

**Proposal for a Council Decision on the position to be taken by the Community within the Association Committee established by the Europe Agreement between the European Communities and their Member States, of the one part, and Poland, of the other part, with regard to the adoption of a Regional aid map on the basis of which regional aid granted by Poland will be assessed**

(2003/C 71 E/06)

COM(2002) 630 final — 2002/0267(ACC)

(Submitted by the Commission on 18 November 2002)

**EXPLANATORY MEMORANDUM**

1. This is a proposal for the adoption of a Regional aid map on the basis of which regional aid granted by Poland will be assessed.

According to Article 63(4)(a) of the Europe Agreement, the Parties recognised that during the first five years after its entry into force, any regional aid granted by Poland shall be assessed taking into account the fact that Poland shall be regarded as an area identical to those areas of the Community described in Article 87(3)(a) of the Treaty establishing the European Community.

On 7 May 2001 the EU-Poland Association Council adopted Decision No 2/2001 with regard to the extension for a further period of five years of Poland as an area identical to those areas of the Community described in Article 87(3)(a) of the Treaty establishing the European Community. The Decision was applied as from 1 January 1997.

Article 2 of Decision No 2/2001 obliged Poland to submit the GDP per capita figures which have been harmonised at NUTS level II to the European Commission within six months of the date of the adoption of the Decision. On that basis, the Polish Office for Competition and Consumer Protection and the European Commission jointly evaluated the eligibility of the regions as well as the maximum aid intensities in relation thereto, in order to draw up the regional aid map on the basis of the Community guidelines on national regional aid <sup>(1)</sup>.

The joint evaluation by the Polish Office for Competition and Consumer Protection and the European Commission demonstrates that per capita GDP/PPS in all NUTS level II regions in Poland is significantly lower than 60 % of the Community average. In view of this and in reference to Article 4(2) of the Implementing Rules for the application of the provisions on State aid of the Europe Agreement, it is considered that the duration of the Regional aid map should not be limited to 31 December 2001, the expiry date of the period for which Poland was considered as an area identical to those areas of the Community described in Article 87(3)(a) of the Treaty in accordance with the Decision of Decision No 2/2001 of the EU-Poland Association Council of 7 May 2001. Instead, it is proposed to extend the duration of the regional aid map until the date of accession or to 31 December 2006, whatever comes first. The inclusion of 31 December 2006 as end date is important to maintain consistency with the maps for the current Member States, all of which (except the map for Germany) will expire on that date, as well as with programming of Structural Funds support.

2. According to the Community guidelines on national regional aid, in the case of regions falling under Article 87(3)(a) of the EC Treaty the intensity of regional aid must not exceed the rate of 50 % NGE, except in the outermost regions, where it may be as much as 65 % NGE. In the NUTS level II regions eligible under Article 87(3)(a) whose per capita GDP/PPS is greater than 60 % of the Community average, the intensity of regional aid must not exceed 40 % NGE, except in the outermost regions, where it may be as high as 50 % NGE. The GDP/PPS of each region and the Community average to be used in the analysis must relate to the average of the last three years for which statistics are available.

<sup>(1)</sup> OJ C 74, 10.3.1998, p. 9.

All the above-mentioned ceilings may be raised by 15 percentage points gross in the case of aid granted to small and medium-sized enterprises <sup>(1)</sup>. They nevertheless constitute upper limits which apply to the total aid whenever assistance is granted concurrently under several regional schemes, and regardless of whether it comes from local, regional, national or Community sources. Beneath these ceilings, it will be ensured that the regional aid intensity is adjusted to reflect the seriousness and intensity of the regional problems addressed.

3. Poland consists of 16 NUTS level II regions (Voivodships), of which none has a per capita GDP/PPS that exceeds 60 % of the Community average, according to statistical data available for the years 1997-1999.
4. In the proposed regional aid map, all NUTS level II regions are therefore granted the Article 87(3)(a) status. The regional aid intensity ceiling is set at 50 % NGE in all NUTS level II regions, except in the NUTS level III regions of Wroclaw, Krakow and Gdansk-Gdynia-Sopot, where it is set at 40 % NGE and in the NUTS level III regions of Poznan and Warsz where it is set at 30 % NGE.

The above intensities are raised by 15 gross percentage points in the case of aid granted to small and medium-sized enterprises.

5. The Polish State aid monitoring authority (the Office for Competition and Consumer Protection) and the European Commission jointly evaluated the proposed regional aid map for Poland and concluded that it is in conformity with the Community guidelines on national regional aid.
6. The Commission hereinafter submits the joint proposal to the Council and requests the Council to adopt the attached proposal for an Association Committee Decision.

<sup>(1)</sup> OJ L 107, 30.4.1996, p. 4.

THE COUNCIL OF THE EUROPEAN UNION,

Whereas:

Having regard to the Treaty establishing the European Community, and in particular Article 133 in conjunction with the first sentence of Article 300(2) thereof;

Having regard to the proposal of the Commission of the European Communities;

Having regard to Article 63(4)(a) of the Europe Agreement;

Having regard to Article 4(2) of the Implementing Rules for the application of the provisions on State aid of the Europe Agreement, as adopted by Decision No 3/2001 of the EU-Poland Association Council of 23 May 2001;

Having regard to Decision No 2/2001 of the EU-Poland Association Council of 7 May 2001 with regard to the extension for a further period of five years of Poland as an area identical to those areas of the Community described in Article 87(3)(a) of the Treaty establishing the European Community and in particular its Article 2, third sentence;

(1) Article 2 of the Decision No 2/2001 obliged Poland within six months of the date of the adoption of the Decision to submit the GDP per capita figures which have been harmonised at NUTS level II to the European Commission.

(2) The Polish State aid monitoring authority (the Office for Competition and Consumer Protection) and the European Commission jointly evaluated the eligibility of the regions as well as the maximum aid intensities in relation thereto in order to draw up the regional aid map on the basis of the Community guidelines on national regional aid <sup>(1)</sup>.

(3) According to Article 4(2) of the Implementing rules, in conjunction with Article 2, third sentence of Decision 2/2001 of the EU-Poland Association Council, a joint proposal shall be submitted to the Association Committee, which shall take a decision to this effect.

(4) According to the Community guidelines on national regional aid, in the case of regions falling under Article 87(3)(a) of the Treaty the intensity of regional aid must not exceed the rate of 50 % NGE, except in the outermost regions, where it may be as much as 65 % NGE.

<sup>(1)</sup> OJ C 74, 10.3.1998, p. 9.

- (5) In the NUTS level II regions eligible under Article 87(3)(a) whose per capita GDP/PPS is greater than 60 % of the Community average, the intensity of regional aid must not exceed 40 % NGE, except in the outermost regions, where it may be as high as 50 % NGE.
- (6) The GDP/PPS of each region and the Community average to be used in the analysis must relate to the average of the last three years for which statistics are available.
- (7) Within the limit of 75 % NGE all the above-mentioned ceilings may be raised by 15 percentage points gross in the case of aid granted to small and medium-sized enterprises <sup>(1)</sup>, and constitute upper limits which apply to the total aid whenever assistance is granted concurrently under several regional schemes, and regardless of whether it comes from local, regional, national or Community sources.
- (8) Beneath these ceilings, it will be ensured that the regional aid intensity is adjusted to reflect the seriousness and intensity of the regional problems addressed.
- (9) The seriousness and intensity of the regional problems addressed must be assessed within the broader context of all the countries which have concluded Europe agreements with the European Communities.
- (10) Poland consists of 16 NUTS level II regions (Voivodships), of which none has a per capita GDP/PPS that exceeds 60 % of the Community average, according to statistical data available for the years 1997-1999.
- (11) Poland consists of 44 NUTS level III regions (districts) of which five have a higher GDP and a lower unemployment rate than the average and therefore it is appropriate to fix lower aid intensities: 40 % NGE in case of Wroclaw, Krakow and Gdansk-Gdynia-Sopot and 30 % NGE in case of Poznan and Warszawa.
- (12) The maximum aid intensities applicable in each of the above-mentioned regions, as jointly evaluated by the Polish Office for Competition and Consumer Protection and the European Commission, are in conformity with the requirements set by the Community guidelines on national regional aid,

HAS DECIDED AS FOLLOWS:

*Sole Article*

The position to be taken by the Community within the Association Committee established by the Europe Agreement between the European Communities and their Member States, of the one part, and Poland, of the other part, with regard to the adoption of the regional aid map shall be based on the draft decision of the Association Committee annexed to this Decision.

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<sup>(1)</sup> OJ L 107, 30.4.1996, p. 4.

**Decision No .../2002 of the Association Committee between the European Communities and their Member States, of the one part, and Poland, of the other part, of ... adopting a regional aid map on the basis of which regional aid granted by Poland will be assessed**

THE ASSOCIATION COMMITTEE,

Having regard to the Treaty establishing the European Community, and in particular Article 133 in conjunction with the first sentence of Article 300(2) thereof,

Having regard to the proposal of the Commission of the European Communities,

Having regard to Article 63(4)(a) of the Europe Agreement,

Having regard to Article 4(2) of the Implementing Rules for the application of the provisions on State aid of the Europe Agreement, as adopted by Decision No 3/2001 of the EU-Poland Association Council of 23 May 2001,

Having regard to Decision No 2/2001 of the EU-Poland Association Council of 7 May 2001 with regard to the extension for a further period of five years of Poland as an area identical to those areas of the Community described in Article 87(3)(a) of the Treaty establishing the European Community and in particular its Article 2, third sentence,

Whereas:

- (1) Article 2 of the Decision No 2/2001 obliged Poland within six months of the date of the adoption of the decision to submit the GDP per capita figures which have been harmonised at NUTS level II to the European Commission.
- (2) The Polish State aid monitoring authority (the Office for Competition and Consumer Protection) and the European Commission jointly evaluated the eligibility of the regions as well as the maximum aid intensities in relation thereto in order to draw up the regional aid map on the basis of the Community guidelines on national regional aid <sup>(1)</sup>.
- (3) According to Article 4(2) of the Implementing rules, in conjunction with Article 2, third sentence of Decision 2/2001 of the EU-Poland Association Council, a joint proposal shall be submitted to the Association Committee, which shall take a decision to this effect.
- (4) According to the Community guidelines on national regional aid, in the case of regions falling under Article 87(3)(a) of the Treaty the intensity of regional aid must not exceed the rate of 50 % NGE, except in the outermost regions, where it may be as much as 65 % NGE.

- (5) In the NUTS level II regions eligible under Article 87(3)(a) whose per capita GDP/PPS is greater than 60 % of the Community average, the intensity of regional aid must not exceed 40 % NGE, except in the outermost regions, where it may be as high as 50 % NGE.
- (6) The GDP/PPS of each region and the Community average to be used in the analysis must relate to the average of the last three years for which statistics are available.
- (7) Within the limit of 75 % NGE all the above-mentioned ceilings may be raised by 15 percentage points gross in the case of aid granted to small and medium-sized enterprises <sup>(2)</sup>, and constitute upper limits which apply to the total aid whenever assistance is granted concurrently under several regional schemes, and regardless of whether it comes from local, regional, national or Community sources.
- (8) Beneath these ceilings, it will be ensured that the regional aid intensity is adjusted to reflect the seriousness and intensity of the regional problems addressed.
- (9) The seriousness and intensity of the regional problems addressed must be assessed within the broader context of all the countries which have concluded Europe agreements with the European Communities.
- (10) Poland consists of 16 NUTS level II regions (Voivodships), of which none has a per capita GDP/PPS that exceeds 60 % of the Community average, according to statistical data available for the years 1997-1999.
- (11) Poland consists of 44 NUTS level III regions (districts) of which five have a higher GDP and a lower unemployment rate than the average and therefore it is appropriate to fix lower aid intensities: 40 % NGE in case of Wrocław, Kraków and Gdansk-Gdynia-Sopot and 30 % NGE in case of Poznań and Warszawa.
- (12) The maximum aid intensities applicable in each of the above-mentioned regions, as jointly evaluated by the Polish Office for Competition and Consumer Protection and the European Commission, are in conformity with the requirements set by the Community guidelines on national regional aid,

<sup>(1)</sup> OJ C 74, 10.3.1998, p. 9.

<sup>(2)</sup> OJ L 107, 30.4.1996, p. 4.

HAS DECIDED AS FOLLOWS:

*Article 1*

Maximum aid intensities applicable in Poland shall be limited, in net grant equivalent, to 50 % in the NUTS level II regions of Dolnoslaskie, Kujawsko-pomorskie, Lubelskie, Lubuskie, Lodzkie, Maloposkie, Mazowieckie, Opolskie, Podkarpackie, Podlaskie, Pomorskie, Slaskie, Swietokryskie, Warminsko-Mazurskie, Wielkopolskie and Zachodniopomorski, but thereof only 40 % in the NUTS level III regions of Wroclaw, Krakow and Gdansk-Gdynia-Sopot, and 30 % in the NUTS level III regions of Poznan and Warszawa.

Maximum aid intensities referred to under Article 1(1) above may be raised by 15 gross percentage points in the case of aid granted to small and medium-sized enterprises.

*Article 2*

The maximum aid intensity ceilings referred to under Article 1(1) shall constitute upper limits which apply to the total aid whenever assistance is granted concurrently under several regional schemes, and regardless of whether it comes from local, regional, national or Community sources.

*Article 3*

This Decision shall enter into force on the day of its adoption. It shall expire on 31 December 2006 or the date of Poland's accession to the EU, whichever comes earlier.

Done at Brussels, . . .

*For the Association Committee*

*The President*

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