EUROPEAN COMMISSION

Brussels, 1.12.2010
COM(2010) 701 final

REPORT FROM THE COMMISSION

State Aid Scoreboard

Report on State aid granted by the EU Member States

- Autumn 2010 Update -

{SEC(2010) 1462 final}

TABLE OF CONTENTS

INTRODUCTION

This autumn 2010 update of the State Aid Scoreboard (hereinafter "the Scoreboard") describes the State aid situation in the twenty-seven Member States for the year 2009. It provides an overview of aid levels and the objectives pursued by aid granted by Member States. The report includes a chapter on State aid granted to financial institutions and to the real economy in response to the financial and economic crisis.

Furthermore, the Scoreboard reports on the progress towards delivering a comprehensive and coherent reform package for State aid that began with the State Aid Action Plan (hereinafter "SAAP") in 2005. Finally, it notes achievements in the field of enforcement of State aid rules.

The Scoreboard consists of two parts: first a summary Report, adopted by the College of Commissioners focussing on key facts, conclusions, trends and patterns with regard to State aid granted by Member States as well as key policy developments in the context of State aid control. Secondly, a Staff Working Document, attached to the Report, "Facts and figures on State aid in the EU Member States", providing the factual background.

The EFTA Surveillance Authority (ESA) publishes an annual scoreboard[1] on the volume of State aid granted in Iceland, Liechtenstein and Norway.

State aid in the context of the economic crisis

In the lead-up to the financial crisis, the EU had been experiencing steady economic growth per annum. Between 2002 and 2007, the level of State aid to industry and services decreased annually on average by 2% and stood at € 65 billion or less than 0.5% of GDP in 2007. In parallel, budget deficits came down to an average of 0.8% of GDP in 2007 – the best result for thirty years[2]. Unemployment fell during this period and stood at a long-time low of 7% EU-wide in 2008.

The financial crisis abruptly brought an end to the steady GDP growth, low levels of State aid and decreasing budget deficits seen since the year 2000. The overall level of State aid increased further in 2009 as compared to 2008 and stood at 3.6% of GDP, again as a result of crisis aid to the financial sector in particular. Aid to the real economy granted through the Temporary Framework[3], which Member States started to implement in 2009, was only a minor contributor to the overall increased aid volume.

When inter-bank lending dried up in September 2008, Member States started to inject large amounts of aid to the banking sector to ensure that lending to the economy could continue. Guided by the Temporary Framework, Member States also started to ease business's financing constraints. The European Commission's State aid policy was one of the key factors ensuring that this – generally successful – rescue process has been achieved in a coordinated way. It allowed swift implementation of unprecedented support measures and ensured at the same time that the Internal Market was kept intact.

---

[1] http://www.eftasurv.int/information/sascoreboard/

[2] Communication from the Commission to the European Parliament and the Council, Long-term sustainability of public finances for a recovering economy - COM(2009) 545, 14.10.2009 (http://ec.europa.eu/economy_finance/thematic_articles/article15994_en.htm).

[3] Temporary framework for State aid measures to support access to finance in the current financial and economic crisis; consolidated version OJ C 83, 7.4.2009; as further amended by OJ C 261, 31.10.2009, p. 2, and OJ C 303, 15.12.2009, p. 6.

1. STATE AID IN 2009

Total State aid[4] granted by the Member States in 2009 amounted to € 427.2 billion or, in relative terms, 3.6% of EU-27[5] GDP. Of this total, € 353.9 billion or 3% of EU-27 GDP related to crisis measures reported by Member States. In 2009, twenty-two Member States implemented crisis aid in favour of the financial sector (2.98% of EU-27 GDP). On 1 October 2010[6], all EU-15[7] Member States and Cyprus, Hungary, Latvia, Lithuania, Poland, Slovakia and Slovenia had had financial crisis measures approved by the Commission and all Member States had granted aid under the Temporary Framework, except Cyprus.

If the crisis measures are excluded, total State aid amounted to around € 73.2 billion in 2009 or 0.62% of EU-27 GDP. Aid to industry and services represents 79.3% of total State aid, that is € 58.1 billion or 0.49% of EU-27 GDP[8]. Aid to agriculture amounted to € 11.6 billion or 15.9% of total aid), fisheries (€ 0.2 billion or 0.3% of total aid) and transport[9] (€ 3.3 billion or 4.5% of total aid).

Aid to railways[10] is reported by Member States to amount to € 33.1 billion or 0.3% of EU-27 GDP[11].

In absolute terms, the five largest grantors account for € 39.8 billion or 68.2% of total aid[12]. Germany accounted for € 15.3 billion or 26.3% of total aid, followed by France (€ 11.7 billion; 20.1%), Spain (€ 4.9 billion; 8.4%), Italy (€ 4.6 billion; 7.9%), and the United Kingdom (€ 3.3 billion; 5.5%). A completely different picture emerges when looking at aid as a percentage of GDP: Malta granted aid representing 1.7% of GDP, followed by Hungary (1.0%), Portugal and Denmark (each 0.9%) and Sweden (0.8%).

2. TRENDS AND PATTERNS OF STATE AID EXPENDITURE IN THE MEMBER STATES

Looking at the trend from a long-term perspective, the overall level of State aid in the 1980s was in the region of 2% of GDP, fell then to just below 1% in the 1990s and came down to around 0.5% - 0.6% of GDP in the years 2003 – 2007. Due to the response to the financial and economic crisis, the overall EU-27 aid level increased significantly and stood, as noted above, at 3.6% of GDP in 2009.

Figure 1[13]: Total State aid as % of GDP (EU-27; data as of 1992)

---

4 The total covers aid to manufacturing, services, coal, agriculture, fisheries and part of the transport sector but excludes, due to the lack of comparable data, aid to the railway sector and aid for compensation for services of general economic interest. Aid amounts refer to the aid element (or gross grant equivalent in case of guarantees or loans) contained in a State aid measure unless stated otherwise (see methodological remarks in the Commission Staff Working Document, attached to this Report).

5 EU-27 means all Member States of the EU.

6 In order to give a complete picture on crisis aid, the whole of the period dating from the adoption of the Commission's crisis measures to a cut-off date of 1 October 2010 is used as the reference period for this part of the report.

7 EU-15 comprises Member States that joined the EU before 2004.

8 Coal, as part of sectoral aid, amounted to € 2.7 billion or 3.7% of total aid.

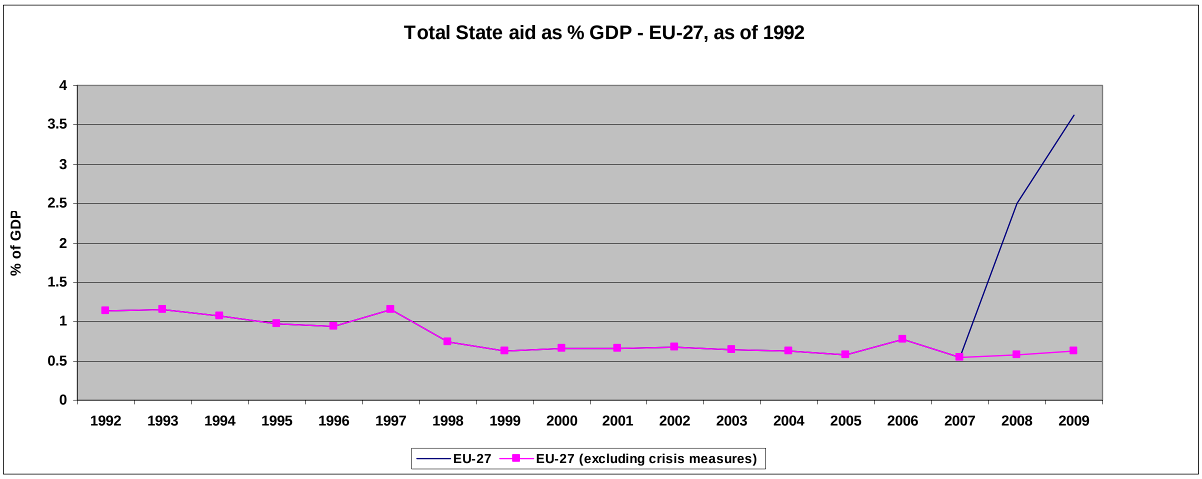
9 Excluding railways.

10 Since comparable data are lacking, it is not included in any of the totals.

11 See paragraph 2.3.5 of Commission's Staff Working Document "Facts and figures on State aid in the EU Member States".

12 Crisis measures excluded.

13 Source: DG Competition; GDP figures: Eurostat.



The decline in State aid expenditure from 2000 until 2007 can be attributed to three main factors: first, due to a period of economic growth since 2000, Member States granted considerably less rescue and restructuring aid for ailing firms. Second, State aid to the coal sector showed a continued downward trend, primarily observed in Poland, France, Germany and Spain. Third, pre-accession commitments and continued efforts after accession contributed to the downward trend since the EU-12[14] Member States continued to adjust their State aid policies and practices to the requirements of EU State aid law and policies.

These efforts can be seen as the result of a general recognition that a too high volume of State aid not only hinders an efficient allocation of resources but also renders the economy as a whole less competitive. Work in this regard already began in the mid 1980s to make effective State aid control a key component of the Single Market Programme. State aid discipline was widened and strengthened in the 1990s in the context of EMU and then given new impetus by the Lisbon Council in 2000 and the SAAP in 2005. The resulting reform package for State aid has focused largely on a better targeting of aid[15] while ensuring that distortions are kept to a minimum in order to maintain the functioning of the single market.

Disregarding the exceptional crisis measures, overall aid stood at 0.62% of GDP (€ 73.2 billion) in 2009. Though increasing again in that year as compared with the previous year, it is still within the average of the past ten years. This seems to indicate that first Member States continued to maintain State aid discipline[16]; and second, the strict State aid discipline in the years prior to the crisis can be seen as an important contribution that made a swift, substantial and targeted response to the crisis possible without undermining the overall consensus that State aid should be used in a cautious, considered way where it is necessary to achieve a commonly accepted objective while being proportionate to that objective.

Due to the particularities associated with aid to agriculture, fisheries and transport, the following sections on levels and orientation of aid (2.1 and 2.2) look only at aid to industry and services.

2.1. Trend of levels of State aid to industry and services

In order to accurately analyse the trend for State aid to industry and services, crisis measures are not taken into account here and will be discussed separately in chapter 3.

---

[14] EU-12 includes Member States which acceded to the EU in 2004 or later.
[15] I.e. to promote horizontal aid versus sectoral aid.
[16] When crisis aid is excluded.

For the EU as a whole, the trend in the level of aid granted to industry and services in the EU has been rather stable during the two consecutive three-year periods 2004 - 2006 and 2007 - 2009 when compared as a percentage of GDP. On average, aid expenditure amounted to € 55.1 billion or 0.45% of GDP in 2007 - 2009, whereas during 2004 - 2006 the average amounted to € 53 billion or 0.45% of GDP. This shows that, leaving the specific response to the financial and economic crisis aside, many Member States have continued in their effort to keep overall aid levels under control.

Eleven Member States were able to maintain or even further reduce their aid levels in the period 2007 - 2009 as compared with 2004 - 2006. Many of the EU-12 countries achieved a significant reduction of 0.5% of GDP or even more. As a result, the average EU-12 expenditure decreased by 0.12%, i.e. from 0.69% of GDP in 2004 - 2006 to 0.57% in 2007 - 2009. Some EU-15 countries were also able to reduce aid levels, now at approximately 0.44% of GDP in the period 2007 - 2009, which were also 0.44% of GDP in the period 2004 - 2006.

Despite the positive downward trend in these Member States, other Member States increased aid expenditure in 2007 - 2009 compared to 2004 - 2006[17]. Any increase can largely be attributed to aid in favour of horizontal objectives, mainly for regional development and research and development. That said, the increase in aid volumes witnessed in 2008 and 2009 do not yet allow a conclusion to be drawn as to whether the long-term downward trend in EU-27 State aid expenditure has been reversed; the data is for just two years and remains within the average for the period 2000 - 2007.

The short-term evolution from 2008 to 2009 shows a small upward move. State aid expenditure for industry and services rose by approximately 0.03% of GDP. For instance, France granted more aid to regional development as well as for research and development, Germany more on regional aid and aid to SMEs. This short-term upward evolution shows that the current State aid control system still allows Member States to react quickly to changing economic needs without further individual notifications to the Commission. The main tools for Member States in this respect are block exempted measures and approved notified aid schemes under which individual aid can be granted to a large number of enterprises (for further details see chapter 4).

2.2. State aid earmarked for horizontal objectives of common interest

It is recalled that State aid for horizontal objectives, which is aid not granted to specific sectors, is usually considered as being better suited to address market failures and thus less distortive than sectoral and *ad hoc* aid. Research and Development and Innovation (hereinafter "R&D&I"), safeguarding the environment including energy saving and renewable energies, support to Small and Medium-Sized Enterprises (hereinafter "SME"), employment creation, the promotion of training and aid for regional economic development to support territorial cohesion are the most prominent horizontal objectives pursued using State aid.

In order to look at the underlying trend regarding the effort by Member States to re-orient 'non-crisis' aid to horizontal objectives of common interest, crisis cases are not taken into account for this analysis[18].

On this basis, aid earmarked for horizontal objectives amounted in 2009 to € 48.7 billion and accounted for roughly 84% of the total aid to industry and services. This is to be compared with much lower levels in 2004 (74%) and in the mid-Nineties (50%). The three main

---

17 Belgium, Czech Republic, Denmark, Ireland, Greece, France, Lithuania, Hungary, Portugal and Slovakia.

18 If one were to include crisis measures, the share of horizontal aid would drop to 13%.

objectives pursued by Member States in 2009 were regional aid (24%), aid assessed under the environmental aid guidelines (23%)[19] and aid for R&D&I (18%). The underlying trend confirms the upward move on aid oriented towards horizontal objectives. However, when looking at the number of Member States directing 90% or more of their aid to industry and services to horizontal objectives of common interest, a decrease was identified. In 2009, 15 Member States were granting 90% or more of aid earmarked for horizontal objectives compared to 17 in 2008[20] and 2007[21]. No single overriding reason or pattern has been identified to explain this development.

For the EU as a whole, aid for sectoral development including rescue and restructuring aid[22] in 2009 was higher compared to 2008 and stood at € 9.4 billion or 16% of total aid to industry and services[23]. Outside the context of the economic and financial crisis, rescue and restructuring aid, as guided by the Rescue and Restructuring guidelines[24], amounted in 2009 to just € 398 million, compared to an annual average of € 872 million in the period 2006 - 2008.

Overall, the long-term trend shows that Member States continue to direct a high level of aid towards horizontal objectives. In particular, although some EU-15 Member States have granted more sectoral aid in 2009 compared to 2008, all EU-12 Member States are progressively redirecting aid towards horizontal objectives.

3. STATE AID IN THE CONTEXT OF THE FINANCIAL AND ECONOMIC CRISIS

3.1. The Commission's guidance in crisis cases

State aid has been one of the main instruments in helping Member States battle the worst financial crisis in recent history. Since the existing Rescue and restructuring guidelines were not apt to address rapidly the deteriorating situation, soon after the onset of the crisis the Commission came forward with several communications on the legal basis of Article 107(3)(b) TFEU[25]. Aimed at preserving a level playing field, ensuring the financial stability and legal certainty, these communications set the Commission's position as to how

---

19 Two distinct groups of cases fall in the category environmental aid and energy saving: The first group of cases pursues a direct benefit to environment. The second group comprises reductions or exemption from environmental taxes. For this second group of cases, aid expenditure cannot be taken as a proxy for measuring the environmental benefit as this benefit us pursed by the tax but not by the exemptions thereof. For further details, see Spring 2008 Scoreboard - COM(2008) 304, 21.5.2008.

20 See Autumn 2009 Scoreboard - COM(2009) 661, 7.12.2009, p. 5.

21 See Autumn 2008 Scoreboard - COM(2008) 751, 17.11.2008, p. 30.

22 Rescue and restructuring aid decreased and hence does not contribute to the overall increase in sectoral aid.

23 These percentages exclude those measures with a horizontal objective that are nevertheless earmarked for the manufacturing and services sectors.

24 Community guidelines on State aid for rescuing and restructuring firms in difficulty (OJ C 244, 1.10.2004, pp. 2-17), as extended by OJ C 156, 9.7.2009, p. 3.

25 Since October 2008 the Commission adopted four Communications: 1) Communication from the Commission- The application of State aid rules to measures taken in relation to financial institutions in the context of the current global financial crisis (OJ C 270, 25.10.2008, pp. 8-14); 2) Communication from the Commission — The recapitalisation of financial institutions in the current financial crisis: limitation of aid to the minimum necessary and safeguards against undue distortions of competition (OJ C 10, 15.1.2009, pp. 2-10); 3) Communication from the Commission on the treatment of impaired assets in the Community banking sector (OJ C 72, 26.3.2009, pp. 1-22); and 4) Communication from the Commission on the return to viability and the assessment of the restructuring measures in the financial sector in the current crisis under the State aid rules (OJ C 195, 19.8.2009, pp. 9-20). The latter is applicable until the end of 2010.

State aid rules would be applied to governments' action in the field of State aid[26]. Those communications relating to the financial sector were complemented with guidance on the assessment of crisis-related support measures to the real economy (the so-called Temporary Framework, see below).

Member States' exceptional response, coordinated by the Commission, helped to contain the financial crisis in 2009. In part due to State aid measures, conditions in the financial sector have stabilised with larger banks seeing their Tier-1 capital exceeding 10%. Moreover, in 2009 the financial sector experienced a strong performance on the earnings and profits side and gradual recovery of financial assets' prices. Even if those improvements have not been felt equally across Europe[27], it provides a reassuring signal to the markets, Member States and the Commission.

On 2 December 2009[28], the Ecofin Council emphasised the need to disengage from various forms of temporary support for the financial sector. Those conclusions in particular stressed that the unwinding of State aid measures should start with guarantee schemes. In that regard, the Commission presented an analysis that justifies the introduction of specific pre-requisites for guarantee measures after 30 June 2010[29]. At the heart of those changes is a rule making guarantee fees dependent on a bank's creditworthiness. This constitutes the first step towards exit from guarantee schemes within a coherent framework and as part of a coordinated approach across Member States thereby safeguarding progress made in reinforcing financial stability. The Ecofin Council of 18 May 2010 welcomed the Commission's analysis[30] and work started aiming at encouraging sound financial institutions to exit from State guarantees while pressing others to assess their long-term viability. In the light of that discussion, the Commission has subsequently approved or renewed schemes in 14 Member States, with Cyprus, Finland and Slovakia choosing to phase-out their guarantee measures.

3.2. Total volume of State aid measures approved for the financial sector

Overall, the Commission took approximately 200 decisions on State aid measures to the financial sector based on Article 107(3)(b) TFEU between 1 October 2008 and 1 October 2010[31]. Aiming to remedy a serious disturbance in Member States economies, these decisions authorised, amended or prolonged 41 schemes and addressed with individual decisions the situation of more than 40 financial institutions. The financial crisis called for wide-ranging action with the Commission authorising financial crisis measures in the field of State aid in 22 Member States; very few Member States (namely - Bulgaria, the Czech

---

26 For a more detailed analysis of the main notions of these communications and also for a deeper analysis of the context of the crisis please refer to previous editions of the Scoreboard, namely Autumn Scoreboard 2008, Spring special edition 2009, Autumn Scoreboard 2009 and Spring special edition 2010. Also see the Report on Competition Policy for 2009 - COM(2010) 282, 3.6.2010, pp. 4-11.

27 Some banks may still give rise to liquidity concerns in view of ongoing restructuring and market uncertainties.

28 See 2981st Council meeting, Economic and Financial Affairs, Brussels, 2 December 2009, 16838/09 (Press 352): http://www.consilium.europa.eu/uedocs/cms_Data/docs/pressdata/en/ecofin/111706.pdf.

29 Staff working paper on the application of state aid rules to government guarantee schemes covering bank debt to be issued after 30 June 2010, http://ec.europa.eu/competition/state_aid/studies_reports/phase_out_bank_guarantees.pdf.

30 See 3015th Council meeting, Economic and Financial Affairs, Brussels, 18 May 2010, http://www.consilium.europa.eu/uedocs/cms_data/docs/pressdata/en/ecofin/114495.pdf.

31 In order to reflect the latest developments, the reference period for approved amounts and decisions taken in the context of financial crisis cases taken in this Scoreboard is from 1 October 2008 until 1 October 2010. Any differences with other Commission documents analysing the approved volumes of aid as guarantees can be explained by a different reference date.

Republic, Estonia, Malta and Romania) who did not grant any aid to their financial institutions.

The maximum volume of Commission-approved measures since the beginning of the crisis until 1 October 2010 (including both schemes and *ad hoc* interventions) amounts to € 4 588.90 billion. The total volume approved for schemes (€ 3 478.96 billion) was considerably higher than for individual financial institutions (€ 1 109.94 billion). Large amounts of support approved under schemes can be explained by the fact that some Member States[32] adopted large blanket-guarantee schemes which covered the entirety of their bank's debt.

Of the aid instruments dealt with in that reference period, the greatest bulk was approved as guarantees including schemes and *ad hoc* interventions representing € 3 485.25 billion or 76% of the maximum volume. The approved amount for recapitalization measures constitutes € 546.08 billion, followed by impaired assets interventions with a total approved volume of € 401.79 billion. The maximum volume of aid approved in relation to liquidity instruments is € 155.77 billion. This data suggests that Member States relied mainly on guarantee measures which had a stabilising effect for the financial sector without weighing heavily on the public finances as opposed to more interventionist instruments such as recapitalisations or cleaning of impaired assets. In addition, nearly 70% of the maximum volume relates to just five Member States (the United Kingdom, Ireland, Denmark, Germany and France[33]), with overall substantive differences of approved volumes in individual Member States[34].

3.3. Actual use of State aid measures and take up rate

Total State aid granted to the financial sector in the context of the financial crisis in 2009 represents € 351.7 billion, or 2.98% of EU-27 GDP

Not all of the aid approved between the start of the crisis and the end of 2009 was actually and effectively used by the Member States concerned[35]. In 2009, the nominal amount of aid reported to the Commission by Member States constituted € 1 106.56 billion or 9.3% of EU-27 GDP (€ 727.38 billion for schemes and € 379.18 billion for *ad hoc* interventions), whereas the figure for 2008 was € 1 236 billion[36]. The take-up rate in 2008 and 2009 constitutes 65% for guarantees and 62% for recapitalisation measures. Liquidity interventions follow a similar pattern with 67%, whereas the take-up rate for impaired assets is 32%[37].

---

32 Blanket guarantee schemes were adopted in Denmark and Ireland.

33 With some of these Member States having the highest GDP levels in the EU-27.

34 For example, the maximum volume approved by the Commission in the United Kingdom is € 850 billion whereas the figure for Lithuania is € 1.74 billion.

35 For more information on the distinction between approved volumes, actually used amounts and aid element, read Chapter 3 and the methodological notes in the Staff working document in annex.

36 Please note that figures for 2008 actual use and aid element are different from the ones announced in the Autumn Scoreboard 2010 because of the data adjustments carried out by Member States (or proposed by the Commission), as for example in the case of Denmark where the figures for the scheme NN51/2008 were included into the year 2008.

37 The take-up rate constitutes actual use of State aid measures since the beginning of the financial crisis in 2008 until 31 December 2009 relative to the total approved amount in this period. At this stage, the take-up rate cannot be calculated for 2010 as the Commission is not in a possession of the figures on actual use for 2010. These figures will be reported by the Member States in the 2011 Scoreboard exercise.

According to the annual reports on State aid expenditure for 2009[38], Member States reported the aid element (or gross grant equivalent[39]) of the above amount to constitute € 351.7 billion which represents 2.98% of EU-27 GDP[40]. Approximately half of the total State aid expenditure in the context of the financial crisis was provided in the form of recapitalisation measures (€ 139.43 billion), followed by guarantees (€ 128.15 billion), impaired assets (€ 75.27 billion) and liquidity (€ 8.8 billion) interventions.

The aggregate figures reveal that Member States granted more State aid through *ad hoc* interventions (€ 240.4 billion) than through schemes (€ 174.41 billion).

For a detailed overview of crisis measures authorised by the Commission in 2008 - 2010 and aid granted under the State aid rules, see Chapter 3 of the Commission Staff Working Document in annex.

3.4. Aid granted under the Temporary Framework

Context and scope

As a response to the tightening on access to credit which companies faced as a result of the financial crisis, the Commission adopted on 17 December 2008 the Temporary Framework[41]. It put focus on, first, maintaining continuity in companies' access to finance and, second, providing the ground for sustainable long-term growth by encouraging investments. Furthermore, rules of existing guidelines were simplified, e.g. higher ceilings for risk capital investments were introduced. The Temporary Framework is open to support all sectors of the economy but excludes aid that would remedy pre-existing structural problems and hence does not apply to companies in difficulty before the crisis.

The Temporary Framework is to be seen as a part of a wider Commission response to the economic crisis, the European Economic Recovery Plan[42].

---

38 In the absence of data of actual expenditure and/or estimations provided by Member States, in some instances Member States were asked to confirm estimations made by the Commission's services. For exact estimation methods applied, please refer to the Methodological notes.

39 The monetary advantage when aid was granted in form of a guarantee or loan, for instance.

40 Data on aid element is drawn from Member States' annual reports on State aid. For more information on distinction between actual use and aid element, exact definitions of aid element for each aid instrument (guarantees, recapitalizations and impaired assets) in regard of the financial crisis cases, please refer to the Methodological notes of the Scoreboard.

41 Consolidated version of the Communication from the Commission – Temporary Framework, 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.

42 Adopted in November 2008.

Measures approved under the Temporary Framework

Between 17 December 2008 and 1 October 2010, the Commission approved 73 schemes[43] under the Temporary Framework and 4 *ad hoc* aid measures, amounting to a total approved volume of aid to € 82.5 billion (0.7% of EU-27 GDP). The majority represents schemes for aid up to € 500 000 per company (23 schemes in 23 Member States), 18 subsidised guarantee measures (14 Member States), 8 schemes for subsidised loan interests (7 Member States), 5 schemes offering reduced interest loans to businesses investing in the production of green products (5 Member States), and 6 risk capital schemes (5 Member States). Moreover, 12 Member States facilitated export activities through 13 export credit schemes[44].

Aid granted in 2009

In 2009, the Commission approved measures under the Temporary Framework amounting to in total approximately € 81.3 billion. Following from the annual reports submitted by Member States and their reply to the Commission's questionnaire on the Temporary Framework the aggregated aid element of all aid measures implemented by Member States in 2009 is estimated to € 2.2 billion, which represents 0.018% of EU-27 GDP. Member States seemed to be very cautious in the determination of the budget given the uncertainties as to the depth and duration of the crisis and the need to send the markets a clear signal of public authorities' availability to meet potential demand for support that then turned out to be substantially lower than expected. Moreover, Member States appeared to have applied strictly the conditions of granting the aid, largely in view of budgetary constraints, which in turn have likely kept the number of beneficiaries small.

With respect to the preference of choice offered under the Temporary Framework, most Member States were attracted by the tool of the limited aid amount, followed by the subsidised guarantee and subsidised interest loans.

For more detail, read chapter 3.4 of the Commission Staff Working Document in annex.

4. SIMPLIFICATION OF THE STATE AID RULES

4.1. A new architecture for State aid control

The Commission has the exclusive power to evaluate the compatibility of State aid measures with the TFEU. Accordingly, Member States are obliged to notify all measures to the Commission prior to their implementation[45].

The SAAP announced in June 2005 the Commission's intention to further the use of State aid policy as an effective tool for growth and jobs. The plan launched a review of almost all the State aid rules and procedures[46]. Four guiding principles underpinned the reform programme:

- less and better targeted State aid;
- a refined economic approach;
- more effective procedures, better enforcement, higher predictability and enhanced transparency;
- a shared responsibility between the Commission and Member States.

---

43 Figure includes only measures that fall under aid to industry and services.

44 12 Schemes were granting aid of up to € 15000 for agricultural producers.

45 Article 108 of the Treaty on the Functioning of the European Union; detailed provisions are contained in Council Regulation (EC) No 659/1999 of 22 March 1999 (OJ L 83, 27.3.1999, p. 1-9).

46 See table 2 in Annex of Facts and figures on State aid in the EU Member States.

In some instances, whole categories of aid have been identified as unlikely to have a significant negative impact on competition at the Union level while contributing to the achievement of an objective of common interest. So-called 'block exemptions' have therefore been adopted and measures which fulfil the criteria laid down in these specific instruments may thus be granted without prior notification to the Commission[47]. When a Member State has notified and had approved an aid scheme, it may generally grant individual awards of aid without further notice to the Commission. Only large individual applications of aid schemes exceeding certain thresholds and aid awarded outside a scheme[48] need to be notified individually.

The "3-stream system": block exemption, standard and detailed assessment

In order to ensure an efficient and fast procedure and decision-making, in 2008 the Commission introduced substantial changes to the architecture of its State aid control. This was achieved by subjecting the various aid measures to a level of control which reflects their respective potential effects on competition and trade. The new architecture is based on a "3-stream system": block exemption (and *de minimis*), standard assessment and detailed assessment. While the number of block exempted measures has significantly increased over past years, the majority of still notifiable individual cases or schemes are subject to a standard assessment ensuring smooth assessment. In 2009 a detailed assessment was carried out in 4 out of 16 risk capital cases; for R&D&I cases, it was 9 out of 30 cases. No detailed assessment was made for environmental protection cases, and for only 1 out of 59 regional aid cases. No detailed assessment was made in cases falling under any of the other horizontal objectives.

The new simplified procedure and Code of Best Practice

To make even smoother the notification process for a priori compatible cases, the Commission introduced in September 2009 a simplified procedure[49]. The Commission aims to ensure that clearly compatible aid is approved within an accelerated time period of one month, based on a complete notification from the Member State.

The other part of the simplification package was the Code of Best Practice for the conduct of State aid control procedures[50]. It is based on a joint commitment of the Commission and Member States to achieve more streamlined, and predictable procedures at each step of the State aid investigation. As a result, the Commission should be able to adopt more quickly its decisions on State aid cases within the procedural legal framework.

---

47 In the following, block exempted aid includes aid granted under the expired block exemption regulations (BERs) which have been replaced by a consolidated text, Commission Regulation (EC) No 800/2008 of 6 August 2008 declaring certain categories of aid compatible with the common market in application of Article 87 and 88 of the Treaty (General Block Exemption Regulation, or GBER), (OJ L 214, 9.8.2008, p. 3). In addition, measures complying with Commission Decision of 28 November 2005 on the application of Article 86(2) of the EC Treaty to State aid in the form of public service compensation granted to certain undertakings entrusted with the operation of services of general economic interest (OJ L 312, 29.11.2005, p. 67), and with Regulation (EC) No 1370/2007 of the European Parliament and of the Council of 23 October 2007 on public passenger transport services by rail and by road and repealing Council Regulations (EEC) No 1191/69 and (EEC) No 1107/70 (OJ L 315, 3.12.2007, p. 1), are also exempt from the notification obligation.

48 Also known as '*ad hoc*' aid.

49 Commission Notice on a Simplified procedure for the treatment of certain types of State aid (OJ C 136, 16.6.2009, p. 3-12).

50 Commission Communication on a Code of Best Practice for the conduct of State aid control procedure (OJ C 136, 16.6.2009, p. 13).

4.2. Assessment of individual cases focused on a small number of large, potentially distortive aid measures

Member States increasingly avail themselves of the possibilities for granting block exempted aid and in particular use schemes on the basis of which aid to individual enterprises can be granted without further notice to the Commission. In 2009, 964 or 76% of newly introduced measures[51] qualified as block exempted aid. 225 schemes (18%) and 86 individual aid measures (6%) were subject to a Commission decision in 2009. This means that 94% of aid measures aimed at industry and services, while being subject to State aid discipline, were granted by Member States without requiring an individual assessment by the Commission at the level of the beneficiary. In terms of reported aid volumes[52], individual aid accounted for only 12% of total aid to industry and services (€ 6.9 billion), while aid granted under schemes amounted to 69% (€ 40.4 billion) and block exempted aid to 19% (€ 10.8 billion).

4.3. Around 19% of aid to industry and services is block exempted

Block exempted aid increased by roughly € 2 billion to € 10.8 billion or 19% of total aid to industry and services in 2009 compared to 2008 (€ 8.9 billion or 19%) and 2007 (€ 6.1 billion or 13%). The biggest contributor was aid earmarked for regional development[53], followed by aid to SMEs, training and employment. Some Member States phased-out aid measures previously granted under the BERs and replaced it by corresponding GBER measures whereby Member States often enlarged the scope of the measure now permitted under the GBER rules.

5. ENFORCING THE STATE AID RULES

Unlawful aid

Article 108(3) TFEU obliges Member States not only to notify State aid measures to the Commission before their implementation but also to await the outcome of the Commission's investigation before implementing notified measures. When either of these obligations is not respected, the State aid measure is considered to be unlawful.

In the period 2000-2009, the Commission took 910 decisions on unlawful aid. In about 22% of unlawful aid cases[54] the Commission intervened by taking a negative decision on an incompatible aid measure. This negative decision normally requests the Member State concerned to recover the illegally awarded aid. In a further 2% of unlawful aid cases[55], the Commission took a conditional decision. This intervention rate of about 24% for unlawful aid is roughly ten times higher than the rate of negative and conditional decisions in duly notified cases. More than half of the interventions were made in the sector of industry and services, slightly less than one quarter in agriculture and the remainder in fisheries, transport and coal.

---

51 Crisis measures excluded.
52 Crisis measures excluded.
53 Since that policy objective was introduced for block exemption in 2007.
54 197 cases.
55 19 cases.

Recovery of aid

Further progress has been made towards the execution of pending recovery decisions. The total number of pending recovery stood at 54 cases[56] (compared to 94 cases at the end of 2004). The amount of illegal and incompatible aid recovered since 2000 has further increased and amounted to € 12 billion on 30 June 2010[57]. That means that the percentage of illegal and incompatible aid still to be recovered has fallen from 75% at the end of 2004 to around 11% on 30 June 2010.

In addition, the Commission has taken some recovery decisions in the areas of agriculture, fisheries and transport.

Enforcement of State aid Law: Cooperation with national courts

In the follow-up to the Notice on the Enforcement of State Aid Law by National Courts[58], advocacy efforts have intensified by providing for instance an information package published on DG Competition's website[59] and through the publication of a booklet[60] gathering the EU materials most relevant for State aid enforcement in the judges' daily work.

Ex-post monitoring

With the entry into force of the GBER an even higher number of aid measures are no longer subject to the notification obligation. Article 10 of that regulation constitutes the basis for realising ex post monitoring on a sample basis. The result showed that, overall, the part of the existing State aid architecture allowing for the approval of aid schemes and allowing Member States to implement aid measures under the GBER and BERs functions in a satisfactory manner.

---

56 Period includes the first half of 2010.

57 The Commission reports about recovery on a cumulative, mid-year basis.

58 Commission Notice on the enforcement of State aid law by national courts (OJ C 85, 9.4.2009, p. 1).

59 http://ec.europa.eu/competition/court/state_aid.html.

60 http://ec.europa.eu/competition/publications/state_aid/national_courts_booklet_en.pdf .

ANNEX

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