



## REGIONAL GROWTH FUND

### Round 2: Information for applicants

Department for Business, Innovation and Skills  
Department for Communities and Local Government  
HM Treasury  
Department for Transport  
Department for Environment, Food and Rural Affairs

**BIS** | Department for Business  
Innovation & Skills



**HM TREASURY**

*Department for*  
**Transport**



# Introduction

The Coalition Agreement committed the Government to “create a fairer and more balanced economy, where we are not so dependent on a narrow range of economic sectors, and where new businesses and economic opportunities are more evenly shared between regions and industries.”<sup>1</sup>

Part of the Government’s programme to deliver this vision was announced in the Budget, which committed the Government to create a Regional Growth Fund. The size of the fund was agreed, as part of the Spending Review, as £1.4 billion over three years.

The Regional Growth Fund (RGF) has two main objectives:

- (a) To encourage private sector enterprise by providing support for projects with significant potential for economic growth and create additional sustainable private sector employment; and
- (b) To support in particular those areas and communities that are currently dependent on the public sector make the transition to sustainable private sector led growth and prosperity.

The RGF will be a challenge fund spread over several bidding rounds, with applications considered against the fund’s core criteria and objectives. Applications that meet one of the two objectives will be considered, but those that meet both will have priority.

The Fund will encourage private sector enterprise, including social enterprise to create opportunities for people and places to adjust to reductions in public spending, and enable private sector investors, business, the public sector and communities to come together with an overall strategy for their area.

## Eligibility

The fund is open to applications from the private sector, and public/private partnerships, based in England. Applications will need to demonstrate how they will help deliver the objectives of the RGF. It is envisaged that the RGF will provide a mixture of direct support for investments that would not otherwise occur and which will create sustainable employment and infrastructure provision to remove barriers to private sector-led economic growth.

All applications will be assessed using the HMT framework for appraisal and evaluation set out in the Green Book:

[http://www.hm-treasury.gov.uk/data\\_greenbook\\_index.htm](http://www.hm-treasury.gov.uk/data_greenbook_index.htm)

Where a project or programme will involve financial support for a private sector undertaking the support must be compatible with EU State Aid and procurement rules. The RGF application forms have been designed to satisfy the needs of the Green Book appraisal

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<sup>1</sup> Published 12 May 2010

framework and therefore applicants that provide only partial or incomplete information will be at a disadvantage. Further advice is available on the RGF website:

<http://www.bis.gov.uk/policies/regional-economic-development/regional-growth-fund>

The minimum amount of RGF funding that can be applied for, “the Bid Threshold,” is £1 million.

## First bidding round

There will be a minimum of two bidding rounds for RGF funding. The first round opened on 28 October 2010 and closed on 21 January 2011. The first round was open to applications for Projects and Project Packages, these are defined as:

- **Projects:** Individual projects that make a specific and significant contribution to the core aims of the RGF. These bids will individually need to meet the Bid Threshold.
- **Project packages:** A number of individually specified projects that form a coherent package and that together make a specific and significant contribution to the core aims of the RGF. In aggregate the package must meet the Bid Threshold.

## Second bidding round

The second round opened on 12 April 2011 and will close at noon on 1 July 2011. The second round is open to applications for **Projects, Project Packages<sup>2</sup>** and **Programmes**.

Projects and Project Packages maintain the same definition as in round 1 (above).

Programmes differ from projects in that programme proposals will need to demonstrate a **clear over-arching investment strategy** for a **specific geographical area**.

There is no prescription as to the scale or complexity of geographic area that can be covered by a programme bid – applicants will need to set out the case for the geographic extent of the programme, having regard to the purposes for which the Regional Growth Fund has been established and the local enterprise partnerships strategic priorities, where these exist.

Programmes provide for a collaborative approach to delivering a set of related activities, in the target area, which create sustainable private sector jobs and growth.

There is no prescription about the content of a programme – it’s for applicants to clearly set out the rationale for their proposal. One of the potential benefits could be the ability to draw on the capability and capacity of a number of different organisations, of different types, so as to give greater certainty of deliverability of the outcomes, for example a programme bid could include new jobs and skills, support housing growth and transport improvements under one programme.

The objectives of each Programme will need to be aligned with the core objectives of the RGF and each Programme will need to meet the Bid Threshold.

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<sup>2</sup> Projects and Project Packages are referred to simply as Project/Projects/Project(s) in some places, from this point forward.

# Assessment Criteria

Every application will be assessed against the Green Book criteria set out below. At any stage of the appraisal process you may be asked to clarify the information provided in your application. If the independent Advisory Panel considers that your application does not contain sufficient information for a decision to be made, you will be informed and you may then submit your application for a later bidding round.

## Project Location

All areas of England are eligible to bid for the Regional Growth Fund, although some parts of the country, particularly where there is currently a vibrant private sector, may struggle to demonstrate how they meet the second objective of the Fund. In addition to the information presented in the bid, decisions on successful bids will therefore take into account intelligence from the DWP led Labour Market Group, which will be actively monitoring and anticipating which areas are most at risk of future job losses. Such an approach will enable decisions to reflect the shifting economic landscape and to ensure that, over the lifetime of the Fund, projects are prioritised on the basis of both their contribution to growth and prosperity, and their wider contribution to rebalancing the economy.

In addition bidders should be aware that EU State aid restrictions mean that financial support for Capital Investment by large companies can only be provided if the project takes place in an Assisted Area. Information on Assisted Area status can be found at:

<http://www.bis.gov.uk/policies/regional-economic-development/assisted-areas>

## Additionality

Support will only be given for Projects and Programmes that will not be pursued in the absence of RGF support – i.e. RGF must lead to *additional* economic activity. Additionality will be assessed with regard to the commercial attractiveness of the project or programme and the market failures that prevent the private sector taking forward the activity without support. A key objective of the additionality assessment will be to establish the minimum amount of support required – and the most appropriate structure for that support.

## Sustainable private sector growth

Projects and Programmes must deliver sustainable private sector economic activity. The commercial logic of each proposal will therefore be considered, including the extent of private sector commitment to the Project(s) or Programme. The assessment will also include a broader market assessment that will consider the impact of the Project(s) or Programme on other market participants.

## Value for Money

Projects and Programmes must demonstrate good value for money, as set out in the Green Book with proportionate treatment of risk, uncertainty and optimism bias. Consistent with the objectives of the Fund, this will have a particular focus upon the creation and

safeguarding of net additional employment. Examples of the local and wider sources of value that could be considered include: distributionally weighted private returns (as a proxy for economic benefit), supply chain impacts, R&D and skills spillovers, agglomeration benefits, social and environmental impacts.

## **Governance and capability**

This criteria will be assessed for Programmes only. All Programmes will need a lead partner with whom HMG can contract. The lead partner will become the accountable body for the Programme and will manage claims and programme funding allocation, consolidate all financial management and reporting, as well as ensuring that State Aid issues are managed and that sub-contracting follows normal public procurement practice, together with any additional due diligence that might be required as the programme develops.

Programme bids will therefore be assessed for the capability of the programme operator to manage, appraise and evaluate the programme in a way that is Green Book compliant and which delivers the objectives of the RGF.

## **State Aid Compliance**

Where a Project or Programme will involve financial support for a private sector undertaking the support must be compatible with EU State Aid rules. These State Aid rules are complex and wide-ranging, for instance, support for some sectors such as agriculture, steel-making, shipbuilding and the manufacture of synthetic fibre is restricted, for other sectors only some types of expenditure can be supported and there are ceilings on the amount of assistance that can be provided. Potential applicants are advised to ensure that their project(s) or programme is eligible in principle before undertaking detailed work on an application. Applicants should also be aware that under State Aid rules support is notifiable to the Commission in certain circumstances and not payable until Commission approval has been obtained.

In taking on the accountable body role, the lead partner in a Programme will be responsible for ensuring that any provision of public funds to a private sector undertaking as part of the programme is compliant with State aid rules and procurement law.

Annex B summarises some of the main provisions of the EC General Block Exemption Regulation with regard to Regional and SME Investment Aid, and support for R&D&I and Training activities that may be a useful guide for some applicants.

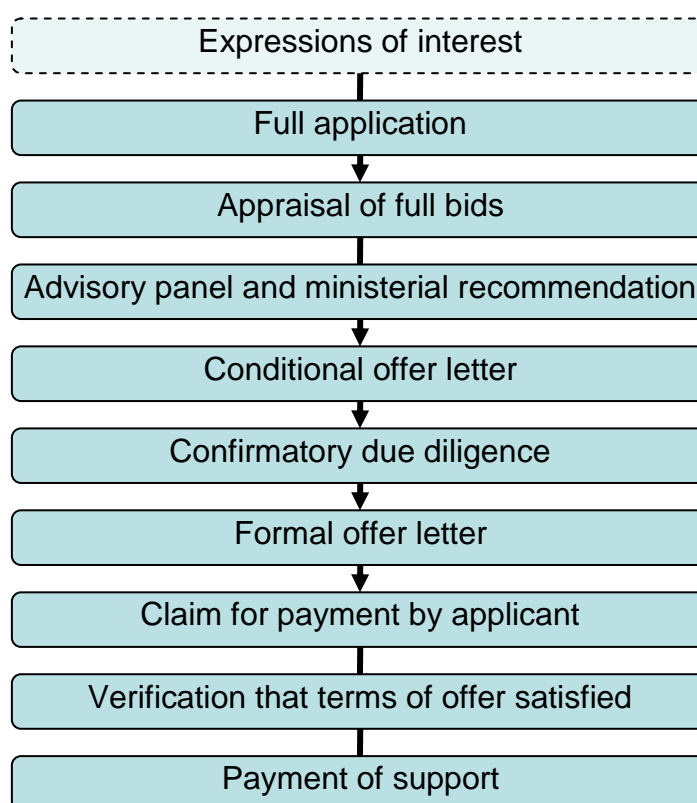
# Application Process

This section outlines the key steps of the application process, covering all stages from the launch of the bidding round, through to the payment of RGF support

The first round of bidding, which commenced 28 October 2010 and closed on 21 January 2011, was intended for bids that are at an advanced stage of planning.

The second round opened on 12 April 2011 and will close on 1 July 2011.

The second round will be carried out in line with the full two-stage process set out below.



The RGF application form is in two parts. Applicants must complete both parts of the form:

<http://www.bis.gov.uk/policies/regional-economic-development/regional-growth-fund>

The information requested is needed to check that Projects and Programmes will fulfil the objectives of the fund, and to help prioritise RGF bids and to ensure that taxpayer's money is used properly.

No financial resources will be provided by HMG to assist bidders in compiling their applications. However, in-kind HMG resources (such as application clinics at RGF roadshows) will be dedicated to supporting bidders in completing the application forms in addition a formal feedback process for Round 1 bidders.

Applications received after a bidding round has closed will not be considered unless resubmitted for a subsequent bidding round.

## Stage 1: Expressions of Interest

Bidders can request an expressions of interest session using the following email address:

[RGFround2applications@bis.gsi.gov.uk](mailto:RGFround2applications@bis.gsi.gov.uk), starting the subject line with 'EOI'.

For these sessions, bidders are required as a minimum to complete the *Executive Summary* of the application form in order to give officials enough information about the project to enable them to provide meaningful feedback. If you are also able to complete in draft the rest of the form this will permit more substantive feedback. These forms should be returned in electronic format to the RGF Secretariat office when booking the expressions of interest session at the email address provided above.

Please state in your email if you are interested particularly in; State aid advice, location, ERDF match, employment evaluation, value for money or other advice.

You will then be offered either an individual meeting or to attend a 1:1 session at a Roadshow, the dates for which will be published online at:

<http://www.bis.gov.uk/policies/economic-development/regional-growth-fund>.

As the deadline for Round 2 approaches, it will become more difficult for the RGF Secretariat to offer expressions of interest sessions. So we advise that requests for these sessions are put in by 1 June, 2011.

## Stage2: Full Bid Stage

Bidders can then choose whether to submit a full bid based on the feedback received during the Expressions of Interest stage.

For Round 2 full bids should be submitted by email to

[RGFround2applications@bis.gsi.gov.uk](mailto:RGFround2applications@bis.gsi.gov.uk) by noon on Friday 1 July, 2011.

## Stage 3: Appraisal of Full Bids

The full appraisal of full bids will be performed according to the following criteria;

Criteria	Information
<b>Project Location</b>	<p>A quantitative assessment of suitability of the Project/Package/Programme location will be made based upon DWP Labour Group analysis for the functional economic area(s) affected. Indicators will include (i) the claimant count; and (ii) the concentration of public sector employment.</p> <p>This analysis will be augmented by other quantitative/qualitative evidence regarding localised impacts (e.g. indirect impact of public sector retrenchment and other</p>

Criteria	Information
	impacts not captured by labour market statistics).
<b>Additionality</b>	A detailed assessment of qualitative and quantitative evidence to demonstrate i) market failure; or ii) reasons that project or programme would not proceed at the specified location in the absence of RGF support.
<b>Sustainable private sector growth</b>	Financial analysis of project Profit & Loss and Discounted Cash Flow for base case and downside scenarios, and as assessment of qualitative and quantitative evidence provided in relation to market forecasts and commercial narrative.
<b>Value for Money</b>	<p>A Green Book-compliant assessment of economic impacts associated with the project – with particular focus on investment and employment impacts. Where possible benefits (including social and environmental) will be monetised but consideration will also be given to unquantifiable impacts.</p> <p>Key assessment metrics include risk-adjusted Net Present Value (including H/M/L scenarios) and other vfm benchmarks, including (i) cost per net direct private sector job; and (ii) the ratio of private to public sector investment.</p>
<b>State Aid Compliance</b>	A detailed assessment of whether the proposal is State Aid compliant and whether individual Projects will require European Commission notification or approval.

Initial appraisals will be scrutinised by a panel of senior officials to ensure fairness and balance across bid types and locations.

For complex industrial cases, the advice of the independent Industrial Development Advisory Board (IDAB<sup>3</sup>) may be sought before the case is considered by the independent Advisory Panel.

## Stage 4: Advisory Panel and Ministerial Recommendation

The Independent Advisory Panel will be presented with an individual appraisal paper for each application. This paper will be structured according to the appraisal criteria set out above and will document details of the underlying analysis. In addition to this, an overview matrix will be provided to the Panel, which summarises the performance of all bids against key assessment criteria, in order to aid the effective comparison and prioritisation of bids.

<sup>3</sup> IDAB have a statutory role in advising the Secretary of State with respect to the exercise of functions under sections 7 and 8 of the Industrial Development Act 1982.

The Independent Advisory Panel may from time to time seek the advice of third parties, for example from academics with a respected overview of the economic landscape, to help them assure delivery of a balanced portfolio.

The Independent Advisory Panel will make a recommendation to Ministers with regard to which Projects, Packages and Programmes best address the objectives of the RGF, but the Ministerial group will make the final decisions regarding support and prioritisation.

### **Stage 5: Conditional Offer Letter**

If an application is approved by the Ministerial group a conditional offer letter that sets out the terms and conditions of the RGF support will be sent to the applicant. The offer of support will be conditional upon satisfactory confirmatory commercial, financial and legal due diligence as appropriate by an independent third party.

The applicant will be responsible for the cost of the confirmatory due-diligence.

The conditional offer letter will seek to be as complete as possible, including provisionally agreed payment milestones and monitoring arrangements, to ensure that there is minimal delay in issuing a formal offer letter once due-diligence has been completed satisfactorily.

In some cases, offers will also be made conditional on the satisfactory and timely completion of i) statutory planning processes; and ii) procurement exercises to finalise scheme costs, but applicants should be aware that receiving a conditional RGF offer will in no way prejudice or otherwise influence the (separate) planning consents process.

At this stage certain successful applications may be publicised.

### **Stage 6: Confirmatory Due Diligence**

Confirmatory due-diligence will be required for all successful applications in order to verify that the information and assumptions presented in the application form is a true and fair reflection of the Project, Package or Programme. Due-diligence will include a detailed analysis of the financial model underpinning the project, and verification that the assumptions are reasonable and that the business plan is coherent and deliverable within acceptable risk parameters.

Third party confirmatory due diligence will be commissioned and paid for by the applicant. The scope of this commission will be agreed with HMG at the conditional offer letter stage, but will be proportionate to the scale of the project and amount of RGF support.

In the event that the confirmatory due diligence process generates specific areas of concern, the views of the independent Advisory Panel will be sought.

### **Stage 7: Formal Offer Letter**

If confirmatory due-diligence is completely satisfactory, a formal offer letter setting out the final terms and conditions of RGF support will be sent to the applicant. If the applicant is a consortium separate offer letters with specific terms and conditions may be sent to different members of the consortium.

Once an offer has been accepted, no allowance can be given for any subsequent increase in overall project costs.

HMG may seek a parent company or bank guarantee to underwrite the payment of RGF support to a private sector undertaking.

RGF offer letters will include a “no obligation to pay date” after which the operating authority will be under no obligation to pay claims. The purpose of the no obligation to pay date is to avoid open-ended commitments that extend beyond the expected life of the RGF.

At this stage successful applications may be publicised.

## **Stage 8: Payment of Support**

RGF support will normally be phased in line with third party expenditure and/or job creation / safeguarding.

The process for making a claim will be set out in the offer letter. Each claim will need to be supported by independent accountant’s report in the form specified in the offer letter. The independent accountant’s report will verify that the employment and investment milestones specified in the offer letter have been reached.

The RGF programme office will seek to pay claims or explain why payment is being withheld within 30 days of receiving a properly documented claim.

Recipients of RGF support will be required to participate in on-going monitoring and evaluation activities to help HMG assess the impact of the RGF, and, where necessary, to ensure that Projects fulfil State aid rules regarding the maintenance of employment and / or assets at the project location.

# Annex A

## Regional Growth Fund Independent Advisory Panel members

**Lord Heseltine**, Chair

**Sir Ian Wrigglesworth**, Deputy Chair

**Sir Alan Cockshaw** (Chairman, CapitaLand UK Holdings Limited, and Past President of the Institution of Civil Engineers)

**Felicity Goodey** (Businesswoman, former senior BBC journalist)

**Tony Greenham** (Programme Head, New Economics Foundation)

**Sir Richard Lambert** (former Director General, CBI)

**Lord John Monks** (Former General Secretary of the TUC)

**Jon Moulton** (Chairman, Better Capital equity group)

**Caroline Plumb** (Entrepreneur, Freshminds)

**Sir David Rowlands** (Chair of Gatwick Airport Limited and Angel Trains Group Limited)

**Mark Seligman** (Chartered Accountant and Banker, Credit Suisse)

**Andrew Shilston** (Finance Director, Rolls Royce)

**Lord Mike Storey** (Former Leader Liverpool City Council)

**Prof. Tony Venables** (Academic Economist, Oxford University)

(RGF Secretariat, updated 27 July 2011)

# Annex B

## **Selected extracts from the General Block Exemption Regulation regarding Regional and SME investment aid; R&D&I aid, and Training Aid.**

### ***Article 2: Definitions***

For the purposes of this Regulation the following definitions shall apply:

1. "aid" means any measure fulfilling all the criteria laid down in Article 87(1) of the Treaty;
2. "aid scheme" means any act on the basis of which, without further implementing measures being required, individual aid awards may be made to undertakings defined within the act in a general and abstract manner and any act on the basis of which aid which is not linked to a specific project may be awarded to one or several undertakings for an indefinite period of time and/or for an indefinite amount;
3. "individual aid" means:
  - (a) ad hoc aid; and
  - (b) notifiable awards of aid on the basis of an aid scheme;
4. "ad hoc aid" means individual aid not awarded on the basis of an aid scheme;
5. "aid intensity" means the aid amount expressed as a percentage of the eligible costs;
6. "transparent aid" means aid in respect of which it is possible to calculate precisely the gross grant equivalent ex ante without need to undertake a risk assessment;
7. "small and medium-sized enterprises" or "SMEs" means undertakings fulfilling the criteria laid down in Annex I [of the General Block Exemption Regulation];
8. "large enterprises" means undertakings not fulfilling the criteria laid down in Annex I [of the General Block Exemption Regulation];
9. "assisted areas" means regions eligible for regional aid, as determined in the approved regional aid map for the Member State concerned for the period 2007-2013;
10. "tangible assets" means, without prejudice to Article 17(12), assets relating to land, buildings and plant, machinery and equipment; in the transport sector transport means and transport equipment are considered eligible assets, except with regard to regional aid and except for road freight and air transport;
11. "intangible assets" means assets entailed by the transfer of technology through the acquisition of patent rights, licences, know-how or unpatented technical knowledge;

12. "large investment project" means an investment in capital assets with eligible costs above EUR 50 million, calculated at prices and exchange rates on the date when the aid is granted;
13. "number of employees" means the number of annual labour units (ALU), namely the number of persons employed full time in one year, part-time and seasonal work being ALU fractions;
14. "employment directly created by an investment project" means employment concerning the activity to which the investment relates, including employment created following an increase in the utilisation rate of the capacity created by the investment;
15. "wage cost" means the total amount actually payable by the beneficiary of the aid in respect of the employment concerned, comprising:
  - (a) the gross wage, before tax;
  - (b) the compulsory contributions, such as social security charges; and
  - (c) child care and parent care costs;
16. "SME investment and employment aid" means aid fulfilling the conditions laid down in Article 15;
17. "investment aid" means, regional investment and employment aid under Article 13, SME investment and employment aid under Article 15 and investment aid for environmental protection under Articles 18 to 23;
18. "disadvantaged worker" means any person who:
  - (a) has not been in regular paid employment for the previous 6 months; or
  - (b) has not attained an upper secondary educational or vocational qualification (ISCED 3); or
  - (c) is over the age of 50 years; or
  - (d) lives as a single adult with one or more dependents; or
  - (e) works in a sector or profession in a Member State where the gender imbalance is at least 25 % higher than the average gender imbalance across all economic sectors in that Member State, and belongs to that underrepresented gender group; or
  - (f) is a member of an ethnic minority within a Member State and who requires development of his or her linguistic, vocational training or work experience profile to enhance prospects of gaining access to stable employment;
19. "severely disadvantaged worker" means any person who has been unemployed for 24 months or more;
20. "disabled worker" means any person:
  - (a) recognised as disabled under national law; or
  - (b) having a recognised limitation which results from physical, mental or psychological impairment;
21. "sheltered employment" means employment in an undertaking where at least 50 % of workers are disabled;

22. "agricultural product" means:
  - (a) the products listed in Annex I to the Treaty, except fishery and aquaculture products covered by Regulation (EC) No 104/2000;
  - (b) products falling under CN codes 4502, 4503 and 4504 (cork products);
  - (c) products intended to imitate or substitute milk and milk products, as referred to in Council Regulation (EC) No 1234/2007 [25];
23. "processing of agricultural products" means any operation on an agricultural product resulting in a product which is also an agricultural product, except on-farm activities necessary for preparing an animal or plant product for the first sale;
24. "marketing of agricultural products" means holding or display with a view to sale, offering for sale, delivery or any other manner of placing on the market, except the first sale by a primary producer to resellers or processors and any activity preparing a product for such first sale; a sale by a primary producer to final consumers shall be considered to be marketing if it takes place in separate premises reserved for that purpose;
25. "tourism activities" means the following activities in terms of NACE Rev. 2:
  - (a) NACE 55:Accommodation;
  - (b) NACE 56: Food and beverage service activities;
  - (c) NACE 79: Travel agency, tour operator reservation service and related activities;
  - (d) NACE 90: Creative, arts and entertainment activities;
  - (e) NACE 91: Libraries, archives, museums and other cultural activities;
  - (f) NACE 93: Sports activities and amusement and recreation activities;
26. "repayable advance" means a loan for a project which is paid in one or more instalments and the conditions for the reimbursement of which depend on the outcome of the research and development and innovation project;
27. "risk capital" means finance provided through equity and quasi-equity financing to undertakings during their early-growth stages (seed, start-up and expansion phases);
28. "enterprise newly created by female entrepreneurs" means a small enterprise fulfilling the following conditions:
  - (a) one or more women own at least 51 % of the capital of the small enterprise concerned or are the registered owners of the small enterprise concerned; and
  - (b) a woman is in charge of the management of the small enterprise;
29. "steel sector" means all activities related to the production of one or more of the following products:
  - (a) pig iron and ferro-alloys:

pig iron for steelmaking, foundry and other pig iron, spiegeleisen and high-carbon ferro-manganese, not including other ferro-alloys;
  - (b) crude and semi finished products of iron, ordinary steel or special steel:

liquid steel cast or not cast into ingots, including ingots for forging semi finished products: blooms, billets and slabs; sheet bars and tinplate bars; hot-rolled wide

coils, with the exception of production of liquid steel for castings from small and medium-sized foundries;

(c) hot finished products of iron, ordinary steel or special steel:

rails, sleepers, fishplates, soleplates, joists, heavy sections 80 mm and over, sheet piling, bars and sections of less than 80 mm and flats of less than 150 mm, wire rod, tube rounds and squares, hot-rolled hoop and strip (including tube strip), hot-rolled sheet (coated or uncoated), plates and sheets of 3 mm thickness and over, universal plates of 150 mm and over, with the exception of wire and wire products, bright bars and iron castings;

(d) cold finished products:

tinplate, terneplate, blackplate, galvanized sheets, other coated sheets, cold-rolled sheets, electrical sheets and strip for tinplate, cold-rolled plate, in coil and in strip;

(e) tubes:

all seamless steel tubes, welded steel tubes with a diameter of over 406.4 mm;

30. "synthetic fibres sector" means:

(a) extrusion/texturisation of all generic types of fibre and yarn based on polyester, polyamide, acrylic or polypropylene, irrespective of their end-uses; or

(b) polymerisation (including polycondensation) where it is integrated with extrusion in terms of the machinery used; or

(c) any ancillary process linked to the contemporaneous installation of extrusion/texturisation capacity by the prospective beneficiary or by another company in the group to which it belongs and which, in the specific business activity concerned, is normally integrated with such capacity in terms of the machinery used.

### ***Article 6: Individual notification thresholds***

1. This Regulation shall not apply to any individual aid, whether granted ad hoc or on the basis of a scheme, the gross grant equivalent of which exceeds the following thresholds:

(a) SME investment and employment aid: EUR 7,5 million per undertaking per investment project;

(b) investment aid for environmental protection: EUR 7,5 million per undertaking per investment project;

(c) aid for consultancy in favour of SMEs: EUR 2 million per undertaking per project;

(d) aid for SME participation in fairs: EUR 2 million per undertaking per project;

(e) research and development project aid and feasibility studies:

(i) if the project is predominantly fundamental research EUR 20 million per undertaking, per project/feasibility study;

(ii) if the project is predominantly industrial research, EUR 10 million per undertaking, per project/feasibility study;

- (iii) for all other projects, EUR 7,5 million per undertaking, per project/feasibility study;
  - (iv) if the project is a EUREKA project twice the amounts laid down in points (i), (ii) and (iii) respectively.
- (f) aid for industrial property rights costs for SMEs: EUR 5 million per undertaking per project;
  - (g) training aid: EUR 2 million per training project;
  - (h) aid for the recruitment of disadvantaged workers: EUR 5 million per undertaking per year;
  - (i) aid for the employment of disabled workers in the form of wage costs: EUR 10 million per undertaking per year;
  - (j) aid compensating for additional costs of employing disabled workers: EUR 10 million per undertaking per year.

For the purposes of determining the appropriate threshold applicable to research and development project aid and feasibility studies pursuant to point (e), a project shall be considered to consist "predominantly" of fundamental research or "predominantly" of industrial research, if more than 50 % of the eligible project costs are incurred through activities which fall within the category of fundamental research or industrial research respectively. In cases where the predominant character of the project cannot be established, the lower threshold shall apply.

2. Regional investment aid awarded in favour of large investment projects shall be notified to the Commission if the total amount of aid from all sources exceeds 75 % of the maximum amount of aid an investment with eligible costs of EUR 100 million could receive, applying the standard aid threshold in force for large enterprises in the approved regional aid map on the date the aid is to be granted.

### ***Article 12: Specific conditions applicable to investment aid***

1. In order to be considered an eligible cost for the purposes of this Regulation, an investment shall consist of the following:
  - (a) an investment in tangible and/or intangible assets relating to the setting-up of a new establishment, the extension of an existing establishment, diversification of the output of an establishment into new additional products or a fundamental change in the overall production process of an existing establishment; or
  - (b) the acquisition of the capital assets directly linked to an establishment, where the establishment has closed or would have closed had it not been purchased, and the assets are bought by an independent investor; in the case of business succession of a small enterprise in favour of family of the original owner(s) or in favour of former employees, the condition that the assets shall be bought by an independent investor shall be waived.

The sole acquisition of the shares of an undertaking shall not constitute investment.

2. In order to be considered eligible costs for the purposes of this Regulation, intangible assets shall fulfil all the following conditions:
  - (a) they must be used exclusively in the undertaking receiving the aid; as regards regional investment aid, they must be used exclusively in the establishment receiving the aid;

- (b) they must be regarded as amortizable assets;
  - (c) they must be purchased from third parties under market conditions, without the acquirer being in a position to exercise control, within the meaning of Article 3 of Council Regulation (EC) No 139/2004 [28], on the seller, vice versa; or
  - (d) in the case of SME investment aid, they must be included in the assets of the undertaking for at least three years; in the case of regional investment aid, they must be included in the assets of the undertaking and remain in the establishment receiving the aid for at least five years or, in the case of SMEs, at least three years.
3. In order to be considered an eligible cost for the purposes of this Regulation, employment directly created by an investment project shall fulfil all the following conditions:
- (a) employment shall be created within three years of completion of the investment;
  - (b) the investment project shall lead to a net increase in the number of employees in the establishment concerned, compared with the average over the previous 12 months;
  - (c) the employment created shall be maintained during a minimum period of five years in the case of large enterprise and a minimum period of three years in case of SMEs.

## Regional aid

### ***Article 13: Regional investment and employment aid***

1. Regional investment and employment aid schemes shall be compatible with the common market within the meaning of Article 87(3) of the Treaty and shall be exempt from the notification requirement of Article 88(3) of the Treaty, provided that the conditions laid down in this Article are fulfilled.

Ad hoc aid which is only used to supplement aid granted on the basis of regional investment and employment aid schemes and which does not exceed 50 % of the total aid to be granted for the investment, shall be compatible with the common market within the meaning of Article 87(3) of the Treaty and shall be exempt from the notification requirement of Article 88(3) of the Treaty provided that the ad hoc aid awarded fulfils all the conditions of this Regulation.

2. The aid shall be granted in regions eligible for regional aid, as determined in the approved regional aid map for the Member State concerned for the period 2007-2013. The investment must be maintained in the recipient region for at least five years, or three years in the case of SMEs, after the whole investment has been completed. This shall not prevent the replacement of plant or equipment which has become outdated due to rapid technological change, provided that the economic activity is retained in the region concerned for the minimum period.

3. The aid intensity in present gross grant equivalent shall not exceed the regional aid threshold which is in force at the time the aid is granted in the assisted region concerned.

4. With the exception of aid granted in favour of large investment projects and regional aid for the transport sector, the thresholds fixed in paragraph 3 may be increased by 20 percentage points for aid awarded to small enterprises and by 10 percentage points for aid awarded to medium-sized enterprises.

5. The thresholds fixed in paragraph 3 shall apply to the intensity of the aid calculated either as a percentage of the investment's eligible tangible and intangible costs or as a

percentage of the estimated wage costs of the person hired, calculated over a period of two years, for employment directly created by the investment project or a combination thereof, provided that the aid does not exceed the most favourable amount resulting from the application of either calculation.

6. Where the aid is calculated on the basis of tangible or intangible investment costs, or of acquisition costs in case of takeovers, the beneficiary must provide a financial contribution of at least 25 % of the eligible costs, either through its own resources or by external financing, in a form which is free of any public support. However, where the maximum aid intensity approved under the national regional aid map for the Member State concerned, increased in accordance with paragraph 4, exceeds 75 %, the financial contribution of the beneficiary is reduced accordingly. If the aid is calculated on the basis of tangible or intangible investment costs, the conditions set out in paragraph 7 shall also apply.

7. In the case of acquisition of an establishment, only the costs of buying assets from third parties shall be taken into consideration, provided that the transaction has taken place under market conditions. Where the acquisition is accompanied by other investment, the costs relating to the latter shall be added to the cost of the purchase.

Costs related to the acquisition of assets under lease, other than land and buildings, shall be taken into consideration only if the lease takes the form of financial leasing and contains an obligation to purchase the asset at the expiry of the term of the lease. For the lease of land and buildings, the lease must continue for at least five years after the anticipated date of the completion of the investment project or three years in the case of SMEs.

Except in the case of SMEs and takeovers, the assets acquired shall be new. In the case of takeovers, assets for the acquisition of which aid has already been granted prior to the purchase shall be deducted. For SMEs, the full costs of investments in intangible assets may also be taken into consideration. For large enterprises, such costs are eligible only up to a limit of 50 % of the total eligible investment costs for the project.

8. Where the aid is calculated on the basis of wage costs, the employment shall be directly created by the investment project.

9. By way of derogation from paragraphs 3 and 4, the maximum aid intensities for investments in the processing and marketing of agricultural products may be set at:

- (a) 50 % of eligible investments in regions eligible under Article 87(3)(a) of the Treaty and 40 % of eligible investments in other regions eligible for regional aid, as determined in the regional aid map approved for the Member States concerned for the period 2007-2013, if the beneficiary is an SME;
- (b) 25 % of eligible investments in regions eligible under Article 87(3)(a) of the Treaty and 20 % of eligible investments in other regions eligible for regional aid, as determined in the regional aid map approved for the Member States concerned for the period 2007-2013, if the beneficiary has less than 750 employees and/or less than EUR 200 million turnover, calculated in accordance with Annex I to this Regulation.

10. In order to prevent a large investment being artificially divided into sub-projects, a large investment project shall be considered to be a single investment project when the investment is undertaken within a period of three years by the same undertaking or undertakings and consists of fixed assets combined in an economically indivisible way.

### **Article 14: Aid for newly created small enterprises**

1. Aid schemes in favour of newly created small enterprises shall be compatible with the common market within the meaning of Article 87(3) of the Treaty and shall be exempt from the notification requirement of Article 88(3) of the Treaty, provided that the conditions laid down in paragraphs 2, 3 and 4 of this Article are fulfilled.

2. The beneficiary shall be a small enterprise.

3. The aid amount shall not exceed:

- (a) EUR 2 million for small enterprises with their economic activity in regions eligible for the derogation provided for in Article 87(3)(a) of the Treaty;
- (b) EUR 1 million for small enterprises with their economic activity in regions eligible for the derogation provided for in Article 87(3)(c) of the Treaty.

Annual amounts of aid per undertaking shall not exceed 33 % of the amounts of aid laid down in points (a) and (b).

4. The aid intensity shall not exceed:

- (a) in regions covered by Article 87(3)(a) of the Treaty, 35 % of eligible costs incurred in the first three years after the creation of the undertaking, and 25 % in the two years thereafter;
- (b) in regions covered by Article 87(3)(c) of the Treaty, 25 % of eligible costs incurred in the first three years after the creation of the undertaking, and 15 % in the two years thereafter.

These intensities may be increased by 5 % in regions covered by Article 87(3)(a) of the Treaty with a gross domestic product (GDP) per capita of less than 60 % of the EU-25 average, in regions with a population density of less than 12.5 inhabitants/km<sup>2</sup> and in small islands with a population of less than 5 000 inhabitants, and other communities of the same size suffering from similar isolation.

5. The eligible costs shall be legal, advisory, consultancy and administrative costs directly related to the creation of the small enterprise, as well as the following costs, insofar as they are actually incurred within the first five years after the creation of the undertaking:

- (a) interest on external finance and a dividend on own capital employed not exceeding the reference rate;
- (b) fees for renting production facilities/equipment;
- (c) energy, water, heating, taxes (other than VAT and corporate taxes on business income) and administrative charges;
- (d) depreciation, fees for leasing production facilities/equipment as well as wage costs, provided that the underlying investments or job creation and recruitment measures have not benefited from other aid.

6. Small enterprises controlled by shareholders of undertakings that have closed down in the previous 12 months cannot benefit from aid under this Article if the enterprises concerned are active in the same relevant market or in adjacent markets.

## **SME investment and employment aid**

### ***Article 15: SME investment and employment aid***

1. SME investment and employment aid shall be compatible with the common market within the meaning of Article 87(3) of the Treaty and shall be exempt from the notification requirement of Article 88(3) of the Treaty, provided that the conditions laid down in paragraphs 2, 3 and 4 of this Article are fulfilled.
2. The aid intensity shall not exceed:
  - (a) 20 % of the eligible costs in the case of small enterprises;
  - (b) 10 % of the eligible costs in the case of medium-sized enterprises.
3. The eligible costs shall be the following:
  - (a) the costs of investment in tangible and intangible assets; or
  - (b) the estimated wage costs of employment directly created by the investment project, calculated over a period of two years.
4. Where the investment concerns the processing and marketing of agricultural products, the aid intensity shall not exceed:
  - (a) 75 % of eligible investments in the outermost regions;
  - (b) 65 % of eligible investments in the smaller Aegean Islands within the meaning of Council Regulation (EC) No 1405/2006 (1);
  - (c) 50 % of eligible investments in regions eligible under Article 87(3)(a) of the Treaty;
  - (d) 40 % of eligible investments in all other regions.

## **Aid for female entrepreneurship**

### ***Article 16: Aid for small enterprises newly created by female Entrepreneurs***

1. Aid schemes in favour of small enterprises newly created by female entrepreneurs shall be compatible with the common market within the meaning of Article 87(3) of the Treaty and shall be exempt from the notification requirement of Article 88(3) of the Treaty, provided that the conditions laid down in paragraphs 2 to 5 of this Article are fulfilled.
2. The beneficiaries shall be small enterprises newly created by female entrepreneurs.
3. The aid amount shall not exceed EUR 1 million per undertaking.

Annual amounts of aid per undertaking shall not exceed 33 % of the amounts of aid laid down in the first subparagraph.
4. The aid intensity shall not exceed 15 % of eligible costs incurred in the first five years after the creation of the undertaking.
5. The eligible costs shall be legal, advisory, consultancy and administrative costs directly related to the creation of the small enterprise, as well as the following costs, insofar as they are actually incurred within the first five years of the creation of the undertaking:
  - (a) interest on external finance and a dividend on own capital employed not exceeding the reference rate;

- (b) fees for renting production facilities/equipment;
  - (c) energy, water, heating, taxes (other than VAT and corporate taxes on business income) and administrative charges;
  - (d) depreciation, fees for leasing production facilities/equipment as well as wage costs, provided that the underlying investments or job creation and recruitment measures have not benefited from other aid;
  - (e) child care and parent care costs including, where applicable, costs relating to parental leave.
6. Small enterprises controlled by shareholders of undertakings that have closed down in the previous 12 months cannot benefit from aid under this Article if the enterprises concerned are active in the same relevant market or in adjacent markets.

## Aid for research and development and innovation

### *Article 30: Definitions*

For the purposes of this Section [Articles 30 – 37], the following definitions shall apply:

1. 'research organisation' means an entity, such as a university or research institute, irrespective of its legal status (organised under public or private law) or way of financing, whose primary goal is to conduct fundamental research, industrial research or experimental development and to disseminate their its results by way of teaching, publication or technology transfer; all profits must be reinvested in these activities, the dissemination of their results or teaching; undertakings that can exert influence upon such an organisation, for instance in their capacity as shareholders or members of the organisation, shall enjoy no preferential access to the research capacities of such an organisation or to the research results generated by it;
2. 'fundamental research' means experimental or theoretical work undertaken primarily to acquire new knowledge of the underlying foundations of phenomena and observable facts, without any direct practical application or use in view;
3. 'industrial research' means the planned research or critical investigation aimed at the acquisition of new knowledge and skills for developing new products, processes or services or for bringing about a significant improvement in existing products, processes or services. It comprises the creation of components parts to complex systems, which is necessary for the industrial research, notably for generic technology validation, to the exclusion of prototypes;
4. 'experimental development' means the acquiring, combining, shaping and using existing scientific, technological, business and other relevant knowledge and skills for the purpose of producing plans and arrangements or designs for new, altered or improved products, processes or services. These may also include, for instance, other activities aiming at the conceptual definition, planning and documentation of new products, processes or services. Those activities may comprise producing drafts, drawings, plans and other documentation, provided that they are not intended for commercial use;

The development of commercially usable prototypes and pilot projects is also included where the prototype is necessarily the final commercial product and where it

is too expensive to produce for it to be used only for demonstration and validation purposes. In case of a subsequent commercial use of demonstration or pilot projects, any revenue generated from such use must be deducted from the eligible costs.

The experimental production and testing of products, processes and services shall also be eligible, provided that these cannot be used or transformed to be used in industrial applications or commercially.

Experimental development shall not include routine or periodic changes made to products, production lines, manufacturing processes, existing services and other operations in progress, even if such changes may represent improvements;

5. 'highly qualified personnel' means researchers, engineers, designers and marketing managers with tertiary education degree and at least 5 years of relevant professional experience; doctoral training may count as relevant professional experience;
6. 'secondment' means temporary employment of personnel by a beneficiary during a period of time, after which the personnel has the right to return to its previous employer.

### ***Article 31: Aid for research and development projects***

1. Aid for research and development projects shall be compatible with the common market within the meaning of Article 87(3) of the Treaty and shall be exempt from the notification requirement of Article 88(3) of the Treaty provided that the conditions laid down in paragraphs 2 to 5 of this Article are fulfilled.

2. The aided part of the research and development project shall completely fall within one or more of the following research categories:

- (a) fundamental research;
- (b) industrial research;
- (c) experimental development.

When a project encompasses different tasks, each task shall be qualified as falling under one of the categories listed in the first subparagraph or as not falling under any of those categories.

3. The aid intensity shall not exceed:

- (a) 100 % of the eligible costs for fundamental research;
- (b) 50 % of the eligible costs for industrial research;
- (c) 25 % of the eligible costs for experimental development.

The aid intensity shall be established for each beneficiary of aid, including in a collaboration project, as provided in paragraph 4(b)(i).

In the case of aid for a research and development project being carried out in collaboration between research organisations and undertakings, the combined aid deriving from direct government support for a specific project and, where they constitute aid, contributions from research organisations to that project may not exceed the applicable aid intensities for each beneficiary undertaking.

4. The aid intensities set for industrial research and experimental development in paragraph 3 may be increased as follows:

- (a) where the aid is granted to SMEs, the aid intensity may be increased by 10 percentage points for medium-sized enterprises and by 20 percentage points for small enterprises; and
- (b) a bonus of 15 percentage points may be added, up to a maximum aid intensity of 80 % of the eligible costs, if:
  - (i) the project involves effective collaboration between at least two undertakings which are independent of each other and the following conditions are fulfilled:
    - no single undertaking bears more than 70 % of the eligible costs of the collaboration project,
    - the project involves collaboration with at least one SME or is carried out in at least two different Member States, or
  - (ii) the project involves effective collaboration between an undertaking and a research organisation and the following conditions are fulfilled:
    - the research organisation bears at least 10 % of the eligible project costs, and
    - the research organisation has the right to publish the results of the research projects insofar as they stem from research carried out by that organisation, or
  - (iii) in the case of industrial research, the results of the project are widely disseminated through technical and scientific conferences or through publication in scientific or technical journals or in open access repositories (databases where raw research data can be accessed by anyone), or through free or open source software.

For the purposes of point (b)(i) and (ii) of the first subparagraph, subcontracting shall not be considered to be effective collaboration.

5. The eligible costs shall be the following:

- (a) personnel costs (researchers, technicians and other supporting staff to the extent employed on the research project);
- (b) costs of instruments and equipment to the extent and for the period used for the research project; if such instruments and equipment are not used for their full life for the research project, only the depreciation costs corresponding to the life of the research project, as calculated on the basis of good accounting practice, shall be considered eligible;
- (c) costs for buildings and land, to the extent and for the duration used for the research project; with regard to buildings, only the depreciation costs corresponding to the life of the research project, as calculated on the basis of good accounting practice shall be considered eligible; for land, costs of commercial transfer or actually incurred capital costs shall be eligible;
- (d) cost of contractual research, technical knowledge and patents bought or licensed from outside sources at market prices, where the transaction has been carried out at arm's length and there is no element of collusion involved, as well as costs of consultancy and equivalent services used exclusively for the research activity;
- (e) additional overheads incurred directly as a result of the research project;

- (f) other operating costs, including costs of materials, supplies and similar products incurred directly as a result of the research activity.
6. All eligible costs shall be allocated to a specific category of research and development.

### ***Article 32: Aid for technical feasibility studies***

1. Aid for technical feasibility studies preparatory to industrial research or experimental development activities shall be compatible with the common market within the meaning of Article 87(3) of the Treaty and shall be exempt from the notification requirement of Article 88(3) of the Treaty, provided that the conditions laid down in paragraphs 2 and 3 of this Article are fulfilled.
2. The aid intensity shall not exceed:
  - (a) for SMEs, 75 % of the eligible costs for studies preparatory to industrial research activities and 50 % of the eligible costs for studies preparatory to experimental development activities;
  - (b) for large enterprises, 65 % of the eligible costs for studies preparatory to industrial research activities and 40 % of the eligible costs for studies preparatory to experimental development activities.
3. The eligible costs shall be the costs of the study.

### ***Article 33: Aid for industrial property rights costs for SMEs***

1. Aid to SMEs for the costs associated with obtaining and validating patents and other industrial property rights shall be compatible with the common market within the meaning of Article 87(3) of the Treaty and shall be exempt from the notification requirement of Article 88(3) of the Treaty, provided the conditions laid down in paragraphs 2 and 3 of this Article are fulfilled.
2. The aid intensity shall not exceed the intensity for research and development project aid laid down in Article 31(3) and (4), in respect of the research activities which first led to the industrial property rights concerned.
3. The eligible costs shall be the following:
  - (a) all costs preceding the grant of the right in the first jurisdiction, including costs relating to the preparation, filing and prosecution of the application as well as costs incurred in renewing the application before the right has been granted;
  - (b) translation and other costs incurred in order to obtain the granting or validation of the right in other legal jurisdictions;
  - (c) costs incurred in defending the validity of the right during the official prosecution of the application and possible opposition proceedings, even if such costs occur after the right is granted.

### ***Article 34: Aid for research and development in the agricultural and fisheries sectors***

1. Aid for research and development concerning products listed in Annex I to the Treaty shall be compatible with the common market within the meaning of Article 87(3) of the

Treaty and shall be exempt from the notification requirement of Article 88(3) of the Treaty, provided that the conditions laid down in paragraphs 2 to 7 of this Article are fulfilled.

2. The aid shall be of interest to all operators in the particular sector or sub-sector concerned.
3. Information that research will be carried out, and with which goal, shall be published on the internet, prior to the commencement of the research. An approximate date of expected results and their place of publication on the internet, as well as a mention that the result will be available at no cost, must be included.

The results of the research shall be made available on internet, for a period of at least 5 years. They shall be published no later than any information which may be given to members of any particular organisation.

4. Aid shall be granted directly to the research organisation and must not involve the direct granting of non-research related aid to a company producing, processing or marketing agricultural products, nor provide price support to producers of such products.
5. The aid intensity shall not exceed 100 % of the eligible costs.
6. The eligible costs shall be those provided in Article 31(5).
7. Aid for research and development concerning products listed in Annex I to the Treaty and not fulfilling the conditions laid down in this Article shall be compatible with the common market within the meaning of Article 87(3)(c) of the Treaty and shall be exempt from the notification requirement of Article 88(3) of the Treaty, provided the conditions laid down in Articles 30, 31 and 32 of this Regulation are fulfilled.

### ***Article 35: Aid to young innovative enterprises***

1. Aid to young innovative enterprises shall be compatible with the common market within the meaning of Article 87(3) of the Treaty and shall be exempt from the notification requirement of Article 88(3) of the Treaty, provided that the conditions laid down in paragraphs 2 to 5 of this Article are fulfilled.
2. The beneficiary shall be a small enterprise that has been in existence for less than 6 years at the time when the aid is granted.
3. The research and development costs of the beneficiary shall represent at least 15 % of its total operating costs in at least one of the three years preceding the granting of the aid or, in the case of a start-up enterprise without any financial history, in the audit of its current fiscal period, as certified by an external auditor.
4. The aid amount shall not exceed EUR 1 million.

However, the aid amount shall not exceed EUR 1,5 million in regions eligible for the derogation provided for in Article 87(3)(a) of the Treaty, and EUR 1,25 million in regions eligible for the derogation provided for in Article 87(3)(c) of the Treaty.

5. The beneficiary may receive the aid only once during the period in which it qualifies as a young innovative enterprise.

### ***Article 36: Aid for innovation advisory services and for innovation support services***

1. Aid for innovation advisory services and for innovation support services shall be compatible with the common market within the meaning of Article 87(3) of the Treaty and shall be exempt from the notification requirement of Article 88(3) of the Treaty, provided that the conditions laid down in paragraphs 2 to 6 of this Article are fulfilled.
2. The beneficiary shall be an SME.
3. The aid amount shall not exceed a maximum of EUR 200 000 per beneficiary within any three year period.
4. The service provider shall benefit from a national or European certification. If the service provider does not benefit from a national or European certification, the aid intensity shall not exceed 75 % of the eligible costs.
5. The beneficiary must use the aid to buy the services at market price, or if the service provider is a non-for-profit entity, at a price which reflects its full costs plus a reasonable margin.
6. The eligible costs shall be the following:
  - (a) as regards innovation advisory services, the costs relating to: management consulting, technological assistance, technology transfer services, training, consultancy for acquisition, protection and trade in Intellectual Property Rights and for licensing agreements, consultancy on the use of standards;
  - (b) as regards innovation support services, the costs relating to: office space, data banks, technical libraries, market research, use of laboratory, quality labelling, testing and certification.

### ***Article 37: Aid for the loan of highly qualified personnel***

1. Aid for the loan of highly qualified personnel seconded from a research organisation or a large enterprise to an SME shall be compatible with the common market within the meaning of Article 87(3) of the Treaty and shall be exempt from the notification requirement of Article 88(3) of the Treaty, provided that the conditions laid down in paragraphs 2 to 5 of this Article are fulfilled.
2. The seconded personnel must not be replacing other personnel, but must be employed in a newly created function within the beneficiary undertaking and must have been employed for at least two years in the research organisation or the large enterprise, which is sending the personnel on secondment.

The seconded personnel must work on research and development and innovation activities within the SME receiving the aid.

3. The aid intensity shall not exceed 50 % of the eligible costs, for a maximum of 3 years per undertaking and per person borrowed.
4. The eligible costs shall be all personnel costs for borrowing and employing highly qualified personnel, including the costs of using a recruitment agency and of paying a mobility allowance for the seconded personnel.
5. This Article shall not apply to consultancy costs as referred to in Article 26.

## Training aid

### **Article 38: Definitions**

For the purposes of this Section, the following definitions shall apply:

1. 'specific training' means training involving tuition directly and principally applicable to the employee's present or future position in the undertaking and providing qualifications which are not or only to a limited extent transferable to other undertakings or fields of work;
2. 'general training' means training involving tuition which is not applicable only or principally to the employee's present or future position in the undertaking, but which provides qualifications that are largely transferable to other undertakings or fields of work. Training shall be considered 'general' if, for example:
  - (a) it is jointly organised by different independent undertakings or where employees of different undertakings may avail themselves of the training;
  - (b) it is recognised, certified or validated by public authorities or bodies or by other bodies or institutions on which a Member State or the Community has conferred the necessary powers.

### **Article 39: Training aid**

1. Training aid shall be compatible with the common market within the meaning of Article 87(3) of the Treaty and shall be exempt from the notification requirement of Article 88(3) of the Treaty, provided that the conditions laid down in paragraphs 2, 3 and 4 of this Article are fulfilled.
2. The aid intensity shall not exceed:
  - (a) 25 % of the eligible costs for specific training; and
  - (b) 60 % of the eligible costs for general training.

However, the aid intensity may be increased, up to a maximum aid intensity of 80 % of the eligible costs, as follows:

- (a) by 10 percentage points if the training is given to disabled or disadvantaged workers;
- (b) by 10 percentage points if the aid is awarded to medium-sized enterprises and by 20 percentage points if the aid is awarded to small enterprises.

Where the aid is granted in the maritime transport sector, it may reach an intensity of 100 % of the eligible costs, whether the training project concerns specific or general training, provided that the following conditions are met:

- (a) the trainee shall not be an active member of the crew but shall be supernumerary on board; and
  - (b) the training shall be carried out on board ships entered on Community registers.
3. In cases where the aid project involves both specific and general training components which cannot be separated for the calculation of the aid intensity, and in cases where the specific or general character of the training aid project cannot be established, the aid intensities applicable to specific training shall apply.
  4. The eligible costs of a training aid project shall be:

- (a) trainers' personnel costs;
- (b) trainers' and trainees' travel expenses, including accommodation;
- (c) other current expenses such as materials and supplies directly related to the project;
- (d) depreciation of tools and equipment, to the extent that they are used exclusively for the training project;
- (e) cost of guidance and counselling services with regard to the training project;
- (f) trainees' personnel costs and general indirect costs (administrative costs, rent, overheads) up to the amount of the total of the other eligible costs referred to in points (a) to (e). As regards the trainees' personnel costs, only the hours during which the trainees actually participate in the training, after deduction of any productive hours, may be taken into account.

## **Annex I: Definition of SME**

### ***Article 1: Enterprise***

An enterprise is considered to be any entity engaged in an economic activity, irrespective of its legal form. This includes, in particular, self-employed persons and family businesses engaged in craft or other activities, and partnerships or associations regularly engaged in an economic activity.

### ***Article 2: Staff headcount and financial thresholds determining enterprise categories***

1. The category of micro, small and medium-sized enterprises ("SMEs") is made up of enterprises which employ fewer than 250 persons and which have an annual turnover not exceeding EUR 50 million, and/or an annual balance sheet total not exceeding EUR 43 million.
2. Within the SME category, a small enterprise is defined as an enterprise which employs fewer than 50 persons and whose annual turnover and/or annual balance sheet total does not exceed EUR 10 million.
3. Within the SME category, a micro-enterprise is defined as an enterprise which employs fewer than 10 persons and whose annual turnover and/or annual balance sheet total does not exceed EUR 2 million.

### ***Article 3: Types of enterprise taken into consideration in calculating staff numbers and financial amounts***

1. An "autonomous enterprise" is any enterprise which is not classified as a partner enterprise within the meaning of paragraph 2 or as a linked enterprise within the meaning of paragraph 3.
2. "Partner enterprises" are all enterprises which are not classified as linked enterprises within the meaning of paragraph 3 and between which there is the following relationship: an enterprise (upstream enterprise) holds, either solely or jointly with one or more linked enterprises within the meaning of paragraph 3, 25 % or more of the capital or voting rights of another enterprise (downstream enterprise).

However, an enterprise may be ranked as autonomous, and thus as not having any partner enterprises, even if this 25 % threshold is reached or exceeded by the following investors, provided that those investors are not linked, within the meaning of paragraph 3, either individually or jointly to the enterprise in question:

- (a) public investment corporations, venture capital companies, individuals or groups of individuals with a regular venture capital investment activity who invest equity capital in unquoted businesses (business angels), provided the total investment of those business angels in the same enterprise is less than EUR 1250000;
- (b) universities or non-profit research centres;
- (c) institutional investors, including regional development funds;
- (d) autonomous local authorities with an annual budget of less than EUR 10 million and less than 5000 inhabitants.

3. "Linked enterprises" are enterprises which have any of the following relationships with each other:

- (a) an enterprise has a majority of the shareholders' or members' voting rights in another enterprise;
- (b) an enterprise has the right to appoint or remove a majority of the members of the administrative, management or supervisory body of another enterprise;
- (c) an enterprise has the right to exercise a dominant influence over another enterprise pursuant to a contract entered into with that enterprise or to a provision in its memorandum or articles of association;
- (d) an enterprise, which is a shareholder in or member of another enterprise, controls alone, pursuant to an agreement with other shareholders in or members of that enterprise, a majority of shareholders' or members' voting rights in that enterprise.

There is a presumption that no dominant influence exists if the investors listed in the second subparagraph of paragraph 2 are not involving themselves directly or indirectly in the management of the enterprise in question, without prejudice to their rights as shareholders.

Enterprises having any of the relationships described in the first subparagraph through one or more other enterprises, or any one of the investors mentioned in paragraph 2, are also considered to be linked.

Enterprises which have one or other of such relationships through a natural person or group of natural persons acting jointly are also considered linked enterprises if they engage in their activity or in part of their activity in the same relevant market or in adjacent markets.

An "adjacent market" is considered to be the market for a product or service situated directly upstream or downstream of the relevant market.

4. Except in the cases set out in paragraph 2, second subparagraph, an enterprise cannot be considered an SME if 25 % or more of the capital or voting rights are directly or indirectly controlled, jointly or individually, by one or more public bodies.

5. Enterprises may make a declaration of status as an autonomous enterprise, partner enterprise or linked enterprise, including the data regarding the thresholds set out in Article 2. The declaration may be made even if the capital is spread in such a way that it is not possible to determine exactly by whom it is held, in which case the enterprise may declare in good faith that it can legitimately presume that it is not owned as to 25 % or more by one

enterprise or jointly by enterprises linked to one another. Such declarations are made without prejudice to the checks and investigations provided for by national or Community rules.

#### ***Article 4: Data used for the staff headcount and the financial amounts and reference period***

1. The data to apply to the headcount of staff and the financial amounts are those relating to the latest approved accounting period and calculated on an annual basis. They are taken into account from the date of closure of the accounts. The amount selected for the turnover is calculated excluding value added tax (VAT) and other indirect taxes.
2. Where, at the date of closure of the accounts, an enterprise finds that, on an annual basis, it has exceeded or fallen below the headcount or financial thresholds stated in Article 2, this will not result in the loss or acquisition of the status of medium-sized, small or micro-enterprise unless those thresholds are exceeded over two consecutive accounting periods.
3. In the case of newly-established enterprises whose accounts have not yet been approved, the data to apply is to be derived from a bona fide estimate made in the course of the financial year.

#### ***Article 5: Staff headcount***

The headcount corresponds to the number of annual work units (AWU), i.e. the number of persons who worked full-time within the enterprise in question or on its behalf during the entire reference year under consideration. The work of persons who have not worked the full year, the work of those who have worked part-time, regardless of duration, and the work of seasonal workers are counted as fractions of AWU. The staff consists of:

- (a) employees;
- (b) persons working for the enterprise being subordinated to it and deemed to be employees under national law;
- (c) owner-managers;
- (d) partners engaging in a regular activity in the enterprise and benefiting from financial advantages from the enterprise.

Apprentices or students engaged in vocational training with an apprenticeship or vocational training contract are not included as staff. The duration of maternity or parental leaves is not counted.

#### ***Article 6: Establishing the data of an enterprise***

1. In the case of an autonomous enterprise, the data, including the number of staff, are determined exclusively on the basis of the accounts of that enterprise.
2. The data, including the headcount, of an enterprise having partner enterprises or linked enterprises are determined on the basis of the accounts and other data of the enterprise or, where they exist, the consolidated accounts of the enterprise, or the consolidated accounts in which the enterprise is included through consolidation.

To the data referred to in the first subparagraph are added the data of any partner enterprise of the enterprise in question situated immediately upstream or downstream from

it. Aggregation is proportional to the percentage interest in the capital or voting rights (whichever is greater). In the case of cross-holdings, the greater percentage applies.

To the data referred to in the first and second subparagraph are added 100 % of the data of any enterprise, which is linked directly or indirectly to the enterprise in question, where the data were not already included through consolidation in the accounts.

3. For the application of paragraph 2, the data of the partner enterprises of the enterprise in question are derived from their accounts and their other data, consolidated if they exist. To these are added 100 % of the data of enterprises which are linked to these partner enterprises, unless their accounts data are already included through consolidation.

For the application of the same paragraph 2, the data of the enterprises which are linked to the enterprise in question are to be derived from their accounts and their other data, consolidated if they exist. To these are added, pro rata, the data of any possible partner enterprise of that linked enterprise, situated immediately upstream or downstream from it, unless it has already been included in the consolidated accounts with a percentage at least proportional to the percentage identified under the second subparagraph of paragraph 2.

4. Where in the consolidated accounts no staff data appear for a given enterprise, staff figures are calculated by aggregating proportionally the data from its partner enterprises and by adding the data from the enterprises to which the enterprise in question is linked

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