



Technical support to the implementation
and management of ENI CBC programmes

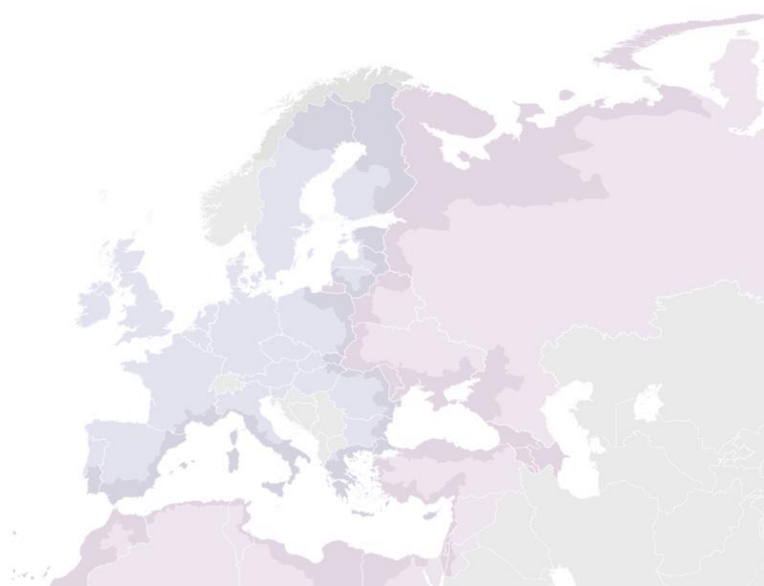
Factsheet on State aid for Egypt

Applicable rules

January 2018

DISCLAIMER

This **non-binding paper** has been developed by the TESIM project. It does not necessarily reflect the views of the European Commission on the topic and is presented to programme practitioners **for illustrative purposes to support the decision making.**



Introduction

The article 12.3 of the ENI CBC Implementing Rules (Commission Implementing Regulation (EU) No 897/2014) stipulates that *“Aid granted under the programme shall comply with the applicable Union rules on State aid within the meaning of Article 107 of the treaty on the Functioning of the European Union.”*

This article is applicable only for goods and services tradeable across the EU Member States. Therefore, it does not affect any activity concerning trade within the CBC partner countries or between them and the EU.

However, also partner countries in the ENI CBC programmes should have a clear understanding whether they have any state-aid related implications stemming from international agreements with the European Union.

State aid rules in the Euro-Mediterranean Agreement

EU-Southern Mediterranean relations at bilateral level are managed mainly through the Euro-Mediterranean Association Agreements. Association Agreement between EU and Egypt was signed in June 2001 and entered into force in June 2004.

Article 34 of the Chapter 2 'Competition and other economic matters' of the Association Agreement contains a provision related to the competition and state aid:

*The following are **incompatible with the proper functioning of the Agreement**, insofar as they **may affect trade between** the Community and Egypt:*

- (i) all agreements between undertakings, decisions by associations of undertakings and concerted practices between undertakings which have as their object or effect the prevention, restriction or distortion of competition;*
- (ii) abuse by one or more undertakings of a dominant position in the territories of the Community or Egypt as a whole or in a substantial part thereof;*

- (iii) **any public aid which distorts, or threatens to distort, competition by favoring certain undertakings or the production of certain goods.**

General principles

Association Agreement does not lay down detailed implementation arrangements and refers to the Association Council that:

*[...] 'shall, **within five years of the entry into force of the Agreement**, adopt by decision the necessary rules for the implementation of paragraph 1'.*

In that regard, there is a specific part in the Association Agreement (Declaration of the European Community on Article 34) explicitly state that until the adoption of necessary rules, the interpretation of Article 34 will be based on the EU practice in State aid:

*The Community declares that, until the adoption ... of the implementing rules on fair competition, it will assess any practice ... on the basis of the criteria resulting from the rules **contained in Articles 81, 82 and 87 of the Treaty establishing the European Community**¹, [...] and the **Community rules on State aids, including secondary legislation.***

As the Egyptian legislation on competition does not provide specific provisions on State aid, the Managing Authority of the ENI CBC MED programme have to take into account EU State aid rules, when assessing, contracting and implementing the projects with Egyptian beneficiaries.

Assessment of State aid

The criteria for the assessment are similar to the ones for Member States, except the criteria on the effect on the trade should be adapted to the trade between Egypt and the EU. Therefore, the activities carried out in the projects with Egyptian beneficiaries have to be assessed following the criteria shown in the table below.

¹ Currently Articles 101, 102 and 107 of TFEU.

