

FIRST RESOLUTION**of 20 October 1971****of the Representatives of the Governments of the Member States, meeting within the Council,
on general systems of regional aid****THE REPRESENTATIVES OF THE GOVERNMENTS OF
THE MEMBER STATES, MEETING IN THE COUNCIL,**

Considering that regional aid, when it is adequate and judiciously applied, forms one of the essential instruments of regional development and enables the Member States to follow regional policies aimed at a more balanced growth between the various regions of the same country and of the Community;

Aware that the risks of outbidding which exists in respect of regional aid require that a first series of coordinating measures intended to limit those risks be evolved without delay;

Having noted the Communication of 23 June 1971 from the Commission on the coordination of general systems of regional aid;

Undertake in consequence to comply with the following principles in respect of systems of regional aid, according to the procedure for application annexed to this Resolution:

1. Coordination shall be carried out gradually.

It shall be implemented first of all in the most highly industrialized regions of the Community (the 'central regions'); appropriate solutions, which will be based on the principles set out in this Resolution and which will take account of the specific problems occurring in each of the peripheral regions will be prepared for these regions without delay.

Furthermore, in the central regions, implementation of all the required conditions shall take place gradually over a one-year transitional period beginning 1 January 1972.

2. Coordination is constituted by four principal aspects forming a whole: a single ceiling for aid intensity; transparency; regional specificity; and the sectorial repercussions of regional aid.**3. The single ceiling for aid intensity shall be fixed as a net subsidy-equivalent calculated according to the common method of aid assessment (described in point 5 of the procedure of application); the tendency should be, as far as possible, to lower the level of aid in the central regions.**

This ceiling, initially fixed at 20 as a net subsidy-equivalent, shall enter into force on 1 January 1972. It shall apply to all regional aid granted for a particular investment project. At the end of 1973, the level of this ceiling will be reviewed, taking account of experience gained and of adaptations of existing systems of aid to make them more transparent, and in relation to the problem of cumulation of regional aid and sectorial aid; the Member States record the importance they attach to the examination, between now and then, of the relationship between the level of aid granted and the number of jobs created.

Derogations from this ceiling may be permitted on prior communication of the relevant grounds according to the procedure laid down in Article 93 of the Treaty establishing the European Economic Community. The Commission shall inform the Council periodically of these derogations from the ceiling.

4. An essential condition for ensuring the coordination and assessment of general systems of aid is the transparency of the aid and the systems.

This involves the Member States in the following obligations:

(a) achievement of transparency of aid and systems during the transitional period:

- ceasing to introduce further opaque aids;
- adapting the existing systems towards real transparency when amending or renewing these systems;
- elimination of aids the opacity of which cannot be to some extent remedied before the end of the transitional period;

(b) actual application, from 1 January 1972, of the ceiling to all aid granted to an investor for a given investment.**5. As far as regional specificity is concerned, the following principles must effectively be observed:**

- Regional aids must not cover the whole of the national territory (with the exception of the Grand Duchy of Luxembourg, which is considered as a single region), that is to say, general aids shall

not be granted under the heading of aid for regional development;

- The general systems of aid must clearly define either geographically or by quantitative criteria, the boundaries of the regions or, within the latter, the boundaries of the areas benefiting from aid;
- Except in the case of poles of development, regional aids must not be granted in a pinpoint manner, i.e. to isolated geographical points having practically no influence on the development of a region;
- Where problems of varying nature, intensity and urgency occur, the intensity of aid must be varied accordingly;
- The graduation and variation of rates of aid according to the different areas and regions must be clearly shown.

6. The lack of sectorial specificity in general systems of regional aid makes it difficult to assess them because of the problems that the sectorial repercussions of this

aid may raise at Community level. Consequently, the Member States together with the Commission will evolve a procedure to enable assessment of the sectorial effects of regional aids.

Independently of the development of this procedure, the double cumulation of aids, i.e. applying simultaneously to a sectorial or regional problem regional aids and sectorial aids which overlap, is forbidden.

7. The Commission shall supervise the application of the principles of coordination of general systems of regional aid by means of the *post facto* notification which it will receive of significant cases of application, according to a procedure ensuring business secrecy.
8. The results of application will be examined periodically with the senior national officials responsible for aid. The Commission will make an annual report to the Council and to the other Community authorities concerned.

ANNEX

Procedure for application of the principles of coordination of general systems of regional aid

1. Gradual implementation

Gradual implementation concerns in the first place the territorial field of application. Since one of the objectives of the coordination and adaptation of general systems of regional aid is to put an end to the outbidding between Member States in order to attract investments to their respective territories, the solution advocated will first of all have to be applied in the regions where the effects of this outbidding are most felt, in particular on competition and trade, that is to say in the industrialized regions and in the regions on either side of the frontiers of the Member States. These regions are hereinafter referred to as 'central regions' of the Community.

For the other regions, referred to as 'peripheral regions', an appropriate solution based on the same principles will be worked out in the very near future, taking account of the specific problems arising in each of these peripheral regions.

Moreover, even in the central regions, the implementation of all the necessary conditions can only be gradual. Provision has therefore been made for a transitional period. This period shall run for one year from the date of implementation of the coordination, that is to say, from 1 January 1972.

2. Demarcation of the central regions

The central regions comprise the whole of the Community excluding Berlin and the 'Zonenrandgebiet', the part of the French territory at present receiving development subsidies and the 'Mezzogiorno'.

The 'Zonenrandgebiet' is defined by the Annex to paragraph 9 of the German law on the development of the 'Zonenrandgebiet' ('Gesetz zur Förderung des Zonenrandgebiets' of 5 August 1971, Bundesgesetzblatt I, p. 1237).

The Industrial Development Subsidy (PDI) area in France is defined by Decree No 69-285 of 21 March 1969 and the Order of 21 March 1969 (JORF of 30 March 1969), supplemented by Decree No 70-386 of 27 April 1970 (JORF of 10 May 1970).

The territories referred to as the 'Mezzogiorno' are those named in Article 1 of the Consolidated Laws on the Mezzogiorno (Decree of the President of the Republic No 1523 of 30 June 1967, Italian Official Gazette No 159 of 24 June 1968).

3. Aspects covered by coordination

Coordination and adaptation of the general systems of aid shall have four basic aspects: a single ceiling for the intensity of aid; the transparency of aid; regional specificity; and sectorial repercussions.

These four aspects are so closely related that they form a whole. An agreement in principle has been reached on all these aspects, although the implementation of all the necessary conditions can take place only gradually.

As regards some of these conditions – reducing the opacity of certain forms of aid and the sectorial repercussions of aid – technical work is still in progress. Nevertheless, the results obtained so far make it possible to begin to apply the principles of coordination from 1 January 1972; the remaining conditions will have to be fulfilled as soon as possible thereafter and at the latest by the end of the one-year transitional period.

4. The single ceiling for aid intensity

The aim of the single ceiling for the intensity of aid which Member States agree to respect when giving regional aids benefiting a single investor in respect of any given investment in the central regions defined in paragraph 2 is to put an end to outbidding in the matter of aids.

This single ceiling which, during the first stage, does not necessarily involve any changes in the general systems of aid, shall take account of all regional aids received. Similarly, it must not lead those Member States whose present aid systems do not reach this ceiling to increase present aids.

In view of the results of the application of the common assessment method to the principal systems of aid in force in the central regions, the level of the ceiling shall be fixed initially at

20% in net subsidy-equivalent, calculated according to the common method of assessing aid.

This level cannot be fixed once and for all. The tendency should be as far as possible to reduce the level of aid in the central regions. Moreover, care must be taken to ensure that the ceiling chosen effectively corresponds to the needs and problems of the areas receiving aid in those central regions. Thus, while the introduction of a single ceiling for the intensity of aid constitutes a principle, the choice of the level of that ceiling must remain a procedural detail for the application of that principle. This will provide the necessary flexibility with which to work.

The fixing of a single ceiling does not, however, mean that the granting of aid is justified in all areas of the central regions. Aid may only be granted to regions – or, within the regions, to clearly defined areas – where the socio-economic situation justifies it. Below this ceiling, which constitutes an upper limit, the Member States will continue to vary the intensity of their regional aid in line with the socio-economic features of the regions concerned (see 'Regional specificity' under paragraph 7) and, where appropriate, with the situation in the various sectors. Derogation from this ceiling may be permitted on prior communication of the relevant grounds to the Commission. On the basis of that communication, which may deal either with individual cases or with particular or urgent problems arising in an area, the Commission shall take a decision. The Commission shall periodically inform the Council of these derogations from the ceiling.

5. The common method of assessing aid

The work done has made it possible to draw up a common method for assessing and comparing aid.

It should be stressed, however, that this is a method of comparison and not of accounting. It facilitates the comparison of aids within the same system and between the different systems of aid of the Member States, taking into consideration the theoretical maximum which may be granted. The theoretical maximum may be very different from the actual amount of aid granted in a given case.

The method is based on a single measurement criterion, namely the relative size of the aid in relation to the amount of the investment, this size being expressed as a percentage. This method makes it possible to classify the principal forms and methods of aid into three categories: transparent or measurable aid; aid which is semi-transparent or assessable (here the assessment involves assumptions which sometimes introduce into the calculations a very wide margin of uncertainty); and opaque aid to which the method is not applicable. In the last category a further distinction must be made between opaque aid which can to some extent be made transparent and those which cannot be.

These calculations are based on aid after tax, that is to say, the beneficiary's net subsidy-equivalent after payment of taxes on profits, assuming that in its first year of operation the undertaking makes such profits that the maximum tax is chargeable. This means that the levels of intensity of aid resulting from the application of this method fall well below the figures hitherto usually quoted in the context of regional aid.

The application of the common assessment method to the principal general systems of regional aid granted in the central regions of the common market gives the following theoretical maximum intensities for transparent and semi-transparent aid alone:

Germany	18.1%
Belgium	16.5%
France	24.7%
Italy	26.7%
Luxembourg	17.3%
Netherlands	19.8%

The outline presentation of the method of assessing State aid, worked out in the course of several multilateral meetings with national experts and approved on 18 December 1970 by the Heads of the national authorities, does no more than indicate the basic definitions and the simplification conventions decided upon at a technical level, without considering in detail the problems which have had to be analysed in order to arrive at these results.

The basic definitions and the conventions are as follows:

- The single measurement criterion* is the relationship between the amount of aid and the amount of investment, expressed as a percentage.
- Transparent or 'measurable' aid* is aid which is based on investment and for which the relationship to the amount of that investment may be expressed as a percentage.
- The standard basis for granting aid* involves three categories of capital expenditure; land, buildings and plant¹. The application of this method thus involves adjustments of the standard basis depending on whether aid is granted only for a part of these categories or for additional expenditure. In the latter case, the transparency of the aid depends on knowing its size in relation to the standard basis.
- Breakdown of the standard basis for aid:*

the national experts have adopted the following breakdown²:

	Land	Buildings	Plant
Germany	5	30	65
Belgium	5	40	55
France	5	50	45
Italy	5	30	65
Luxembourg	5	50	45
Netherlands	5	40	55

- The date of payment* is the same for all kinds of aid³. No account is taken of the difference between the date or dates of payment and the date when the decision to grant it was taken. Loans at reduced rates or with rebates of interest are aligned on the date of subsidies by means of a calculation adjusting them to current values.
- The rate of adjustment to current values* used for the calculations has been fixed at 8%.
- The problem of different tax arrangements applied to aid* within the same general system, according to the different forms of aid, and between different general systems of regional aid of the Member States, for the same form of aid, shall be solved by adopting the formula of the *net result* after tax, expressed as subsidy-equivalent, of aid actually remaining to the beneficiary. This assumes⁴ that the undertaking makes a profit from the outset and that at the end of the first financial year the profits are sufficient to pay the maximum taxes levied on the aid.
- Factors in the calculation as applied to loans at reduced rates or with rebates of interest are as follows:*
 - The proportion:* percentage of the capital expenditure, taking account of the standard basis, covered by the loan.
 - The term of the loan.*
 - The term of the repayment free period.*
 - The extent of the interest rate rebate.*

¹ This convention involves a greater or lesser margin of approximation according to which items are included in the three categories of expenditure.

² These breakdowns are only very rough averages. On this point therefore the method departs from the principle of considering only the theoretical maximum of aids.

³ This simplification also introduces a margin of approximation, but with a tendency to increase the intensity.

⁴ This assumption reduces the intensity of aid in real terms since in practice it would hardly ever be true. An undertaking making a loss or breaking even during the initial years would retain a considerably larger proportion of the aid.

The texts of laws, Regulations or administrative provisions submitted to the Commission must contain this information for the system of aid to be transparent.

- (i) *The reference rate* is the reference rate used by the public authorities for the payment of subsidies to the credit institutions. If there is no such rate, the average rate of interest in the market concerned is taken into consideration. When aid of this type is increased under depressed economic conditions, a rate which corresponds to such conditions is chosen.
- (j) *Transparent fiscal aid* is that which fulfils the following conditions:
 - The tax levied according to a standard or a maximum rate must be based on an amount invested in the region.
 - In addition, the aid must be determinable by a proportion of the rate of tax and be granted for a specified term.

However, all fiscal aid may be made transparent by fixing a ceiling expressed as a percentage of the investment.

6. The transparency of aid

The requirement that aid be transparent constitutes an essential condition for the coordination and assessment of the systems of aid. In relation to the common method of assessment, the concept of transparency is defined as follows:

- Aid is transparent or 'measurable' when the common method of assessment of aid can be applied to it.
- A system of aid is transparent when, for every form of aid which it provides for, it contains all the information needed to apply the common method of assessment to each form of aid; and when the criteria for varying the amount of aid and the conditions concerning cumulation of aid are clearly specified.

The general systems of aid at present in force do not yet fulfil these conditions. A certain period of time will be required for this. Experts are at present working on the problem of opaque aid.

It is however recognized that aid can be gradually coordinated without waiting for the outcome of this work, on condition that the Member States undertake the obligations set out in point 4 of the 'Principles of coordination'.

7. Regional specificity

This is the variation of aid intensity according to the nature, intensity and urgency of the problems of regional development which the public authorities intend to solve.

Since the concept of regional specificity is directly linked with the establishment of a Community regional policy, no rule more specific than the provisions of the Treaty can, in the present circumstances, determine those Community regions where the granting of aid is justified in varying degrees and those where it is not.

The work to be carried out on the particular aspects of each region by the Regional Development Committee will facilitate this assessment.

Pursuant to the Treaty, the Commission shall ensure that the principles set out in point 5 of the 'Principles of coordination' are effectively and gradually observed.

8. Repercussions on different sectors

The lack of sectorial specificity is a basic feature of most of the general systems of regional aid, due to the fact that regional aid

is often granted to all industrial sectors without distinction. Nevertheless, it is in the goods and services sectors that the effects of aid on competition and trade are felt. It is however difficult to assess these effects in the absence of any sectorial specificity in regional aid.

Because of the problems they might cause at Community level and to solve this difficulty, a procedure must be worked out to enable these effects on various sectors to be grasped.

Experts are at present working on this matter and various solutions are being examined. It is however recognized that coordination of regional aid can begin to be applied without waiting for the results of this work, on condition that the ban on double cumulation (see point 6 of the 'Principles of coordination') is observed, since the Commission can use the procedure laid down in Article 93 (2) of the Treaty establishing the European Economic Community should the need arise, particularly where the application of general systems of aid gives rise to well-founded complaints from a Member State.

Independently of this work, maximum attention should be devoted to the sectorial aspects of the information on aid to be supplied to the Commission by the Member States. In this respect, it should be recalled that:

- provisions or measures to direct regional aid towards certain sectors must, since they are constituent elements of the systems of aid, be the subject, in the same way as the other provisions, of the prior notification which, in accordance with Article 93 (3) of the Treaty, must be made in good time to the Commission: it is immaterial whether the necessary information is taken directly from the general system of aid or whether reference is made only to national or regional development plans; the legal form (statutory provisions or administrative circulars) and the legal character (binding provisions or merely guidelines) of such provisions are also irrelevant;
- where a system of regional aid has mixed objectives, both regional and sectorial, it is essential that the system be notified as such to the Commission, pursuant to Article 93 (3) of the Treaty, so that it may be assessed from both the regional and the sectorial angles;
- 'Sectorized' statistical information on the application of general systems of regional aid shall, like any other information on these systems, form part of the information to be communicated regularly by the Member States to the Commission in order that it may, together with those States, keep under constant review the systems of aid as provided in Article 93 (1) of the Treaty.

A technique is currently being worked out to deal with the *post facto* statistical examination of the repercussions of regional aid on the various sectors (homogeneity of data, intervals at which it is to be collected).

9. Since the implementation of the coordination and adaptation of systems of regional aid is gradual, some supervision is required not only to ensure that it is gradual but also to be able to assess the effective results of this coordination and, if appropriate, to round off or supplement the procedure of application.

This supervision shall be exercised by the Commission by means of the *post facto* notification which it will receive of significant cases of application, under a procedure ensuring business secrecy, which will be drawn up with the cooperation of experts from the Member States.

The results of the application of the principles of coordination will be examined periodically with the senior national officials responsible for aid. The Commission will make an annual report to the Council.