Recapitalisation amounted to €31.7 billion. No aid was granted through the authorised impaired assets measures.

3.2. State aid to the real economy

3.2.1. Context

In response to the tightening of access to credit faced by companies as a result of the financial crisis, the Commission adopted the temporary framework on 17 December 2008. The main goals were to maintain continuity in company access to finance and to prepare the ground for sustainable long-term growth by encouraging investment. The temporary framework introduced a number of new State aid instruments as well as temporary adaptations of existing

[14] ECOFIN Council conclusion, 8 November 2011.
[15] Recapitalisation aid granted to Northern Rock in 2007 is included.
[16] Recapitalisation aid granted to Northern Rock in 2007 is included.

State aid frameworks. It was open to all sectors of the economy. However, it excluded aid to remedy pre-existing structural problems, so no aid was granted to companies that were in difficulty before the crisis.

The temporary framework was supposed to expire at the end of 2010. However, in the light of the continuing high volatility of financial markets, coupled with the uncertain economic outlook, at the end of 2010 the Commission decided to prolong for one year most of the measures set out in the temporary framework for one year under stricter conditions[17], except the possibility to grant a limited compatible aid amount of € 500 000 per company. The compatible limited amount of aid (aid up to € 500 000 per company) was limited to beneficiaries that had submitted a complete application no later than 31 December 2010 under a national aid scheme approved by the Commission in accordance with the temporary framework and no later than 31 March 2011 for undertakings active in the primary production of agricultural products.

3.2.2. Amounts approved and used

In 2011, Member States implemented no new aid measures (except a few for farmers) but requested the prolongation of some existing measures[18].

From the entry into force of the temporary framework until the end of 2011, the total approved volume authorised by the Commission amounted to € 82.9 billion.

In 2011, the aid amount used under the temporary framework stood at approximately € 4.8 billion or 0.037% of EU GDP.

The main tool used by Member States was the subsidised guarantees (€ 1.9 billion), followed by the maximum aid amount of € 500 000 per company (€ 0.6 billion).

In total, the amount used by Member States under the temporary framework amounted to roughly € 37.5 billion, representing a take-up rate of 45 % in relation to the total approved aid under the temporary framework.

For more details on aid granted under the temporary framework, see chapter 3.2 of the SWD.

4. TRENDS IN STATE AID EXPENDITURE BY TYPE OF AID MEASURES

4.1. Number of aid measures

Fewer new aid measures were introduced by Member States in 2011. However, the proportion of aid granted under block exemption or schemes and as individual aid remained fairly stable, with a slight increase in *ad hoc* aid measures. National budget restrictions were most likely the reason why Member States were reluctant to implement new aid measures. The fewer new block-exempted aid measures can be explained by the fact that Member States phased out measures implemented under the previous specific block exemptions (SMEs, employment, training and regional aid). Given that the General Block Exemption Regulation ('GBER')[19], introduced in August 2008, allows for a wider scope in granting aid, e.g. more aid objectives, wider application and, in some cases, more lenient conditions (depending on the individual objective), Member States have needed fewer new block-exempted measures under the GBER to replace previous block-exempted measures.

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[17] Communication of the Commission Temporary Union Framework for State aid measures to support access to finance in the current financial and economic crisis; OJ C 6, 11.1.2011, p. 5.

[18] For more details, see chapter 3.2 of the SWD.

[19] Commission Regulation (EC) 800/2008; OJ L 214, 9.8.2008, p. 3.

4.2. Aid volume - around 32.5% of aid to industry and services is block-exempted

Block-exempted aid granted to industry and services increased by roughly €5 billion to €17.2 billion in 2011, or 0.13% of EU GDP, accounting for 32.5% of total aid granted to industry and services. Regional aid, aid to protect the environment and to save energy and R&D&I aid were the main measures, whereas Member States earmarked less aid for SMEs, training and employment.

5. ENFORCING THE STATE AID RULES

5.1. Unlawful aid[20]

Between 2000 and 2011, the Commission adopted 986 decisions on unlawful aid. Negative decisions on aid measures found to be incompatible with the internal market represented 23% of the cases[21] and entailed ordering the Member State concerned to recover the illegally awarded aid. For some 3% of unlawful aid[22], the Commission attached conditions to its decisions. That intervention rate is roughly nine times higher than the rate of negative and conditional decisions in notified cases. More than half of the interventions concerned measures granting aid to industry and services, while less than a quarter were in the agricultural sector. The remainder concerned fisheries, transport and coal.

5.2. Recovery of aid

The total number of pending recovery cases stood at 46 cases on 30 June 2012 (compared to 41 cases at the end of 2010). The amount of illegal and incompatible aid recovered since 2000 also increased to €13.5 billion by 30 June 2012 (compared to an outstanding amount of €2.3 billion still to be recovered). Thus, the percentage of illegal and incompatible aid still to be recovered rose from 11.1% in 2010 to around 14.4% on 30 June 2012. In fisheries, five negative decisions were adopted by the Commission in 2011, four of which include recovery of the aid. In agriculture, five recovery decisions were adopted in 2011. Transport had no recovery decisions.

5.3. Enforcement of State aid law: Cooperation with national courts

As a follow-up to the Notice on the Enforcement of State Aid Law by National Courts of 2009[23], advocacy efforts have intensified: the Commission is actively involved in financing training programmes for national judges following an annual call for projects, and also sends trainers to teach at such workshops and conferences. In February 2012, a dedicated one-day workshop, covering both antitrust and State aid issues relevant for national courts, was organised by the Commission in cooperation with the Association of European Competition Law Judges.

5.4. Ex-post monitoring

Over the years, the architecture of State aid control has evolved significantly. Today, roughly 88% of aid granted to industry and services is not individually examined by the Commission, but is granted on the basis of previously approved aid schemes or under block exemption. DG Competition monitors the way in which Member States apply existing aid schemes. To

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[20] Article 108(3) TFEU obliges Member States not only to notify new State aid measures to the Commission prior to implementation but also to refrain from putting them into effect until a final decision is adopted. When either of those obligations is not respected, the State aid measure is considered to be unlawful.

[21] 224 cases.

[22] 28 cases.

[23] OJ C 85, 9.4.2009, p. 1.

further improve the effectiveness of that control, in 2011 DG Competition decided to enlarge the scope of the 2011/2012 monitoring exercise significantly. Although investigation of a number of cases is still on-going, there seems to be an overall increase in the number of problematic cases. More than one-third of the cases monitored in 2011/2012 have raised problems of varying types and gravity (non-notified modification of schemes, individual aid exceeding the maximum thresholds, compatibility conditions not properly reflected in the national legal basis etc.). Keeping in mind the possible bias introduced by the limited number of cases monitored so far (compared to the great number of existing aid schemes), the compliance rate seems to vary across the Member States and the different types of aid. The Commission will systematically follow up all irregularities. At the same time, Member States must step up their efforts to better comply with State aid rules.

Commission Staff Working Document 'Facts and figures on State aid in the EU Member States'