COUNCIL OF THE EUROPEAN UNION

Brussels, 23 November 2012

16647/12

RC 31
COMPET 726
ECO 141
MI 768
RECH 432
IND 202
ENV 884
REGIO 137
TELECOM 224
ENER 492
EF 273
AUDIO 120

NOTE

from :	Presidency
to :	Permanent Representatives Committee
Item :	Preparation of the Council (Competitiveness) on 10 December 2012: - Modernisation of the State aid rules - impact on EU Competitiveness = *Presentation by the Commission* = *Policy debate*

1. On 10 May 2012, the Commission submitted its communication on EU State aid modernisation (SAM)[1]. The Council (ECOFIN) on 13 November 2012 took note of the Commission's plans for a reform of the enforcement of the EU's state aid rules and the Presidency drew conclusions[2].

1 10266/12 RC 11 COMPET 312 ECO 69 MI 366 RECH 166 IND 97 ENV 391 REGIO 70 TELECOM 108 ENER 191 EF 124.

2 15595/1/12 REV 1 RC 30 COMPET 656 ECO 130 MI 672 RECH 395 IND 179 ENV 822 REGIO 118 TELECOM 196 ENER 435 EF 241 AUDIO 106.

2. The Presidency intends to invite Ministers at the meeting of the Council (Competitiveness) on 10 December 2012 to take note of a presentation by Commission Vice-President ALMUNIA and subsequently discuss state aid modernisation focusing on its industry related aspects on the basis of the two questions set out in the Presidency background paper in the Annex.

CONCLUSION

The Permanent Representatives Committee is invited to approve the Presidency's approach to hold a policy debate based on the two questions in the Presidency background paper as set out in the Annex to this note".

Modernisation of the State aid rules - impact on EU Competitiveness

Presidency Background Paper

- The EU faces a twin challenge: a need to re-launch growth and jobs and to consolidate public budgets. Globalisation, while creating opportunities for European companies, exercises strong pressures on firms to restructure and innovate to maintain their competitive edges. Local industries face a weak demand and high costs. In that context, the EU is shaping its policies through the Europe 2020 strategy for smart, sustainable and inclusive growth. Europe needs an integrated approach which mobilises all policies and efforts towards a long-term vision for a stronger Union.

- As highlighted in the Communication on State aid Modernisation adopted by the European Commission on 8 May 2012, State aid control can contribute to the Europe 2020 agenda. The Communication puts the single market, the EU best asset for generating sustainable growth, at the centre of the reform and calls for more effective and efficient use of public finances to better sustain R&D and innovation, sustainable development, cohesion and other EU policies.

- Through the modernisation of the State aid framework, the Commission aims at:

    1) supporting efficiently and effectively Europe 2020 growth objectives, employment and EU competitiveness, while contributing to Member States efforts towards a more efficient use of public finance,
    2) prioritising scrutiny of the potentially most harmful aid types, reducing the administrative burden for aid with limited impact on competition and trade, and
    3) simplifying rules and procedures to ensure faster and more robust decisions based on a clear economic rationale, a common approach and clear obligations.

- To achieve these objectives, the Commission is reviewing all State aid instruments and procedures to ensure that aid is used where it can remedy to real market failures, leverage private funds, and promote a dynamic and competitive single market. State aid should be effective, i.e. be granted where it represents a real added value but also efficient, i.e. reach the desired market outcome at the least cost. Public expenditure, when appropriately and proportionally granted, is part of the solution to improve Europe's competitiveness, alongside with trade, research, environment, energy or cohesion policies.

- In the past years, State aid has been increasingly focussed towards common objectives such as regional development, R&D&I or environmental protection which now represent almost 70% of all State aid non-crisis related expenditures. For example, since 2007 more than 200 schemes for R&D&I have been either approved upon notification and an even larger number authorised on the basis of the block-exemption regulation. More than 30 cases of large R&D aid projects related to key enabling technologies (representing more than €2.1 billion) have been approved upon notification, to ensure that the aid was appropriate and proportionate and did not lead to undue distortion of competition.

- On the other hand, State aid modernisation intends to prevent that State aid results in windfall profits for firms, crowding out of private investment, keeping inefficient and non-viable companies on the market to the detriment of unaided competitors. In times of recession and with Member States being subject to different financial constraints, it is even more important to ensure that aid is only used where needed, is accompanied by the proper conditionality and does not lead to unjustified relocation of economic activities between Member States.

- This requires that aid measures are well designed and that the largest aids are subject to a careful scrutiny. We cannot afford to relax our rules at this juncture but we can make them more proportionate to the potential harm. This is also important for competitiveness since poorly designed State Aid interventions are likely to interfere with the necessary market dynamics whereby the most competitive companies grow and gain market share and the least competitive restructure or eventually exit.

- It is obvious that many European companies are facing a tough challenge from other parts of the world. Foreign subsidies are, however, far from being the only cause of external competition, and international reports tend to show that the average level of subsidies is not lower in Europe than elsewhere. A more lenient approach to this matter is likely to be not only contrary to the EU international obligations, but also a source of serious harm to the internal market and to the taxpayers. More fundamental are market proximity, availability of skilled labour, quality of infrastructure and regulation, and the existence of a strong, open and competitive internal market. European companies will be able to compete successful globally only if they are faced with competition in the internal market.

- The new State aid rules will be simpler and will allow Member States to put in place more aid measures without prior notification to the Commission, provided that they fulfil certain necessary conditions. The Commission intends to enlarge the scope of the block-exemption regulation. However, giving more responsibility to Member States will require them to ensure stronger control of compliance, especially in view of the worrying results of monitoring of aid schemes carried out by the Commission to date. That calls for more transparency on the use of aid and a better evaluation of aid, especially when aid is granted through large schemes.

- The reform of the different elements of the package has been initiated with public consultations on several guidelines and regulations. Commission proposals on the Enabling and Procedural regulations will be finalised very soon and will be discussed in the Council in the course of next year.

- Against this background, an exchange of views could take place around the following questions:

1. **The Commission plans to modernise State aid policy by setting out three objectives that support growth, employment and EU competitiveness, while contributing to Member States efforts towards a more efficient use of public finances. Would you agree with these objectives?**

2. **How would you think that State aid should be designed to sustain growth and improve the competitiveness of European industry in a worldwide context, especially in times of recession?**

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