

ANNEX X

REFERRED TO IN PARAGRAPH 2 OF ARTICLE 18

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The EFTA States and Turkey agree that the application of Article 18 shall be guided by the following criteria:

- (a) Only those measures can be classified as State aid which result in a net transfer of funds from State sources to the recipient through direct subsidies or which result in tax revenues foregone through tax concession; aid granted under schemes which are fully paid for by the beneficiaries are not State aid in the sense of Article 18; when assessing effects of State aid, the cumulative effects of all types of aid measures awarded to recipients are to be taken into consideration.
- (b) The following measures, in general, fall outside the scope of Article 18:
 - (i) credits and loans from State sources or agencies, if the interest and capital repayments are in accordance with current market conditions;
 - (ii) guarantees given by States or State agencies, if the premiums cover the long-term cost of the scheme;
 - (iii) equity injections by States or State agencies if the rate of return on such investments can reasonably be expected to be at least equal to the cost of State borrowing;
 - (iv) tax measures including social security charges that are part of the general national income norm for tax purposes, available to all enterprises, and uniformly applied in a country.
- (c) The following measures are examples of types of aid normally consistent with the provisions of Article 18:
 - (i) aid to research, development and innovation, provided it is clearly intended for the stimulation of such activities and that such activities are at a pre-competitive level; the pre-competitive level is understood to include applied research and development up to and including the development of a first prototype; such aid may be awarded up to a rate of 50 per cent of project costs or at differentiated tax rates of

equivalent effect; basic research may be aided to a greater extent; the closer to the market place a project is, the lower degree of subsidizations should be;

- (ii) aid given to sectors with problems of overcapacity to rationalize the structure of industry by ensuring an orderly downscaling of production and employment; such measures should strictly be limited in duration and be accompanied by an adjustment programme; when evaluating problems of overcapacity the international situation as a whole and not merely in the country in question is to be taken into account;
 - (iii) general aid to export promotion such as national weeks, store promotion, industrial fairs, provided that such aid is not company-specific;
 - (iv) regional development aid to the extent that it does not interfere with conditions of fair competition; its purpose must be to put industries in regional development areas on an equal economic footing with industries in other parts of the country and not to increase capacity in sectors already suffering from problems of overcapacity; the definition of regional development areas, including areas in industrial decline, lies within the sole competence of the State Parties to this agreement, which may be requested to furnish statistics detailing the reasons of the designation of such areas;
 - (v) the aid in form of general public services to trade and industry on terms and conditions not favouring certain sectors and enterprises;
 - (vi) general aid for the creation of new employment opportunities provided such jobs are not in sectors already suffering from overcapacity;
 - (vii) environmental aid, under the general principle that the polluter-pays-principle is observed; investment specifically designated to reduce pollution may be aided up to a rate of 25 per cent or at differentiated tax rates of equivalent effect; recognizing the existence of different qualities of legislation or standards in other countries and their potential impact on trade and competition, the degree of subsidizations for specific industries shall be kept under constant review;
 - (viii) aid to small and medium-sized enterprises is intended to offset disadvantages directly linked to the size of the firm in question, such enterprises being understood as employing not more than 100 people and having an annual turnover of less than 10 million ECUs.
- (d) The following measures are examples of types of aid normally not consistent with Article 16:

- (i) aid to set against operating losses of enterprises, either directly or through the foregoing of payments due to public authorities;
 - (ii) the injection of equity capital in firms if it has the same effect as to set aid against operating losses;
 - (iii) aid to production in problem sectors suffering from the structural overcapacity or to enterprises in difficulties if not accompanied by an adjustment programme and strictly limited in duration;
 - (iv) aid given as a rescue measure to specific firms if not given merely to provide time for the development of long-term solutions and to avoid acute social problems;
 - (v) aid measures, including indirect taxes, that are applied in such a way as to discriminate in favour of domestically produced goods and against like goods produced in another State Party to this agreement;
 - (vi) aid to exports of goods.
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