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REPORT

State Aid Scoreboard
- autumn 2006 update -

(presented by the Commission)

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EXECUTIVE SUMMARY

This autumn 2006 update of the State Aid Scoreboard focuses on the State aid situation in the twenty-five Member States for the year 2005 and the underlying trends. The main aim is to assess Member States progress towards meeting the Lisbon objectives and response to successive European Councils call for "less and better targeted aid". This update of the Scoreboard also includes a feature chapter on rescue and restructuring aid as well as its customary summary of ongoing efforts to recover unlawful aid and an overview of ongoing work to modernise State aid control through legislative and policy means.

Part One: Progress towards the European Strategy for Growth and Jobs (Lisbon Agenda)

Moderate response by Member States to Council's call for less State aid: slight downward trend in the overall volume of State aid

The overall level of State aid less agriculture, fisheries and transport stood at €45 billion for the EU in 2005. There is a slight downward trend from an annual average of €52 billion in the period 2001-2003 to an annual average of €47 billion in the period 2003-2005. However, this decrease can mainly be explained by the high overall aid levels in the period 2001-2002, caused by the restructuring aid to *Bankgesellschaft Berlin (BGB).* While State aid to the coal sector shows a clear downward trend, aid to the environment has increased significantly in recent years. Aid for all other objectives has remained relatively stable. The level of expenditure has fluctuated in several Member States. These fluctuations do not appear to reflect changes in national policies but are rather influenced by a relatively small number of large cases. Total State aid less agriculture, fisheries and transport relative to GDP decreased from 0.50% of GDP to 0.45% of GDP over the two periods under review.

In 2005, Germany accounted for €15 billion of the total of €45 billion. More significantly its share of aid expressed as percentage of GDP (0.68%) is considerably higher than the EU average (0.42%). Other Member States with a high share include Sweden (0.91%) where the aid is almost entirely awarded for environmental and energy saving objectives, as well as Cyprus (1.0%), Hungary (1.08%) and Malta (2.61%) though most of the aid measures in question are either being phased out under transitional arrangements or limited in time. Among those Member States with a relatively low share of aid to GDP (less than 0.25%) are the three Baltic countries together with Belgium, Greece, Netherlands, Austria and the UK.

More than half of Member States have reacted positively to Council's call to redirect State aid toward horizontal objectives and more than 90% of their State aid is granted for horizontal objectives

There is a clear move towards "better targeted aid" with more than half of Member States now awarding more than 90% of their aid to horizontal objectives. In welcoming this trend, one should be aware that much of the increase in horizontal aid can be attributed to an increase in tax exemptions for the environment and energy saving. Aid for the environment and energy saving now represents 28% of total aid less agriculture, fisheries and transport. As regards the other Lisbon-related areas such as aid for R&D (12%), regional economic development (19%), SMEs (10%), employment (8%) and training (2%), the picture in terms of expenditure is relatively stable.

State aid for R&D is stable

The Barcelona European Council of March 2002 set the objective for expenditure on R&D to 3% of GDP by 2010. Two thirds of this expenditure should be funded by the private sector.

It is important to bear in mind that State aid to R&D constitutes only a small part of public R&D funding. State aid to R&D stood at €5.6 billion in 2005. After a significant increase in 2001, the level of R&D aid has remained rather stable. State aid to R&D represents a relatively small share in public funding (EU-wide, 0.05% of GDP in 2005) although there are significant differences between Member States. In six Member States the R&D aid expenditure relative to the GDP in 2005 was above EU average: Czech Republic (0.10% of GDP), Finland (0.09%), Slovenia (0.09%), France (0.08%), Germany (0.07%) and Austria (0.06%).

In 2005, Member States granted around 2.9 billion of State aid under block exempted measures

By the end of June 2006, almost 1500 information forms on block exempted measures had been submitted since the introduction of the first block exemption regulations for SMEs and training in 2001. In 2005 alone, the Commission received more than 400 forms on exempted measures. While the number of forms submitted by the Member State in the first six months of 2006 remained stable, the use of employment and agriculture block exemption regulations has increased.

As regards expenditure, an estimated €2.9 billion was awarded in 2005 under the three block exemption regulations for SMEs, training and employment[1]. Aid to SMEs accounted for €1.5 billion, €1 billion went for training aid and €0.4 billion for employment aid. In 2005, Italy made up for 31% of total expenditure in the EU followed by the United Kingdom (20%), Poland (14%) and Germany (13%).

Part Two: Focus on rescue and restructuring aid

Member States granted majority of rescue and restructuring aid on an individual (ad hoc) basis

The vast majority (almost 93%) of aid for rescue and restructuring is awarded on an individual (ad hoc) basis to ailing firms and it is this aid that is most prone to distort competition. In addition to ad hoc awards of aid, several Member States have made use of the possibility to award aid to SMEs in difficulty through aid schemes.

Expenditure on ad hoc rescue and restructuring aid for EU-15 amounted to 15.5 billion for the period 2000-2005 but this amount is underestimated due to quantification problems

For the period 2000-2005, rescue and restructuring aid amounted to €24 billion. As data for EU-10 Member States prior to accession in May 2004 are not fully comparable with EU-15 data, this section focuses on aid granted by EU-15. This represents around €15.5 billion or, on average around 7% of total aid less agriculture, fisheries and coal. This figure, however, presents only part of the picture for two main reasons:

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[1] Data are not yet available for agriculture and fisheries.

Firstly, there is the important but difficult issue of how to quantify the advantage to an ailing firm which has received aid in the form of a loan or guarantee. Such forms of aid account for the majority of rescue and restructuring measures. At present, various methods are used by Member States to calculate the 'aid element', some of which tend to underestimate the advantage to the company in difficulty.

Second, there are a number of cases that are difficult or impossible to quantify, e.g., part of the aid to France Telecom[2], and are therefore not included in the Scoreboard figures.

Majority of the rescue and restructuring aid is granted for limited number of companies…

The overall volume of rescue and restructuring aid tends to be driven by a limited number of large cases such as the *Bankgesellschaft Berlin AG* in Germany, *Alstom* and *Bull* in France, *British Energy* in the United Kingdom, *Alitalia* in Italy and the Spanish shipyards case.

…and by limited number of Member States

Five Member States account for more than 95% of the rescue and restructuring aid. Germany made up 56% of total rescue and restructuring aid, followed by France (21%), Spain (8%), United Kingdom (7%) and Italy (5%). A second group of five Member States (Belgium, Greece, Netherlands, Austria and Portugal) awarded relatively small amounts of aid while five Member States (Denmark, Ireland, Luxembourg, Finland and Sweden) did not award any ad hoc rescue and restructuring aid to ailing firms between 2000 and 2005. In relative terms (per mille of GDP), the 6 biggest grantors of rescue and restructuring aid were: Germany (0.65‰), France (0.32‰), Spain (0.26‰), Belgium (0.20‰), Greece (0.11‰) and United Kingdom (0.11‰).

More than half of the Commission's decisions on rescue and restructuring aid concerned unlawful aid

More than half of the ad hoc rescue and restructuring decisions taken over the period 2000-2005[3] concerned unlawful aid (new aid put into effect before approval by the Commission). This breach of the Treaty concerns in particular the larger cases and the larger Member States and is more prevalent in restructuring cases than rescue cases.

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2 C13a/2003 (ex N779/2002) Commission Decision of 2 August 2004 on the State Aid implemented by France for France Télécom *(notified under document number C(2004) 3060)* http://ec.europa.eu/comm/competition/state_aid/register/ii/by_case_nr_c2003_000.html#13a

3 The proportion of unlawful measures was highest in the period 2000-2002 due to the influence of the East German cases but even in the period 2003-2005 it remains above 50%.

INTRODUCTION

This autumn 2006 update of the State Aid Scoreboard focuses on the state aid situation in the twenty-five Member States for the year 2005 and the underlying trends. The main aim is to assess Member States progress towards meeting the Lisbon objectives and response to successive European Councils call for "less and better targeted aid". The European Council of March 2005 invited Member States to "*continue working towards a reduction in the general level of State aid, while making allowance for any market failures. This movement must be accompanied by a redeployment of aid in favour of support for certain horizontal objectives such as research and innovation and the optimisation of human capital. The reform of regional aid should also foster a high level of investment and ensure a reduction in disparities in accordance with the Lisbon objectives.*" These goals were underlined by the Commission Recommendation on the Broad Economic Policy Guidelines for 2005-2008[4].

The Scoreboard is divided into four main parts. Part One looks at the extent to which Member States have responded to the Lisbon Strategy by first providing an overview of the amount and type of State aid awarded by the Member States in 2005 and then examining the underlying trends. Part Two provides a special focus on State aid for rescue and restructuring aid for companies in difficulty, which is one of the most (potentially) distortive form of aid.

Parts Three and Four contain an overview of ongoing efforts to recover unlawful aid and summarise ongoing work to modernise State aid control through legislative and policy means.

In addition to this paper edition, a permanent online Scoreboard consisting of a series of key indicators and a range of statistical information for the EU Member States is available on the homepage of the Competition Directorate General's Internet site: http://europa.eu.int/comm/competition/state_aid/scoreboard/

The spring 2007 Scoreboard will include a special focus on unlawful aid.

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4 COM(2005) 141 final, 12.4.2005

1. Part One: Progress towards the European Strategy for Growth and Jobs (Lisbon Agenda)

This chapter provides an overview of State aid granted in the EU Member States in 2005 and examines the underlying trends. The main purpose is to measure the extent to which Member States have met the call for less and better targeted aid. After the considerable fall in the level of aid at the end of the nineties, the underlying trend over the last six years has been stable rather than downward, with however moderately lower overall aid levels in the past two to three years. The vast majority of Member States do however appear to be shifting the emphasis from supporting individual companies or sectors towards tackling horizontal objectives.

1.1. State aid in absolute and relative terms

Total State aid[5] granted by the Member States was estimated at €64 billion in 2005. In absolute terms, Germany granted the most aid (€20 billion) followed by France (€9.7 billion), Italy (€6.4 billion) and the United Kingdom (€4.5 billion).

In sectoral terms, around €41 billion of aid was earmarked for the manufacturing and service sectors, €17 billion for agriculture and fisheries, €4.1 billion for coal and €1.5 billion for the transport (excluding railways) sector.

5 The total covers aid to manufacturing, services, coal, agriculture, fisheries and part of the transport sector but excludes aid to the railway sector, aid for compensation for services of general economic interest.

Table 1: State aid awarded in the EU Member States, 2005

	Total state aid less railways in billion €	Total state aid less agriculture, fisheries and transport in billion €	Total aid less railways as % of GDP	Total aid less agriculture, fisheries and transport as % of GDP
EU-25	**63,8**	**45,1**	**0,59**	**0,42**
EU-15	**58,7**	**42,2**	**0,57**	**0,41**
EU-10	**5,1**	**2,9**	**0,93**	**0,52**
Belgium	1,2	0,7	0,4	0,23
Czech Republic	0,5	0,4	0,54	0,39
Denmark	1,3	1,1	0,64	0,52
Germany	20,3	15,2	0,9	0,68
Estonia	0,0	0,0	0,46	0,13
Greece	0,4	0,3	0,2	0,14
Spain	3,8	3,3	0,41	0,36
France	9,7	6,5	0,56	0,38
Ireland	1,0	0,4	0,63	0,26
Italy	6,4	5,3	0,45	0,37
Cyprus	0,2	0,1	1,43	1
Latvia	0,1	0,0	0,84	0,23
Lithuania	0,1	0,0	0,58	0,12
Luxembourg	0,0	0,0	0,15	0,15
Hungary	1,6	0,9	1,83	1,08
Malta	0,1	0,1	3,16	2,61
Netherlands	2,0	1,2	0,4	0,24
Austria	1,4	0,6	0,56	0,24
Poland	1,9	0,9	0,82	0,37
Portugal	1,0	1,0	0,67	0,65
Slovenia	0,2	0,1	0,64	0,36
Slovakia	0,3	0,2	0,66	0,64
Finland	2,7	0,6	1,75	0,38
Sweden	3,1	2,6	1,08	0,91
United Kingdom	4,5	3,5	0,26	0,2

State aid as defined under Article 87(1) EC Treaty that has been granted by the EU Member States for all sectors except railways and has been examined by the Commission. Comprehensive data on transport are not yet available for EU-10. All data are quoted at constant prices. Source: DG Competition

State aid measured as a percentage of GDP

In relative terms, State aid amounted to 0.6% of EU Gross Domestic Product (GDP) in 2005. This average masks significant disparities between Member States: the share of total aid to GDP ranges from 0.4% or less in Belgium, Greece, Luxembourg, the Netherlands and the United Kingdom to 1.4% or more in Cyprus, Hungary, Malta, and Finland (Table 1). The high proportion in some of the EU-10 Member States is due largely to pre-accession measures that are either being phased out under transitional arrangements or limited in time. In Finland the explanation can be found in the relatively large amount of aid to agriculture which represents more than 75% of total aid in this country. Indeed, due to the particularities associated with aid to agriculture and fisheries, it is worth looking at total aid less these sectors. This second indicator produces a rather different ranking of Member States. For example, such aid in Finland represents 0.38% of GDP, just below the EU-wide average of 0.42%.

It is important to bear in mind that some aid measures can not be quantified. Although the number of measures is limited, the distortion of competition is often very significant and has an impact on the overall level of State aid, e.g., the unlimited State guarantees previously available to Electricité de France (EDF) or the German Landesbanken. Moreover, of the 114 recovery decisions adopted since 2000, there are 34 cases for which the aid can not yet be quantified. See recovery of unlawful aid (Part Three below).

Moderate downward trend in the overall volume of State aid

At the Stockholm European Council in 2001, the Member States pledged to demonstrate a downward trend in State aid in relation to GDP. The State aid as percentage of GDP indicator takes into account the general economic situation in the particular Member State. On the other hand, when comparing Member States it is important to bear in mind the effect that the trend in GDP has on this indicator. Member States that have experienced relatively high economic growth could theoretically increase the level of aid and still demonstrate a downward trend. The degree to which Member States have achieved the goal to reduce State aid or not can be measured by looking at total State aid relative to GDP over a period of one year, i.e. the trend from 2004 to 2005 or by observing the underlying trend over the periods 2001-2003 and 2003-2005. In order to eliminate as far as possible annual fluctuations and the effects of delayed reporting[6], the latter option is preferred.

In the EU-15[7], the downward trend of the volume of State aid[8] in the end of the 1990s has leveled off since 2000 (see Table 2 below). While from 2000 to 2002 still above €60 billion[9], it fell just below €60 billion in the years 2003-2005[10].

Table 2: Trend in the level of State aid in the EU Member States, 1995-2005

	1995	1996	1997	1998	1999	2000	2001	2002	2003	2004	2005	Annual average 2001-03	Annual average 2003-05
EU-25													
Total state aid less railways in billion €										64.7	63.8		
as % of GDP										0.61	0.59		
Total state aid less agriculture, fisheries and transport in billion €						49.1	49.9	56.5	50.4	46.0	45.1	52.3	47.2
as % of GDP						0.48	0.48	0.54	0.49	0.43	0.42	0.50	0.45
EU-15													
Total state aid less railways in billion €	78.1	76.7	97.2	65.1	56.4	60.2	61.5	68.0	56.6	59.1	58.7	62.0	58.1
as % of GDP	0.98	0.94	1.13	0.73	0.61	0.62	0.63	0.68	0.57	0.58	0.57	0.63	0.58
Total state aid less agriculture, fisheries and transport in billion €	57.9	57.5	77.6	49.5	39.9	43.9	45.4	50.5	40.4	42.4	42.2	45.4	41.7
as % of GDP	0.72	0.70	0.90	0.56	0.43	0.45	0.46	0.51	0.41	0.42	0.41	0.46	0.41

Note: The exceptionally high figure in 1997 can be largely attributed to the Credit Lyonnais case in France. Similarly the relatively high figure in 2002 is due in part to the substantial guarantee awarded as a part of the restructuring package to *Bankgesellschaft Berlin AG* (C 28/2002). For the EU-10, comprehensive data on transport are not yet available, while data on agriculture are available for 2004 and 2005 only. Source: DG Competition, DG Agriculture, DG Fisheries, DG Transport.

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6 In spite of the Member States' obligation (in the Commission Regulation No 794/2004 of 21 April 2004) to report State aid expenditure figures for the year t-1, some Member States are able to report figures for some measures only for year t-2. In addition, unlawfully granted State aid is included in the Scoreboard data only after Commission's decision on particular unlawful aid case and retroactively added to the year in which the aid was granted. Therefore, overall aid levels tend to be underestimated for the most recent years.

7 Only EU-15 is presented here because the transport aid figures for EU-10 are not comparable for the pre-accession period.

8 Total State aid less railways.

9 The high total State aid figure in 2002 can be explained by exceptional large amount (€6.2 billion) of restructuring aid for Bankgesellschaft Berlin AG.

10 As there is a break in the times series for agriculture data, it is not possible to draw conclusions on a trend. For conclusions on trend the State aid less agriculture, fisheries and trend time series are more appropriate.

Total state aid less agriculture, fisheries and transport figure (see Table 2 above) shows a downward trend from an annual average of €52 billion in the period 2001-2003 to an annual average of €47 billion in the period 2003-2005. This decrease can mainly be explained by the high overall aid levels in the period 2001-2002, caused by the restructuring aid to *Bankgesellschaft Berlin (BGB)*[11]. However, this suggests that the underlying trend is slightly downward. While State aid to the coal sector shows a clear downward trend, aid to the environment has increased significantly in recent years. Aid for all other objectives has remained relatively stable. The level of expenditure has fluctuated in several Member States. These fluctuations do not appear to reflect changes in national policies but are rather influenced by a relatively small number of large cases (for example, €4 billion for Polish coal in 2003, €2 billion to the Czech banks in 2003 and €1.4 billion to Alstom in 2004, in addition to around €8 billion to *BGB* in 2001-2002). Total State aid less agriculture, fisheries and transport relative to GDP decreased from 0.50% of GDP to 0.45% of GDP over the two periods under review.

The EU average of State aid less agriculture, fisheries and transport expressed as percentage of GDP masks differences between Member States. The sharpest falls can be observed in Czech Republic, Cyprus and Malta due largely to the phasing out of pre-accession measures. Ireland, Denmark and Germany experienced also a significant decrease. The decrease in Ireland was primarily the result of a lowering the Irish Corporation Tax[12] coupled with an increase in GDP. In Denmark, the decrease was mainly due the reductions of aid under several aid measures for environment, employment and energy saving. In Germany the decrease can also be explained by the declining aid to the coal industry in addition to the above mentioned *BGB* case.

In contrast, State aid in relation to GDP increased significantly during the two periods under review in a number of Member States: in Sweden, the increase can be attributed to the aid for environment and energy saving measures; in Slovakia due to increased regional and sectoral aid for steel; in Poland the increase can be explained largely by restructuring aid for companies in difficulties.

1.2. Sectoral distribution of aid

Sectoral distribution of aid varies considerably among Member States and over time

Although the data do not provide an accurate picture of the final recipients of the aid, they nevertheless give some indication as to which sectors are favoured by each Member State. In 2005, around 65% of State aid in the Member States was earmarked for the manufacturing[13] and service sectors. A further 26% was directed towards agriculture and fisheries, 6% for coal

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11 C 28/2002, Restructuring State aid for the Bankgesellschaft Berlin amounted to €8 billion (granted in 2001 and 2002).

12 The corporation tax rate in Ireland has been lowered progressively in recent years and is 12.5% from 2003. This has reduced the comparative value of the preferential 10% rate to the manufacturing sector, therefore contributing to the decline, in monetary terms, of aid to this sector.

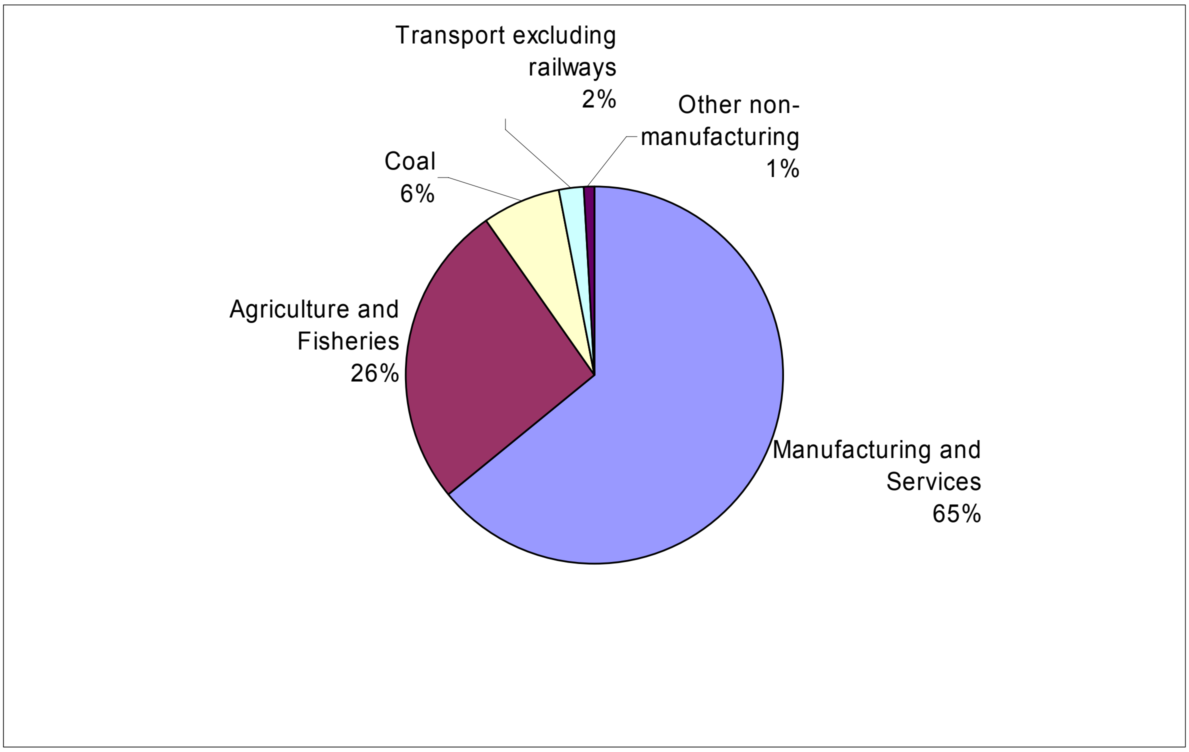
13 For the purposes of the Scoreboard, the manufacturing sector includes aid for steel, shipbuilding, other manufacturing sectors, aid for general economic development and aid for horizontal objectives including research and development, SMEs, environment, energy saving, employment and training for which the specific sector is not always known. As a result, data on aid to manufacturing may be overestimated.

and 2% to the transport (excluding railways) sector and the remaining 1% went to other non manufacturing sectors[14] (Graph 1).

There are significant differences between Member States in the sectors to which they direct aid (Table 3). Aid directed at the manufacturing and service sectors represented 80% or more of overall aid in Luxembourg, Slovakia, Portugal, Sweden, Italy, Malta and Denmark. Aid to the agricultural and fisheries sectors accounted for 60% or more of total aid in Lithuania, Finland and Estonia while the share of aid to the coal industry was relatively high in Spain (29%), Germany (13%) and Poland (12%).

14 Other non-manufacturing includes aid for mining and quarrying, oil and gas extraction, aid for electricity gas and water supply and aid for construction.

Graph 1: Total State aid by sector, EU-25, 2005



Note: State aid as defined under Article 87(1) EC Treaty that has been granted by Member States for all sectors except railways and has been examined by the Commission. Source: DG Competition, DG Transport and DG Fisheries and DG Agriculture.

Table 3: Sectoral distribution of aid by Member State, 2005

	% of total							Million euro
	Manufacturing	Services (including tourism, financial, media and culture)	Agriculture	Fisheries	Coal	Transport excluding railways	Other non-manufacturing	Total
EU-25	**59**	**5**	**26**	**1**	**6**	**2**	**1**	**63750**
Belgium	71	2	23	0	0	2	2	**1194**
Czech Republic	71	2	26	0	0	0	1	**530**
Denmark	79	2	11	1	0	7	0	**1322**
Germany	58	3	25	0	13	1	0	**20332**
Estonia	23	6	71	0	0	0	0	**49**
Greece	66	5	24	5	0	0	1	**361**
Spain	52	6	10	3	29	0	0	**3753**
France	56	11	29	0	0	4	0	**9650**
Ireland	34	9	57	1	0	0	0	**1004**
Italy	79	4	9	1	0	6	0	**6391**
Cyprus	49	23	11	0	0	6	11	**192**
Latvia	32	6	42	0	0	20	0	**107**
Lithuania	18	0	78	1	0	0	3	**119**
Luxembourg	85	15	0	0	0	0	0	**43**
Hungary	62	1	35	0	2	0	0	**1610**
Malta	81	1	15	0	0	3	0	**142**
Netherlands	58	2	31	2	0	7	0	**1987**
Austria	40	5	55	0	0	0	0	**1370**
Poland	37	0	51	0	12	0	0	**1874**
Portugal	14	75	2	1	0	0	8	**985**
Slovenia	44	4	43	0	8	0	0	**176**
Slovakia	96	1	3	0	1	0	0	**253**
Finland	20	1	77	0	0	2	0	**2678**
Sweden	81	3	10	0	0	6	1	**3111**
United Kingdom	68	2	19	0	1	3	7	**4518**

Due to the rounding of figures, the percentages of some Member states do not sum up to exactly 100. Source: DG Competition, DG Transport and DG Fisheries and DG Agriculture.

1.3. State aid to the transport sector

The Commission's State aid control in the transport sector is rather complex arising from the need to take account not only of the general provisions on State aid, but also the special rules in the Treaty and secondary legislation dealing specifically with transport, in particular Article 73 of the Treaty as implemented by Regulations 1191/69[15], 1107/70[16] and 1192/69[17]. In addition, to reinforce the internal market and economic and social cohesion, Article 154 EC Treaty provides for Community support, in the context of open and competitive markets, of trans-European networks. Moreover, many transport operators perform public service functions and benefit from public financing. While Community law, in the transport field in particular, does indeed contain a number of mechanisms effectively offering the possibility for Member States to provide services of general economic interest (SGEI), the Commission must check that the public financing granted complies with the rules laid down in order to ensure that this financing does not distort competition. States are also involved in financing transport infrastructure, and this is raising more and more questions about the application of the State aid rules with the development of the commercial operation of certain infrastructures (ports, airports, etc.). The Commission constantly develops and specifies its practice, distinguishing in particular between infrastructures used by an economic or commercial operator and infrastructures that are clearly connected with public authority functions or those that are open to all users on a non-discriminatory basis and which do not benefit a particular undertaking.

For the transport sector as a whole, excluding railways, around €1.6 billion of aid was awarded per year over the period 2003-2005, a slight decrease compared to the annual average over the period 2001-2003. These data refer to the EU-15 Member States only as comprehensive data on existing aid to the transport sector are not yet available for the EU-10 (Table 4).

More than 76% of total transport aid (around €1.2 billion per year) was awarded to the maritime sector during the period 2003-2005. The largest amounts were given by Italy, France, Sweden and the Netherlands.

Before liberalisation of the airline sector, considerable amounts of aid (exceeding €2.5 billion in 1994 and 1995) were awarded to national airlines for restructuring in the mid-nineties. Since 1997, however, aid levels to the industry have fallen dramatically though some aid continues to be authorised. Over the period 2003-2005, an annual average of €85 million of aid was awarded to the air transport sector (Table 4).

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15 Regulation (EEC) No. 1191/69 of the Council of 26 June 1969 on action by Member States concerning the obligations inherent in the concept of a public service in transport by rail, road and inland waterway.

16 Regulation (EEC) No. 1107/70 of the Council of 4 June 1970 on the granting of aid for transport by rail, road and inland waterway.

17 Regulation (EEC) No. 1192/69 on common rules for the normalisation of accounts of railway undertakings is particularly important from a State aid monitoring perspective as it exempts from the notification procedure a number of different compensations from public authorities to railway undertakings.

Table 4: State aid to the transport sector (excluding railways), EU-15, 2001-2005, in million €

Transport sector	Annual average 2001-2003	Annual average 2003-2005
Road and combined transport	303	287
Maritime transport	1 121	1 236
Inland water transport	9	12
Air transport	369	85
Total	1 802	1 620

Note: Comprehensive data on all existing aid to the transport sector are not yet available for the EU-10. Source: DG Energy and Transport

Railways

Much of the public financing of the railways is not notified to the Commission, either because the financing, due to the lack of liberalisation of the sector, is not deemed by Member States to constitute State aid within the meaning of Article 87(1) of the Treaty, or because it represents compensation for public services in accordance with Regulation 1191/69. Member States are however required to report to the Commission overall public expenditure to this sector. Disparities between Member States may reflect different interpretations of the scope of this annual reporting exercise (Table 5).

Table 5: Subsidies([1]) to the railway sector, 2000-2005, in million €

	2000	2001	2002	2003	2004	2005
EU-25	33 259	41 951	40 695	39 485	40 245	39 850
EU-15	33 259	41 951	40 695	38 605	39 051	38 708
EU-10	-	-	-	881	1 193	1 141
Belgium	2 164	2 205	2 278	2 412	2 057	826
Czech Republic	-	-	-	239	239	264
Denmark	672	731	714	813	813	846
Germany	9 308	9 385	9 515	9 144	8 239	8 114
Estonia	-	-	-	12	12	12
Greece	446	625	552	636	329	257
Spain	1 350	1 349	1 346	1 338	1 370	455
France	6 482	8 770	9 132	7 921	9 120	9 912
Ireland	373	440	491	544	416	576
Italy	6 246	6 839	7 236	6 006	5 699	6 040
Latvia	-	-	-	3	15	23
Lithuania	-	-	-	0	5	6
Luxemburg	208	255	264	293	310	315
Hungary	-	-	-	434	396	421
Netherlands	2 051	2 686	2 946	3 322	2 936	2 384
Austria	649	649	664	647	632	636
Poland	-	-	-	104	172	184
Portugal	16	22	25	58	56	0
Slovenia	-	-	-	88	297	139
Slovakia	-	-	-	0	57	93
Finland	403	359	412	489	572	516
Sweden	851	852	892	1 003	1 167	1 271
United Kingdom	2 039	6 785	4 228	3 977	5 335	6 561

(1) Includes all public subsidies that have been communicated to the Commission as well as subsidies that have been notified and authorised by the Commission under relevant State aid rules. However the figures exclude compensation for services of general economic interest. Source: DG Energy and Transport.

See also Part IV on legislative and policy developments in the transport sector.

1.4. State aid to the agriculture and fisheries sectors

The total amount of State aid awarded to the agricultural sector was estimated at just over €16 billion in 2005. Germany (€5 billion), France (€2.7 billion) and Finland (€2 billion) reported the highest figures. The data are based on a new annual reporting exercise introduced for the first time in 2004.

Expenditure figures are currently not available by type of aid measure (investment aid, environmental protection, encouraging quality products etc.) used by the various Member States in the agricultural sector. However, an analysis of the 349 decisions taken by the Commission between 1 January 2005 and 31 December 2005 provides an useful overview of the situation in the EU-25 Member States.

Table 6: Main procedure types of aid measures for the agricultural sector, EU-25, 2005

Member State	Notified aid	Non notified aid	Exemption agriculture
EU-25	**236**	**25**	**88**
Belgium	4	1	0
Czech Republic	5	0	2
Denmark	6	1	0
Germany	19	2	10
Estonia	1	0	0
Greece	1	1	1
Spain	31	2	12
France	18	5	15
Ireland	2	1	0
Italy	74	5	10
Cyprus	2	0	0
Latvia	8	1	6
Lithuania	7	0	0
Luxembourg	0	0	0
Hungary	3	0	1
Malta	0	0	0
Netherlands	12	1	11
Austria	5	1	0
Poland	3	0	1
Portugal	4	0	0
Slovenia	7	0	0
Slovakia	2	0	1
Finland	3	2	2
Sweden	2	0	0
United Kingdom	17	2	16

Source: DG Agriculture

These decisions involved 236 new aid measures which comprise aid schemes and (rather rare) one-off support measures for individual companies. These new notifications frequently cover more than one type of aid. For example, investment aid may be combined with aid for consultancy costs or technical support with aid for encouraging quality products. Furthermore there were 25 non notified aid measures, aid which was put into effect in breach of the obligation to notify, or before it was approved. Of the total of 261 aid measures, 79 or 30% were notified by Italy, followed by Spain (33 / 13%), France (23 / 9%) and Germany (21 / 8%).

Compared to these figures, the use among Member States of the Block Exemption Regulation for certain types of State aid granted to small and medium-sized agricultural enterprises is rather different. Out of a total of 88 exemptions the United Kingdom submitted 16 information forms (18%), followed by France (15 / 17%), Spain (12 / 14%) and the Netherlands (11 / 13%).

The total amount of State aid awarded to the fisheries sector was estimated at around € 354 million of which Spain accounted for €98 million, Italy €83 million, France €40 million and the Netherlands €33 million.

1.5. State aid to the coal and steel sectors

The European Coal and Steel Community Treaty expired on 23 July 2002. Thereafter, a Council Regulation established a new legal framework for state aid to the Community coal industry, while the general State aid rules were applied for the steel sector, with the exception that no investment or restructuring aid may be granted to steel production unless it is closure aid[18].

The overall amount of State aid to the coal sector in the Union stood at €4.1 billion in 2005. The underlying trend is downward with the annual average dropping from €8.7 billion for the period 2001-2003 to €6.6 billion for the period 2003-2005. Germany contributed most to this fall (Table 7).

In 2005, around 64% of the total related to current production. As from 2001, aid to current production has decreased significantly and steadily in line with the agreements on the reduction of volumes of aid to the coal industry. As stipulated by Regulation 1407/2002, the total amount of aid to current production to be granted annually shall in any event not exceed the amount of aid authorized by the Commission for the reference year 2001. As from 2004, production aid per employee in the EU was much lower than in previous years as the EU-10, of which Poland has by far the most workers (around 100,000 underground), did not grant production aid, with the exception of Hungary.

Eight Member States granted aid to the coal sector in 2005: Germany (€ 2.7 billion), Spain (€ 1.1 billion), Poland (€ 219 million), Hungary (€ 38 million), the United Kingdom (€ 37 million), Slovenia (€14 million), Slovakia (€ 2 million) and the Czech Republic (€ 0.3 million). With regard to Germany, the Commission approved the restructuring plan for the period 2003-2005, which foresees a reduction in total aid from € 3.3 billion in 2003 to € 2.7 billion in 2005. For the period 2006-2010, the Commission approved a further restructuring plan which foresees a total amount of aid of some € 12 billion. In December 2005 the Commission also approved the Spanish restructuring plan concerning the period 2003-2005, after having opened an investigation procedure. A new restructuring plan for the period 2006-2010 is currently under investigation. For France, aid measures were approved to cover the costs of closure of the last underground mines which shut in April 2004. For the United Kingdom, the Commission approved an investment aid scheme covering the period 2003-2005 which amounted to just under € 90 million.

Broadly-speaking, coal mining in the EU-10 Member States is more competitive than in the EU-15 Member States. Poland has by far the largest coal industry and produces far more than the other Member States combined. The Commission approved a long term restructuring plan for the period 2004-2010 which also aims at dealing with inherited liabilities of the past. The approved measures for the period 2004-2006 amount to € 1.5 billion. For Hungary, the Commission approved a long term restructuring plan, which contains the granting of production aid, up to the value of €255 million for the period 2004-2010. For the Czech

[18] Aid under the SME-Regulation No 70/2001 remains possible with the exception of larger projects as defined in Art. 6 of the said SME-Regulation.

Republic, the Commission approved for the period 2004-2007 aid measures not related to production but to inherited liabilities of the past amounting to € 74 million. With regard to Slovakia, the Commission approved an investment plan for the period 2005-2010 in 2006. State aid for Slovenia has been approved before accession in 2004.

Table 7: State aid to coal mining, 2001 - 2005

	Yearly average of aid destined to current production (in million €)		Yearly average of aid not destined to current production (in million €)		Yearly average of total aid to coal sector (in million €)	
	2001 -2003	**2003 - 2005**	2001 -2003	**2003 - 2005**	2001 -2003	**2003 - 2005**
EU-25	3674	3078	5035	3506	**8709**	**6584**
Czech Republic	-	-	1	5	**1**	**5**
Germany	2641	2403	1138	652	**3779**	**3056**
Spain	694	565	1275	592	**1969**	**1157**
France	291	99	732	519	**1024**	**618**
Hungary	-	11	14	22	**14**	**33**
Poland	-	-	1850	1669	**1850**	**1669**
Slovenia	-	-	12	15	**12**	**15**
Slovakia	-	-	4	2	**4**	**2**
United Kingdom	47	-	8	29	**55**	**29**

Source: DG Energy and Transport

In 2005 total aid to the steel sector amounted to €139 million, which was granted by Slovakia as employment aid (€95 million), the United Kingdom as environmental aid (climate change levy - €37 million) and the Czech Republic (€8 million). There is a clear decreasing trend in the aid to the steel sector from an annual average of €426 million in the period 2001-2003 to €378 million in the period 2003-2005. The downward trend can be largely explained by the fact that some Member States (such as France and Sweden) stopped or reduced considerably (the Czech Republic and the United Kingdom) granting State aid after the year 2003 to companies in the steel sector.

1.6. State aid to the shipbuilding sector

The amount of State aid to the shipbuilding sector fell from an annual average of €830 million for the period 2001-2003 to €583 million for the period 2003-2005. In 2005, an estimated €264 million was granted to the shipbuilding sector mainly by Germany (28% of the EU total), Poland (17%), the Netherlands (15%) and Italy (11%).

1.7. State aid for horizontal objectives

State aid for horizontal objectives, i.e. aid that is 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, safeguarding the environment, energy saving, support to small and medium-sized enterprises, employment creation, the promotion of training and aid for regional economic development are the most prominent horizontal objectives pursued with State aid. Due to data constraints, this section looks at horizontal objectives in the context of total aid less agriculture, fisheries and transport.

In more than half of the EU Member States, more than 90% of all the aid awarded in 2005 was for horizontal objectives

On average, aid earmarked for horizontal objectives, accounted for 84% of total aid less agriculture, fisheries and transport in 2005. The three main horizontal objectives were environment and energy saving (28% of total aid), regional economic development (19%) and R&D (12%) – see Table 8.

The remaining 16% was aid directed at specific sectors: coal (9%), services (2%)[19] and manufacturing (4%) including aid to rescue and restructure ailing firms. In interpreting these figures, however, it is important to bear in mind that some aid measures can not be quantified (see section 1.1 above). Another factor that keeps the volume of sectoral and individual aid artificially low is that Commission decisions which follow an unlawful aid procedure[20] tend to refer to aid that was granted up to several years previously and involve ad hoc awards of aid to individual companies. Although the data for all years are adjusted retrospectively when the Commission takes its decision, the overall level is underestimated.

In thirteen Member States (Belgium, Czech Republic, Denmark, Estonia, Greece, Italy, Latvia, Luxembourg, the Netherlands, Austria, Finland, Sweden and the United Kingdom) more than 90% of all the aid awarded in 2005 was earmarked for horizontal objectives. In another group of six Member States (Germany, France, Ireland, Lithuania, Poland and Slovenia) the share of horizontal aid was between 70% and 90% while in several others the share was significantly lower: Hungary (48%), Cyprus (45%), Portugal (26%) and Malta (3%). The low share of horizontal aid (and thus relatively high share of sectoral aid) in Malta can be explained with a tax relief measure under Business Promotion Act[21], while in Portugal it is due to a large regional aid tax scheme in Madeira which in practice benefits a limited number of sectors. In 2005, Hungary granted sectoral aid mainly through an Investment tax benefit scheme, while Cyprus granted sectoral aid mainly through tax relief under the International Business Enterprises Act.

Large disparities between Member States in the share of aid awarded to various horizontal objectives

When making comparisons between Member States, it is important to bear in mind that aid measures are classified according to their primary objective at the time the aid was approved and not according to the final recipients of the aid. Notwithstanding the measurement difficulties, the data do give an indication as to which horizontal objectives are favoured by Member State (see Table 8). The largest proportion of aid was directed exclusively to the environment and energy saving objectives (28% of the total state aid less agriculture, fisheries and transport), which were extensively supported by Sweden (88% of the total aid in this country), the Netherlands (65%), Germany (47%), Denmark (47%) and Finland (40%). The second most favoured horizontal objective was regional development (19% of total aid), which was mainly supported by Latvia (78% of the total aid in this country), Greece (56%), Slovakia (55%), the Czech Republic (52%) and Lithuania (42%). An additional 12% of the aid went to research and development activities, which was favoured most by Luxembourg (27% of the total aid in this country), the Czech Republic, Austria and Finland (26%), Slovenia (24%), the Netherlands (22%), France and Estonia (21%). Other objectives were supported to a lesser extent: small and medium-sized enterprises (10% of total aid),

19 These percentages exclude those measures with a horizontal objective that are nevertheless earmarked for the manufacturing and services sectors
20 Such cases are denoted by a 'NN' case number
21 MA/6/2002

employment (8%), training (2%) and other horizontal objectives (4%), which include objectives such as commerce and internationalization, innovation, culture and heritage conservation, social aid, natural disasters, and risk capital.

Table 8: State aid for horizontal objectives and sectoral aid as % of total aid, 2005

	Horizontal Objectives								Sectoral aid (2)					Total aid less agriculture, fisheries and transport in million €
	Total of Horizontal Objectives	Employment aid	Regional development n.e.c. (1)	Research and development	SME	Training	Environment and energy saving	Other horizontal objectives (e.g. commerce, culture, natural disasters, risk capital, innovation and social aid)	Total of Sectoral aid (2)	Manufacturing Sectors	Coal	Other Non Manufacturing sectors	Services	
EU-25	**84**	**8**	**19**	**12**	**10**	**2**	**28**	**4**	**16**	**4**	**9**	**1**	**2**	**45094**
Belgium	**100**	5	16	20	39	7	10	3	**0**	0	0	0	0	**700**
Czech Republic	**100**	1	52	26	18	0	2	0	**0**	0	0	0	0	**387**
Denmark	**97**	42	0	4	0	0	47	3	**3**	3	0	0	0	**1074**
Germany	**81**	1	18	10	3	0	47	2	**19**	1	18	0	1	**15172**
Estonia	**100**	1	18	21	24	2	7	28	**0**	0	0	0	0	**14**
Greece	**97**	19	56	3	5	0	10	5	**3**	1	0	1	1	**257**
Spain	**66**	1	32	9	10	2	5	7	**34**	0	33	0	0	**3284**
France	**88**	18	16	21	21	1	2	10	**12**	11	0	0	0	**6486**
Ireland	**74**	12	25	12	10	2	2	11	**26**	14	0	0	12	**424**
Italy	**96**	20	27	14	20	9	3	3	**4**	2	0	0	2	**5328**
Cyprus	**45**	0	4	3	1	6	1	31	**55**	38	0	15	2	**135**
Latvia	**97**	0	78	0	19	0	0	0	**3**	3	0	0	0	**29**
Lithuania	**81**	6	42	9	14	0	10	1	**19**	3	0	15	0	**26**
Luxembourg	**100**	0	28	27	22	0	8	15	**0**	0	0	0	0	**43**
Hungary	**48**	1	28	5	4	0	1	9	**52**	48	4	0	0	**949**
Malta	**3**	0	0	0	0	1	0	2	**97**	97	0	0	0	**117**
Netherlands	**97**	0	2	22	5	0	65	3	**3**	3	0	0	0	**1183**
Austria	**95**	3	14	26	30	6	15	1	**5**	0	0	0	5	**597**
Poland	**70**	34	21	4	8	2	1	0	**30**	5	24	0	0	**908**
Portugal	**26**	4	5	1	6	9	0	0	**74**	0	0	0	74	**957**
Slovenia	**86**	15	15	24	9	2	15	7	**14**	0	14	0	0	**100**
Slovakia	**61**	0	55	1	1	2	0	1	**39**	39	1	0	0	**245**
Finland	**97**	6	12	26	7	0	40	6	**3**	0	0	0	2	**559**
Sweden	**100**	0	5	3	1	0	88	4	**0**	0	0	0	0	**2613**
United Kingdom	**91**	1	18	17	16	7	28	3	**9**	0	1	8	0	**3509**

(1) Aid for general regional development not elsewhere classified. (2) Aid for specific sectors awarded under measures for which there was no horizontal objective as well as aid for rescue and restructuring. Source: DG Competition.

1.8. Trend in State aid for horizontal objectives and sectoral objectives

In the mid-1990s, when State aid levels were much higher, the share of total aid granted for horizontal objectives was around 50%. In line with the commitments undertaken at the various European Councils, Member States have however continued to redirect aid towards such horizontal objectives. It is encouraging to see that all EU-10 Member States have progressively redirected aid towards horizontal objectives. The share of horizontal objectives in total aid less agriculture, fisheries and transport increased by 11 percentage points between 2001-2003 and 2003-2005 (see Table 9 below). This upward trend was almost exclusively the result of a significant increase in aid for environmental and energy saving objectives (+8 points) and employment aid (+2 points) as well as a reduction in sectoral aid, particularly services (including financial services) (-8 points) and coal (-2.7 points), for some Member States.

Table 9: Trend in share of primary objectives in total aid between 2001-2003 and 2003-2005 as percentage point difference

	Horizontal Objectives								Sectoral aid (2)					Total aid less agriculture, fisheries and transport in million € as annual average 2001-2003	Total aid less agriculture, fisheries and transport in million € as annual average 2003-2005
	Total of Horizontal Objectives	Employment aid	Regional development n.e.c. (1)	Research and development	SME	Training	Environment and energy saving	Other horizontal objectives (e.g. commerce, culture, natural disasters, risk capital, innovation and social aid)	Total of Sectoral aid (2)	Manufacturing Sectors	Coal	Other Non Manufacturing sectors	Services		
EU-25	**10,7**	2,1	-1,1	0,8	-0,5	0,9	8,0	0,6	**-10,8**	0,2	-2,7	-0,4	-8,0	**52262**	**47151**
EU-10	**8,5**	3,2	5,0	0,9	-0,8	-0,8	-0,3	1,3	**-8,5**	4,6	3,9	-0,3	-16,7	**6857**	**5497**
Belgium	**0,1**	-5,9	-17,9	4,5	12,5	3,1	2,7	1,2	**-0,1**	-0,1	0,0	0,0	0,0	**858**	**697**
Czech Republic	**16,0**	-0,2	9,7	4,9	-0,8	-0,2	2,6	0,0	**-16,0**	-2,1	0,4	0,0	-14,4	**2360**	**998**
Denmark	**-3,5**	0,9	-0,2	-0,8	-0,2	-1,5	-2,0	0,4	**3,5**	2,1	0,0	0,0	1,4	**1373**	**1066**
Germany	**14,9**	0,4	-2,3	1,0	-0,4	0,2	15,8	0,3	**-15,2**	-0,4	0,2	0,0	-15,0	**19225**	**15384**
Estonia	**0,0**	0,5	-12,1	6,8	2,4	0,9	-7,2	8,7	**0,0**	0,0	0,0	0,0	0,0	**9**	**10**
Greece	**3,4**	6,3	-17,4	1,4	5,1	0,0	5,6	2,4	**-3,4**	-3,2	0,0	0,2	-0,4	**428**	**335**
Spain	**11,2**	-0,1	7,2	2,3	1,1	-1,5	1,9	0,4	**-11,2**	-2,4	-8,8	-0,1	0,0	**4639**	**3442**
France	**3,2**	7,4	0,6	-1,6	-1,5	0,0	-2,2	0,4	**-3,2**	5,7	-7,7	-0,2	-1,0	**5691**	**6026**
Ireland	**20,1**	2,9	1,6	4,6	4,1	0,1	1,3	5,6	**-20,1**	-16,7	0,0	0,0	-3,4	**641**	**407**
Italy	**0,4**	8,1	-5,0	1,8	-11,2	6,7	0,3	-0,1	**-0,4**	-0,7	0,0	0,0	0,4	**5518**	**5329**
Cyprus	**7,1**	0,0	-2,1	1,0	-3,4	1,7	0,4	9,4	**-7,1**	-1,6	0,0	-4,2	-1,3	**290**	**176**
Latvia	**43,9**	0,0	35,5	0,0	10,6	0,0	0,0	-2,2	**-43,9**	-26,9	0,0	-17,0	0,0	**25**	**21**
Lithuania	**32,7**	1,6	20,3	2,2	6,6	0,0	2,6	-0,7	**-32,7**	-33,9	0,0	1,3	0,0	**45**	**32**
Luxembourg	**0,0**	0,0	-13,1	5,4	2,9	0,0	1,7	3,1	**0,0**	0,0	0,0	0,0	0,0	**56**	**50**
Hungary	**2,3**	-1,6	3,3	-0,2	-3,1	0,4	-2,8	6,4	**-2,3**	-4,3	2,3	0,0	-0,3	**831**	**819**
Malta	**1,2**	0,0	0,0	0,0	0,6	0,4	0,0	0,2	**-1,2**	3,7	0,0	-0,5	-4,3	**163**	**111**
Netherlands	**0,2**	0,1	-4,1	-1,7	2,2	0,0	7,5	-3,7	**-0,2**	-0,2	0,0	0,0	0,0	**896**	**983**
Austria	**-0,2**	-0,2	-3,1	-6,8	8,6	1,1	0,7	-0,4	**0,2**	-0,4	0,0	-0,4	0,9	**566**	**575**
Poland	**2,5**	4,4	0,7	0,0	0,4	-2,4	-0,6	0,1	**-2,5**	8,6	-9,6	0,2	-1,8	**2823**	**2982**
Portugal	**1,7**	-0,7	-0,5	1,5	-1,5	2,9	0,0	0,0	**-1,7**	-1,6	0,0	0,0	-0,1	**1247**	**1143**
Slovenia	**6,9**	0,6	0,6	1,9	1,4	-0,1	-0,8	3,3	**-6,9**	-11,8	3,9	1,0	0,1	**162**	**134**
Slovakia	**7,5**	0,2	8,3	-2,1	0,3	1,3	0,0	-0,4	**-7,5**	7,6	-2,2	-4,7	-8,1	**147**	**213**
Finland	**0,4**	-0,4	-1,3	-6,3	-2,5	0,0	11,2	-0,2	**-0,4**	0,0	0,0	0,0	-0,4	**444**	**542**
Sweden	**0,0**	0,1	-4,3	-7,9	-2,1	-0,9	26,4	-11,3	**0,0**	0,0	0,0	0,0	0,0	**669**	**1998**
United Kingdom	**8,2**	0,2	1,7	-2,7	1,0	3,1	3,3	1,7	**-8,2**	-1,1	-1,0	-6,4	0,2	**3155**	**3677**

(1) Aid for general regional development not elsewhere classified. (2) Aid for specific sectors awarded under measures for which there was no horizontal objective as well as aid for rescue and restructuring. Source: DG Competition.

The positive trend was observed, to varying degrees, in the majority of Member States. The share of horizontal aid increased more than the average (+11 points) in six countries, particularly in Latvia (+44 points), Lithuania (+33 points), Ireland (+20 points), the Czech Republic (+16 points), Germany (+15 points) and Spain (+11 points).

In contrast, the share of horizontal aid in total aid decreased in Denmark (-3.5 points), due to the large amount of aid awarded to the broadcasting sector[22] in 2004.

Over the period under review, there were appreciable increases in the share of total aid for environmental and energy saving objectives in Sweden (+26 points), Germany (+16 points) and Finland (+11 points). For the Union as a whole, there was no significant change in the share of aid for other horizontal objectives such as R&D and training.

[22] N 313/2004 Recapitalization of TV2 Denmark.

State aid for research and development (R&D)

Investment in R&D is a crucial factor to make the EU economy competitive and to ensure sustainable growth. The Barcelona European Council of March 2002 recognised this by setting the objective for expenditure on R&D to 3% of GDP by 2010. Two thirds of this expenditure should be funded by the private sector. The spring 2004 European Council stressed in particular that besides public funding, increased private funding of investment is crucial to achieve a sustainable level of 3% and accorded priority status to the strengthening of business investment in R&D.

National governments have a range of measures to choose from to fund and consequently trigger R&D, the exact range and balance of which depend on the national context and form the policy mix. These public measures, when granted on a selective basis, might contain State aid. Even though State aid constitutes only a small part of public R&D funding, competition could be distorted by favouring some enterprises over others. On the other hand, State aid may in certain circumstances be the best available option to provide incentives triggering additional private R&D investment. The Commission thus tries to strike a balance through the application of the framework on R&D aid thereby ensuring that R&D is furthered to the largest extent while minimising distortions of competition as far as possible.

Figures for 2004 show that investment in R&D is not sufficient to meet the Barcelona objectives: for the EU-25 as a whole, R&D investment stood at 1.86% of GDP, Sweden and Finland being the only countries to reach the 3% level with 3.70% and 3.51% respectively. Drawing conclusions from the so far sluggish development of R&D investment, it is clear that with growth remaining at the current level, the European economy will not achieve the Barcelona targets by 2010. Rather, growth needs to be accelerated and new impetus given to investment in R&D.

As regards State aid to R&D, total expenditure stood at €5.6 billion in 2005. After a significant increase in 2001, the level of R&D aid has remained rather stable. State aid to R&D represents a relatively small share in public funding (EU-wide, 0.05% of GDP in 2005) although there are significant differences between Member States. In six Member States the R&D aid expenditure relative to the GDP in 2005 was above the average mark of 0.05% of GDP: Czech Republic (0.10% of GDP), Finland (0.09%), Slovenia (0.09%), France (0.08%), Germany (0.07%) and Austria (0.06%).

Table 10: State aid for research and development (R&D)

	Aid to Research & Development (in million €), 2005	Share of R&D aid in total aid, annual average 2003-2005	Share of R&D aid in total aid (% point difference 2001-2003 and 2003-2005)	Share of R&D aid to GDP (in %), 2005	Gross domestic expenditure on R&D as a percentage of GDP in 2004
EU-25	5624	11.94	0.84	0.05	1.86
Belgium	140	24.92	4.49	0.05	1.9
Czech Republic	102	6.61	4.95	0.10	1.27
Denmark	42	3.06	-0.82	0.02	2.48
Germany	1516	10.00	0.96	0.07	2.49
Estonia	3	22.41	4.69	0.03	0.91
Greece	8	1.99	1.37	0.00	0.57
Spain	292	10.55	2.31	0.03	1.07
France	1362	19.40	-1.57	0.08	2.16
Ireland	49	11.72	4.60	0.03	1.2
Italy	737	14.77	1.75	0.05	-
Cyprus	4	1.52	1.06	0.03	0.37
Latvia	0	0.00	0.00	0.00	0.42
Lithuania	2	3.08	2.34	0.01	0.76
Luxembourg	11	18.15	4.39	0.04	1.65
Hungary	44	2.52	-0.28	0.05	0.89
Malta	0	0.00	0.00	0.00	0.64
Netherlands	256	25.33	-1.72	0.05	1.78
Austria	152	32.73	-6.82	0.06	2.24
Poland	38	0.98	-0.02	0.02	0.56
Portugal	14	2.25	1.47	0.01	0.74
Slovenia	24	20.21	1.85	0.09	1.45
Slovakia	3	0.94	-2.01	0.01	0.53
Finland	147	26.98	-6.33	0.09	3.51
Sweden	74	3.89	-7.93	0.03	3.7
United Kingdom	604	18.09	-2.74	0.03	1.79

Note: Total aid refers to total aid less agriculture, fisheries and transport. Source: DG Competition and Eurostat

1.9. State aid supporting regional development and cohesion

Each Member State targets part of its State aid towards the least developed regions, the so-called 'assisted regions'. For the Union as a whole, an estimated €11.3 billion of aid[23] was earmarked exclusively for assisted 'a' regions[24] in 2005. With the exception of Cyprus, and the cities of Prague and Bratislava which qualify for assistance at 'c' level[25], the entire territories of the EU-10 Member States are eligible at 'a' level. Although a number of aid measures in these countries are not earmarked for a specific region, the aid is thus deemed to be 'reserved for' assisted regions.

The EU-wide figure of €11.3 billion represented 25% of total aid (less agriculture, fisheries and transport for which a regional breakdown is not available). Disparities between the Member States in the levels of aid reserved for assisted 'a' regions (Table 11) reflect not only

[23] This figure includes all aid specifically earmarked for assisted 'a' regions regardless of the overall objective of the aid. However, due to an absence of data on the final beneficiaries of the aid, it is not possible to quantify the amount of aid granted through nation-wide schemes from which assisted regions will also clearly benefit. See spring 2003 update of the Scoreboard for further information on methodological issues.

[24] Article 87(3)(a) provides that aid "to promote the economic development of areas where the standard of living is abnormally low or where there is serious underemployment" may be considered compatible with the common market. The 'a' regions are largely identical to the Objective 1 regions under the EU Structural Funds.

[25] Article 87(3)(c)

differences in regional policy but also the size of each country's eligible population as well as the extent to which each Member State grants aid at a sub-central level.

Table 11: State aid specifically earmarked for assisted 'a' regions, 2005

	Total state aid less agriculture, fisheries and transport, mio €	Aid for assisted 'a' regions, mio €	Aid for assisted 'a' regions as a percentage of total aid less agriculture, fisheries and transport
EU-25	**45093**	11307	25
Czech Republic	387	147	38
Germany	15172	2896	19
Estonia	14	14	100
Greece	257	244	95
Spain	3284	1250	38
France	6486	1723	27
Ireland	424	329	78
Italy	5328	1442	27
Latvia	29	29	100
Lithuania	26	26	100
Hungary	949	949	100
Malta	117	117	100
Austria	597	10	2
Poland	908	908	100
Portugal	956	746	78
Slovenia	100	100	100
Slovakia	245	197	81
Finland	559	-	-
United Kingdom	3509	181	5

Note: There are no assisted 'a' regions in Belgium, Denmark, Cyprus, Luxembourg, the Netherlands and Sweden. For Czech Republic, Spain, Ireland, Portugal, Slovakia, all measures qualify for either 'a' or 'c' status. The figures in the table above refer to those measures which were specifically earmarked for 'a' regions. In Cyprus, all measures qualify for 'c' assisted status. All data exclude agriculture, fisheries and transport for which a regional breakdown is not available. It is therefore not possible to measure aid to assisted 'a' regions as a proportion of total State aid. Source: DG Competition.

1.10. Aid awarded under the block exemption regulations

With a view to reducing the administrative burden for specific types of aid, block exemptions for aid to SMEs, training aid, employment aid, certain types of aid in the fisheries sector and aid to SMEs in the agricultural sector have come into force over the past few years[26]. Initial results are positive: the number of measures being notified for these types of aid has fallen considerably since 2001 as Member States make increasing use of the possibilities offered by the7 block exemption regulations. By 30 June 2006, Member States had informed the Commission that they implemented almost 1500 block exempted measures since the introduction of the regulations for SMEs and training in 2001 (see Table 12). In 2005 alone, the Commission received more than 400 summary information forms on newly introduced block exempted measures: 198 on aid for SMEs primarily in the manufacturing and services sectors, a further 88 for SMEs in the agricultural sector, 69 on training aid, 26 on aid to employment, and 22 for exempted aid in fisheries. While the number of forms submitted by the Member State in the first six months of 2006 remained stable, the use of employment and agriculture block exemption regulations has increased.

Table 12: Trend in the number of measures for which information forms were submitted under the State aid block exemption regulations, 2001-2006 (until 30.6.2006), EU-25

Type of State aid block exemption	Year						
	2001	2002	2003	2004	2005	2006 (1.01-30.06)	**Total**
SME	101	123	139	149	198	83	**793**
Training	48	80	55	79	69	32	**363**
Employment	-	0	8	21	26	21	**76**
Agriculture	-	-	-	72	88	56	**216**
Fish	-	-	-	1	22	6	**29**
Total	**149**	**203**	**202**	**322**	**403**	**198**	**1477**

Note: The table excludes cases withdrawn. Figures for the EU-10 are included as of 1 May 2004. Source: DG Competition

26 Commission Regulation (EC) No 70/2001 of 12 January 2001 on State aid to SMEs (OJ L 10, 13.01.2001, pages 33-42) and No 364/2004 of 25 February 2004 amending Regulation (EC) No 70/2001 as regards the extension of its scope to include aid for research and development (OJ L 63, 28.02.2004, pages 22-29);
Commission Regulation (EC) No 68/2001 of 12 January 2001 on training aid (OJ L 10, 13.01.2001, pages 20-29) and No 363/2004 of 25 February 2004 amending Regulation (EC) No 68/2001 (OJ L 63, 28.02.2004, pages 20-21);
Commission Regulation (EC) No 2204/2002 of 5 December 2002 on State aid for employment (OJ L 337, 13.12.2002, pages 3-14);
Commission Regulation (EC) No 1/2004 of 23 December 2003 on State aid to SMEs in the agricultural sector (OJ L 1, 03.01.2004, pages 1-16);
Commission Regulation (EC) No 1595/2004 of 8 September 2004 on State aid to SME active in the production, processing and marketing of fisheries products (OJ L 291 of 14.09.2004, page 3-11).

The State aid block exemption regulation on SMEs[27] was amended in February 2004 as regards the extension of its scope to include aid for research and development. Member States have increasingly used this possibility. In 2005, around 20% of all block exempted measures for State aid to SMEs included aid for research and development.

See also information about the new block exemption regulation on regional investment aid in the Part IV on Legislative and Policy development below.

As regards expenditure, an estimated €2.9 billion was awarded in 2005 under the three block exemption regulations for SMEs, training and employment[28]. Aid to SMEs accounted for €1.5 billion, €1 billion went for training aid and €0.4 billion for employment aid. In 2005, Italy made up for 31% of total expenditure followed by the United Kingdom (20%), Poland (14%) and Germany (13%).

It is also worth looking at the share of exempted aid in total aid directed at horizontal objectives. EU-wide, aid under the block exemption regulations represented around 8% of all aid directed at horizontal objectives though for several Member States the share was considerably higher: Poland 63%, Portugal (33%), Estonia (29%), Greece (25%) and Austria (20%).

Table 13: Aid awarded under the block exemption regulations, in million €, 2005

	SME	Training	Employment	Total	Total BER as percentage of total Horizontal aid
EU-25	**1544**	**982**	**420**	**2946**	**7.8**
Belgium	73	37	9	120	17.1
Czech Republic	44	-	-	44	11.3
Denmark	1	-	-	1	0.1
Germany	306	49	21	375	3.1
Estonia	4	0	0	4	29.1
Greece	12	-	49	61	24.6
Spain	65	34	0	100	4.6
France	43	-	2	45	0.8
Ireland	33	1	-	34	10.9
Italy	427	488	5	920	18.0
Cyprus	0	-	-	0	0.5
Latvia	3	-	-	3	11.3
Lithuania	0	0	2	2	7.9
Luxembourg	7	-	-	7	16.1
Hungary	22	-	4	26	5.7
Malta	0	-	-	0	0.6
Netherlands	4	1	0	5	0.4
Austria	77	37	-	114	20.0
Poland	75	22	305	401	62.8
Portugal	0	81	-	81	33.0
Slovakia	0	-	1	1	0.7
Finland	1	-	-	1	0.2
Sweden		-	5	5	0.2
United Kingdom	346	232	17	596	18.8

Figures exclude expenditure for measures submitted under the block exemptions for agriculture and fisheries. Source: DG Competition.

27 Commission Regulations (EC) No 70/2001 of 12 January 2001 on State aid to SMEs (OJ L 10, 13.01.2001)

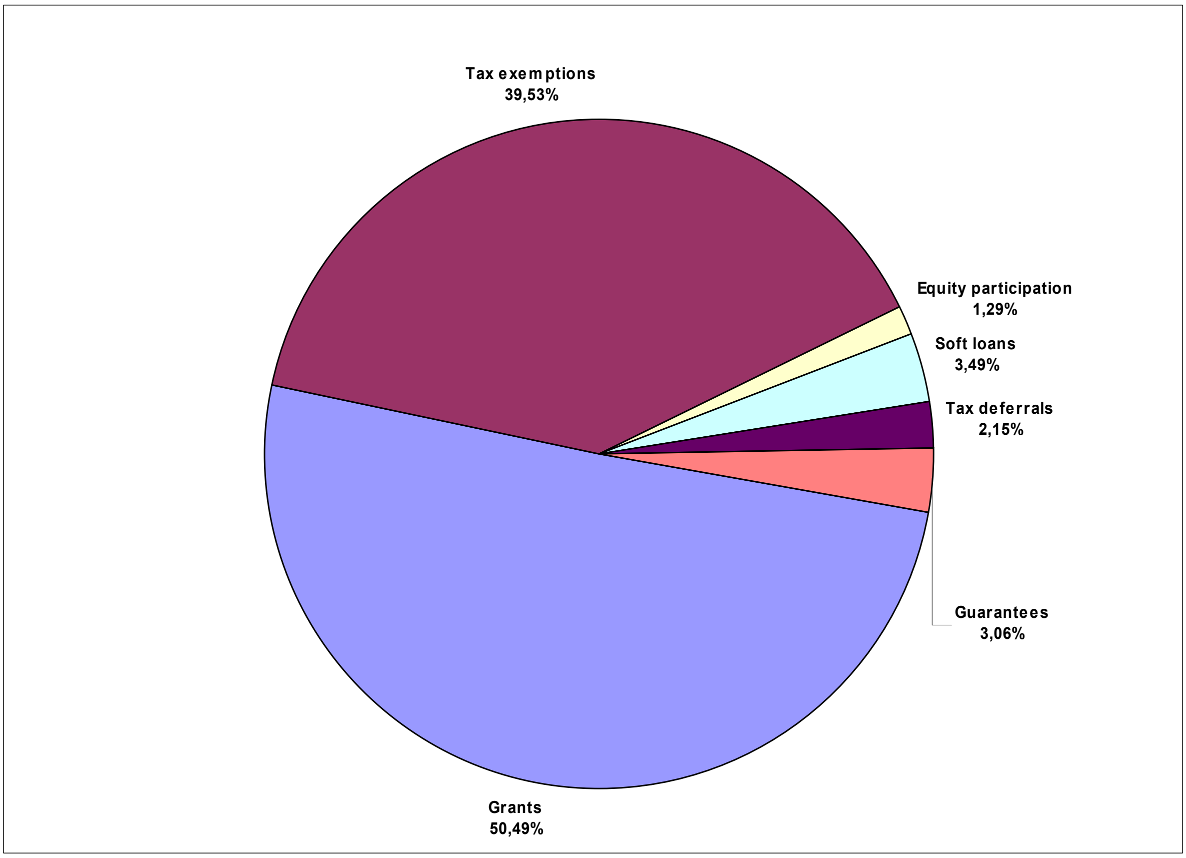
28 Data are not yet available for agriculture and fisheries.

1.11. State aid instruments

Most favoured aid instrument in the EU-25 is grant

All State aid represents a cost or a loss of revenue to the public authorities and a benefit to recipients. However, in some cases the actual aid element may differ from the nominal amount as in the case of a subsidised loan or guarantee.

Graph 2: Share of each aid instrument in total aid for manufacturing and services, EU-25, 2003–2005



Note: This section on aid instruments excludes the coal sector. Source: DG Competition

During the period 2003-2005, grants accounted for more than 50% of total aid in the manufacturing and service sectors. In addition to aid awarded through the budget, other aid is paid through alleviation from the tax or social security system. Tax exemptions made up almost 40% of the total (Graph 2 and Table 14). Belgium, Denmark, Luxembourg and Austria provided at least 85% of their aid in the form of grants, other Member States tended to make greater use of tax exemptions: accounting for 70% or more of total aid in Portugal, Slovakia and Sweden. A similar instrument is a tax deferral which was used by twelve Member States during the period under review. Tax deferrals accounted for 13% of all aid in Italy compared with an EU average of 2%.

Table 14: State aid to the manufacturing sector by type of instrument, 2003-2005

TYPE OF AID INSTRUMENT						% of total
	Grants	Tax exemptions	Equity participation	Soft loans	Tax deferrals	Guarantees
EU-25	50	40	1	3	2	3
Belgium	93	1	0	5	0	1
Czech Republic	21	11	1	1	-	66
Denmark	88	8	4	0	-	0
Germany	44	51	2	1	-	2
Estonia	82	-	-	0	-	18
Greece	71	29	-	-	-	-
Spain	50	39	1	10	-	0
France	58	31	1	8	0	2
Ireland	44	53	1	0	2	0
Italy	63	19	0	5	13	0
Cyprus	32	66	-	-	-	3
Latvia	37	56	-	7	0	1
Lithuania	27	63	4	-	6	-
Luxembourg	97	-	-	3	-	-
Hungary	36	62	1	1	-	1
Malta	24	60	-	5	9	2
Netherlands	80	3	-	1	8	8
Austria	88	-	-	10	-	2
Poland	24	52	8	5	4	7
Portugal	10	82	0	6	2	0
Slovenia	70	22	1	4	-	3
Slovakia	23	72	6	-	-	-
Finland	60	34	1	5	-	0
Sweden	22	76	0	1	-	0
United Kingdom	58	40	1	1	0	0

Note: due to rounding not all percentage figures sum up precisely to 100.

There are other forms of aid instrument which vary from one Member State to another. One such category covers transfers in which the aid element is the interest saved by the recipient during the period for which the capital transferred is at his disposal. The financial transfer takes the form of a soft loan or tax deferral (mentioned already above). The aid elements in this category are much lower than the capital values of the transfers. EU-wide, soft loans represented around 3% of all aid to manufacturing and services. In Spain, France, and Austria the proportion was 8% or more.

Aid may also be in the form of state equity participation which represented around 1% of all aid to the manufacturing and service sectors. Finally, aid may be provided in the form of guarantees. The aid elements are generally much lower than the nominal amounts guaranteed, since they correspond to the benefit which the recipient receives free of charge or at lower than market rate if a premium is paid to cover the risk. EU-wide, guarantees made up 3% of total aid. During the period under review, the guarantees were used by Czech Republic (66% of total aid), mainly to the banking sector and in Estonia (18% of total aid).

2. PART TWO: SPECIAL FOCUS CHAPTER ON RESCUE AND RESTRUCTURING AID

2.1. Principles for Rescue and Restructuring aid in the Guidelines

Rescue and restructuring aid is one of the most distortive forms of aid, but may in exceptional circumstances be justified by the countervailing benefits. Such benefits are seen in the restoration of the long term viability of a firm in difficulty and thus the firm's survival which may be desirable for employment considerations. While the guidelines leave it to the Member States to assess whether it is worthwhile subsidizing the company to reach the desired objectives, the guidelines impose on the beneficiaries strict conditions in order to guarantee that the distortive effects are limited to the minimum.

Legally, the Rescue and Restructuring Guidelines lay down the application of Article 87(3)(c) EC in the particular case of firms in difficulty[29]. On the basis of the Guidelines, State support for such firms may be found compatible with the EC Treaty. This concerns first rescue aid in so far as the ailing firm is provided with *ad hoc* short term liquidity support to overcome acute financial shortcomings or restructuring aid in form of longer term support in order to redirect the company's operations. In the case of SMEs, rescue and restructuring aid may also be granted on the basis of schemes.

Rescue aid can be provided for a period of six months to help the company cover its immediate liquidity needs and undertake other urgent structural measures. It is limited to temporary support to enable the ailing company to come up with a restructuring plan.

Restructuring aid can be provided on the basis of a comprehensive restructuring plan with the aim to restore long term viability. The plan must define the restructuring period and the restructuring costs as well as the measures necessary to turn around the company. Such measures should imply operative, industrial and financial restructuring.

Further conditions for the granting of restructuring aid are first that the aid is limited to the minimum necessary. To this end, a predetermined minimum threshold for private co-financing of the restructuring is introduced (the so called significant own contribution). As this own contribution normally requires the involvement of external financing it also ensures that the capital markets believe in the restructuring project's ability to restore long term viability. Secondly, in order to compensate for the distortion of competition caused by the aid, compensatory measures (e.g. divestment of assets, reductions in capacity or market presence and reduction of entry barriers on the markets concerned) are normally obligatory.

Finally, the "one-time, last-time" principle ensures in cases of both rescue and restructuring aid that a firm that has received already rescue and restructuring aid in the last ten years is no longer eligible for any further aid. A firm has thus only one chance to restructure itself with the help of aid.

2.2. Changes from 1999 to the 2004 guidelines

The 2004 Guidelines impose a closer scrutiny of the distortion created by aid for rescue and restructuring operations of large firms. They introduced a stricter application of the "one time, last time" principle and reinforced the provision of a significant own contribution by imposing fixed minimum thresholds. The provisions on the avoidance of undue distortions of competition have also been tightened in so far as compensatory measures have become compulsory.

Moreover, the guidelines clarify that aid to companies in difficulty can only be assessed on the basis of the Rescue and Restructuring Guidelines, unless it is automatically exempted by a

[29] The meaning of «a firm in difficulty» is defined in the point 2.1. of the Community guidelines on State aid for rescuing and restructuring firms in difficulty OJ C 244, 1.10.2004, p. 2–17.*http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:52004XC1001(01):EN:NOT*

regulation (*de minimis* aid, investment aid to SMEs, etc). The Rescue and Restructuring Guidelines reiterate that a firm in difficulty cannot be an appropriate vehicle for promoting other public policy objectives (for instance environmental aid). Therefore also aid for other public policy objectives, which would normally be compatible under approved schemes, must be considered as restructuring aid if it is granted to a company in difficulty.

Experience as to the practical consequences of the application of the new rules is nevertheless limited by now. So far the Commission has taken on the basis of the new Guidelines only a few rescue aid decisions, two no objection decisions as regards restructuring aid and no negative decision.

The new guidelines also introduced two procedural novelties:

- First, a simplified procedure for rescue aid was introduced, under which the Commission will decide within one month. However, given that this is tied to certain thresholds the usage has been limited.

- Second, the Commission has left the scrutiny of restructuring plans of SMEs to the Member States who are now expected to assess and approve the plans themselves before they notify them to the Commission. However, Member States appear to be rather reluctant to make use of that provision and seem to prefer to rely on the Commissions assessment in any event.

2.3. Commission decisions on rescue and restructuring aid 2000-2005

There are two possible ways to look at Member States' use of rescue and restructuring aid. One is based on the number of rescue and restructuring decisions taken by the Commission in the reference period, 2000–2005, whereas the second is based on actual expenditure reported by Member States. The decision-based approach also includes measures under which expenditure was made before 2000 (unlawful aid) as well as measures under which aid was (or will be) granted after 2005 (due for example to the time needed for Member States to complete its own granting procedures). The second, reporting based approach shows aid measures under which expenditure was made between 2000 and 2005 even if the Commission's decision was taken before 2000 or after 2005. This section (3.3) presents facts and findings based on the first approach while sections 3.4 – 3.7 are based on the expenditure approach. As data for the EU-10 Member States[30] prior to accession in May 2004 are not fully comparable with EU-15 data, this section focuses on aid granted by the EU-15 Member States.

The vast majority of aid for rescue and restructuring is awarded on an individual (ad hoc) basis to ailing firms, thus being the type of aid which is most prone to distort competition. While some Member States have frequently awarded such aid over the period under review, the majority have clearly not adopted such a policy. Looking at the 115 decisions (involving compatible and incompatible aid measures) taken on ad hoc rescue and restructuring cases[31] between 2000 and 2005, Germany tops the list with 74 decisions followed by France with 13, Italy 9, Spain 7, the United Kingdom 3, Belgium 3, Portugal 2 and the Netherlands 2. Greece

[30] The total for the EU-10 Member States is estimated at €8.3 billion though aid to the Czech banking sector accounts for around 80% of this figure.

[31] Excluding a small number of rescue and restructuring cases in the agricultural field

and Austria each have 1 case leaving five EU-15 Member States (Denmark, Ireland, Luxembourg, Finland and Sweden) with no cases at all.

Table 15: Number of decisions on rescue and restructuring cases, 2000-2005

	Rescue aid	Restructuring	Total Rescue and restructuring
EU-15	**35**	**80**	**115**
Belgium	2	1	**3**
Germany	21	53	**74**
Greece	0	1	**1**
Spain	2	5	**7**
France	4	9	**13**
Italy	3	6	**9**
Netherlands	1	1	**2**
Austria	0	1	**1**
Portugal	0	2	**2**
United Kingdom	2	1	**3**

It is important to note that approximately three-quarters of German cases concerned the restructuring of former East German companies for which aid was awarded in the late 1990s. Most of the decisions on these cases were taken in the period 2000 to 2002 under the 1999 guidelines which contained some special clauses for assessing restructuring aid. This largely explains the drop in the number of ad hoc rescue and restructuring cases for EU-15 on which the Commission took a decision[32] over the period 2000-2005.

Table 16: Trend in the number of decisions on rescue and restructuring cases, 2000-2005

	2000	2001	2002	2003	2004	2005	Total
EU-15	26	25	23	15	17	9	115

Although the EU-15 figure in 2005 is relatively low, there were an additional 5 cases for the EU-10 Member States and, more significantly, there are currently around 30 rescue and restructuring cases being examined by the Commission. Around half of these cases concern the EU-10.

Of the 115 decisions on ad hoc cases, 35 concerned rescue aid and 80 restructuring aid. As regards rescue aid, Germany accounted for 21 cases with 6 other EU-15 Member States making up the total of 35. By the end of October 2006, the Commission had taken 3 decisions on rescue cases involving one of the EU-10 Member States (Poland).

As regards restructuring aid, again Germany accounted for more than half of the 80 cases. In addition to the EU-15 Member States, the Commission had, as of October 2006, taken 9 decisions on restructuring aid measures in the Czech Republic, Lithuania, Poland and Slovakia.

32 This includes no objection decisions and final decisions after a formal investigation procedure. It therefore excludes decisions to open proceedings, injunctions, etc.

Unlawful aid

More than half of the ad hoc rescue and restructuring decisions over the period 2000-2005[33] concerned unlawful aid, i.e., aid which Member States failed to notify to the Commission or aid notified but awarded prior to Commission approval. Such aid is granted without respecting the standstill obligation under Article 88 (3) of the EC Treaty. It is important to bear in mind that a case is classified as 'unlawful' if at least part of the aid has not been notified or has been implemented prior to the Commission decision.

Unlawful aid occurs more often in the context of larger cases and is more prevalent in restructuring cases than rescue cases. It is well recognised that Member States may be under significant time pressure to rescue an ailing firm with immediate action being perceived as the only way to keep a firm afloat, although this cannot justify a breach of the Treaty. This reason of time pressure cannot to the same extent be applied to restructuring aid where there is a need to prepare a restructuring strategy which should solve a firm's problems in the longer term. However, despite the possibility to grant rescue aid, many restructuring cases involving unlawful aid do not make use of such an option which would allow to keep a firm afloat while at the same time complying with the Treaty obligations.

Compatible versus incompatible aid

Around 30 of the 115 cases were found to be incompatible (fully or partly) though only 7 of these were negative decisions on notified aid and thus never implemented. Of the negative decisions, two-thirds were taken in the period 2000-2002 and mostly concerned aid to former East German companies. On top of the negative decisions, there were 4 cases where the notification was withdrawn after opening of the formal investigation procedure.

It is important to note that in reaching a positive (compatible) decision, the Commission does not necessarily approve the aid project as notified or presented by the Member State. After a first consultation, Member States often modify the aid measure in order to have it approved by the Commission. In this way, the Commission's scrutiny contributes to reducing the (potential) distortion of competition.

2.4. Expenditure on rescue and restructuring aid

For the period 2000-2005, ad hoc rescue and restructuring aid amounted to €24 billion. Excluding the EU-10 Member States for which data are not fully comparable, the EU-15 figure was around €15.5 billion or, on average around 7% of total aid[34]. This figure, however, presents only part of the picture due to two main reasons:

- Firstly, there is the important but difficult issue of how to quantify the advantage (known as the 'aid element') to an ailing firm which has received aid in the form of a loan or guarantee. Such forms of aid account for the majority of rescue and restructuring measures. At present, various methods are used by Member States to calculate the aid element, some of which tend to underestimate the advantage to the company in difficulty. The rescue and restructuring Guidelines define a company in difficulty as one that without aid is unable to stem losses that "will almost certainly condemn it to going out of business in the short or

[33] The proportion of unlawful measures was highest in the period 2000-2002 due to the influence of the East German cases but even in the period 2003-2005 it remains above 50%.

[34] The relevant total used for this calculation is total aid less railways, agriculture, fisheries and coal

medium term." This implies that the aid element could be as high as 100% of the loan or guarantee. The Commission services are currently exploring ways in which the calculation of the aid element could be improved and harmonised to a greater extent.

- Second, there are a number of cases that are difficult or impossible to quantify, e.g., part of the aid to France Telecom[35], and are therefore not included in the Scoreboard figures.

The overall volume of rescue and restructuring aid tends to be driven by a limited number of large cases such as the *Bankgesellschaft Berlin AG* in Germany, *Alstom* and *Bull* in France, *British Energy* in the United Kingdom, *Alitalia* in Italy and the Spanish shipyards. Altogether, the ten largest cases in the reporting period account for more than 90% of total rescue and restructuring aid.

The figures per Member State reveal that the five largest EU-15 Member States account for more than 95% of the aid. Germany made up 56% of total rescue and restructuring aid, followed by France (21%), Spain (8%), United Kingdom (7%) and Italy (5%). A second group of five Member States (Belgium, Greece, Netherlands, Austria and Portugal) awarded relatively small amounts of aid while five Member States (Denmark, Ireland, Luxembourg, Finland and Sweden) did not award any ad hoc rescue and restructuring aid to ailing firms between 2000 and 2005.

In relative terms (per mille of GDP), the 6 biggest grantors of rescue and restructuring aid were Germany (0.65‰), France (0.32‰), Spain (0.26‰), Belgium (0.20‰), Greece (0.11‰) and United Kingdom (0.11‰).

Table 17: Rescue and restructuring aid, total expenditure 2000-2005, in million €

	Rescue aid	Restructuring	Total rescue and restructuring aid	Permille of GDP
EU-25	**2 257**	**21 617**	**23 873**	**0,38**
EU-15	**2 177**	**13 371**	**15 548**	**0,26**
EU-10	**80**	**8 246**	**8 326**	**2,81**
Belgium	161	176	337	0,20
Germany	480	8 159	8 639	0,65
Greece		110	110	0,11
Spain		1 292	1 292	0,26
France	573	2 630	3 203	0,32
Italy	107	631	738	0,09
Netherlands	9	0	9	0,00
Austria		78	78	0,06
Portugal		19	19	0,02
United Kingdom	847	275	1 122	0,11

The total amount of restructuring aid awarded by the EU-15 Member States over the period 2000-2005 is estimated at €13.4 billion. By comparison, cases of rescue aid account for a small proportion of the total - €2.2 billion over the period under review awarded by six of the EU-15 Member States. Although the amount of rescue aid is relatively low, it is worth noting that a significant number of restructuring cases, which were not preceded by rescue cases, also included a rescue component. This rescue component is then assessed together with the restructuring part of the aid.

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35 C13a/2003 (ex N779/2002) Commission Decision of 2 August 2004 on the State Aid implemented by France for France Télécom *(notified under document number C(2004) 3060)* http://ec.europa.eu/comm/competition/state_aid/register/ii/by_case_nr_c2003_000.html#13a

2.5. Sectoral distribution

Although a sectoral distribution is largely dependent on the large aid cases, it nevertheless provides an indication of the sectors benefiting from rescue and restructuring aid. Due almost entirely to the *Bankgesellschaft Berlin AG* case, 55% of total rescue and restructuring aid granted between 2000 and 2005 was awarded to the financial services sector. A further 32% of the total went to the manufacturing sector in nine EU-15 Member States. The non-manufacturing sector, made up largely of aid to British Energy, accounted for 7% while the transport sector (less railways) accounted for 6%. More than half the aid to this sector was awarded to the airline Alitalia.

Table 18: Rescue and restructuring aid by sector, 2000- 2005, in million €

	Financial services	Manufacturing Sectors	Other Non Manufacturing sectors	Other services	Transport excl.railways	Total
EU-15	**8 677**	**4 860**	**1 116**	**0**	**895**	**15 548**
Belgium		202		0	135	337
Germany	8 496	117	1		25	8 639
Greece					110	110
Spain		1 291	1			1 292
France		3 203				3 203
Italy	102	25	0		611	738
Netherlands		9				9
Austria	78					78
Portugal		6			13	19
United Kingdom		8	1 115			1 122

2.6. Aid instruments

The type of aid instrument varies considerably from one Member State to another and between rescue aid and restructuring aid. Over the period 2000-2005, soft loans accounted for 77% of total rescue aid followed by guarantees (23%). In contrast, guarantees made up 50% of total restructuring aid followed by grants or capital injections (37%) and equity participation (11%).

Table 19: Rescue and restructuring aid by type of instrument, 2000-2005, in million €

	Rescue aid				Restructuring aid							
	Grants	Soft loans	Guarantees	Total rescue	Grants	Tax exemptions	Equity participation	Soft loans	Tax deferrals	Guarantees	Total restructuring	Total rescue and restructuring
EU-15	**135**	**1 535**	**507**	**2 177**	**4 993**	**114**	**1 495**	**86**	**0**	**6 683**	**13 371**	**15 548**
Belgium	135		26	161			176	0		0	176	**337**
Germany	0	14	466	480	1 883	0	8	1		6 266	8 159	**8 639**
Greece							110				110	**110**
Spain					558	114	616	4	0	0	1 292	**1 292**
France		573		573	2 013		197	82		339	2 630	**3 203**
Italy		92	15	107	258		373				631	**738**
Netherlands		9		9				0			0	**9**
Austria										78	78	**78**
Portugal					6		13			0	19	**19**
United Kingdom		847		847	275						275	**1 122**

2.7. SMEs in difficulty

In addition to ad hoc awards of aid, eight EU-15 Member States made use of the possibility in the rescue and restructuring Guidelines to award aid to SMEs in difficulty through schemes. The Commission took a decision on just over 30 such schemes over the period 2000-2005. The vast majority of schemes were approved. The total amount of aid awarded through such schemes was estimated at €1.1 billion.

3. PART THREE: RECOVERY OF UNLAWFUL AID[36]

Article 14 (1) of Council Regulation 659/1999 states that "where negative decisions are taken in cases of unlawful aid, the Commission shall decide that the Member State concerned shall take all necessary measures to recover the aid from the beneficiary."

As of 30 June 2006, there were 80 pending recovery decisions, compared to 84 on 31 December 2005. In the first half of 2006, 8 pending recovery cases were closed, whilst four new recovery decisions were taken (Table 20). The geographical distribution of pending recovery cases remains relatively stable: Germany accounts for the largest number of pending recovery cases (30%). Taken together, Spain, Italy and France account for a further 53% of all pending recovery cases. There are no pending cases in 13 Member States.

Table 20: Pending recovery cases by Member State, first semester 2006

	Situation 31/12/2005	New cases in 1 SEM 2006	Cases closed in 1 SEM 2006	Situation 30/06/2006
EU-25	**84**	**4**	**8**	**80**
Germany	26	1	3	24
Spain	19	0	0	19
Italy	15	0	2	13
France	11	0	1	10
Belgium	2	0	0	2
Netherlands	3	1	1	3
Greece	4	1	1	4
Portugal	1	0	0	1
Ireland	1	0	0	1
Poland	1	0	0	1
Finland	1	0	0	1
Slovakia	0	1	0	1

Source: DG Competition, DG Fisheries, DG Energy and Transport.

Table 21 provides data on the amounts of aid to be recovered under the 114 recovery decisions adopted since 2000[37]. For 80 of these decisions, relatively accurate information exists on the amount of aid involved. This information shows that the total amount of aid to be recovered on the basis of decisions adopted between 1/1/2000 and 30/06/2006 is € 9.3 billion[38].

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36 Excluding recovery cases in the agriculture sector.

37 On 30/06/2006, there were still a further 14 recovery decisions pending that were adopted before 1/1/2000.

38 The autumn 2005 Scoreboard reported a total of €9.4 billion. This discrepancy is due to the fact that some Member States submitted a revised estimate of the amounts to be recovered under some schemes.

Table 21: Trend in the number of recovery decisions and amounts to be recovered, 2000-1st semester 2006

	Date of Decision							
	2000	2001	2002	2003	2004	2005	1S 2006	Total
No. of decisions adopted	16	20	25	10	27	12	4	114
No. of decisions for which the amount is known	15	11	18	7	20	6	3	80
Total aid to be recovered (in million €) (1)	247,0	1032,5	1258,7	1015,6	5160,4	507,9	76,6	9298,7
Amounts recovered:(In million €)	225,0	1062,2	1442,0	1230,3	4407,7	2,5	0,0	8369,7
Of which:								
(a) Principal reimbursed/or in blocked account	17,1	911,2	1037,4	894,6	3146,1	2,4	0,0	6008,8
(b) Aid lost in bankrupcty	207,9	71,3	1,2	0,7	0,0	0,0	0,0	281,1
(c) Interest		79,7	403,4	335,0	1261,6	0,1	0,0	2079,8
Aid registered in bankruptcy	8,7	16,9	6,2	133,8	905,4	7,5	0,0	1078,5
Amount outstanding (2)	22,0	50,0	220,1	120,3	2014,3	505,5	76,6	3008,8
% still pending to be recovered	**8,9%**	**4,8%**	**17,5%**	**11,8%**	**39,0%**	**99,5%**	**100%**	**32,4%**

(1) Only for Decisions for which the aid amount is known. (2) Amount excluding interest. Source: DG Competition, DG Fisheries, DG Energy and Transport.

For 34 of the recovery decisions adopted since 2000, the Member State concerned has not yet submitted reliable information on the aid amount involved. The availability of information on amounts to be recovered is particularly limited in the case of aid schemes, especially tax or quasi-tax aid measures, and aid measures involving guarantees. The Commission continues its efforts to obtain information from the Member States on the aid amounts involved.

Of the € 9.3 billion of aid to be recovered under decisions adopted since 2000, some € 6.0 billion (i.e. 67.6% of the total amount) had been effectively recovered by the end of June 2006. In addition, € 2.1 billion of recovery interests had been recovered and a further € 281 million of aid was lost in bankruptcy proceedings. A further € 1078.5 million of illegal and incompatible aid have been registered in ongoing bankruptcy proceedings.

Recovery of incompatible State aid is a lengthy process: 16 of the recovery decisions still pending at the end of June 2006 were adopted before the year 2000. Of the 114 decisions adopted between 2000 and first half of 2006, only 51 have been closed by the end of June 2006 (Table 22).

Table 22: Trend in the closure of recovery cases

	Date of the Decision							
	2000	2001	2002	2003	2004	2005	1S 2006	Total
No. of recovery decisions adopted	16	20	25	10	27	13	3	114
No. of recovery cases that are closed on 30/06/2006	13	7	12	4	12	3	0	51

Source: DG Competition, DG Fisheries, DG Energy and Transport.

As underlined in the State Aid Action Plan (SAAP), the effectiveness and credibility of State aid control presupposes a proper enforcement of the Commission's decisions. The Commission therefore announced in the SAAP that it will seek to achieve a more effective and immediate execution of the recovery decisions, which will ensure equality of treatment of all beneficiaries. To this effect, the SAAP announces that the Commission will monitor more closely the execution of the recovery decisions by Member States. Where Member States do not take all measures available to implement such decisions, the Commission will more actively pursue non-compliance under Articles 88(2), 226 and 228(2) of the Treaty.

Table 23 below gives an overview of the pending recovery cases for which the Commission has decided to initiate action under Art. 88 (2) or Art 228 (2) EC Treaty.

Table 23: The pending recovery cases for which the Commission has decided to bring the case before the Court of Justice

Case number/title	MS	State of play and recent developments
CR44/97 – Magefesa	ES	13/10/99: Commission decision to initiate Art. 88(2) action against ES 02/07/02: ECJ judgment condemning ES for failing to implement CEC decision
CR49/98 – Employment measures	IT	20/11/00: Commission decision to initiate Art. 88(2) action against IT 01/04/04: ECJ judgment condemning IT for failing to implement CEC decision
CR48/99 – CR50/99 CR52/99 – CR54/99 Basque fiscal aid schemes	ES	05/03/03: Commission decision to initiate Art. 88(2) action against ES
CR03/99 – Spanish shipyards I	ES	26/06/03: ECJ judgment condemning ES for failing to implement CEC decision 18/10/04: Commission sent letter of formal notice to Spain
CR38/98 – Kimberly Clark/Scott Paper	FR	06/10/04: Commission decision to initiate Art. 88 (2) action against FR 05/10/06: ECJ judgment condemning FR for failing to execute CEC decision
CR27/99 – Municipalizzate	IT	19/01/05: Commission decision to initiate Art. 88(2) action against IT 01/06/06: ECJ judgment condemning IT for failing to execute CEC decision
CR62/00 – Thuringen Porzellan (Kahla)	DE	16/02/05: Commission decision to initiate Art. 88(2) action against DE
CR62/03 – Urgent employment measures	IT	06/04/05: Commission decision to initiate Art. 88(2) action against IT
CR 58-59-60/00 – Basque fiscal aid schemes	ES	21/12/05: Commission decision to initiate Art. 88(2) action agains ES
CR 57/03 – Tremonti Bis	IT	25/01/06: Commission decision to initiate Art. 88(2) action against IT
CR 36/01– Beaulieu Ter Lembeek	BE	25/01/06: Commission decision to initiate Art. 88(2) action against BE
CR 8/04 – Fiscal incentives for newly listed companies	IT	19/07/06: Commission decision to initiate Art. 88(2) action against IT
CR13/B/2003- France Telecom Business Tax Scheme	FR	19/07/06: Commission decision to initiate Art. 88(2) action against FR
CR57/02 - Exonérations fiscales en faveur de la reprise d'entreprises en difficulté - Article 44 septies CGI	FR	24/10/06: Commission decision to initiate Art. 88(2) action against FR
C11/04 - Olympic Airways	EL	14/09/2005: Commission decision to initiate Art. 88(2) action against EL
C19/02 - Olympic Airways	EL	Art 228 failure to comply with judgement of Court of Justice (case C415/03)

Source: DG Competition, DG Fisheries, DG Energy and Transport.

4. PART FOUR: LEGISLATIVE AND POLICY DEVELOPMENTS

State Aid Action Plan

Following an extensive consultation process, the Commission has begun to implement various aspects of the State aid Action Plan (SAAP)[39], which set out in June 2005 the guiding principles for a comprehensive reform of State aid rules and procedures over the next five years. Since the last Scoreboard was published in the spring, the Commission has adopted the following final or draft legislative texts:

Guidelines for risk capital

The Commission adopted in July 2006 Community guidelines on state aid to promote risk capital investments in small and medium-sized enterprises[40]. The rules will facilitate access to finance for SMEs in their early stages of development, particularly where alternative means of funding from financial markets are lacking. Better access to capital should spur their growth and create more jobs in the EU. The Guidelines form part of the Commission's efforts, announced in the SAAP, to encourage Member States to focus state aid on improving the competitiveness of EU industry, in particular through innovation, and on creating sustainable jobs, while minimising distortions of competition. The Guidelines include a 'safe harbour' of €1.5 million investment per SME over 12 months (below which a market failure has been found to exist), a light assessment procedure for clear cut cases fulfilling certain conditions and assessment criteria which ensure that state funding will leverage private investment, target market failures and be proportionate.

Block Exemption Regulation (BER) for Regional Investment Aid

In October 2006, the Commission adopted a new block exemption regulation for regional investment aid[41]. The Regulation is based on the new Guidelines for regional aid 2007-2013 which were adopted in December 2005. The objective of the new Regulation is to simplify administrative procedures for Member States, while reinforcing transparency and legal certainty. The Regulation exempts Member States to notify regional investment aid schemes to the Commission under Article 88(3) of the EC Treaty, if the scheme complies with the regional aid map and fulfils certain conditions. The Regulation will in particular block exempt transparent forms of regional investment aid, that is schemes for which it is possible to calculate precisely the aid intensity as a percentage of the investment costs *ex ante* without the need for a risk assessment. Regional aid schemes involving public shareholdings, risk capital and state guarantees will in principle remain subject to prior notification to the Commission. The Commission has also adopted new notification forms for regional aid schemes that do not meet the conditions of the new Regulation (e.g. schemes providing for operating aid) and thus still have to be notified individually to the Commission for endorsement prior to their implementation.

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39 COM(2005) 107 final, 7.6.2005, http://europa.eu.int/comm/competition/state_aid/others/action_plan/

40 OJ C 194, 18.08.2006, pages 2-22

41 OJ L 302 of 01.11.2006, p. 29

Regional aid maps 2007-2013 approved for a first group of Member States

By the end of November 2006 the Commission has approved under EC Treaty State aid rules the regional aid maps covering the period 2007-2013 for Estonia, Greece, Hungary, Latvia, Luxembourg, Malta, Poland, Slovakia, Slovenia, the Czech Republic, Ireland, Lithuania and Germany. These decisions form part of a wider exercise to review regional aid systems in all Member States. A regional aid map defines the regions of a Member State eligible for national regional investment aid for large enterprises under EC Treaty state aid rules and establishes the maximum permitted levels of such aid in the eligible regions. The adoption of the map for the Member State concerned is a pre-condition to ensure the continuity of the regional policy and Structural Fund programmes after 2006, as all current maps will expire on 31.12.2006.

Community framework for State aid for research and development and innovation

In November 2006, the Commission adopted a new State aid Framework for Research, Development and Innovation. The new Framework will help Member States wishing to use State aid as a complementary instrument to boost Research, Development and Innovation. The Framework sets out a series of guidelines for specific types of State aid measures – such as aid for R&D projects, aid to young innovative enterprises and aid to innovation clusters – that could encourage additional R&D&I investments by private firms, thus stimulating growth and employment and improving Europe's competitiveness. These guidelines allow individual Member States to tailor aid measures to particular situations, subject to the overall test that the aid must address a defined market failure, must be well designed and that the identified benefits must outweigh the distortions to competition resulting from the aid. The new Framework is due to apply from 1st January 2007.

Commission Regulation on de minimis aid

The Commission adopted in September 2006 a revised draft regulation reviewing Commission Regulation No 69/2001 on *de minimis* aid[42]. Interested stakeholders were invited to comment on this proposal by October after which it was discussed with Member States experts in an advisory committee in November. Currently, discussions are ongoing as to the possibility to include the transport sector in the scope of the regulation. The Commission aims to adopt a final text by the end of 2006.

Prolongation of block exemption regulations

The Commission adopted in July 2006 a draft Commission Regulation[43] to extend at least by one year, the period of application of Regulations (EC) No 2204/2002 on State aid for employment, (EC) No 70/2001 on State aid for small and medium sized enterprises and (EC) No 68/2001 on training aid. The prolongation of the validity of these regulations is sought to allow for the necessary period of preparation of a future single block exemption Regulation, which will regroup the current regulations and possibly add other areas, as announced in the State Aid Action Plan. The proposals were discussed twice with Member States experts in advisory committees while stakeholders had the possibility via the internet to comment. The Commission aims to adopt a final text by the end of 2006.

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[42] See State aid reform section of the DG Competition website. http://ec.europa.eu/comm/competition/state_aid/reform/reform.html

[43] OJ C 172 of 25.07.2006, p. 6

State Aid to the Transport Sector

One of the main objectives of the common transport policy is the promotion of environmentally friendly modes of transport in order to achieve a reduction of road transport. For this purpose, two elements are essential. First, Member states need to encourage cleaner modes of transport and measures to increase energy efficiency. This has been underlined in the Commission green paper on energy efficiency from May 2005 and in the proposal for a Commission directive to promote the purchase of clean vehicles by public authorities, adopted in December 2005. Apart of encouraging modal shift to less polluting transport means, the Commission also approved State aid schemes to fill the gap left behind the community's regulatory framework aiming at producing cleaner new vehicles in the present and future, by allowing for subsidies to retrofit particulate filters on highly polluting old vehicles. During the ongoing revision of the guidelines for State aid for environmental protection, the Commission should pay particular attention to the promotion of clean transport and energy-efficient transport. Second, the revitalisation of the railway sector is considered as a key element in the Community's common transport policy. Rail transport has to be made, once again, competitive enough to remain one of the leading players in the transport system in an enlarged Europe. By 2007, the entire European freight network, both internationally as well as nationally, will have been opened up completely to competition. The arrival of new railway companies should make the sector more competitive and encourage the national companies to restructure. In this context, specific guidelines for the railway sector will be developed in 2007 with a view to establishing a common approach to public contributions to the railway sector. It is necessary from both a legal and a political point of view that national authorities, companies and individuals are made aware, in a clear and transparent way, of the rules applicable to the railway sector in this new more competitive environment. This initiative will significantly increase transparency and legal certainty.

5. ONLINE STATE AID SCOREBOARD, REGISTER AND OTHER REPORTS ON STATE AID

The online Scoreboard contains electronic versions of this and previous Scoreboards as well as a set of key indicators and a wide array of statistical tables: http://europa.eu.int/comm/competition/state_aid/scoreboard/

Any queries or requests for data should be sent to the scoreboard mailbox at Stateaid-Scoreboard@ec.europa.eu

State aid Register – a second transparency tool

The Commission's State aid Register has been online since 2001. The Register provides detailed information on all State aid cases which have been the object of a final Commission decision since 1st January 2000 as well as block exemption cases published in the Official Journal. It is updated daily and thus ensures that the public has timely access to the most recent State aid decisions. It is available on the homepage of the Competition Directorate General's Internet site:

http://europa.eu.int/comm/competition/state_aid/register/

Following an extensive review, a major revamp of the Register is foreseen and should be fully operational in early 2007.

Annual Competition Report

The Commission publishes an Annual Report on Competition Policy which summarises the most important legal developments and case-law of the year as well as statistical data on the Commission's work during the relevant year.

http://europa.eu.int/comm/competition/annual_reports/

Competition Policy Newsletter

A Competition Policy Newsletter is also published three times a year by the Competition Directorate-General of the European Commission. It aims at describing and discussing in more detail legislative developments as well as interesting case-law and covers generally the preceding four months.

http://europa.eu.int/comm/competition/publications/cpn/

State aid E-News

State aid e-News is issued every week to present the latest developments in the area of State aid. It features information on new legislative texts and proposals, decisions of the European Commission and the Courts of the European Union and other state aid-related documents and events.

http://ec.europa.eu/comm/competition/state_aid/overview/newsletter.html

6. METHODOLOGICAL NOTES

The Scoreboard covers State aid as defined under Article 87(1) EC Treaty that is granted by the Member States and has been examined by the Commission. Accordingly, general measures and public subsidies that have no effect on trade and do not distort or threaten to distort competition are not dealt with in the Scoreboard as they are not subject to the Commission's investigative powers. For example, a general tax break for expenditure on research and development is not considered as State aid although it may well appear in Member States national budgets as public support for research and development. Furthermore, Community funds and instruments are also excluded. See also box on "What is a State aid" on page 11 of the spring 2005 update of the Scoreboard.

All State aid data refer to the implementation of Commission decisions and not cases that are still under examination. There may be discrepancies with figures published in previous Scoreboards for a number of reasons: first, provisional or estimated figures may now be replaced by final data; second, when the Commission takes a decision on a non-notified aid measure, the aid in question is attributed to the year(s) in which it was awarded. In cases that result in expenditure over a number of years, the total amount is attributed to each of the years in which expenditure took place. All data are provided in million (or billion where appropriate) euro at constant 1995 prices but have been re-referenced on the year 2005.

This autumn 2006 edition of the Scoreboard focuses largely on the year 2005. As in previous years, State aid data collected for the Scoreboard are grouped according to primary objectives which may be either horizontal or sector-specific. Information on the objective of the aid, or, the sector to which the aid is directed, refers to the time the aid was approved and not to the final recipients of the aid. For example, the primary objective of a scheme which, at the time the aid was approved, was exclusively earmarked for SMEs is classified as aid for ‘SMEs’. In contrast, aid granted under, say, a regional development scheme may ultimately be awarded to SMEs, but is not regarded as such if, at the time the aid was approved, the scheme was open to all enterprises.

The following symbols have been used in the Scoreboard:

n.a. not available

- real zero

0 less than half the unit used

Further information on methodological issues may be found on the online Scoreboard:

http://europa.eu.int/comm/competition/state_aid/scoreboard/conceptual_remarks.html