ERHVERVSMINISTERIET

Att: Commissioner Margrethe Vestager
European Commission
Rue de la Loi / Wetstraat 2001049 Brussels

ERHVERVSMINISTEREN

Dear Commissioner Margrethe Vestager,

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Joint letter from Denmark, Norway, Sweden and France concerning state aid for relocation of jobs

In the Commission's second draft of the General Block Exemption Regulation (GBER) published 13 October 2016, it has come to our attention that no alterations so far have been taken on board amending the text in respect to the proposed article 2 point 61 a concerning provisions for control of relocation of undertakings and jobs based on state aid.

We would therefore like to take this opportunity to further elaborate and explain the important proposed amendment of the block exemption, as we are concerned for possible loss of control with relocation of undertakings and jobs based on state aid in light of the proposed revision of the GBER. We sincerely hope that the Commission will take onboard the following concerns and that we can continue communication on this issue in order to reach a solution.

We must relay our strong concern with the proposed insertion in the GBER of a compatibility criterion of "unsubstantial" job losses resulting from a regional investment aid beneficiary's relocation. We are very concerned about the current drafting of the Commission's proposal in point 61a of the GBER to include regional investment aid for the relocation of undertakings and workforce which defines "Closure" to mean losses of at least a 100 jobs or at least 50 % of the workforce.

We propose that the provision should be rephrased to only include the first sentence; *"Closure of the same or similar activity' means full closures and also partial closures..."* and exclude any type of threshold. If a threshold is inevitable, the number of 100 jobs should be set significantly lower to minimize the distortive effects, which will surely arise from an unfair competition of state budgets, especially in countries where the work force is mostly engaged in SMEs.

To further outline this rationale one must look at the proposed new provision in connection with the existing regional aid guidelines (RAG) for 2014-2020, which defines such moving around of jobs as a manifestly negative effect (point 121, 126), unlikely to be balanced by any positive elements - of course, provided that that there is a causal link between the aid and the relocation. The RAG also explicitly states that such 'relocation aid' granted under a notified scheme remains subject to the same notification obligation as the scheme.

This leads to a contradiction between the logic of the RAG and the proposed new definition in the GBER article 2 point 61 a. The proposed new article 2 point 61 a defines "Closure" to mean losses of at least a 100 jobs or at least 50 % of the workforce. The exemption in the GBER laid down in Article 13 provides Member States with a legal guarantee that aid to relocation of undertakings below losses of 100 jobs or below 50 % of the workforce is automatically compatible with the single market. This stands in contrast with the presumption of incompatibility for this type of aid in the RAG, which makes such aid subject to notification. The Commission should not underestimate the deterrent effect of keeping a notification requirement and the corollary risk of exposure to illegal aid and recovery.

The clear message from the Commission must be that there is no European value added, if regional investment aid is allowed to move jobs around Europe with tax payers' money - be it national state aid or EU structural funds. The aim must be to create more innovation, economic growth and jobs based on fair competition on the single market - not to move undertakings and jobs around Europe with public money.

We hope that these arguments have persuaded the Commission to reassess the current proposed wording of point 61a and we would urge the Commissioner to feel free to contact us for any further elaboration on this issue.

Yours sincerely,

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Denmark

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Minister of Trade and Industry
Norway

Mikael Damberg
Minister for Enterprise and Innovation
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Michel Sapin
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