



## Fact Sheet 17 – State Aid for final recipients

	Valid from	Valid to	Main changes
Version 3	03.05.17	...	Use of GBER no longer possible for final aid recipients.
Version 2	27.04.15	...	Clarification in relation to the use of de minimis and GBER in connection with fisheries, aquaculture, and agricultural sector projects

**Core message:**

SMEs that are not listed in the project partnership but still get a benefit from the project may still fall under state aid rules as ‘final recipients’ of aid. This factsheet outlines cases in which this may happen, and the associated rules and requirements. Note that the rules and comments made here **do not always apply** to project beneficiaries! Project beneficiaries must consult Fact Sheet 16 to learn how to use state aid within the partnership.

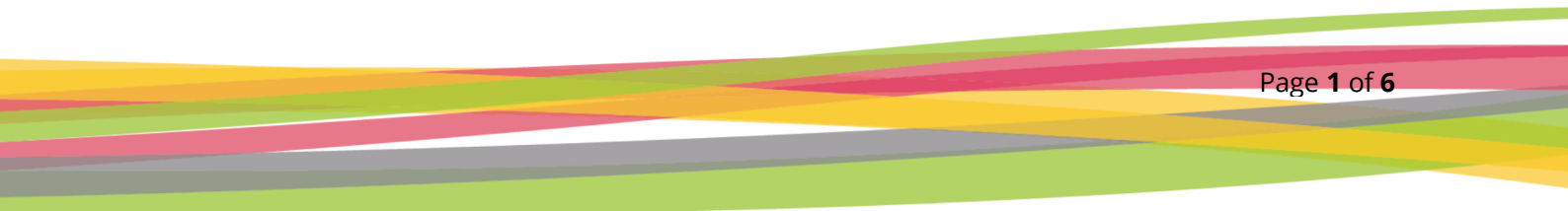
### Other relevant fact sheets

The issue of state aid is a cross-cutting issue that appears in a number of fact sheets and is most often linked with the inclusion of private sector beneficiaries. To familiarise yourself with the issue, please also refer to Fact sheet 15 – Private Sector Beneficiaries, Fact sheet 16 – State Aid, and Fact sheet 27 – Intellectual Property Rights. The information provided in these fact sheets will give you the general regulatory background for state aid in the programme. This fact sheet focuses only on state aid granted to final recipients, not to actual project beneficiaries.

### Background

The programme allows private partners to participate in projects when they provide a clear benefit to the project. It is crucial, however, that the inclusion of private sector beneficiaries is done without violating the ‘State aid’ rules. These rules are in place to ensure that public aid is not used to give enterprises from one country an unfair competitive advantage over other companies.

In some cases, the inclusion of private sector companies does not happen at partnership or project level, but a level down at ‘final recipient’ level through the activities that the project carries out. A final recipient is defined as an aid recipient that is not officially listed as a beneficiary in the project but which, through the activities carried out by the project, receives an advantage compared to other companies. In other words, the benefits conferred by the project are passed on to undertakings that are not part of the project. For this reason, these final recipients may have to be placed under a state aid scheme.





## Support to final recipients: What counts as aid and what does not count as aid?

Two types of support may be provided to SMEs and create different requirements.

- General support such as workshops and training which are open to all relevant SMEs and which target general knowledge and capacity development for these SMEs may be offered free. All such services must be offered in full compliance with the programme rules governing 'No economic advantage' as described in Fact Sheet 16 on State Aid.
- Services for specific SMEs which involve the provision of services with a clear value count as state aid. Examples would include consultancy, research and development, coverage of travel costs, etc. The full cost of all such services must be documented by the project and the beneficiary must ensure that the SMEs comply with all relevant terms of the de minimis scheme (see below).

### How to manage aid to final recipients

The programme manages the risk of state aid in the case of final recipients using the de minimis scheme.

#### **de minimis**

Using de minimis, the service provided to the final aid recipient may be funded 100% without the need for the business to provide any contribution. In addition, de minimis allows aid to be given to large enterprises. However, the de minimis rules allow any enterprise or related group of enterprises to receive no more than €200,000 of public support from de minimis schemes over three fiscal years. This limit applies to all de minimis public funding regardless of source (i.e. not just from the North Sea programme) and covers not just direct grants but also indirect support such as favourable terms for taking up loans.

Monitoring of this limit is managed by asking all final aid recipients receiving de minimis aid to sign a self-declaration confirming that they have not received aid exceeding the limit. If it is later found that this self-declaration is incorrect, the enterprise concerned will have to pay back any *new* aid received over the last three fiscal years<sup>1</sup>: Exceeding the limit by even one euro means that the new amount can no longer be considered as de minimis aid. Furthermore, any new grant of aid to an undertaking after it has received the initial support from the project will have an impact

<sup>1</sup> Article 3(7) of the *de minimis* regulation. If, for example, the recipient has already been granted EUR 190,000 during the past three years, and then receives EUR 15,000 more as part of aid for an NSRP project, the recipient will have to pay back the entire EUR 15,000 – not just the EUR 5,000 in excess of the EUR 200,000 limit.



on the de minimis self-declaration as de minimis aid is assessed by the European Commission on a “rolling basis”. This means that new aid provided during the project could be non-compliant if the new grant means that the beneficiary then exceeds the de minimis threshold.

This means that enterprises receiving de minimis aid must be made fully aware of the limits and the implications of signing the self-declaration.

### **The self-declaration**

In order to facilitate the reporting and monitoring of aid awarded to final recipients, the programme has developed a self-declaration form for final recipients under de minimis. The template of this self-declaration is available on the following pages and should be printed on letterhead paper of the beneficiary providing the support.



**Use of the de minimis Regulation (1407/2013) for participation of an enterprise – Final Recipients**

As part of project XXX, you are receiving state aid under the de minimis Regulation (1407/2013). In order for this aid to be legal, you must confirm that you meet all requirements for the aid scheme, especially that you have not received more than €200,000 of de minimis public support over the last three fiscal years. For this purpose, please fill out this declaration with the requested information.

**Subject: information on the grants received de minimis<sup>2</sup>**

Please complete this declaration of previous State aid received under the *de minimis* rule. Please note that having received previous aid under the *de minimis* Regulation does not automatically disqualify you from receiving further *de minimis* aid from the Territorial Cooperation Programme.

**Declaration**

I, the undersigned, representing XXX (final recipient) and receiving aid in the project XXX (name of project) declare that<sup>3</sup>:

The institution I represent and all other entities belonging to the same company group as my institution<sup>4</sup> have not received any contribution falling under the *de minimis* Regulation during the previous three fiscal years (the current fiscal year and the previous two fiscal years);

**or**

The institution I represent and all other entities belonging to the same company group as my institution<sup>5</sup> have received the following contribution(s) falling under the *de minimis* Regulation during the previous three fiscal years (the current fiscal year and the previous two fiscal years) and this amount together with the current support does not exceed €200,000:

Organisation providing the de minimis aid	Beneficiary (as defined in Regulation 1407/2013)	Country which granted the de minimis	Amount of the contribution in EUR <sup>6</sup>	Date of grant

<sup>2</sup> Regulation (EC) No 1407/2013 of 18 December 2013 on the application of Articles 107 and 108 of the Treaty and the Functioning of the European Union to *de minimis* aid (the 'de minimis regulation').

<sup>3</sup> Please select the applicable option.

<sup>4</sup> Article 2(2) of the *de minimis* regulation defines when a group of undertakings are considered as a single undertaking (and therefore belong to the same company group).

<sup>5</sup> *ibid*

<sup>6</sup> Please also indicate in which form aid was granted. If aid was granted in a form other than grants (e.g. guarantee and loans) please explain how the conditions of Article 4 of (EC) No 1407/2013 (Calculation of gross grant equivalent) are complied with.



<b>TOTAL</b>				

Date, place, signature.

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## Detailed rules and requirements

### **Undertakings in the fisheries, aquaculture, and agricultural sectors**

Programme funding cannot be used for the direct support of undertakings involved in fisheries, aquaculture, or primary agricultural production. The limitations for the fishery and aquaculture sectors include all activities of production, processing and marketing of fishery and aquaculture products. For agriculture, the regulations exclude undertakings active in the primary production of agricultural products. Aid may, however, be provided to undertakings in the sector of processing and marketing of agricultural products where the aid complies with the relevant terms of the de minimis regulation.<sup>7</sup>

### **The audit trail**

In order to fulfill the requirements for the audit trail, the following should be respected:

- The self-declarations for de minimis need to be kept by the beneficiary(ies) organizing the activities offering the advantage. The final recipients may retain a copy but the original should be available at the beneficiary organization in case of audit or control.
- Confirmation must be provided by the First Level Controller of the checks carried out, ensuring that the self-declarations are in place.

### **10 year retention period**

For all state aid documents, whether relating to final recipients or direct recipients, all evidence must be kept on file for 10 years after 31 December in the year in which the final payment is made to the project.

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<sup>7</sup> In the sector of processing and marketing of agricultural products, aid is permissible provided neither of the two conditions are fulfilled. In other words, 'where the amount of the aid is fixed on the basis of the price or quantity of such products purchased from primary producers or put on the market by the undertakings concerned; or where the aid is conditional on being...passed on to primary producers.'