

# COMMISSION

## COMMISSION DECISION

of 28 November 2007

**concerning the WRAP Printing and Writing Paper Scheme notified by the United Kingdom —  
(registered under document number C 45/05)**

(notified under document number C(2007) 5421)

(Only the English version is authentic)

(Text with EEA relevance)

(2008/440/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community, and in particular the first subparagraph of Article 88(2) thereof,

Having regard to the Agreement on the European Economic Area, and in particular Article 62.1(a) thereof,

Having called on interested parties to submit their comments pursuant to the provision(s) cited above <sup>(1)</sup> and having regard to their comments,

Whereas:

### 1. PROCEDURE

- (1) By letter of 22 July 2005, registered in the Commission on 26 July 2005 under number A/6948, the United Kingdom notified to the Commission a scheme for increasing the manufacturing capacity of printing and writings (hereinafter 'P & W') paper from recycled fibre under the Waste and Resources Action Programme (WRAP). The notification was registered under number N 364/05. The Commission asked further information by letter dated 9 September 2005, registered under number D/56952. The United Kingdom replied by letter dated 28 October 2005, and registered on 7 November 2005 under number A/38954.

- (2) On 7 December 2005 the Commission decided to open the procedure laid down in Article 88(2) of the EC Treaty. On 24 January 2006 the United Kingdom sent its observations in reply to the decision to open proceedings. The Commission received comments on 10 and 14 February 2006 from M-Real, a manufacturer of recycled P & W paper with production locations in the United Kingdom and from the Confederation of Paper Industry (hereinafter 'CPI'), the United Kingdom association representing the paper industry. The United Kingdom responded to the comments from the third parties on 3 May 2006. On 19 March 2007 the Commission asked for further information to the United Kingdom. The United Kingdom responded on 11 May 2007. On 14 July 2007, the authorities of the United Kingdom met with representatives of the Commission. The United Kingdom provided further information on 21 August 2007, 10 and 14 September 2007.

### 2. DESCRIPTION OF THE MEASURE

*Granting authority*

- (3) WRAP is a company established by the Government of the United Kingdom in partnership with other shareholders to promote sustainable waste management, and more specifically to promote efficient markets for recycled materials and products. Its central objective is to enable recycled markets to function more effectively by stimulating demand for recycled materials and products, thereby improving the economics of collection. Although WRAP functions as an adjunct to the Government and implements government policies, it has the form of a private company. WRAP's shareholders comprise several representatives of the industries with some interests in waste management, among them the Confederation of Paper Industries and the Chartered Institute of Waste Management, charities such as Wastewatch, and representatives of the devolved and British governments.

<sup>(1)</sup> OJ C 9, 14.1.2006, p. 6.

*Objectives*

- (4) The objective of the notified scheme is to increase collection and recycling of printing and writing (P & W) paper from offices and businesses by increasing recycling capacity under the obligation to collect additional waste paper. The United Kingdom expects that the increased recycling capacity, linked to the legal obligation by the beneficiary of the aid to use new additional collections, will lead to a net increase in additional collections of P & W waste paper. The definition of printing and writing paper used by the United Kingdom authorities includes the following types of wood-free papers: paper for printed publications, copier/printer paper and magazine papers. The United Kingdom has excluded other types of wood-free paper such as tissue paper and all types of wood-containing paper from the tender. Currently, most of the paper produced by businesses and offices is not collected and sorted for recycling, due in particular to technical difficulties, low costs of landfill, and price volatility. The 2006 statistics from the Confederation of Paper Industries have shown that collections of P & W paper in the United Kingdom are around 10 % <sup>(1)</sup>.

*The tender*

- (5) WRAP intends to address the objectives by offering grants to paper manufacturers to increase P & W paper reprocessing capacity that utilises mainly waste paper from offices and businesses as its raw material input. The budget for this measure is between GBP 6 million and GBP 20 million, (approximately between EUR 8,6 million and EUR 28,6 million). The budget will cover the period until 31 March 2011. Between two and ten paper producers are expected to benefit from the aid. The aid is financed through the general budget of the Department for Environment, Food and Rural Affairs (DEFRA).

- (6) The notified aid is to be granted following a competitive tender process, inspired by EC public procurement procedures. The following conditions are particularly relevant.

*Waste paper sourcing*

- (7) Successful bidders will be those whose collections are predominantly from offices and business and are of P & W waste paper. Accordingly, the tender invitation

document will state that 'the raw material source is to be, as a minimum, and in order of priority:

- raw materials from offices or non-residential/non-household sources not previously collected for recycling,
- raw materials from municipal sources not previously collected for recycling,
- existing collections.'

Moreover, at least 50 % of the waste paper used must come from offices and businesses and, similarly, at least 50 % of the waste paper used must come from new collections of raw materials not previously collected for recycling.

- (8) By prioritising collections from offices or businesses above the rest of the sources in the tender, the United Kingdom authorities expect that it will be highly probable that a bid that includes a high proportion of household waste paper or existing collections, rather than wood free P & W waste paper from offices and/or businesses, will not succeed.

*Aid intensity and eligible cost*

- (9) While the final intensity of the aid granted to each beneficiary will result from the tender, the maximum intensities for large enterprises and for SMEs is 30 % and 40 % respectively. These intensities can be increased by 5 % if the beneficiary is based in an Article 87(3)(c) assisted region or by 10 % if the beneficiary is based in an Article 87(3)(a) assisted region.
- (10) In cases when the entire investment would not have been made in the absence of aid, and a part or all of that investment goes beyond state of the art, the United Kingdom will take an appropriate comparator. Eligible costs will be calculated net of the benefits accruing from any increase in capacity, cost savings engendered during the first five years of the life of the investment and additional ancillary production during that five-year period.

<sup>(1)</sup> <http://www.paper.org.uk/info/reports/fact2006colour0707.pdf>

- (11) In case the aid concerns, for example an investment in a new P & W production plant, in accordance with the Community guidelines on State aid for environmental protection, hereinafter 'the environmental guidelines' <sup>(1)</sup>, the eligible costs would consist of the investment costs of the new plant, minus the costs of a comparable conventional P & W plant. If, instead, the project only concerns an additional de-inking unit to existing de-inking units, or intended to build conventional new production capacity but agreed to add an extra de-inking unit to comply with the criteria of the scheme, then the extra investment costs necessary to meet the environmental objectives would be simply the costs of these additional de-inking units.
- (12) The United Kingdom authorities have committed themselves to sending a report to the Commission every year. This report will contain a description, for each beneficiary, of the comparator used to deduct from the eligible costs the technically comparable reference investment that does not provide the same degree of environmental protection, in line with the principle referred to in point 37 of the environmental guidelines.
- (13) The United Kingdom will only subsidise investments for the production of P & W paper from waste wood-free P & W paper when the investment goes beyond the state of the art. This means that the projects should involve new technology in their facilities and processes, whose trialling or demonstration will assist in solving the main technical barrier for recycling P & W paper, namely the de-inking of wood-free waste paper. A highly effective de-inking process is crucial, as consumers of P & W paper request a bright, clean and white paper to print. The United Kingdom has submitted that the office papers are printed with the following printing processes:
- (14) There is, however, a very significant (and rapidly growing) volume of these printing processes, which currently cannot be de-inked in an efficient and environmentally sound manner <sup>(2)</sup>. The inks involved include in particular water-based inks, including all ink jets, much of solid toner inks and all of first generation liquid toner inks. In addition, inks consisting of particles of a size between 10 µm and 100 µm can, in principle be de-inked, but the efficiency of this process deteriorates significantly towards the lower, and upper, end of this spectrum <sup>(3)</sup>. Recent research has shown that the presence of as little as 10 % of pigment-based black inkjet inks in a mixture of recovered papers spoils the de-inkability of the whole mixture such that it is no longer suitable for producing P & W paper <sup>(4)</sup>.
- (15) Existing paper producers from P & W waste paper, such as M-Real, rely on specialised niche sources of P & W waste paper, such as commercial printers, which provide a reliable and consistent quality furnish, using inks which are for the most part relatively easy to de-ink. The mixed waste from offices that is being targeted by the tender will contain a significant proportion of inkjet and toner inks that pose unresolved technological de-inking problems <sup>(5)</sup>.

*The investment must go 'beyond the state of the art'*

- (13) The United Kingdom will only subsidise investments for the production of P & W paper from waste wood-free P & W paper when the investment goes beyond the state of the art. This means that the projects should involve new technology in their facilities and processes, whose trialling or demonstration will assist in solving the main technical barrier for recycling P & W paper, namely the de-inking of wood-free waste paper. A highly effective de-inking process is crucial, as consumers of P & W paper request a bright, clean and white paper to print. The United Kingdom has submitted that the office papers are printed with the following printing processes:
- (16) In addition to the purely technical aspects, any successful bidder will need to demonstrate that it intends to use technology and/or processes which go beyond technology which has already been developed and which is in use today, i.e. which is 'economically profitable and therefore normal practice'.

*Notification of large individual aid amounts*

- (17) The authorities of the United Kingdom have undertaken, in accordance with paragraph 76 of the environmental guidelines, to notify to the Commission any individual case of investment aid granted under the Scheme where the eligible costs exceed EUR 25 million and where the aid exceeds the gross grant equivalent of EUR 5 million, and that it shall not grant such aid before the Commission has authorised it.

*Printing processes for office papers (\*)*

Office paper	Printing process
Copier papers; computer printout	Xerography (laser print) mostly monochrome Ink-jet particularly for colour
Letter, business forms, etc.	Offset headset Sheet-fed offset Xerography Ink-jet

(\*) Carré B & Magin. Seventh Research Forum on Recycling, 2004.

<sup>(1)</sup> OJ C 37, 3.2.2001, p. 3.

<sup>(2)</sup> 'Assessment of the changing print market and its potential consequences for the de-inking sector'. Pira International. <http://www.piranet.com/>

<sup>(3)</sup> 'Digital prints: a survey of the various de-inkability behaviours'. B-Carré, L. Magnin & C Ayala. Centre Technique du Papier Grenoble.

<sup>(4)</sup> European Round Table 'De-inking of Digital Prints'. Munich, 31.1.2007. Axel Fischer, INGEDE.

<sup>(5)</sup> See, for example, documents drafted by the International Association of the De-inking Industry (INGEDE). Many of them are available at <http://www.ingede.com/ingindex/publications.html>

*Appropriate measures*

- (18) The United Kingdom authorities have undertaken to adapt the scheme to the new environmental guidelines when they enter into force and to inform the Commission of the appropriate measures taken to adapt the scheme.

**3. REASONS TO INITIATE THE PROCEDURE OF ARTICLE 88(2)**

- (19) In its Decision to initiate the procedure of Article 88(2), of the Treaty, the Commission expressed the following doubts as regards the compatibility of the scheme.
- (20) The Commission had doubts concerning the justification used by the United Kingdom authorities that the current low utilisation of recycled content in the production of P & W papers in the Community was enough to state that manufacturing P & W paper using recycle fibre goes beyond the current 'state of the art' in the Community.
- (21) The Commission had doubts that an increase in paper manufacturing capacity in the United Kingdom was needed to increase the waste paper collection demand.
- (22) The Commission had doubts that the measure was targeted to maximise the environmental benefits, as P & W waste paper could be used to manufacture many other products.
- (23) The Commission had doubts in relation to the method of calculation of the eligible costs proposed by the United Kingdom. The method initially proposed by the authorities of the United Kingdom was based on the premise that where the market would not give rise to the investment in question, the relevant eligible costs would be all the costs of the investments. Therefore, the costs of a reference investment which creates the same capacity, but which does not provide the same environmental benefits, would not be subtracted. The Commission considered that without taking into account of such reference investment the costs calculation would be disproportionate and not in line with point 37 of the environmental guidelines.
- (24) Finally, the Commission had doubts that the measure proposed by the United Kingdom was the least distortive instrument available to address the problem at stake.

**4. COMMENTS FROM THIRD PARTIES**

- (25) Both M-Real and the CPI held that the scheme proposed by the United Kingdom was going beyond the state of the art, without however, specifying this in detail. The CPI also advocated the environmental benefit of the measure and argued that no distortion of competition would be expected from the scheme.

**5. COMMENTS FROM THE UNITED KINGDOM**

- (26) Following the opening of the procedure, the United Kingdom gave further commitments on the implementation of the notified scheme (see section 2) and provided further information and arguments to address the doubts the Commission originally identified. The United Kingdom provided, scientific and statistical information concerning the state of the art of recycling P & W paper.
- (27) As regards the environmental benefits, the United Kingdom held that using P & W waste paper for new P & W paper is more efficient than using it for tissue paper or fuel for the production of energy. In addition, the current infrastructure and existing uses for waste P & W paper would not suffice to absorb the current quantities of waste P & W paper being produced. It is expected that this problem will increase in the future as consumption of P & W waste paper increases, and consequently the amount of P & W waste paper being produced also increases. Therefore, the United Kingdom believes that by creating new uses for P & W waste paper, it will reduce the amount of P & W waste paper going to the landfill sites or to less efficient uses of the waste, such as fuel.
- (28) The United Kingdom submitted that reasons for the fundamental market failure lies in the lack of sustainable uses for the growing surplus of P & W waste paper and that this is the main reason for proposing the scheme. Encouraging recycling capacity directly is therefore the best way to address the market failure and to achieve the environmental benefits.

**6. ASSESSMENT OF THE MEASURE****6.1. Existence of aid under Article 87(1) EC Treaty**

- (29) Under Article 87(1) EC Treaty, 'any aid granted by a Member State or through State resources in any form whatsoever which distorts or threatens to distort competition by favouring certain undertakings or the production of certain goods shall, insofar as it affects trade between Member States, be incompatible with the common market.'

- (30) In this case, the measure will be funded by resources granted by the State under the WRAP programme. The aid will be granted to individual beneficiaries. The competitive selection procedures may ensure that the amount of the subsidy is limited to the minimum, but does not take away the aid character of the measure. The measure distorts or threatens to distort competition, as it may cover a significant part of investment costs, which would allow the beneficiary to charge a lower price for the P & W paper it produces. The measure will affect the market for new paper, but also the market for waste paper, which is valuable commodity in demand by the paper industry. The measure is likely to affect trade between Member States, since both new paper and waste paper are traded internationally. A large amount of the United Kingdom paper consumption is imported mainly from other Member States and the United Kingdom is among the biggest exporters of waste paper <sup>(1)</sup>.
- (31) Therefore, the scheme qualifies as State aid under Article 87(1) of the EC Treaty.
- (32) By notifying to the Commission the current scheme, the United Kingdom has fulfilled with the obligation of Article 88(3) of the EC Treaty.
- (33) Although the aid is granted with a view to environmental protection, it does not fall within the scope of the environmental guidelines. Point 29 of the environmental aid guidelines does not apply to aid for investments in recycling paper capacity even if this increases the recycling rate of P & W paper. This point applies to aid that encourages the beneficiary to reduce its own pollution. It does not apply to aid that encourages the beneficiary to reduce the pollution generated by the activities of other undertakings. The environmental aid guidelines are based on the general principle of 'the polluter pays', and every interpretation of the guidelines should strictly comply with this underlying principle. This interpretation is confirmed by point 18(b) of the environmental aid guidelines, which states that aid 'may act as an incentive to firms to improve on standards or to undertake further investment designed to reduce pollution from their plants' and as such it has been applied by the Commission in other cases of investments increasing recycling paper capacity.
- (34) The scheme may increase the capacity to produce P & W paper, which would lead to an increase of quantities of waste paper that would only be partially recycled. In any case, only part of the waste paper used to manufacture P & W paper will be paper sold by each beneficiary itself. Consequently, the Commission considers that increasing the recycling rate of paper is unlikely to reduce the beneficiaries' own pollution. It is more likely that the environmental benefits may derive from indirect effects on supply and demand for waste paper that affect all users and providers of waste paper concerned, not only the beneficiary.
- (35) Other interpretation of the guidelines might result in Member States subsidising large investments, with high intensities, in all those sectors where used products can be used as materials for production or where such use is the general practice in that sector. Moreover, following such interpretation, the rules could be circumvented by granting aid not to the polluters, that under Community law would not be obliged to take care of the other company's pollution, but to the companies taking care of the pollution.
- (36) However, as explained later, it is possible that part(s) of the selected investment projects will be eligible for environmental aid for other reasons.

#### 6.2. Compatibility of the investment aid for increasing the recycling rate of paper under the environmental aid guidelines

- (33) Although the aid is granted with a view to environmental protection, it does not fall within the scope of the environmental guidelines. Point 29 of the environmental aid guidelines does not apply to aid for investments in recycling paper capacity even if this increases the recycling rate of P & W paper. This point applies to aid that encourages the beneficiary to reduce its own pollution. It does not apply to aid that encourages the beneficiary to reduce the pollution generated by the activities of other undertakings. The environmental aid guidelines are based on the general principle of 'the polluter pays', and every interpretation of the guidelines should strictly comply with this underlying principle. This interpretation is confirmed by point 18(b) of the environmental aid guidelines, which states that aid 'may act as an incentive to firms to improve on standards or to undertake further investment designed to reduce pollution from their plants' and as such it has been applied by the Commission in other cases of investments increasing recycling paper capacity.

#### 6.3. Compatibility of the investment aid for increasing the recycling rate of paper under the regional guidelines and other provisions of the Treaty

- (37) The United Kingdom has not provided any information that could allow approving the scheme under the Guidelines on National Regional Aid for 2007-2013 <sup>(2)</sup>.
- (38) Although complemented with the regional intensity bonuses of the environmental guidelines, the scheme was notified exclusively as environmental aid. Therefore, the Commission takes into account the regional intensity bonuses of the scheme, but it cannot consider that the scheme as such is compatible with the Guidelines on national regional aid. Nevertheless, in relation to regional aid a different analysis would be possible when the Commission assesses the individual notifications and receives information about the beneficiaries.

<sup>(1)</sup> CEPI, Special Recycling 2004 Statistics, page 5, available at <http://www.cepi.org/files/Sp%20Rec%202005-135002A.pdf>

<sup>(2)</sup> OJ C 54, 4.3.2006, p. 13.

(39) The Commission considers that other rules based on Article 87(3)(c) are not applicable, and that other exemptions set out in Article 87(2) and (3) of the EC Treaty are not applicable to the scheme.

#### 6.4. Compatibility of aid directly on the basis of Article 87(3)(c)

(40) As the environmental guidelines are not applicable, the case has to be assessed directly on the basis of Article 87(3)(c). In fact, the Commission has done so in the past, notably on two occasions for a recycling scheme administered by WRAP<sup>(1)</sup> and two other cases in the paper industry<sup>(2)</sup>.

(41) For investment aid where the beneficiaries will reduce the waste generated by other undertakings (in particular waste management and recycling), the Commission has consistently applied the following criteria, which are additional to the conditions for investment aid set out in the environmental aid guidelines:

(a) the aid does not indirectly relieve the polluters from a burden that should be borne by them under Community law, or from a burden that should be considered as normal company costs for the polluters;

(b) the investment goes beyond the 'state of the art' or uses conventional technologies in an innovative friendly manner;

(c) the treated materials would otherwise be disposed of, or be treated in a less environmentally friendly manner; and

(d) the investment does not merely increase demand for the materials to be recycled without increasing collection of those materials.

(a) *The investment does not indirectly relieve polluters from a burden under EU law*

(42) Although there are Community objectives as regards recycling of waste paper imposed by Council Directive 99/31/EC of 26 April 1999 on the landfill of waste<sup>(3)</sup>, there is no obligation under EU law for the paper mills to collect or recycle the paper that they have sold. In

addition, there is no obligation under EU law for the offices and other users in the private sector of P & W paper to ensure the collection and recycling of the paper they use. Therefore, the Commission takes the view that the scheme proposed by the United Kingdom does not relieve the beneficiaries or the suppliers of the waste paper from any burden under EU law.

(b) *The investment goes beyond the 'state of the art' or uses conventional technologies in an innovative friendly manner*

(43) In the Commission's recent practice, 'state of the art' has been interpreted as a process in which the use of a waste product to manufacture an end product is economically profitable normal practice. Where appropriate, the concept of 'state of the art' should be interpreted from a European technological and common market perspective.

(44) In general, using waste paper to manufacture paper is a profitable and growing activity<sup>(4)</sup>. In past cases, the Commission has considered that, for certain types of paper, the use of waste paper should not be considered to go beyond the state of the art in the Community<sup>(5)</sup>.

(45) However, the scheme presented by the United Kingdom is limited to increasing capacity to manufacture P & W paper from P & W waste paper. The statistics commented by the United Kingdom show that the recycling rate of P & W waste paper in the EU are exceptionally low in relation to the rest of the grades of paper. More importantly, there are technological barriers that impede the manufacturing of P & W paper from P & W waste paper, in particular the difficulty to de-ink some of the inks used to print P & W paper. In addition, as the United Kingdom will ensure, the aid will not be granted in relation to technology which has already been developed and which is in use today, that is to say technology is economically profitable and therefore normal practice.

(46) Therefore, the Commission accepts that eligible investment under the scheme as described above, for de-inking P & W waste paper, goes beyond the current state of the art in the Community. The Commission will, however, have to assess the compliance with this criterion in more detail if the United Kingdom notifies large individual grants under the scheme pursuant to its commitment referred to in point 16 above.

<sup>(1)</sup> OJ L 102, 7.4.2004, p. 59, and N 412/05.

<sup>(2)</sup> OJ L 314, 28.11.2003, p. 26, and OJ L 53, 26.2.2005, p. 66 respectively. The criteria used in these cases are also commented upon in the Annual Competition Report of 2004.

<sup>(3)</sup> OJ L 182, 16.7.1999, p. 1.

<sup>(4)</sup> CEPI, Special Recycling 2004 Statistics, p. 5, available at <http://www.cepi.org/files/Sp%20Rec%202005-135002A.pdf>. See, also, the Commission's Decisions in *Hamburger AG* (C 72/2001), 9 April 2002, OJ L 296, 20.10.2002, p. 50, and *Kartogroup* (N 184/2000), 18 July 2001, OJ C 5, 8.1.2002, p. 2.

<sup>(5)</sup> C 73/2003 *Stora Enso Langerbrugge*, OJ L 53, 26.2.2005, p. 66. In this case, the Commission concluded that a plant manufacturing newsprint paper from 100 % rate of waste newsprint paper was part of the state of the art in the EU.

(c) *The treated materials would otherwise be disposed of, or be treated in a less environmentally friendly manner and (d) the investment does not merely increase demand for the materials to be recycled without increasing collection of those materials*

- (47) As the United Kingdom impose appropriate conditions as regards the minimum proportion of waste paper that otherwise would not be collected and otherwise would be disposed of in landfill, the Commission is assured that the scheme will bring a substantial and real environmental benefit. Secondary effects from the development of new technologies and increased demand for P & W waste paper may further increase the environmental benefits of the scheme.
- (48) In any event, the aid does not merely influence who will use the paper, but will effectively increase the collections of such paper.
- (49) The condition of a minimum 50 % of feedstock not previously collected for recycling is important to reduce the potential distortion of competition in relation to competitors that also use P & W waste paper, such as tissue paper manufacturers and sellers of recycled pulp.
- (50) The Commission will have to look in more detail at the potential distortion of competition and the environmental benefits of the individual cases that may be notified by the United Kingdom, pursuant to its commitment described in point 17, in order to assess the level of collections from offices and businesses, the level of additional new collections and the collections from SMEs.

#### Aid intensities

- (51) The notified aid intensities are in accordance with points 34 and 35 of the environmental guidelines.

#### Eligible costs

- (52) In past cases dealing with increasing recycling capacity of paper the Commission made a parallel with the environmental guidelines<sup>(1)</sup>. Point 37 of the environmental guidelines establishes that eligible costs must be confined strictly to the extra investment costs necessary to meet the environmental objectives. As described in points 9 to 11 above, the United Kingdom has committed to respect this point. The Commission notes

that aid may concern widely different situations such as investments in new paper production capacity whether or not the installations are replaced, investments in conversion or other changes to existing P & W paper production capacity, investments in new pulping installations, investments in conversion or other changes to existing pulping installations, investment in new de-inking installations, investment in conversion of or changes to existing de-inking installations and other investments. In this respect, the United Kingdom has committed to calculate in all cases the eligible costs by deducting from the investment costs any appropriate comparator<sup>(2)</sup>. The Commission is aware that the identification of the appropriate comparator may involve a technically complex assessment. However, the United Kingdom authorities have committed to sending an annual report to the Commission that will contain a description, for each beneficiary, of the appropriate comparator used each time. The Commission considers that the commitments expressed by the United Kingdom confine the eligible costs strictly to the extra-investment costs necessary to meet the environmental objective and takes into account in all cases a comparable investment of a similar capacity that does not provide the same degree of environmental protection. The United Kingdom has undertaken to respect the conditions of paragraph 76 of the environmental guidelines that provides for the obligation to notify individually any aid exceeding EUR 25 million and where the aid exceeds the gross grant equivalent of EUR 5 million. As a result of this undertaking, the Commission will be able to verify the calculation of eligible cost for individual notifications of large aid amounts.

#### 7. CONCLUSION

- (53) The notified measure falls within the definition of State aid pursuant to Article 87(1) and the United Kingdom has complied with its obligation to notify the aid pursuant to Article 88(3) of the Treaty.
- (54) The notified aid intends to reduce the pollution generated by other undertakings but does not indirectly relieve these polluters from a burden under the EU law. The aid concerns investments that go beyond the state of the art and is expected to bring a real environmental benefit as it concerns materials that would otherwise be disposed of in landfill or be treated in a less environmentally friendly manner. The aid will not merely increase demand for materials to be recycled without increasing collection of those materials.

<sup>(1)</sup> C 73/2003 Stora Enso Langerbrugge, OJ L 53, 26.2.2005, p. 66.

<sup>(2)</sup> Where no standards exist, eligible costs consist of the investment costs necessary to achieve a higher level of environmental protection than that which the firm or firms in question would achieve in the absence of any environmental aid.

- (55) The eligible costs of the scheme will be calculated in line with paragraph 37 of the environmental guidelines.
- (56) In conformity with paragraph 76 of the environmental guidelines, the United Kingdom will notify to the Commission any individual case of investment aid granted under the Scheme where the eligible costs exceed EUR 25 million and where the aid exceeds the gross grant equivalent of EUR 5 million.
- (57) Therefore, the aid is found to be compatible with the common market pursuant to Article 87(3)(c) of the EC Treaty,

HAS ADOPTED THIS DECISION:

*Article 1*

The notified State aid WRAP Printing and Writing Paper Scheme, which the United Kingdom is planning to call for

tender, with a budget of a maximum GBP 20 million (approximately EUR 28,6 million) and valid until 31 March 2011 is compatible with Article 87(3)(c) of the EC Treaty.

Implementation of the measure is accordingly authorised.

*Article 2*

This Decision is addressed to the United Kingdom.

Done at Brussels, 28 November 2007.

*For the Commission*

Neelie KROES

*Member of the Commission*

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