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RESEARCH AND DOCUMENTATION PAPERS

COMPETITION POLICY AND THE REGIONS

Introduction

It has been widely recognised in Community circles for many years that Articles 92 and 93 of the Treaty of Rome, which concern competition policy and define the circumstances in which "state aids" may be permitted, offer potentially an extremely important tool of Community Regional Policy.

The Committee on Regional Policy and Regional Planning of the European Parliament prepared a report on this subject in 1987[1] and the Commission of the European Communities has recently given especial attention to the question of state aids, adopting a first survey on this subject in December 1988 and a second survey in July 1990. The second volume of the Commission's publication of 1990 entitled "Competition Law in the European Communities" concerns 'Rules applicable to State aids' and provides the text of all the EC official documents concerned, including the frameworks applied to sectoral aid schemes[2].

The possibility of attracting mobile private investment to a particular location through the use of public subsidies has long provided the basis for most national policies for regional development. In the EC context there are two obvious reasons, other than ensuring fair competition, for applying common rules to this type of policy:

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[1] HUTTON Report on the effects of Articles 92 and 93 of the Treaty on regional policy, Doc. A2-114/87; Resolution of 15 October 1987, OJ C 318, 30.11.1987 - annexed.

[2] Luxembourg: Office for Official Publications of the European Communities, Catalogue number CV-42-90-002-EN-C

- the risk of national and regional authorities bidding against each other to attract investment in a mutually damaging way, thus increasing the cost to taxpayers unnecessarily

- the fact that wealthier regions and Member States are able to offer higher public subsidies, consequently reducing the possibilities of attracting private investment to the Community's poorest regions.

The creation of the Single Internal Market by the end of 1992 and the approach of Economic and Monetary Union have made these arguments much stronger, since the removal of barriers to the flow of goods and capital increases the relative importance of such public subsidies in attracting private investments. Enhanced competition will benefit less-favoured regions especially by offering consumers greater choice and lower prices in hitherto protected markets, while simultaneously offering larger markets throughout the Community for local producers. However, it also increases the pressures on public authorities to act to protect the interests of existing producers whose market share may be threatened. Although the basic argument for controlling state aids is concerned principally with the need to avoid distortions of competition in a single market, the regional policy grounds also have become increasingly important as these barriers fall. The Commission itself states in the Second Survey on State Aids[3]:

"In addition to the need to ensure that any aids that are granted by Member States in the Community do not frustrate the move towards the internal market, the Commission must verify that the remaining aids promote recognised Community objectives. In particular the Commission has in mind the goal of cohesion, which permits aid for the promotion of peripheral and poorer regions of the Community. The Community will continue to ensure coherence between its own structural funds and state aids such that the two are complementary not contradictory."[4]

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[3] "Second Survey on State Aids in the European Community in the Manufacturing and Certain Other Sectors" para. 5, - Document, published by OOPEC, Luxembourg, 1990 - catalogue no. CM-59-90-710

[4] See also Press Release IP(91)141 of 19 February 1991, "State Aid Policy: A Key to Greater Cohesion" in annex.

Furthermore, the state aids which affect the prospects of attracting investment to the Community's poorest regions are not only those aids used in the wealthier Member States for "regional " purposes. It is evident that even those aids designed to promote investment in innovation or to assist companies to meet higher environmental standards or to cover operating deficits of public sector transport may distort competition against the interests of weaker Member States and regions with a low fiscal capacity, which are unable to match such aids with equivalent subsidies.

The Commission thus decided in the mid-1980s to undertake a major effort to identify those state aids which affect competition and began an attempt to control the level of these aids more effectively, whether or not they were directed to regional policy goals. It is now possible to undertake a first assessment of the regional impact of this renewed attempt to impose Community competition rules, drawing on recent decisions by the Commission and on the two surveys mentioned above.

It should however be noted that forms of national or regional assistance to industry other than "state aids" may also have a major impact on the location of new investment. In particular, tax allowances and other types of "covert" aid will frequently be at least as important as direct subsidies. The extent to which the Community can play a role in rendering such aids transparent and in controlling them needs to be further investigated, although the Commission has for the first time revealed the significance of tax reductions for manufacturing[5].

More generally, it is evident that public resources of wealthy states may be used in many ways which promote objectives that are not directly linked to economic development but which give firms located in such states an advantage over rivals elsewhere. Thus, a high level of education, and even of health, among the workforce can both give a competitive edge to existing firms and favour the establishment of new ones. Clearly, it is impossible to seek to

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[5] Table VIII of the Commission's Second Survey on State Aids is reproduced in the Annex. It shows that tax reductions amounted to 60% of total aid to manufacturing in the case of Portugal, 55% in that of Germany, 37% in that of Ireland, 36% in that of Italy and 30% in that of the Netherlands (1986-88); for other Member States the proportions were much lower.

provide a "level playing field" or equivalent conditions of competition in all respects and the Community institutions cannot realistically expect to pursue the goal of bringing all Member States to equal levels in fields such as education and health. Nevertheless, there remain many other areas of public responsibility where the Community's structural funds may already assist national and regional authorities in improving the conditions for industry and these areas may be expanded in future. Factors within the control of the public authorities which affect competitiveness include the quality of public administration - not very susceptible to Community programmes of assistance- but also infrastructure, especially for transport, telecommunications and energy, where the ERDF and the European Investment Bank are already heavily involved, and a wide range of public subsidies for specific sectors (such as agriculture, small and medium-sized enterprises, exporters or "national champions" in high technology). In this latter category might be included also those subsidies of a general nature which reduce costs for manufacturers, such as contributions to operating costs of railways or power companies[6].

It is in this latter field of public subsidies, of course, that the Community's competition rules can be brought to play, as well as the structural funds, in the effort to achieve the "level playing field". The Commission has made a start, as will be seen below, on expanding the range of such subsidies which must be declared and approved at the Community level. It has also tried to catalogue them in its reports on state aids. However the range is vast and it is unlikely that all public aids which affect competition have yet been identified.

The Nature of State Aids

The two surveys on state aids have shown very large discrepancies in the levels and types of aid afforded to manufacturing and other economic sectors, which, although they reflect in part the relative wealth of the Member States concerned, also seem linked to cultural perceptions of the role of the state in the economy.

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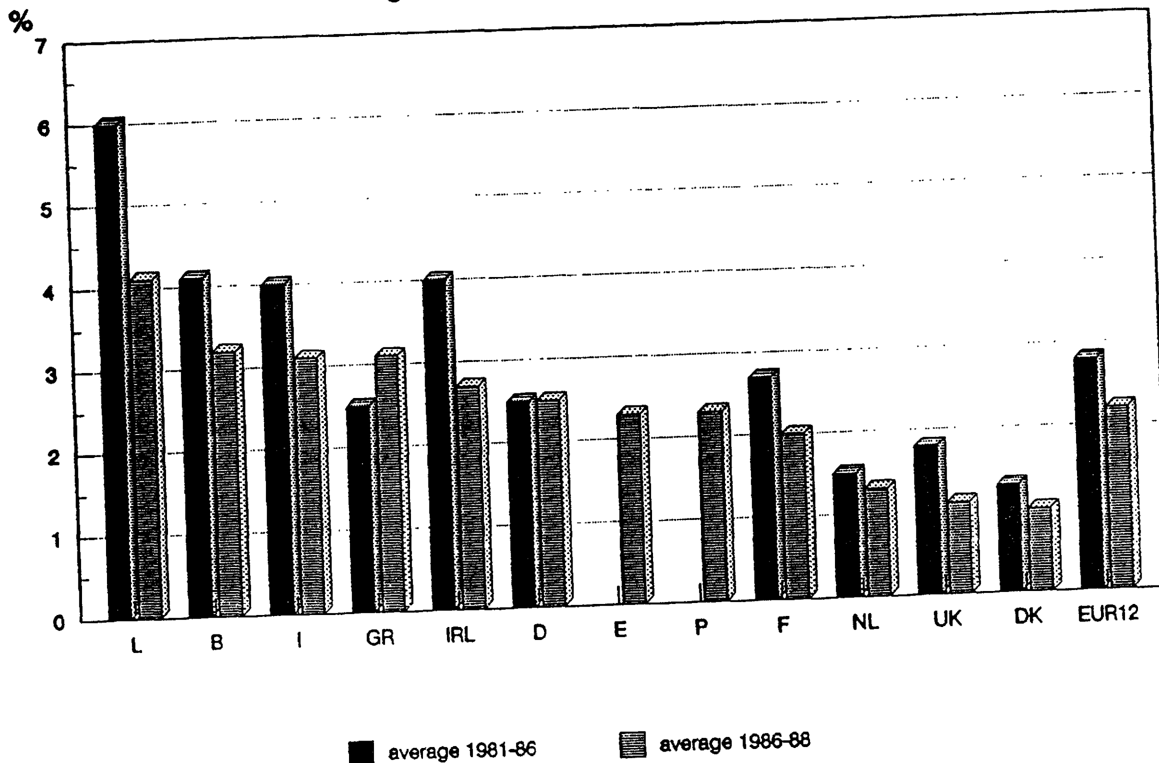
[6] It should be noted that the Commission in its Second Survey on State Aids did not deal with aid whose recipients are not directly undertakings (e.g. aid for infrastructure or public vocational training centres) nor with general measures such as tax schemes for co-operatives or the self-employed.

The information collected for the two surveys revealed that the four major objectives of aid were: agriculture/fisheries, manufacturing, railways and coal. In relation to GDP, Luxembourg (4.1%)[7], Belgium (3.2%) and Italy (3.1%) were the biggest spenders with the Community average being 2.2% for the period 1986-88. The UK and Ireland show a particularly large decline in total aid between the two periods covered by the reports (see Table 1 below). Table 2, by contrast, shows aids per employee and reveals how some poorer Member States such as Greece and Portugal appear lower in the hierarchy of aid intensity on this assessment than in the table showing aid as a proportion of GDP.

Graph 1



Source: Commission of the EC, Second Survey on State Aids in the EC, Table XII, Brussels, July 1990

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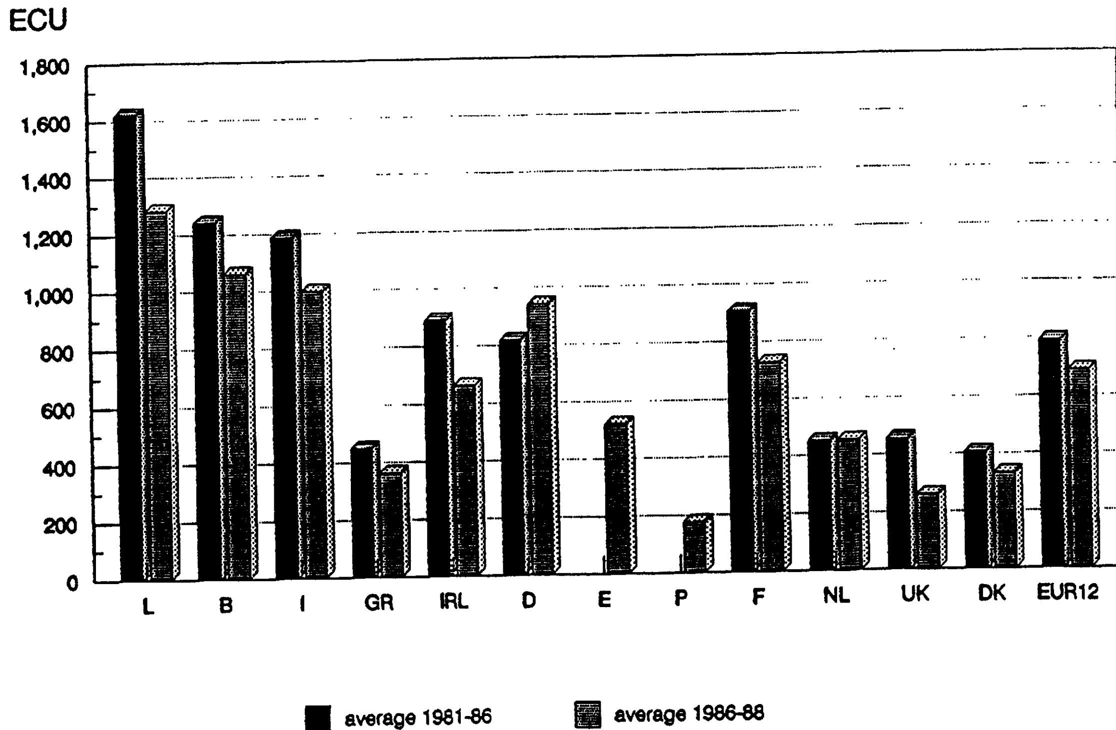
[7] Due to heavy subsidies to the railways.

Graph 2

Total aids per employee in ECU

average 1981-1986 and average 1986-1988

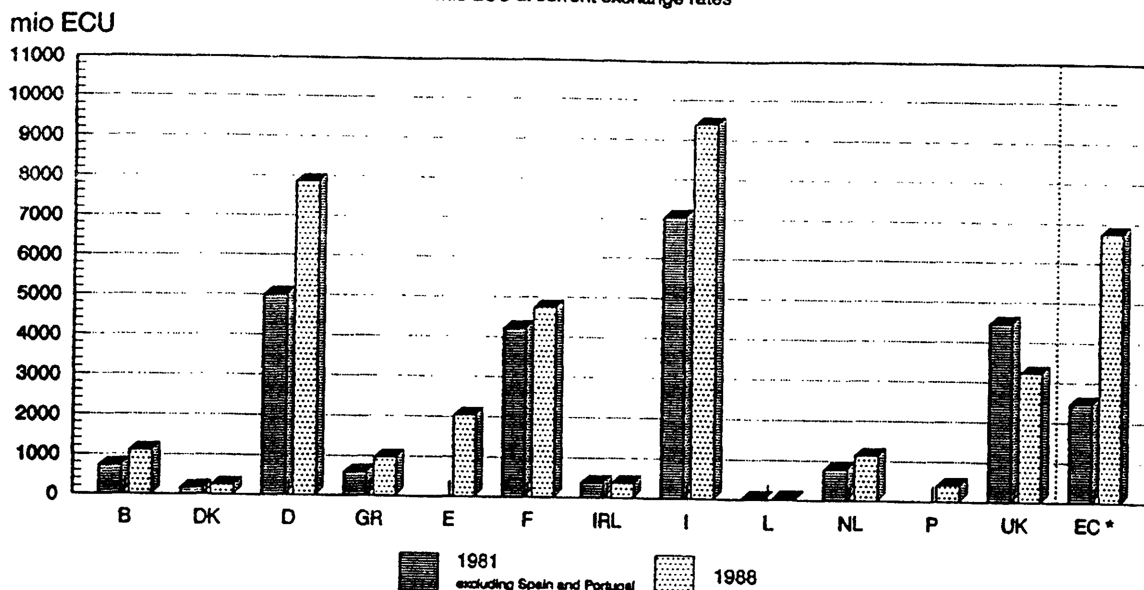


Source: Commission of the EC, Second Survey on State Aids in the EC, Table XII, Brussels, July 1990

Although Italy, the UK and Denmark all reduced aid to the **manufacturing** sector over the periods covered by the reports (1981-1986 and 1986-1988), leaving aside the steel sector which underwent a severe contraction in the early 1980s, most Member States have maintained the real value of public aid to manufacturing. Italy has reduced its overall commitment to such aid since it reached a peak in the period 1983-1985, but it remains at a level that is relatively very high in relation to other large Member States. Germany also has a high absolute level of such expenditure and is followed by France, the UK and Spain.

Graph 3

Aids to manufacturing
(excluding shipbuilding and steel)
mio ECU at current exchange rates

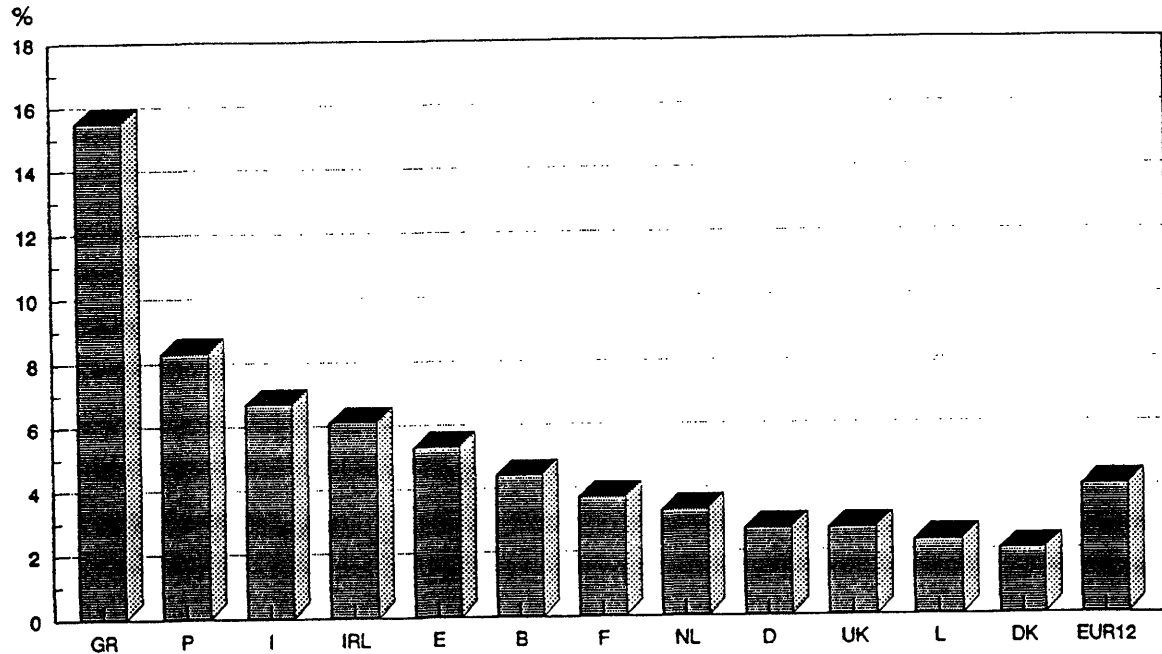


* EC data is for structural funds (payment allocations)
including: EAGGF-Guidance Fund, Social Fund and
European Regional Development Fund

Source: data from Commission, Second Survey on State Aids, Table 11b
and (for structural funds) from Commission's Annual Reports

As can be seen from Table 3 above, the public expenditure of several individual Member States on state aids to manufacturing alone, and excluding shipbuilding and steel, exceeded the total resources devoted to the Community's structural funds. When the excluded industries are taken into account together with other sectors such as railways, it is evident that the impact of the Community's efforts to promote cohesion is likely to have been swamped by the huge volume of public funds devoted to objectives which are frequently at variance with those of the Community. It should also be remembered that national public expenditure on programmes eligible for support from the structural funds (for example, on transport infrastructure or professional training) is not in fact included in this comparison and that in all but the poorest Member States the Community's support for such investments represents only a small proportion of the total public spending involved.

As a percentage of gross value-added in manufacturing the figures show a different story. Table 4 shows how state aids for this purpose in France, the Netherlands, Germany, the UK and Denmark are below the EEC12 average figure of 4%, while the other Member States are above (very considerably above in the case of Greece, although the figures are apparently unreliable for this Member State).



Source: data from Commission, Second Survey on State Aids, Table 1a

In some countries only a rather small proportion of these aids to manufacturing is represented by aid defined as "regional" and it is instructive to note how other objectives such as "agriculture" and "transport" generally receive a much larger share of public resources. Regional aid represented over the period 1981 to 1986 a maximum of one fifth of <u>all</u> state aids and for each Member State the proportion was as follows:[8]

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[8] Figures were not available for these years for Spain and Portugal. Ireland, Portugal and Greece are classified as single regions for the purposes of Article 92(3)a of the treaty and "regional expenditure" is therefore a term subject to interpretation.

Belgium	5%
Denmark	1%
Germany	18%
Greece	17%
France	3%
Ireland	21%
Italy	20%
Luxembourg	5%
Netherlands	8%
UK	15%

However, when the field is narrowed to state aid for manufacturing (about 40% of the total), aid for regional purposes rather than for "horizontal" purposes such as innovation amounted to 60% of the total aid for manufacturing in the case of Germany, 56% in that of Luxembourg, 55% in that of Italy, 39% in that of Ireland and 37% in that of the UK. It was of much less importance over the 1981-1986 period for Denmark (9%), Spain (3%) and France (9%). In the case of Germany, the sums allocated for regional aid were large because of the needs of Berlin and of the frontier "zone", including those areas adjacent to what are now the new "Länder", for which of course the justification has been removed.

Community controls

This section of the paper seeks to describe how the Commission's efforts to apply the Competition articles of the Treaty are affecting the regions and Member States in practice.

- General and Regional Aids to Promote Investment

Article 92(3)a of the EEC Treaty provides that state aids may be considered compatible with the common market where intended "to promote the economic development of areas where the standard of living is abnormally low or where there is serious unemployment". Article 92(3)c extends this possibility slightly to include "aid to facilitate the development of certain economic activities or of certain economic areas, where such aid does not adversely affect trading conditions to an extent contrary to the common interest."

In a Communication of August 1988[9] the Commission informed Member States of a new method for the application of these Articles of the Treaty. This Communication explained how the Commission was defining those regions eligible to receive these "national" aids - as opposed to Community assistance from the structural funds. It also established aid ceilings in terms of "net grant equivalent" and provided for the approval of some types of "operating" aid (as opposed to investment aids) under specific conditions. The regions eligible under the two Treaty articles concerned are listed in the Annexes to this Communication with varying maximum levels of aid specified for each of those regions covered by Article 92(3)c (i.e. those regions eligible for regional aid but generally situated in wealthier Member States). Investment in all Article 92(3)a regions, which correspond roughly - but not totally - to regions eligible for assistance under Objective 1 of the structural funds and comprise regions containing 26% of the Community's total population, may receive aid up to a maximum of 75% in net grant equivalent. Investment in Article 92(3)c regions may receive aid at lower rates which vary in accordance with the intensity of their problems - such regions are defined at the level of NUTS III or lower[10] and must have a level of GDP per capita at least 15% below the national average concerned and a level of unemployment at least 10% above the national average, as well as meeting various other criteria.

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[9] Published in OJ C212 of 12.8.88

[10] The "Nomenclature of territorial units for statistics" (NUTS) is a uniform system dividing the Community into a single breakdown of territorial units for statistical purposes. Thus, level 3 corresponds to 'Kreise' in Germany, 'Départements' in France, 'Provincie' in Italy and 'Counties (or Local Authority regions) in the UK.

Specific decisions by the Commission to enforce these guidelines have been rather infrequent until recently, but the series of press releases published by the Commission on its actions concerning state aids provides a useful and complete source for a preliminary assessment of their impact. This note has taken into consideration press releases on this subject from the beginning of 1988, the year in which the Commission published its Communication on regional aid mentioned above, which can therefore be taken as the start of an effort to apply Treaty rules in this sphere more vigorously.

Of interest for this study are firstly those concerning the Commission's examination of general or regional systems of investment aid in individual Member States. The Commission is engaged in a process of regular re-examinations of existing authorisations to Member States to conduct such schemes. However, authorisations for the poorer Member States to subsidise productive investment on regional policy grounds has - at least until recently - remained theoretical, since such Member States are rarely in a position to afford the subsidies to investment which they may be entitled to grant. Although the ERDF is now participating in the financing of some such national schemes to promote investment, the financial constraints make it all the more necessary to control closely the general and regional aids to investment offered by wealthier Member States, which may not only distort competition by subsidising investment by local enterprises but also divert "mobile" investment by multinational companies from what must be seen - at the Community level - as more "deserving" regions in the weaker Member States.

Thus, in June 1989 the Commission opened a procedure against Dutch regional aid under a national scheme which had not been notified to the Commission on the grounds that the scheme did not specify precise criteria, especially in regard to intensity, nor did the eligible regions conform to a list that the Commission had previously accepted[11]; the main lines of Dutch regional policy for the period 1991 to 1994 were however approved subsequently[12], following agreement to reduce both the amounts of aid available and the regions eligible. The Commission also announced in July 1990[13] a systematic review of

[11] IP/89/497
[12] IP/90/12/12
[13] IP/90/606

all existing state aid schemes to ensure their compatibility with the common market. It informed the Dutch government that its general investment aid scheme ("Versterking economische structuur") was not so compatible and the latter replied that it accepted the Commission's argument and would terminate the scheme as requested by 1 January 1991.

Similarly, the Belgian government was asked in July 1990 to abolish its general investment scheme contained in the 1959 "Loi d'expansion economique"; in this case also the national authorities accepted the Commission's argument, although the scheme was not phased out until 31 July 1991. A Commission Decision of 24 January 1991[14] required the Belgian government not to implement a plan of the Walloon authorities to grant aid under the terms of this law (consisting of a capital grant of Bfr 93 million and a five-year exemption from property tax) to the firm Mactac at Soignies. The Decision rejected arguments concerning high unemployment and low per capita GDP in this area, since Soignies is not included on the list of regions in Belgium eligible for regional aid. It is also interesting to note that the Commission initiated the review procedure in accordance with Article 93(2) of the EEC Treaty at end of February 1991 in regard to aid which the Flemish Community of Belgium plans to give to a chocolate manufacturer to assist investment in a major expansion of capacity, because the factory was not situated in a region eligible for a derogation from the competition rules[15].)

The Commission also decided on 26 March 1991[16] to propose to the Luxembourg government that the general régime of aid included in the framework law for economic expansion of 1986 should be abolished with effect from October 1991.

In regard to other schemes intended to promote investment specifically in less-favoured regions, the Commission investigated regional development assistance in Germany in 1987[17] and, after several meetings of the Commissioner with the Federal Minister concerned, approved a package involving a considerable reduction of the number of assisted areas and of aid intensities. The resulting 16th General Plan for joint Federal-Regional assistance and various special 3-year programmes for areas hit by problems in the steel and footwear industries covered 38% of the FRG's population;

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[14] OJ L156 of 20.6.91
[15] IP/91/154
[16] IP/91/266
[17] IP/87/573

individual Laender schemes were approved subsequently. However, in 1989 the Commission again opened a procedure against the inclusion of nine labour market regions in Germany's general system of regional aids; this procedure was closed after the Federal Government agreed to remove three of these and to bring back the proportion of the total population eligible to 38% with a view to further reductions from January 1991[18]. In regard to the new eastern Laender of Germany, the Commission approved on 26 March 1991[19] a régime of regional aid for the former territory of the GDR valid until the end of 1993 which permits investment projects to receive a maximum of 23% from the resources of the Federal/Laender system known as "Tasks of Common Interest"; with other fiscal incentives, aid may reach 35% in total of the cost of a particular investment. Agreement was reached in April 1991 on reductions in regional aid in the former West Germany so that the eligible population in the "old" Laender has been reduced to 27% with effect from January 1991, although there will be a phasing-out period for regions no longer eligible (especially the "Zonenrandgebiet" and West Berlin). A wide range of measures are to be abolished including special depreciation allowances, tax free reserves, reduced VAT liabilities and income support, as well as straightforward investment aid[20]. On the other hand, the Commission approved in late March 1991 an aid scheme in Berlin offering 80% of consultancy costs for business start-ups and other forms of support, principally for SMEs[21].

As regards the United Kingdom, regional investment aid is granted- occasionally - on the basis of Section 8 of the Industrial Development Act of 1982. In April 1991, the Commission announced that it had accepted an undertaking from the British government that offers of aid to firms under this provision would be notified to it, where such offers were made outside already approved specific schemes or programmes. The Commission has stated that it would normally refuse a proposal to grant aid for investment by a large firm outside assisted areas, in line with its policy against general investment aid[22].

The Commission conducted enquiries in 1988 concerning Ireland[23] and

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[18] IP/89/910
[19] IP/91/270
[20] IP(91)370
[21] IP(91)264
[22] IP(91)343
[23] IP/88/12/07

Portugal[24] which resulted in approval of the schemes concerned (that for Portugal was a new scheme, prepared with the Commission's assistance, which increased the maximum available aid intensity from 53% net to 75% gross (60% net) of the total investment in 'Zone 3' regions). Ireland's National Programme for Industrial Development for the period 1989 to 1992 contained further new aids, in particular for marketing, and these were also subsequently approved by the Commission[25].

In regard to France, the Commission, following its first decision[26] of October 1984 on types, levels of regional aid and eligible regions, had initiated an enquiry in 1988 into 24 regional planning grants outside eligible assisted areas, a procedure requiring the Commission's prior approval. It decided that 12 cases were compatible with the common market and that the 12 others were acceptable, given the social and economic situation in the regions concerned[27]. It drew attention nevertheless to the illegality of such aids in the absence of prior notification. Further reductions in the list of zones eligible for regional aid ("Prime d'aménagement du territoire") were proposed by the Commission in December 1990[28], after an examination of the "socio-economic evolution" since the 1984 decision. Ceilings have also been fixed for total amounts of various forms of regional aid directed to a single project, while the French government has been asked to define more closely zones eligible for special aid because of the run-down of the steel industry.

Some schemes examined by the Commission applied only to specific regions. In the same press release as that concerning the French cases mentioned above (see footnote 18), the Commission reported on its examination of two aid schemes for the department of Ariege regarding productive investment and tourism. Both were approved. Similarly, various schemes in support of small and medium-sized enterprises in the Basque country of Spain were approved in 1989[29] and the Commission increased the intensity of aid permissible for certain areas in this region[30]. Castilla y Leon was also examined by the Commission in 1989; and a regional aid scheme providing for maximum investment

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[24] IP/88/12/21
[25] IP/90/33
[26] OJ L11 of 12.1.85
[27] IP/89/985
[28] IP/90/1066
[29] IP/89/973
[30] IP/89/614

aid up to 75% in net grant equivalent was approved for some provinces and up to 45% for others[31]. However, on 7 February 1991 the Commission published in the Official Journal[32] a communication concerning a review of regional incentives in the areas of Madrid and Asturias whereby it rejected a Spanish government request for an extension of a derogation from the Treaty rules for aids to investment in the region of the capital, for which the Commission had previously authorised aid up to a maximum of 45% in net grant equivalent for a period of three years. A continuation of this level of aid was permitted for the Asturias up to June 1993.

The Commission initiated a procedure against Italy in 1989 concerning regional aid to certain provinces of the region Friuli-Venezia Giulia[33] in which it attacked all support for investment in two provinces and criticised as "ill-suited to the nature and severity of the regional problems in question" various regional aid measures in two others. No outcome has yet been reported. More recently the Commission has attacked various changes to the Italian legislation concerning zones of the Mezzogiorno affected by the earthquake of 1981[34]; the decision strikes down certain aspects of various Italian laws intended to assist these zones (the most recent law being no.120/87) which concern regional incentives to investment and, in particular, the increase to 75% of total investment for subsidies to small and medium-sized companies investing in the region concerned, the increase in the maximum level of investments admissible and the increase in the geographical area of the eligible zones. The Commission states that, so many years after the earthquake, the economic problems of the zones affected were not serious enough to warrant new extraordinary measures of public support, beyond those already approved, and demands that certain grants be recovered from the recipients. The Italian government was required to report on how it would put this decision into effect by the end of March 1991, but no information is yet publically available in regard to their reply. In April 1991 the Commission approved a new Italian law promoting SMEs, but only for a 1-year period since

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[31] IP/89/457

[32] OJ C32/91

[33] IP/89/534

[34] Commission Decision of 25 July 1990, not yet published in the Official Journal but sent to Parliament in response to Written Question E-2626/90 of Mr. Mattina.

the Commission will shortly review policy on permitted intensity of aid for SMEs and their definition[35].

- Other aids to manufacturing

Many forms of state aid not intended to promote investment in specific regions can, nevertheless, have the effect of diverting investment away from the Community's poorer Member States and regions, which may not have the resources to match the grants or other incentives offered by their wealthier neighbours. Aid for **innovation** is one such example.

The Commission regularly announces decisions authorising particular schemes of the Member States designed to promote research. On 14 February 1991, for example, it approved schemes to promote research in the new Laender of Germany under EEC Treaty Article 92(3)c[36], to provide subsidies for the recruitment of foreign researchers for programmes "important for the long-term development of the Danish economy" (which were found not to affect trading conditions adversely)[37] and to promote research into integrated circuits and antibiotics in Italy (under Art. 92(3)c)[38]. However, aid for research in sensitive sectors such as steel may be subject to special Community rules (see below in regard to "sectoral aid") and at the end of February 1991 the Commission found aid to an Italian steelworks in the form of a low-interest loan as possibly not fulfilling the conditions established by the code on aid to the steel industry, because it threatened to distort competition. The Commission therefore opened the review procedure for this aid, even though it simultaneously approved Italian aid for another steelworks' research and development[39].

Environmental protection is another field in which aid may frequently be authorised by the Commission, but here too there are regional implications. Even when there are no consequences for trade, state aid given to a company in a wealthy Member State will frequently be beyond the reach of a poorer country or region. The increasing tendency to establish minimum standards in regard to

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[35] IP(91)341
[36] IP/91/121
[37] IP/91/118
[38] IP/91/120 and 91/119
[39] IP/91/168

pollution by manufacturing enterprises will obviously affect weaker regions negatively unless such aids are made available from Community sources. In 1991 the Commission approved[40] a Belgian government plan to give the chemical firms Solvay SA and Solvic SA a capital grant of 2.8 MECU and a three-year exemption from property tax to finance a reduction of toxic waste on the grounds that Community trade was unaffected. Nevertheless, such aid raises serious problems for regional policy insofar as pollution control becomes the subject of regulation at the Community level.

An interesting example of environmental aid which has been struck down, despite the region concerned being eligible for regional aid under Objective 1 of the structural funds, occurred recently in Sardinia[41]. A steel firm was granted aid by the Sard region for the selective elimination and recycling of waste collected on the island. Despite the environmental advantages, the Commission rejected this aid as incompatible with its 1987 code on aid for the protection of the environment, on the grounds that it constituted operating aid and not aid for investment in adapting the facilities of the enterprise to new standards.

Rescue aid is, of course, another contentious area. Firms that face closure often present severe political problems to regional and national politicians because of the redundancies that result and the expectation from workers that political authorities should be able to influence the outcome of commercial decisions. Such pressures are greater where a region is already suffering severe economic problems and a shortage of alternative job opportunities. Recently the Italian authorities decided to approve aid to the main manufacturer of newsprint in Italy, Nuova Cartiera di Arbatax, a company based in Sardinia which had been re-established following a long period of extraordinary administration after many years of losses. 80% of the capital of the new firm was provided by public sources. The Commission believed that this capital constituted state aid incompatible with the common market and also objected to the financing of a part of the aid by a tax on pulp, paper and board, including that imported from other Member States[42]. In this case the

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[40] IP/91/77

[41] IP(91)506

[42] IP/91/169. Subsequently, the Commission rejected the Italian government's proposal gradually to reduce tax relief on paper exports and levies on imports (IP(91)347).

aid was in any case illegal because not notified to the Commission, but it will be interesting to see to what extent the Italian authorities arguments concerning the regional problems of Sardinia will be accepted in justification of such rescue aid. Investment aid to a Belgian manufacturer of self-adhesive paper was rejected by the Commission earlier this year principally because the plant was not located in an area eligible for assistance[43].

- Aids to specific sectors

Aid for research in the steel sector was briefly discussed above. Regions affected by the run-down of traditional industries such as steel, shipbuilding, coal-mining and textiles are frequently classified under Objective 2 of the structural funds as eligible for Community financial support and it is therefore natural that special competition rules should also apply in regard to investment and other aids for these sectors. Thus the Commission authorised on 6 February 1991 payment of aid to the German coal industry for 1990 involving the enormous sum of DM 3550 million, most of which was destined to assist sales through price subsidies[44]. A further such decision was taken in April 1991 in regard to the French coal-mining industry, for which aid amounting to FF 1.153 billion was authorised for 1991, covering 52% of the industry's losses[45]. The regional implications of such large volumes of aid are clearly very important, particularly when the redundancies which have already been implemented in many coal-mining areas of the Community are taken into account. However, it is notable that the Community's largest coal producer, the United Kingdom, has, according to a recent Commission report[46], decided not to grant any further aid to the British Coal Corporation, apart from aid to cover the cost of redundancies and other social costs of restructuring. At some point, in fact, it must be expected that the Commission will cease to authorise state aids in this sector because of the evident distortion to trade in energy products, an area where the Commission has just decided to promote trade between Member States and break down national frontiers. It may prove impossible anyway for the German government to

[43] IP/91/54

[44] IP/91/100. Apparently this was a reduction on the figure for 1989 of DM 4027 milliom (ECU 1945 million) or more than ECU 25 per tonne.

[45] IP/91/299

[46] The application of the Community rules for State Aid to the coal industry in 1989, SEC(91)1240 final, Brussels 28 June 1991

maintain such a high level of sectoral subsidies, given the huge financing requirements of unification.

In regard to aid for the ship-building industry, the Commission has taken several decisions recently which are of interest for regional policy. In January 1991 it decided to approve an aid programme for Spanish shipyards, thus closing a procedure opened in July 1989[47]; the aid approved had concerned production of ships for which contracts were signed during the period 1987-1990 and compensation for losses amounting to nearly 300 billion pesetas, as well as aid of 35 bn pesetas for non-shipbuilding activities in state-owned yards. Apparently the 6th and 7th shipbuilding directives specifically allow for special treatment of the Spanish industry during re-structuring. Production aid may in fact be granted by Member States without specific permission from the Commission subject to certain conditions. Where shipyards from different Member States are in competition for the same contract aids must be notified to the Commission which will permit only the lowest aid offered that will allow the contract to be carried out in the Community. In January 1991 the Commission thus opened a review procedure concerning a dredger contract for which some Member States proposed to offer aids but others did not[48]. More generally, Member States are permitted by the 6th directive to offer production aid up to a maximum of 26% of contract value; debt write-off and reductions in loan interest for a Dutch shipbuilder in 1989 were found recently to constitute state aid but within this limit[49]. In contrast, a Commission review concerning aid to an Italian shipyard seems likely to result in the cancelling of additional aid for the construction of a series of vessels on the grounds that the yard is already receiving a high level of direct and indirect aid and its losses are being met by public funds[50]. Aid from the Belgian government for nine contracts has also just been vetoed by the Commission on the grounds that the aid intensity exceeds the maximum levels fixed under the 6th directive[51], while the Commission also examined five schemes of the Greek government intended to support its ship-building industry of which two were found not to constitute aid and the rest to be within the ceilings mentioned above; operating aid for ship-repair was

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[47] IP/91/38
[48] IP/91/75
[49] IP/91/263
[50] IP/91/230
[51] IP/91/229

found, however, to be incompatible with the 6th directive and therefore with the common market[52].

A final sector in which state aid for investment purposes is a frequent event despite over-capacity in the industry is motor vehicle construction. Recent decisions by the Commission indicate that, despite the problems of individual firms in this sector which are suffering from the severe competition resulting from such over-capacity, the advantages for regional development are still considered to outweigh the disadvantages to existing producers. Thus, the Commission decided to raise no objection to the award of 'regional planning grant' (PAT) to Saab-Scania by the French government for the construction of a heavy goods vehicle production facility at Angers, in the department of Maine-et-Loire, since the aid proposed (9.85% of total investment) was within the ceiling appproved by the Commission for this area[53]. Similarly, the Commission has just authorised aid by the Portuguese government (of which 70% financed indirectly by the ERDF) for the construction by Ford and Volkswagen of a large plant at Setubal, near Lisbon, which will manufacture "multipurpose" vehicles competing with the Renault-Matra 'Espace'. The aid proposed represents about 33% of the eligible investment and amounts to ECU 547 million[54].

On the other hand the Commission has recently struck down aid by the Bavarian Land government to anenterprise in the synthetic fibres sector[55]. The Bavarian Regional Assistamnce programme had granted investment aid and soft loans amounting to a total net grant equivalent of 12.4% to the firm Reinhold for an expansion of its capacity despite the existence of a communication to Member States of 6 July 1989 on state aid to the synthetic fibres industry which requires prior approval from the Commission and limits aid to incentives for disinvestment, excluding any net increase of production capacity. Although the investment was located in the 'Zonenrandgebiet', the Commission did not consider this to exempt the aid from the control provisions mentioned and believed that none of the paragraphs of Article 92(3) of the EEC Treaty were applicable. It therefore required the German Federal Government to recover the aid from Reinhold.

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[52] IP/91/213

[53] OJ C160 of 20.6.91

[54] Agence Europe of 4 and 5 July 1991

[55] OJ L156 of 20.6.91

- Other measures to assist enterprises

Apart from overt aid to enterprises of the type discussed above, there are several forms of "assistance" afforded by national governments or local authorities to enterprises which may also distort competition and work against the interests of less-developed regions. Under pressure from the Commission, governments which had hitherto been reluctant to acknowledge that such assistance should be classified as state aid have agreed to accept that Community competition rules also be applied in areas such as tax exemptions, soft loans and equity participation (where capital injections from public funds do not respect commercial criteria). Thus, following the opening of a Commission enquiry in November 1990, the French authorities recently agreed not to permit the accumulation of tax exemption with other aids after an initial rejection of the Commission's argument that its "Enterprise Zones" should not receive favourable tax treatment in addition to other aids[56]. More recently, the Commission has announced enquiries into the intended provision of fresh capital to the publically-owned French electronics companies Bull and Thomson, on the one hand[57], and to the airline company, Sabena, on the other[58].

There exist however many other methods of granting public aid to enterprises, especially when these are wholly or partially owned by the state. Even the process of privatisation may afford companies, and therefore regions in which these companies' activities are situated, unfair advantages over competitors. The sale, for example of shares in a state-owned enterprise, to a bank, which may or may not itself be state-owned, but which in turn receives an infusion of public capital to compensate for the share purchase, may simply amount to a public subsidy for investment or acquisitions of other firms which put the recipient in a more favourable competitive position.

Another such "untraditional" form of state aid is the provision of land at below its free market price to investors in new facilities. In February 1991 the Commission opened a procedure under Article 93(2) of the Treaty concerning possible state aid by the Land of Berlin to Daimler-Benz for the location of

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[56] IP/91/122
[57] IP/91/293
[58] IP/91/288

its headquarters for service activities[59]; the price proposed seemed to the Commission to be too low, even though German law requires that public land be sold at market values, and the German authorities have been asked to provide a second valuation. Similarly, in December 1990 the Commission published in the Official Journal[60] a Communication concerning a land purchase agreement between Derbyshire County Council (United Kingdom) and Toyota Motor Corporation in which it announced the opening of a procedure to investigate possible state aid in the sale at a price below market value of a site for the construction of a new car factory.

Conclusion

It may appear that the examples quoted in the last part of this paper have only an indirect link with regional policy. However, it should be noted that, as the single market is completed and competitive pressures increase throughout the Community, public authorities will in turn come under increasing pressure to assist enterprises and regions which are struggling to compete. Where traditional forms of state aid to investment are curtailed by the Commission's efforts to enforce the competition rules in the Treaty of Rome, governments will increasingly seek out new ways of providing such assistance. As before, wealthier and more advanced regions will be better equipped not only to compete directly on the single market but also to offer sophisticated forms of public aid to enterprises. It is therefore essential that the Commission continue to investigate all forms of state aid and apply the rules strictly in the interests of cohesion and of the weaker regions.

Competition policy constitutes an essential tool to promote the competitiveness of the Community's economy but it is also crucial to the economic integration of the Community. The stimulus to innovation and higher productivity offered by international competition lies at the basis of the argument for the Single Market and will provide the economic growth which must underpin the Community's efforts to promote cohesion and narrow the wide gaps in productivity and living standards between the Community's regions.

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[59] IP/91/183

[60] OJ C326 of 28.12.90 p.8

11. Stresses the need to keep up the momentum for implementation of the White Paper and resolves to give Internal Market proposals priority under its new procedures; insists, however, that proposals be transmitted to Parliament in good time, and that Council and Commission resort less frequently to urgency procedures;

12. Instructs its President to forward this resolution to the Commission and Council.

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8. Effects of Articles 92 and 93 of the Treaty on regional policy

— **Doc. A2-114/87**

RESOLUTION

on the effects of Articles 92 and 93 of the Treaty on regional policy

The European Parliament,

— having regard to Article 130 A of the Single Act,

— having regard to the fact that over 50 % of the surface area of the EEC is defined as assisted area,

— conscious that some Member States are seeking to enlarge the scope of their assisted areas while others are reducing it,

— aware of the increasing number of investigations pursuant to Articles 92 and 93 of the EEC Treaty initiated by the Commission in order to examine the competitive effects of regional aids,

— considering that the number of investigations initiated by the Commission is likely to increase,

— acknowledging that the reduction of regional imbalances within a Member State and, above all, between the regions of the Member States is in the interest of the Community,

— welcoming the Commission's move to take greater control over a wider range of aids (OJ No C 3, 5. 1. 1985),

— having regard to the report of the Committee on Regional Policy and Regional Planning (Doc. A2-114/87),

1. Recalls its previous resolutions which called for the concentration of aid from the Member States and the Community's structural funds in the weakest regions;

2. Considers that the development regions in a number of Member States, which are not among the less developed in the Community, are too big in terms of area and population;

3. Calls on those Member States to concentrate their regional aid in their weakest regions in order to avoid distortion of competition in accordance with Article 92 of the EEC Treaty and promote the more efficient use of funds;

4. Notes that the economically developed Member States whose national economies tend to reflect less regional disparity, allocate relatively more state aid for the promotion of economic development zones than the economically less developed Member States;

5. Notes that the Member States with weak economies and, consequently, with acuter regional problems tend to be unable to provide the aid needed to reduce their regional disparities and that therefore, the ceilings on investment aid in those countries (up to 75 %) are frequently only nominal;

6. Is aware that the developed Member States must also have a certain degree of latitude in future to pursue their own independent national regional policies but believes that the overriding need to promote investment in the Community's least favoured regions must take precedence where it is in conflict with such latitude;

7. Calls, therefore, on the Commission to pay more attention to effects on competition of combined forms of aid, particularly those applying outside assisted areas;

8. Notes that national aid still appears to be a necessary instrument of structural policy;

9. Notes that the Commission has altered the methods and basic principles that it applies in assessing the admissibility of aid without first adequately informing the recipients and institutions concerned, and that this has created a degree of uncertainty;

10. Calls on the Commission to publish its new methods of assessment and new policy guidelines in the Official Journal as soon as possible so that the institutions concerned and the recipients of aid are fully aware in advance of the possible implications of receiving aid, and is convinced that the number of assessment procedures would be reduced if the Member States were better informed;

11. Stresses that greater transparency in the methods of assessment must not restrict the Commission's necessary freedom of action;

12. Calls on the Commission to ensure not only that national aid does not prejudice competition but also that it does not represent a waste of resources by supporting out-of-date spheres of activity at the expense of sectors with sound prospects; stresses, however, that certain forms of aid are justified on social grounds, which have to be taken into account;

13. Notes the current methods used by the Commission to assess the admissibility of national aid, is concerned, however, by the fact that each of the Community's structural funds and loan instruments use different indicators to evaluate the socio-economic situation of the regions and hence to determine the allocation of Community resources;

14. Welcomes the Commission's recent clarifications regarding the authorization of aid to the less developed regions, based on Article 92 (3) (a) of the Treaty;

15. Expresses serious concern over the regional impact of the Commission's proposal to establish a framework system for national aids to agricultural income (COM(87) 166 final) which would suspend application of Articles 92 to 94 of the Treaty; fears that such a system may subsequently weaken the competitive position of farming in less-favoured regions and would thus not contribute to the pursuance of greater economic and social cohesion within the Community;

16. Considers that Articles 92, 93 and 94 of the Treaty ought to apply to such aid inasmuch as Article 92 (3) makes it possible *inter alia* to grant aid when it helps to reduce economic disparities between regions and to promote the convergence of the economies of the Member States;

17. Requests the Commission, therefore, to use common and up-to-date indicators as far as possible in assessing the socio-economic situation in the regions in connection with structural fund aid;

18. Believes in general that state aid to disadvantaged regions tends to have less of a distorting effect on competition if the recipients are small or medium-sized enterprises with local or regional market impact and asks the Commission to work out appropriate criteria;

19. Calls, therefore, on the Commission when assessing aid under Article 92 to consider in future not only the amount of aid and the socio-economic situation of the region but also the size of the enterprise concerned and its importance in terms of intra-Community trade;

20. Calls on the Commission to give maximum publicity to the results of these checks;

21. Calls on the Commission in the interests of greater transparency to compile, regularly update and publish the following data:

- a list of all the national aids provided by the Member States,
- the annual totals for aid provided by the Member States and, where applicable, by local and regional authorities,
- regional aid expenditure as a percentage of all industrial investment,
- a list of the regions designated by the Member States and, where applicable, local and regional authorities as development areas, specifying the surface area and population,
- a list of the Community regions which in the Commission's view qualify for structural fund aid on the grounds of their socio-economic situation,
- the extent to which the 'additionality' of ERDF aid is respected by the Member States;

22. Calls on the Member States and the Commission to improve and update their statistical data on the regions;

23. Instructs its President to forward this resolution to the Council and the Commission.

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9. Appointment of six members of the Court of Auditors *

TALSMANDSTJENESTEN - DIENST DES SPRECHERS - SPOKESMAN'S SERVICE - SERVICE DU PORTE-PAROLE
ΥΠΗΡΕΣΙΑ ΕΚΠΡΟΣΩΠΟΥ ΤΥΠΟΥ - SERVIZIO DEL PORTAVOCE - DIENST VAN DE WOORDVOERDER

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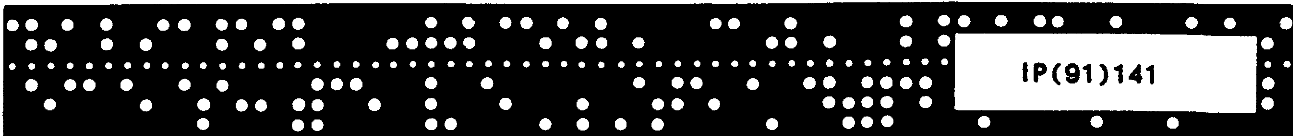

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ΑΝΑΚΟΙΝΩΣΗ ΓΙΑ ΤΟΝ ΤΥΠΟ • INFORMAZIONE ALLA STAMPA • MEDEDELING AAN DE PERS

Brussels, 19 February 1991

STATE AID POLICY: A KEY TO GREATER COHESION

Extracts from a speech by Sir Leon Brittan
Vice-President of the European Commission,
to the Kangaroo Group, Strasbourg, 19 February 1991

Today I want to focus on the positive contribution which the Community's state aid policy can make to narrowing the gap between richer and poorer regions in the Community, in short, to cohesion. State aid policy is sometimes presented as a negative policy - the headline writers love to write "Commission says no to Member State X" or "Commission blocks subsidies to company Y". If they looked beneath the surface they would see that we only say no in order to preserve the interests of other parties, usually a wider and often a weaker group. All state aid has a regional impact, but for present purposes I want to concentrate particularly on national regional aid.

Commission policy on national regional aid has been developed over the last 20 years on the basis of two main principles:

- limitation of regional aid to areas where a justification can be demonstrated in terms of the Community as well as the national interest;
- authorisation of increasing amounts of aid and more types of aid to those areas which have the greatest structural handicap.

In considering the role of national regional aid in achieving greater cohesion, it is necessary to take account of both absolute and relative amounts. The Commission is prepared to authorise high levels of investment aid for the poorest parts of the Community, with up to 75% of the capital expenditure in those areas with particularly low living standards or under-employment. In fact though, the level of aid actually paid per project (with the exception of the Mezzogiorno), is only around half the level of the ceilings authorised by the Commission - even with Community cofinancing included. Why? Because of budget constraints.

.../...

KOMMISSIONEN FOR DE EUROPÆISKE FÆLLESSKABER - KOMMISSION DER EUROPÄISCHEN GEMEINSCHAFTEN
COMMISSION OF THE EUROPEAN COMMUNITIES - COMMISSION DES COMMUNAUTES EUROPEENNES - ΕΠΙΤΡΟΠΗ ΤΩΝ ΕΥΡΩΠΑΪΚΩΝ ΚΟΙΝΟΤΗΤΩΝ
COMMISSIONE DELLE COMUNITÀ EUROPEE - COMMISSIE VAN DE EUROPESE GEMEENSCHAPPEN

This is illustrated by the following table:

Member State	92.3(a) regions Intensity approved	Average rate paid
Portugal	75% net	usually 30-40%
Spain (highest approved regions)		
Andalucia	75% net	22% gross
Extremadura	75% net	18.5% gross
Galicia	75% net	25.7% gross
Ireland	60-40% net	23% (1988)

National budgetary constraints are also relevant in terms of the volume of regional aid actually spent. Even with the important recent doubling of the Structural Funds, national spending far outstrips Community funding. For example, annual national average spending in the period 1986-88 was 12 bn ECU compared to ERDF commitments of 3.7bn. However, this comparison is not between likes - the figure of 12bn ECU is for aid paid directly to companies whereas the ERDF figure includes 2.7bn ECU spent on infrastructure. National spending on infrastructure is not normally considered by the Commission as a state aid so the real comparison is between 12 bn ECU national regional aid to companies and a maximum of 1bn ECU Community assistance to companies.

It is interesting to look at which countries spend the most money. Germany spends an average 4.5bn ECU annually on regional aid and, leaving aside the previously special cases of Berlin and the areas which border on the former East Germany, it spends 500 MECU on assisted areas in West Germany. Similarly, taking the Mezzogiorno out of the Italian annual figure of 4.9bn ECU, we still see an average of 655 MECU for the centre and north of Italy. I am not seeking to deny that these regions can have problems which may justify the granting of aid under certain conditions, but in a single market where companies will be competing without let or hindrance across the length and breadth of the Community, it is important to view problems from a Community as well as a national perspective. The figures I have just quoted compare to annual averages of 65 MECU for Spain, 159 MECU for Ireland and only 23 MECU for Portugal.

These figures seem to show that availability of aid is related more to national budgetary strength than to the size of structural handicap or degree of objective need when viewed in the Community context. Therefore, unless national regional aid is strictly controlled in the more prosperous central regions and limited to areas which pose a problem at a Community as well as on a national level, these areas will continue to pull ahead of the poorer regions, not just because of the existing mix of advantages but also because of the artificial advantage of public subsidies. Aside altogether from considerations of competition policy, the need to foster cohesion requires that the Commission take a tough stance on aid in the richer regions.

So, to answer the question "are we serious about cohesion": the answer must be yes. It is because I am serious about cohesion and competition that I will continue to campaign against the granting of unfair and excessive state aids in the richer, central regions of the Community. Community solidarity means more than just contributing to the Structural Funds. It also means resisting the temptation to give help to companies which are already in a favourable situation so as to leave room for a little help to their competitors in the less favoured regions.