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REPORT

State Aid Scoreboard

- spring 2004 update -

(presented by the Commission)

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EXECUTIVE SUMMARY

The Commission continues to ensure a strict control of State aid throughout the Union, a need that has been recognised by successive European Councils. In 2001, Member States committed themselves to continuing their efforts to reduce the general level of State aid expressed as a percentage of GDP by 2003, and to the need to redirect aid towards horizontal objectives of common interest, including cohesion objectives. Based on the latest available figures, the majority of Member States appear to be responding positively to the call for "less and better targeted State aid" which Heads of Government recognised is "a key part of effective competition." In addition to measuring Member States progress towards these goals, this update of the Scoreboard includes a special focus on aid for employment and training.

Main findings

Overall levels of State aid in the Union continue to fall though less sharply than in the late 1990s

The overall level of State aid[1] granted by the fifteen Member States was estimated at €49 billion in 2002. In absolute terms, Germany granted the most aid (€13 billion) followed by France (€10 billion) and Italy (€6 billion). Around €28 billion of aid was earmarked for manufacturing and services, €14 billion for agriculture and fisheries, over €5 billion for coal and €1 billion for transport (excluding railways).

From the relatively high levels of State aid in the early and mid-nineties, the overall volume of aid fell dramatically from €67 billion in 1997 to €52 billion in 1999. This was due primarily to a fall in aid to the assisted regions in Germany and Italy. Between 1999 and 2002, total aid has continued to decline though less sharply than in previous years, falling at around €1 billion per year on average.

Disparities in the levels of aid between Member States still exist …

In relative terms, total State aid[1] amounted to 0.56% of EU GDP in 2002, or 0.39% excluding the agriculture, fisheries and transport sectors. This average masks significant disparities between Member States: the share of aid to GDP ranged from less than 0.20% in the Netherlands, Finland, Sweden and the United Kingdom to around 0.55% in Germany, Spain and Portugal, and 0.72% in Denmark.

… but are diminishing as State aid as a percentage of GDP continues to fall in the vast majority of Member States

Total aid less agriculture, fisheries and transport fell from 0.49% of GDP on average during 1998-2000 to 0.41% during 2000-2002. The trend is downward in fourteen Member States. Portugal and Ireland experienced the sharpest falls (around 20-25 percentage points) between the two periods under review. In Ireland, this is primarily the result of a cut in the Irish Corporation Tax coupled with a marked increase in GDP while the decrease in Portugal was due largely to a sizeable reduction in a regional aid tax scheme in Madeira that mainly supports financial services. In contrast, aid in relation to GDP increased in Denmark though

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[1] Total excludes aid to the railway sector.

this rise can be explained by a substantial increase in aid for two horizontal objectives, employment creation and safeguarding the environment.

Throughout the Union, aid is being redirected towards horizontal objectives …

EU-wide, around 73% of total aid (less agriculture, fisheries and transport) in 2002 was granted for horizontal objectives including research and development, small and medium-sized enterprises, environment and regional economic development. The remaining 27% was aid directed at specific sectors (mainly manufacturing, coal and financial services) including aid for rescue and restructuring.

In several Member States, virtually all the aid awarded in 2002 was for horizontal objectives

The share of aid granted for horizontal objectives increased by 7 percentage points over the period 1998-2000 to 2000-2002. This was largely the result of significant increases in aid for the environment (+7 points) and research and development (+4 points). This positive trend was observed, to varying degrees, in the majority of Member States. Indeed, in several Member States - Belgium, Denmark, Greece, Italy, Netherlands, Austria and Finland – virtually all the aid awarded in 2002 was earmarked for horizontal objectives.

A favourable approach to State aid for employment creation and promotion of training

When market failures are being addressed, the Commission recognises the justification for Community or government intervention. The exclusion of less productive workers (perceived or real) at going wage rates and the under-provision of training are examples of well accepted market failures. Overall, efforts to support training and employment need to be encouraged in order to fulfil the Lisbon Strategy. This is reflected in the Commission’s favourable approach to State aid for these objectives. While such policies should not distort competition, the award of aid for job creation, for the recruitment of disadvantaged and disabled workers and for various training measures has recently been facilitated by revised State aid rules. Moreover, there are only a very limited number of negative decisions in related State aid cases.

State aid represents a relatively small proportion of all financial support to companies for employment and training

Most public support measures to private companies for employment and training purposes do not constitute state aid because they do not meet the four criteria referred to in Article 87(1) of the Treaty. However, if such interventions do take the form of State aid, State aid control will continue to ensure that the distortive effects on competition by each individual aid proposal is minimised.

Fall in the overall level of aid to the least developed regions but less sharply than before as a slight rise observed in a few Member States

For the Union as a whole in 2002, an estimated €8 billion of aid was earmarked exclusively for the least developed regions, the so-called assisted ‘a’ regions. This represented just under one quarter of total aid (less agriculture, fisheries and transport). Aid to the assisted ‘a’ regions, which are almost identical to the Objective 1 regions under the EU Structural Funds, fell dramatically from a peak of €28 billion in 1993 to €9 billion in 2000, due largely to a reduction in aid in Germany and Italy. While aid to the least developed regions continues to decrease in Germany there has been a slight upturn in Spain, France and Italy during 2000-2002.

Majority of Member States tend to provide aid to the manufacturing and service sectors in the form of grants

As to the instruments used when aid is granted to the manufacturing and service sectors, grants are by far the most frequently used form making up almost 60% of the EU total. In addition to aid awarded through the budget, other aid is paid through the tax or social security system. EU-wide, tax exemptions make up 24% of the total. While Belgium, Denmark, Spain, Luxembourg, Austria and Sweden provide more than 80% of their aid in the form of grants, other Member States make greater use of tax exemptions, particularly Germany (38%), Ireland (67%) and Portugal (74%).

The Commission approves the award of State aid in 95% of cases it examines

In 2003, there were around 1000 cases registered by the Commission. Excluding the 200 information sheets under the block exemption regulations, around 49% of registered cases were in the manufacturing and service sectors, 39% in agriculture, 6% in fisheries and 6% in transport and energy. According to the Treaty, Member States should notify all State aid to the Commission. However, for around 15% of investigated aid cases, it was not the Member State but the Commission that had to initiate the control procedure after finding out about the aid, for example following a complaint. During the period 2001-2003, 5% of all final decisions taken by the Commission were negative ones.

The Commission continues with its State aid reform process to simplify, modernise and reform State aid control

The Commission is continuing to review its State aid guidelines and frameworks to simplify and clarify them, and remove possible conflicts between the different texts. At present, priority is being given to reviewing the rules on rescue and restructuring aid for companies in difficulty, to draft a new framework for the assessment of lesser amounts of aid, to clarify the area of services of general economic interest and to introduce a "*de minimis*" rule for the agricultural and fisheries sectors. In parallel with the review of the structural fund regulations being undertaken by the Commission, a detailed review of the Regional Aid Guidelines and certain horizontal frameworks is also being carried out, which should improve coherence between the various policies. Work on a package of measures to accelerate, simplify and modernise procedures, in particular with a view to reducing the resources expended on routine cases and to enable the Commission to concentrate resources on more important cases, should be largely completed in the near future.

INTRODUCTION

The control of State aid focuses on the effects on competition of aid granted by Member States to undertakings. State aid can frustrate free competition, preventing the most efficient allocation of resources and posing a threat to the smooth running of the Internal market. In many cases, the granting of State aid reduces economic welfare and weakens the incentives for firms to improve efficiency. Aid may also enable the less efficient to survive at the expense of the more efficient, delaying structural change and hindering productivity growth and competitiveness. The unique system of control that exists throughout the European Union is aimed at reducing all of these inefficiencies. The Commission's role, as set out in the Treaty, is to scrutinise proposed and existing state aid measures by Member States to ensure that they are compatible with EU state aid legislation and do not distort intra-community competition.

Over the years, State aid control has been instrumental in attenuating many of the worst effects and impacts of State aid. However, the Treaty itself did not provide a basis for addressing the cumulative distortive effect of the high levels of State aid in some sectors. Then, at the European Council Summits in Lisbon and later in Stockholm, the necessary political impetus was given to address the root cause. It was recognised that in order for Europe to become more competitive, increase productivity and deliver sustainable economic growth, with more and better jobs and greater social cohesion, it is necessary to improve its competitive position not only by ensuring that European society itself is both dynamic and knowledge-based, but also by reducing levels of State aid.

In line with this policy objective, Member States are, for the most part, reducing aid levels, in GDP percentage terms, while redirecting aid towards horizontal objectives of Community interest, such as the strengthening of economic and social cohesion, environmental protection, promotion of research and development and small and medium-sized enterprises. Nevertheless, some Member States are continuing to award aid that is particularly distortive of competition, such as rescue and restructuring aid.

The main aim of this update of the Scoreboard is to provide an overview of the State aid situation in the Union and to examine the underlying trends based on the latest available data for 2002. It is divided into three parts. The first part looks at the extent to which Member States are reducing their State aid relative to GDP. The second part focuses on Member States' relative success in redirecting aid from specific sectors to horizontal objectives and includes a special focus on public support measures for employment and training. Finally, part three looks at State aid control procedures, recovery and ongoing work to modernise State aid control.

In addition to this paper edition, a permanent online Scoreboard (http://europa.eu.int/comm/competition/state_aid/scoreboard/) consisting of a series of key indicators, statistical information and a Member State Forum was launched in 2002.

What is a State Aid ?

The Scoreboard covers State aid as defined under Article 87(1) EC Treaty[2] that is granted by the fifteen Member States and has been examined by the Commission. General measures and public subsidies that have no affect 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.

State aid is a form of state intervention used to promote a certain economic activity. It implies that certain economic sectors or activities are treated more favourably than others and thus distorts competition because it discriminates between companies that receive assistance and others that do not.

In order to determine whether a measure constitutes State aid, a distinction has thus to be drawn between the situation where the support is directed at certain undertakings or the production of certain goods, as specified in Article 87(1) of the Treaty, and the situation where the measures in question are equally applicable throughout the Member State and are intended to favour the whole of the economy. In the latter case, there is no State aid within the meaning of Article 87(1).

This selective character thus distinguishes State aid measures from general economic support measures. Most nation-wide fiscal measures would be regarded as general measures as they apply across the board to all firms in all sectors of activity in a Member State. The distinction is however not always clear-cut. For example, a measure that is open to all sectors may be selective if there is an element of discretion by the awarding authorities. On the other hand, the fact that certain companies might benefit more than others from a measure does not necessarily mean that the measure is selective. The interpretation of the concept of selectivity has evolved over the years following various Commission decisions and Court rulings. Details of the most important cases can be found on the Commission website at http://europa.eu.int/comm/competition/state_aid/legislation/ or in recent Annual Competition Reports at http://europa.eu.int/comm/competition/annual_reports/

The distinction between State aid measures and general economic support measures should be borne in mind when interpreting some of the data included in the Scoreboard. Some of the detailed statistical tables in the online Scoreboard show that in some Member States the amount of State aid for some horizontal objectives such as employment or training has fallen or remained stable. This does not however mean that public expenditures on these activities have fallen. Instead, Member States may have increased spending on general economic support measures.

Another important area concerns aid which compensates for the provision of services of general economic interest (SGEI). In its judgment in the Altmark case[3], the Court of Justice ruled that compensation to undertakings that perform a SGEI is not State aid, provided certain conditions are fulfilled. As a result, subsidies compensating for SGEI will be regarded either as 'no aid' or compatible aid. The distinction is based on legal criteria and has limited economic foundation so that similar measures are now classed as aid, or non-aid depending, for example, on whether a tender was used. All aid compensating for SGEI is therefore excluded from the Scoreboard. In contrast, in cases where part of the aid is found to overcompensate for the SGEI the appropriate amount is included, e.g., in the Deutsche Post case[4].

The above text is without prejudice to the definition of State aid as provided by the Court of Justice.

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2 The measure constitutes state aid if it is granted by a Member State or through State resources, it distorts or threatens to distort competition, it favours certain undertakings or the production of certain goods, and it affects trade between Member States.

3 C-280/00 concerning the grant of licences for scheduled bus transport services in the Landkreis of Stendal (Germany) and public subsidies for operating those services.

4 Case C61/1999 in which the Commission reached a negative decision on 19.6.2002.

1. PART ONE: OVERVIEW OF STATE AID IN THE EUROPEAN UNION

This chapter provides a snapshot of State aid granted in the European Union in 2002 and an overview of the underlying trends.

1.1. State aid in absolute and relative terms

Total State aid[5] granted by the fifteen Member States was estimated at €49 billion in 2002. In absolute terms, Germany granted the most aid (€13 billion) in 2002 followed by France (€10 billion) and Italy (€6 billion).

Table 1: State aid in the Member States, 2002

	EU	B	DK	D	EL	E	F	IRL	I	L	NL	A	P	FIN	S	UK
Total state aid less railways in billion €	48,8	1,3	1,6	13,3	0,7	4,3	9,7	1,0	6,0	0,1	1,9	1,3	1,0	1,7	1,0	3,9
Total state aid less agriculture, fisheries and transport in billion €	34,0	0,9	1,3	11,4	0,4	3,5	6,2	0,5	4,5	0,06	0,8	0,5	0,6	0,2	0,4	2,6
Total aid less railways as % of GDP	0,56	0,53	0,92	0,65	0,52	0,68	0,66	0,85	0,50	0,41	0,46	0,63	0,83	1,28	0,39	0,25
Total aid less agriculture, fisheries and transport as % of GDP	0,39	0,37	0,72	0,56	0,31	0,55	0,42	0,45	0,38	0,26	0,19	0,21	0,55	0,17	0,16	0,17

State aid as defined under Article 87(1) EC Treaty that is granted by the fifteen Member States for all sectors except railways and has been examined by the Commission. In contrast to previous editions of the Scoreboard, the total excludes aid to the railway sector (see section 1.4). All data are quoted at constant 2000 prices.

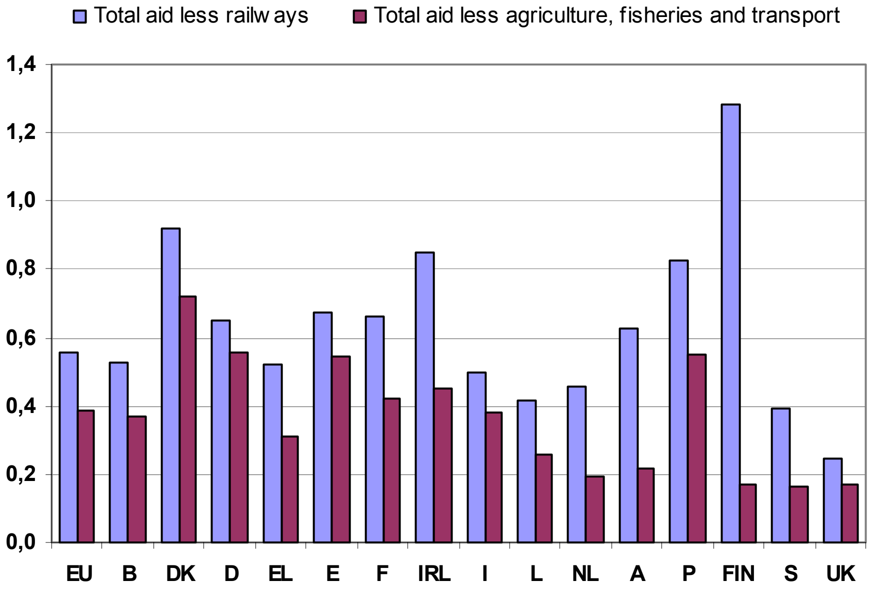
Source: DG Competition

Disparities between Member States in the share of State aid as a percentage of GDP

In relative terms, State aid amounted to 0.56% of EU Gross Domestic Product (GDP) in 2002. This average masks significant disparities between Member States: the share of total aid to GDP ranges from 0.25% in the United Kingdom to 1.28% in Finland. The high proportion in Finland can be explained by the relatively large amount of aid to agriculture which represents around 85% of total aid in this country (Table 1). Indeed, due to the particularities associated with aid to agriculture and fisheries, it is worth looking at total aid less these sectors. This new indicator produces a rather different ranking of Member States (Graph 1). For example, such aid in Finland represents only 0.17% of GDP, one of the lowest rates in the Union and well below the EU average of 0.39%. Germany, Spain and Portugal (each with around 0.55%) and Denmark (0.72%) lie well above the average.

[5] Total State aid covers manufacturing, services, coal, agriculture, fisheries and part of the transport sector. In contrast to previous editions of the Scoreboard, the total excludes aid to the railway sector (see section 1.4).

Graph 1: State aid as a percentage of GDP, 2002



Source: DG Competition

State aid may also be expressed in per capita terms, using purchasing power standards which take account of differences in price levels between countries. Over the period 2000-2002, the annual average volume of aid (less agriculture, fisheries and transport) in the Union was 94 PPS per capita compared with 107 PPS during 1998-2000 (Table 2).

Table 2: State aid per capita, 1998-2002

	Total aid less railways in PPS / Capita		Total aid less agriculture, fisheries and transport in PPS / Capita	
	1998 - 2000	2000 - 2002	1998 - 2000	2000 - 2002
EU	146	**132**	107	**94**
B	115	**125**	84	**83**
DK	260	**294**	197	**228**
D	185	**168**	168	**147**
EL	101	**96**	66	**60**
E	125	**130**	102	**104**
F	178	**161**	130	**108**
IRL	313	**278**	200	**160**
I	141	**115**	110	**89**
L	175	**167**	101	**93**
NL	134	**118**	44	**43**
A	170	**166**	58	**59**
P	211	**176**	161	**130**
FIN	313	**303**	58	**46**
S	100	**102**	53	**47**
UK	57	**55**	35	**36**

Source: DG Competition

Downward trend in the level of State aid in the vast majority of Member States

From the relatively high levels of State aid in the early and mid-nineties, the overall volume of aid[6] fell dramatically from €67 billion in 1997 to €52 billion in 1999 (Table 3). The three Member States that contributed most to this marked decrease were Germany, Italy and France. In Germany, this can be attributed to the phasing out of the enormous restructuring programme[7] carried out in the new German Bundesländer. In Italy too, aid to the least developed regions fell sharply while in France, aid levels were particularly high in the mid to late 1990s due to the large amounts of rescue and restructuring aid awarded to the banking sector. Between 1999 and 2002, total aid has continued to decline though less sharply than in previous years, falling at around €1 billion per year on average.

Table 3: Trend in the level of State aid, EU-15, 1992-2002

	1992	1993	1994	1995	1996	1997	1998	1999	2000	2001	2002	Average 1998-2000	Average 2000-2002
Total state aid less railways in billion €	70,4	75,2	72,4	71,0	71,5	67,1	60,5	52,5	50,9	49,5	48,8	54,6	49,7
Total state aid less agriculture, fisheries and transport in billion €	54,4	60,2	55,4	52,6	54,2	50,2	46,4	37,6	36,6	35,4	34,0	40,2	35,4
Total aid less railways as % of GDP	1,09	1,18	1,11	1,00	0,98	0,88	0,77	0,64	0,59	0,57	0,56	0,67	0,57
Total aid less agriculture, fisheries and transport as % of GDP	0,85	0,95	0,85	0,74	0,75	0,66	0,59	0,46	0,43	0,41	0,39	0,49	0,41

Source: DG Competition

In 2001, Member States pledged to demonstrate a downward trend in State aid in relation to GDP by 2003. Although data for 2003 are not yet available, the underlying trend for this indicator can be observed by comparing the periods 1998-2000 and 2000-2002. For the Union as a whole, total aid less agriculture, fisheries and transport amounted to 0.41% of GDP on average for the period 2000-2002 compared with 0.49% during 1998-2000. The trend is downward in fourteen Member States. Portugal and Ireland experienced the sharpest falls (around 20-25 percentage points) between the two periods under review. In Ireland, this is primarily the result of a cut in the Irish Corporation Tax[8] coupled with an increase in GDP while the decrease in Portugal was due largely to a sizeable reduction in a regional aid tax scheme in Madeira that mainly supports financial services. In contrast, aid in relation to GDP increased in Denmark though this rise can be explained by a substantial increase in aid for two horizontal objectives, employment creation and safeguarding the environment.

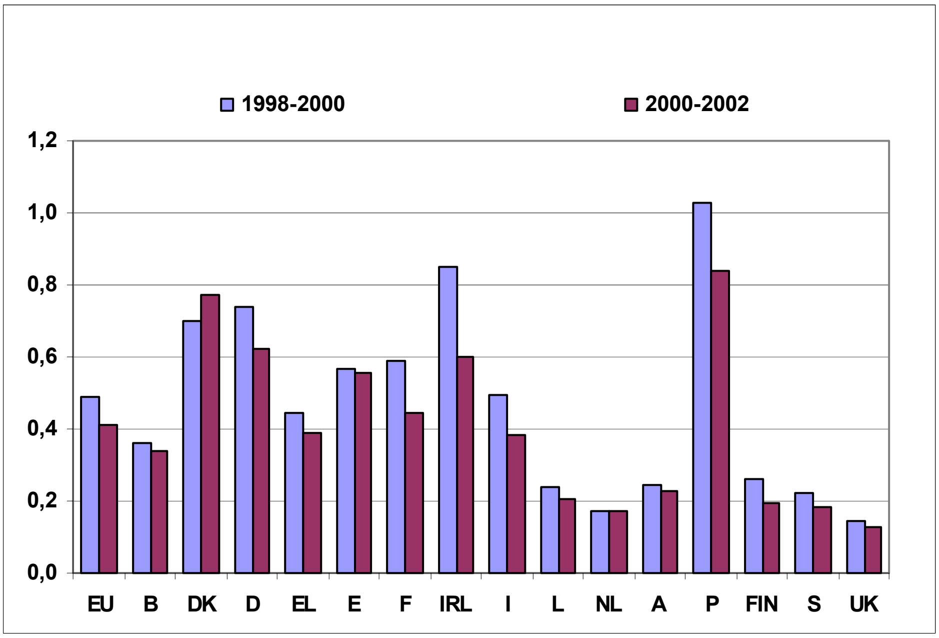
In making comparisons between Member States, it is important to bear in mind the effect that the trend in GDP has on this indicator. Member States which have experienced relatively high economic growth over the period under review could theoretically increase the level of aid and still demonstrate a downward trend.

6 Total excludes aid to the railway sector.

7 Aid given via the Treuhandanstalt or the Bundesanstalt für vereinigungsbedingte Sonderaufgaben.

8 The rate of corporation tax in Ireland has been cut 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.

Graph 2: State aid as a percentage of GDP, 1998 - 2002



State aid less agriculture, fisheries and transport
Source: DG Competition

1.2. Sectoral distribution of aid

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

The data currently available do not provide an accurate picture of the final recipients of the aid. Nevertheless, they do give some indication as to which sectors are favoured by each Member State. In 2002, around 57% of State aid in the Union was earmarked for the manufacturing and service sectors. A further 28% was directed towards agriculture and fisheries, 11% for coal and the remainder split between transport (excluding railways) and non-manufacturing not elsewhere classified.

There are significant differences between Member States in the sectors to which they direct aid (Table 4). Aid to the agricultural and fisheries sectors accounted for 20% or less of overall aid in Denmark, Germany, Spain and Italy while in Austria the share was 66% and in Finland as high as 84%. Aid to the coal industry made up around one quarter of total aid in Germany and Spain.

Table 4: Sectoral distribution of aid, 2002

	% of total						Million euro
	Manufacturing	Services (including tourism, financial, media and culture)	Agriculture & Fisheries	Coal	Transport excluding railways	Other non-manufacturing	Total
EU	51	6	28	11	2	2	48.753
B	67	3	29	-	0	-	1.331
DK	76	2	15	-	6	-	1.623
D	57	3	14	26	0	0	13.339
EL	59	1	40	-	-	-	686
E	56	2	18	23	1	0	4.322
F	37	17	35	10	1	0	9.690
IRL	40	12	47	-	0	-	991
I	73	3	19	-	5	0	5.960
L	57	5	38	-	-	-	90
NL	39	3	50	-	9	-	1.870
A	30	5	66	-	-	0	1.324
P	26	40	33	-	0	-	978
FIN	12	1	84	-	2	-	1.726
S	30	11	40	-	18	1	969
UK	48	0	28	1	4	20	3.855

Due to the rounding of figures, the percentages of some Member states do not sum up to exactly 100.

Source: DG Competition

Between 1998-2000 and 2000-2002, the volume of aid fell in most of the main sectors: manufacturing was down €2.5 billion, services €1.7 billion and coal €1 billion. In agriculture and fisheries, the overall amount of aid remained relatively stable (Table 5).

Table 5: State aid by sector in the Community 1998-2002

		€ billion
	Annual average 1998 - 2000	**Annual average 2000 - 2002**
Overall national aid	54,6	**49,7**
of which:		
Agriculture	13,4	**13,1**
Fisheries	0,3	**0,4**
Manufacturing	27,3	**24,8**
Coal mining	7,4	**6,5**
Transport exl. Railways	0,7	**1,0**
Services	5,5	**3,8**
Not elsewhere classified	0,1	**0,3**

Source: DG Competition

1.3. State aid to the manufacturing sector

The following section focuses on aid to the manufacturing sector[9]. For some Member States, much of the aid earmarked for this sector is of a horizontal nature. However, other Member States could potentially look at the manufacturing sector in order to reduce overall State aid levels. EU-wide, aid granted to manufacturing in 2002 amounted to around €25 billion or, put another way, 1.5% of value added in this sector (Table 6).

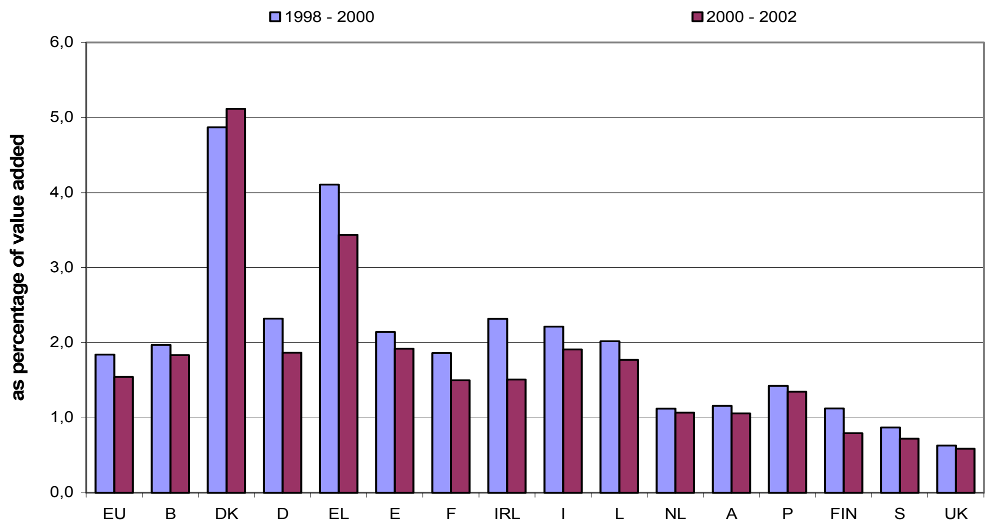
Table 6: State aid to the manufacturing sector, 2002

	EU	B	DK	D	EL	E	F	IRL	I	L	NL	A	P	FIN	S	UK
State aid to the manufacturing sector in million €*	24.637	887	1.237	7.569	403	2.414	3.611	401	4.355	52	728	392	253	207	289	1.838
State aid to the manufacturing sector as % of value added	1,5	2,0	4,7	1,7	2,7	2,2	1,4	1,1	1,9	2,3	1,2	0,9	1,3	0,7	0,7	0,6

Note: Data on manufacturing include aid for horizontal objectives including general regional development schemes for which the specific sector is not known. For some Member States, particularly Greece with almost all its aid awarded through regional development schemes, and Denmark with almost all its aid awarded through horizontal objectives, data are likely to overestimate the amount of aid actually going to the manufacturing sector. Source: DG Competition

State aid to manufacturing relative to value added continues to fall: from 1.8% over the period 1998-2000 to 1.5% in 2000-2002 (Graph 3). The sharpest fall occurred in Ireland, primarily the result of a cut in the Irish Corporation Tax. The rise in Denmark can be attributed to a marked increase in aid for horizontal objectives.

Graph 3: State aid to the manufacturing sector, 1998 – 2002



Source: DG Competition

[9] 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.

1.4. State aid to the transport sector

The Commission's State aid control in the transport sector is more complex than in some other sectors. The complexity arises 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[10] and 1107/70[11]. 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.

The transport sector, in particular the railways, continues to benefit from a considerable amount of public financial support. Relatively large subsidies are paid as compensation for the provision of services of general economic interest (SGEI) and, as such, may not be subject to prior notification to the Commission[12]. This may also apply to a substantial part of public investment in transport infrastructures that are open to all users on a non-discriminatory basis and which do not benefit a particular undertaking carrying out an economic activity.

Previous Scoreboards reported much larger volumes of State aid to the transport sector as the figures included substantial amounts of compensation for SGEI. In the light of recent Court decisions and subsequent decisions taken at Commission level, all aid paid as compensating for SGEI has been removed from the scope of the Scoreboard (see also box – What is a State aid). Indeed, due to its specificities and the lack of comparable data, aid to the railway sector is now presented separately in Table 8.

Road and combined transport

The central aim of the EU combined transport policy is a modal shift from road to other modes. Accordingly, the Commission takes a favourable view of aid schemes that aim to promote this mode of transport through the acquisition of equipment designed for combined transport and the construction of specific infrastructure. In sectors with overcapacity, such as road transport, no aid can in principle be granted for the purchase of transport vehicles. Nevertheless, it is possible to grant aid in connection with the purchase of new vehicles, if such an incentive is aimed at environmental protection or safety objectives and actually represents compensation for the additional costs for achieving higher technical standards than those laid down by national or EU legislation. Around €90 million of aid for road and combined transport was authorised per year over the period 2000-2002 (Table 7).

Maritime transport

In 2002, the Commission approved several tonnage tax schemes allowing companies to pay corporate tax proportional to the capacity of their fleet rather than on the basis of profits made. These schemes add to a series of tonnage taxes that were previously approved by the Commission for the Netherlands, Germany and the United Kingdom. Such measures appear to be already proving successful in reversing the decline of EU shipping. In total, around €715 million of State aid was awarded to the maritime sector every year during 2000-2002.

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10 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.

11 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.

12 In particular, Article 17.2 of Regulation 1191/69 exempts from the notification procedure compensations paid pursuant to the provisions laid down in the regulation.

Air transport

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. In 2002, the Commission authorised schemes set up by several Member States (France, Germany Austria and the United Kingdom) to compensate airlines for the losses caused by the closure of certain parts of the airspace between 11 and 14 September 2001. Around €110 million of aid was approved in 2002. The Commission also authorised the payment of the third tranche of €129 million, which was part of the restructuring aid package for the national Italian airline, Alitalia, approved in 2001. Further public funding of this airline of around €1.4 billion was deemed to be no aid.

In the wake of the 11 September 2001 terrorist attacks, which prompted the insurance industry to review its risk exposure and withdraw practically all war and terrorism cover at short notice, Member States were authorised to offer an additional insurance guarantee or to assume the risk directly themselves. It is not possible to quantify the aid element for such guarantees, which were authorised for all Member States.

Over the period 2000-2002, an annual average of €155 million of aid was awarded to the air transport sector (Table 7). The increase as compared to the previous period is mainly due to the impact that the 11/9/01 attacks had on the aviation industry and the subsequent public support measures that become necessary following those attacks.

Table 7: State aid to the transport sector (excluding railways), 1998-2002

€ million

Transport sector	Annual average 1998-2000	Annual average 2000-2002
Road and combined transport	86,9	92,5
Maritime transport	575,2	715,3
Inland water transport	12,8	1,7
Air transport	28,9	155,2
Total	**703,7**	**964,7**

Source: DG Energy and Transport

Railways

The Commission has for some years pursued a policy of shifting the balance between modes of transport and promoting modes that are less damaging to the environment in order to achieve a sustainable transport system. In its 2001 White Paper on a common transport policy[13], the Commission recalled that rail transport was the strategic sector on which the success of the efforts to shift the balance will depend. The Commission therefore continues to take a favourable approach to aid in the rail sector, both with regard to rail services and, in particular, to investments in rail infrastructure which, due to heavy investments costs, are not viable without public co-financing. For example, in 2002 the Commission took some important decisions related to the infrastructure management of the main national railway

13 White Paper "European Transport Policy for 2010: Time to Decide".

network in the United Kingdom. First, it approved a financial rescue package to ensure the continued provision of rail infrastructure services, without which the UK rail sector risked imminent collapse. Subsequently, the Commission approved a financial package to allow a newly established company, Network Rail, to take over responsibility for operating and managing the UK rail network on a not-for-profit basis. The overall figure of around €36 billion was deemed not to constitute State aid.

Much of the public financial support to 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 overall public expenditure to this sector. Disparities between Member States may reflect different interpretations of the scope of this annual reporting exercise (Table 8).

Table 8: Subsidies(1) to the railway sector, 1998-2002

in million €

	1998	1999	2000	2001	2002
EU	14.299	17.967	18.732	n.a.	n.a.
B	1.255	1.268	1.298	1.300	1.345
DK	169	123	181	193	199
D	5.730	5.377	4.803	4.898	n.a.
EL	497	521	436	593	n.a.
E	1.201	1.098	1.112	1.062	n.a.
F	2.501	2.501	2.725	n.a.	n.a.
IRL	46	34	196	198	n.a.
I	4.268	3.901	4.578	4.911	5.195
L	96	117	134	159	n.a.
NL	1.417	1.760	1.974	2.479	2.630
A	13	15	13	13	15
P	n.a.	n.a.	n.a.	n.a.	n.a.
FIN	358	369	330	275	319
S	949	778	817	797	813
UK	62	106	136	1.856	841

(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.

1.5. State aid to the coal and steel sectors

Aid to the coal industry within the European Union during the period 2001-2002 has been governed by two separate legal frameworks. This is due to the fact that the European Coal and Steel Community Treaty expired in July 2002[14]. Thereafter, the sectors previously covered by the ECSC Treaty have been subject to the rules of the EC Treaty as well as the procedural rules and other secondary legislation derived from the EC Treaty. In July 2002, a Council

[14] With its expiry, all secondary legislation under the ECSC Treaty also automatically expired. This included Commission Decision 3632/93/ECSC of 28 December 1993.

Regulation was established as the new legal framework for state aid to the Community coal industry.[15]

In the case of coal, some €5.6 billion was granted to the sector in 2002. Aid to current production has continued to decrease steadily in line with the agreements on the reduction of volumes of aid to the coal industry until 2005. Table 9 provides an overview of aid to the coal industry over the period 1998 - 2002. Around 40% of the aid in 2002 was not related to current production. Only four Member States still granted aid to this sector in 2002: Germany (€3.5 billion), Spain (€1.1 billion though it was €1.9 billion in 2001), France (€1 billion) and a relatively insignificant amount (€25 million) in the United Kingdom.

Due to the increased efforts of the German authorities to restructure its coal industry, the amount of aid to cover the costs arising from the rationalisation and restructuring of the coal industry that are not related to current production has risen. These costs are mainly related to exceptional expenditure on workers who lose their jobs, to administrative, legal or tax provisions and to the rehabilitation of former mining sites. In contrast, production aid has decreased sharply and will continue to follow a downward trend. As a result, the total amount of aid granted by the German authorities has decreased significantly.

Table 9: State aid to coal mining 1998-2002

	Yearly average of aid not destined to current production (in million €)		Yearly average of aid destined to current production			
			1998 - 2000		**2000 - 2002**	
	1998 - 2000	**2000 - 2002**	**in million €**	**€ per employee**	**in million €**	**€ per employee**
EU	2.147	**2.532**	5.247	50.509	**3.953**	**45.720**
D	663	**1.196**	4.064	63.189	**2.888**	**55.002**
E	627	**640**	379	39.475	**342**	**49.785**
F	401	**695**	753	41.705	**630**	**41.939**
UK	456	**0**	51	4.400	**92**	**7.727**

Source: DG Energy and Transport

State aid to the steel sector fell dramatically from €386 in 1997 to €52 million in 1998 after which it has remained relatively stable. A total of €78 million was awarded in 2002 almost exclusively for environmental purposes.

[15] Having regard to the EC Treaty, in particular Article 87(3)(e) thereof, Council Regulation (EC) No 1407/2002 of 23 July 2002 lays down rules for the granting of State aid to the coal industry. In addition, the provisions of Article 88 EC Treaty and Council Regulation (EC) No 659/1999 also apply.

2. PART TWO: REDIRECTING AID TO HORIZONTAL OBJECTIVES

In the context of reducing overall levels of State aid, the conclusions of various European Councils have called for a shift in emphasis from supporting individual companies or sectors towards tackling horizontal objectives of common interest, including cohesion objectives. Furthermore, the Council invited Member States to "consider before granting State aid whether it is targeted on clearly identified market failures or directed at horizontal objectives … and whether an intervention in the form of State aid is the most appropriate and effective way to address these issues."[16]

2.1. 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 targeted to market failures and as being 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 development are the most prominent horizontal objectives pursued with State aid. In contrast, aid to support specific sectors is likely to distort competition more than aid for horizontal objectives and also tends to favour other objectives than identified market failures. Moreover, a significant part of such aid is granted to rescue or restructure companies in difficulty, one of the most potentially distortive types of State aid.

Due to data constraints, this section looks at horizontal objectives in the context of total aid less agriculture, fisheries and transport.

In several Member States, virtually all the aid awarded in 2002 was for horizontal objectives, including cohesion

EU-wide, aid earmarked for horizontal objectives, including cohesion objectives, accounted for 73% of total aid less agriculture, fisheries and transport in 2002. The remaining 27% was aid directed at specific sectors (mainly manufacturing, coal and financial services) including aid to rescue and restructure ailing firms.

In several Member States - Belgium, Denmark, Greece, Italy, Netherlands, Austria and Finland – virtually all the aid awarded in 2002 was earmarked for horizontal objectives, including cohesion. However, in Germany (66%), Spain (67%), France (60%), Ireland (49%) and Portugal (39%) and United Kingdom (70%), the share was significantly lower. The high share of sectoral aid in Portugal was due to the previously mentioned regional aid tax scheme in Madeira. In Ireland, although aid awarded through the Irish Corporation Tax has decreased significantly it still accounts for a relatively high share of total aid. In 2002, the United Kingdom awarded a substantial rescue package for British Energy. Finally, Germany, France and Spain have relatively high shares of aid to the coal sector (see also Section 1.5). It should be noted that in Member States with relatively low overall aid levels, the grant of a single, relatively large ad hoc aid may cause large variations.

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[16] cf. Council conclusions adopted in November 2002 on "an economic approach towards less and better State aid". See Council document number 13799/02: http://register.consilium.eu.int/pdf/en/02/st13/13799en2.pdf.

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 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 each Member State (see Table 10). For example, 26% of total aid in Netherlands, 27% in the United Kingdom and 33% in Austria was directed exclusively to research and development (EU average of 15%). Denmark (53% of total aid), Germany (30%), together with the Netherlands, Finland and Sweden (each just under 40%) tended to favour environmental objectives (EU average 16%)[17].

Table 10: State aid for horizontal objectives and particular sectors, 2002

	Percentage of total aid less agriculture, fisheries and transport															
	EU	B	DK	D	EL	E	F	IRL	I	L	NL	A	P	FIN	S	UK
Horizontal Objectives	**73**	**97**	**100**	**66**	**100**	**67**	**60**	**49**	**96**	**92**	**98**	**96**	**39**	**98**	**84**	**70**
Research and Development	15	15	5	14	10	12	18	8	13	9	26	33	5	0	18	27
Environment	16	0	53	30	-	4	3	0	0	0	39	19	5	38	39	5
SME	14	20	1	6	16	20	17	2	33	21	4	17	15	12	5	15
Commerce	1	0	-	0	-	0	2	-	2	1	5	-	0	7	-	0
Employment aid	2	7	34	0	-	3	0	8	1	-	0	4	6	11	-	0
Training aid	2	2	3	0	-	8	0	4	1	-	-	10	5	0	1	2
Regional development n.e.c. (1)	23	52	3	16	74	19	18	26	46	61	24	14	3	29	21	21
	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Particular sectors	**27**	**3**	**0**	**34**	**0**	**33**	**40**	**51**	**4**	**8**	**2**	**4**	**61**	**2**	**16**	**30**
Manufacturing	3	-	0	4	0	5	2	35	3	-	2	4	4	0	-	1
Coal	16	-	-	30	-	28	16	-	-	-	-	-	-	-	-	1
Other Non-manufacturing Sectors	2	-	-	-	-	0	0	-	0	-	-	0	-	-	-	28
Financial Services	5	-	-	-	-	-	22	14	-	-	-	-	57	-	-	-
Other services	0	3	-	0	-	0	-	3	-	8	-	-	0	2	16	-
Total aid less agriculture, fisheries and railways in million €	**34.005**	**933**	**1.274**	**11.431**	**410**	**3.503**	**6.197**	**525**	**4.528**	**56**	**780**	**453**	**649**	**231**	**406**	**2.629**

(1) Aid for general regional development not elsewhere classified.

Source: DG Competition

For the first time, the Commission has also collated some information on secondary objectives[18]. This improves in particular the data coverage of aid earmarked for SMEs. In 2002, just under €5 billion, 14% of total aid, was made up of measures for which the primary objective was SMEs. In addition, almost €1 billion of aid, 3% of total aid, was directed exclusively at SMEs as a ‘secondary’ objective. For the most part, the primary objective of these aid measures was R&D. Combining primary and secondary objectives, 35% of aid in Italy was earmarked exclusively for small and medium-sized enterprises, 30% in the United Kingdom and 28% in Belgium compared with an EU average of 17%.

2.2. Trend in State aid for horizontal objectives

In line with the commitments undertaken at the various European Councils, Member States have continued to redirect aid towards such horizontal objectives. Looking at recent trends, the share of total aid granted for horizontal objectives increased by 7 percentage points over

17 Including aid for energy saving which was reported separately in previous updates of the Scoreboard.

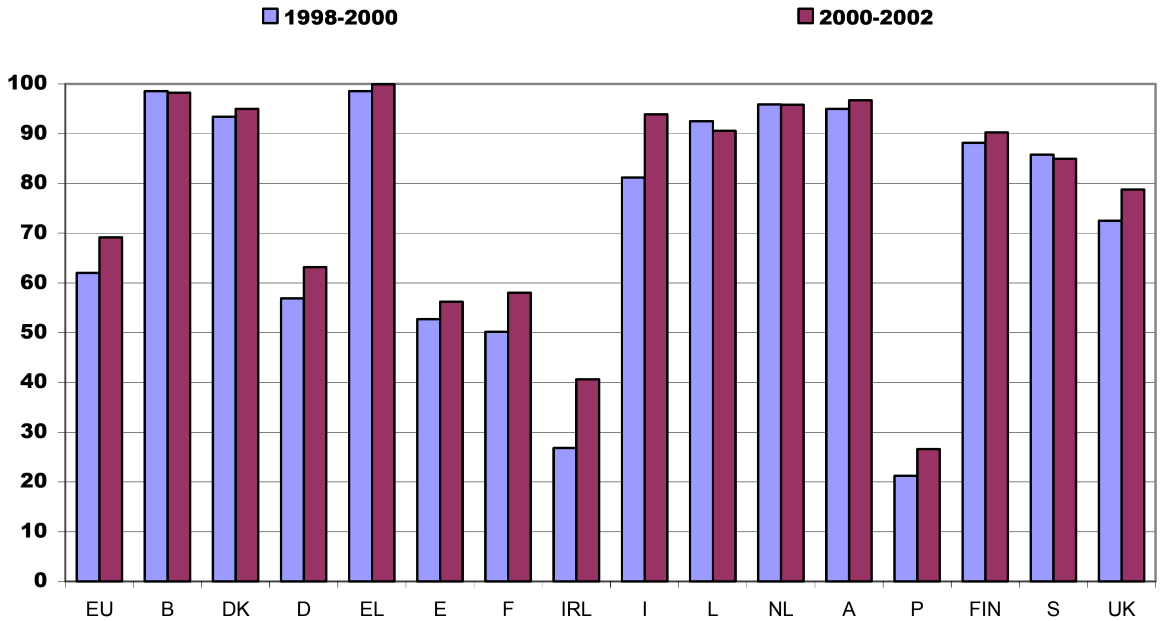
18 For the purposes of the Scoreboard, a secondary objective is one for which, in addition to the primary objective, the aid was exclusively earmarked at the time the aid was approved. For example, a scheme whose primary objective is R&D may also be limited exclusively to SMEs.

the period 1998-2000 to 2000-2002. This upward trend was largely the result of sharp increases in aid for the environment (+7 points) and research and development (+4 points) and a smaller increase for SMEs (+1.5 points) as well as a reduction in sectoral aid for some Member States.

The positive trend was observed, to varying degrees, in the majority of Member States, particularly in Ireland (+14 points) and Italy (+13 points). In three Member States, the trend was slightly downward but for all three, the share of total aid earmarked for horizontal objectives remains relatively high (85% or more).

Over the periods under review, there were appreciable increases in the share of aid for environmental objectives in total aid in Germany (+14 points), the Netherlands and Finland (+10 points) and Denmark (+9) while the share of aid for SMEs rose by +8 points in Italy and +5 points in Spain and France.

Graph 4: Share of State aid directed to horizontal objectives, 1998 – 2002



Source: DG Competition

2.3. State aid for research and development (R&D)

In its 2003 Broad Economic Policy Guidelines[19] the Commission called on governments to contribute to the Lisbon goals, in particular, by "(…) redirecting public expenditure towards growth-enhancing investment in physical and human capital and knowledge subject to overall budgetary constraints". In general, measures to increase the volume of, and improve the environment for, research investment have been fragmented and sluggish. Latest available figures (2001) show overall R&D investment, of which State aid is a part, in the Union to be approaching 2% of GDP, but at an average annual growth rate of 1.5% (1997-2002) which is wholly insufficient to meet the 3% target by 2010. As two-thirds of the 3% target should come from private sources, a major increase in private investment in research in Europe is required. While most Member States have adopted targets for increasing research spending,

[19] COM(2003) 170 final/2 of 24.7.2003.

few of them have been able to translate these into budgetary terms and efforts to improve the efficiency of their spending are often needed.

EU-wide, State aid earmarked for R&D amounted to €5.2 billion in 2002 compared with €3.8 billion in 1998. The share of total aid granted for R&D increased by 4 percentage points from the period 1998-2000 to 2000-2002. The most notable rises were observed in the United Kingdom and Italy, where the share of R&D aid rose by 9 and 7 points respectively (see Table 11).

As regards research and development aid for small and medium-sized enterprises, the Commission recently amended the block exemption regulation on SMEs in order to incorporate the new Community definition of an SME and to exempt aid for R&D from prior notification to the Commission.[20]

Table 11: State aid for R&D

	EU	B	DK	D	EL	E	F	IRL	I	L	NL	A	P	FIN	S	UK
Aid to Research & Development (in million €), 2002	5.179	137	64	1.589	41	412	1.139	44	593	5	199	149	31	0	72	703
Share of R&D aid in total aid, annual average 2000-2002	13	17	6	12	3	10	15	3	15	15	26	35	2	0	18	23
Share of R&D aid in total aid (% point difference 1998-2000 and 2000-2002)	3,6	0,9	-6,6	3,4	3,2	2,5	3,5	2,8	7,2	1,4	1,1	4,7	1,2	-1,7	-0,8	9,3
Share of R&D aid to GDP (in %), 2002	0,06	0,05	0,04	0,08	0,03	0,06	0,08	0,04	0,05	0,02	0,05	0,07	0,03	0,00	0,03	0,04

Source: DG Competition

2.4. Special focus on State aid for employment and training

2.4.1. Public money for training and employment – The rationale

The labour market is not a market as any other: human resources cannot be exchanged like any other good. Policies must establish fair conditions and ensure full use of society's human resources potential. One component is public support to employment and training. Without public action, far less education and training would be provided than is socially desirable. Enhanced knowledge and skills generate benefits to society beyond those captured as higher earnings by better-trained individuals (or by employers); the total social benefit exceeds the private returns. There seems to be, for example, a strong correlation between the level of accumulated human capital in an economy, and its capacity to respond and thrive in the face of technological change. Training contributes to social cohesion by reducing ex-ante inequality and the social distance between individuals, with favourable impact on economic performance[21].

The risk for under-provision of training is compounded by the uncertain accrual of the gains from improved productivity. An employer will be hesitant to invest due to the risk of other companies poaching workers with upgraded skills. Workers face credit constraints due to

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20 Commission Regulation (EC) No 364/2004 of 25.2.2004 amending Regulation (EC) No 70/2001, OJ L 63, 28.2.2004, p. 22.

21 See A. de la Fuente and A. Ciccone (2002), *Human Capital in a Global and Knowledge-Based Economy*, European Commission, DG Employment and Social Affairs for an overview of the academic literature.

imperfect financial markets, and are less motivated to invest in their human capital development because of the slow response of wages to productivity improvement from training. On top of this, there is a conspicuous inequality problem: those in most need of skills upgrading – low-skilled, older workers, immigrants – tend to receive much less. SME, temporary and part-time workers also typically get relatively little training.

The rationale for employment aid stems from imperfectly functioning labour markets and their dependence on institutional arrangements. Some workers are less productive, e.g. due to disability or other constraints on their work capacity. This creates a barrier to their employment at the going wage rates. Moreover, employers tend to *perceive* certain characteristics such as disability, ethnic background, long-term unemployment or lack of basic education as *signals* for lower productivity. There is a case, therefore, for public support to the hiring of disadvantaged persons.

2.4.2. Policy context

Article 2 of the Treaty enumerates the overall objectives of the Union such as the achievement of a high level of employment, sustainable growth, and economic and social cohesion. In pursuit of these objectives, the Treaty provides for the Member States and the Community to develop a coordinated European Employment Strategy (EES) and to promote, in particular, "a skilled, trained and adaptable workforce"[22]. The fact that a high level of employment is a key criterion both for economic and social progress is acknowledged by Treaty Article 127(2) which makes it an obligation to take this objective into consideration in the formulation and implementation of all Community policies and activities. The reformed EES has set three overarching objectives: full employment, improving quality and productivity at work, and strengthening social cohesion and inclusion[23].

Strengthening the adaptability of workers and enterprises overall is key to improving the capacity of the EU to anticipate, trigger and absorb economic change of an ever accelerating pace. The prospect of a shrinking working age population adds urgency to such efforts, which should focus on the upgrading of skills and knowledge, and full mobilisation of the labour force potential. By facilitating transitions between different status, such as work, training, career breaks or self-employment it should be ensured that people throughout their lives remain close to the labour market.

Investing in human capital is, thus, an essential element in implementing the reformed EES. Member States have committed, in particular, to ensure the development and implementation of lifelong learning strategies to ensure access for all to training throughout life. The Lisbon European Council 2000 set the strategic objective for the EU of becoming by 2010 "the most competitive and dynamic knowledge-based economy of the world, capable of sustainable economic growth with more and better jobs and greater social cohesion". Human capital development is a crucial and integral part of this strategy. In 2003 the Council[24] adopted a target for the average level of participation in lifelong learning to reach at least 12.5% of the adult working age population by 2010. Member States have also committed to offer every unemployed person a new start within 12 months (6 months for young people) in the form of training, retraining, work practice or other employment measure.

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[22] EC Treaty Article 125.

[23] Council Decision of 22 July 2003 on *Guidelines for the Employment Policies of the Member States* (2003/578/EC).

[24] Conclusions from Education, youth and culture Council, 5-6.5.2003, p. 7.

It was acknowledged by the Lisbon European Council that "the best safeguard against social exclusion is a job". Member States were invited to develop priority actions addressed to persons with specific needs, thereby promoting labour market inclusion. The new EES includes, besides the general activation and prevention Guideline, a specific Guideline to promote the integration of and to combat discrimination against people at a disadvantage in the labour market, in particular early school leavers, low-skilled workers, people with disabilities, immigrants and ethnic minorities.

2.4.3. Deficit in delivery – When full participation is increasingly urgent

The political aspirations may be unambiguous, yet the results so far are disappointing. The Report of the Employment Taskforce[25] stressed the need to address "the under-utilisation of, and under-investment in, people" and to "improve the participation of women and older workers along with other groups who are underrepresented in the labour market". Member States were urged to "increase access to training throughout the life-cycle, with particular attention to the low-skilled and other disadvantaged people". The Commission Spring Report[26] invited the March 2004 European Council "to give a decisive fillip to investment in education and training" and to target measures on key fields such as "increasing the private sector's contribution by providing specific incentives, reinforcing life-long learning, and improving the effectiveness of national education and training systems". The latest Joint Employment Report[27] notes some, but insufficient, progress in moving towards more inclusive labour markets. The considerable regional disparities in labour market participation warrant more attention.

2.4.4. Companies role in implementing comprehensive lifelong learning

Patchwork solutions will not address the issues of ensuring adaptability, mobilising the full labour potential and establishing effective lifelong learning systems. Comprehensive policy strategies are required. It should be acknowledged that the principal role in making a success of any strategy for lifelong learning and labour market inclusion is played by enterprises.

Firms must recognise, with the prospect of a shrinking working-age population, the need to integrate everyone into work. For persons at the margin to win firm labour market access, a job in the open market is ultimately needed. However, productivity gaps – whether perceived or real – constitute major obstacles for employment in enterprises. Enabling financial incentives are required for workers concerned to be given a chance.

Tackling the market failures related to training will require financial support, alongside other public efforts such as recognition of qualifications, etc. It should be ensured that the right incentives are there both for employer and worker, taking account also of social partners' action and that training is provided also for disadvantaged workers. Human capital investment tends to be particularly low in SMEs, especially training for lesser-skilled workers. The fact that market failures are more pronounced for SMEs means that public financial support to this type of company is all the more justified.

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25 *Jobs, Jobs, Jobs – Creating more employment in Europe*, Employment Taskforce (chair: Wim Kok), November 2003.

26 "Delivering Lisbon – Reforms for the Enlarged Union", COM(2004) 29, 21.1.2004.

27 Joint Employment Report 2003/2004, COM(2004) 24 final/2, 27.1.2004.

In parallel to public support, a fair sharing of costs and benefits between employer and workers needs to be established.[28] Avoiding sub-optimal investment by enterprises may require a combination of compulsory and voluntary schemes, such as sectoral and regional training funds, and measures such as tax credits and support services. Closer partnership between business, social partners, the public sector and private providers is critical to improve the interface between supply and demand for learning. Vocational training agreements at cross-industry and/or sectoral level exist in most Member States and usually collective agreements set the framework for continuing training actions. It should be ensured that this becomes standard practice.

The increasing pace of structural change and population ageing heightens the need for continuous upgrading of workforce skills. An appropriate framework of incentives and support is likely to depend *increasingly* on adequate provision of public funding, especially for SMEs, to enable firms fully to play their role in making labour markets inclusive and continuously updating workers' skills.

2.4.5. Quantitative information on public financial support for employment and training

Institutional features and traditions differ widely between the Member States in this area. Therefore, it is not a straightforward task to compare the global efforts made to encourage financially human capital development or employment creation for persons at a disadvantage on the labour market. It is important to bear in mind that much of the support is provided in the form of tax incentives which is not quantified. In the 2004 Employment Guidelines and Recommendations, the Commission explicitly invited Member States to "ensure that they demonstrate adequacy, transparency and cost-effectiveness in the allocation of financial resources" when implementing the EES.

Active labour market policies act in supporting unemployed people and other job-seekers to increase their chances of finding a job on the open labour market. Public expenditure on active labour market policies within the EU amounted to almost €59 billion in 2001[29]. Such policies refer to various types of actions, including training programmes, employment incentives, start-up initiatives, direct job creation and job sharing. These policies are always targeted, e.g., at unemployed people. Public expenditure on labour market policies can either take the form of transfers to individuals, employers or service providers, usually depending on the type of policy action.

For training programmes, subsidies tend to be provided directly to service providers or individuals rather than to employers, with the exception of targeted apprenticeship programmes. Transfers to employers mainly support various employment incentive programmes, but also direct job creation actions or programmes targeted specifically at disadvantaged people. Transfers are usually in the form of periodic cash payments or reductions in social contributions.

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28 Employment Taskforce Report.

29 Source: Eurostat Labour Market Policy database. The figure for passive support, i.e. expenditure on unemployment benefits and early retirement schemes, was almost twice as high (€112 billion).

2.4.6. Employment and training measures qualifying as 'State aid'

Public support measures to private companies may fall under the definition of State aid in Article 87(1) of the Treaty. If a measure meets the four criteria laid down in this Article[30], it must be examined by the Commission to determine whether or not the aid is compatible with the State aid rules. In general terms, State aid is only approved if it serves clearly defined objectives <u>and</u> if undue distortions of competition are avoided. This requires a balancing of the objectives and effects of the aid. Employment creation and the promotion of training are two areas where objectives are generally well defined and for which the Commission has traditionally been sympathetic. This is reflected not just in the recent introduction of block exemption regulations for each objective but also the very limited number of negative decisions in related State aid cases.

Furthermore, most employment and training measures do not constitute State aid because they do not meet the four criteria referred to above. Often the measures benefit individuals only or do not give an advantage to certain undertakings, e.g., measures to provide guidance and counselling, general assistance and training for the unemployed or training programmes that apply without distinction to all employers in a particular Member State or a general reduction in the taxation of labour and social costs. These are often known as "general measures" and do not give rise to State aid implications. In addition, under the de minimis regulation[31], relatively small amounts of aid (less than €100 000 over three years for one company) are deemed not to affect trade between Member States and/or distort competition and are therefore disregarded.

In contrast, where all four criteria set out in Article 87(1) are met, employment and training measures do constitute State aid. Measures which are designed for a specific region, type of company (e.g., SME) or sector are deemed to be selective in that they affect some firms but not others. Even if a measure is open to all sectors, it may be selective if there is an element of discretion by the awarding authorities. By granting employment or training aid to certain firms, national authorities are taking over part of those firms' labour or training costs and conferring a financial advantage that improves their competitive position. Insofar as the products or services concerned are in competition with those of firms from other Member States, such aid is likely to distort competition and affect trade between Member States. Consequently, it is, in principle, incompatible with the common market. See box below for a selection of case studies.

The Court of Justice has repeatedly stated that the criteria laid down in Article (87)1 of the Treaty should be applied objectively without any discretion on the part of the Commission. This has given rise to questions on the application of the State aid rules where, for example, employment and training measures are administered at regional level or in the case of measures which are primarily financed by the social partners themselves through collective agreements which impose a levy on all companies in a particular sector. While such measures are often in line with national and Community policy in these areas, the past case law of the Court indicates that they may nevertheless constitute State aid according to the criteria set out in Article 87(1) of the Treaty. On the other hand, a very recent opinion of the Advocate

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30 The measure constitutes state aid if it is granted by a Member State or through State resources, it distorts or threatens to distort competition, it favours certain undertakings or the production of certain goods, and it affects trade between Member States.

31 Commission Regulation (EC) No 69/2001 of 12 January 2001 on the application of Articles 87 and 88 of the EC Treaty to *de minimis* aid, OJ L 10, 13.1.2001, p. 24.

General[32] suggests that under certain circumstances such measures should not be considered as aid, but rather as the allocation of the costs of financing certain types of measures within the sector concerned. The Commission will therefore follow the future development of the case law in this field very carefully, and draw the appropriate conclusions in the light of any future evolution of the case law of the Court.

The next sections deal in turn with aid for employment and aid for training, including a summary of the block exemption regulation for each objective.

Application of State aid rules to employment and training measures: Case studies

General measures that therefore do not qualify as State aid

The New Deal scheme[33] in the United Kingdom is aimed at helping the unemployed, in particular young people who have been unemployed for six months or more to find work and improve their prospects of remaining in sustained employment. The aim is to get those young people who are ready to enter employment into unsubsidised work and to prepare those who are not for submission to, say, a subsidised job with an employer. The job subsidy is aimed specifically at young people whom it has not been possible to place in unsubsidised employment and is there to provide an incentive to employers to consider employing those young people which they might otherwise overlook. The subsidy is available for employers in all sectors and lasts for a maximum of 26 weeks but ceases if the employee leaves employment. The Commission assessed whether or not the New Deal falls within Article 87(1) of the EC Treaty. As it applies to all economic sectors, all regions and all enterprises taking on young or long-term unemployed, the Commission concluded that the scheme contains no specificity. Furthermore, the United Kingdom authorities have no discretionary power concerning the level of the subsidy as this varies only according to the number of weekly working hours or training costs. As a result, the Commission concluded that Article 87(1) did not apply and thus New Deal measures do not constitute State aid.

Other Member States have similar general measures favouring employment. For example, the French "Youth Employment Contract" scheme targets young, low qualified people by providing a fixed level of assistance to cover employers' social security contributions. In Sweden, an employment subsidy programme provides for general subsidies targeted at the long-term unemployed. Subsidies take the form of tax concessions to employers.

Employment measures qualifying as compatible State aid

A Danish scheme[34] assists with integration into the labour market of people suffering from severe physical or mental problems, providing for subsidies to companies corresponding to a maximum of 50% or 66% of workers' wages, depending on the degree of disability. Although the measures in question apply to companies in all sectors of activity, the Danish authorities have a certain discretionary power with regard to selection of the companies, persons concerned and amount of aid. The Commission therefore concluded that the measures are selective and therefore constitute State aid within the meaning of Article 87(1) of the EC Treaty. However, the Commission considered that this scheme is compatible with the EC treaty, in accordance with Article 87(3)c.

In its assessment of the French Training Development Commitments "EDDF" scheme, which awards grants to cover a range of costs related to the provision of training programmes, the Commission decided that it was selective as it does not favour all companies identically and aid intensities, ranging from 25% to 80%, differ according to the size of the firm and the region in which it is located. As a result, the Commission concluded that the scheme constitutes State aid. However, it considered the aid to be compatible with the common market because the eligible costs and aid intensities conform to the rules set out in the block exemption regulation on training aid.

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32 Case C-345/02, Pearle BV of 11 March 2004.
33 Case N 374/98.
34 Case NN 10/02 Social measures in the employment sector (Sociale beskæftigelsesforanstaltninger).

Employment measures which included some incompatible State aid

Training and work experience contracts[35] were introduced in Italy in 1984. They consisted of a fixed–term contract, including a training period, for young unemployed persons. Employers were exempt from paying social security contributions for two years in respect of persons employed under this type of contract. The reduction was applied automatically in a non-discretionary manner throughout the country and therefore was considered to be a ‘general measure’. In 1990, regional authorities were given discretionary power to raise the age limit of the recipients, above that set at national level, thus rendering the measures selective. The Commission assessed the measures in order to determine whether they were compatible with the common market under Article 87(2) and 87(3). It concluded that the aid was compatible with the common market where it either related to the recruitment of certain groups of workers experiencing particular difficulties entering or re-entering the labour market, or involved net job creation as defined in the State aid rules. It therefore authorised the aid in these specific cases. However, some of the aid was deemed to be incompatible with the common market and was thus prohibited. In particular, the Commission found that the aid was not aimed solely at the recruitment of persons seeking their first job or still unemployed after losing their previous job and that it was not aimed at the net creation of new jobs within the meaning of the guidelines on aid to employment.

2.4.7. The need to control State aid for employment

Within the single market, aid granted to reduce labour costs can lead to distortions of intra-Community competition and deflections in the allocation of resources and mobile investment, to the shifting of unemployment from one country to another, and to relocation. Without rigorous controls and appropriate aid limits, employment aid can have harmful effects which cancel out its immediate effects on job creation. If the aid is used to protect firms exposed to intra-Community competition, it could have the effect of delaying adjustments needed to ensure the competitiveness of European industry. In the absence of rigorous controls, the fact that such aid will probably be concentrated in the most prosperous regions runs counter to the objective of economic and social cohesion. Care must also be taken to ensure that the granting of State aid does not lead to escalating subsidization, making the aid ineffective and wasting public money on all sides. The danger is that, if granted in an uncontrolled fashion, this type of aid will simply shift unemployment elsewhere without helping to resolve the employment problem in the European Union and will therefore distort competition to an extent contrary to the common interest.

2.4.8. A range of possibilities enable Member States to grant aid for employment

Notwithstanding the need for control, in the light of the market failures set out in section 2.4.1., the Commission has traditionally adopted a rather favourable approach to employment aid, particularly where it is intended to encourage firms to create jobs or to hire individuals who face particular difficulties in finding work, such as the long-term unemployed, unqualified workers, older workers, young people looking for their first job, as well as minorities and disabled people.

For certain types of employment measures, which are less distortive of competition, the Commission has introduced a block exemption regulation designed to facilitate Member States’ job-creation initiatives. The new regulation offers Member States the possibility to grant aid for the creation of new jobs and the recruitment of disadvantaged and disabled workers without having to seek the Commission’s prior clearance (see box for details). The rules in the regulation are aligned to a great extent on those for SME/regional aid, except for the period during which safeguarding of the jobs is required. The rules limit that requirement to three years and two years in the case of SMEs. The regulation differs in that respect from

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35 Case C 49/1998.

the one on SME/regional aid, since it became evident that the requirement that jobs be safeguarded for five years was too strict, especially for SMEs, where greater flexibility of the labour market is needed. As the regulation came into force only in 2003, it is too early to assess its impact.

In addition, Member States may through the Guidelines on National Regional Aid[36] grant state aid for job creation if jobs are linked to the carrying-out of an initial investment project. As with investment aid, the aid for job creation provided for in these guidelines must be tailored to the nature and intensity of the regional problems it addresses. The amount of aid must not exceed a certain percentage of the wage cost of the person hired, calculated over a period of two years. Aid intensities can be increased for SMEs and for companies located in assisted areas.[37]

In limited circumstances, Member States may also grant aid to maintain jobs. This type of aid is similar to operating aid which from an economic point of view has the most distortive effect on competition. As a result, this type of measure must be notified to the Commission and is assessed on a case by case basis. Aid to maintain jobs can be authorised in limited circumstances:

– in accordance with the guidelines on national regional aid, in regions eligible for the derogation under Article 87(3)(a) of the Treaty concerning the economic development of areas where the standard of living is abnormally low or where there is serious underemployment, including ultra-peripheral regions;

– the Guidelines on rescue and restructuring aid[38] also provide for the award of aid to maintain jobs for a company in difficulty;

– finally, Article 87(2)(b) of the Treaty provides for aid to maintain jobs if it is intended to make good the damage caused by natural disasters or exceptional occurrence.

Aid may also be awarded for job-sharing but due to the Commission's limited experience in this area, such measures must be notified and are examined on a case-by-case basis.

2.4.9. State aid expenditure on employment

A wide range of aid measures (or parts of measures) may have as their objective the creation or maintenance of jobs. This makes it difficult to quantify the total amount of aid that could be classified under 'aid for employment'. For example, we are not able to identify the precise amount of aid for 'job creation' that may be linked to regional investment or the amount of aid that will maintain jobs through rescue and restructuring packages. It is however possible to estimate the total amount of State aid awarded through measures for which the objective is exclusively 'employment': for the Union as a whole, this totalled around €840 million in 2002[39]. This figure has fluctuated around the €1 billion mark in recent years though the share of such aid in total aid has increased as the level of sectoral aid has fallen. The level of aid varies substantially from one Member State to another. For example, three large measures in

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36 Guidelines on national regional aid, OJ C 74, 10.3.1998, pages 9-31.

37 In non-assisted regions, only SMEs are eligible for aid for job creation.

38 Guidelines on rescue and restructuring aid, OJ C 288, 09.10.1999, pages 2-18.

39 Due to the design of a number of employment and training schemes, some employment aid may be classified under training aid and vice-versa.

Denmark account for more than 50% of total EU aid for employment while other Member States have no such ‘employment’ measures. Clearly, such disparities do not reflect the extent of public support for employment in each Member State but rather the means by which national governments have chosen to provide funding as well as the precise design of their measures.

Brief summary of the block exemption regulation for employment aid[40]

The compatibility of State aid for employment is governed by Commission Regulation (EC) No 2204/2002 of 5 December 2002 (OJ L 337, 13.12.2002, pages 3-14).

Under the regulation Member States may grant aid for the creation of new jobs, the recruitment of disadvantaged and disabled workers, and to cover the additional cost of employing disabled people without sending prior notification to the Commission. Other types of employment aid are not prohibited but must be notified to the Commission and are assessed in light of the criteria set out in the block exemption for employment aid and/or in accordance with the regional aid guidelines. Employment measures falling outside the block exemption are aid to a single company exceeding €15 million over three years, individual aid awards that are not granted under an aid scheme, schemes that are targeted at specific sectors, and other types of employment such as aid for job sharing, aid for other types of disadvantaged workers etc.

Job creation aid

In order to stimulate the creation of new jobs, the regulation allows companies to save part of the new employees' wage costs over a two-year period. The amount of permissible aid depends on whether the job is created in an assisted area and the regional aid ceiling applicable to each of these areas. For example, the aid ceiling is increased by 15 percentage points in the assisted areas covered by Article 87(3)a of the Treaty. Increases to the aid ceiling are also permitted for SMEs outside of the assisted areas, e.g., +15 percentage points for small enterprises. No aid for job creation is allowed for large companies located outside the assisted areas (see table below).

Disadvantaged workers

In order to encourage the hiring of long-term unemployed persons and other disadvantaged workers Member States may compensate companies for up to 50% of one year's wage costs and compulsory social contributions.

The definition of disadvantaged persons include: young persons below 25 years or within 2 years from completing full-time education; migrant workers moving within the EU; members of ethnic minorities requiring development of linguistic, vocational training or working experience; persons absent from working life and education for 2 years due to family reasons; single adults looking after children; unemployed persons without secondary qualification; unemployed persons above 50 years; long-term unemployed persons. Other categories can be added after notification.

Disabled persons

In order to foster an increased hiring of disabled persons, the State may also assume up to 60% of one year's wage cost and social security payments, should a company decide to do so. Furthermore, the block exemption regulation allows to grant state aid up to 100% of additional costs of employing disabled people such as costs of adapting premises, cost of adapting or acquiring equipment for their use, cost of employing staff for time spent solely on the assistance of the disabled worker(s) or to compensate for any reduced productivity resulting from disabilities of the worker(s).

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40 http://europa.eu.int/eur-lex/pri/en/oj/dat/2002/l_337/l_33720021213en00030014.pdf.

Maximum aid ceilings

	Outside assisted areas	Art. 87(3)(c) regions	Art. 87(3)(a) regions
Aid for net job creation:			
Small enterprises	15.0% GGE	Regional aid ceiling	Regional aid ceiling
Medium-sized enterprises	7.5% GGE	+ 10% GGE	+ 15% GGE
Large enterprises	-	(max. 30% NGE)	(max. 75% NGE)
Aid for recruitment of disadvantaged	50%		
Aid for recruitment of disabled people	60%		
Aid for additional costs of employing disabled people	100%		

2.4.10. State aid rules apply to training but are generously applied in response to identified market failures

Where Member States introduce financial and tax incentives to encourage firms to invest in training their workforce, steps must be taken to ensure that those incentives do not run counter to the objectives of competition policy. A training aid measure which is intended to reduce, for certain firms, the costs they normally have to bear, in their own interest, in order to improve their employees' skills, confers on them an advantage over their competitors and therefore it may distort competition.

Usually, however, training has positive external effects for society as a whole. Expenditure on training increases the competitiveness of EU industry and the attractiveness of the Community as a place in which to set up in business (see also Section 2.4.4). Thus, the Commission has generally in its State aid policy given sympathetic consideration to training aid.

Moreover, as with employment, most public support measures for training do not fall within the scope of the competition rules, but constitute general measures as they are open to all enterprises in all sectors and are without discretionary power for the authorities applying the measure, e.g., a general tax incentive scheme, such as automatic tax credits, open to all firms investing in employee training. France, Austria, the Netherlands and Sweden have recently introduced new fiscal reforms to encourage investment in training while Ireland has established a National Training Fund financed through a levy on companies. Some Member States have provisions that require employers either to spend beyond a certain threshold level on training, or pay a training levy. Other measures do not constitute state aid because they directly benefit people everywhere and do not grant an advantage to certain undertakings or sectors. Most Member States provide funding for training for vulnerable groups through initiatives such as the training or re-training of unemployed people, apprenticeships in undertakings.

Where a training measure meets the four criteria laid down in Article 87(1) of the Treaty, it is assessed on the basis of the block exemption regulation for training aid which came into force in 2001. The regulation covers all public support for training which favours one or more firms or sectors of industry by reducing costs they should normally have to bear when they want their employees to acquire new skills (see box for details).

The regulation facilitates the granting of training aid for Member States by removing the need for pre-notification of the measure to the Commission. However, on implementation of an aid scheme, or grant of individual aid, exempted by this regulation, Member States must, within 20 working days, forward to the Commission a summary of the information regarding such aid scheme or individual aid. The Commission received 78 summary information forms in 2001, 102 in 2002 and 53 in 2003.

Over this three-year period, four Member States, Germany (41%), Italy (24%), the United Kingdom (20%) and Spain (9%) accounted for 94% of the total number of schemes or individual aid awards exempted by the regulation. Although this indicates that most other Member States have not made use of the possibilities offered, the regulation has resulted in a decrease in the overall number of notifications in this area. It is important to bear in mind that awards of individual aid exceeding €1 million must still be notified.

Brief summary of the block exemption regulation for training aid

The compatibility of State aid for training is governed by Commission Regulation (EC) No 68/2001 of 12 January 2001, (OJ L 10, 13.1.2001, pages 20-24) amended by Commission Regulation (EC) No 363/2004 of 25 February 2004 (OJ L63, 28.02.2004, pages 20-21).

The regulation covers all public support for training which favours one or more firms or sectors of industry by reducing costs they should normally have to bear when they want their employees to acquire new skills. The regulation applies to training aid whether the training is provided by companies themselves or by public or private training centres. The regulation applies to all sectors.

The regulation distinguishes between specific training and general training because the latter has less distortive effects on competition than former. Therefore, higher maximum aid intensities are permitted for general training, SMEs, disadvantaged workers and companies located in assisted areas (see table below).

Specific training: Training involving tuition directly and principally applicable to the employee's present or future position in the assisted firm and providing qualifications which are not or only to a limited extent transferable to other firms or fields of work.

General training: Training involving tuition which is not applicable only or principally to the employee's present or future position in the assisted firm, but which provides qualifications which are largely transferable to other firms or fields of work and thereby substantially improve the employability of the employee. Training is considered 'general' if, e.g., it is jointly organised by different independent enterprises, or if employees of different enterprises may avail themselves of the training. It is also considered 'general' if it is recognised, certified or validated by public authorities or bodies on which the Member State or the Community conferred the necessary powers.

Eligible costs for training aid may include trainers' personnel costs; trainers' and trainees' travel expenses; other current expenses (materials, supplies, etc.); depreciation of tools and equipment, to the extent that they are used exclusively for the training scheme in question; cost of guidance and counselling services with regard to the training project; trainees' personnel costs up to the amount of the total of the above eligible costs.

Maximum aid ceilings

Gross percentages	**Specific training**	**General training**
Standard rate (large firms outside assisted areas)	25%	50%
Increases of standard rate:		
SME	10%	20%
Art. 87(3)(a) region	10%	10%
Art. 87(3)(c) region	5%	5%
Beneficiaries: categories of disadvantaged workers	10%	10%

Large training projects (aid granted to a single company exceeding €1 million) are not exempted from individual notification.

2.4.11. *State aid expenditure on training*

For the Union as a whole, just under €600 million of State aid was awarded specifically for training objectives in 2002[41]. Spain accounts for more than half the total amount due to a large aid measure for continuing vocational training in enterprises. This measure has all the hallmarks of a general measure but as the authorities have a certain discretionary power with regard to selection of the companies, it was deemed to be State aid, albeit compatible with the Treaty. Total aid to training has fallen gradually in recent years in line with a reduction in expenditure under this Spanish aid measure. It is important to note that a sizeable proportion of training aid awarded to SMEs may qualify as 'de minimis' and is therefore disregarded (see section 2.4.6).

In 2001, under the block exemption for training, relatively small amounts of aid have been reported by Member States. EU-wide, just over €40 million was awarded of which Spain, Italy and the United Kingdom each granted around €10 million. In 2002, the total increased to €120 million of which Austria granted €45 million, the United Kingdom €37 million and Italy €22 million.

2.4.12. *Measuring the effectiveness of aid for employment and training*

In its conclusions on State aid in November 2002, the Council invited Member States to continue to "develop the use of "*ex-ante*" and "*ex-post*" evaluations of individual State aid and State aid schemes in order to monitor impact on competition and effectiveness of the aid". It has been clearly demonstrated above that only a fraction of the active labour market policy (ALMP) measures carried out by Member States constitutes State aid. As regards ALMP overall, the Employment Guideline on "active and preventative measures for the unemployed and inactive" commits Member States to ensuring "regular evaluation of the efficiency of labour market programmes and review them accordingly"[42]. Thus, the yearly implementation cycle of the European Employment Strategy puts emphasis on the evaluation of the ALMP measures, while this exercise is squarely outside the competence of competition policy.

As confirmed by a study of State Aid Schemes Designed to Promote Employment in 2001[43] the effectiveness of employment aid measures depends on several factors mainly related to the design characteristics of a scheme. For example, schemes targeted towards certain categories of workers appear to be more effective (they tend to have lower deadweight) than overly general schemes for promoting employment in circumstances where the targeting of the programme has encouraged employers to take on people with characteristics they would not normally consider for employment. Other factors that may have a significant impact on the performance of employment measures are the amount of aid, the duration of the measure, the form of the aid, whether or not any obligation is placed on the employer as a condition of receiving the benefit, etc. With regard to the amount of aid, findings from the above-mentioned study indicate that relatively small amounts of aid tend to be effective only with small companies (less than 30 employees) and that higher levels of aid do not necessarily deliver higher levels of net additionality.

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41 Due to the design of a number of employment and training schemes, some training aid may be classified under employment aid and vice-versa.

42 Council Decision of 22.7.2003 on guidelines for the employment policies of the Member States (2003/578/EC).

43 Cambridge Policy Consultants, 'The Study of State Aid Schemes Designed to Promote Employment' Final Report, October 2001.

Clearly, care should be taken in the design of measures so that the risk for unintended substitution effects[44] (the inclusion of disadvantaged workers at the expense of more easily placed workers can be the explicit objective) and dead-weight losses[45] is minimised. Nonetheless, it is necessary to keep in mind when evaluating for example the effectiveness of subsidising a job opportunity for a disabled worker or a long-term unemployed person, that the benchmark against which to assess the effectiveness of the measure is not a perfect market outcome, but a sub-optimal one; the alternative to subsidised jobs for disadvantaged workers is likely to be unemployment with receipt of passive benefits.

2.4.13. Conclusions

The market failures associated with employment creation and the promotion of training, such as the exclusion of less productive workers (perceived or real) at going wage rates and the under-provision of training are generally well accepted (see section 2.4.1). When market failures are being addressed, the Commission recognises the justification for Community or government intervention. This is reflected in the Commission's favourable approach to State aid for these objectives: the very limited number of negative decisions in related State aid cases and the recent revision of the State aid rules to facilitate the award of aid for job creation, for the recruitment of disadvantaged and disabled workers and for various training measures.

Further efforts to support training and employment need to be encouraged in order to realise the Lisbon Agenda for economic and social renewal. Competition policy complements and reinforces other Community policies contributing to the Lisbon Strategy[46], which recognises that more jobs are needed to make the EU both more competitive and more inclusive. Achieving a considerably higher employment rate requires massive human capital investment, not least in the form of continuous training.

Most public support measures to private companies for employment and training purposes do not constitute state aid because they do not meet the four criteria referred to in Article 87(1) of the Treaty. However, if such interventions do take the form of State aid, State aid control will continue to ensure that the distortive effects on competition by each individual aid proposal is minimised. On the other hand, it will not present obstacles to policies in pursuit of community objectives for which no such distortion can be demonstrated or where the distortion is limited and outweighed by the positive effects of the aid measure.

By removing the need to notify the Commission, the block exemption regulations for employment and training aid should allow Member States greater flexibility to design measures supporting these objectives as well as speeding up their implementation. This initiative is in line with the conclusions of various European Councils, which call for a shift in emphasis from supporting individual companies or sectors towards tackling horizontal objectives of common interest.

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44 Substitution effect: the assisted person fills a job that would otherwise have been taken by another person.

45 Deadweight loss: the employer would have recruited the same type of person without any outside financial support.

46 Communication from the Commission: "A Pro-Active Competition Policy for a competitive Europe" (forthcoming).

To date, only a limited number of Member States have made use of the possibilities offered by the new exemption regulations. Therefore, in the process of reviewing these regulations, which expire at the end of 2006, the Commission will consult Member States in order to receive a detailed assessment of any difficulties which may have arisen in their application. In the light of feedback from Member States, the Commission will also reflect on the appropriateness of aid ceilings as well as certain definitions in the text.

The Commission is aware of the need to monitor ongoing developments in Member States employment and training policy initiatives so as to ensure as far as possible that measures which have a limited effect on competition can be implemented without the need for approval by the Commission. Some existing employment and training measures such as those which are primarily financed by the social partners themselves through collective agreements which impose a levy on all companies in a particular sector have given rise to questions on the application of the State aid rules. While such measures are often fully in line with national and Community policy in these areas, the past case law of the Court indicates that they may nevertheless constitute State aid according to the criteria set out in Article 87(1) of the Treaty. On the other hand, a very recent opinion of the Advocate General[47] suggests that under certain circumstances such measures should not be considered as aid, but rather as the allocation of the costs of financing certain types of measures within the sector concerned. In this context, the Commission will follow the future development of the case law in this field very carefully, including the Court judgment in the Pearle BV case.

2.5. State aid supporting regional development and cohesion

The redirection of aid toward horizontal objectives explicitly includes cohesion objectives which implies an increase in aid in support of economic and social cohesion. However, the decision to grant aid for regional development can only be taken if the balance between the resulting distortions of competition and the advantages of the aid in terms of the development of a less favoured region can be guaranteed. Furthermore, to achieve greater cohesion it is essential that aid is concentrated on the least developed regions. Its effectiveness must not be compromised by the granting of disproportionate State aid in non-assisted regions.

State aid specifically earmarked for assisted 'a' regions

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 €8 billion of aid was earmarked exclusively for assisted 'a' regions[48] in 2002. This represented just under one quarter of total aid (less agriculture, fisheries and transport) for which a regional breakdown is not available).[49]

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47 Case C-345/02, Pearle BV of 11 March 2004.

48 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.

49 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.

Table 12: State aid specifically earmarked for assisted ‘a’ regions, 2002

	EU	B	DK	D	EL	E	F	IRL	I	L	NL	A	P*	FIN	S	UK
Total aid less agriculture, fisheries and transport, mio €	34.005	933	1.274	11.431	410	3.503	6.197	525	4.528	56	780	453	649	231	406	2.629
Aid for assisted 'a' regions, mio €	7.966	-	-	1.791	410	938	549	449	2.891	-	-	29	649	-	-	260
Aid for assisted 'a' regions as a percentage of total aid**	23	-	-	16	100	27	9	86	64	-	-	6	100	-	-	10

Note: There are no assisted ‘a’ regions in B, DK, L, NL and S. For the purposes of this table, Northern Ireland (UK) is deemed to be an ‘a’ region’. * In 2000, Lisboa and Vale do Tejo changed from ‘a’ to ‘c’ status. Data are not yet available on specific aid schemes to this region so all aid is still classified under assisted ‘a’ regions. ** 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

Disparities between the Member States in the levels of aid reserved for assisted ‘a’ regions (Table 12) reflect not only 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.

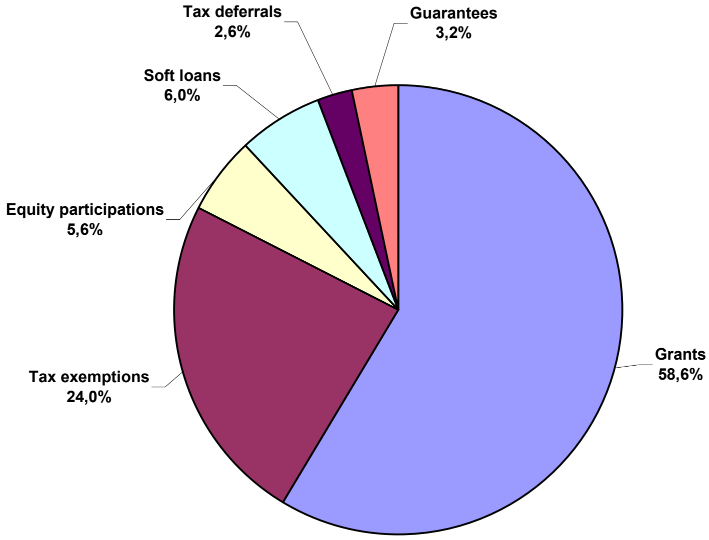
Aid to the assisted ‘a’ regions fell dramatically from a peak of €28 billion in 1993 to €9 billion in 2000, due largely to the phasing out of the restructuring programme in the new German Bundesländer. Aid to the assisted ‘a’ regions in Germany stood at less than €2 billion in 2002. The level of aid to the poorer, southern regions in Italy also fell rapidly from a peak of €9 billion in 1995 to €2 billion in 2000. However, since then, there has been a slight upturn with just under €3 billion awarded in 2002. The level of aid to the assisted ‘a’ regions also increased in Spain and France over this period.

2.6. State aid instruments

Majority of Member States tend to provide aid to manufacturing and services in the form of grants …

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

Graph 5: Share of each aid instrument in total aid for manufacturing and services, EU, 2000 - 2002



Source: DG Competition

… though significant differences still exist in the use of instruments

During 2000-2002, grants accounted for almost 60% of all State aid in the manufacturing and service sectors. In addition to aid awarded through the budget, other aid is paid through the tax or social security system. EU-wide, tax exemptions make up 24% of the total. While Belgium, Denmark, Spain, Luxembourg, Austria and Sweden provide more than 80% of their aid in the form of grants, other Member States make greater use of tax exemptions, particularly Germany (38%), Ireland (67%) and Portugal (74%). A similar instrument is a tax deferral which is used by only six Member States. Tax deferrals account for 14% of all aid in Italy compared with an EU-wide average of 3%.

There are other forms of aid instrument which vary from one Member State to another (Table 13). 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. The aid elements in this category are much lower than the capital values of the transfers. EU-wide, soft loans represent around 6% of all manufacturing aid. In France, Austria, and the United Kingdom the proportion is significantly higher (more than 9%).

Aid may also be in the form of state equity participation which represents almost 6% of all aid to the manufacturing and service sectors. Finally, aid may be provided in the form of guarantees. The aid elements are 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. Guarantees were awarded in 2002 by most Member States although the aid made up only 3% of total aid in the Union.

Table 13: State aid for manufacturing and services by type of aid instrument, 2000 – 2002

						per cent
TYPE OF AID						
	Grants	**Tax exemptions**	**Equity participations**	**Soft loans**	**Tax deferrals**	**Guarantees**
EU	58,6	24,0	5,6	6,0	2,6	3,2
B	81,5	10,0	0,0	6,9	0,1	1,6
DK	94,7	5,1	-	0,0	-	0,2
D	49,8	37,7	0,4	3,8	0,4	7,9
EL	74,4	24,9	-	0,7	-	0,1
E	90,1	-	0,3	7,9	-	1,7
F	35,5	24,5	28,0	9,4	0,1	2,5
IRL	28,7	67,3	2,6	0,1	-	1,3
I	70,0	12,4	0,9	2,9	13,7	0,1
L	94,8	-	-	5,2	-	-
NL	68,4	13,3	0,0	5,4	9,8	3,0
A	85,9	-	-	9,8	-	4,3
P	20,3	73,7	-	4,7	1,0	0,2
FIN	73,3	19,4	-	7,1	-	0,2
S	82,6	8,4	1,0	7,9	-	0,2
UK	72,5	8,7	0,5	18,3	-	-

Source: DG Competition

3. PART THREE: STATE AID CONTROL PROCEDURES, RECOVERY AND MODERNISATION OF STATE AID

3.1. Registered aid cases

The Commission controls the Member States' granting of State aid by means of a formal and transparent procedure (Council regulation No. 659/1999). According to the regulation, "any plans to grant new aid shall be notified to the Commission in sufficient time by the Member State concerned." Although the vast amount of aid is notified, for around 15% of investigated aid cases, it was not the Member State but the Commission that had to initiate the control procedure after finding out about the aid, for example following a complaint[50].

In 2003, there were just under 1000 cases[51] registered by the Commission: 642 cases were notified by Member States, 104 non-notified cases initiated by the Commission, 18 cases examining existing aid and 203 information forms submitted under the block exemption regulations (see below). Excluding the information forms, around 49% of all registered cases were in the manufacturing and service sectors, 39% in agriculture, 6% in fisheries and 6% in transport and energy.

Of the 642 notifications, more than 80% were received from six Member States: Italy 24%, Germany 19%, France 12%, the United Kingdom 11%, the Netherlands and Spain each 9%. Of the 104 non-notified cases, 39 cases concerned Italy, 14 Germany and 10 France.

With a view to reducing the administrative burden for specific types of aid, block exemptions for small and medium-sized enterprises, for training aid, for employment and another for small and medium-sized enterprises in the agricultural sector have recently come into force[52]. As one would expect, the number of notifications for these types of aid fell in 2002 and 2003 as some Member States made use of the block exemptions: in 2003 the Commission received 142 information forms on exempted aid for SMEs, 53 forms on exempted training aid and 8 forms on exempted employment aid. Four Member States, Italy (35%), the United Kingdom (33%), Germany (12%), and Spain (9%) accounted for 90% of the information sheets while most other Member States have not made use of the possibilities offered.

3.2. Commission decisions

In 2003, the Commission took around 617 final decisions.[53] In the vast majority of cases, the Commission concludes that the examined aid is compatible with the State aid rules and allows

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50 In 2003 there were 175 registered complaints, some of which may lead to new registered cases.

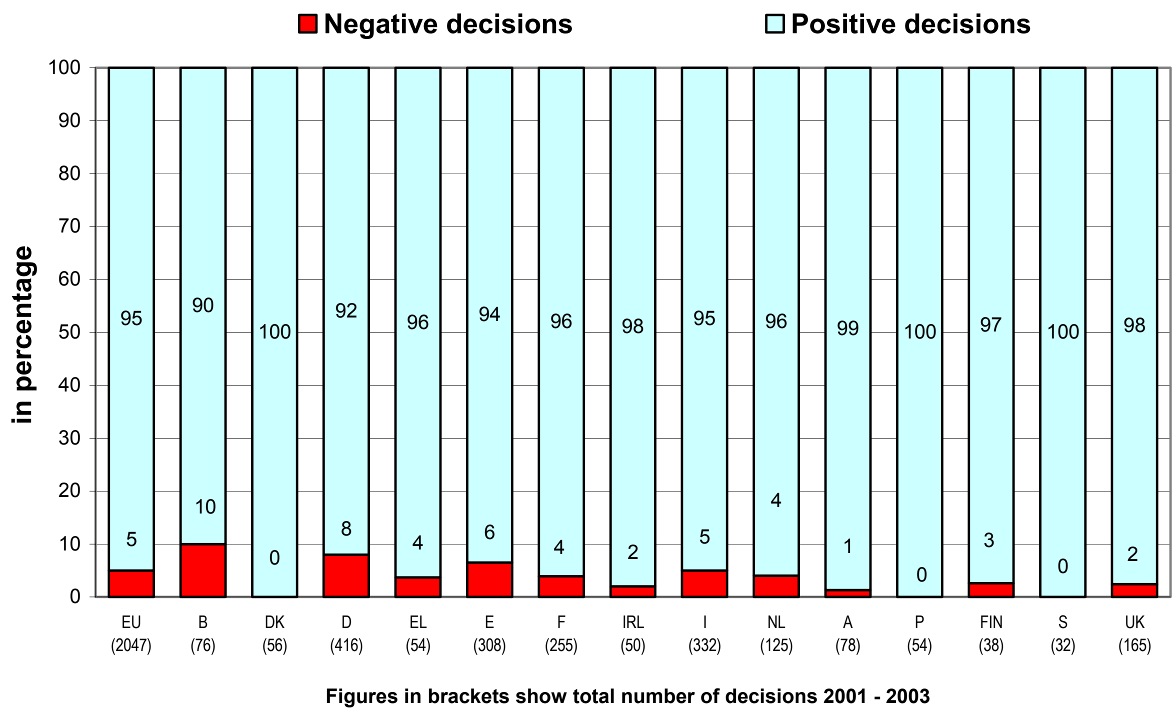
51 This figure includes the 47 cases which were withdrawn during the course of the year.

52 Commission Regulation (EC) No 70/2001 of 12 January 2001 on State aid to SMEs (OJ L 10, 13.1.2001, pages 33-42); Commission Regulation (EC) No 68/2001 of 12 January 2001 on training aid (OJ L 10, 13.1.2001, pages 20-29); 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) 1/2003 of 23 December 2003 on State aid to SMEs in the agricultural sector (OJ L 1, 3.1.2004, pages 1-16).

53 Excluded under 'final' decisions are all decisions taken in 2003 to open a formal investigation procedure (71) as well as corrigenda, information injunctions, court cases, proposal appropriate measures, etc. The total also excludes those decisions in which the Commission decides that the notified aid does not in fact constitute aid as defined under Article 87(1). There were 16 such decisions in 2003. Included under 'positive' decisions are the 8 conditional decisions taken during the period under review. Luxembourg has not been included in the graph due to the relatively small number of decisions (8 final decisions, of which 6 were positive decisions) over this period.

Member States to award such aid without carrying out a formal investigation procedure. This was the case for 91% of decisions taken in 2003. Where the Commission has doubts whether certain aid measures comply with the rules, it carries out a formal investigation during which third parties and all Member States are invited to provide observations. At the end of the formal investigation procedure, the Commission either takes a positive or conditional decision (5% of the decisions in 2003) or that it does not comply with State aid rules and hence is not compatible with the Common Market and takes a negative decision (4% of all decisions in 2003). Graph 6 shows the share of incompatible and compatible aid cases that have been examined by the Commission between 2001 and 2003. Over this three-year period, 5% of final decisions were negative.

Graph 6: Share of negative decisions by Member State, 2001-2003



Source: European Commission (DG Agriculture, Fisheries, Competition, Transport and Energy).

3.3. Recovery of aid

The Commission has the power to require that aid granted by Member States which is incompatible with the common market be repaid by recipients to the public authorities which granted it. The Member State must recover the aid immediately in accordance with national procedures.

The fact that Commission decisions are enforced through the Member States under their national procedures constitutes a weak spot in the enforcement system. Due to the inherent conflict of interest (the State being the donor of aid as well as the recovering institution) recovery orders do not often enjoy a high priority in Member States. This is particularly true when the aid beneficiary has declared bankruptcy. In around one third of all recovery cases, the beneficiary is a bankrupt company. In such cases, recovery takes place under national insolvency procedures since there is no harmonised European insolvency law. Moreover, a number of Member States, including the Acceding States, have recently adopted insolvency laws, modelled to a greater or lesser extent on the U.S. Chapter 11 insolvency statute. In line with the US model, these new laws shield the economic activities of the insolvent company against its creditors, including the State aid recovery claims.

As a response to this and as part of the recent reorganisation of DG Competition, a new unit has been set up, specifically charged with ensuring the enforcement of State Aid decisions. Besides the treatment of individual cases, it analyses the barriers to recovery and tries to identify possible solutions. A dialogue with practitioners and academics of insolvency law has begun in order to avoid a one-sided approach but to pursue the goal of effective recovery within the overall internal market objectives.

Table 14 provides an overview of the pending recovery orders. As of February 2004, there were 88 such orders, of which 40 involved Germany and 20 Spain.

Table 14: Recovery cases pending in February 2004

Member State	Aid Schemes	Individual Aid	Total
B		5	5
D	7	33	40
EL		1	1
E	10	10	20
F	4	4	8
I	7	2	9
NL	2	1	3
A	1		1
P	1		1
Total	**32**	**56**	**88**

Note: State aid recovery procedures in sectors other than agriculture, fisheries and transport.

Source: DG Competition

In 2003, the Commission took 11 (partly) negative decisions in which it requested Member States to recover aid of well over €1.3 billion. This figure, however, is underestimated, as it is not possible to identify the exact amount of incompatible aid in cases when aid is awarded to a large number of beneficiaries through a scheme or when a certain type of instrument is used for which it is difficult to quantify the effect of the aid, e.g. a guarantee.

3.4. Modernising State aid control

3.4.1. Improving current procedures and working methods

Work has continued on procedural change which has become increasingly important in view of enlargement. The objective is to accelerate, simplify and modernise procedures, in particular with a view to reducing the resources expended on routine cases and to enable the Commission to concentrate resources on more important cases which present real competition concerns at the Community level and hamper the growth and competitiveness of European business. In this regard, the Commission services have prepared draft implementing provisions under Article 27 of Regulation (EC) n° 659/1999 concerning the form, content and other details of notifications, the form, content and other details of annual reports, details of time-limits and the calculation of time-limits, and the interest rate for the recovery of unlawful aid, as well as other suggestions to improve current procedures and working methods. A meeting with State aid experts from the Member States was held in January 2004 with a view to adopting an implementing regulation which will be published shortly.

3.4.2. Review of State aid guidelines and frameworks

The Commission is continuing to review its State aid guidelines and frameworks to simplify and clarify them, and remove possible conflicts between the different texts. At present, priority is being given to reviewing the rules on rescue and restructuring aid for companies in difficulty, to look at the reform of the Community's regional aid rules after enlargement, to draft a new framework for the assessment of lesser amounts of aid, to clarify the area of services of general economic interest and to introduce a "*de minimis*" rule for the agricultural and fisheries sectors.

In March 2004, the Commission met with State aid experts from the Member States to discuss a draft[54] set of guidelines on rescue and restructuring aid for companies in difficulty which should replace the existing guidelines due to expire in October 2004.

In spring 2003, the Commission carried out a review of the guidelines on national regional aid[55] and concluded that a revision of the guidelines was not necessary at this stage. The Commission nevertheless decided to conduct an overall review in good time to enable Member States and the Commission to draw up, notify and approve the regional maps for the period after 1 January 2007.

In October 2003, following intensive consultations with the Member States, the Commission modified the "Multisectoral Framework on regional aid for large investment projects"[56], which was adopted in 2002 to establish a faster, simpler and more accountable control system of Government support to large investments. In order to prevent serious distortions of competition, the Framework provides for strict rules in sectors with structural difficulties. A list of such sectors should have been established by the end of 2003. However, due to the methodological and technical difficulties in establishing such a list, and in agreement with Member States, the Commission has decided to extend the adoption to the end of 2006.

The current Commission Regulations and Frameworks governing State aid already allow Member States a large number of possibilities to grant aid in pursuit of the realisation of Community objectives, cf. de minimis regulation, block exemption regulations and other frameworks for horizontal objectives. Nevertheless, the Commission recognises that there may be scope for further flexibility for the approval of lesser amounts of State aid without undermining the principle of a strict overall control of State aid. The future development of the State aid rules to take account of these factors is addressed in the Commission's Communication on a pro-active competition policy for a competitive Europe.

In December 2003, the Commission adopted a framework on State aid to shipbuilding[57] to replace the 1998 Shipbuilding Regulation which expired at the end of 2003. The guiding principle of this exercise was to simplify and normalise the treatment of shipbuilding, both as

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54 http://europa.eu.int/comm/competition/state_aid/others/.

55 The 1998 Guidelines on national regional aid stipulated that the Commission should review them within five years of their becoming applicable.

56 OJ C 263, 1.11.2003.

57 OJ C 317, 30.12.2003, pages 11-14.

to the form and the substance of State aid rules. It was nevertheless proposed to maintain certain sector-specific provisions on the basis of certain particularities that distinguish shipbuilding from other industries. The important work carried out by the LeaderSHIP 2015 initiative has revealed the crucial importance of increasing the competitiveness of the EU shipbuilding industry. Therefore, the new Commission Framework on support measures for shipbuilding improves and strengthens support for innovation. Compared to the 1998 Shipbuilding Regulation, the new framework contains a definition of the concept of “innovation” tailored to the special needs of the shipbuilding industry. The percentage of State support for expenditure on investments needed to fund the innovative aspects of the project has doubled from 10% to 20%.

3.4.3. Services of General Economic Interest (SGEI)

On 18 February 2004, the Commission adopted draft instruments designed to increase legal certainty as regards the financing of services of general economic interest.

The first is a draft Commission Decision on the application of Article 86 of the Treaty to state aid in the form of public service compensation. The purpose of the Decision is to set out the conditions under which state aid granted to small-scale services of general economic interest is compatible with the Treaty and to exempt such aid from the prior notification requirement. The Commission takes the view that, where the conditions under which such aid may be granted are clearly set out and complied with by Member States, administrative procedures for Member States and the Commission can be streamlined by waiving the notification requirement.

The draft Decision does not at present specify thresholds for determining what constitutes small-scale services of general economic interest. Since situations differ widely from one Member State to another, the Commission thought it preferable to await the results of consultations on the draft before finalising the figures.

Hospitals and social housing undertakings are also to be included in the scope of application of the Decision. They perform services of general economic interest for which the level of compensation may be very high without there being any particularly large risks of competition being distorted.

The second instrument is a draft Directive amending Directive 80/723/EEC on the transparency of financial relations between Member States and public undertakings. Directive 80/723/EEC is currently applicable to undertakings which carry on public service activities and activities outside the scope of public service and receive "state aid" in the form of public service compensation. It is proposed that the drafting of the Directive be brought into line with the Altmark judgment, stipulating that the Directive is applicable where the undertakings receive public service compensation, irrespective of the legal classification of such compensation in the light of Article 87 of the EC Treaty.

The Commission has also drawn up a draft "Community framework for state aid in the form of public service compensation". The purpose of the draft is to set out the conditions under which compensation granted to large-scale services of general economic interest (i.e. those not covered by the above-mentioned Decision) constitutes compatible aid. However, because of the potential risks of distortion of competition, such aid must be notified to the Commission.

These draft instruments reflect the Commission's long-established approach to services of general economic interest and allow Member States to grant the relevant undertakings all the funding that is necessary for the operation of the public service. However, any overcompensation may constitute state aid that is incompatible with the Treaty. Similarly, aid granted for the performance of a public service activity should not be used to cover activities on markets outside the public service sphere. Such practices are not necessary for the operation of services of general economic interest and are harmful to other undertakings.

The draft instruments will be presented to the Member States, the European Parliament, the Economic and Social Committee and the Committee of the Regions for their opinions. The drafts are available on the Competition DG's website, and all interested third parties can make known their views on them. The drafts will be finalised by the Commission in the light of the comments received.

3.4.4. State aid to the fisheries sector

At present, the Commission assesses the compatibility of State aid schemes in the fisheries sector according to the Guidelines for the examination of State aid to fisheries and aquaculture adopted in 2001[58]. However, the Commission intends to overhaul the rules governing the granting of State aid to this sector. To this end, the Commission adopted on 9 July 2003 a “Draft Commission Regulation on the application of Articles 87 and 88 of the EC Treaty to State aid to small and medium-sized enterprises active in the production, processing and marketing of fisheries products”. This draft Regulation sets out the principle according to which a large number of State aids to the fisheries sector would no longer have to be notified to the Commission before being granted, provided that these aids comply with the rules laid down in the Regulation. It was discussed with State aid experts from the Member States in October 2003 and published in the Official Journal for consultation[59]. The Commission services intend to hold a second meeting with Member States before it is adopted by the Commission and enters into force by the summer of 2004.

State aid to the fisheries sector which does not fall within the block exemption Regulation would still have to be notified to the Commission. Such aid will be subject to new Guidelines, which are currently being elaborated, and which should enter into force at the same time as the block exemption Regulation.

The fisheries sector will also be covered by a Commission Regulation on the application of Articles 87 and 88 of the EC Treaty for “de minimis” aid in the agriculture and fisheries sector. A draft of this Regulation was adopted by the Commission in December 2003. It foresees that aid up to €3000 per fisherman or farmer could be granted over a period of three years without being notified to the Commission, provided that the global amount of such aid does not exceed 0.3% of production in the fisheries or agricultural sector by the Member State concerned.

Member States will be able to grant aid that is in line with the Regulation without the Commission having to approve the aid in advance, but they will also have to provide information certifying that the two ceilings have been complied with. The draft will now be discussed by Member States and interested third parties. The Commission would like to see the Regulation implemented towards the end of 2004.

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58 OJ C 19, 20.1.2001, p. 7.
59 OJ C 265, 4.11.2003, p. 17.

3.4.5. *State aid to the agricultural sector*

On 23 December 2003, the Commission adopted a new Regulation[60] introducing exemption arrangements for certain types of state aid, up to certain ceilings, granted to farmers or undertakings processing or marketing agricultural products.

The Regulation covers a broad range of types of state aid granted to small and medium-sized enterprises (SMEs) in the agricultural sector (investment aid, aid for early retirement, aid for the setting-up of young farmers, aid for producer groups, aid to encourage the production and marketing of quality agricultural products, etc.). Given the definition of SMEs (fewer than 250 employees, annual turnover not exceeding EUR 40 million or annual balance-sheet total not exceeding EUR 27 million), almost all farms and undertakings in the agricultural sector are covered by these provisions.

With this Regulation, the Commission is also establishing a new transparency arrangement: summary information on all exempted state aid, by Member State, will be published on the Internet[61] five days before the start of payment of the aid. All farmers and other interested parties will thus have access to all the information regarding all state aid measures covered by the block exemption. This measure will ensure transparency and benchmarking, while at the same time avoiding the need for the formal notification procedure and subsequent Commission approval. The new Regulation will be applicable until the end of 2006.

On 23 December 2003, the Commission also adopted a draft Regulation on *de minimis* aid in the agriculture and fisheries sectors (see above).

3.4.6. *State aid to the maritime sector*

In January 2004, the Commission adopted new Community guidelines on State aid to maritime transport[62]. This communication - replacing the 1997 Guidelines – aims at setting the parameters within which State aid to maritime transport will be approved by the Commission. These Guidelines are intended to clarify what State aid schemes may be introduced in order to support the Community maritime interest, with the aim of improving a safe, efficient, secure and environment friendly maritime transport; encouraging the flagging or re-flagging to Member States' registers; contributing to the consolidation of the maritime cluster established in the Member States while maintaining an overall competitive fleet on world markets; maintaining and improving maritime know-how and protecting and promoting employment for European seafarers; contributing to the promotion of new services in the field of short sea shipping following the White Paper on Community transport policy.

3.4.7. *De minimis aid to the transport sector*

In March 2004, the Commission adopted a draft regulation which would extend to the transport sector the application of the de minimis regulation of January 2001 under which aid not exceeding a ceiling of €100 000 per enterprise over any period of three years does not constitute State aid within the meaning of the Treaty.

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60 Commission Regulation (EC) No 1/2004 of 23 December 2003 on the application of Articles 87 and 88 of the EC Treaty to state aid to small and medium-sized enterprises active in the production, processing and marketing of agricultural products (OJ L L 1, 3.1.2004).

61 http://europa.eu.int/comm/agriculture/stateaid/exemption/info_en.htm.

62 Commission communication C(2004) 43 - Community guidelines on State aid to maritime transport (OJ C13/3 17.1.2004).

3.5. Enlargement

In order to prevent incompatible aid from being "imported" into the EU on the date of accession, a system was set up to examine measures which were put into effect in the Acceding States before 1 May 2004 and will still be applicable after that date (the existing aid mechanism). The purpose of this mechanism is to provide Acceding States and economic operators with legal certainty as regards State aid measures that are applicable after the date of accession. A total of 222 State aid measures were accepted for inclusion in the Accession Treaty[63]. Between January 2003 and February 2004, Acceding States submitted a further 288 measures of which 110 have been approved or cleared for approval by the Commission. The relatively high number of cases still under assessment can be explained by the fact that most cases have been submitted only recently. The Commission has three months, upon receipt of a complete set of information, to assess each measure.

The autumn 2004 update of the Scoreboard will include detailed information on the State aid situation in each of the ten Acceding States.

4. ONLINE STATE AID SCOREBOARD AND REGISTER

The online Scoreboard contains electronic versions of this and previous Scoreboards as well as a set of key indicators, a wide array of statistical tables and internet-links to information on State aid policy issues of the Member States and the European Parliament.

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@cec.eu.int

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 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/

5. METHODOLOGICAL NOTES

The Scoreboard covers State aid as defined under Article 87(1) EC Treaty that is granted by the fifteen Member States and has been examined by the Commission. Accordingly, general measures and public subsidies that have no affect 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

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[63] Treaty of Accession was signed on 16 April 2003: http://europa.eu.int/comm/enlargement/negotiations/treaty_of_accession_2003/index.htm.

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. All State aid data refer to the implementation of Commission decisions and not cases that are still under examination, which once decided upon, may have an effect on historical data. State aid expenditure is attributed to the year it was made. 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 2000 prices. UK figures cover the financial year 2002-2003.

This edition of the Scoreboard focuses largely on 2002, the year following the Stockholm European Council where Member States committed themselves to demonstrate a downward trend in State aid in relation to GDP by 2003. A full set of State aid data for the year 2003 will only be available in early 2005 as Member States, together with the Commission, require up to one year to collect and analyse the data. In future, however, the Commission and Member States have pledged to reduce this time-lag with the result that 2004 data should be available by the end of 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 small and medium-sized enterprises is classified as aid for 'small and medium-sized enterprises'. In contrast, aid granted under, say, a regional development scheme may ultimately be awarded to small and medium-sized enterprises, but is not regarded as such if, at the time the aid was approved, the scheme was open to all enterprises.

For the first time, the Commission has collated some information on secondary objectives. A secondary objective is one for which, in addition to the primary objective, the aid was exclusively earmarked at the time the aid was approved. For example, a scheme for which the primary objective is R&D may have as a secondary objective 'SME' if it was directed exclusively at SMEs. As a result, the data now present a more accurate picture of the total amount of aid exclusively earmarked for SMEs though it is not possible to determine the total amount of aid that actually went to SMEs.

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