

Extension of the General Block Exemption Regulation (GBER) to ports and airports

The Commission adopted a new General Block Exemption Regulation (GBER) in 2014 as an integral building block of State Aid Modernisation ("SAM"). The GBER declares certain aid measures compatible with the internal market and exempt from prior notification to the Commission. The criteria of the GBER determine, in particular, eligible beneficiaries, maximum aid intensities (i.e. the maximum proportion of the eligible costs of a project that can benefit from state aid) and eligible expenses. These criteria are derived from the Commission's market experience and decision making practice.

Extension of the GBER to ports and airports

In recital 1 of the GBER, it is announced that the Commission envisages including ports and airports in the GBER, which have so far not been included, as soon as sufficient case experience has been collected. This initiative aims to simplify the application of State aid rules, thus reducing administrative burden and costs and speeding up the implementation of projects.

As already indicated in recital 1 of the GBER, the new provisions on ports and airports are necessarily based on a codification of existing practice (33 cases on ports and 54 on airports). In addition, the compatibility criteria for airports have to be based on the criteria contained in the Guidelines on state aid to airports and airlines (OJ C 99, 4.4.2014, p. 3).

For the proposed new provisions on airports please see the new Article 56a, as well as the corresponding definitions (Article 2, points 144 et seq.).

For the proposed new provisions on ports please see the new Articles 56b and 56c, as well as the corresponding definitions (Article 2, points 152 et seq.) and notification thresholds (Article 4 (1) (ee) and (ff)).

Other changes

The revision will also address some technical issues that the Commission has become aware of in order to make the GBER easier to use in practice.

This concerns in particular the provisions on **regional operating aid in outermost regions** (territories located far away from Europe, listed in Article 349(1) TFEU). Articles 349 and 107(3)(a) TFEU allow for exceptional treatment of outermost regions under State aid rules, due to their specific handicaps.

The current GBER rules for regional operating aid treat differently additional transport costs and other additional costs that undertakings have due to operating in outermost regions. However, the distinction between additional transport costs and other additional costs does not correspond to the way operating aid schemes in outermost regions function. In practice, these schemes are horizontal in nature (mainly tax exemptions applied to all undertakings operating in the region in question) and therefore compensate handicaps of companies in outermost regions without making a distinction between different cost elements. Moreover, the current GBER provisions for additional transport cost impose a strict reimbursement system that experience has shown to be burdensome to apply.

Therefore, a simplification of the rules is necessary. The aid ceilings are for this public consultation not yet filled in (percentage/amounts are left in brackets) because the Member States concerned will

submit in the course of 2016 updated studies that will help the Commission determine the appropriate level.

In addition, given the general and to some extent permanent character of the handicaps of outermost regions, as well as the fact that the aid schemes to address these handicaps often apply to all undertakings in the region (horizontal schemes), the exclusions of certain sectors from the provisions on operating aid do not seem justified.

In view of the limited negative effects on competition of aid for **culture**, it is planned to increase the GBER notification threshold for aid to culture.

Reduction of administrative burden

The Commission estimates the potential annual cost-savings that can be achieved by this initiative at several million Euros for companies and public authorities. As part of the REFIT agenda, the Commission will work with Member States and stakeholders to check whether the potential savings will be achieved in practise. The Commission would therefore appreciate if you could provide in reply to this public consultation any information that is relevant to estimate the reduction in administrative burden or your own estimation of the reduction.

Procedure

As required by the legal basis of the GBER (Council Regulation (EU) 2015/1588 of 13 July 2015), the Commission will carry out **two public consultations** on drafts of the Regulation and will consult Member States in Advisory Committee meetings on both drafts. **This is now the first public consultation.**