

**WORKING PAPER  
ON  
THE REVISION OF THE MULTISECTORAL  
FRAMEWORK ON REGIONAL AID  
FOR LARGE INVESTMENT PROJECTS**

**UNICE PRELIMINARY COMMENTS**

1. INTRODUCTION

UNICE has noted the working paper on the revision of the Multisectoral Framework on regional aid for large investment projects, which the European Commission's services prepared for the 12 July 2001 multilateral meeting on this subject, and appreciates being given the opportunity to exchange views with the Commission as regards issues to be taken into consideration during the review.

These preliminary comments are intended to outline UNICE's first reaction to the working paper and UNICE plans to issue further detailed comments once it has had an opportunity to assess more precisely the impact of the Commission's proposals.

UNICE has consistently held that strict control of state aid, on the basis of clearly defined criteria, is necessary to prevent distortions of competition in the internal market. Control of state aid is one of the primary functions of the Commission and its effectiveness should be ensured by providing sufficient staff resources. Generally, UNICE is concerned about the levels of non-compliance with state aid rules and the relative lack of resources allocated for enforcement of the law. Likewise, the continuing lack of transparency in the system remains a concern. UNICE has been encouraged by recent attempts to increase transparency through use of the new state aid scoreboard and register, but believes that more needs to be done. Considering the limited information that is published in the Official Journal and the fact that the register does not contain information as regards the identity of the recipients of state aid, one of the biggest hurdles for a third party company in pursuing a state aid case is that it is virtually impossible to ascertain the facts and to find out whether a particular project is being analysed by the Commission

Having said this, UNICE firmly supports the Multisectoral Framework as a policy instrument to enhance the competitiveness of European business and to prevent forum-shopping by companies in subsidy auctions that may lead to a spiral of increasingly generous promises of aid to investors considering alternative sites in the EU and also in third countries. It is evident that the Framework has not entirely fulfilled its purpose and needs to be revised. The current review provides therefore a much-needed opportunity to simplify the rules, and to ensure that the Framework operates effectively in removing distortions to competition. The current Framework is too complex and imposes considerable burdens on companies and the Commission who have to understand and apply the rules correctly.

Considering that, unfortunately, the working paper does not contain a clear analysis of the impact of the different scenarios, UNICE has some broad suggestions for revision of the framework, which are set out below. UNICE hopes that these suggestions will be taken into account and that close consultation and cooperation between Commission officials and UNICE on this important subject will continue in the upcoming period. At that time the Commission will have to pay attention to the

problem that subsidy auctions outside the EU might drive large investment projects out of the Union if the level of aid is significantly lowered.

## 2. REVISING THE MULTISECTORAL FRAMEWORK

### *Maintain controls*

As indicated above, UNICE believes that strict control of state aid is necessary to prevent distortions of competition in the internal market. UNICE therefore considers that the Commission should retain rules to control aid for large-scale projects under regional aid schemes. An uncontrolled spiral of increasingly generous promises of aid because investors in large projects are considering alternative sites in different Member States should be avoided because this would risk distorting competition considerably.

### *Maintain notification requirement*

Member States should continue to be compelled to notify aid for large-scale projects under regional aid schemes. Self-assessment by companies and monitoring of aid by the Member States themselves could easily detract from the uniform application of Community law. However, the Commission should avoid too complicated rules for notification.

### *Maintain separate rules for sensitive sectors*

UNICE strongly believes that sensitive sectors of industry covered by sectoral frameworks on state aid should not be integrated within the new Multisectoral Framework. UNICE believes that special "tailor-made" rules are more appropriate to regulate these sectors and take account of the specificities of the markets concerned. It must be recognised that the specific needs of each of these sectors in the field of state aid control (and not just limited to the control of regional investment aid) varies. In markets in decline, characterised by structural over-capacity, state aid is particularly likely to lead to distortion of competition and special consideration should be given to this risk. The same reasoning would apply to sectors that might in the future suffer from structural overcapacity. Equally, there are other sectors classified as "sensitive" because they suffered from overcapacity in the past. Specific rules are justified in these cases to prevent a return to structural overcapacity.

As a general remark, UNICE would caution against an oversimplified approach in concluding whether sectors are suffering from structural overcapacity. The question whether a specific sector is in a situation of structural overcapacity depends very much of the sector concerned. Disregarding the role of the Council in this context, there are no clear-cut criteria as seems to be suggested in footnote 9 of the working paper. Not all sectors that have an average capacity utilisation of 2 or 5 percentage points below 81.6% necessarily find themselves in a situation of structural overcapacity and some sectors where a very high level of capacity utilisation is necessary in order to operate economically may have average capacity utilisation higher than 81,6% but still suffer from structural overcapacity.

## 3. CONCLUSION

UNICE supports the Multisectoral Framework as a policy instrument to prevent forum-shopping by companies in subsidy auctions and favours its revision. The Framework is too complex and should be simplified. Rules to control state aid for large-scale projects under regional aid schemes should be maintained. The Commission should continue to compel Member States to notify aid for large-scale projects under regional aid schemes. The Commission should not integrate within the new Multisectoral Framework sensitive sectors of industry covered by special rules on state aid.

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