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Informazzjoni u Avviżi

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[1] Test b'relevanza għaż-ŻEE

(Ikompli fil-paġna ta' wara)

MT

[1] Test b'relevanza għaż-ŻEE

II

(Komunikazzjonijiet)

KOMUNIKAZZJONIJIET MINN ISTITUZZJONIJIET, KORPI, UFFIĊĊJI U AĠENZIJI TAL-UNJONI EWROPEA

IL-KUMMISSJONI EWROPEA

Ebda oppożizzjoni għal konċentrazzjoni notifikata

(Każ COMP/M.6298 – Schneider Electric/Telvent)

(Test b'relevanza għaż-ŻEE)

(2011/C 245/01)

Fid-9 ta' Awwissu 2011, il-Kummissjoni ddeċidiet li ma topponix il-konċentrazzjoni notifikata msemmija hawn fuq u li tiddikjaraha kompatibbli mas-suq komuni. Din id-deċiżjoni hi bbażata fuq l-Artikolu 6(1)b tar-Regolament tal-Kunsill (KE) Nru 139/2004. It-test sħiħ tad-deċiżjoni hu disponibbli biss fl-Ingliż u ser isir pubbliku wara li jitneħħa kwalunkwe sigriet tan-negozju li jista' jkun fih. Dan it-test jinstab:

— Fit-taqsima tal-amalgamazzjoni tal-websajt tal-Kummissjoni dwar il-Kompetizzjoni (http://ec.europa.eu/competition/mergers/cases/). Din il-websajt tipprovdi diversi faċilitajiet li jgħinu sabiex jinstabu d-deċiżjonijiet individwali ta' amalgamazzjoni, inklużi l-kumpanija, in-numru tal-każ, id-data u l-indiċi settorjali,

— f'forma elettronika fil-websajt EUR-Lex (http://eur-lex.europa.eu/en/index.htm) fid-dokument li jġib in-numru 32011M6298. Il-EUR-Lex hu l-aċċess fuq l-internet għal-liġi Ewropea.

IV

(Informazzjoni)

INFORMAZZJONI MINN ISTITUZZJONIJIET, KORPI, UFFIĊĊJI U AĠENZIJI TAL-UNJONI EWROPEA

IL-KUNSILL

Avviż għall-attenzjoni tal-persuni u l-entitajiet li għalihom japplikaw il-miżuri restrittivi previsti fid-Deċiżjoni tal-Kunsill 2011/273/PESK, kif implimentata bid-Deċiżjoni ta' Implimentazzjoni tal-Kunsill 2011/515/PESK, u fir-Regolament tal-Kunsill (UE) Nru 442/2011, kif implimentat bir-Regolament ta' Implimentazzjoni tal-Kunsill (UE) Nru 843/2011 dwar miżuri restrittivi kontra s-Sirja

(2011/C 245/02)

KUNSILL TAL-UNJONI EWROPEA

L-informazzjoni segwenti tingħieb għall-attenzjoni tal-persuni u l-entitajiet li jidhru fl-Anness għad-Deċiżjoni tal-Kunsill 2011/273/PESK, kif implimentata bid-Deċiżjoni ta' Implimentazzjoni tal-Kunsill 2011/515/PESK [1], u fl-Anness II għar-Regolament tal-Kunsill (UE) Nru 442/2011, kif implimentat bir-Regolament ta' Implimentazzjoni tal-Kunsill (UE) Nru 843/2011 [2] dwar miżuri restrittivi kontra s-Sirja.

Il-Kunsill tal-Unjoni Ewropea ddeċieda li l-persuni u l-entitajiet li jidhru fl-Annessi msemmijin hawn fuq għandhom jiġu inklużi fil-lista ta' persuni u entitajiet soġġetti għal miżuri restrittivi previsti fid-Deċiżjoni 2011/273/PESK u fir-Regolament (UE) Nru 442/2011 dwar miżuri restrittivi kontra s-Sirja. Ir-raġunijiet għan-nominazzjonijiet ta' dawk il-persuni u l-entitajiet jidhru fl-entrati rilevanti f'dawk l-Annessi.

Tingħibed l-attenzjoni tal-persuni u l-entitajiet ikkonċernati għall-possibbiltà li ssir applikazzjoni lill-awtoritajiet kompetenti tal-Istat(i) Membru/i rilevanti kif indikat fis-siti tal-internet fl-Anness III għar-Regolament (UE) Nru 442/2011, sabiex tinkiseb awtorizzazzjoni biex jintużaw il-fondi ffriżati għal ħtiġijiet bażiċi jew ħlasijiet speċifiċi (ara l-Artikolu 6 tar-Regolament).

Il-persuni u l-entitajiet ikkonċernati jistgħu jippreżentaw talba lill-Kunsill, flimkien ma' dokumentazzjoni ta' sostenn, biex id-deċiżjoni li huma jiġu inklużi fil-lista msemmija hawn fuq tkun ikkunsidrata mill-ġdid, fl-indirizz segwenti:

Kunsill tal-Unjoni Ewropea
Segretarjat Ġenerali
Koordinazzjoni DG K
Rue de la Loi/Wetstraat 175
1048 Bruxelles/Brussel
BELGIQUE/BELGIË

Qed tingħibed l-attenzjoni tal-persuni u l-entitajiet ikkonċernati anke għall-possibbiltà li jikkontestaw id-deċiżjoni tal-Kunsill quddiem il-Qorti Ġenerali tal-Unjoni Ewropea, konformement mal-kondizzjonijiet stabbiliti fl-Artikolu 275(2) u l-Artikolu 263(4) u (6) tat-Trattat dwar il-Funzjonament tal-Unjoni Ewropea.

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[1] ĠU L 218, 24.8.2011.
[2] ĠU L 218, 24.8.2011, p. 1.

IL-KUMMISSJONI EWROPEA

Rata tal-kambju tal-euro [1]

It-23 ta' Awwissu 2011

(2011/C 245/03)

1 euro =

	Munita	Rata tal-kambju		Munita	Rata tal-kambju
USD	Dollaru Amerikan	1,4462	AUD	Dollaru Awstraljan	1,3771
JPY	Yen Ġappuniż	110,72	CAD	Dollaru Kanadiż	1,4260
DKK	Krona Daniża	7,4498	HKD	Dollaru ta' Hong Kong	11,2766
GBP	Lira Sterlina	0,87600	NZD	Dollaru tan-New Zealand	1,7360
SEK	Krona Żvediża	9,1046	SGD	Dollaru tas-Singapor	1,7414
CHF	Frank Żvizzeru	1,1410	KRW	Won tal-Korea t'Isfel	1 558,38
ISK	Krona Iżlandiża		ZAR	Rand ta' l-Afrika t'Isfel	10,3816
NOK	Krona Norveġiża	7,8080	CNY	Yuan ren-min-bi Ċiniż	9,2513
BGN	Lev Bulgaru	1,9558	HRK	Kuna Kroata	7,4740
CZK	Krona Ċeka	24,417	IDR	Rupiah Indoneżjan	12 355,53
HUF	Forint Ungeriż	271,78	MYR	Ringgit Malażjan	4,2894
LTL	Litas Litwan	3,4528	PHP	Peso Filippin	61,206
LVL	Lats Latvjan	0,7095	RUB	Rouble Russu	41,8255
PLN	Zloty Pollakk	4,1499	THB	Baht Tajlandiż	43,140
RON	Leu Rumen	4,2574	BRL	Real Brażiljan	2,3111
TRY	Lira Turka	2,5783	MXN	Peso Messikan	17,7768
			INR	Rupi Indjan	65,9830

[1] *Sors*: rata tal-kambju ta' referenza ppubblikata mill-Bank Ċentrali Ewropew.

INFORMAZZJONI MILL-ISTATI MEMBRI

Informazzjoni kkomunikata mill-Istati Membri dwar l-għeluq tas-sajd

(2011/C 245/04)

F'konformità mal-Artikolu 35(3) tar-Regolament tal-Kunsill (KE) Nru 1224/2009 tal-20 ta' Novembru 2009 li jistabbilixxi sistema Komunitarja ta' kontroll għall-iżgurar tal-konformità mar-regoli tal-Politika Komuni tas-Sajd [1], ittieħdet deċiżjoni biex is-sajd jingħalaq kif deskritt fit-tabella ta' hawn taħt:

Data u ħin tal-għeluq	18.7.2011
Tul ta' żmien	18.7.2011-31.12.2011
Stat Membru	Il-Pajjiżi l-Baxxi
Stokk jew Grupp ta' stokkijiet	HKE/571214
Speċi	Marlozz (*Merluccius merluccius*)
Żona	VI u VII; l-ilmijiet tal-UE u l-ilmijiet internazzjonali ta' Vb; l-ilmijiet internazzjonali ta' XII u XIV
Tip(i) ta' bastimenti tas-sajd	—
Numru ta' referenza	—

Ħolqa elettronika għad-deċiżjoni tal-Istat Membru:

http://ec.europa.eu/fisheries/cfp/fishing_rules/tacs/index_mt.htm

[1] ĠU L 343, 22.12.2009, p. 1.

Informazzjoni kkomunikata mill-Istati Membri dwar l-għeluq tas-sajd

(2011/C 245/05)

F'konformità mal-Artikolu 35(3) tar-Regolament tal-Kunsill (KE) Nru 1224/2009 tal-20 ta' Novembru 2009 li jistabbilixxi sistema Komunitarja ta' kontroll għall-iżgurar tal-konformità mar-regoli tal-Politika Komuni tas-Sajd ([1]), ittieħdet deċiżjoni biex is-sajd jingħalaq kif deskritt fit-tabella ta' hawn taħt:

Data u ħin tal-għeluq	18.7.2011
Tul ta' żmien	18.7.2011-31.12.2011
Stat Membru	Il-Pajjiżi l-Baxxi
Stokk jew Grupp ta' stokkijiet	HKE/2AC4-C
Speċi	Marlozz (*Merluccius merluccius*)
Żona	L-ilmijiet tal-UE ta' IIa u IV
Tip(i) ta' bastimenti tas-sajd	—
Numru ta' referenza	—

Ħolqa elettronika għad-deċiżjoni tal-Istat Membru:

http://ec.europa.eu/fisheries/cfp/fishing_rules/tacs/index_mt.htm

([1]) ĠU L 343, 22.12.2009, p. 1.

Informazzjoni kkomunikata mill-Istati Membri dwar l-għeluq tas-sajd

(2011/C 245/06)

F'konformità mal-Artikolu 35(3) tar-Regolament tal-Kunsill (KE) Nru 1224/2009 tal-20 ta' Novembru 2009 li jistabbilixxi sistema Komunitarja ta' kontroll għall-iżgurar tal-konformità mar-regoli tal-Politika Komuni tas-Sajd [1], ittieħdet deċiżjoni biex is-sajd jingħalaq kif deskritt fit-tabella ta' hawn taħt:

Data u ħin tal-għeluq	9.7.2011
Tul ta' żmien	9.7.2011-31.12.2011
Stat Membru	Franza
Stokk jew Grupp ta' stokkijiet	COD/5BE6A
Speċi	Merluzz (*Gadus morhua*)
Żona	VIa; l-ilmijiet tal-UE u l-ilmijiet internazzjonali taż-żona Vb fil-Lvant ta' 12° 00′ W
Tip(i) ta' bastimenti tas-sajd	—
Numru ta' referenza	792761

Ħolqa elettronika għad-deċiżjoni tal-Istat Membru:

http://ec.europa.eu/fisheries/cfp/fishing_rules/tacs/index_mt.htm

[1] ĠU L 343, 22.12.2009, p. 1.

Informazzjoni kkomunikata mill-Istati Membri dwar l-għeluq tas-sajd

(2011/C 245/07)

F'konformità mal-Artikolu 35(3) tar-Regolament tal-Kunsill (KE) Nru 1224/2009 tal-20 ta' Novembru 2009 li jistabbilixxi sistema Komunitarja ta' kontroll għall-iżgurar tal-konformità mar-regoli tal-Politika Komuni tas-Sajd ([1]), ittieħdet deċiżjoni biex is-sajd jingħalaq kif deskritt fit-tabella ta' hawn taħt:

Data u ħin tal-għeluq	2.8.2011
Tul ta' żmien	2.8.2011-31.12.2011
Stat Membru	Il-Portugall
Stokk jew Grupp ta' stokkijiet	WHB/8C3411
Speċi	Stokkafixx (*Micromesistius poutassou*)
Żona	VIIIc, IX u X l-ilmijiet tal-UE ta' CECAF 34.1.1
Tip(i) ta' bastimenti tas-sajd	—
Numru ta' referenza	—

Ħolqa elettronika għad-deċiżjoni tal-Istat Membru:

http://ec.europa.eu/fisheries/cfp/fishing_rules/tacs/index_mt.htm

([1]) ĠU L 343, 22.12.2009, p. 1.

V

(Avviżi)

PROĊEDURI AMMINISTRATTIVI

IL-KUMMISSJONI EWROPEA

Sejħiet għall-Proposti – Il-Programm ESPON 2013

(2011/C 245/08)

ESPON huwa n-Netwerk Ewropew għall-Osservazzjoni tal-Iżvilupp u l-Koeżjoni Territorjali. Huwa jappoġġja l-iżvilupp ta' politiki relatati mal-Politika ta' Koeżjoni tal-UE. ESPON huwa kkofinanzjat mill-Fond Ewropew għall-Iżvilupp Reġjonali skont l-Objettiv 3 għall-Kooperazzjoni Territorjali Ewropea, u minn 31 pajjiż (is-27 Stat Membru tal-UE u l-Islanda, il-Lichtenstein, in-Norveġja u l-Isvizzera).

Bħalissa hemm Sejħa għall-Proposti fil-qafas tal-Programm ESPON 2013. Il-benefiċjarji potenzjali huma korpi pubbliċi u privati minn 31 pajjiż (is-27 Stat Membru tal-UE, l-Islanda, il-Lichtenstein, in-Norveġja u l-Isvizzera). Riċerkaturi u istituzzjonijiet ta' riċerka, universitajiet, xjentisti, esperti, timijiet akkademiċi huma mistiedna japplikaw. Is-sejħa għal Attivitajiet ta' Netwerking Transnazzjonali hija miftuħa għall-istituzzjonijiet ikkonfermati bħala Punti ta' Kuntatt Nazzjonali tal-ESPON.

1. Sejħa għal Proposti għal proġetti ta' Riċerka Applikata:

   — Ir-Reġjuni Ewropej Ġirien (baġit ta' EUR 750 000)

   — Bliet ta' daqs Żgħir u Medju fil-Kuntest Territorjali Funzjonali tagħhom (baġit ta' EUR 650 000)

   — Id-dimensjoni territorjali ta' Faqar u Esklużjoni Soċjali fl-Ewropa (baġit ta' EUR 750 000)

   — Il-Kriżijiet Ekonomiċi: Il-Kapaċità għall-Irkupru tar-Reġjuni (baġit ta' EUR 759 153)

2. Sejħa għal Proposti ta' Analiżijiet Immirati minn Partijiet Interessati li għandhom Turija ta' Interess:

   — Poli tat-Tkabbir fix-Xlokk tal-Ewropa (baġit ta' EUR 360 000)

   — Indikaturi ewlenin għall-Koeżjoni Territorjali u l-Ippjanar tal-Ispazji (baġit ta' EUR 360 000)

   — Pajsaġġi Abitabbli għal Żvilupp Territorjali Sostenibbli (baġit ta' EUR 379 796,09)

   — Politika tal-Pajsaġġ għat-3 Countries Park (baġit ta' EUR 360 000)

   — Il-Baħar tat-Tramuntana – Tixrid ta' Riżultati Transnazzjonali (baġit ta' EUR 340 000)

It-temi indikati hawn fuq għall-Analiżijiet Immirati se jkunu inklużi fis-sejħa bil-patt li jiġi ffirmat ftehim mal-partijiet interessati li tagħhom huma l-ideat tal-proġett. It-temi għaldaqstant se jkunu kkonfermati biss dakinhar li tkun varata s-sejħa nhar l-24 ta' Awwissu 2011. It-temi li fl-aħħar se jkunu inklużi fis-sejħa se jkunu aċċessibbli mis-sit tal-ESPON http://www.espon.eu

3. Sejħa għall-proposti fi ħdan il-Pjattaforma Xjentifika tal-ESPON:

   — Sistema ta' Monitoraġġ u Rappurtar Territorjali tal-UE (baġit ta' EUR 598 000)

   — Atlas tal-ESPON fuq l-Istrutturi u d-Dinamiċi Territorjali Ewropej (baġit ta' EUR 150 000)

   — L-iskoperta ta' Sfidi u Potenzjal Territorjali (baġit ta' EUR 350 000)

   — Pakketti ta' Evidenza Territorjali għall-Programmi tal-FEŻR (baġit ta' EUR 500 000)

   — Għodda tal-ESPON għall-Ippjanar Online (baġit ta' EUR 150 000)

   — Monitoraġġ Territorjali f'Makroreġjun Ewropew – Test għar-Reġjun tal-Baħar Baltiku (baġit ta' EUR 360 000)

4. Sejħa għal Proposti ta' Attivitajiet ta' Netwerking Transnazzjonali min-Netwerk tal-Punti ta' Kuntatt tal-ESPON:

   — Attivitajiet ta' kapitalizzazzjoni fuq livell transnazzjonali min-Netwerk tal-Punti ta' Kuntatt tal-ESPON (baġit ta' EUR 600 227)

Il-proposti jistgħu jiġu sottomessi sal-20 ta' Ottubru 2011.

Fl-13 ta' Settembru 2011, fi Brussell se jiġi organizzat Jum ta' Tagħrif u Partner Café għall-benefiċjarji potenzjali.

Id-dokumentazzjoni kollha konnessa mas-Sejħiet, inkluża l-proċedura għall-applikazzjoni, ir-regoli tal-eliġibbiltà, il-kriterji tal-valutazzjoni u l-formola tal-applikazzjoni huma disponibbli fil-Websajt tal-ESPON http://www.espon.eu

PROĊEDURI DWAR L-IMPLIMENTAZZJONI TAL-POLITIKA TAL-KOMPETIZZJONI

IL-KUMMISSJONI EWROPEA

GĦAJNUNA MILL-ISTAT – IR-RENJU UNIT

Għajnuna mill-Istat SA.18859 – 11/C (ex NN 65/10)

Eżenzjoni mill-Imposti fuq l-Aggregati fl-Irlanda ta' Fuq (ex N 2/04)

Stedina biex jitressqu kummenti skont l-Artikolu 108(2) tat-TFUE

(Test b'relevanza għaż-ŻEE)

(2011/C 245/09)

Permezz tal-ittra ddatata 13 ta' Lulju 2011 riprodotta fil-lingwa awtentika fil-paġni li jiġu wara dan is-sommarju, il-Kummissjoni nnotifikat lir-Renju Unit bid-deċiżjoni tagħha li tagħti bidu għall-proċedura stabbilita fl-Artikolu 108(2) tat-TFUE fir-rigward tal-miżura msemmija hawn fuq. Il-Kummissjoni stiednet ukoll lir-Renju Unit skont l-Artikolu 11(1) tar-Regolament (KE) Nru 659/1999 sabiex tissottometti kummenti dwar l-intenzjoni tal-Kummissjoni li tagħti bidu għal proċedura ta' investigazzjoni formali.

Il-partijiet interessati jistgħu jressqu l-kummenti tagħhom dwar il-miżura fi żmien xahar mid-data tal-pubblikazzjoni ta' dan is-sommarju u l-ittra li ssegwi, lil:

Il-Kummissjoni Ewropea
Id-Direttorat Ġenerali tal-Kompetizzjoni
Reġistru tal-Għajnuna mill-Istat
1049 Bruxelles/Brussel
BELGIQUE/BELGIË

Fax +32 22951242

Dawn il-kummenti ser ikunu kkomunikati lir-Renju Unit. Il-parti interessata li tressaq il-kummenti tista' titlob bil-miktub biex l-identità tagħha tibqa' kunfidenzjali, filwaqt li tagħti r-raġunijiet għat-talba.

SOMMARJU TAT-TIFSIRA

PROĊEDURA

Ir-Renju Unit innotifika miżura ta' Eżenzjoni mill-Imposti fuq l-Aggregati fl-Irlanda ta' Fuq permezz ta' ittra ddatata l-5 ta' Jannar 2004, irreġistrata fid-9 ta' Jannar 2004. Il-miżura ġiet notifikata bħala modifika għall-eżenzjoni oriġinali mill-Imposta fuq l-Aggregati fl-Irlanda ta' Fuq (introduzzjoni gradwali tal-imposta) li kienet approvata mill-Kummissjoni fid-Deċiżjoni tagħha N 863/01. Fis-7 ta' Mejju 2004 l-Kummissjoni adottat Deċiżjoni ta' ebda oġġezzjoni rigward il-miżura. Fit-30 ta' Awwissu 2004, il-British Aggregates Association, Healy Bros. Ltd u David K. Trotter & Sons Ltd (minn hawn 'il quddiem "l-applikanti") ippreżentaw appell kontra d-Deċiżjoni tal-Kummissjoni imsemmija hawn fuq (l-azzjoni ġiet irreġistrata bin-numru T-359/04).

Fid-9 ta' Settembru 2010, il-Qorti Ġenerali annullat id-Deċiżjoni tal-Kummissjoni msemmija hawn fuq. Skont is-sentenza il-Kummissjoni ma kellhiex dritt tadotta legalment id-Deċiżjoni li ma ssibx oġġezzjoni minħabba li ma kinitx eżaminat il-kwistjoni tal-possibbiltà ta' diskriminazzjoni fiskali bejn il-prodotti domestiċi fil-kwistjoni u l-prodotti importati li joriġinaw fl-Irlanda. Il-Kummissjoni ma appellatx din is-sentenza.

L-awtoritajiet tar-Renju Unit issospendew l-implimentazzjoni tal-miżura b'seħħ mill-1 ta' Diċembru 2010 billi rrevokaw ir-Regolamenti tal-2004 dwar l-Imposta fuq Aggregati (Kreditu tat-Taxxa għall-Irlanda ta' Fuq).

DESKRIZZJONI TAL-MIŻURA

L-eżenzjoni ta' 80 % mill-Imposta fuq l-Aggregati (minn hawn 'il quddiem AGL) kienet applikata għal aggregat verġni estratt fl-Irlanda ta' Fuq u sfruttat kummerċjalment hemmhekk u għal prodotti pproċessati minn aggregati estratti fl-Irlanda ta' Fuq u sfruttati kummerċjalment hemmhekk.

L-AGL bħala tali hija taxxa ambjentali fuq l-isfruttar kummerċjali ta' aggregati u hija applikata għall-ġebel, ramel jew żrar. Hija kienet introdotta mir-Renju Unit b'seħħ mill-1 ta' April 2002 għal raġunijiet ambjentali: biex jiġi massimizzat l-użu ta' aggregati riċiklati u alternattivi oħra għal aggregat verġni; u għall-promozzjoni ta' estrazzjoni effiċjenti u għall-użu ta' aggregat verġni, li huwa riżorsa natural mhux rinnovabbli.

Sabiex l-għanijiet ambjentali intenzjonati li ma seħħewx permezz tal-AGL, jintlaħqu b'mod iktar effettiv, l-awtoritajiet tar-Renju Unit għamlu l-kundizzjoni ta' eżenzjoni fuq l-atturi li formalment daħlu u osservaw il-ftehimiet negozjati mal-awtoritajiet tar-Renju Unit, u impenjaw lill-atturi għal programm ta' titjib fil-prestazzjoni ambjentali għat-tul tal-perjodu tal-eżenzjoni.

ANALIŻI

L-ewwel nett, fid-dawl tas-sentenza tal-Qorti Ġenerali, il-Kummissjoni analizzat jekk hemmx rabta intrinsika bejn il-miżura ta' għajnuna infisha, konċessa permezz ta' eżenzjoni mit-taxxa, u t-trattament diskriminatorju fiskali fuq prodotti importati. Minħabba li fil-każ preżenti tali rabta kienet stabbilita, il-Kummissjoni kellha tanalizza jekk il-miżura ta' għajnuna kinitx tinvolvi tassazzjoni interna diskriminatorja bi ksur tal-Artikolu 110 tat-TFUE (eks Artikolu 90 KE). Il-Kummissjoni tfakkar l-aktar il-każistika rigward il-leġiżlazzjoni nazzjonali li tipprovdi vantaġġi fiskali għal prodotti domestiċi fil-każ li jkunu prodotti skont ċerti standards ambjentali. Tali tassazzjoni interna mhix ikkunsidrata kompatibbli mal-Artikolu 110 TFUE jekk il-vantaġġ ma jkunx estiż għal prodotti importati li jkunu manufatturati skont l-istess standards. Minħabba li dan ma kienx il-każ għall-eżenzjoni mill-AGL fl-Irlanda ta' Fuq, għalhekk, il-Kummissjoni għandha d-dubji jekk l-eżenzjoni mill-AGL immodifikata applikabbli fl-Irlanda ta' Fuq kinitx konformi mat-Trattat, b'mod partikolari mal-Artikolu 110 tat-TFUE.

Dawn id-dubji dwar il-konformità mal-Artikolu 110 tat-TFUE f'dan l-istadju jipprekuldu lill-Kummissjoni milli ssib il-miżura kompatibbli mas-suq intern. Filwaqt li tfakkar f'dawn id-dubji, rigward il-konformità tal-miżura mar-regoli dwar l-għajnuna mill-Istat, il-Kummissjoni evalwat din il-miżura skont tal-Linji Gwida dwar l-Għajnuna Ambjentali, b'mod partikolari r-regoli tagħhom rigward għajnuna fil-forma ta' eżenzjonijiet jew tnaqqis mit-taxxi ambjentali. Meta wieħed jikkunsidra l-karattru mhux legali tal-għajnuna mogħtija taħt l-AGL immodifikata fl-Irlanda ta' Fuq minħabba li l-Qorti Ġenerali annullat il-bażi ta' kompatibbilità tal-miżura, il-Kummissjoni evalwat il-miżura skont il-Linji Gwida tal-2001 dwar l-Għajnuna Ambjentali u mit-2 ta' April 2008 (jiġifieri dakinhar li daħlu fis-seħħ) skont il-Linji Gwida tal-2008 dwar l-Għajnuna Ambjentali.

Rigward, b'mod speċifiku, l-evalwazzjoni abbażi tal-Linji Gwida tal-2001 dwar l-Għajnuna Ambjentali, il-Kummissjoni waslet għall-konklużjoni li l-kundizzjonijiet huma osservati, u tenniet tfakkar li dubji dwar il-konformità mal-Artkolu 110 tat-TFUE jipprekludu lill-Kummissjoni milli ssib il-miżura kompatibbli mas-suq intern f'dan l-istadju.

Rigward il-Linji Gwida tal-2008 għall-Għajnuna Ambjentali, il-Kummissjoni waslet għall-konklużjoni preliminari li għandha d-dubji jekk il-kundizzjoni ta' ħtieġa tal-għajnuna hix issodisfata, b'mod partikolari jekk iż-żieda sostanzjali fl-ispejjeż tal-produzzjoni tistax tgħaddi għand il-konsumaturi finali mingħajr tnaqqis sinifikanti fil-bejgħ. F'dan il-kuntest il-Kummissjoni tinnota li minkejja li l-informazzjoni li pprovdew l-awtoritajiet tar-Renju Unit juru żieda sinifikanti fl-ispejjeż tal-produzzjoni minħabba l-AGL, li normalment x'aktarx li tali żieda ma tkunx tista' tgħaddi għand ix-xerrej aħħari mingħajr tnaqqis importanti fil-bejgħ, fid-dawl ta' nuqqas ta' informazzjoni dettaljata biżżejjed, il-Kummissjoni f'dan l-istadju ma tistax tikkonkludi li din il-kundizzjoni ta' kompatibbiltà ġiet issodisfata.

Għaldaqstant, abbażi tal-analiżi preliminari, il-Kummissjoni għandha d-dubji dwar jekk il-miżura "Eżenzjoni mill-Imposti fuq l-Aggregati fl-Irlanda ta' Fuq (ex N 2/04)" tosservax it-Trattat u dwar il-kompatibbiltà tagħha mas-suq intern. Skont l-Artikolu 4(4) tar-Regolament (KE) Nru 659/1999 il-Kummissjoni ddeċidiet li tiftaħ proċedura ta' investigazzjoni formali u tistieden lil partijiet terzi jibgħatu l-kummenti.

TEST TAL-ITTRA

"The Commission wishes to inform the UK authorities that, having examined the information supplied by them on the aid referred to above, it has decided to open the formal investigation procedure under Article 108(2) of the Treaty on the Functioning of the European Union (TFEU).

1. **PROCEDURE**

1. The United Kingdom notified the measure at hand by letter of 5 January 2004, registered on 9 January 2004.

2. The measure was notified as a modification of the original relief from the aggregates levy in the Northern Ireland [1] which was approved by the Commission in its Decision of 24 April 2002 in case N 863/01 [2].

3. On 7 May 2004, the Commission adopted a no objections decision with respect to this measure [3].

4. On 30 August 2004, the British Aggregates Association, Healy Bros. Ltd and David K. Trotter & Sons Ltd launched an appeal against the abovementioned Commission Decision (the action was registered under Case T-359/04).

[1] The phased introduction of the AGL.
[2] OJ C 133, 5.6.2002, p.11.
[3] OJ C 81, 2.4.2005, p. 4.

5. On 9 September 2010, the General Court annulled the abovementioned Commission Decision [1]. According to the judgment, the Commission was not entitled to adopt lawfully the decision not to raise objections as it had not examined the question of a possible tax discrimination between the domestic products in question and imported products originating from Ireland. The Commission did not appeal this judgment.

6. On 15 December 2010 and 21 December 2011, the UK authorities submitted additional information concerning the measure at hand, including documents concerning the suspension of the implementation of the measure as from 1 December 2010 by revoking the Aggregates Levy (Northern Ireland Tax Credit) Regulations 2004 (S.I. 2004/1959).

7. The Commission requested additional information by letter of 2 February 2011. The UK authorities submitted further information by letters of 7 March 2011 and 10 June 2011.

2. DESCRIPTION

2.1. The aggregates levy

8. The aggregates levy (hereinafter the "AGL") is an environmental tax on the commercial exploitation of aggregates and is applied to rock, sand or gravel. It was introduced by the United Kingdom with effect from 1 April 2002 for environmental purposes in order to maximise the use of recycled aggregate and other alternatives to virgin aggregate and to promote the efficient extraction and use of virgin aggregate, which is a non-renewable natural resource. The environmental costs of aggregate extraction being addressed through the AGL include noise, dust, damage to biodiversity and to visual amenity.

9. The AGL is applied to virgin aggregate extracted in the United Kingdom and to imported virgin aggregate on its first use or sale in the United Kingdom [2]. The rate at the time of the original notification was GBP 1,60 per tonne [3]. It does not apply to secondary and recycled aggregates and to virgin aggregates exported from the United Kingdom.

2.2. The original AGL relief in Northern Ireland

10. In its Decision of 24 April 2002 (N 863/01), the Commission considered that the phased introduction of the AGL in Northern Ireland was compatible with Section E.3.2 of the Community Guidelines on State aid for environmental protection [4] ("the 2001 Environmental Aid Guidelines"). The approved aid took the form of a five-year degressive scheme of tax relief, starting in 2002 and ending in 2007. The original AGL relief in Northern Ireland covered only the commercial exploitation of aggregate used in the manufacture of processed products.

2.3. The modified AGL relief in Northern Ireland

11. The present Decision concerns exclusively the modified AGL relief in Northern Ireland, which was applied to virgin aggregate extracted in Northern Ireland and commercially exploited there and processed products from aggregate extracted in Northern Ireland commercially exploited there.

2.3.1. *Background*

12. The UK authorities explained that, since the introduction of the scheme in 2002, the levy put firms in the Northern Ireland aggregates industry in a more difficult competitive position than initially anticipated. After the gradual introduction of the levy in Northern Ireland, there has been an increase in illegal quarrying, and an increase in undeclared imports of aggregate into Northern Ireland from the Republic of Ireland. No aggregates levy was paid in either case. Consequently, the legitimate quarries paying the levy are being undercut by illegal sources operating outside the levy and therefore losing sales to these illegal sources. The findings in a report commissioned by the UK authorities from the Symonds' Group (specialist consultants in the quarrying/construction sectors) and other evidence available to the UK Customs and Excise authorities, who were responsible for enforcing the levy, confirmed this development.

13. According to the UK authorities at the time of the original notification, the Quarry Products Association Northern Ireland indicated over 38 quarries which they considered to be operating illegally. There was also evidence, as set out in the Symonds Report, of a significant volume of unrecorded imports of aggregate from the Republic of Ireland, on which the levy was being evaded.

14. Furthermore, the UK authorities explained that, while the AGL is having an appreciable positive environmental effect in Great Britain (details below in points 32-36), it has not been working as intended in Northern Ireland, where the availability of levy-free recycled and alternative materials is very limited and localised, and the infrastructure of collecting and processing such materials is almost non-existent.

2.3.2. *Modification*

15. In order to provide additional time to the aggregate industry in Northern Ireland to adapt and to achieve the intended environmental effects, the original relief scheme (phased introduction of the AGL) was modified. The relief applied to all types of virgin aggregate, i.e. not only to aggregates used in the manufacturing of processed products, as it was the case for the original relief in case N 863/01, but also to virgin aggregates used directly in the raw state [5].

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[1] Case T-359/04 *British Aggregates a. o.* v *Commission*, judgment of 9 September 2010, not yet reported.

[2] The AGL is applied to imported raw aggregate, but not to aggregate contained in imported processed products.

[3] On 2 April 2008, i.e. the day from which the 2008 Environmental Aid Guidelines were applicable, the level of AGL was GBP 1,95/tonne.

[4] OJ C 37, 3.2.2001, p. 3.

[5] The aggregates extracted in Northern Ireland and shipped to any destination in Great Britain were liable to the AGL at the full rate. This was also the case for aggregate extracted in Northern Ireland that was used in the manufacturing of processed products shipped to Great Britain. This ensured that aggregates and processed products from Northern Ireland did not enjoy a competitive advantage in the market of Great Britain.

16. The relief was set at 80 % of the AGL level otherwise payable, and was intended to be a transitional arrangement. It came into effect on 1 April 2004 and was supposed to continue until 31 March 2011 (i.e. nine years from the start of the AGL on 1 April 2002) ([1]).

2.3.3. *Environmental agreements*

17. In order to more effectively achieve the intended environmental objectives, the UK authorities made the relief conditional upon claimants formally entering into and complying with negotiated agreements with the UK authorities, committing the claimants to a programme of environmental performance improvements over the duration of the relief.

18. The key criteria for entry into the scheme were that:

(a) the requisite planning permission(s) and environmental regulatory permits etc. had to be in place for each eligible site; and

(b) the site operator was required to "sign-up" to a regime of environmental audits. The first audit had to be commissioned and submitted within 12 months of the date of entry to the scheme and updated every two years thereafter.

19. Each agreement was individually tailored to the circumstances of the quarry, taking into account, for example, current standards and scope for improvement. The areas of performance covered were: air quality; archaeology and geodiversity; biodiversity; blasting; community responsibility; dust; energy efficiency; groundwater; landscape and visual intrusion; noise; oil and chemical storage and handling; restoration and aftercare; use of alternatives to primary aggregates; surface water; off-site effects of transport; and waste management.

20. The Department of Environment in Northern Ireland was responsible for monitoring these agreements, and the relief is withdrawn for those firms which have significant shortcomings.

2.3.4. *Aggregates production costs, selling price and price elasticity of demand*

21. As regards the aggregates production costs, the UK authorities explained that they vary significantly from quarry to quarry and that the same is valid for the prices ([2]). The average selling price ex-quarry for different classes of aggregates is summarised in Table 1 below ([3]). Profit margins are again variable, but the industry estimates that 2 % to 5 % is a typical level.

Table 1

Selling price

Type of rock	Price ex-quarry before tax (GBP/tonne)
Basalt	4,21
Sandstone	4,37
Limestone	3,72
Sand and gravel	4,80
Other	5,57
Weighted average price	4,42

22. As regards in general the difference in price levels between Northern Ireland and Great Britain, the UK authorities explain that suppliers in Northern Ireland have never been able to charge the same price as in Great Britain. The UK authorities illustrated this by the information presented in Table 2 below. The levy at the full rate would therefore represent a much higher proportion of the selling price in an already suppressed market. This inability to pass on costs to customers has been a significant historic factor in the lack of investment in environmental improvement and is explained by economic (fragmentation of the market) and geological factors.

Table 2

	2001	2002	2003	2004	2005	2006	2007	2008
NI aggregates cost GBP/tonne	2,9	3,1	3,5	3,4	3,9	3,6	4,3	4,3
GB aggregates cost GBP/tonne	7,9	8,4	9,0	7,7	8,8	9,7	9,2	10,9

23. As regards the price elasticity of demand, the UK authorities explained, based on a survey of research literature ([4]), that the price elasticity of demand for aggregates ranges from 0,2 to 0,5. The UK authorities' examination of aggregates quantity and price data for Great Britain and Northern Ireland suggests that for most types of aggregates the price elasticity ranges from close to zero to about 0,52. The UK authorities could therefore conclude tentatively that the demand for aggregates in Northern Ireland is relatively inelastic.

([1]) As referred to above, the implementation of the AGL relief in Northern Ireland was suspended as from 1 December 2010.

([2]) The information was submitted by the UK authorities for the purposes of an assessment of the measure on the basis of the 2008 Environmental Aid Guidelines. DETI Minerals Statement 2009.

([3]) Distribution costs depend on haulage distances, with haulage costs in the range of 15 to 20 pence per tonne per mile, with aggregate being delivered within 10 to 15 miles, depending on local circumstances.

([4]) Ecotec (1998) Report; EEA Report (No 2/2008) effectiveness of environmental taxes and charges for managing sand, gravel and rock extraction in selected EU countries; British Geological Survey (2008): The need for indigenous aggregates production in England.

2.3.5. *Pass-on and sales reductions*

24. As regards the pass-on of increased production costs to final customers and potential sales reductions, the UK authorities referred to the abovementioned Symonds Report. According to the UK authorities, the report demonstrates that, following the introduction of the levy in 2002, the average price of aggregate in Northern Ireland had increased by much less than would have been expected if the AGL had been passed on in full, and that this was linked to a fall in legitimate sales, which was proportionally much larger than the fall recorded in Great Britain.

25. Furthermore, the UK authorities explained that the Symonds Report confirmed that the sales of aggregate, and in particular the sales of low-grade aggregate and fill, fell in the year ending 31 March 2003 compared with the levels experienced in the two pre-AGL years. The Symonds Report showed (see Table 3 below) that the production from legitimate quarries in calendar year 2002 was significantly below the established trend in aggregate sales (generally, over the last 30 years, there had been a rising trend in aggregate sales in Northern Ireland). In Great Britain aggregate production fell in 2002 by 5,7 %, compared with a slight increase the previous year (however, trend analysis showed that in Great Britain the production had generally been in a declining trend over the previous 10 years).

Table 3

A summary of Symonds' assessment of the fall in sales by legitimate quarries in Northern Ireland

Product	2000-2001 (million tonnes)	2001-2002 (million tonnes)	2002-2003 (million tonnes)	Fall, 2001-2003 (%)	Fall, 2002-2003 (%)
Sand and gravel	2,35	2,34	1,91	– 18,7	– 8,4
Crushed rock	7,86	7,88	7,27	– 7,5	– 7,7
Fill material	3,00	3,89	1,71	– 43,0	– 56,0
Total	13,21	14,11	10,89	– 17,6	– 22,8

26. The UK authorities explained in this context that the data provided by Symonds indicated that once the levy had been introduced at GBP/tonne 1,60, the average price of aggregates in Northern Ireland had risen by about 25-30 pence/tonne in 2002 compared with 2001, whereas in Great Britain the price had risen by GBP 1-1,40/tonne. Even allowing for the fact that aggregate used in processed products, which benefited from an 80 % relief under the original 2002 degressive credit scheme in Northern Ireland, is included in that average, that implies that quarry operators in Northern Ireland were having to absorb a substantial proportion of the levy. On the assumption that processed products used half of the aggregate production in Northern Ireland, and that their price was unaffected by the levy in 2002, that still implies according to the UK authorities that, on average, over GBP 1/tonne of the levy had to be absorbed on each tonne of aggregate sold for use in its raw state.

27. As regards specifically the manufacturers using aggregates in their processed products, the UK authorities explained in this context that, because of the original relief for aggregate used in processed products (N 863/01), the additional costs fell very largely on Northern Ireland producers of aggregate for use in its raw state. But importantly the original relief (phased introduction of the AGL) was to be withdrawn by stages. Therefore, if the original relief had not been modified in 2004, the processed products sector too would have begun to suffer from the same economic difficulties of loss of demand and inability to pass on the extra levy costs to its customers.

2.3.6. *Other information*

28. The estimated annual budget (State resources foregone) varied at the time of the original notification between GBP 15 million (2004-2005) and GBP 35 million (2010-2011).

29. As regards the number of beneficiaries, it was estimated that approximately 170 quarry operators would be eligible.

30. The granting authority of the AGL relief in Northern Ireland was Her Majesty's Revenue & Customs.

2.4. **Position of third parties, appreciable positive effects**

31. In the context of the assessment by the Commission of the original notification of the modified AGL relief in Northern Ireland, the British Aggregates Association (BAA), other associations of producers and individual undertakings contested in their letters that the AGL has an appreciable positive impact in terms of environmental protection. The Commission therefore asked the UK authorities to submit additional information concerning this issue.

32. The UK authorities provided in this context empirical information based on the initial assessment of the AGL's environmental impact using all available data. The submitted information suggested that in Great Britain the aggregates levy had appreciable effects.

33. As regards the aggregate production, the UK authorities explained that the amount of virgin material extracted fell significantly in 2002 compared to earlier years and by 5,7 % compared to 2001. In 2002 the production of sand and gravel decreased by 6 % compared to 2001. The production of marine sand and gravel output fell by 5,9 % in 2002 compared to 2001. There was also a gradual decline in the production of crushed rock.

34. As for the aggregate costs, it was explained by the UK authorities that the costs of aggregates subject to the levy were significantly higher than the costs of aggregates that were not subject to the levy — by about GBP 1,40 per tonne for crushed rock and just over GBP 1 per tonne for sand and gravel. It therefore appeared that the environmental costs of the supply of aggregates were passed on, to a large extent, to the consumers. This is consistent with the objective of incorporating the negative environmental externalities of the quarrying the aggregates into the cost of those aggregates.

35. With respect to the substitution by recycled and alternative materials, the UK authorities mentioned that the scope of the levy is encouraging the substitution of virgin aggregate by recycled or secondary aggregate products. In particular, the sales of slate waste and china clay waste increased, reducing both the demand for virgin aggregates and the tipping of such alternative materials. Aggregates recycling companies reported sales increases for 2002 and 2003.

36. Finally, as regards the investments in recycling, the UK authorities mentioned that the AGL had an effect in reinforcing and supporting the active considerations by the construction industry of recycled aggregates in the construction market. A new recycling plant was opened in South Yorkshire and an East Midlands road construction company also opened a new recycling facility.

3. **ASSESSMENT**

3.1. **State aid within the meaning of Article 107(1) of the TFEU (ex Article 87(1) EC)** [1]

37. State aid is defined in Article 107(1) of the TFEU as 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 in so far as it affects trade between Member States.

38. The AGL relief was granted through State resources, in the form of a tax rate reduction, to companies situated in a defined part of the territory of the UK (Northern Ireland), favouring them by reducing the costs that they would normally have to bear. The recipients of the aid are involved in the extraction of aggregates or in the manufacturing of processed products, which are economic activities involving trade between Member States.

39. Accordingly, the Commission concludes that the notified measure constitutes State aid within the meaning of Article 107(1) of the TFEU (ex Article 87(1) EC).

[1] The definition of State aid laid down in Article 107(1) of the TFEU did not change from the one contained in Article 87(1) EC which was in force when the original notification was submitted in 2004.

3.2. **Lawfulness of the aid**

40. Despite the fact that the measure at hand was notified to the Commission and put into effect only after the Commission adopted a positive decision, the recipients of the aid cannot entertain any legitimate expectations as to the lawfulness of the implementation of the aid, since the Commission's decision was challenged in due time before the General Court [2]. Following the annulment by the General Court of the Commission's no objections decision, that decision must be considered void with regard to all persons as from the date of its adoption. Since the annulment of the Commission's decision put a stop, retroactively, to the application of the presumption of lawfulness, the implementation of the aid in question must be regarded as unlawful [3].

3.3. **Compatibility of the aid**

41. It is a matter of settled case law that although Articles 107 and 108 of the TFEU leave a margin of discretion to the Commission for assessing the compatibility of an aid scheme with the requirements of the internal market, this assessment procedure must not produce a result which is contrary to the specific provisions of the TFEU. The Commission is obliged to ensure that Articles 107 and 108 of the TFEU are applied consistently with other provisions of the TFEU. This is according to the General Court all the more necessary where those other provisions also pursue the objective of undistorted competition in the internal market [4].

42. Furthermore, the General Court recalled that the power to use certain forms of tax relief, particularly when they are aimed at enabling the maintenance of forms of production or undertakings which, without those specific tax privileges, would not be profitable due to high production costs, is subject to the condition that the Member States using that power extend the benefit thereof in a non-discriminatory and non-protective manner to imported products in the same situation [5].

43. The Commission refers in this context to the fact that Article 110 of the TFEU [6] [7] ensures the free movement of goods between the Member States in normal conditions of competition by the elimination of all forms of protection that may result from the application of internal taxation that discriminates against products from other Member States.

[2] See Case C-199/06 *CELF* [2008] ECR I-469, paragraphs 63 and 66 to 68.

[3] See Case C-199/06 *CELF*, cited above, paragraphs 61 and 64.

[4] Case T-359/04 *British Aggregates a. o.* v *Commission*, cited above, paragraph 91.

[5] Case T-359/04 *British Aggregates a. o.* v *Commission*, cited above, paragraph 93.

[6] "No Member State shall impose, directly or indirectly, on the products of other Member States any internal taxation of any kind in excess of that imposed directly or indirectly on similar domestic products.
Furthermore, no Member State shall impose on the products of other Member States any internal taxation of such a nature as to afford indirect protection to other products."

[7] The rules for national internal taxation as laid down in Article 110 of the TFEU did not change from those contained in Article 90 EC which was in force when the original notification was submitted in 2004.

44. As set out above, the aid is provided in the form of a tax rate reduction from an environmental tax, the AGL, to companies established in Northern Ireland which have entered into environmental agreements. This provides these companies with an advantage by reducing the costs that they would normally have to bear. The relief was introduced to provide additional time to the aggregate industry of Northern Ireland to adapt, as the introduction of the AGL had put firms in Northern Ireland in a more difficult competitive situation than initially anticipated.

45. Aggregate producers established in Ireland may not, under the United Kingdom legislation, enter into an environmental agreement and are not otherwise eligible to benefit from the AGL exemption scheme by showing, for example, that their activities comply with the environmental agreements which aggregates producers in Northern Ireland may conclude. Since aggregate products imported from Ireland are therefore taxed at the full AGL rate, and this differentiated taxation of the same product results from the AGL scheme itself, there is an intrinsic link between the aid measure, granted by way of a tax relief, and the discriminatory tax treatment of imported products.

46. Therefore, in the present case, the Commission considers that it must also assess whether the aid measure complies with the rule laid down in Article 110 of the TFEU. In these circumstances, a violation of Article 110 of the TFEU would preclude the Commission from finding the measure compatible with the internal market. As the General Court stated in its judgment of 9 September 2010 in relation to the present case, aid cannot be implemented or approved in the form of tax discrimination in respect of products originating from other Member States ([1]).

3.3.1. *Compliance with Article 110 of the TFEU*

47. According to settled case-law, charges resulting from a general system of internal taxation applied systematically, in accordance with the same objective criteria, to categories of products irrespective of their origin or destination fall within the scope Article 110 of the TFEU. It should therefore be ascertained whether a levy such as the AGL constitutes internal taxation within the meaning of Article 110 of the TFEU. In this respect, the Commission notes that the AGL, which is of a fiscal nature, is levied on virgin aggregate extracted in the United Kingdom and to imported virgin aggregate on its first use or sale in the United Kingdom. It applies to imported aggregates in the same way as it applies to aggregates extracted in the United Kingdom. Consequently, a levy such as the AGL amounts to internal taxation, for the purposes of Article 110 of the TFEU.

48. According to settled case-law, the first paragraph of Article 110 of the TFEU is infringed where the tax levied on the imported product and that levied on the similar domestic product are calculated in a different manner on the basis of different criteria which lead, if only in certain cases, to higher taxation being imposed on the imported product. It follows that a system of taxation is compatible with Article 110 of the TFEU only if it is so arranged as to exclude any possibility of imported products being taxed more heavily than domestic products and, therefore, only if it cannot under any circumstances have a discriminatory effect.

49. Under the AGL relief applicable in Northern Ireland, a reduced rate is levied on virgin aggregates extracted there by producers having entered into environmental agreements.

50. Virgin aggregates extracted in other Member States are not eligible to benefit from the AGL relief, since aggregate producers established in other Member States may not, under the United Kingdom legislation, enter into an environmental agreement. Producers of such aggregates do not even have the possibility to show, for example, that their activities comply with the environmental agreements that aggregate producers in Northern Ireland may conclude. Accordingly, identical products imported from other Member States are taxed at the full AGL rate.

51. Such distinction cannot in the Commission's view be justified on the grounds that the UK authorities cannot conclude environmental agreements with producers of aggregates established outside the United Kingdom, because those authorities have jurisdiction in the United Kingdom only. The UK legislation might have for example given importers the opportunity to demonstrate that the aggregates imported into Northern Ireland had been produced in a way that they comply with the environmental requirements imposed on beneficiaries in Northern Ireland in the agreements.

52. Furthermore in this context, the Commission recalls the case-law concerning national legislation providing tax advantages to domestic products in case they are produced under certain environmental standards. Such internal taxation is not considered compatible with Article 110 of the TFEU if the advantage is not extended to imported products manufactured under the same standards ([2]).

53. Finally, the Commission points out that Article 110 of the TFEU targets the level of taxation imposed directly or indirectly on the products concerned ([3]), i.e. the tax burden each of the products has to bear. Thus, the focus is on the fact that the tax forms a cost element relevant to the formation of the price, and thus to the competitive position of the product vis-à-vis similar products ([4]). It follows that the identity of the taxpayer is not at the core of the assessment.

54. Accordingly, the Commission doubts whether the modified AGL relief applicable in Northern Ireland complies with the Treaty, in particular Article 110 of the TFEU. These doubts preclude the Commission from finding the measure compatible with the internal market at this stage.

([1]) Case T-359/04 *British Aggregates a. o.* v *Commission*, cited above, paragraph 92.

([2]) Case 21/79 *Commission* v *Italy* [1980] ECR p. 1, paragraphs 23 to 26; and in particular Case C-213/96 *Outukumpu* [1998] ECR I-1777, paragraphs 30 et seq.

([3]) The identity of the taxpayer as such is therefore of limited importance.

([4]) "Thus *[Article 110]* must guarantee the complete neutrality of internal taxation as regards competition between domestic products and imported products." (Case 252/86 *Bergandi* [1988] ECR p. 1343, paragraph 24).

3.3.2. *Compatibility of the measure under the Environmental Aid Guidelines*

55. Considering the environmental objective of the measure and notwithstanding the doubts expressed above (point 54), the Commission has assessed the compatibility of the measure at hand according to Article 107(3)(c) of the TFEU and in the light of the Guidelines on State Aid for Environmental Protection.

56. The Commission originally assessed the measure under the 2001 Environmental Aid Guidelines. In the meantime, the 2008 Environmental Aid Guidelines have been adopted. As noted in point 40 above, the result of the annulment of the Commission Decision of 7 May 2004 is that the measure as it has been applied since that date (and until its suspension on 1 December 2010) must be considered as being unlawful. The Commission has stated that it will always assess the compatibility of unlawful State aid with the internal market in accordance with the substantive criteria set out in any instrument in force at the time when the aid was granted [1]. Nothing in the 2008 Environmental Aid Guidelines suggests that this rule should not be applied to the present case. Those Guidelines specify, in point 204, that Commission decisions on notifications taken after the publication of the Guidelines in the *Official Journal of the European Union* will be based exclusively on that text, even if the notification predates that publication. And point 205 simply restates the position set out in the notice as regards aid that has not been notified (and is therefore unlawful).

57. Considering that the aid was granted during the period covering the applicability of the 2001 Environmental Aid Guidelines as well as after the publication of the 2008 Environmental Aid Guidelines, the Commission will assess the measure at hand pursuant to:

(a) the 2001 Environmental Aid Guidelines; and

(b) the 2008 Environmental Aid Guidelines as from 2 April 2008.

Ad (a) Compatibility of the measure under the 2001 Environmental Aid Guidelines

58. Section E.3.2 of the 2001 Environmental Aid Guidelines concerns rules applicable to all operating aid in the form of tax reductions or exemptions.

59. The AGL was introduced in April 2002. That the rate effectively applicable was not 100 % for all operators across all of the United Kingdom does not alter this fact or the principle that the new tax should apply to the entire territory. The Commission will therefore treat the AGL as an existing tax in the sense of the distinction made in the abovementioned section between new and existing taxes. Furthermore, there is no harmonisation at EU level of this type of tax.

60. Point 51(2) provides that:

"The provisions in point 51.1 may be applied to existing taxes if the following two conditions are satisfied at the same time:

(a) the tax in question must have an appreciable positive impact in terms of environmental protection;

(b) the derogations for the firms concerned must have been decided on when the tax was adopted or must have become necessary as a result of a significant change in economic conditions that placed the firms in a particularly difficult competitive situation. In the latter instance, the amount of the reduction may not exceed the increase in costs resulting from the change in economic conditions. Once there is no longer any increase in costs, the reduction must no longer apply.".

61. Point 51(1) provides that:

"These exemptions can constitute operating aid which may be authorised on the following conditions:

1. When, for environmental reasons, a Member State introduces a new tax in a sector of activity or on products in respect of which no Community tax harmonisation has been carried out or when the tax envisaged by the Member State exceeds that laid down by Community legislation, the Commission takes the view that exemption decisions covering a 10-year period with no degressivity may be justified in two cases:

(a) these exemptions are conditional on the conclusion of agreements between the Member State concerned and the recipient firms whereby the firms or associations of firms undertake to achieve environmental protection objectives during the period for which the exemptions apply or when firms conclude voluntary agreements which have the same effect. Such agreements or undertakings may relate, among other things, to a reduction in energy consumption, a reduction in emissions or any other environmental measure. The substance of the agreements must be negotiated by each Member State and will be assessed by the Commission when the aid projects are notified to it. Member States must ensure strict monitoring of the commitments entered into by the firms or associations of firms. The agreements concluded between a Member State and the firms concerned must stipulate the penalty arrangements applicable if the commitments are not met.

These provisions also apply where a Member State makes a tax reduction subject to conditions that have the same effect as the agreements or commitments referred to above;

(b) these exemptions need not be conditional on the conclusion of agreements between the Member State concerned and the recipient firms if the following alternative conditions are satisfied:

— where the reduction concerns a Community tax, the amount effectively paid by the firms after the reduction must remain higher than the Community minimum in order to provide the firms with an incentive to improve environmental protection,

[1] Commission Notice on the determination of the applicable rules for the assessment of unlawful State aid, OJ C 119, 22.5.2002, p. 22.

— where the reduction concerns a domestic tax imposed in the absence of a Community tax, the firms eligible for the reduction must nevertheless pay a significant proportion of the national tax.".

62. With respect, first, to point 51(2), the Commission notes that the tax is levied on activities for reasons of environmental protection. Its aim is to protect the environment by contributing to reducing the extraction of virgin aggregates and encouraging the use of alternative materials (point 51(2)(a)).

63. Given that, at the time of the notification of the amendment in 2004, the measure had already been in operation for two years, the UK was able to provide empirical information on the effects of the AGL (described above in points 32-36). It is therefore clear that the AGL has appreciable positive environmental effects in the majority of the territory of the UK in line with the requirement of point 51(2)(a) of the 2001 Environmental Aid Guidelines. What is more, the environmental agreements concluded with aggregates companies in Northern Ireland benefiting from 80 % AGL relief clearly have positive environmental effects and do not in any way undermine the objectives pursued by the AGL. On the contrary, they aim to encourage those companies to pay at least a part of the tax and contribute to improving environmental performance, rather than becoming a part of the illegal aggregates market.

64. The Commission also notes that the fundamental decision to relieve certain firms in Northern Ireland from the AGL was already taken when the tax was introduced on 1 April 2002 (point 51(2)(b), first sentence).

65. In the light of the above, the Commission considers that the conditions of point 51(2) of the 2001 Environmental Aid Guidelines have been fulfilled.

66. In relation to point 51(1), tax exemption decisions covering a 10-year period with no degressivity may be justified in two cases. The UK authorities submitted that both grounds for justification were fulfilled. That said, despite the introduction of compulsory environmental agreements in 2004 (point 51(1)(a)), the arguments of the UK authorities submit focus on the other scenario: the reduction concerns a domestic tax imposed in the absence of a Community tax and the firms eligible for the reduction nevertheless pay a significant proportion of the national tax (point 51(1)(b), second indent).

67. In the present case, the relief does indeed concern a domestic tax imposed in the absence of a Community tax. The UK authorities proposed to maintain the tax at the level of 20 % of the full rate, which the Commission considers significant ([1]).

68. For these reasons, the compatibility conditions laid down in the 2001 Environmental Aid Guidelines may be considered as being fulfilled. However, it is recalled that in view of the doubts expressed in point 54 in relation to Article 110 of the TFEU, the Commission is precluded from finding the measure compatible with the internal market on the basis of the 2001 Environmental Aid Guidelines at this stage.

Ad (b) Compatibility of the measure under the 2008 Environmental Aid Guidelines

69. Considering the form of the aid (tax rate reduction) granted under the measure at hand, the compatibility assessment basis of the 2008 Environmental Aid Guidelines is Chapter 4 regarding "Aid in the form of reductions or of exemptions from environmental taxes" (points 151-159).

70. As there is no EU harmonisation for taxes such as the AGL, the measure at hand has been assessed pursuant to the rules for non-harmonised environmental taxes.

Environmental benefit

71. Pursuant to point 151 of the 2008 Environmental Aid Guidelines, aid in the form of reductions of or exemptions from environmental taxes will be considered compatible with the common market provided that it contributes at least indirectly to an improvement in the level of environmental protection and that the tax reductions and exemptions do not undermine the general objective pursued.

72. As regards the direct effect of the AGL, the Commission notes, as in the case of the assessment under the 2001 Environmental Aid Guidelines, that the tax is levied on activities for reasons of environmental protection. Its aim is to protect the environment by contributing to reducing the extraction of virgin aggregates and encouraging the use of alternative materials.

73. Furthermore, with respect to the presence of at least an indirect contribution of the AGL relief to an improvement in the level of environmental protection, the Commission notes that the UK authorities decided to grant the 80 % AGL relief to companies from the aggregates industry in Northern Ireland as due to several factors described above the AGL failed to deliver the planned environmental benefits in Northern Ireland. The UK authorities therefore opted for an alternative approach for Northern Ireland in the form of the conclusion of environmental agreements with the beneficiaries while the AGL continued to be fully applicable in Great Britain. It can be therefore concluded that the AGL relief in Northern Ireland contributes at least indirectly to an improvement in environmental protection and that it does not undermine the general objective pursued by the AGL.

Necessity of the aid

74. According to point 158 of the 2008 Environmental Aid Guidelines, the three following cumulative criteria should be fulfilled to ensure that the aid is necessary.

(1) *Objective and transparent criteria*

75. Firstly, the choice of beneficiaries must be based on objective and transparent criteria and aid should be

([1]) See for instance Commission Decision on case N 449/01 (Germany) — Continuation of the ecological tax reform (OJ C 137, 8.6.2002, p. 34). Furthermore, this position was confirmed in the 2008 Environmental Aid Guidelines where the payment of 20 % of the tax was explicitly "codified" as a proportionality condition of the aid granted in the form of exemption or reduction from environmental taxes (point 159(b)).

granted in the same way for all competitors in the same sector if they are in a similar factual situation, in line with point 158(a) of the 2008 Environmental Aid Guidelines.

76. The eligibility for relief is based on certain types of activity (extraction of aggregates and production of processed products from aggregates) and is pre-defined by legislation. The Commission finds that the beneficiaries of the relief are defined using criteria that are objective and transparent.

(2) *Substantial increase in production costs*

77. Secondly, the tax without reduction must lead to a substantial increase in production costs, in line with point 158(b) of the 2008 Environmental Aid Guidelines.

78. The UK authorities did not provide information on the production costs, but rather on the levels of the ex-quarry selling price for different types of aggregates. Considering that the levels of profit margin was provided, the Commission is able to make an approximate calculation and conclude that the lowest possible share of the full AGL in relation to the production costs is almost 30 % ([1]).

79. Even these approximate calculations allow the Commission to conclude that the tax without reduction leads to the substantial increase in production costs required by point 158(b) of the 2008 Environmental Aid Guidelines.

(3) *Impossibility to pass on the substantial increase in production costs*

80. Thirdly, according to point 158(c) of the 2008 Environmental Aid Guidelines, compliance with the necessity criteria requires that the abovementioned substantial increase in production costs cannot be passed on to customers without leading to important sales reductions. In this respect, the Member State may provide estimations of inter alia the product price elasticity of the sector concerned in the relevant geographic market, as well as estimates of lost sales and/or reduced profits for the companies in the sector or category concerned.

81. The Commission notes in this context that the arguments of the UK authorities that the increase in production costs cannot be passed on without leading to important sales reductions are based on a comparison between the increase in price due to the introduction of the AGL (about 25 to 30 pence/tonne in 2002 compared with 2001 in Northern Ireland, whereas in Great Britain the price had risen by GBP 1-1,40/tonne). As regards the reduction in (legitimate) sales in Northern Ireland, the Commission notes that they varied in total for all types of aggregates between – 17,6 % (2001-2003) and – 22,8 % (2002-2003) and are proportionally much larger that those recorded in Great Britain. The Commission considers that these arguments can be considered as an indication of the difficulties encountered in passing on the increased production costs in Northern Ireland.

82. The Commission nevertheless points out in this context that the UK authorities did not provide sufficiently detailed data demonstrating/quantifying the impact on these arguments of the fact that the manufacturers of processed products from aggregates had never paid the full AGL as its introduction in the Northern Ireland was phased.

83. Furthermore, with respect to the demonstration of sales reductions, the UK authorities did not provide explanations concerning the development of the aggregates markets in Northern Ireland after 2002. Figure 2 of the QPA Northern Ireland Report to the OFT Market Study into the UK aggregates sector as submitted by the UK authorities shows increase in production as from 2004 to 2007.

84. In this context, the UK authorities also stated in their submission that the "costs increase affected operators' turnover and reduced their profits". Nevertheless no data supporting that statement were provided.

85. With respect to the demonstration of compliance with this compatibility condition, the UK authorities submitted only data on the overall industry level, no representative samples of individual beneficiaries based e.g. on their size were provided.

86. Finally, the Commission notes that the UK authorities' observations suggest that for most types of aggregates the price elasticity ranges from close to zero to about 0,52, i.e. seems to be relatively inelastic, what would in principle mean that the increase in production costs can be passed on to final customers. The UK authorities did not provide any further explanations/calculations concerning specifically the impact of the relative inelasticity as concluded on the arguments provided with respect to (the inability to) pass on the production costs increase to final customers.

87. Although the information provided by the UK authorities shows a very significant increase of the production costs due to the AGL, which would normally make it likely that such increase cannot be passed on without important sales reductions, in the light of the above, in particular the insufficiently detailed information, the Commission at this stage cannot conclude that this compatibility condition is met.

Proportionality of the aid

88. With respect to the proportionality of the aid, each beneficiary must according to point 159 of the 2008 Environmental Aid Guidelines fulfil one of the following criteria:

(a) it must pay a proportion of the national tax which is broadly equivalent to the environmental performance of each individual beneficiary compared to the performance related to the best performing technique within the EEA. The beneficiaries can benefit at most from a reduction corresponding to the increase in production costs from the tax, using the best performing technique and which cannot be passed on to customers;

(b) it must pay at least 20 % of the national tax unless a lower rate can be justified;

([1]) The highest selling price (GBP 5,57/tonne), the lowest profit margin (2 %) and the level of the AGL as originally notified in 2004 (GBP 1,6/tonne) are assumed. If the AGL level on 1 April 2008 (GBP 1,95/tonne) is applied, the share increases to approximately 36 %. Any other combination of price and profit margin necessarily results in the AGL presenting more then 30 % of the production costs.

(c) it can enter into agreements with the Member State whereby they commit themselves to achieve environmental objectives with the same effect as what would be achieved under points 1 or 2 or if the Community minima were applied.

89. The condition of proportionality of the aid is complied with as the beneficiaries of the AGL relief in Northern Ireland still pay 20 % of the tax.

3.4. **Conclusions**

90. On the basis of this preliminary analysis, the Commission has doubts as to whether the measure "Relief from aggregates levy in Northern Ireland (ex N 2/04)" complies with the Treaty, in particular Article 110 thereof. These doubts preclude the Commission from finding the measure compatible with the internal market.

91. The Commission also has doubts as to whether the measure complies with the necessity condition of the 2008 Environmental Aid Guidelines, in particular that the substantial increase in production costs cannot be passed on to customers without leading to important sales reductions, as required by point 158.

92. Consequently, in accordance with Article 4(4) of Council Regulation (EC) No 659/1999 [1] the Commission has decided to open the formal investigation procedure and invites the United Kingdom to submit its comments on that decision.

4. **DECISION**

93. In the light of the foregoing considerations, the Commission, acting under the procedure laid down in Article 108(2) of the TFEU, requests the United Kingdom to submit their comments and to provide all such information which may help to assess the measure, within one month of the date of receipt of this letter. It requests that your authorities forward a copy of this letter to the potential recipients of the aid immediately.

94. The Commission notes that the United Kingdom has already suspended the implementation of the measure by revoking the Aggregates Levy (Northern Ireland Tax Credit) Regulations 2004. The Commission would draw your attention to Article 14 of Regulation (EC) No 659/1999, which provides that all unlawful aid may be recovered from the recipient.

95. The Commission warns the United Kingdom that it will inform interested parties by publishing this letter and a meaningful summary of it in the *Official Journal of the European Union*. It will also inform interested parties in the EFTA countries which are signatories to the EEA Agreement, by publication of a notice in the EEA Supplement to the *Official Journal of the European Union* and will inform the EFTA Surveillance Authority by sending a copy of this letter. All such interested parties will be invited to submit their comments within one month from the date of such publication."

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[1] OJ L 83, 27.3.1999, p. 1.

GĦAJNUNA MILL-ISTAT – IL-ĠERMANJA

(Artikoli minn 107 sa 109 tat-Trattat dwar il-Funzjonament tal-Unjoni Ewropea)

Għajnuna mill-Istat MC 15/09 – LBBW Deka divestment

(Test b'relevanza għaż-ŻEE)

(2011/C 245/10)

Il-Kummissjoni nnotifikat lill-Ġermanja permezz ta' ittra bid-data tal-14 ta' Jannar 2011 bid-deċiżjoni sui generis tagħha rigward l-għajnuna MC 15/09.

TEST TAL-ITTRA

"I. **IL-PROĊEDURA**

(1) Permezz tad-deċiżjoni tal-15 ta' Diċembru 2009, il-Kummissjoni approvat injezzjoni ta' kapital ta' EUR 5 biljun u protezzjoni ta' assi danneġġati ta' EUR 12,7 biljun għal portafoll strutturat li jkopri EUR 35 biljun f'assi favur il-Landesbank Baden-Württemberg (minn issa 'l quddiem il-'LBBW') fil-każ C 17/09 (minn issa 'l quddiem id-'Deċiżjoni dwar il-LBBW') [1]. Din l-approvazzjoni kienet soġġetta għal numru ta' impenji min-naħa tal-Ġermanja. Waħda mill-impenji kienet li l-LBBW kien se jbiegħ is-sehem tiegħu fid-Deka Bank Deutsche Girozentrale (minn issa 'l quddiem id-'Deka') sa (*) […].

(2) Fit-13 ta' Diċembru 2010, il-Ġermanja ssottomettiet ittra mingħand il-LBBW li kienet turi li d-Deka ma setgħatx tagħmel żvestiment qabel […]. Fil-21 ta' Diċembru 2010, il-Ġermanja sostniet li l-fiduċjarju [2] u l-Ministeru tal-Finanzi ta' Baden-Württemberg ikkonfermaw li l-LBBW għamel dak kollu li seta' biex jiġi konkluż il-proċess tal-bejgħ sad-data tal-iskadenza. Fit-22 ta' Diċembru 2010, il-Ġermanja nnotifikat talba għal estensjoni tal-iżvestiment sa […]. Fil-5 ta' Jannar 2011 il-Ġermanja ssottomettiet aktar informazzjoni.

(3) Fit-22 ta' Diċembru 2010, il-Ġermanja infurmat lill-Kummissjoni li minħabba raġunijiet ta' urġenza hi kienet qed taċċetta b'mod ta' eċċezzjoni li din id-Deċiżjoni tkun adotatta fil-lingwa Ingliża.

II. **IL-FATTI**

(4) Id-Deċiżjoni dwar il-LBBW hi bbażata fuq diversi mpenji. L-inċiż c tal-punt 5 tal-premessa 38 tad-Deċiżjoni dwar il-LBBW tinkludi l-impenji tal-Ġermanja li l-LBBW se jbiegħ is-sehem tiegħu fid-Deka sa […]. Id-Deċiżjoni ma tippermettix b'mod espliċitu għal estensjoni ta' dik id-data ta' skadenza.

(5) Id-Deka hi istituzzjoni tal-liġi pubblika (*Rechtsfähige Anstalt des öffentlichen Rechts*) li – permezz ta' sussidjarji – twettaq attività relatata man-negozju tal-fondi privati ta' investiment tal-banek tat-tfaddil Ġermaniżi. Nofs hu fil-pussess tal-assoċċjazzjoni tal-banek tat-tfaddil Ġermaniża (DSGV) u n-nofs l-ieħor hu fil-pussess ta' Landesbanken (banek proprjetà tal-*Länder* Ġermaniżi) permezz ta' kumpanija possedenti (minn issa 'l quddiem il-'kumpanija possedenti'). Is-sehem indirett tal-LBBW fid-Deka jammonta għal 14.8 %. Is-sidien rispettivi għandhom dritt ta' prelazzjoni f'każ li parti tkun trid tbiegħ is-sehem tagħha.

(6) Fil-bidu, id-DSGV għamlet offerta għas-sehem tal-LBBW fid-Deka li kienet valida sa […]. Sabiex il-bejgħ ikun jista' jseħħ, dan kellu jkun aċċettat mil-Landesbanken kollha li kellhom sehem fid-Deka kif ukoll mid-Deka nfisha u l-Assemblea Ġenerali tagħha.

(7) Il-Ġermanja infurmat lill-Kummissjoni li l-Landesbanken kollha li jippossjedu l-kumpanija possedenti kellhom l-intenzjoni li jbiegħu s-sehem tagħhom lid-DSGV, biex b'hekk din tal-aħħar kienet se tkun l-uniku sid tad-Deka. Deċiżjoni vinkolanti dwar dan il-bejgħ hi mistennija sa […], għalkemm dewmien addizzjonali sa […] ma jistax jiġi eskluż minħabba l-kumplessità tal-proċessi tat-teħid ta' deċiżjoni involuti. Skont il-Ġermanja, jekk il-Landesbanken ibiegħu s-sehem tagħhom fil-kumpanija possedenti, il-ftehimiet meħtieġa għall-bejgħ tas-sehem tal-LBBW fid-Deka jkunu aktar possibbli u l-proċedura tal-bejgħ tkun aktar faċli.

(8) Il-Ġermanja infurmat ukoll lill-Kummissjoni li d-DSGV estendiet l-offerta tagħha għall-bejgħ tas-sehem tal-LBBW fid-Deka sa […].

(9) Minkejja t-talba għal estensjoni tad-data tal-iskadenza għall-iżvestiment tad-Deka, il-Ġermanja ssostni li l-LBBW għamel dak kollu li seta' biex jiżgura li l-bejgħ iseħħ. Il-Fiduċjarju li kien qed jissorvelja l-iżvestimenti tal-LBBW, li għalih il-Ġermanja kienet impenjat ruħha skont il-qafas tad-Deċiżjoni dwar il-LBBW, ikkonferma din l-evalwazzjoni.

III. **Il-VALUTAZZJONI**

(10) Id-deċiżjoni preżenti tikkonċerna l-implimentazzjoni tal-pjan ta' ristrutturar li kien ġie approvat fid-Deċiżjoni dwar il-LBBW. Il-Ġermanja qed titlob li tiġi estiża bi tliet xhur l-iskadenza għall-bejgħ tad-Deka, […].

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[1] ĠU L 188, 21.7.2010, p. 1.

(*) Sabiex jiġi żgurat li informazzjoni kunfidenzjali ma tiġix żvelata tneħħew partijiet minn dan it-test. Dawn il-partijiet huma indikati permezz ta' tliet punti magħluqin bil-parenteżi kwadri u mmarkati b'asterisk waħda.

[2] Appuntat f'konformità mad-Deċiżjoni dwar il-LBBW għall-monitoraġġ sabiex l-implimentazzjoni tal-impenji mogħtija fir-rigward tal-iżvestiment isiru kollha u b'mod korrett.

(11) Il-Kummissjoni tista' testendi d-dati tal-iskadenzi għall-iżvestimenti. Għalkemm mhux previst b'mod espliċitu fir-Regolament (KE) Nru 659/1999, il-Kummissjoni għandha d-diskrezzjoni li tippermetti estensjoni sa kemm din ma tkunx timpedixxi l-infurzar tad-Deċiżjoni dwar il-LBBW [1].

(12) Il-Kummissjoni tinnota li l-LBBW diġà beda l-proċedura tal-bejgħ tad-Deka billi assigura offerta mid-DGSV. F'dan ir-rigward, il-Kummissjoni tieħu nota tal-opinjoni kemm tal-Ġermanja u anki tal-Fiduċjarju li l-LBBW għamel dak kollu li seta' biex javvanza l-proċess tal-bejgħ.

(13) Barra minn hekk, skont il-Ġermanja jidher li hemm ċans tajjeb li l-Landesbanken li għandhom sehem fil-kumpanija possedenti jistgħu wkoll ibiegħu s-sehem tagħhom u b'hekk jiġi ffaċilitat globalment il-proċess tal-bejgħ tas-sehem tal-LBBW fid-Deka.

(14) Finalment, jeżistu argumenti konvinċenti li l-proċess tal-bejgħ se jkun suċċess fil-qafas ta' żmien propost, sa mhux aktar tard minn […]. B'mod partikolari, jidher li […]. Id-deċiżjoni preżenti tippermetti lil-LBBW jbiegħ is-sehem tiegħu fid-Deka, anki jekk il-proċessi tat-teħid ta' deċiżjoni, relatati mall-bejgħ tal-ishma tal-Landesbanken fid-Deka, ikunu se jieħdu aktar żmien milli previst.

(15) Esensjoni tad-data tal-iskadenza tal-bejgħ bi tliet xhur ma tqajjimx kwistjonijiet dwar l-implimentazzjoni b'mod ġenerali tal-pjan ta' ristrutturar li ġie approvat fid-Deċiżjoni dwar il-LBBW, li se jdum sal-2014. Din tkun ukoll ta' għajnuna għal-LBBW biex jottjeni l-ftehimiet neċessarji mingħand il-Landesbanken l-oħrajn sabiex il-bejgħ ikun aktar bla xkiel, kemm jekk b'mod konġunt jew b'mod individwali. Għalhekk, l-estensjoni, li għandha limitu ta' żmien, għandha tippermetti lil-LBBW jbiegħ is-sehem tiegħu fid-Deka qabel […]. Din għalhekk tippermetti lil-LBBW biex jeħleb id-diffikultajiet li ssemmew hawn fuq li fil-biċċa l-kbira tagħhom huma esoġeni u tlesti l-iżvestiment tad-Deka kif previst fid-Deċiżjoni dwar il-LBBW. Għalhekk il-Kummissjoni tikkunsidra li l-estensjoni relattivament qasira mitluba sa […] hi ġustifikata, b'mod speċjali fir-rigward tal-partikolaritajiet tal-istruttura legali tad-Deka. Minħabba dawn iċ-ċirkostanzi tal-każ, tali estensjoni ma tikkwalifikax bħala dewmien fl-iskeda ta' żmien adottata fil-bidu li jkun jirrikjedi tnaqqis relatat tal-ammont tal-għajnuna [2].

IV. **KONKLUŻJONI**

(16) Minħabba dawn ir-raġunijiet imsemmija hawn fuq, il-Kummissjoni tqis li estensjoni ta' tliet xhur fil-każ tad-Deka hi neċessarja sabiex tippermetti, u ma tipprevenix, l-implimentazzjoni xierqa tal-pjan ta' ristrutturar tal-LBBW.

V. **DEĊIŻJONI**

Il-Kummissjoni testendi d-data ta' skadenza għall-bejgħ tad-Deka sal-31 ta' Marzu 2011."

[1] Ara d-Deċiżjoni tal-21 ta' Diċembru 2010 fil-każ MC 8/09 *WestImmo*.

[2] Ara l-Linji Gwida tal-Kummissjoni dwar l-għajnuna mill-Istat għas-Salvataġġ u r-Ristrutturar ta' Ditti f'Diffikultà, ĠU C 244, 1.10.2004, p. 2, il-punt 52 (d).

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Il-Ġurnal Uffiċjali tal-UE, serje L + C, DVD fix-xahar (kumulattiva)	22 lingwa uffiċjali tal-UE	Eur 400 fis-sena
Suppliment tal-Ġurnal Uffiċjali (serje S), Swieq Pubbliċi u Appalti, DVD, edizzjoni fil-ġimgħa	multilingwi: 23 lingwa uffiċjali tal-UE	Eur 300 fis-sena
Il-Ġurnal Uffiċjali tal-UE, serje C – Kompetizzjonijiet	Skont il-lingwa/i tal-Kompetizzjoni	Eur 50 fis-sena

L-abbonament f'*Il-Ġurnal Uffiċjali tal-Unjoni Ewropea*, li joħroġ fil-lingwi uffiċjali tal-Unjoni Ewropea, hu disponibbli f'22 verżjoni lingwistika. Inklużi fih hemm is-serje L (Leġiżlazzjoni) u C (Informazzjoni u Avviżi).

Kull verżjoni lingwistika jeħtiġilha abbonament separat.

B'konformità mar-Regolament tal-Kunsill (KE) Nru 920/2005, ippubblikat fil-Ġurnal Uffiċjali L 156 tat-18 ta' Ġunju 2005, li jistipula li l-istituzzjonijiet tal-Unjoni Ewropea mhumiex temporanjament obbligati li jiktbu l-atti kollha bl-Irlandiż u li jippubblikawhom b'din il-lingwa, il-Ġurnali Uffiċjali ppubblikati bl-Irlandiż jinbiegħu apparti.

L-abbonament tas-Suppliment tal-Ġurnal Uffiċjali (serje S – Swieq Pubbliċi u Appalti) jiġbor fih it-total tat-23 verżjoni lingwistika uffiċjali f'DVD waħdieni multilingwi.

Fuq rikjesta, l-abbonament f'*Il-Ġurnal Uffiċjali tal-Unjoni Ewropea* jagħti d-dritt li l-abbonat jirċievi diversi annessi tal-Ġurnal Uffiċjali. L-abbonati jiġu mgħarrfa dwar il-ħruġ tal-annessi permezz ta' "Avviż lill-qarrej" inserit f'*Il-Ġurnal Uffiċjali tal-Unjoni Ewropea*.

Bejgħ u Abbonamenti

Abbonamenti fil-perjodiċi diversi bi ħlas, bħalma huwa l-abbonament f'*Il-Ġurnal Uffiċjali tal-Unjoni Ewropea*, huma disponibbli mill-uffiċini tal-bejgħ tagħna. Il-lista tal-uffiċini tal-bejgħ hi disponibbli fuq l-internet fl-indirizz li ġej:

http://publications.europa.eu/others/agents/index_mt.htm

EUR-Lex (http://eur-lex.europa.eu) joffri aċċess dirett u bla ħlas għal-liġijiet tal-Unjoni Ewropea. Dan is-sit jippermetti li jkun ikkonsultat *Il-Ġurnal Uffiċjali tal-Unjoni Ewropea* u jinkludi wkoll it-Trattati, il-leġiżlazzjoni, il-ġurisprudenza u l-atti preparatorji tal-leġiżlazzjoni.

Biex tkun taf aktar dwar l-Unjoni Ewropea, ikkonsulta: http://europa.eu

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