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***Framework scheme exempt from notification No. SA.40646 pertaining to aid covering the cooperation costs of SMEs, which belong to European Territorial Cooperation (ETC) programmes***

The French authorities notified the Commission about the implementation of this framework scheme exempt from notification pertaining to aid covering the cooperation costs of SMEs participating in European Territorial Cooperation (ETC) programmes, selected from the options offered by the general exemption regulation No 651/2014 of 17 June 2014 (article 20); this aid scheme was registered by the Commission under the reference SA.0646.

The administrations of the member states and local authorities, (or their institutions) concerned by the ETC programme are requested to align the aid covering the cooperation costs of SMEs with this framework scheme exempt from notification.

The aid notifications or notifications of aid schemes to the European Commission should only be considered if it is not possible to use an aid scheme exempt from notification or notified as existing, or if the European regulations require an individual notification, because of the size of the project or the amount of aid under consideration in particular.

**1. Purpose of the scheme:**

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This framework scheme exempt from notification of aid covering the cooperation costs of SMEs participating in European Territorial Cooperation (ETC) programmes, can be used as a national legal framework, in accordance with the European regulations, for public initiatives in favour of SMEs participating in ETC programmes.

**1.1. Procedures for use**

The public aid granted to businesses as part of this scheme must comply with all conditions of the scheme and include the following express references:

*For an intervention description (or other equivalent document):*

*'Aid pursuant to the exempted aid scheme no. SA.40646, pertaining to aid covering the cooperation costs of SMEs, which belong to the European Territorial Cooperation (ETC) programmes for the 2014-2020 period, adopted on the basis of the general exemption regulation by category No 651/2014 of the European Commission, published in the OJEU of 26 June 2014'.*

*For an aid agreement or decision or any other legal act of granting aid :*

*'Aid attributed on the basis of the exempted aid scheme no. SA.40646, pertaining to aid covering the cooperation costs of SMEs, which belong to the European Territorial Cooperation (ETC) programmes for the 2014-2020 period, adopted on the basis of the general exemption regulation by category No 651/2014 of the European Commission, published in the OJEU of 26 June 2014'.*

**1.2. Legal basis**

The legal basis for the aid is found in the following texts in particular:

- Commission Regulation (EU) No 651/2014 of 17 June 2014 declaring certain categories of aid compatible with the internal market in application of Articles 107 and 108 of the Treaty Text with EEA relevance;

- Decree no. 2014-758 of 2 July 2014 pertaining to regional aid zones and SME investment aid zones for the 2014-2020 period;
- For the contribution of regional authorities: local and regional collectivity code including the clauses referring to the economic contributions of local authorities in particular;
- Regulation (EU) No 1299/2013 of the European Parliament and of the Council on specific provisions for the support from the European Regional Development Fund to the European territorial cooperation goal

## **2. Duration**

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This scheme shall take effect on 16 January 2015 and is applicable until 31 December 2020 or, if needed, a later date if the European Commission decides to extend this term.

## **3. Scope**

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### **3.1. The eligible zones**

This scheme is supposed to apply to all the regions concerned by a European Territorial Cooperation programme.

### **3.2. The exclusions**

This scheme does not apply:

#### ***a) to the following aids:***

- to aid in support of business activities associated with exports to non-EU countries or a member state, namely those which are directly linked to the exported quantities, and to aid, which funds the implementation and running of a distribution network or other current expenditure associated with export operations;
- to aid subject to the use of national products in preference to imported products;
- to aid measures, which, in and of themselves, because of their conditions of application or because of their financing method, are inseparably linked to a breach of European law, including the following in particular:
  - 1) aid measures, which are subject to the obligation of the beneficiary having its registered office within the Member State concerned or being mainly established in the said Member State. It is also permissible however to demand that the beneficiary has an establishment or branch in the Member State granting the aid when the aid is paid;
  - 2) the aid measures, which are subject to the obligation of the beneficiary using goods produced within the country or using services carried out within the country;
  - 3) the aid measures, which place restrictions on beneficiaries using the results of research, development and innovation activities obtained in other Member States.
- to aid in support of a company concerned by a recovery order, which has not yet been completed, issued in a prior decision by the Commission declaring the aid illegal and incompatible with the internal market;
- to aid in support of companies facing difficulties.

**b) in the following sectors:**

- transformation and commercialisation of farming products, in the following cases:
  - a) when the amount of the aid is based on the price or quantity of the products of this type purchased from primary producers or placed on the market by the companies concerned, or
  - b) when the aid is subject to it being transferred to primary producers, in whole or in part.
- fishing or aquaculture, which is governed by the EU regulation No 1379/2013 of the European Parliament and the Council of 11 December 2013 on the Common Organisation of the Markets of Fishery and Aquaculture Products (CMO), amending the regulations (EC) No 1184/2006 and (EC) No 1224/2009 of the Council and revoking the regulation (EC) No 104/2000 of the Council<sup>1</sup>;
- Primary farming production;

When a company conducts its operations in one or several fishing and aquaculture sectors, the primary production of farming products or the transformation and commercialisation of farming products as well as in one or several other sectors falling within the scope of this scheme, the latter applies to aid granted for these other sectors or activities, provided that the activities undertaken in the excluded sector(s) are not benefiting from aid granted in accordance with this scheme.

- to aid for facilitating the closure of uncompetitive coal mines, which is governed by the decision 2010/787/EU27.

#### **4. Incentive effect**

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The aid allocated as part of this scheme must act as an incentive in compliance with the following conditions. If this effect cannot be demonstrated, the aid shall not be authorised.

A subsidy is deemed to have an incentive effect if the beneficiary has provided a written request to the aid granting body before the start of the work associated with the programme or activity in question. The application for aid must include the following information:

- a) the name and size of the company;
- b) a description of the project, including the start and end dates;
- c) the location of the project;
- d) a list of the project's costs;
- e) the type of aid requested (subsidy, reduced rate of interest, repayable advance, loan, guarantee) and the amount of the public financing deemed necessary for the project;
- f) the amount of the aid requested.

#### **5. The conditions for granting the aid**

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##### **5.1. The form of the aid**

- a) **the form of public aid of the local authorities or their groups** granted in accordance with this scheme, must comply with the applicable legal provisions of the local and regional collectivity code, including its article L. 1511-2 in particular.
- b) **the form of the public aid coming from the state** and its public institutions is not restricted,

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<sup>1</sup> OJEU L354 of 28.12.2013.

provided that a more stringent European regulation does not exist.

- c) **The aids allocated by the European structural and investment funds** are granted in accordance with the provisions of regulation No 1303/2013 of 17 December 2013 laying down common provisions on the on the European Regional Development Fund, the European Social Fund, the Cohesion Fund, the European Agricultural Fund for Rural Development and the European Maritime and Fisheries Fund and the regulation No 1299/2013 of 17 December 2013 on specific provisions for the support from the European Regional Development Fund to the European territorial cooperation goal under the condition that more restrictive provisions pertaining to the European structural and investment funds will be applied.

## 5.2. Transparency

The subsidies granted as part of this scheme must be transparent, that is, it must be possible to calculate the gross subsidy equivalent precisely and in advance, without having to carry out a risk analysis.

The following aid categories are considered transparent

- a) aid consisting of subsidies or reductions in interest;
- b) aid involving loans, when the gross subsidy equivalent (GSE) is calculated on the basis of the benchmark rate, which is applicable when the aid is granted; a method for calculating the subsidy equivalents for loan guarantee systems was notified by the French authorities to the Commission under the number N 667-a- 2007; It was adopted by the Commission on 16 July 2008 and the GSE calculation spreadsheet was available online on the CGET website;
- c) aid involving guarantees:
- when the GSE calculation method for state guarantee aid was approved by the European Commission based on the communication on the application of articles 87 and 88 of the EC Treaty to aid in the form of guarantees. From this perspective, the European commission approved, in its decision dated 29.04.2009 (no. N677-b-2007), a GSE calculation method<sup>2</sup>;
  - or
  - when the GSE is calculated using a method based on the safe-harbour premiums established in the communication of the Commission on the application of articles 87 and 88 of the EC Treaty (107 and 108 of the TFEU) to the State aid in the form of guarantees (OJEU C/155/10 of 20/06/2008).
- d) the aid in the form of repayable advances only if the total amount of the repayable advances does not exceed the threshold and the aid intensities applicable to this scheme or when the GSE calculation method of the repayable advance has been approved after the Commission has been notified of this method.

## 5.3. The beneficiary companies

The beneficiaries of this regime at the SMEs as defined in appendix I of this scheme, subject to the sectorial exclusions set out in 3.2.

They may receive aid to cover the cooperation costs borne by the SME participating in the European

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<sup>2</sup> All of the provisions of the scheme N667/b/2007 must be adhered to, particularly those which affect the authorised types of guarantees and underlying operations.

Territorial Cooperation programmes governed by Regulation (EU) No 1299/2013.

#### **5.4. The basic level of aid**

Regarding point 5.3. above, the acceptable costs can be any of the following types of cost:

- a) costs for organisational cooperation including the cost of staff and offices to the extent that it is linked to the cooperation project;
- b) the costs of advisory and support services linked to cooperation and delivered by external consultants and service providers;
- c) the travel expenses, costs of equipment and investment expenditure directly related to the project and depreciation of tools and equipment used directly for the project.

The services referred to in paragraph b) shall not be a continuous or periodic activity nor relate to the undertaking's usual operating costs, such as routine tax consultancy services, regular legal services or routine advertising.

#### **5.5. The calculation of the aid**

The calculation of the aid is done in proportion to the eligible costs, while complying with the authorised aid intensity ceiling percentage.

The following elements must be taken into account when carrying out the aid calculations:

- the figures used are exclusive of tax and contributions;
- for all forms of aid other than a subsidy or a reduction in interest, the amount of the aid is its gross subsidy equivalent;
- the aid payable in several instalments is discounted to its equivalent value when the aid was granted. The eligible costs are discounted to their equivalent value when the aid was granted. The interest rate to be applied for the discounting calculation is the rate of discount applicable at the moment when the aid was granted.

When the aid is granted in the form of repayable advances, which, in the absence of any approved method for calculating their gross subsidy equivalent, are expressed as a percentage of the eligible costs, and the measurement predicts that, if the project is a success, defined using a prudent and reasonable assumption, the advances are repaid at an interest rate equal to or greater than the rate of discount applicable at the moment when the aid was granted, the maximum aid intensity set below can be increased by 10 percentage points.

The eligible costs are substantiated using receipts, which must be clear, specific and made out at the time the event took place.

#### **5.6. Intensity of the aid**

The aid intensity must not exceed 50% of the eligible costs.

#### **5.7. Maximum amount of the aid**

An individual notification is mandatory for aid named covering the cooperation costs of SMEs associated with ETC programs, whose GSE exceeds **€2 million per undertaking and per project**.

## 6. The cumulation rules

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In order to ensure compliance with the individual notification thresholds and aid intensity ceilings, the total State aid granted in support of the activity or project under consideration must be taken into account whether this aid comes from local, regional, national or European sources.

Any EU funding, which is managed centrally by the institutions, agencies, joint ventures or other entities of the EU, and which is not directly or indirectly controlled by the member states, does not constitute State aid.

When an EU funding, which is managed centrally by the institutions, agencies, joint ventures or other entities of the EU, and not controlled directly or indirectly by the Member State, is combined with a State aid, only the latter shall be taken into consideration when working out compliance with the notification thresholds and aid intensity or aid ceilings, as long as the total state funding granted for the same eligible costs does not exceed the highest funding percentage stipulated in the EU law's applicable rules.

The aid dedicated to covering the cooperation costs of SMEs associated with ETC programmes granted on the basis of this scheme can be cumulated with the following:

- a) any other aid as long as this aid is for **separate identifiable and eligible costs**.
- b) any other aid granted for the same eligible costs, whether they **overlap in whole or in part**, if and only if this total does not exceed the intensity or highest amount of aid applicable to these aids under the general exemption regulation by category.
- c) aids to SMEs for the financing of risk finance aid, start-ups or aid to alternative trading platforms specialised in SMEs, granted under articles 21, 22 and 23 of the general exemption regulation No 651/2014 of 17 June 2014, which are aids for unidentifiable eligible costs.
- d) aid for disabled workers included in the general exemption regulation by category No. 651/2014 of 17 June 2014 for the same eligible costs, thereby exceeding the applicable ceiling specified by this regulation, provided that the total does not give rise to an aid intensity, which is higher than 100% of the corresponding costs for the entire period, during which the workers concerned are employed.

The State aid granted within the context of this scheme cannot be cumulated with *de minimis* aid governed by the regulation (EU) No 1407/2013 of the Commission, of 18 December 2013 on the application of Articles 107 and 108 of the Treaty on the Functioning of the European Union to *de minimis* aid, for the same eligible costs if this total gives rise to an aid intensity, which exceeds those stipulated in point 5.6. of this scheme.

## 7. Monitoring - control

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### 7.1. Advertising

This framework aid scheme has been posted on the website of the French General Commission for the Equality of the Regions (Commissariat Général à l'Égalité des Territoires) (CGET) and the French General Office of Local Authorities (Direction Générale des Collectivités Locales) (DGCL) and the French General Office of Public Finances (Direction Générale des Finances Publiques) (DGFIP) at the following addresses:

<http://www.collectivites-locales.gouv.fr/>

<http://www.cget.gouv.fr/>

The Member State concerned posts the information regarding each individual aid exceeding €500,000 on a comprehensive website dedicated to State aid, at the national and regional level, using the standard form set out in appendix II.

## **7.2. Supervision<sup>3</sup>**

The public organisations, which allocate aid, keep detailed files on the individual aids granted using this scheme. These files contain all the information needed to establish whether the conditions stipulated in this scheme have been fulfilled, including the information on the status of the businesses whose right to an aid or a premium depends on its SME status, information on the incentive effect of the aid and information, which can be used to establish the exact amount of the eligible costs so that this scheme can be applied.

The files dealing with individual aid (including the receipts mentioned in point 5.5) are kept for ten years from the date the aid is granted.

The European Commission may request, within a period of 20 working days, or a longer period as stipulated in the request, all of the information that it deems necessary in order to check the application for this aid scheme.

## **7.3. Annual report**

The annual report for this aid scheme will be sent to the European Commission by the French authorities in accordance with the regulation (EC) No 794/2004 of the Commission of 21 April 2004 dealing with the implementation of regulation (EC) No 659/1999 of the Council of 22 March 1999 laying down the detailed rules for the application of article 93 of the EC Treaty.

The national authorities will send the instructions for drawing up this annual report to the aid administration offices.

## **7.4 Ex-post evaluation**

An *ex-post* evaluation will be carried out on this scheme if, during its validity period, its annual budget should exceed €150m. Its application may only continue after the European Commission has been notified of the evaluation plan.

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<sup>3</sup> NB: if the rules of the GBER are not properly applied, the Commission may, pursuant to article 10 of the GBER, adopt a decision stating that the Commission must be notified of all future aid measures, or some of them, adopted by the Member State concerned, and which otherwise fulfil the conditions of this regulation, in accordance with article 108, paragraph 3, of the Treaty. The measures to be notified may be restricted to the measures, which grant certain types of aid or benefit certain beneficiaries or to those aid measures adopted by certain authorities of the member state concerned.

## **ANNEX I: SME DEFINITION (Annex 1 of GBER No 651/2014)**

### *Article 1*

#### *Enterprise*

An enterprise is considered to be any entity engaged in an economic activity, irrespective of its legal form. This includes, in particular, self-employed persons and family businesses engaged in craft or other activities, and partnerships or associations regularly engaged in an economic activity.

### *Article 2*

#### *Staff headcount and financial thresholds determining enterprise categories*

1. The category of micro, small and medium-sized enterprises ('SMEs') is made up of enterprises which employ fewer than 250 persons and which have an annual turnover not exceeding EUR 50 million, and/or an annual balance sheet total not exceeding EUR 43 million.
2. Within the SME category, a small enterprise is defined as an enterprise which employs fewer than 50 persons and whose annual turnover and/or annual balance sheet total does not exceed EUR 10 million.
3. Within the SME category, a micro-enterprise is defined as an enterprise which employs fewer than 10 persons and whose annual turnover and/or annual balance sheet total does not exceed EUR 2 million.

### *Article 3*

#### *Types of enterprise taken into consideration in calculating staff numbers and financial amounts*

1. An 'autonomous enterprise' is any enterprise which is not classified as a partner enterprise within the meaning of paragraph 2 or as a linked enterprise within the meaning of paragraph 3.
2. 'Partner enterprises' are all enterprises which are not classified as linked enterprises within the meaning of paragraph 3 and between which there is the following relationship: an enterprise (upstream enterprise) holds, either solely or jointly with one or more linked enterprises within the meaning of paragraph 3, 25 % or more of the capital or voting rights of another enterprise (downstream enterprise).

However, an enterprise may be ranked as autonomous, and thus as not having any partner enterprises, even if this 25 % threshold is reached or exceeded by the following investors, provided that those investors are not linked, within the meaning of paragraph 3, either individually or jointly to the enterprise in question:

- (a) public investment corporations, venture capital companies, individuals or groups of individuals with a regular venture capital investment activity who invest equity capital in unquoted businesses (business angels), provided the total investment of those business angels in the same enterprise is less than EUR 1 250 000;



- (b) universities or non-profit research centres;
- (c) institutional investors, including regional development funds;
- (d) autonomous local authorities with an annual budget of less than EUR 10 million and less than 5 000 inhabitants.

3. 'Linked enterprises' are enterprises which have any of the following relationships with each other:

- (a) an enterprise has a majority of the shareholders' or members' voting rights in another enterprise;
- (b) an enterprise has the right to appoint or remove a majority of the members of the administrative, management or supervisory body of another enterprise;
- (c) an enterprise has the right to exercise a dominant influence over another enterprise pursuant to a contract entered into with that enterprise or to a provision in its memorandum or articles of association;
- (d) an enterprise, which is a shareholder in or member of another enterprise, controls alone, pursuant to an agreement with other shareholders in or members of that enterprise, a majority of shareholders' or members' voting rights in that enterprise.

There is a presumption that no dominant influence exists if the investors listed in the second subparagraph of paragraph 2 are not involving themselves directly or indirectly in the management of the enterprise in question, without prejudice to their rights as shareholders.

Enterprises having any of the relationships described in the first subparagraph through one or more other enterprises, or any one of the investors mentioned in paragraph 2, are also considered to be linked.

Enterprises which have one or other of such relationships through a natural person or group of natural persons acting jointly are also considered linked enterprises if they engage in their activity or in part of their activity in the same relevant market or in adjacent markets.

An 'adjacent market' is considered to be the market for a product or service situated directly upstream or downstream of the relevant market.

4. Except in the cases set out in paragraph 2, second subparagraph, an enterprise cannot be considered an SME if 25 % or more of the capital or voting rights are directly or indirectly controlled, jointly or individually, by one or more public bodies.

5. Enterprises may make a declaration of status as an autonomous enterprise, partner enterprise or linked enterprise, including the data regarding the thresholds set out in Article 2. The declaration may be made even if the capital is spread in such a way that it is not possible to determine exactly by whom it is held, in which case the enterprise may declare in good faith that it can legitimately presume that it is not owned as to 25 % or more by one enterprise or jointly by enterprises linked to one another. Such declarations are made without prejudice to the checks and investigations provided for by national or Union rules.

#### *Article 4*

##### *Data used for the staff headcount and the financial amounts and reference period*

1. The data to apply to the headcount of staff and the financial amounts are those relating to the latest approved accounting period and calculated on an annual basis. They are taken into account from the date of closure of the accounts. The amount selected for the turnover is calculated excluding value added tax (VAT) and other indirect taxes.
2. Where, at the date of closure of the accounts, an enterprise finds that, on an annual basis, it has exceeded or fallen below the headcount or financial thresholds stated in Article 2, this will not result in the loss or acquisition of the status of medium-sized, small or micro-enterprise unless those thresholds are exceeded over two consecutive accounting periods.
3. In the case of newly-established enterprises whose accounts have not yet been approved, the data to apply is to be derived from a bona fide estimate made in the course of the financial year.

#### *Article 5*

##### *Staff headcount*

The headcount corresponds to the number of annual work units (AWU), i.e. the number of persons who worked full-time within the enterprise in question or on its behalf during the entire reference year under consideration. The work of persons who have not worked the full year, the work of those who have worked part-time, regardless of duration, and the work of seasonal workers are counted as fractions of AWU. The staff consists of:

- a) employees;
- b) persons working for the enterprise being subordinated to it and deemed to be employees under national law;
- c) owner-managers;
- d) partners engaging in a regular activity in the enterprise and benefiting from financial advantages from the enterprise.

Apprentices or students engaged in vocational training with an apprenticeship or vocational training contract are not included as staff. The duration of maternity or parental leaves is not counted.

#### *Article 6*

##### *Establishing the data of an enterprise*

1. In the case of an autonomous enterprise, the data, including the number of staff, are determined exclusively on the basis of the accounts of that enterprise.
2. The data, including the headcount, of an enterprise having partner enterprises or linked enterprises are determined on the basis of the accounts and other data of the enterprise or, where they exist, the consolidated accounts of the enterprise, or the consolidated accounts in which the enterprise is included through consolidation.

To the data referred to in the first subparagraph are added the data of any partner enterprise of the enterprise in question situated immediately upstream or downstream from it. Aggregation is proportional to the percentage interest in the capital or voting rights (whichever is greater). In the case of cross-holdings, the greater percentage applies.

To the data referred to in the first and second subparagraph are added 100 % of the data of any enterprise, which is linked directly or indirectly to the enterprise in question, where the data were not already included through consolidation in the accounts.

3. For the application of paragraph 2, the data of the partner enterprises of the enterprise in question are derived from their accounts and their other data, consolidated if they exist. To these are added 100 % of the data of enterprises which are linked to these partner enterprises, unless their accounts data are already included through consolidation.

For the application of the same paragraph 2, the data of the enterprises which are linked to the enterprise in question are to be derived from their accounts and their other data, consolidated if they exist. To these are added, pro rata, the data of any possible partner enterprise of that linked enterprise, situated immediately upstream or downstream from it, unless it has already been included in the consolidated accounts with a percentage at least proportional to the percentage identified under the second subparagraph of paragraph 2.

4. Where in the consolidated accounts no staff data appear for a given enterprise, staff figures are calculated by aggregating proportionally the data from its partner enterprises and by adding the data from the enterprises to which the enterprise in question is linked.

## **ANNEX II: FORM OF PUBLICATION INDIVIDUAL AID HIGHER THAN € 500 000**

The following information regarding individual aid, according to point 7.1 of the present document should be published:

- Name of the beneficiary
- Beneficiary's identifier
- Type of enterprise (SME/large) at the time of granting
- Region in which the beneficiary is located, at NUTS level II
- Sector of activity at NACE group level
- The total amount of aid
- Form of aid
- Date of granting
- Objective of the aid
- Granting authority
- Reference of the aid measure

### **ANNEX III: DEFINITIONS**

*Repayable/refundable advance:* loan in support of the project, which is paid in one or more instalments and which refunding conditions depend on the outcome of the project.

*Commercialisation of farming products:* ownership or display activities for the purpose of selling, commercialising, delivering or any other form of marketing, except the initial sale by a primary producer to retailers or processors and any activity involving the preparation of a product for the purpose of this sale. The sale by a primary producer to end consumers is deemed to be a commercialisation if it takes place in separate premises dedicated to this business activity.

*Organisational cooperation:* drawing up joint commercial strategies or joint management structures, shared services or services aimed at facilitating cooperation, coordinated activities such as research or commercialisation, supporting networks and groups, improving accessibility and communication, using shared tools for encouraging an entrepreneurial spirit and trade with SMEs;

*Date, on which the aid is granted:* date, on which the legal right to receive the aid is granted to the beneficiary in accordance with the applicable national regulations.

*Start of works:* Either the beginning of the construction works associated with the investment, or the first legally binding commitment to order some equipment or any other commitment, which makes the investment irreversible, depending on which of these events occurs first. The purchase of land and preparative work, such as obtaining authorisations or carrying out feasibility studies, are not considered to be the start of works. In the case of acquisitions, the 'start of works' is the moment when the assets, which are directly linked to the required establishment, are acquired.

*Company in difficulty:* company, which fulfils at least one of the following conditions:

a) if it is a limited company (other than an SME, which is less than three years old), when over half of the share capital has been lost due to cumulated losses. This is the case when the deduction of the accumulated losses of the reserves (and all the other elements, which are generally considered to form part of the company's equity) results in a negative total, which exceeds half of the registered share capital. For the purposes of this provision, a 'limited liability company' refers to the types of businesses mentioned in appendix I of directive 2013/34/EU of the European Parliament and the Council (1) and 'share capital' includes share premiums, if required;

b) if it is a company, at least some of whose associates have unlimited liability for the debt of the company (other than SMEs, which are less than three years old), when over half of the equity, as it is entered in the company accounts, has been lost through accumulated losses. For the purposes of this provision, a 'limited liability company' refers to the types of companies mentioned in appendix I of directive 2013/34/EU<sup>4</sup>;

c) when the company is undergoing collective insolvency proceedings or fulfils, in accordance with the national law applicable to it, the conditions for submitting collective insolvency proceedings at the request of its creditors;

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<sup>4</sup> Directive 2013/34/EU of the European Parliament and the Council of 26 June 2013 pertaining to the annual financial statements, the consolidated financial statements and the related reports of certain forms of companies amending the directive 2006/43/EC of the European Parliament and the Council and revoking the directives 78/660/EEC and 83/349/EEC of the Council.

- d) when the company benefited from rescue aid and has still not repaid the loan or terminated the guarantee, or benefited from restructuring aid and is still subject to the restructuring programme;
- e) in the case of a business, other than an SME, which has fulfilled the following criteria for the last two financial years:
- 1) the company's loan/equity ratio is greater than 7.5; and
  - 2) the company's interest coverage, calculated using the EBITDA, is less than 1.0.

*Gross subsidy equivalent or 'GSE'*: the total amount of the aid if it had been given to the beneficiary in the form of a subsidy, before tax or other contributions.

*Initial investment*:

- a) Any investment in tangible and intangible assets for the following:
  - the creation of an establishment;
  - the extension of the capacity of an existing establishment;
  - the diversification of the production of an establishment to produce new products, or
  - a fundamental change in the entire production process of an existing establishment.
- b) any acquisition of assets belonging to an establishment, which has closed, or would have closed without this acquisition, and which is bought back by an investor, who is unconnected to the seller, excluding the simple acquisition of the shares of a company.

*Initial investment in a new business activity*:

- a) Any investment in tangible and intangible assets for the following:
  - the creation of an establishment; or,
  - the diversification of an establishment's activity, provided that the new activity is not identical or similar to the establishment's previous activity. The acquisition of assets belonging to an establishment, which has closed, or would have closed without this acquisition, and which is brought back by an investor, who is unconnected to the seller, provided that the new activity started as a result of the new assets is not identical or similar to the establishment's previous activity.

*Primary farming production*: the production of agricultural and breeding products, listed in appendix I of the Treaty, without practising any other operation, which modifies the nature of these products.

*Agricultural products*: the products listed in appendix I of the Treaty, excluding the fishing and aquaculture products listed in appendix I of the regulation (EU) No 1379/2013 of the European Parliament and the Council of 1 December 2013.

*Consulting services in the area of cooperation*: consulting, assistance and training services in exchanging knowledge and experience and improving cooperation;

*Cooperation support services*: providing premises, websites, databases, libraries, market studies, manuals, working documents and models;