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# Opinion on the Commission's consultation relating to the provisions to simplify implementation of unproblematic state support for ports and airports

*(Approved by the General Assembly of the CPMR Islands Commission, 19-20 May 2016, Rhodes-South Aegean, Greece)*

## BACKGROUND AND APPROACHES

The Commission has opened a consultation concerning a proposal to amend the General Block Exemption Regulation (GBER). The regulation adopted in 2014 exempts from notification certain types of aid that are compatible with the market and pursues an objective to simplify and reduce the Commission's administrative and control procedures. The aids exempted are not notified to the Commission by Member States and are subject to a simple memo in order to significantly accelerate their implementation.

**This revision integrates two new sections into the various categories of aid** that are already part of the GBER: **Aid for regional airports** and **Aid for ports.** Other changes have been made to the terms of control of the aid exempted from notification and **regional operating aid in the outermost regions.** The GBER modification procedure is part of the provisions issued by the regulations themselves in order to incorporate certain types of unproblematic aid once the Commission's experiment is deemed adequate. The criteria for proposals issued by the Commission are based on 33 decisions relating to state aid for ports and 54 decisions concerning state aids for airports. Note that:

- The modification of the GBER does not relax the substance of the conditions under which aid is authorised.
- The purpose of this amendment is to simplify and reduce the administrative burden on public authorities and the Commission's control relating to this type of aid.

Since the very earliest stages of the plans to modernise state aid begun in 2013 by the Commission, the CPMR and its Islands Commission have argued for the inclusion of more consideration for island and peripheral regions. At February's Political Bureau held in Haarlem, a technical note from the CPMR highlighted the issues on which State aid schemes are still lacking despite the revision of various regulations and guidelines. The CPMR's Islands Commission is particularly concerned by the changes made to **operating aid exemption regulations** in the same way as all the CPMR regions are by the modifications relating to aid for ports and airports. The GBER modification procedure will go through two public consultations: this first one which will run until 30 May 2016 and a second one in July 2016, for an adoption of the proposed regulation in early 2017. Between each of these steps Member States will be consulted. The Commission is inviting public authorities, companies and other beneficiaries of this simplification to respond to the consultation.

In order to meet the deadline of this first consultation, the Islands Commission has approved the response elements at its General Meeting on 19-20 May. The validation of the consultation response document will then also be proposed to the CPMR College.

This document does not include all of the positions taken and adopted by the islands Commission and the CPMR in recent years in relation to state aid. It identifies policies that can be put forward in the context of this consultation.

**Response to the Commission's consultation relating to the provisions to simplify the implementation of unproblematic state aid for ports and airports.**

## Regional operating aid implemented in the outermost regions and sparsely populated areas.

This GBER exempts from notification certain types of aid relating to investment and to operations and urban development. The operating aid schemes are exempt if used to offset the additional costs related to the transport of goods in the outermost regions and sparsely populated areas, and to offset the additional operating costs other than those related to the transport of goods incurred in the outermost regions.
The Commission's GBER amendment proposal recognises firstly that the application of different rules for offsetting additional costs related to transport and other additional costs is inappropriate and does not mitigate the problems experienced by the regions covered by Article 349 of the Treaty.

Note that:

- The amendment proposed by the Commission presents itself as **a simplification of the provisions concerning the outermost regions, where** additional costs related to transport and additional costs other than those related to transport are no longer differentiated; see the comparison table below. For sparsely-populated areas, the offsetting of additional costs related to transport remains the same.

| **Existing GBE Regulations** | **Modification proposals made by the Commission** |
|---|---|
| **Article 15§1**<br>Regional operating aid schemes in outermost regions and sparsely populated areas shall be compatible (…) | *The substance remains the same* |
| **Article 15§2**<br>Regional operating aid schemes shall compensate for:<br>a) The additional transport costs of goods which have been produced in areas eligible for (…)<br>b) Additional operating costs other than transport costs incurred in the outermost regions (…) | **Article 15§2**<br>In sparsely populated areas, the regional operating aid schemes shall compensate for the additional transport costs of goods which have been produced as well as goods that are further processed in those areas (…)<br>Article 15§3<br>In outermost regions, the operating aid schemes shall compensate for the additional operating costs, incurred in these regions (…) |

- Compensation for additional transport costs that only relate to sparsely populated areas retain the exemption conditions and an aid intensity identical to those in the existing regulations.

- In terms of compensation for additional operating costs relating to the ORs, the conditions have been changed: the Commission has combined additional transport costs and other additional costs arising from the region's remoteness, and proposes to differentiate the amount of aid per beneficiary. In the Commission's proposal, the amount of aid per beneficiary under all operating aid schemes is differentiated: for companies engaged in manufacturing activities and companies engaged in other activities. The maximum annual amount of aid in the current regulations stands at 15% of the gross value added, 25% of the annual employment costs borne by the beneficiary or 10% of the annual turnover. The maximum amounts are not specified in the proposed amendment to the GBER. These must be completed by the Commission using the results from studies conducted by the Member States affected by this matter.

*Response elements*

The CPMR welcomes the decision to modify Article 15 of the GBER for operating aid in the outermost regions, aimed at offsetting all the costs borne by undertakings due to the region's remoteness, and to modify the aid ceilings in order to take realistic account, in line with the data supplied by each regions, of all the aid schemes which have been implemented up until now.

The CPMR requests that the Commission take into consideration the difficulties encountered by these regions when justifying aid per beneficiary, given the horizontal and fiscal nature of the schemes applicable to the outermost regions, as recognised in Articles 349 and 107 TFEU.

| **Aid ceilings** | |
|---|---|
| **Existing GBE Regulations** | **Modification proposals made by the Commission** |
| **Article 15§3.i.ii**<br>The annual aid amount per beneficiary under all operating aid schemes does not exceed:<br>-**15%** of the gross value added (…)<br>-**25%** of the annual labour costs incurred by the beneficiary (…)<br>-**10%** of the annual turnover (…) | **Article 15§3.i.ii**<br>The annual aid amount per beneficiary under all operating aid schemes does not exceed:<br>i) for undertakings engaged in manufacturing activities:<br>-[…%] of the gross value added (…)<br>-[…%] of annual labour costs (…)<br>-[…%] of annual turnover (…)<br>ii) for undertakings engaged in other activities<br>-[…%] of the gross value added (…)<br>-[…%] of annual labour costs (…)<br>-[…%] of annual turnover (…) |
| | **Article 15§3.iii**<br>The percentages set out in points (i) and (ii) may be increased by [... percentage points] in ORs that are located more than 4000 km from the capital of the Member State |

- This new regulation introduces a percentage point increase for the ORs located more than 4000 kilometres from the capital of the Member State concerned. The value of this increase has not yet been defined.

*Response elements*

**The CPMR calls for better consideration of additional costs linked to transport for the island regions**. Article 174 of the Treaty establishing the principle of "economic, social and territorial cohesion" recognises the specific nature of certain territories, including islands, that suffer from natural handicaps. Island territories are limited and isolated markets where transportation options are more restricted than on the mainland. Geographical constraints and the imbalance of flow suffered by carriers generate higher delivery costs. Island-based companies are mostly small and medium sized, cannot generate economies of scale and the market on which they are based is limited by the size of the island. The aid granted to maritime and air carriers within the scope of public service missions is not enough to put island industries on a level playing field with those on the continent.

To overcome this problem, **a system for operating aid to island companies should be set up in order to compensate for transport costs**. As part of the guidelines on regional aid and the GBER such aid should be authorised and exempt in the same way as for the outermost regions and sparsely populated areas.

## Aid for regional airports

The Commission's proposed GBER modification is based on the inclusion of new categories of aid including that of aid for regional airports. The framework for the types of aid exempted from notification is based on

the Commission’s case experience but also respects the terms of the guidelines on state aids for airports and airlines adopted in 2014.
Investment aid for regional airports introduced into the GBER relates to airports with an annual passenger traffic volume of up to 3 million passengers or 200,000 tonnes of freight. Given that the impact on the market depends on the size of the airport, no notification threshold has been established. The aid intensities are proportional to the size of the airport and reflect the terms of the guidelines.

- Aid is not granted to an **airport located at a distance of 100 kilometres or a maximum of 60 minutes** by car, bus, train or high-speed rail from an existing airport from which scheduled air services (..) are operated.

*Response elements*

▪ The boundaries of this area around the airport are however considered in the guidelines on state aid for airports and airlines as **variable depending on the characteristics of the airport including its location** (see definitions and scope of the regulation). As such, the catchment area should take into account in the GBER the specific territorial characteristics that define the peripheral, outermost, and island regions by adjusting the boundaries of this area in favour of these territories.

▪ The characteristics of exclusion could harm the development strategy of airports located in the **same catchment area and managed by a single operator**. It is appropriate to include this exception in the regulations.

▪ The criterion of a distance of 100 kilometres should be reduced by half, to 50 kilometres, and land discontinuities should be taken account of by discounting airports on disconnected land masses. It can be considered that for a distance below 50 kilometres, on the same land mass, realistic alternatives are available for users.

▪ It is regrettable that the proposals do not include the possibility of granting support on the basis of the GBER to the category of airports whose annual passenger traffic volume is between 3 and 5 million passengers. This criterion is however present in the guidelines on State aid to airports and airlines and concerns certain airports in outermost regions.

- The area of influence defined above does not apply to **airports which have recorded a maximum annual passenger traffic volume of 50,000 passengers.**

*Response elements*

The exclusion from the regulation exemption conditioned by the catchment area does not take sufficient account of dense airport networks, made up of many small platforms and whose social and economic benefits are significant for their territory. The limit of 50,000 passengers per year does not allow enough airports making up this network to be included in the scope of the exemption regulation and should be revised upwards.

Summary table of previous response elements:

| **Commission proposal** | | *Response elements* |
| --- | --- | --- |
| **Considerations** | **Articles** | |
| **paragraph (4)** It is appropriate not to grant aid to airports located near an existing airport from which scheduled air services are operated given that such aids carry a risk of distorting competition and should be notified to the Commission, | **(56a, paragraph 4)** Aid is not granted to an airport located within 100 km distance or a maximum of 60 minutes travelling by car, bus, train or high-speed train from an existing airport from which scheduled air services within the meaning of Article 2(16) of Regulation (EC) No 1008/2008 of the European Parliament and of the Council are operated. | - Due to the territorial specificities of peripheral and maritime regions, the airport's catchment area should be halved in these territories, in other words to 50 kilometres and 30 minutes.<br><br>-Paragraph 4 should not apply to airports which are located in the same catchment area and managed by a single operator nor to airports on disconnected land masses.<br><br>-The limit of 50,000 annual passengers in paragraph 7 excluding the application of paragraph 4 should be increased to 100,000 passengers. |
| ***Exception*** | | |
| , unless they are granted to very small airports (50,000 passengers per year maximum), for which any significant distortion of competition is excluded because of the very low traffic. | **56a paragraph 7)** Paragraph 4 does not apply to airports which recorded an annual passenger traffic volume of 50,000 passengers in the past two financial years preceding the year in which the aid is actually granted, provided that the aid is not aimed at enabling the airport to increase its annual passenger traffic volume beyond 50,000 passengers. | |

With regard to operating aid and start-up aid:

*Response elements*

***The CPMR requests that certain types of operating aid and start-up aid be exempted.*** Only the category of investment aid for regional airports is integrated into the GBER. **Operating aid granted to airports and start-up aid granted to airlines are not covered by the Commission's proposal.** They are however **essential to maintaining the connectivity of peripheral and island regions** and as such should be introduced in the same way as investment aid. This would also optimise the responsiveness of public authorities in the implementation of new lines that are dependent on the seasonality of traffic.

## Aid for ports

The Commission's proposal to integrate the category of aid for ports into the GBER consists of investment aid for maritime ports and investment aid for inland ports.

The terms defining the eligible costs and the amount of aid are the same for both types of ports. Costs excluded from eligibility: mobile equipment and maintenance dredging.

| **Eligible costs** | | **Excluded are** |
|---|---|---|
| Investments for construction or modernisation: | - port infrastructures and superstructures | - mobile equipment |
| | - access infrastructure | - maintenance dredging |

*Response elements*

**Investments linked to *maintenance* dredging should be exempted from notification**, all the more so given that dredging to increase the intake capacity is more expensive. This activity is vital for the proper functioning of the infrastructure even more so than for its competitiveness. Maintenance dredging should not be excluded from the costs eligible for investment.

Investment costs related to non-transportation activities, including active industrial installations within the perimeter of the port, offices or shops, are not eligible.

*Response elements*

As a tool for economic development, port facilities accommodate a growing share of non-transportation activities and face very strong competition from outside Europe. These investments, therefore, prove all the more necessary for competitiveness and the proper functioning of the infrastructure. As part of the development of **marine renewable energy, the exemption should be extended** to this business sector for investment in ports.

The maximum aid intensity decreases as the eligible costs increase.

| **Maximum aid intensity** | **Eligible costs:** | |
|---|---|---|
| | < or = to €20 million | 100% of the costs |
| | €20 m > x < €50 m | 80% of the costs |
| | €50 m > x < €100 m | 50% of the costs |
| For ports included in the **work plan of a Core Network Corridor** | > €120 m | 50% of the costs |

*Response elements*

**The discrimination made between ports in the core network and ports in the global network is unacceptable and goes against the principles of accessibility, particularly since ports in the global network also contribute to the realization of the trans-European transport network**. The ports in the global network drive competition distortion even less than ports in the core network. The eligible costs of up to €120 m should be extended to the entire TEN-T network.

The aid intensities defined above may be **increased for investments made in assisted areas**; namely, 10 percentage points in the case of areas falling under the terms of Article 107.3.a of the Treaty and 5 percentage points for those under Article 107.3.c.

*Response elements*

It is pleasing to see that specific provision has been made for the territories defined by the assisted areas, however, not all the territories suffering from geographical handicaps and facing problems linked to the development and maintenance of their transport activities are covered**. A measure for an increase in percentage points should be extended to the island, peripheral, and outermost territories**.

Summary table of previous response elements:

| Regulation proposal | *Response elements* |
|---|---|
| **Article 4 §1.ee and Article 56b**<br>- for investment aid for maritime ports of 100 million euros or 120 million for maritime ports included in the work plan of a Core Network Corridor. | -Extension of eligible costs of 120 million euros to all ports in the **core and global network.** |
| **Article 56b §2.d**<br>-The investment costs eligible for the construction or modernisation of access infrastructures, include dredging and exclude maintenance dredging. | - Notification exemption for **dredging works, including those for maintenance purposes** |
| **Article 56b §2.**<br>- Investment costs relating to non-transport related activities, including industrial production facilities active in the perimeter of the port (...) are ineligible | - Notification exemption for industrial activities in the sector of **Marine Renewable Energies within the perimeter of the port** |
| **Article 56b §5.**<br>Aid intensities may be increased by 10 percentage points for investments located in assisted areas fulfilling the conditions of Article 107.3.a and 5 percentage points when fulfilling the conditions of Article 107.3.c | -Extension of the 10 percentage point increase to **all the peripheral regions**, as defined in the GBER[1]. |

[1] Peripheral regions: outermost regions, Malta, Cyprus, Ceuta and Melilla, other islands which are part of the territory of a Member State and sparsely populated areas.