PART III: HORIZONTAL RULES

GUIDELINES ON REGIONAL STATE AID FOR 2014-2020

INTRODUCTION

(1) On the basis of Article 61(3)(a) and Article 61(3)(c) of the EEA Agreement, the EFTA Surveillance Authority ("the Authority") may consider compatible with the internal market state aid to promote the economic development of certain disadvantaged areas within the EEA.[1] This kind of state aid is known as regional aid.

(2) In these guidelines, the Authority sets out the conditions under which regional aid may be considered to be compatible with the internal market and establishes the criteria for identifying the areas that fulfil the conditions of Article 61(3)(a) and Article 61(3)(c) of the EEA Agreement.[2]

(3) The primary objective of state aid control in the field of regional aid is to allow aid for regional development while ensuring a level playing field between EEA States, in particular by preventing subsidy races that may occur when they try to attract or retain businesses in disadvantaged areas of the EEA, and to limit the effects of regional aid on trade and competition to the minimum necessary.

(4) The objective of geographical development distinguishes regional aid from other forms of aid, such as aid for research, development and innovation, employment, training, energy or for environmental protection, which pursue other objectives of common interest in accordance with Article 61(3) of the EEA Agreement. In some circumstances higher aid intensities may be allowed for those other types of aid, whenever granted to undertakings established in disadvantaged areas, in recognition of the specific difficulties which they face in such areas.[3]

(5) Regional aid can only play an effective role if it is used sparingly and proportionately and is concentrated on the most disadvantaged regions of the EEA.[4] In particular, the permissible aid ceilings should reflect the relative seriousness of the problems affecting

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1 Areas eligible for regional aid under Article 61(3)(a) of the EEA Agreement, commonly referred to as 'a' areas, tend to be the more disadvantaged within the EEA in terms of economic development. Areas eligible under Article 61(3)(c) of the EEA Agreement, referred to as 'c' areas, also tend to be disadvantaged but to a lesser extent. Due to the relatively high GDP per capita in the EFTA States, no region currently qualifies for the derogation under Article 61(3)(a) of the EEA Agreement.

2 These Guidelines correspond to the Communication from the Commission – Guidelines on regional state aid for 2014-2020 ("the Commission Guidelines"), adopted on 28.6.2013 (OJ C 209, 23.7.2013, p.1.)

3 Regional top-ups for aid granted for such purposes are therefore not considered as regional aid.

4 Each EFTA State may identify these areas in a regional aid map on the basis of the conditions laid down in Section 5.

the development of the regions concerned. Furthermore, the advantages of the aid in terms of the development of a less-favoured region must outweigh the resulting distortions of competition.[5] The weight given to the positive effects of the aid is likely to vary according to the applied derogation of Article 61(3) of the EEA Agreement, so that a greater distortion of competition can be accepted in the case of the most disadvantaged regions covered by Article 61(3)(a) than in those covered by Article 61(3)(c).[6]

(6) Regional aid can further be effective in promoting the economic development of disadvantaged areas only if it is awarded to induce additional investment or economic activity in those areas. In certain very limited, well-identified cases, the obstacles that these particular areas may encounter in attracting or maintaining economic activity may be so severe or permanent that investment aid alone may not be sufficient to allow the development of that area. Only in such cases may regional investment aid be supplemented by regional operating aid not linked to an investment.

(7) In the Communication on State aid modernisation of 8 May 2012,[7] the European Commission announced three objectives pursued through the modernisation of state aid control:

- (a) to foster sustainable, smart and inclusive growth in a competitive internal market;
- (b) to focus Commission *ex ante* scrutiny on cases with the biggest impact on the internal market while strengthening the cooperation with EU Member States in State aid enforcement;
- (c) to streamline the rules and provide for faster decisions.

(8) In particular, the Communication called for a common approach to the revision of the different guidelines and frameworks with a view to strengthening the internal market, promoting more effectiveness in public spending through a better contribution of State aid to the objectives of common interest, greater scrutiny of the incentive effect, limiting the aid to the minimum, and avoiding the potential negative effects of the aid on competition and trade. The Authority takes the same view. The compatibility conditions set out in these guidelines are based on those common assessment principles and are applicable to notified aid schemes and individual aid.

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5 See in this respect Case 730/79 *Philip Morris* [1980] ECR 2671, paragraph 17 and in Case C-169/95 *Spain* v *Commission* [1997] ECR I-148, paragraph 20.

6 See in this respect Case T-380/94 *AIUFFASS* and *AKT* v *Commission* [1996] ECR II-2169, paragraph 54.

7 Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of regions EU State Aid Modernisation (SAM), COM/2012/0209 final.