HM Government

Review of the Balance of Competences between the United Kingdom and the European Union

Cohesion Policy

Summer 2014

Review of the Balance of Competences between the United Kingdom and the European Union

Cohesion Policy

© Crown copyright 2014

You may re-use this information (excluding logos) free of charge in any format or medium, under the terms of the Open Government Licence. To view this licence, visit www.nationalarchives.gov.uk/doc/open-government-licence/ or

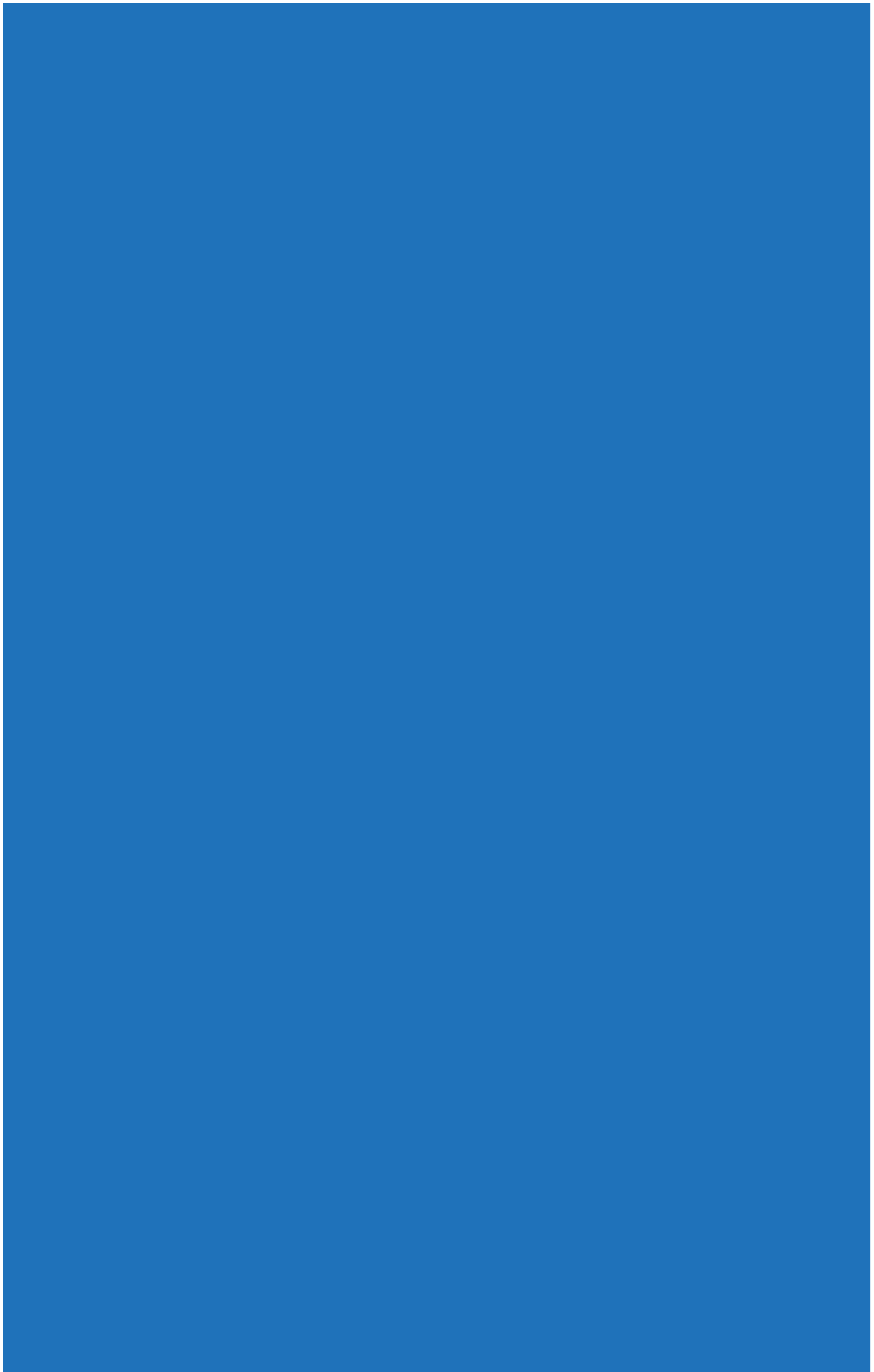
e-mail: psi@nationalarchives.gsi.gov.uk.

Where we have identified any third party copyright information you will need to obtain permission from the copyright holders concerned. Any enquiries regarding this publication should be sent to us at BalanceofCompetences@cabinet-office.gsi.gov.uk.

This document is also available from our website gcn.civilservice.gov.uk/

Contents

Executive Summary		5
Introduction		9
Chapter 1:	Development of EU Competence	13
Chapter 2:	Current State of Competence	27
Chapter 3:	Impact on the National Interest	41
Chapter 4:	Future Options and Challenges	69
Annex A:	List of Evidence Received (including oral evidence)	79
Annex B:	Engagement Events	81
Annex C:	Other Sources	82
Appendix		83



Executive Summary

This report examines the balance of competences between the European Union and the United Kingdom in the area of cohesion policy, and is led by the Department for Business, Innovation & Skills (BIS). It is a reflection and analysis of the evidence submitted by experts, non-governmental organisations, businesspeople, Members of Parliament and other interested parties, either in writing or orally, as well as a literature review of relevant material. Where appropriate, the report sets out the current position agreed within the Coalition Government for handling this policy area in the EU. It does not predetermine or prejudge proposals that either Coalition party may make in the future for changes to the EU or about the appropriate balance of competences.

Chapter One sets out the historical development of cohesion policy. The need for measures to deal with the backwardness of some regions and promote cohesion between different parts of the EU can be traced back to the Treaty of Rome and indeed the European Coal and Steel Community before that but the scope of the policy has significantly expanded in scope since. Some of these developments, notably the introduction of the European Regional Development Fund in the 1970s, were heavily influenced by the United Kingdom. The expansion is reflected in the way economic, social and territorial cohesion is now firmly embedded in the Treaties but also in the budget allocated to it and the scope of programming reflected in EU Regulations. The Maastricht Treaty introduced Trans-European Networks (TENs) and a new competence for industrial policy that also contributes to the broad objective of greater cohesion between different parts of the EU.

Chapter Two describes the current competence, explaining the relevant provisions of the Treaty on the Functioning of the European Union (TFEU) and the main regulations that govern the use of structural and cohesion funds. All regions in the EU are now eligible for funding from cohesion policy, albeit at different intensities. It is seen widely as a general investment policy in support of the Europe 2020 strategy as well as a means to reduce disparities between regions. The chapter notes the development of the Connecting Europe Facility as a common financing framework for Trans-European Networks, and describes the role of industrial policy as a supporting competence.

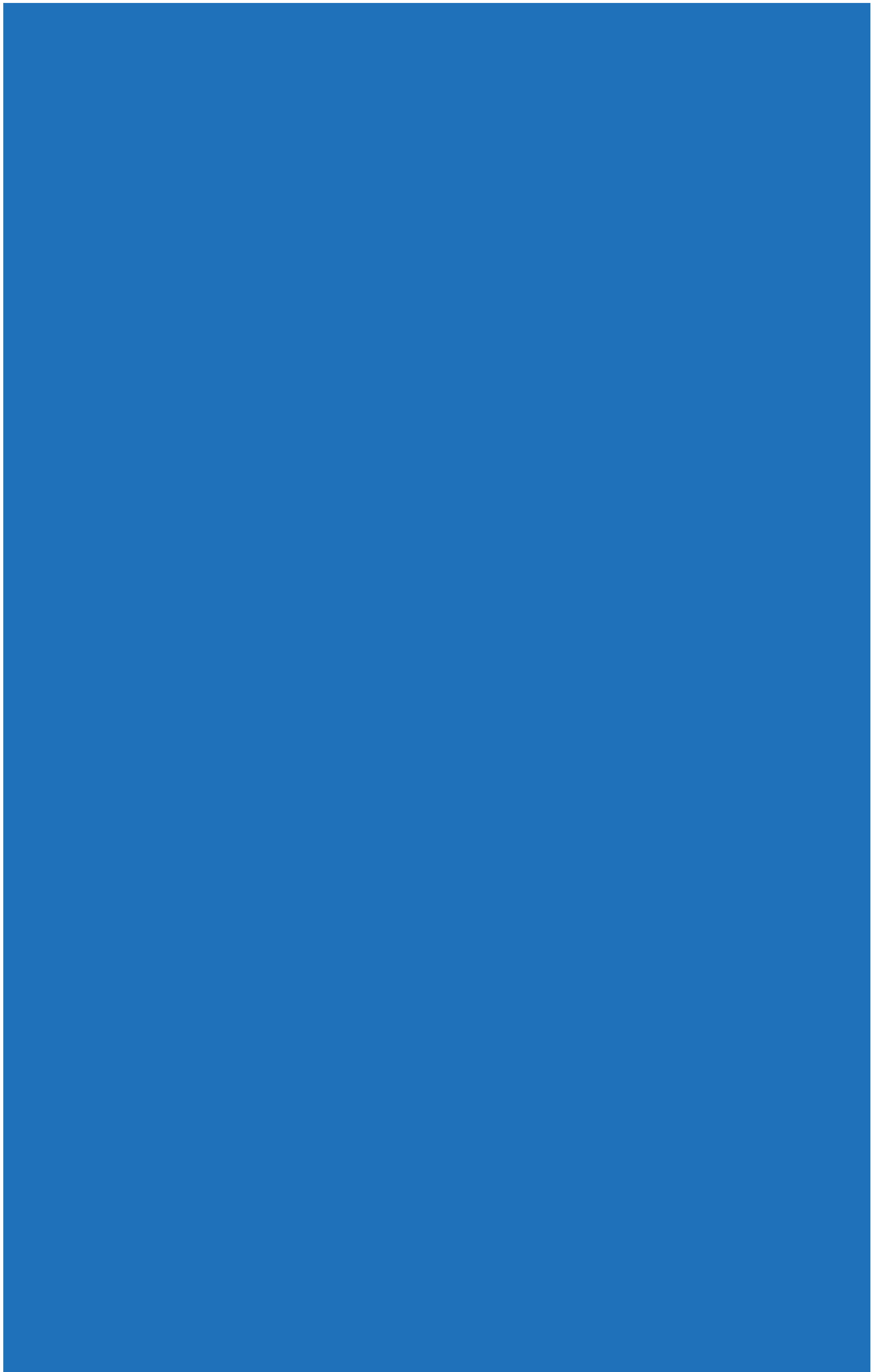
Chapter Three explores the impact of the current balance of competence on the UK's national interest, including whether the UK gets value for money from the contribution it makes to the financing of cohesion policy. Evidence from stakeholders generally welcomed the objectives of cohesion policy in supporting the poorest parts of the EU to fulfil their economic potential and to underpin the development of the Single Market. However, while there had been convergence between Member States and regions across the EU, the impact of structural and cohesion funds was difficult to isolate from other factors, particularly for Member States where they formed only a small part of GDP. Much of the academic literature suggests the impact has been greatest on the least developed regions, where most funding has been targeted.

A key question is whether structural funds should be used in richer regions of Member States, given the alternative sources of funding available, the more limited additionality and the goal of reducing disparities. This was sometimes expressed in terms of concerns about paying money into the EU only to get it back with conditions attached.

Many respondents recognised that the UK might be better off financially if it did not contribute to cohesion policy in rich Member States or regions. For some, it was the level of funding available to them that was important, not whether it came from the EU or national sources.
The greater certainty associated with the seven year periods for EU programmes and the principles of partnership and multi-level governance were seen as benefits.

Finally, it is important that funds available for cohesion policy are well managed. However, the complexity of rules and the perceived burdens of applying for, reporting on and auditing projects are potential barriers to the effectiveness of the structural and cohesion funds. There is a fine balance between the requirements for sound financial discipline and the need to avoid unnecessary administrative burdens. The different layers involved in managing the funds can also add to complexity – the European Court of Auditors has noted that national eligibility rules are often the cause of many irregularities in the funding of projects.

Chapter Four looks at future challenges for cohesion policy. This includes long-term budgetary goals and the scope for limiting structural funds in order to reduce budget pressures. Whereas there is a strong case for continued support for the least developed Member States, rich Member States can afford to fund their own regional policies and there are several options for how this might be done. Without EU funding, there is less incentive for Member States or regions to support cross-border or transnational projects and there may be a case for richer Member States continuing to take part in European Territorial Cooperation programmes, particularly where these are focused on functional economic areas and aimed at producing concrete outcomes to drive growth. There is also scope for Member States with highly regarded audit capabilities to take more responsibility for the financial control of projects.



Introduction

This report is one of 32 reports being produced as part of the Balance of Competences Review. The Foreign Secretary launched the Review in Parliament on 12 July 2012, taking forward the Coalition commitment to examine the balance of competences between the UK and the European Union. It will provide an analysis of what the UK's membership of the EU means for the UK national interest. It aims to deepen public and Parliamentary understanding of the nature of our EU membership and provide a constructive and serious contribution to the national and wider European debate about modernising, reforming and improving the EU in the face of collective challenges. It has not been tasked with producing specific recommendations or looking at alternative models for Britain's overall relationship with the EU.

The review is broken down into a series of reports on specific areas of EU competence, spread over four semesters between 2012 and 2014. More information can be found on the review, including a timetable of reports to be published over the next two years, at: www.gov.uk/review-of-the-balance-of-competences.

The analysis in this report is based on evidence gathered following a call for evidence. It draws on written evidence submitted, notes of seminars or discussions held during the call for evidence period and existing material which has been brought to our attention by interested parties, such as past select committee reports or reports of the European Commission. A list of evidence submitted can be found in Annex A. A literature review of relevant material, as well as opinions received in the course of regular business from a range of organisations, people and countries, has also been drawn on.

For the purposes of this review, we are using a broad definition of competence. Put simply, competence in this context is about everything deriving from EU law that affects what happens in the UK. That means examining all the areas where the Treaties give the EU competence to act, including the provisions in the Treaties giving the EU institutions the power to legislate, to adopt non-legislative acts, or to take any other sort of action. But it also means examining areas where the Treaties apply directly to the Member States without needing any further action by the EU institutions.

Definition of EU Competence

The EU's competences are set out in the EU Treaties, which provide the basis for any actions the EU institutions take. The EU can only act within the limits of the competences conferred on it by the Treaties, and where the Treaties do not confer competences on the EU they remain with the Member States.

There are different types of competence: exclusive, shared and supporting. Only the EU can act in areas where it has exclusive competence, such as the Customs Union and common commercial policy. In areas of shared competence, such as the Single Market, environment and energy, either the EU or the Member States may act, but the Member States may be prevented from acting once the EU has done so. In areas of supporting competence, such as culture, tourism and education, both the EU and the Member States may act, but action by the EU does not prevent the Member States from taking action on their own.

The EU must act in accordance with fundamental rights as set out in the Charter of Fundamental Rights (such as freedom of expression and non-discrimination) and with the principles of subsidiarity and proportionality. Under the principle of subsidiarity, where the EU does not have exclusive competence, it can only act if it is better placed than the Member States to do so because of the scale or effects of the proposed action. Under the principle of proportionality, the content and form of EU action must not exceed what is necessary to achieve the objectives of the EU Treaties.

This report focuses on some areas of EU activity that support economic development. Principally, this is through funding programmes which account for a large part of the EU budget but other actions, particularly coordination, are important means too.

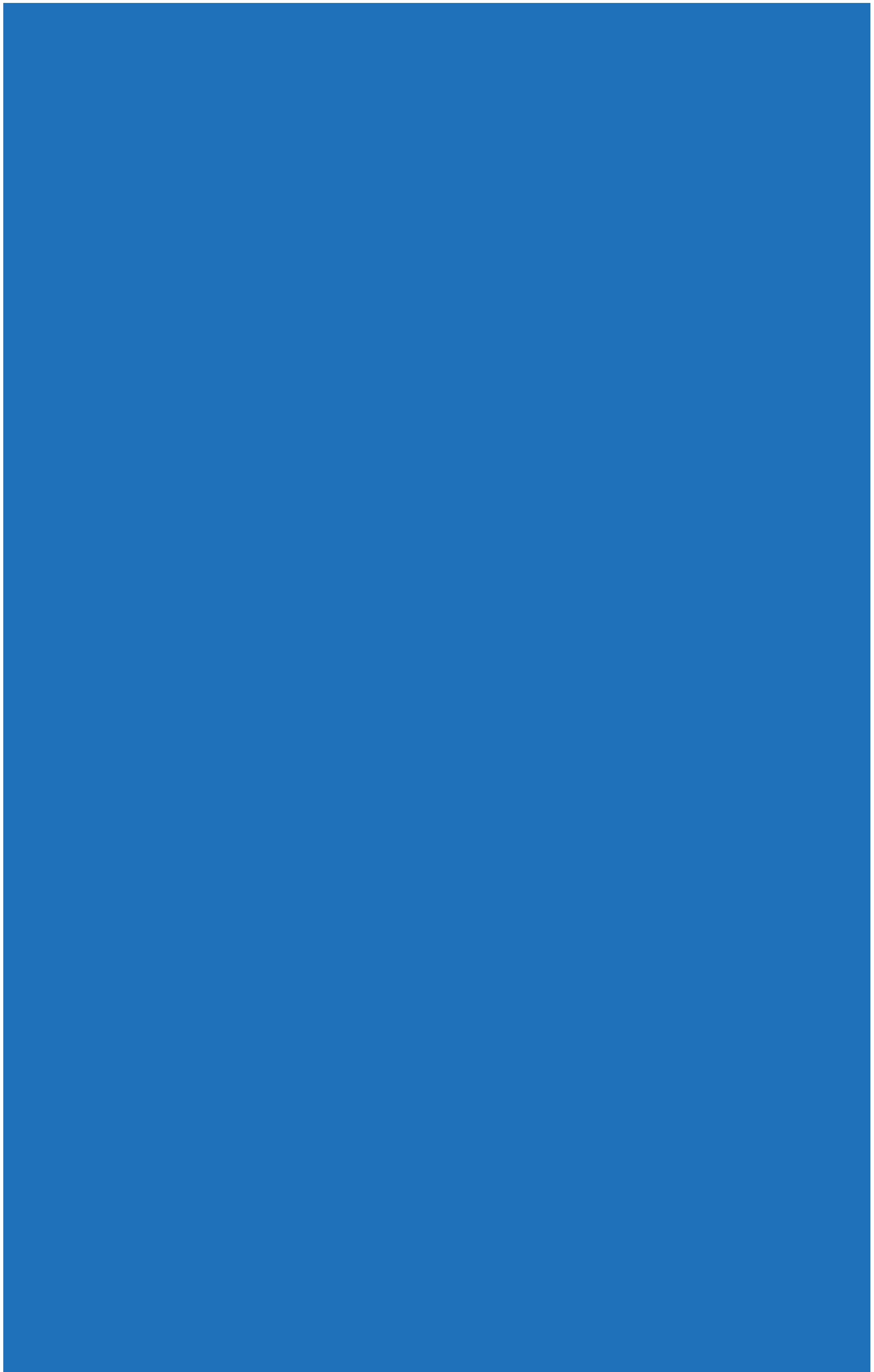
Cohesion policy is in effect the EU's regional policy and its scope is set out in Articles 174 to 178 TFEU which provide the legal base for the adoption by the EU of actions aimed at strengthening its economic, social and territorial cohesion. It is a shared competence between the Member States and the EU. The main financial tools for supporting it are the European Regional Development Fund (ERDF) and the Cohesion Fund, although the legal bases for the European Globalisation Adjustment Fund (EGF), the Fund for European Aid to the Most Deprived (FEAMD), and the European Solidarity Fund also fall within these Articles and are covered by this report. Although this report makes references to the European Agriculture Guidance and Guarantee Fund (EAGGF), which has been considered to be one of the structural funds in the past, this and its successor the European Agricultural Fund for Rural Development are considered in more depth in the Agriculture Report, which is being published alongside this one.

The ESF contributes to social cohesion. The ESF and ERDF together are known as the structural funds. They have the same basic management and control approach and fall within the same heading of the EU budget. The legal base for the ESF is in Articles 162 to 164 TFEU but it has been considered as part of this report rather than the report on Social and Employment Policy.

The Trans-European Networks (TENs) for – Energy, Telecommunications and Transport – and the Connecting Europe Facility support infrastructure investment and are also within the scope of this report. These are covered by Articles 170 to 172 TFEU. Because of the integral nature of the Trans-European Network for Energy with the EU's energy policy, there is a strong link with the Energy Report which is being held in parallel to this review. There are also links with the Transport Report which was published in February 2014.

This report also covers the EU's Industrial Policy. This is primarily set out in Article 173 TFEU as a supporting competence that gives the EU the ability to develop and implement actions to help industrial growth if the scale and desired outcomes are beyond any actions that could be taken at an individual Member State level and that would not in any way distort competition. Policies and actions under other Articles in TFEU, whether state aids, labour law or trade, will also impact on industry but these are considered in other reports. The current report focuses only on the application of Article 173.

A call for evidence was published on 17 October 2013 and the respondents are listed in Annex A. Workshops were also organised to explore views in more depth. Many of those submitting contributions or attending workshops represented organisations which made use of EU funding. To provide a wider evidence base, and to exploit as much as possible the large amount of academic work conducted on cohesion policy, the European Policies Research Centre at Strathclyde University was commissioned to carry out a literature review. This report draws on all these sources.



Chapter 1: Development of EU Competence

Introduction

1.1 Cohesion policy is a broad term that can mean different things in different contexts and to different people. It is often used synonymously with regional policy. For the purposes of this report, the focus will be on the economic, social and territorial cohesion of the EU, what this means and the measures taken to promote this.[1]

1.2 The essence of cohesion policy has been integral to the development of the EU since 1957, but its scope has broadened considerably over the years through Treaty change, introduction of new EU regulations, funding decisions and implementing mechanisms. This chapter provides an overview of the main developments. A detailed examination of the changes introduced by different Treaties is in the Appendix.[2]

The Early Years

1.3 The preamble to the Treaty of Rome stated that the Member States were 'anxious to strengthen the unity of their economies and to ensure their harmonious development by reducing the differences between the various regions and the backwardness of the less developed regions'. It contained however few specific provisions as to how this might be achieved:

- The European Investment Bank was given the task of facilitating the financing of projects for developing the less developed regions;
- In examining rates and conditions for transport policy, the Commission had to take into account the requirements of an appropriate regional policy;
- Whilst State aid was generally prohibited, the Treaty recognised that aid might be permitted to promote the economic development of areas where for example the standard of living was abnormally low or where there was serious underemployment; and
- The EAGGF was set up to finance some rural development measures.

---

1 The term EU is used throughout to include the European Economic Community and the European Community.

2 The analysis in the Appendix is drawn from the evidence submitted by Professor Catherine Barnard.

1.4 The Treaty of Rome also provided for an ESF, which was set up in 1958 to make the employment of workers easier and to increase their occupational and geographical mobility. Its objective was 'to improve employment opportunities and to contribute to the raising of their standard of living'. Initially, support from the ESF was made available for vocational retraining or resettlement allowances for migrant workers, largely from southern Italy, or as aid for workers whose employment was reduced or suspended as a result of a change in production. The ESF was reformed in 1971, with a much bigger budget and the targeting of specific groups such as young unemployed people and textile workers.

1.5 Regional policy itself developed more slowly, with the first communication on regional policy published by the European Commission in 1965 and the establishment of a Regional Policy Directorate General within the Commission in 1968.[3] The impetus for further change came with the accession of Denmark, UK and Ireland in 1973. The previous year, the Paris Summit, attended by Heads of State and Government of the then Member States, plus those in the process of joining, had called for the creation of a Regional Development Fund to address the main regional imbalances in the Community. This was important for the UK at the time, given its low GDP per capita in relation to the existing Member States, with the exception of Italy, and its lack of benefit from other parts of the EU budget, in particular the Common Agricultural Policy (CAP). The importance was reflected in the fact that George Thomson, one of the UK's first two European Commissioners, took the regional policy portfolio and played a major part in the development of the ERDF.

1.6 The ERDF was set up under Article 235 EEC Treaty for a three-year trial period. As with the ESF at the time, the ERDF was managed centrally by the European Commission but Member States dictated how money was spent. Funding was awarded on the basis of national quotas, with Italy receiving the most, followed by the UK. The Commission's role grew in subsequent years as it became possible to provide assistance to regions other than those designated by Member States and as national quotas were replaced by a set of indicative ranges.

The 1988 Reforms

1.7 The next big reform came in 1988. The Single European Act 1986 had made more explicit provision for cohesion policy by introducing a new Title on 'economic and social cohesion' into the Treaty with five separate articles.[4] In part this was to balance the establishment of the Single Market, recognising that the benefits should be available to all regions and sectors of society, particularly as the accession of Spain and Portugal in 1986, along with that of Greece five years earlier, had brought increased regional disparities to the EU. The Single European Act also embedded the role and function of the ERDF into the EU Treaties.

---

[3] European Commission, *La Politique Régionale dans le Marché Commun* (1965).

[4] Articles 130a-e.

1.8 The Single European Act mandated the Commission to review the structural funds to rationalise their operation. This led to a Coordination Regulation on the tasks of the structural funds that moved away from essentially an intergovernmental process to an EU-level regional development tool.[5] This introduced four principles that are still seen in the way structural funds are implemented today, although in a modified way.

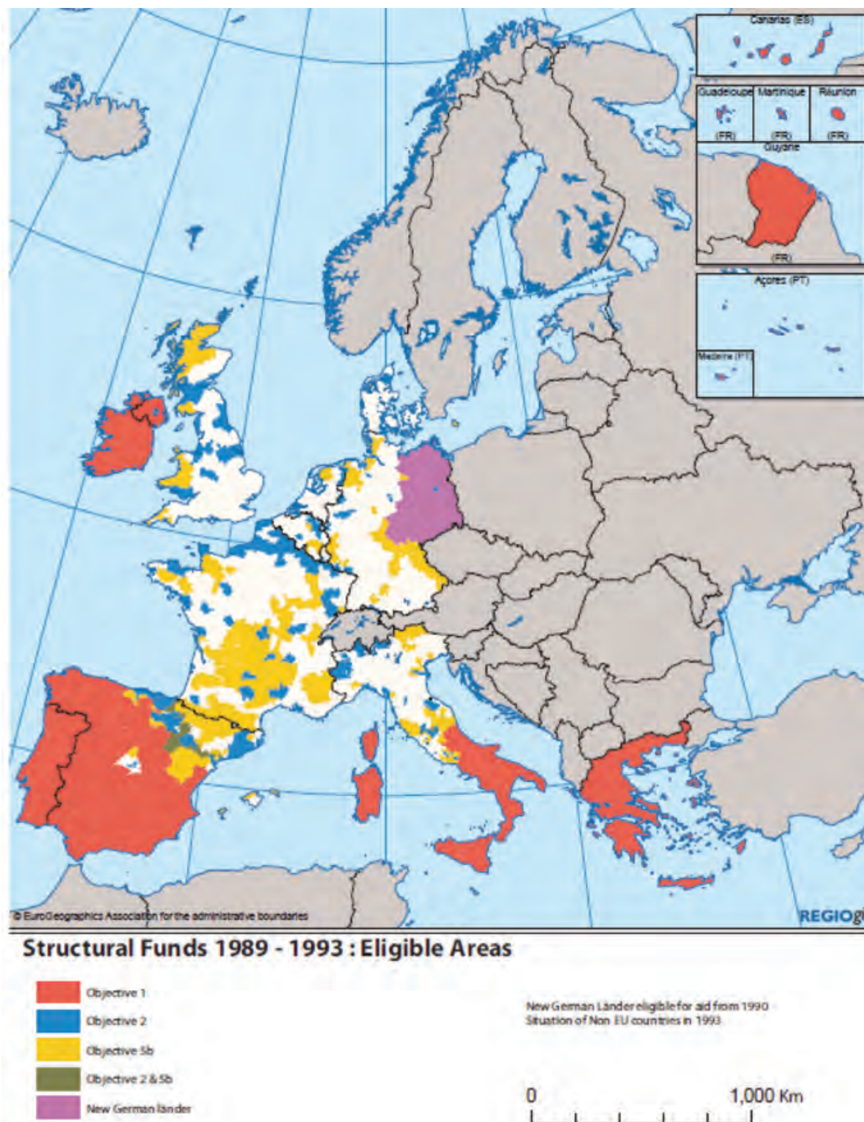
- Concentration on a limited number of objectives and on the poorest regions, linked closely to the Treaty provisions. Objective one promoted the development and structural adjustment of regions whose development was lagging behind. Objective two focused on the conversion of regions seriously affected by industrial decline. Objective three focused on combating long-term unemployment. Objective four facilitated the occupational integration of young people. Objective five focused on the adjustment of agricultural structures and the development of rural areas. A sixth objective on developing very sparsely populated areas was later added in 1995, following the accession of Sweden and Finland to the EU.
- A move from annual to multi-annual programming based on analysis, strategic planning and evaluation and drawing on experiences of the Integrated Mediterranean Programmes that had been established in 1985. There were standard administrative rules and more decentralised management but more restrictions in terms of evaluation and control. Member States submitted regional development plans, which were negotiated with the Commission to construct Community Support Frameworks. These frameworks then outlined the priorities to be addressed by operational programmes.
- Partnership in the design and implementation of operational programmes, which required the involvement of regional and local authorities as well as the European Commission and national governments and was the start of an ongoing process of multi-level governance. Later this partnership principle was expanded in 1993 to include social partners within the framework of national rules and practices and in 2006 Non-Governmental Organisations and civil society bodies.[6]
- Requirements for EU expenditure to be additional to, and not replace, national expenditure. There was also a requirement for national expenditure to be used to match EU expenditure.

---

[5] Council Regulation 2052/88 on the tasks of the Structural Funds and their effectiveness and on co-ordination of their activities between themselves and with the operations of the European Investment Bank and the other financial instruments (1988).

[6] Metis GmbH and EPRC University of Strathclyde, *An Assessment of Multilevel Governance in Cohesion Policy 2007-2013*, Study for the European Parliament (2014).

Map One: Structural Funds eligible areas: 1989-93



Source: European Commission, *Regional Policy-Inforegio* (2011). Accessible at: www.ec.europa.eu/regional_policy/sources/graph/cartes_en.htm, accessed on 15 May 2014.
© EuroGeographics

1.9 These reforms were accompanied by a large increase in the annual budget for the structural funds (ERDF, ESF and EAGGF) from 6.4bn ECU in 1988 to 20.5bn ECU in 1993, representing an increase from 16% to nearly 23% of the EU budget. The Commission had proposed that 80% of ERDF funding would be concentrated on objective one and therefore on the less-developed regions. The budget agreement at the February 1988 European Council set down that the contribution of structural funds to the regions covered by objective one would be doubled by 1992 and a special effort would be undertaken for the least prosperous regions.[7]

[7] Bachtler, Mendez and Wishlade, *EU Cohesion Policy and European Integration: The Dynamics of EU Budget and Regional Policy Reform* (2013).

1.10 The 1988 reforms also saw the introduction of community initiatives to be used at the discretion of the Commission for measures deemed to have a particular EU added value. Twelve were set up during the 1988-93 period which accounted for about 9% of the budget for structural funds.[8]

Table One: Community Initiatives 1989-1993

Community Initiatives	Purposes	M ECU 1989 prices
INTERREG	Cross-border cooperation	800
LEADER	Rural development	400
REGIS	The outermost regions	200
REGEN	Energy networks	300
ENVIREG	Environment in the regions	500
RECHAR	Diversification of coal-mining areas	300
STRIDE	Regional research and development	400
TELEMATIQUE	Advanced services related to telecommunications	200
PRISMA	Business services (particularly metrology) linked to the single market	100
EUROFORM	New forms of qualification	300
NOW	Equal opportunities for women in the labour market	120
HORIZON	Access to the labour market for handicapped and minority groups	180

Source: European Commission Communication, *The Future of Community Initiatives under the Structural Funds*, COM (93) 282, June 1993.

1.11 Some were continued into subsequent programming periods, albeit with an increased role for Member States which had been critical of the bureaucracy associated with the initial operation of these community initiatives. New ones were introduced, such as URBAN for urban policy, ADAPT for adaptation of the workforce to industrial change and EQUAL to combat all forms of discrimination in the labour market, but these have now been discontinued. INTERREG which focused initially only on cross-border cooperation was expanded to include transnational cooperation in 1993 and is now known as European Territorial Cooperation.[9]

1994-1999 Programming Period

1.12 The Maastricht Treaty, bringing with it the deepening of economic integration, set the context for the 1993 reforms of cohesion policy. In addition to establishing the Committee of the Regions as a forum for regional input to EU policy-making and requiring the Commission to publish a triennial report on progress to the goal of economic and social cohesion, the Treaty gave new powers to the Council to introduce other measures besides the Funds, based on a proposal from the Commission and consultation with the European Parliament. The Treaty also placed social and economic cohesion and solidarity between the Member States as core objectives for the EU.

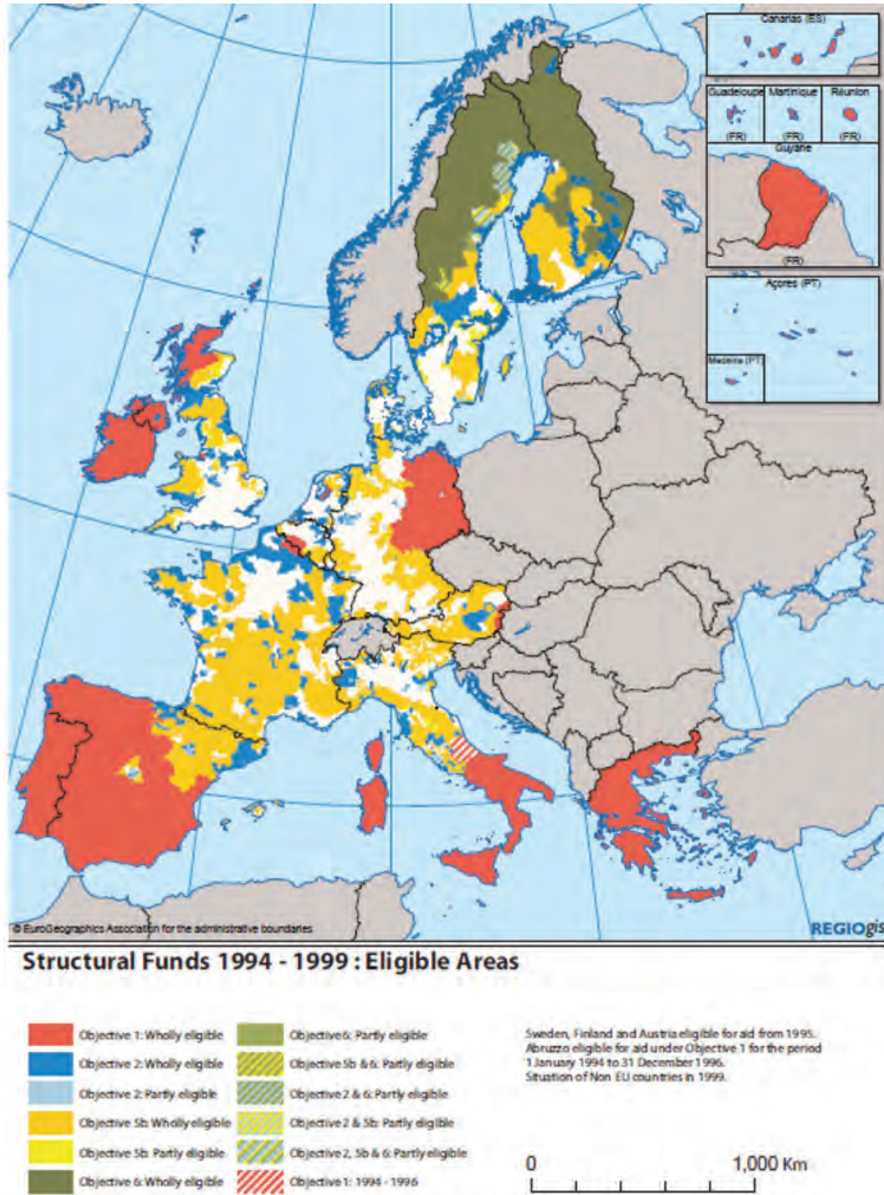
1.13 The reforms for the programming period that followed the Treaty consolidated the basic principles introduced in 1988, but simplified some of the procedures. For example regional monitoring committees were given increased powers and Member States were allowed

[8] 5.8bn ECU out of a total of 60.3bn ECU allocated to the funds as a whole (1989 prices). Commission Communication, *The Future of Community Initiatives under the Structural Funds*, COM (93) 282, June 1993.

[9] Bachtler, Mendez and Wishlade, *EU Cohesion Policy and European Integration*.

to submit single programming documents. At the same time, the rules became more prescriptive about the information to be included in regional development plans. The range of measures eligible for support from the funds was broadened, with for example the eligibility of education and health in objective one regions and a stronger focus on environmental protection. The programming period was extended to six years, covering 1994 to 1999 inclusive.

Map Two – Structural Funds Eligible Areas 1994-99



Source: European Commission, *Regional Policy-Inforegio* (2011). Accessible at: www.ec.europa.eu/regional_policy/sources/graph/cartes_en.htm, accessed on 15 May 2014.
© EuroGeographics

1.14 The Maastricht Treaty required the Council to set up a Cohesion Fund to provide 'a financial contribution to projects in the fields of environment and transport infrastructure'. Although the Treaty was silent on the eligibility of regions and Member States, the subsequent regulation set the criteria at Member State level, for those with Gross National Income (GNI) per inhabitant less than 90% of the EU average.[10] These criteria have remained, although with enlargement for the 2014-20 period the average was calculated on the basis of 27 Member States. For the initial operation of the Cohesion Fund, only four

[10] Council Regulation 1164/94 on establishing a Cohesion Fund (1994).

Member States (Greece, Ireland, Portugal and Spain) satisfied the criteria. For 2014-20, 14 Member States were eligible, with special transitional arrangements for another Member State – Cyprus.[11]

1.15 These changes were accompanied by another significant increase in the EU resources devoted to cohesion policy so that it represented about 30% of the total EU budget, with 161bn ECU in 1992 prices set aside for the structural funds and other operations and 15bn ECU for the cohesion fund.[12]

1.16 There were two other developments in the Maastricht Treaty relevant to the scope of this report. The first was introduction of Trans-European Networks (TENs) to overcome the problem of insufficient infrastructure linkages between the Member States, thereby contributing to economic growth. Under Title XII of the Maastricht Treaty, TENs were to be established to help achieve the objectives of the Single Market and economic and social cohesion and 'to enable citizens of the Union, economic operators and regional and local communities to derive full benefit from the setting up of an area without internal frontiers, the EU shall contribute to the establishment and development of Trans-European networks in the areas of transport, telecommunications and energy infrastructures'. This was to be achieved through a series of guidelines covering the objectives, priorities and broad lines of measures, including the identification of projects of common interests. The EU could also support the financial efforts of Member States for projects of common interest through feasibility studies, loan guarantees, interest-rate subsidies and, in the case of transport, grants through the Cohesion Fund. The Balance of Competence reports on transport and energy provide further background.

1.17 The second was the introduction of a new Title on Industry. Although the specific Industry Policy Title was added only in 1992, the creation of a common industrial development policy had been an objective clearly identified since the European Coal and Steel Community was created in 1951. In 1970, the European Commission had presented to the European Council an extensive Memorandum on the Communities Industrial Policy which acknowledged that 'a common industrial development policy encouraging the creation of a European industrial 'fabric' was indispensable if three vital objectives were to be achieved: the establishment of firm foundations for the economic – and soon the political – unity of Europe, the maintenance of economic growth, and a reasonable degree of technological independence of major world powers'.[13] The provisions introduced by the Maastricht Treaty were much less ambitious in scope than this, enabling the EU to act only in support of actions taken in the Member States and focusing on coordination rather than harmonisation.

2000-2006 Programming Period

1.18 Reforms to simplify and streamline the structural and cohesion funds were introduced in 1999 in anticipation of the accession of ten Member States in 2004, which increased the population of the EU by 20% but its GDP by only 5%. The number of objectives for the structural funds were reduced to three:

- Objective 1 continued to promote the development and structural adjustment of 'lagging' regions;

---

[11] Commission Implementing Decision 2014/99/EU setting out the list of regions eligible for funding from the ERDF and the ESF 2014-2020, 2014. The 14 eligible Member States are: Bulgaria; Czech Republic; Estonia; Greece; Croatia; Latvia; Lithuania; Hungary; Malta; Poland; Portugal; Romania; Slovenia; and Slovak Republic.

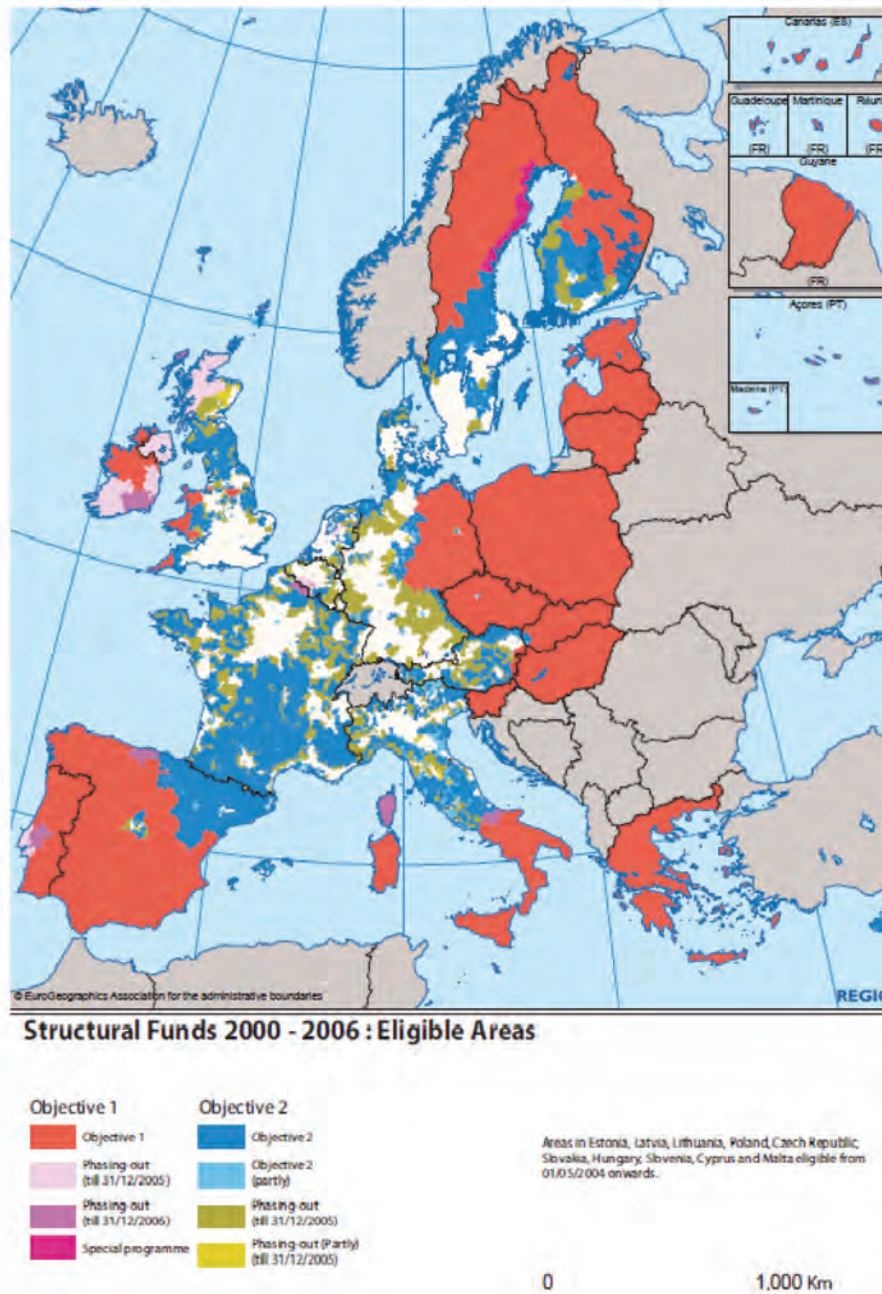
[12] European Commission, *European Union Public Finance* (2008).

[13] Commission Memorandum to the Council, *Principles and General Deadlines of an Industrial Policy for the Community,* COM (70) 100, March 1970.

- Objective 2 supported the economic and social conversion of areas facing structural difficulties; and
- Objective 3, which applied to all regions, supported the adaption and modernisation of education, skills and training.

1.19 The proportion of the EU covered by the first two objectives fell from 51.3% to 40.7%.[14] The number of community initiatives was reduced from 13 to four (INTERREG, URBAN, LEADER and EQUAL).

Map Three – Structural Funds Eligible Areas 2000-6



Source: European Commission, *Regional Policy-Inforegio* (2011). Accessible at: www.ec.europa.eu/regional_policy/sources/graph/cartes_en.htm, accessed on 15 May 2014.
© EuroGeographics

[14] G.P Manzella and C. Mendez, *The Turning Points of EU Cohesion Policy, Working Report for the Barca Report* (2009).

1.20 The main focus was on the budget. The Commission had proposed a ceiling on structural policy spending of 0.46% of EU GDP for 2000-06, equivalent to €239.4bn. The Berlin European Council in March 1999 however agreed a lower budget of €213bn, of which €18bn was set aside for the Cohesion Fund. New instruments for pre-accession countries and funding for post-accession assistance accounted for €7.3bn and €39.6bn respectively. The methodology used at the Berlin European Council, known as the Berlin formula, to work out financial allocations for Member States, based on GDP and other economic data for each eligible region, has with adjustments at each subsequent European Council continued to be the general basis for setting the budget for structural funds to this day.

1.21 The increased budget came with a greater focus on ensuring value for money, with a new principle of efficiency introduced into the general regulation and the introduction of an 'absorption cap' linked to national GDP to ensure that financial transfers did not exceed the administrative capacity of in particular the new Member States to spend them. Large inflows of funding can be difficult to manage and project delivery may slip, with funds not being spent efficiently or effectively, or indeed having to be de-committed and returned to the EU. Furthermore, there may be diminishing returns, along with risks of projects being supported simply because money is available rather than focused on necessary investments for growth. The cap was initially set at 4% GDP but has been lowered in subsequent programming periods.

1.22 At the same time, the resignation of the Jacques Santer Commission in 1999 following allegations of financial mismanagement caused pressure for the transformation of systems and approach to the control and audit of EU funding. The regulatory requirements did not change significantly from the previous programming period, although the responsibilities of national managing and paying authorities were clarified and the N+2 rule was introduced so that money had to be claimed back from the Commission within two years of it being allocated, otherwise it was lost. Much greater impact came from the Commission's own administrative reform programme and its internal organisational changes.

1.23 The European Solidarity Fund was also set up in this period, following the floods that affected central Europe during the summer of 2002. It provided assistance to Member States affected by major natural catastrophes, defined as those that caused damage assessed at over €3bn in 2002 prices or 0.6% of national GDP. There was an annual limit of €1bn that could be paid out from the Fund, but budgetary approval for each application had to be given on a case by case basis – there is no specific provision for the European Solidarity Fund within the Commission's annual budget.

2007-2013 Programming Period

1.24 Not only did the ten new Member States which acceded in 2004 participate fully in programmes for the whole period, but Bulgaria and Romania also acceded to the EU in 2007 and Croatia in 2013. The size of the budget was again a key question. The overall settlement agreed at the European Council in December 2005 was for a budget of around €50bn each year, around 36% of the EU budget. The UK received €9,448m, a decrease of 49% from its allocation for the previous period.[15]

1.25 But an equally important question was how the money was to be spent. There was a desire to use structural funds to support implementation of the Lisbon Strategy to turn the EU into the most competitive knowledge-led economy, which had been agreed too late to be reflected in the previous programming period. From the Commission's initial proposal to

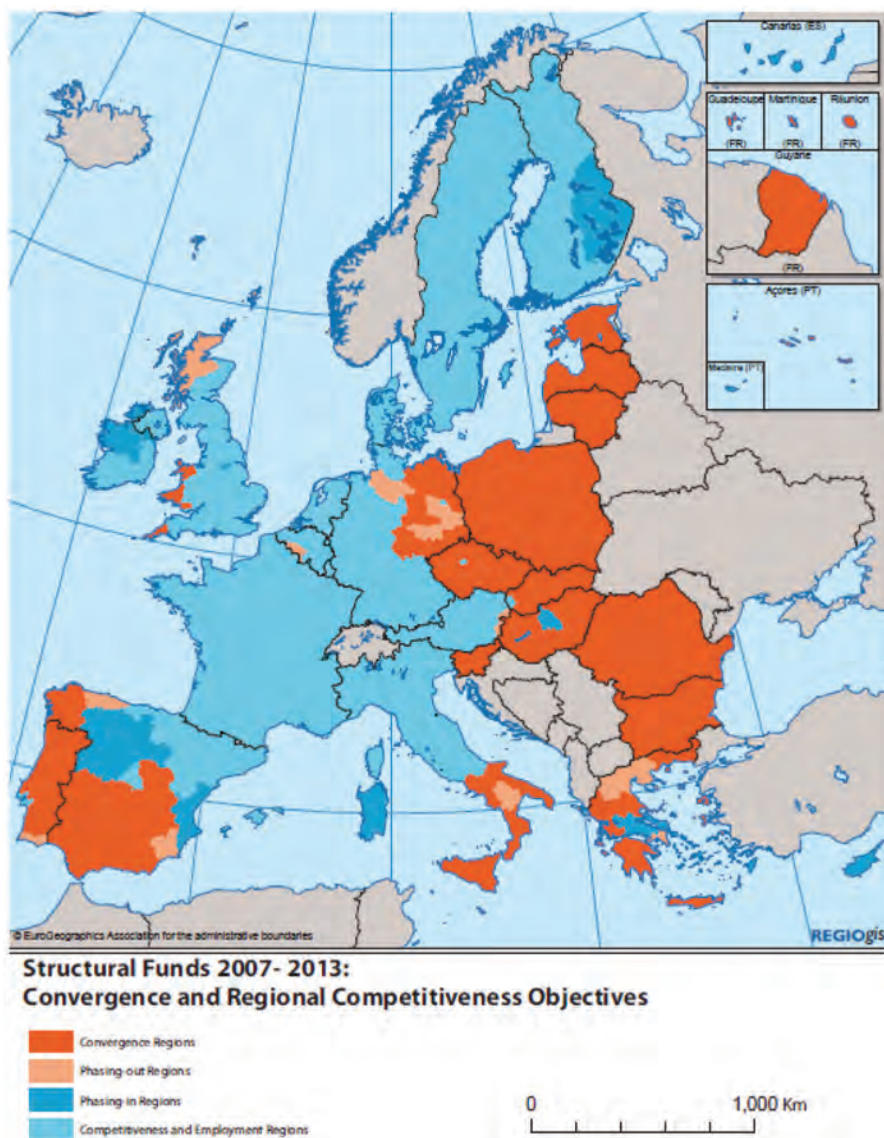
[15] Figures include European territorial cooperation and PEACE but not the cross-EU interregional programmes. Figures taken from European Commission, *Factsheet Figures on the European Structural Funds* 2000-2006. Figures for 2007-13 taken from Commission Decisions 2006/593/EC and 2006/597/EC.

the final agreement of the general and fund specific Regulations, there was therefore much greater focus on the structural funds as being an investment tool for all regions, although the principle of solidarity was not ignored.

1.26 There were now three main objectives for the funds:

- Convergence – this was close to the original objective one and aimed to help the least developed Member States and regions catch up more quickly with the EU average by improving conditions for growth and employment;
- Regional Competitiveness and Employment (RCE) – this covered all other regions. The aim was to strengthen competitiveness, employment and attractiveness of regions other than those which were the most disadvantaged; and
- European Territorial Cooperation – this covered the cross-border, transnational and interregional programmes that had been included in INTERREG. Community initiatives on EQUAL and URBAN were discontinued.

Map Four: Programme Coverage 2007-13



Source: European Commission, *Regional Policy-Inforegio* (2011). Accessible at: www.ec.europa.eu/regional_policy/sources/graph/cartes_en.htm, accessed on 15 May 2014.
© EuroGeographics

1.27 The imperatives of the Lisbon strategy also introduced a greater top-down element to programming, with the adoption of Community Strategic Guidelines at EU level to provide an indicative framework for interventions funded by the three structural and cohesion funds. This supported the drawing up of national strategic reference frameworks at Member State level which in turn informed the preparation of programmes. Furthermore, 75% of spend in RCE areas, and 60% in convergence regions, had to be earmarked for investments linked to the Lisbon Strategy.

1.28 Under the original provisions of the Treaty of Rome, the European Investment Bank had effectively been the only body at EU level responsible for funding regional development. It started now to become more involved in delivering cohesion policy in cooperation with the Commission and more use was made of loans and other innovative financial instruments as an alternative to grants.

- JEREMIE gave regions the opportunity to use part of their Structural Funds to finance Small and Medium-sized Enterprises (SMEs) by means of equity, loans or guarantees.
- JESSICA was a series of urban development funds.
- JASMINE was launched as a pilot initiative launched in 2008 to help non-bank microfinance institutions to scale up their operations.
- JASPERS provided technical expertise for major infrastructure schemes financed by the Structural and Cohesion Funds.

1.29 Other funds also provided support for SMEs, particularly through new forms of financial instrument. The EU Competitiveness and Innovation Programme (CIP) was a framework programme under what is now Article 173 TFEU which aimed to encourage the competitiveness of European enterprises, particularly SMEs. With a budget of €3.6bn, it ran from 2007 to 2013. The programme supported innovation activities (including eco-innovation), provided better access to finance and delivered business support in the regions, encouraged a better take-up and use of information and communication technologies (ICT) and also promoted the increased use of renewable energies and energy efficiency.

1.30 CIP had several schemes with a total budget of over €1bn to facilitate access to loans and equity finance for SMEs where market gaps have been identified. The European Investment Fund (EIF) managed the instruments for the Commission.

1.31 For the 2014-20 period, CIP has been replaced by the Programme for the Competitiveness of Enterprises and SMEs (COSME).[16] COSME has a budget of €2.3bn in current prices and builds on CIP's Entrepreneurship and Innovation Programme, taking forward work on access to finance, access to markets, support for entrepreneurs and business environment, with a particular focus on SMEs.

1.32 Finally, the European Globalisation Adustment Fund (EGF) was set up in 2006 to provide support to workers made redundant as a consequence of major structural changes in world trade patterns.[17] The Regulation was subsequently amended in 2009 to include redundancies caused by the global financial and economic crisis and again in 2013.[18] It could draw money – up to €150m each year for the 2014-20 period – from underspends

[16] Regulation (EU) 1287/2013 of the European Parliament and of the Council of 11 December 2013 establishing a Programme for the Competitiveness of Enterprises and Small and Medium-sized Enterprises and repealing Decision 1639/2006/EC.

[17] Regulation of the Council and the European Parliament 1927/2006 on establishing the European Globalisation Fund, 2006.

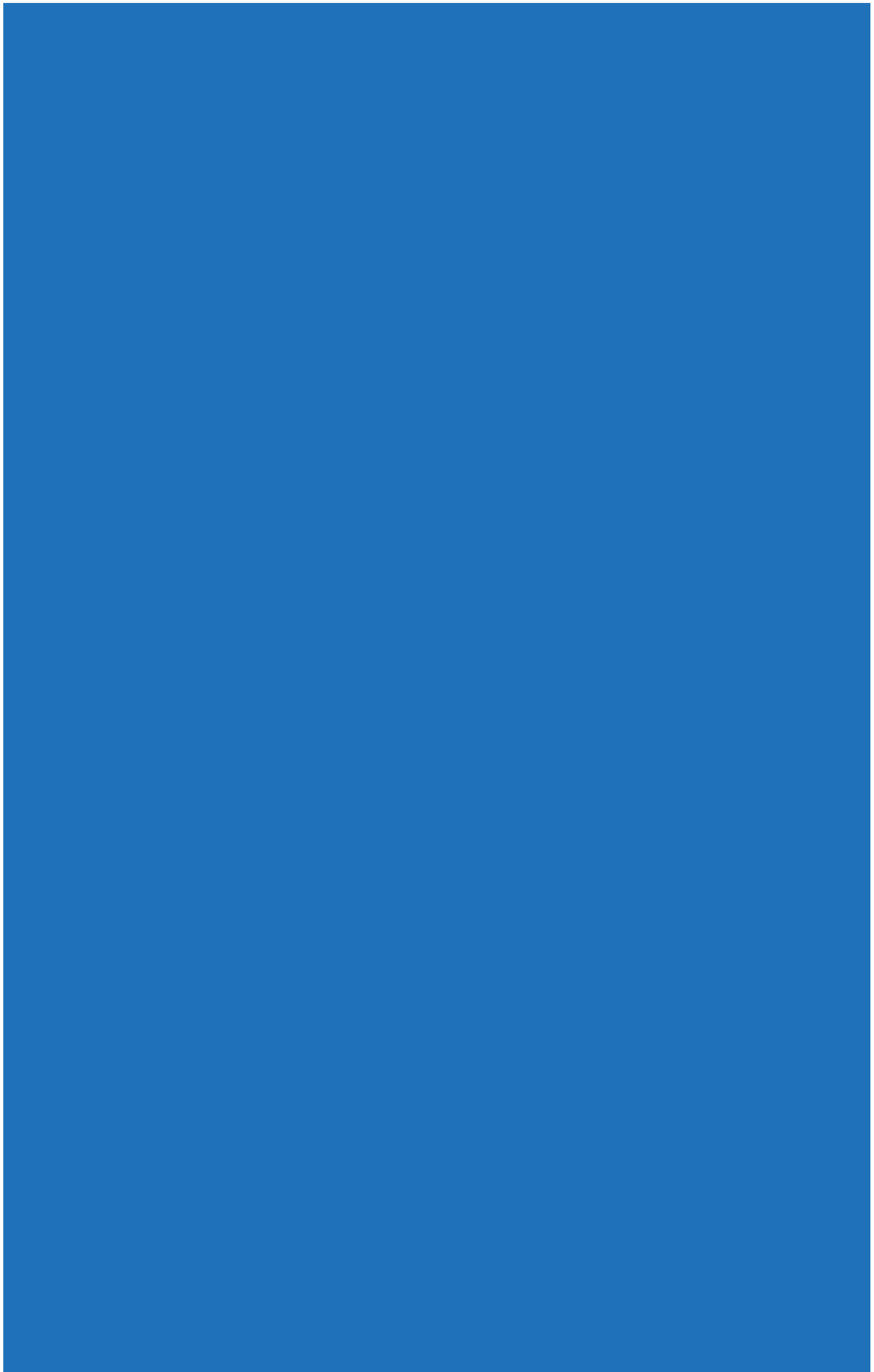
[18] Regulation 1309/2013/EU of the European Parliament and of the Council of 17 December 2013 on the European Globalisation Adjustment Fund (2014-2020) and repealing Regulation 1927/2006/EC, 2013.

or de-committed funds within the EU budget; that is, there is no ring-fenced EGF budget. Bids could be made on a case by case basis by Member States to support actions that reintegrate workers made redundant into the labour market.

1.33 The UK Government has never applied to use EGF, viewing it as an inefficient instrument for managing those at risk of unemployment, or made unemployed, as a result of large redundancies. The UK Government believed that other instruments, such as the ESF, were more suitable for improving the capacity of national institutions and programmes to manage labour market shocks.

The Lisbon Treaty 2009

1.34 While constitutionally significant, the Lisbon Treaty had less direct impact on cohesion policy. It did however introduce the notion of territorial cohesion into the Title's heading and the statement of aims in Article 174 TFEU. It also applied the ordinary legislative procedure applied more widely. Whilst the general coordinating Regulation had been agreed by the Council acting unanimously after consultation with the European Parliament, in future, it would require co-decision and Qualified Majority Voting (QMV).



Chapter 2: Current State of Competence

Introduction

2.1 The previous chapter charted the evolution of the EU's cohesion policy and told a story of growing EU competence and growing budgets. This chapter sets out the current competence in terms of Treaty provisions, regulations and administrative procedures.

Structural and Cohesion Funds

2.2 Articles 174 to 178 in Title XVII TFEU provide the legal basis for the adoption by the EU of actions aimed at strengthening its economic, social and territorial cohesion. Article 174 TFEU provides that 'the Union shall aim at reducing disparities between the levels of development of the various regions and the backwardness of the least favoured regions'. The article also highlights some types of geography that demand particular attention. These include rural areas, those affected by industrial transition and those that suffer from severe and permanent geographical and demographic handicaps, for example, island regions or the northernmost parts of Sweden and Finland.

2.3 Article 175 sets out how the objectives in Article 174 should be achieved. It first notes the need for Member States to conduct and coordinate their economic policies in such a way as to attain these objectives. It then states the formulation and implementation of other EU policies and measures shall take into account these objectives and contribute to them. Finally, it says the EU shall support them through various sources of funding.

2.4 The Structural Funds and the Cohesion Fund are the financial tools set up specifically to support the achievement of the EU cohesion policy objectives in Article 174 TFEU and consist of EU budgetary reserves set aside for the purposes of reducing regional disparities in terms of income, wealth and opportunities. Each fund has a specific role under the terms of the Treaty.

- The ERDF is aimed at 'the development and structural adjustment of regions whose development is lagging behind and in the conversion of declining industrial regions'.[1]
- The ESF is focused on improving employment opportunities in the Single Market and aims at making the employment of workers easier, increasing their geographical and occupational mobility, and facilitating their adaption to industrial change.[2]

---

1 Article 176 and 178 TFEU.

2 Articles 162 to 164 TFEU.

- The Cohesion Fund provides a 'financial contribution to projects in the fields of the environment and the Trans-European Networks in the areas of transport infrastructure'.[3]

2.5 Apart from funds under the cohesion policy, there are other funds that have the potential to contribute to the regional development.[4] These are funds under the CAP (that is, the European Agricultural Fund for Rural Development – EAFRD) and the European Maritime and Fisheries Fund (EMFF).

2.6 The Funds are administered under shared management between the Member States and the European Commission. Operational Programmes are drawn up by Member States, often at regional level, and agreed with the Commission. These set out priorities and form the basis for the delivery of projects, either through calls for proposals, public procurement or commissioning. The Member States appoint managing authorities for each programme, who are required to exercise principles of sound financial management and who decide which projects to fund.[5]

2.7 It is up to the European Parliament and the Council acting by means of legal instruments – generally directly applicable Regulations – through the ordinary legislative procedure and after consulting the Economic and Social Committee and the Committee of the Regions, to 'define the tasks, priority objectives and the organisation of the Structural Funds, which may involve the grouping of the funds'.[6]

2.8 For the 2014-20 programming period, this has been done through the Common Provisions Regulation.[7] This provided a common framework for ERDF, ESF, Cohesion Fund, EAFRD and EMFF, although different parts applied to different combinations of these Funds.[8] The European Court of Auditors noted 'the arrangements for cohesion spending are complex. There are six layers of rules (common provisions, general provisions, Fund-specific provisions, delegated acts, implementing acts, Commission's guidelines). National legislation will, in some cases, constitute an additional layer'.[9]

---

[3] Article 177 TFEU.

[4] Please see second part of paragraph 1 of Article 175 TFEU.

[5] In the UK, the managing authorities are the Department for Communities and Local Government (ERDF – England), Department for Work and Pensions (ESF – England and Gibraltar), Scottish Government (ERDF and ESF – Scotland), Welsh European Funding Office (ERDF and ESF – Wales), Department of Enterprise, Trade and Investment (ERDF – Northern Ireland), Department for Employment and Learning (ESF – Northern Ireland) and the Government of Gibraltar (ERDF – Gibraltar).

[6] Article 177 TFEU.

[7] Regulation 1303/2013/EU of the European Parliament and of the Council of 17 December 2013 laying down common provisions 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 laying down general provisions on the European Regional Development Fund, the European Social Fund, the Cohesion Fund and the European Maritime and Fisheries Fund, 2013, and repealing Council Regulation 1083/2006/EC.

[8] The European Court of Auditors noted in its Opinion 2/2013 that Part II is applicable to all funds; Part III is applicable to the ERDF, the ESF and the CF; most of Part IV is applicable to the ERDF, the ESF, the CF and the EMFF, but not the EAFRD; and some of Part IV is only applicable to the ERDF, the ESF and the CF.

[9] European Court of Auditors, Opinion 7/2011.

2.9 The Common Provisions Regulation strengthened the links between cohesion policy and the EU's overall strategy for growth, now the Europe 2020 strategy. In the words of Commissioner Johannes Hahn, 'cohesion policy is an investment policy. This does not mean that we forgot about the principle of solidarity. How the budget is allocated to Member States follows the principle of solidarity, and nobody in the Multi-Annual Financial Framework (MFF) negotiations ever contested this. 70% of the budget is allocated to the poorest 25% of the regions in Europe. However, how the money is spent must be evaluated according to investment principles, which is simply to get out more than we put in, for the regions but also for Europe. That's why we designed cohesion policy as the main delivery tool for the Europe 2020 strategy.'[10]

2.10 The Regulation sets out 11 thematic objectives for funding linked to Europe 2020. There is a common strategic framework that provides guiding principles for Member States who are required to prepare partnership agreements agreed with the Commission setting out how they would use EU funds to help deliver the Europe 2020 strategy. Beneath the partnership agreement, there will be programmes for each fund at the appropriate geographical level, again to be approved by the Commission.

2.11 All regions remained eligible for structural funds but this time they were broken down into three categories.

- Less developed regions where GDP per capita is less than 75% of the EU 27 average.[11] The budget allocated was €164.2bn in 2011 prices.
- Transition regions where GDP per capita is between 75% and 90% of the EU 27 average. The budget allocated was €32.1bn in 2011 prices.
- More developed regions where GDP per capita is over 90% of the EU 27 average. The budget allocated was €49.1bn in 2011 prices.

[10] Speech by Commissioner for Regional and Urban Policy Johannes Hahn at: *Telling the Story Conference: Communicating EU Funds in 2014-2020* (2013).

[11] This is calculated over a three year basis. The Regulation uses 2007-09 as the base years.

Map Five: Programme Coverage 2014-20

Source: European Commission, *Regional Policy-Inforegio* (2011). Accessible at: www.ec.europa.eu/regional_policy/sources/graph/cartes_en.htm, accessed on 15 May 2014.
© EuroGeographics

2.12 The budget for structural funds is agreed as part of the multiannual financial framework and is based on a series of indicators for each category of region, with special allocations made to some regions as a result of political compromises in agreeing the overall EU budget. A Member State receives an allocation for each category of region and although Member States can decide how this is allocated within categories, there is only very limited flexibility to switch it between categories. With the exception of a small percentage for 'pre-financing' a Member State's allocation is not formally handed over at the beginning of the programme or on an annual basis but rather claims are made against declared expenditure.

2.13 Member States eligible for support from the Cohesion Fund receive one national allocation, based on population and gross national income. The total allocated for the Cohesion Fund for the 2014-20 period is €66.4bn in 2011 prices.

2.14 The Common Provisions Regulation also builds new links with the EU's economic governance. In preparing their partnership agreements and programmes, Member States are required to take account of relevant Country-Specific Recommendations and, where appropriate, their National Reform Programme. Furthermore, principles of 'macroeconomic conditionality' that had previously applied only to the Cohesion Fund in respect of excessive deficits have been broadened to cover all Funds and

more procedures.[12] The Commission can now ask for partnership agreements and programmes to be amended to support the implementation of Country-Specific Recommendations under the European Semester or Council recommendations on macro-economic imbalances or to increase the impact of the funds where a Member States is subject to a financial assistance programme. The Commission can also propose that payments are suspended if, for example, a Member State has not taken effective action to correct excessive deficits or taken the recommended corrective action to deal with macro-economic imbalances. The Common Provisions Regulation makes clear that sanctions cannot be applied to the United Kingdom as a result of these procedures.

2.15 Finally the Common Provisions Regulation introduces new measures to improve the effectiveness of the Funds. Before funds can be spent on any particular objective, the Member State or relevant region must meet certain preconditions, normally linked to the existence of a specific national strategy within which investments can be placed. Furthermore, 6% of the funds allocated to each part of programmes will be held back as a 'performance reserve' and become available for use only if milestones and targets are met in 2018. Funds can also be withheld or taken back by the Commission if there are serious shortcomings in performance.

2.16 In addition to the Common Provisions Regulation, there are specific regulations for the ESF, ERDF and Cohesion Fund, also adopted under the ordinary legislative procedure.[13,14,15] Each regulation sets out the scope for each fund, and also introduces a requirement to concentrate spend on a limited number of objectives or priorities to avoid fragmentation and to increase impact.

2.17 There is also now a separate regulation for European Territorial Cooperation.[16] As in the previous period, European Territorial Cooperation programmes are split into cross-border programmes, transnational programmes and four EU-wide interregional programmes.[17] The budget for European Territorial Cooperation is €8.9bn in 2011 prices (or 2.75% of the budget for structural and cohesion funds, a reduction from the 9% spent in previous periods on community initiatives). Each Member State receives an allocation based on the share of its national population that lives in border regions and can decide how much of this it wants to contribute to each of the specific cross-border and transnational programmes in which it takes part. There is a special allocation of €150m in 2011 prices to the PEACE programme between Northern Ireland and the border counties of Ireland.

2.18 The United Kingdom participates in 11 territorial cooperation programmes, as well as the four interregional programmes.

---

12 In the Common Provisions Regulation, the phrase 'macroeconomic conditionality' proposed by the Commission has now been replaced by 'measures linking effectiveness of ESI Funds to sound economic governance'.

13 Regulation 1304/2013/EU of the European Parliament and of the Council on the European Social Fund, 2013, and repealing Council Regulation 1081/2006/EC, 2006.

14 Regulation 1301/2013/EU of the European Parliament and of the Council on the European Regional Development Fund and on specific provisions concerning the Investment for growth and jobs goal, 2013 and repealing Regulation 1080/2006/EC, 2006 – Article 164. TFEU.

15 Council Regulation 1300/2013/EU on the Cohesion Fund and repealing Council Regulation 1084/2006/EC – Article 178 TFEU.

16 Regulation 1299/2013/EU 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, 2013 – Article 177 TFEU.

17 ESPON – a research network; INTERACT – a network of cooperation projects; URBACT – a network of cities and IV – a network to spread best practice.

Table One: Cross-Border and Transnational Programmes in which the UK Takes Part

Programme	UK participation and other Member States
Two Seas Programme	Southern and Eastern England; with Belgium (Flanders), Netherlands and France
France (Channel) England Programme	Southern and Eastern England; with France
Wales/Ireland cross-border	West Wales; with Ireland
Scotland/Northern Ireland/Ireland cross-border	Western Scotland and Northern Ireland; with Ireland
PEACE IV	Northern Ireland; with the border counties of Ireland
North Sea Region Programme	Eastern UK; with Belgium, Denmark, Germany, Netherlands, Sweden, Norway
Atlantic Area Programme	Western UK; with Ireland, Spain, France, Portugal
North West Europe Programme	All UK; with Belgium, Luxembourg, Germany, Netherlands, France and Switzerland
Northern Periphery	Highlands and Islands, NE Moray, Dumfries and Galloway, Northern Ireland with: Ireland, Finland, Sweden, Norway and Iceland
South-West Europe	Gibraltar; with France, Spain, Portugal, Andorra
Mediterranean	Gibraltar; with Greece, Spain, France, Italy, Cyprus, Malta, Portugal, Slovenia, Croatia, Albania, Bosnia-Herzegovina, Montenegro

Source: European Commission, *European Policy-Inforeggio: Co-operation between regions and Countries* (n. d.) Available at: ec.europa.eu/regional_policy/cooperate/index_en.cfm, assessed on 30 May 2014.

European Solidarity Fund

2.19 The Regulation governing the use of European Solidarity Fund has recently been amended to improve, in the words of the Commission, 'the functioning of the existing Fund instrument by making it quicker to respond and more visible to citizens, simpler to use and its provisions clearer.'[18] The threshold for a natural disaster has been changed to damage assessed at €3bn at 2011 prices or 0.6% of the country's gross national income, whichever is the lower. The provision of assistance for regional disasters is now subject to a clear threshold of damage assessed at 1.5% of GDP at NUTS2 level, with a lower level of 1% in the outermost regions.[19]

European Aid to the Most Deprived Persons

2.20 The EU's *Food Distribution programme for the Most Deprived Persons of the Community* was introduced in December 1987, when the Council adopted the rules for releasing public intervention stocks of agricultural products to Member States wishing to use them as food aid for the most deprived persons of the Community. This was a measure adopted under an Agriculture and Fisheries legal base (now Articles 42 and 43(2) TFEU). The UK and a small number of other Member States decided after a while to stop participating.

2.21 In February 2013, the European Council earmarked €2.5bn for the period 2014-2020 for a successor instrument, the Fund for European Aid to the Most Deprived. The new Fund does not provide additional money as it is taken from the Structural Funds allocation. In June 2013, it was agreed that Member States should have the option of increasing their allocations under the Fund by up to a total of €1bn, so that overall up to €3.5bn might be spent on the Fund in 2014-2020.

[18] Commission Explanatory Memorandum, Proposal to Amend the Regulation for the EU Solidarity Fund, COM/2013/0522 final, July 2013.

[19] The NUTS framework is a means of classifying regions – NUTS2 is equivalent to large counties or groups of smaller counties.

2.22 The new instrument was proposed under a cohesion policy legal base (Article 175 (3) TFEU). The original legal base (TFEU Article 42 and 43) was no longer appropriate because the new instrument had social policy objectives and was wider in scope than the previous food distribution programme. The Fund now will support food aid to the most deprived, basic consumer goods for homeless people and children, and social inclusion for most deprived.

TENs

2.23 With the entry into force of the Lisbon Treaty, TENs are covered under Title XVI in Articles 170-172 TFEU. Article 170 specifies: 'the Union shall contribute to the establishment and development of Trans-European Networks in the areas of transport, telecommunications and energy infrastructures'.

2.24 The right for the EU to act in the field of infrastructure financing, and hence the basis for shared competence in this area, is set out in Article 171 TFEU which provides that the Union 'may support projects of common interest supported by Member States […] particularly through feasibility studies, loan guarantees or interest-rate subsidies'. Article 172 TFEU specifies that 'the guidelines and other measures referred to in Article 171(1) shall be adopted by the European Parliament and the Council, acting in accordance with the ordinary legislative procedure and after consulting the Economic and Social Committee and the Committee of the Regions'. Guidelines and projects of common interest are adopted in this area by the Council and the Parliament, acting under the ordinary legislative procedure (Article 294 TFEU), after consultation with the Committee of the Regions and the European Economic and Social Committee. Under the second paragraph of Article 172 TFEU, guidelines and projects of common interest which relate to the territory of a Member State require the approval of the Member State concerned.

2.25 Each of the three TEN programmes had been managed separately. In 2011 the Commission proposed a common instrument for funding infrastructure, the Connecting Europe Facility (CEF). The aim was to streamline EU support, standardise the operational support and provide a common financing framework for all sectors. The CEF will be managed through the Innovation and Networks Agency (INEA), previously the TEN-T Executive Agency whose scope will be widened to cover all three sectors.[20] It was responsible for the technical and financial preparation and monitoring of decisions on the TEN-T projects, which were managed by the Commission.

2.26 The new legal framework was adopted at the end of 2013.[21] The regulation determined the conditions, methods and procedures for the Union's financial contribution to TEN projects. The EU will contribute to the financing of projects at different rates depending on the sector and the type of action concerned. To be eligible for aid from the CEF, the projects must be in line with the requirements set out in the CEF regulation and in the sector-specific guidelines.

[20] The Agency was originally created by the Commission's Decision of 26 October 2006, in accordance with Council Regulation 58/2003/EC.

[21] Regulation 1316/2013/EU of the European Parliament and of the Council establishing the Connecting Europe Facility, 2013, amending Regulation 913/2010/EU and repealing Regulations 680/2007/EC and 67/2010/EC.

2.27 The final budget for the CEF, agreed at the February European Council and confirmed by the European Parliament, was for €29.299bn in 2011 prices, with €23.174bn, including €10bn earmarked in the Cohesion Fund, allocated to the transport sector, €5.126bn to the energy sector and €1bn to the telecommunications sector. The Commission had proposed using the Cohesion Fund as part of CEF as it had been concerned at the delays in implementing projects by Member States.

Transport (TEN-T)

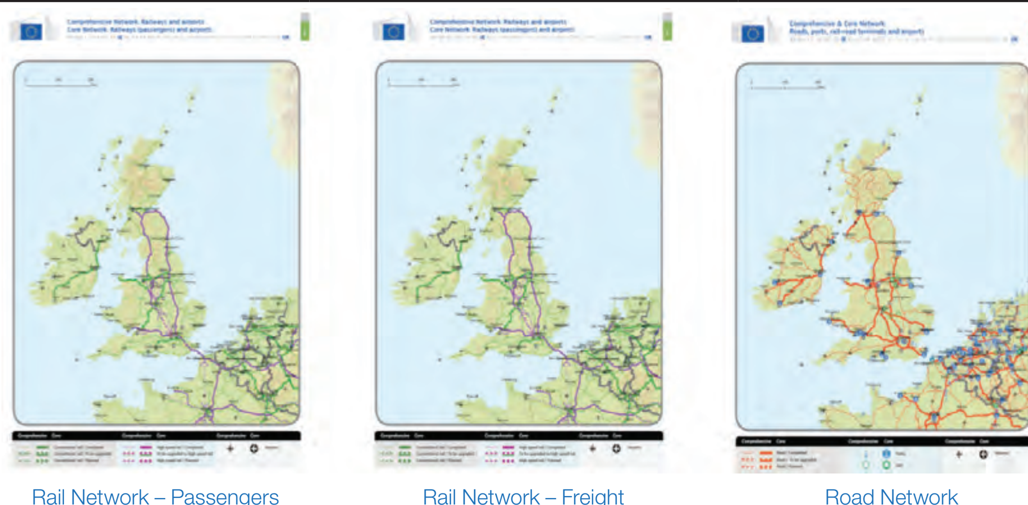
2.28 The objective of TEN-T is to promote cohesion, interconnection and interoperability of national transport networks in order to support and facilitate free movement of goods and people as well as access to transport networks across the EU.

2.29 The TEN-T programme, which is funded from the EU budget, helps to co-finance infrastructure projects and studies for roads, railways, inland waterways, airports, ports, satellite navigation and traffic management systems on the designated network. The programme is meant to act as a stimulus for infrastructure projects, not a subsidy. The rates of co-funding vary depending on the type of project. Studies can attract up to 50% EU funding. Infrastructure projects can be between 10-20% EU funded.

2.30 Projects are selected through a series of open 'calls' for funding issued by the Commission usually on an annual basis. Each 'call' has a particular set of criteria and a timescale that projects must meet in order to be eligible for funding. Projects must also show that they are mature and have a full financing package in place.

2.31 The TEN-T regulation adopted under the ordinary legislative procedure sets out the guidelines for 2014 onwards.[22] Under it, the Transport Network is comprised of two layers. There are also TENs networks for inland waterways and ports as well as road and rail. Maps Six, Seven and Eight show the road and rail networks.

Maps Six, Seven and Eight: TEN-T



Rail Network – Passengers   Rail Network – Freight   Road Network

Source: European Commission, *Mobility and Transport: Trans-European Transport Network TENtec* (n. d.) Available at: ec.europa.eu/transport/infrastructure/tentec/tentec-portal/site/en/maps.html.
© EuroGeographics

- **Comprehensive Network** (the thin lines, proposed by Member States) – a detailed network of road, rail, airports, ports and inland waterways that ensures accessibility and connectivity to all regions in the Union including remote areas.[23]

[22] Regulation 1315/2013/EU of the European Parliament and of the Council on Union guidelines for the development of the Trans-European transport network, 2013, and repealing Decision 661/2010/EU.

[23] This is based on thresholds and methodology set by the Commission.

- **Core Network** (the thick lines, proposed by the Commission). This is a sub-set of the Comprehensive Network and comprises the more strategic routes, nodes and hubs of strategic importance for transport flows within the EU and between the EU and its neighbours.[24]

2.32 Core Network Corridors facilitate the implementation of the Core Network. These corridors will be multi-modal, should cross at least two borders and coordinate the development of infrastructure with a particular focus on cross-border sections and bottlenecks.

2.33 Detailed technical standards and physical infrastructure developments have been added for each transport mode for implementation on the TEN-T Core Network by the end of 2030 and the Comprehensive Network by the end of 2050.

Energy (TENs –E)

2.34 The new TEN-E Regulation was adopted in April 2013 and entered into force in June 2013.[25] It sets strict guidelines for the selection of EU 'projects of common interest' in respect of gas and electricity transmission interconnection, gas and liquefied natural gas (LNG) storage, some limited oil transmission in Central and Eastern Europe and carbon capture and storage.

2.35 Projects of common interest must demonstrate significant cross-border impact and benefit to at least two Member States. The list of projects of common interest is reviewed every two years.

2.36 Once projects are classed as projects of common interest, they will benefit from streamlined planning procedures – 3 years 6 months to complete the planning process and to get a decision, with a possible 9 month extension if necessary. Environmental requirements such as Environmental Impact Assessments have to be completed in the usual way as well as other consent procedures, but the timetabling is designed to take that into account.

2.37 Projects of common interest will also be able to access financial instruments under the linked CEF Regulation. The criteria for accessing financial instruments and grants are laid out in the TEN-E regulation. This includes circumstances where projects are not commercially viable but have significant externalities and societal benefit (such as security of energy supply) and otherwise meet stringent criteria in the TEN-E regulation. Feasibility studies can also attract funding.

Telecommunications (eTENs)

2.38 The Commission has originally proposed a budget of €9.2bn (approximately £8bn) for digital networks and services within the CEF. The February 2013 European Council Conclusions set the budget for what came to be referred to as 'CEF Digital' at €1bn. As a result of this reduction, the European Commission adopted an amended proposal for an eTENs Regulation on 28 May 2013 to take into account the smaller funding envelope.

2.39 The amended eTENs Regulation proposal is intended to help deliver the Digital Agenda for Europe which includes aims for universal coverage across the EU of 30 Mps broadband and subscriptions by 50% of households to 100 Mps by 2020.

[24] Nodes include capital cities, major population areas, airports and ports with 1% of EU passenger or freight traffic.

[25] Regulation 347/2013/EU of the European Parliament and of the Council on guidelines for Trans-European energy infrastructure, 2013, and repealing Decision 1364/2006/EC and amending Regulations 713/2009/EU, 714/2009/EU and 715/2009.EU.

2.40 It prioritises 'core service platforms' for funding to address the interoperability and security needs of projects of common interest. These are intended to enable digital interactions between public authorities, businesses, and citizens.

2.41 The eTENs Regulation uses a combination of financial instruments and grants to stimulate investments by private parties and public authorities at local level for projects which would have difficulty in attracting sufficient private investment by themselves.

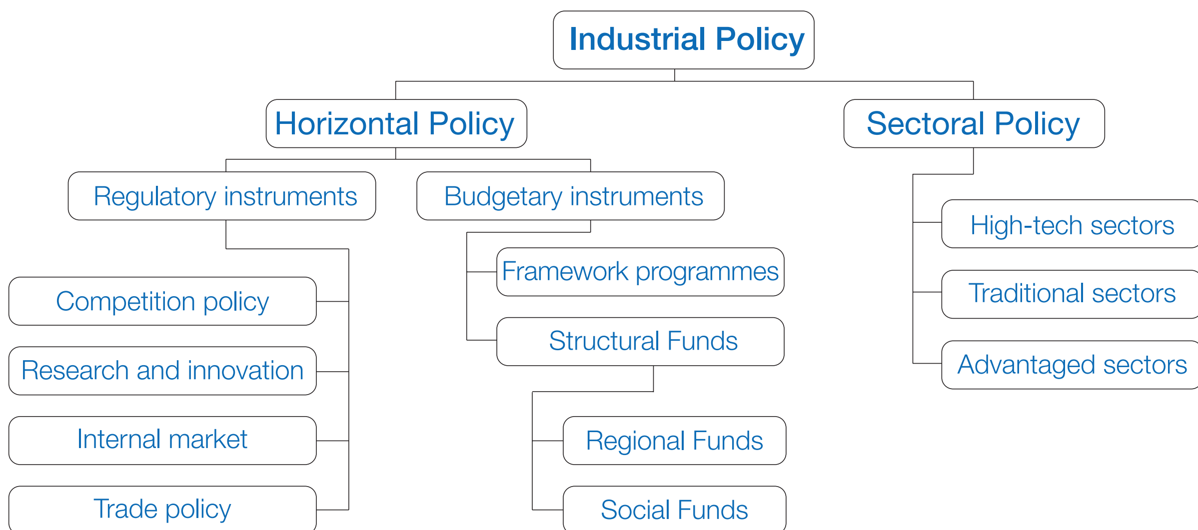
Industrial Policy

2.42 Unlike cohesion policy or TENs, which are shared competences between the EU and Member States, industrial policy is a supporting competence. Article 6 TFEU gives the EU competence to support, co-ordinate or supplement the actions of Member States in several areas, including the area of industry, but as provided by Article 2(5) TFEU, this category of EU competence does not supersede the Member State's competence in this area.

2.43 Industrial Policy can be said to consist of a horizontal 'complementary' policy not generally expressed in terms of legal obligations, but mostly as broad guidelines or programmes for promoting greater competitiveness. For that purpose Article 173 TFEU requires the Union and the Member States to ensure that 'conditions necessary for the competiveness of the EU's industry exist'. Article 173(1) TFEU then provides that their actions shall be aimed at:

- Speeding up adjustments of industry to structural changes;
- Encouraging an environment favourable to initiatives and to the development of undertakings throughout the Union, particularly Small and Medium-sized undertakings;[26]
- Encouraging an environment favourable to co-operation between undertakings; and
- Fostering better exploitation of the industrial potential of policies for innovation, research and technological development.

Figure One: EU Industrial Policy



Source: Sun Yanhong, *Industrial Policy of the EU: Development and Recent Progress*, p. 11.

[26] 'Undertakings' includes any entity which engages in economic activity, regardless of its legal status and the way in which it is financed. Economic activity is defined as any activity offering goods and services on a given market.

2.44 However, Article 173(1) TFEU provides that these aims are pursued in accordance with a system of open and competitive market, and clearly states that it does not provide 'a basis for the introduction by the EU of any measure which could lead to a distortion of competition or contains tax provisions or provisions relating to the rights and interests of employed persons'.[27]

2.45 The tools to pursue these policies are set out in paragraphs (2) and (3) of Article 173 TFEU. Article 173(2) provides for a mechanism for the consultation and coordination of actions between the Member States, with the Commission promoting such coordination by way of, for example, guidelines, indicators, organising exchanges of best practice.

2.46 Article 173(4) TFEU provides that the Union shall contribute to the achievements of the objectives listed in 173(1) through the policies and activities it pursues under other provisions of the Treaty. In addition, it gives the Union powers to adopt specific measures (through the ordinary legislative procedure and after consulting the Economic and Social Committee) in support of action taken in the Member States to achieve the aims listed in Article 173(1) TFEU. However, it expressly excludes for any of these measures to result in any harmonisation of the laws and regulations of the Member States.

2.47 Examples of instruments made under Article 173 TFEU include the Framework Programme for CIP and its replacement COSME.[28] [29] As required in Article 173, none of these measures are designed to replace national initiatives or other binding obligations at EU level, but to complement national measures by 'giving an EU dimension to them, by better coordination and the removal of cross-border obstacles to cooperation either by private actors or public authorities'.

2.48 Leaving aside CIP and COSME, the main actions undertaken under this legal base are surveys and studies by the Commission. Each year the Commission undertakes a general competitiveness review.

[27] Last paragraph on Article 173(3).

[28] Decision 1639/2006/EU of the European Parliament and of the Council establishing a Competitiveness and Innovation Framework Programme (2007 to 2013), 2006.

[29] Regulation (EU) 1287/2013 of the European Parliament and of the Council of 11 December 2013 establishing a Programme for the Competitiveness of Enterprises and Small and Medium-sized Enterprises and repealing Decision 1639/2006/EC.

CARS 21

Over 30 manufacturers build over 70 models of car in the UK. The industry has an annual turnover of £60bn. The automotive industry is fully integrated across the EU.

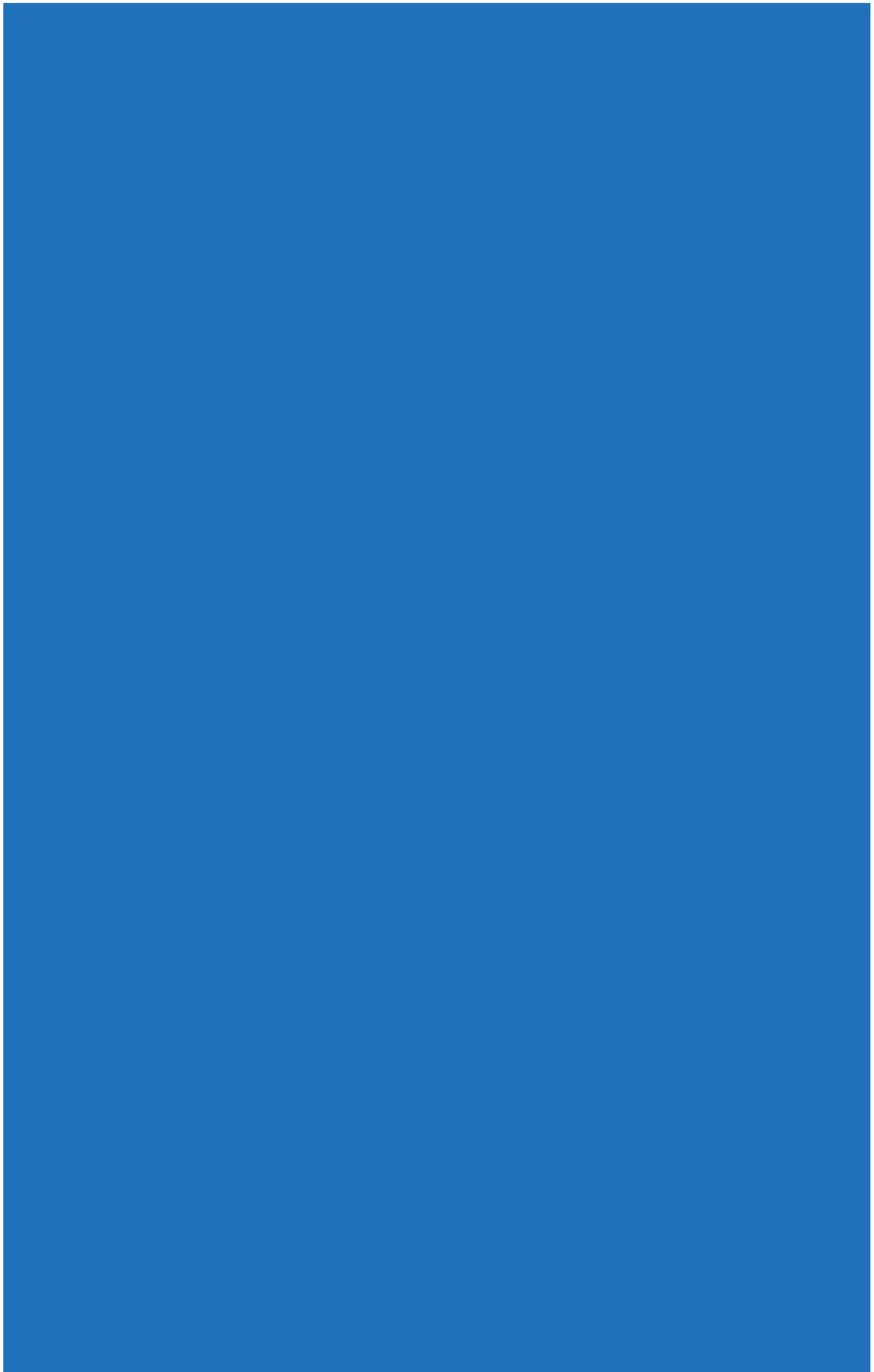
The CARS21 – Competitive Automotive Regulatory System for the 21st Century – process was originally launched in 2005 aiming to make recommendations for the short-, medium- and long-term public policy and regulatory framework of the European automotive industry. The framework aims to enhance the industry's competitiveness as well as employment in the sector, while sustaining progress in safety and environmental performance. The first formation of the CARS21 High Level Group delivered a Final Report in 2006 which made several recommendations in the areas of simplification, environment, road safety, trade, R&D and taxation.

A Commission Decision in late 2010 re-established the High Level Group as an expert grouping of representatives of the European Parliament; the Commission; the Member States and stakeholders from industry and civil society, tasked with conducting analysis and making policy recommendations aimed at improving the industry's competitiveness, and ensuring further progress on safety and environmental performance. The re-established Group adopted a Final Report in June 2012 which identified the ways in which the industry would need to change in order to meet future challenges.

In 2012 a Commission Communication set out an Action Plan, known as CARS2020, structured around four pillars:

- Investing in advanced technologies and financing innovation;
- Improving market conditions;
- Enhancing competitiveness on global markets; and
- Anticipating adaptation.

CARS2020 aims at supporting the role of the automotive sector in achieving the Commission's target that manufacturing industry should account for 20% of EU GDP by 2020.



Chapter 3: Impact on the National Interest

Introduction

3.1 Having considered how the EU's role in cohesion policy has developed since the Treaty of Rome and assessed the current state of competence, this chapter looks at how the exercise of the EU's competence in this area has impacted on the UK's national interest, drawing on evidence submitted to the review and opinions noted during the workshops, as well as on the literature review and other public sources. This requires analysis of benefits generated by the Funds at EU level, since the UK is a net contributor to the EU budget, as well as at national level from the use of structural funds in this country.

The Rationale for Cohesion Policy

3.2 The definition of cohesion policy is wide and there are differing opinions as to its underlying purpose. For Bachtler, Mendez and Wishlade, a defining feature was its concern with the spatial aspects of economic and social activity, with a central objective of addressing problems associated with uneven economic growth and development across the EU.[1]

3.3 The redistributive purpose is reflected in the Treaty objective to help reduce imbalances between the levels of development of the various regions and the backwardness of the least favoured. The ERDF in particular is intended to help redress these imbalances through participation in the development and structural adjustment of regions whose development is lagging behind and in the conversion of declining industrial regions. Under the Treaty, the ESF is focused on improving employment opportunities but it also has spatial impacts, reflecting areas with a significant disadvantaged population. Member States receive one allocation for structural funds that covers both ERDF and ESF and this is calculated according to a formula based on regional data.[2]

3.4 In its response to the Commission's Fifth Cohesion Report, the UK Government said it 'supports the fundamental EU-wide political and economic aim of cohesion policy, with its basis in Article 158 [now Article 174] of the European Treaty […] A strong European cohesion policy framework is therefore important in ensuring that every part of the EU is able to develop to its full potential'.[3]

---

[1] Bachtler, Mendez and Wishlade, *EU Cohesion Policy and European Integration*.

[2] As explained in paragraph 2.13 above, entitlement to and allocations for the Cohesion Fund are calculated on national data.

[3] UK Government, *Response to the European Commission's Consultation on the Conclusions of the Fifth Report on Economic and Social Cohesion* (2011).

3.5 This support for the general principles of cohesion policy and the need to provide support particularly for poorer Member States, was shared by many respondents. Some of those representing richer parts of the EU, such as the East of England European Partnership believed it important that their companies had access to a strong dynamic EU market where all regions were performing well.[4] The Scottish Government considered that that the 'EU's cohesion policy [was] essential in securing an economically prosperous as well as socially just Union' and that 'structural funds help Member States and regions implement EU policies that will help make the EU a more coherent and cohesive single market'.[5] Even some critical of EU regional policy, such as David Campbell Bannerman MEP who proposed a new relationship for the UK with the EU outside of EU membership, recognised the desirability of financial transfers to assist Eastern European States to develop, which he suggested might be done through a new UK grants body, instead of through the EU.

3.6 In the workshops held during the review, a common observation was that there was a belt of strong economic activity in the EU, taking in the UK, Benelux, France, Northern Italy, Denmark, Southern Sweden and Finland, and Germany. Outside this core, there were challenges connecting to these main markets. Those on the periphery faced geographical handicaps not easily overcome. In the UK, the poorest regions according to Eurostat are Cornwall and the Scilly Isles, and West Wales and the Valleys, with the Highlands and Islands and Northern Ireland also both having GDP per capita below 90% of the EU average: place matters.

3.7 Cohesion policy can thus be seen as redistributive, transferring resources from richer Member States or regions to poorer ones. But it can also be seen as a more general tool to promote economic development and inclusive growth across the EU.[6] As noted in the previous chapters, increasingly the funds have been used as the main EU-level financial investment to support the Lisbon and Europe 2020 strategies. Although the focus on drivers of growth was welcomed, there was some concern about what the West of Scotland European Forum called 'mission creep'.[7] The Forum believed the 'structural and cohesion funds would achieve greater effectiveness if there was a "return to first principles"'.[8] Open Europe drew attention to tensions between the aim to foster growth in the EU as a whole, which suggested the funds should be channelled to areas where the greatest absolute returns could be made, and the aim of convergence – the areas with the highest growth potential tended to be in richer Member States and regions with well-developed infrastructure and good administration.[9] A Breugel paper suggests that the 'nature of the redistribution that takes place through the structural funds also limits the growth potential of structural policies'.[10]

3.8 Others however welcomed the broader focus of the funds. The Institute for European Environmental Policy noted that 'cohesion policy has a role in shaping the economic models deployed in Europe and the extent to which sustainable development, as referred to in the EU Treaties is pursued in practice'. It saw the availability of funding from cohesion policy as 'critical in facilitating the construction of associated infrastructure and strengthening institutions for more sustainable models of development […] an appropriate cohesion policy was in the interests of all Member States, including the UK'.[11]

---

4 East of England European Partnership, *submission of evidence*.

5 Scottish Government, *submission of evidence*.

6 Iain Begg, *The Future of Cohesion Policy in Richer Regions* (2009).

7 West Of Scotland European Forum, *submission of evidence*.

8 Idem.

9 Open Europe, *submission of evidence*.

10 Indhira Santos, EU Cohesion Policy: Some Fundamental Questions (2009).

11 Institute for European Environmental Policy, *submission of evidence*.

3.9 There was similar support from respondents for the broad objectives of Trans-European Networks in contributing both to reducing disparities and to supporting the development of the single market. According to the Regional Studies Association 'TENs programme have been important for developing a level playing field for all regions and countries, to avoid the benefits of the Single Market being limited to Europe's core areas'.[12]

3.10 From other responses received, this seemed to be particularly the case for transport. The Scottish Government believed that, in supporting the free movement of people and goods throughout the EU, transport was central both to cohesion and the realisation of the single market and TEN-T contributed to both goals by increasing levels of standards and interoperability on key strategic routes.[13] The Welsh Government noted that, 'in terms of cohesion, interconnection and interoperability the TEN-T network has an important role to play in making places more connected and increasing accessibility'.[14]

3.11 But there was also some support for the other TENs networks. In its evidence to the parallel review on Energy, the Renewable Energy Association noted that 'significant EU resources are being devoted to the construction of Trans-European networks and the Commission is seeking to avoid excessive reliance by Member States on national capacity mechanisms, thereby helping to create a true EU internal market for electricity'.[15]

3.12 Fewer views were expressed on the need for an EU industrial policy. The Scottish Government believed such a policy 'articulates shared issues and how these can be addressed collectively. For example, the fundamental aim of EU industrial policy of improving competitiveness through initiatives on intellectual property rights, legislative simplification and integrated approach to industrial research and innovation highlight areas where collaboration between nation states could facilitate, simplify and accelerate economic activity. Whilst initiatives of this nature could be pursued at the nation state level, it is unlikely the impact of an individual nation state would be as significant or effective'.[16]

3.13 The central focus of all this activity is to support growth whether through ensuring the competiveness of UK industry or enhancing infrastructure networks. Even the goal of reducing disparities can be achieved only by developing the growth potential of the poorest parts of the EU. In all cases, investment should be concentrated on the drivers of growth that will make a real difference to each region, whether innovation, enterprise or infrastructure, but it can be only one part of a broader strategy for growth that will also need to consider other structural and regulatory reform.

The Effectiveness of Cohesion Policy

3.14 The UK is a significant contributor to the EU budget, a large part of which is spent to support cohesion policy. A key question for the consideration of the impact on the UK from the exercise of the EU's competence on cohesion policy is how effectively this has been spent. This involves looking at how successful EU expenditure on cohesion policy has been in terms of helping to achieve the objectives in the Treaty and those for each fund.

---

12 Regional Studies Association, *submission of evidence.*

13 Scottish Government, *submission of evidence*.

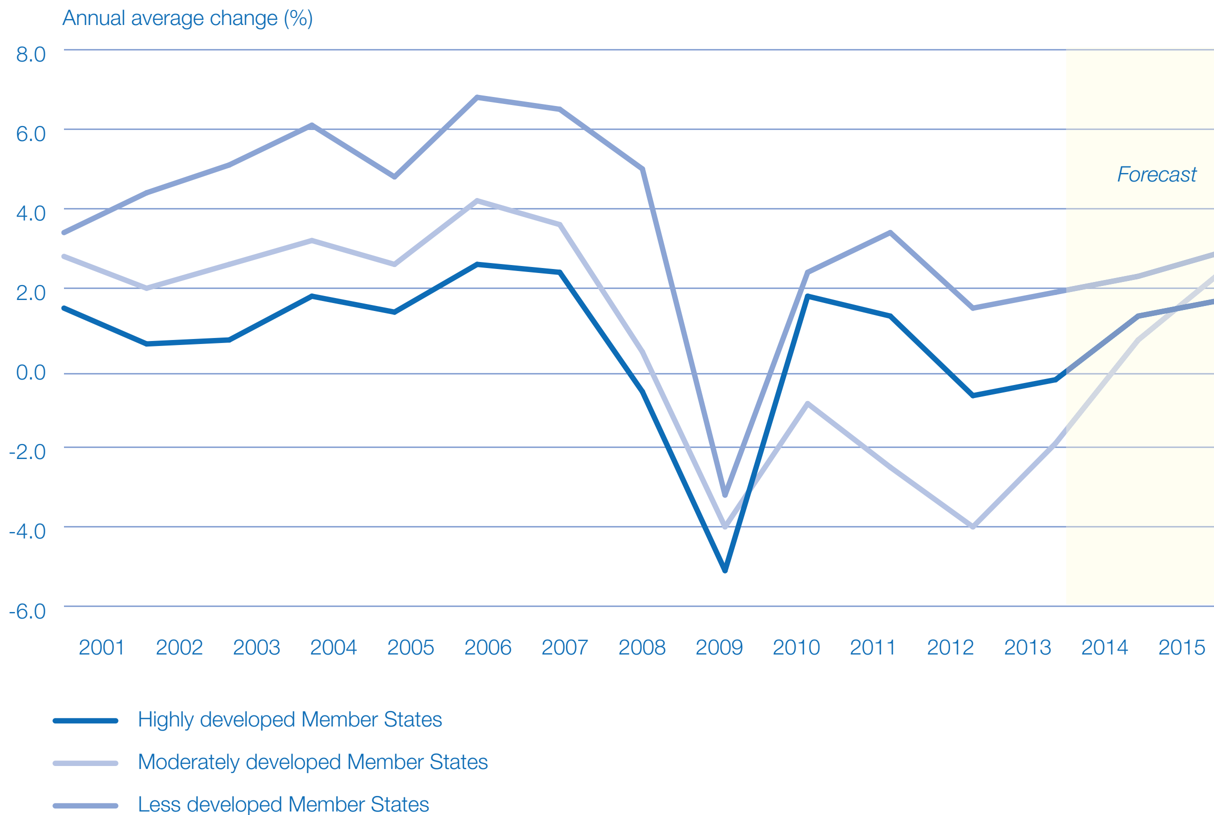
14 Welsh Government, *submission of evidence*.

15 Renewable Energy Association, *submission of evidence*.

16 Scottish Government, *submission of evidence*.

3.15 Evidence suggests that there is increasing convergence between Member States. Figure Two shows how the least developed member states grew faster than the more developed.

Figure Two: Growth of GDP Per Head in Real Terms, 2000-11



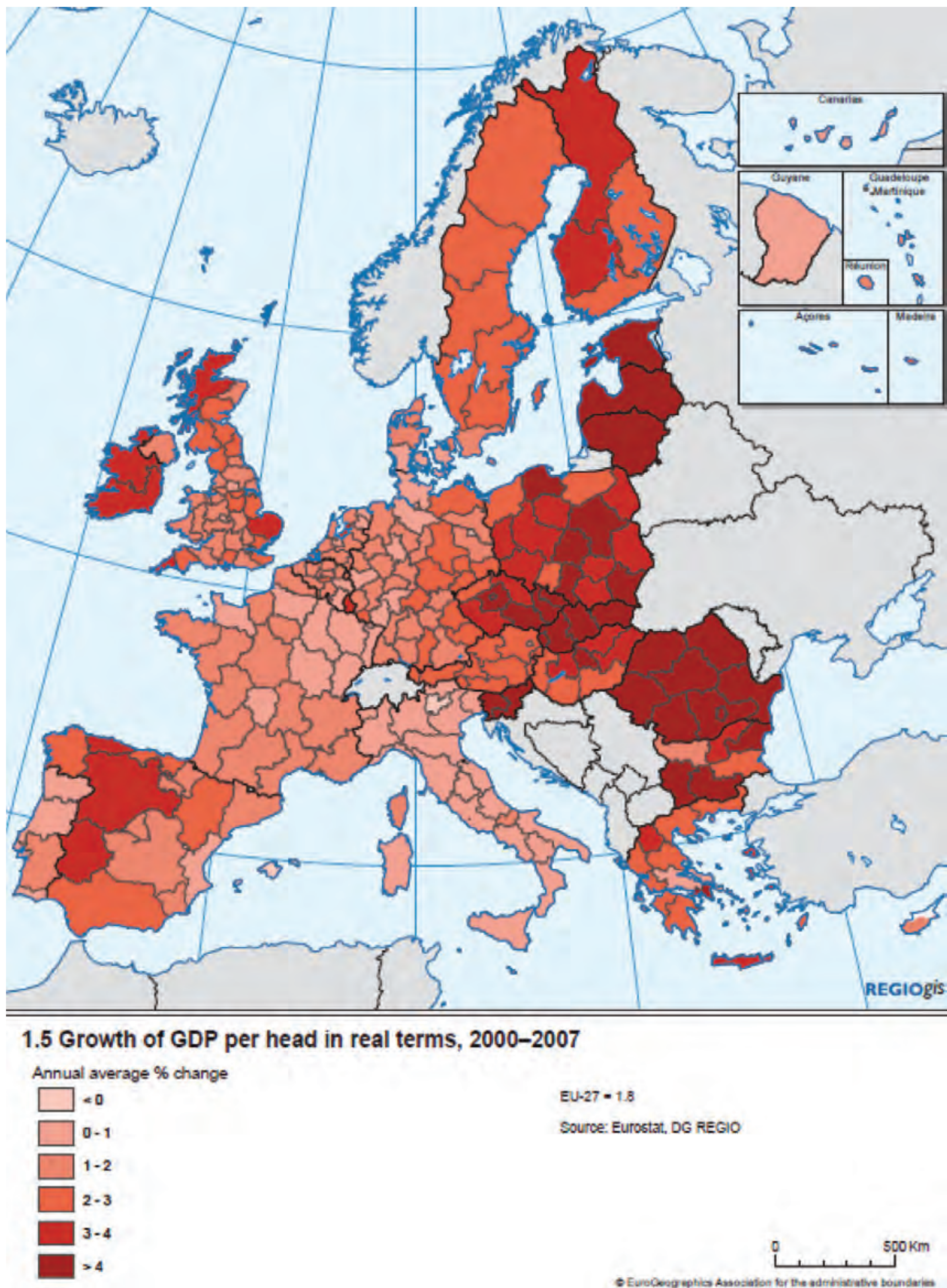
Source: European Commission, *Sixth Report on Economic, Social and Territorial Cohesion* (2014, forthcoming).

3.16 In its fifth Cohesion report, the European Commission suggested that disparities between regions were also being reduced, with the coefficient of variation, a common measure of disparities, falling from 42.7% in 1996 to 39.1% in 2007.[17] Variations between regions within some Member States have increased, notably due to strong growth of capital regions, but according to the European Commission, virtually all regions had converged towards the EU27 average. Other reports have shown that for the EU15, the coefficient of variation fell from around 33% in 1980 to 29% and since 1996, it has stayed around 29-30%.[18] Map 6 shows growth in real GDP per head over the period 2000-2007 across all EU regions.

[17] European Commission, *Investing in the Future: Fifth Report on Economic, Social and Territorial Cohesion* (2010).

[18] Philippe Monfort (paper for DG REGIO, European Commission) *Regional Convergence, Growth and Interpersonal across the EU. Directorate-General Regional Policy, European Commission* (2009).

Map Nine: Growth of GDP Per Capita in Real Terms, 2000-7



Source: European Commission: *Investing in Europe's Future: Fifth Report on Economic, Social and Territorial Cohesion* (2010).
© EuroGeographics

3.17 Some catching up between Member States and between regions is to be expected. The trend growth rate in more mature economies tends to be lower. The question to consider here is the contribution that cohesion policy, and in particularly the structural and cohesion funds, have made to any reduction in disparities.

3.18 At an aggregated level, both in the UK and across the EU, the evidence is inconclusive as to whether the funds have been effective in achieving their objectives. There are several compelling reasons for this, particularly in relation to the structural and cohesion funds.

- Firstly, there is a lack of very reliable data.
- Secondly, it is hard to identify what would have happened in the absence of the EU funding – which is known as the counterfactual – or to separate out the impact of other policies and general economic conditions. As the Regional Studies Association noted in its evidence, there had been a 'long-term process of convergence across the EU between the poorest regions and countries and the rest of the EU. The question is the extent to which cohesion policy contributed to this convergence. Research is not always conclusive, partly because the implementation of Structural and Cohesion Funds was accompanied by the Single Market in promoting the free flow of production factors (capital, labour, skills and technology)'.[19]
- Thirdly, there are severe measurement problems in determining the impact in the UK because of the dispersion over a large number of interventions, the differing timescales over which interventions could be expected to have an effect and the limitations of monitoring data.
- Fourthly, the structural funds received by the UK and other richer member states represent only a small proportion of GDP. Even in West Wales and the Valleys, which received a high intensity of funding as it was categorised as a 'convergence region' for 2007-13 or 'less developed region' now, the Welsh Government noted the scale of funding was still modest in the context of the scale of challenges faced by its economy and said there was a need to be realistic about what could be delivered through structural funds.[20]
- Finally, the various methodologies used to assess impact and effectiveness each have their own strengths and weaknesses, and they may come to different conclusions.

3.19 The literature review commissioned as part of this review describes many of the models used to assess the effectiveness of the structural and cohesion funds in achieving the goals given to them in the Treaty, notably greater convergence between regions. To highlight just one, the European Commission has developed the QUEST model.[21] This has shortcomings, as noted by Open Europe and others, in that it assumes every euro is spent efficiently on appropriate projects, whereas Member States' administrative capacity will differ.[22] The model is also effective really only when EU funding accounts for a significant proportion of GDP in a Member State. Nevertheless, it provides one basis for assessment. A multiplier of one means each euro from the structural and cohesion funds results in an outcome of one euro. From an ex post study for 2000-6, the multipliers ranged from 0.27% for Cyprus to 1.74% for Latvia. Longer term, the multipliers predicted by the model for 2020 ranged from 1.96% for Italy to 6.13% for Latvia. The negative figure for the UK is partly because the model does not measure the benefits the UK gets from its own receipts of structural funds as they are too small in comparison to GDP but it does take account of the cost of the UK contribution to the EU budget and also possible trade effects with net recipient countries.

---

[19] Regional Studies Association, *submission of evidence*.

[20] Welsh Government, *submission of evidence.*

[21] The literature review by EPRC contains a more detailed description and assessment of the model.

[22] Open Europe, *submission of evidence*.

Table Three – QUEST Cumulative SCF Multipliers for 2000-2006 (ex-post)

	At the end of 2000-06 period (i.e. 2009)			In the longer term (i.e. 2020)		
	Cumulative impact of SCF on the level of GDP (percentage) (1)	Cumulative SCF receipts (percentage of GDP) (2)	Cumulative multiplier (1/2)	Cumulative impact of SCF on the level of GDP (percentage) (1)	Cumulative SCF receipts (percentage of GDP) (2)	Cumulative multiplier (1/2)
CZ	1.39	1.99	0.70	5.96	1.99	2.99
CY	0.14	0.52	0.27	1.24	0.52	2.37
DE	0.61	1.37	0.44	3.64	1.37	2.65
EE	3.51	5.16	0.68	12.00	5.16	2.33
GR	12.99	11.85	1.10	42.87	11.85	3.62
ES	9.49	6.38	1.49	29.81	6.38	4.67
HU	3.08	3.03	1.02	12.50	3.03	4.12
IE	1.95	2.61	0.75	8.13	2.61	3.12
IT	1.13	2.01	0.56	3.94	2.01	1.96
LT	7.67	5.85	1.31	28.75	5.85	4.91
LV	11.65	6.70	1.74	41.10	6.70	6.13
MT	0.68	1.54	0.44	4.39	1.54	2.85
PL	4.98	3.96	1.26	23.11	3.96	5.84
PT	15.69	15.47	1.01	49.68	15.47	3.21
SI	0.84	1.26	0.66	3.39	1.26	2.69
SK	2.32	3.42	0.68	9.32	3.42	2.72
AT	–1.36			–2.40		
BE	–1.52			–2.40		
BU	1.10			0.60		
DK	–0.97			–1.90		
FI	–1.45			–2.63		
FR	–4.60			–11.75		
NL	–0.77			–1.27		
RO	0.01			0.24		
SE	–2.12			–4.33		
UK	–0.61			–1.09		

Source: J Varga and in't Veld, J, 'A Model-Based Analysis of the Impact of Cohesion Policy Expenditure 200-06: Simulations with the QUEST III Endogenous R&D Model', *European Economy – Economic Papers No.387* (2009), Table 5, p. 25 and Table 6, p. 34.

Note: The cumulative multipliers are calculated by cumulating the annual increases in GDP due to SCF funding, and then dividing the sum by the accumulated amount of SCF funding (as a share of GDP).

3.20 Another macroeconomic model, HERMIN, also predicted on the basis of data from 2000-06 programmes that structural and cohesion funds of 1% GDP could lead to increases of between 1.1% and 4.2% in GDP in different Member States by 2020. Again, the model is based on theoretical assumptions of how economies function and assumes that funding is fully absorbed and spent on good quality projects. It is also useful only when funding accounts for a significant part of GDP and therefore cannot provide meaningful results for the UK.

3.21 A range of studies, again summarised in the literature review, have used regression analysis to test for the effects of structural and cohesion funds on the convergence of

levels of GDP across EU regions. These show mixed results. Some demonstrate clear positive effects; others are conditional on other factors such as macroeconomic stability and others show no real positive impact.

3.22 In his evidence to the review, Professor Sascha Becker of Warwick University focused on the benefits from transfers to convergence or less developed regions – those NUTS2 regions whose GDP per capita is less than 75% of the EU average. He concluded that on average convergence programmes were generally successful in raising growth.[23] The multiplier however was on average about one as a conservative case – 'you get out what you put in' – and about 1.2 on the most optimistic case.[24] Not all regions fared the same. Those with higher existing levels of human capital and good governance systems showed a greater impact, which, he suggested, pointed to the need for conditionality in making future transfers.[25] Finally, he noted there were decreasing returns and that after a certain point, additional funds did not lead to additional growth.[26]

3.23 The evidence as a whole is inconclusive but where significant positive impacts have been identified, they tend to have been in the poorer regions or Member States. This is due, as the Scottish Government noted to the scale of funding and to generally recognised catching-up effects.[27] The bulk of structural funds are targeted at poorer regions or Member States.

3.24 The contribution that structural funds have made to convergence within richer member states is much less clear, in part because they represent a very small proportion of available funding. West Wales and the Valleys remained a less developed region for 2014-20, despite having been an objective one region in 2000-06 and a convergence region for 2007-13, and its GDP per capita had fallen from 74.1% of the EU25 average in 2000 to 64% of the EU28 average in 2011. The Welsh Government noted in its evidence to the review that this was because of long-standing economic challenges and a more general decline in UK GDP and suggested that, in terms of employment and skills, West Wales had closed the gap with other parts of the UK.[28] The Welsh Local Government Association asserted that the strong redistributive nature of the EU regional policy had benefited Wales in the absence of a robust redistributive regional policy within the UK. Policy Economics on behalf of the European Movement noted that the number of UK regions that fell into the lowest category – whether objective one, convergence or less developed – had fallen.[29]

3.25 The literature review concluded that the objectives of the TEN-T programme were 'so general that evaluation of "success" is difficult', and the Road Haulage Association was unaware of any major study of effectiveness.[30] Furthermore, much of the funding is provided by Member States, EU intervention rates are low and, as with cohesion funding, there are a range of other factors that will have an impact on regional growth and

---

[23] Sascha Becker, *EU Structural Funds: Do They Generate More Growth* (2012).

[24] Sascha Becker, Peter Egger and Maximilian von Ehrlich, 'Going NUTS: The Effect of EU Structural Funds on Regional Performance' *Journal of Public Economics* 94(9-10): 578–590 (2010).

[25] Sascha Becker, Peter Egger and Maximilian von Ehrlich, Absorptive Capacity and the Growth Effects of Regional Transfers: A Regression Discontinuity Design with Heterogeneous Treatment Effects', *American Economic Journal: Economic Policy* 5(4): 29-77 (2013).

[26] Sascha Becker, Peter Egger and Maximilian von Ehrlich, 'Too much of a good thing? On the growth effects of the EU's regional policy', *European Economic Review* 56(4): 648-668 (2012).

[27] Scottish Government, *submission of evidence*.

[28] Welsh Government, *submission of evidence*.

[29] Policy Economics, *submission of evidence*.

[30] L. Polverari and J. Bachtler, *Balance of Competences Cohesion Review: Literature Review on EU Cohesion Policy, Final Report to the Department for Business, Innovation and Skills* (2014).

economic development. Nevertheless, the mid-term review conducted by the Commission suggested that the programme had been the catalyst for a number of key pieces of transport infrastructure in Europe and had played a part in the structuring of the transport network. The results for TEN-E over the 2000-06 period showed progress over the period in terms.[31] Evaluations of e-TENs suggest it has allowed knowledge and best practice in terms of deployment of services to be acquired by project implementation.[32]

3.26 In terms of improved accessibility, studies show mixed results. Some, such as the EIB, suggested that this is the most important benefit from EU infrastructure spend.[33] Others, such as TRT Trasporti e Territorio, suggested that the impact varies markedly between regions and that while accessibility has improved in absolute terms, TENs have been more beneficial to Central Europe than to peripheral areas.[34] Conversely, in its evidence, the Regional Studies Association stated that the TENs programme 'has had a major impact on peripheral countries which had the greatest difficulties in accessing large market areas in the core regions of the EU'.[35] National Air Traffic Services (NATS) believed that TENs did support cohesion and interconnection.[36] The Centre for Cross Border Studies noted that the 'positive effect […] can […] be seen most noticeably in marginalised or isolated regions […] such as Northern Ireland, where the lack of effective transport connections hampers the growth of the local economy'.[37]

3.27 The final evaluation report of the Competitiveness and Innovation Programme report stated that 'The evidence from the Final Evaluations and other sources, confirms that the Competitiveness and Innovation Framework Programme as a whole, and its specific programmes individually are all performing well, in line with expectations at the launch of the programme'.[38]

Value for Money of Cohesion Policy

3.28 The next question is whether cohesion funding, TENs and industry policy provide value for money. This again involves considering the counterfactual – whether money would have been more productively spent on other means. Again, the evidence is not clear. As the Regional Studies Association noted, interventions funded through cohesion policy are diverse and cannot be measured using a single metric. The literature review noted that 'attempts to appraise the value for money of different cohesion policy Investments across types of interventions, geographical or relative to domestic spending programmes have been hampered by data and methodological limitations and by differing interpretations of the concept of "value for money"'.[39] The House of Commons Communities and Local Government Select Committee was concerned that it had been so difficult to assess the value for money of ERDF.[40]

---

31 ECORYS and ECOFYS, *Ex-Post evaluation of the Trans-European Energy Networks TEN-E (2000-6) Funding Programme, Final Report to the European Commission* (2009).

32 European Commission Communication, *Final Evaluation of the eTEN Programme* (2008).

33 European Investment Bank, *Evaluation of Cross-Border TEN projects, Synthesis Report* (2006).

34 TRT Trasporti e Territori Srl, *The Impact of Trans-European Networks on Cohesion and Employment* (2006).

35 Regional Studies Association, *submission of evidence*.

36 NATS, *submission of evidence*.

37 Centre for Cross-Border Studies, *submission of evidence*.

38 Centre for Strategy and Evaluation Services (study for the European Commission), *Final Evaluation of the Competitiveness and Innovation Framework Programme* (2011).

39 L. Polverari and J. Bachtler, *Balance of Competences Cohesion Review: Literature Review on EU Cohesion Policy, Final Report to the Department for Business, Innovation and Skills* (2014).

40 Communities and Local Government Committee, *Second Report European Regional Development Fund* (2012).

3.29 In part the question of value for money depends on the type of interventions that are chosen to be funded within programmes. The Regional Studies Association pointed to work that had cast doubt on the value for money of spending on community economic development, suggesting a better return where there was a strong 'competitiveness or industrial policy' focus.[41] NCVO on the other hand argued that a community led approach led to positive outcomes and that its research suggested that community grant projects exceeded targets in terms of the overall number of beneficiaries and those set for the profile of beneficiaries in terms of the proportion within different areas of disadvantaged.[42]

3.30 The regulatory requirements on evaluation have been tightened over recent programming periods. Drafts of each programme need to be submitted to the Commission with an independent ex ante evaluation.[43] Evaluations are also required to be carried out during and at the end of the programme.[44] Large projects of over €50m require a cost benefit analysis and appraisal by either independent experts or the Commission.[45] But with the exception of these, there are no EU criteria for the assessment of value for money on individual projects.

3.31 In its evaluation of the 2007-13 ERDF programme in England, Regeneris attempted to appraise the cost per job of ERDF support, based on the contracted spend and outputs for live and completed projects.[46] It concluded that the median cost was £23,000 for gross jobs created and £15,000 for jobs safeguarded but noted a wide variation across regions and between the median and the mean for both measures.[47] The mean for both gross jobs created and gross jobs safeguard was £50,000. Although direct comparisons are difficult because they depend on the nature of projects and the quality of jobs created, an NAO report in 2012 suggested that the cost of each additional (ie net) job created by the Regional Growth Fund, a national intervention in the UK, was £33,000. The figure would be lower for gross jobs created.[48]

3.32 The East of England European Partnership noted that evaluation of Central Bedfordshire's ESF programme showed that its cost per job figures compared well with national programmes.[49]

3.33 Reports from the European Court of Auditors also provide some insights into the question of value for money. A report in 2013 examined 24 ERDF and Cohesion Fund projects in four Member States, totalling over €3bn, to assess whether they 'achieved their objectives at a reasonable cost'. None was in the United Kingdom. The Court found an average increase in project costs of 23% and a median delay of about nine months (41%) compared to the initial project deadline. Nineteen projects were classified as major projects and thus required by the regulations to complete a cost benefit analysis. In 14 of these cases, benefits were found to be lower than forecast, while costs were on average 26% higher than in feasibility studies. Costs were highest in Poland and Spain, and lowest in Germany, although the lowest average delays were found in Poland and the highest

41 Regional Studies Association, *submission of evidence*.

42 National Council of Voluntary Organisations, *submission of evidence*.

43 Article 55 Common Provisions Regulation (2013) 1303.

44 Article 56 and 57 Common Provisions Regulation (2013) 1303.

45 The limit is €75m for projects linked to the transport thematic objective.

46 Regeneris (draft report to DCLG), *ERDF Analytical Programme: Workstream 1* (February 2013, unpublished)

47 Idem.

48 National Audit Office, *Regional Growth Fund – A Report by the Comptroller and Auditor General* (2013).

49 East of England European Partnership, *submission of evidence*.

in Germany. However, no comparison was made with similar domestic projects.[50] An evaluation of 66 major infrastructure projects undertaken for the Commission suggested average cost overruns of 21% and delays of 26.2%.[51] Academic research has suggested that delays and costs escalation are considered 'in line with the incidence and scale of delays and cost overruns of major projects funded from national sources across the world'.[52]

3.34 Some respondents highlighted the requirements to demonstrate additionally that had been in the structural fund regulations since the 1988 reforms. Linked to this is the requirement for EU funds to be matched with national funds, at differing rates according to the wealth of the region. Fresh Start was concerned that this co-financing requirement could divert money away from better tailored national and local projects.[53]

3.35 Some argued that it was easier to demonstrate value for money in European Territorial Cooperation because cross-border or transnational projects would have been unlikely to happen otherwise without EU intervention. The West of Scotland European Forum saw a 'distinct and valuable niche for territorial cooperation programmes' although it recognised that the structure at EU level needed a fundamental review and more work was needed to capture the results.[54] One programme quoted favourably by several respondents was the PEACE programme.

[50] European Court of Auditors, *Special Report no. 5/2013, Are EU Cohesion Policy Funds Well Spent on Roads? (2013)*.

[51] RGL Forensics, Faber Maunsell/Aecom and Frontier Economics, *Ex Post Evaluation of Cohesion Policy Programmes 2000-6. Work Package 10: Efficiency: Unit Cost of Major Projects, Final Report to the European Commission* (2009).

[52] T. Ward, and E. Wolleb, *Ex Post Evaluation of Cohesion Policy Programmes 2000-2006 Financed by the European Regional Development Fund in Objective 1 and 2 Regions* (2010).

[53] Fresh Start, *submission of evidence*.

[54] West of Scotland European Forum, *submission of evidence*.

The PEACE Programme

The EU PEACE programme, a cross-border programme covering Northern Ireland and the six border counties of Ireland, was launched in 1995 as a result of the EU's desire to respond positively to new opportunities in the Northern Ireland peace process. Since 1995, three phases have been completed with funding from both EU and national governments: PEACE I (1995-99) (€667m); PEACE II (2000-06) (€995m); and PEACE III (2007-13) (€333m). PEACE IV will run from 2014-20, with EU funding of roughly €200m.

While PEACE I focused on addressing the immediate legacy of conflict, PEACE II and PEACE III focused on community reconciliation and economic development. According to NI Statistic and Research Agency (NISRA), there were 868,420 participants in PEACE II, participating in cross-border activities and reconciliation projects as well as training and development activities. One hundred thousand, seven hundred and sixty-seven people gained qualifications as a result of the programme and 77,652 entered or progressed in employment, education and training.[55]

Examples of projects include the Creggan Micro Enterprise Centre in Londonderry, which transformed a redundant factory in a community faced with multiple disadvantage and deprivation into a business development centre that now houses three micro-enterprises and has helped 20 unemployed people into employment. There is also Project Kelvin, a high-speed underwater cable that provides very fast and direct communications link from eight Northern Ireland locations and five Republic of Ireland locations to North America.

The Centre for Cross Border Studies has described the PEACE programme as 'an exemplary case for the objective of the reduction of social and economic disparities between European Regions; its exposure to these sources of European funding has proved pivotal in addressing its particular social and economic needs'.[56]

While also praising the programme, NICVA have also identified challenges, including 'increased, unnecessary, cumbersome and inflexible administrative procedures and bureaucratic delays'.[57]

Benefits to the UK

3.36 The UK is now one of the richer Member States in the EU. The accession of countries whose GDP was below the EU average means the UK now receives a much lower share of structural funds than it did in the 1970s.

3.37 The amount the UK receives represents only a small percentage of its GDP (less than 0.1% for the 2014-20 funding period). Nevertheless, the UK will still receive nearly €10bn for ERDF and ESF combined for the 2014-20 period.[58] It has also been estimated that since the Funds began until 2020, the UK would have received roughly €66bn.[59] Such funding will inevitably have some impact. The main questions concern the effectiveness of spend, the value for money derived from it, the possible crowding out of other funding, the costs of administration and the additionality, particularly whether domestic funding could have been used to the same or greater effect.

---

[55] Special EU Programmes Body, *Reaching the Margins: Building Inclusiveness within Hard to Reach Communities* (2011).

[56] Centre for Cross Border Studies, *submission of evidence*.

[57] NICVA, *submission of evidence*.

[58] This excludes the UK allocation for the European Territorial Cooperation goal which is managed separately as part of cross-border or transnational programmes.

[59] L. Polverari and J. Bachtler, *Balance of Competences Cohesion Review: Literature Review on EU Cohesion Policy, Final Report to the Department for Business, Innovation and Skills* (2014).

3.38 At a very granular level, it is possible to identify benefits that flow from specific projects that have drawn on EU funding and to see how these have brought improvements at a local level. Respondents to the call for evidence provided many examples of projects in the UK that they saw as beneficial and which they said were unlikely to have gone ahead without the additional EU funding. Policy Economics on behalf of the European Movement noted for example the Lowry Centre in Salford and the Eden project in Cornwall as two major projects that structural funds had helped to finance.[60]

Examples of 2007-13 ERDF Projects in England

Location	Summary of Project
LONDON	Access to New Markets for the Fashion Sector. To enable designers to access opportunities to new markets and increasing national and international trade, ERDF of £150,000 was matched with £150,000 from East London Small Business Centre. This assisted 106 SMEs, created 13 jobs, safeguarded 55 jobs, and generated £2.5m new sales.
EAST OF ENGLAND	Low Carbon Innovation Fund is a venture capital fund which makes early stage equity investments into SMEs that are developing new products or processes in a low carbon way. Turquoise International is managing the fund in partnership with the Low Carbon Innovation Centre at the University of East Anglia. It has received £20.5m of ERDF funding. This project has targets of 617 new jobs, 115 safeguarded jobs, 70 SMES receiving assistance, 6 successful start-up businesses and over £30m of private sector leverage.
EAST MIDLANDS	The Environmental Technology Centre (ETC) at the University of Nottingham helps SMEs become more resource efficient, develop environmentally friendly working practices, and use more sustainable technologies. Originally £1.6m of ERDF grant was provided matched with £2.5m from the University of Nottingham. The first phase of work at the centre delivered 109 projects, including detecting the health of horses' teeth, prolonging the burn rate of solid fuel, and extending the life of concrete structures.
NORTH EAST	Toffee Factory is the conversion of an iconic factory building in Newcastle into office space. £3m ERDF was matched with £2.75m provided by ONE NorthEast and £250k from Newcastle City Council. The project's objectives include the creation of 12 new businesses and 47 new jobs, as well as safeguarding 111 jobs. It will also ensure the remediation of a major Brownfield site in a key strategic location.
NORTH WEST	Regional Business Start Up provides intensive and specialist services and support for people considering setting up in business aiming to improve the survival rates of businesses through targeted support for up to 36 months, and to contribute towards increased levels of enterprise activity. It is a £9.8m project (including ERDF funding of £4.9m). To date 4,661 businesses have been created, 2,640 individuals helped to start a business, and 7,000 jobs created.
SOUTH EAST	Design and Innovation for Business Sustainability helped SMEs access supply chains by providing advice on optimising packaging impact, lifecycle analysis of the product or service, and optimisation of resources. The key focus of the project was to design out waste within the retail sector by working with South East based designers, retailers, and suppliers to develop sustainable packaging solutions. ERDF funding of £420,000 was matched by £275,000 of SEEDA funding, with the rest being matched by retail companies. The project created over 100 jobs in the South East.
SOUTH WEST	National Composite Centre was developed to put the UK at the forefront of composites technology. The NCC is a purpose-built research and development facility which brings together dynamic companies and academics to develop technologies supporting the design and rapid manufacture of composite products. ERDF funding of £9m was matched with £12m BIS, £4m RDA. The ERDF investment is expected to generate over 150 additional jobs, and the South West is now seen as a leader in this field, and the NCC is being expanded.
WEST MIDLANDS	Enterprise Programme is a business support service for young people delivered by The Prince's Trust. The initiative will support over 2,000 young entrepreneurs and aims to create hundreds of jobs through the youth charity's Enterprise Programme. The programme works with disadvantaged young people aged 18–30, helping them set up their own businesses and move into employment and jobs. ERDF of £1.5m is matched with £1.5m from The Prince's Trust.
YORKSHIRE & THE HUMBER	Finance Yorkshire is a venture capital and loan fund partnership with European Investment Bank. The fund invests in businesses that are already in, or relocating to, Yorkshire and the Humber. There is a £27m business loan fund which to date has made 206 business loans, 26 seed corn loans and 14 equity investments, committing over £27m to local businesses. Investment has led to over 1,200 jobs being created and nearly 4,000 being safeguarded.

Source: Based on internal data held by BIS and DCLG.

[60] Policy Economics, *submission of evidence.*

3.39 There are of course projects that have been less successful in achieving their objectives. Open Europe has published examples of what it perceived as wasteful or failed projects, although the European Commission has argued that in many such instances the beneficiaries had been required to repay the EU funding.[61,62]

3.40 Respondents pointed to benefits at an aggregated level, drawing from evaluations. The Welsh Government said that between 2000 and 2006, structural funds supported the creation of over 52,800 net jobs and 3,100 net SMEs in Wales.[63]

3.41 Some respondents to the call for evidence suggested ways that value for money could be improved. The Welsh Local Government Association believed that the best way to ensure value for money was for greater integration across EU funds, so that for example interventions funded by ESF complement those funded by ERDF.[64] The Regional Studies Association observed that the EU was moving towards a results-oriented approach whereby results indicators linked to the intended objectives were to be clearly articulated.[65]

3.42 Some drew attention to less tangible benefits from the structural funds that were not easy to measure. The Welsh Government noted that many processes associated with structural funds which ensured robust programmes grounded in evidence had now become the norm across the Welsh Government.

---

[61] Open Europe, *50 Examples of EU Waste* (2009); Open Europe, *Another 50 Examples of EU Waste* (2010).

[62] European Commission, *EU Budget Myths*. Available at: www.ec.europa.eu/budget/explained/myths/myths_en.cfm, accessed on 10 May 2014.

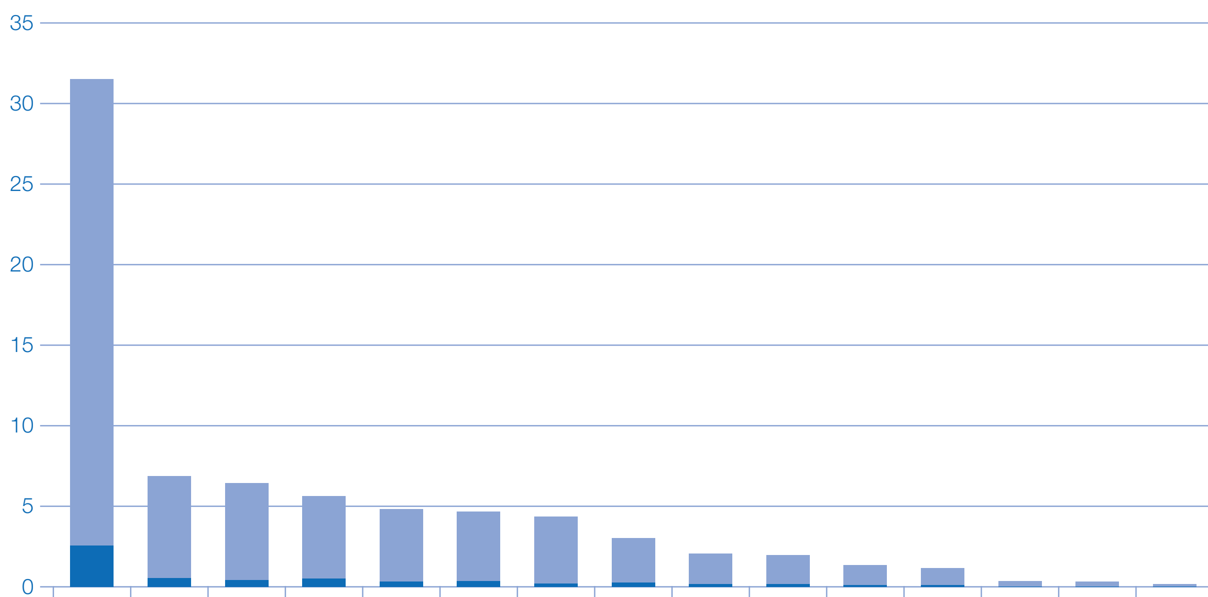
[63] This is from a spend of over €5bn when national matched funding is added to the EU support.

[64] Welsh Local Government Association, *submission of evidence.*

[65] Regional Studies Association, *submission of evidence*.

3.43 Some, such as Catherine Bearder MEP, argued that it was misleading to measure the benefit of cohesion policy to the UK solely on the amount of money received.[66] UK companies also benefitted from cohesion funding contracts implemented throughout the EU. A study commissioned by the Polish Ministry of Regional Development analysed the benefits to net contributors to the EU budget from the use of structural and cohesion funds in the Visegrad countries of Czech Republic, Hungary, Slovakia, and Poland. The final report suggested there were substantial returns in terms of contracts awarded to UK firms, ownership of capital and increased trade. The study estimated these returns to the UK as equivalent to 41% of the amount it notionally contributed to the cost of structural and cohesion funds, although the methodology used to determine this is unclear.[67] An earlier study carried out for the European Parliament looked at spillover effects caused by increased exports of net payer countries to net recipient countries. This study suggested there was a positive net impact for Germany, France, Italy and the United Kingdom, which had strong trade relations with Spain and Ireland, two net beneficiaries.[68]

Figure Three: Additional Exports of EU15 to V4 Countries as a Result of Cohesion Policy Funding (€bn in 2005 prices)



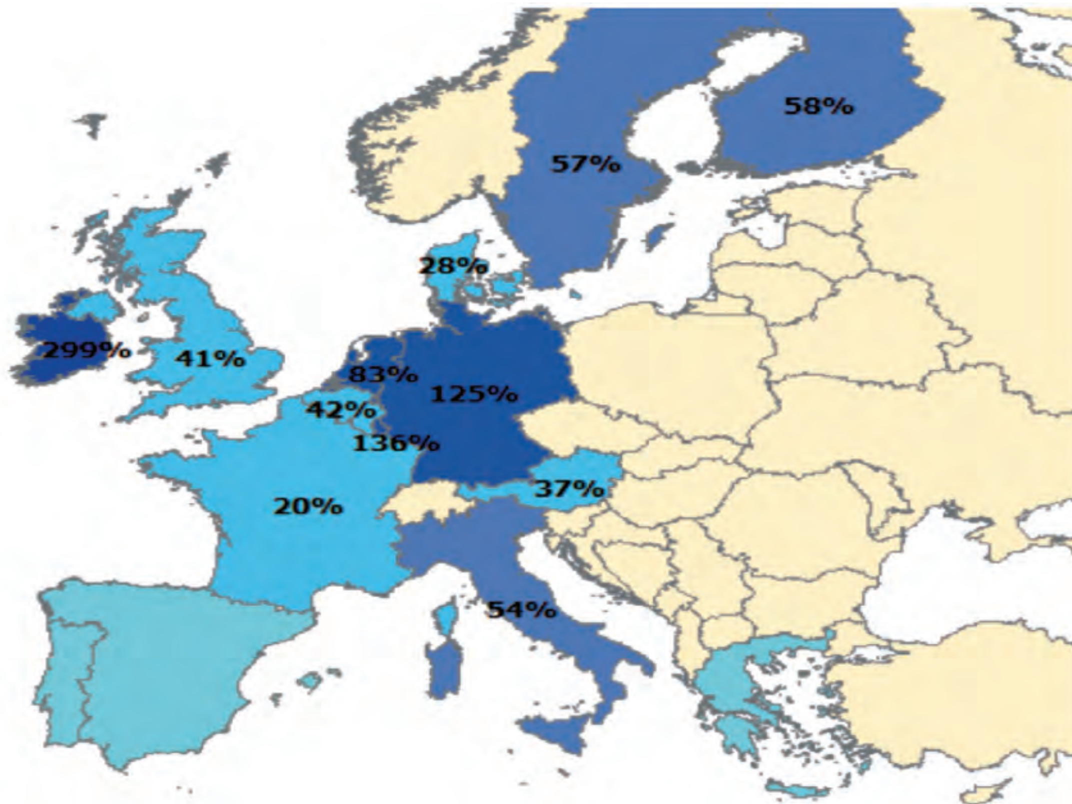
Source: Institute for Structural Research, *Evaluation of Benefits Gained by EU-15 States Resulting from the Implementation of Cohesion Policy in the Visegrad Group Countries* (2011).

[66] Liberal Democrat European Parliamentary Party, *submission of evidence.*

[67] Institute for Structural Research, *Evaluation of Benefits to the EU-15 Countries Resulting from the Implementation of Cohesion Policy in the Visegrad Group Countries* (2011).

[68] Bradley J, Untiedt G and Zaleski J, *The Economic Return of Cohesion Expenditure for Member States* (2009).

Map Ten: Total Returns to EU15 Member States of Cohesion Funding in the V4 in Relation to their Net Budget Contributions



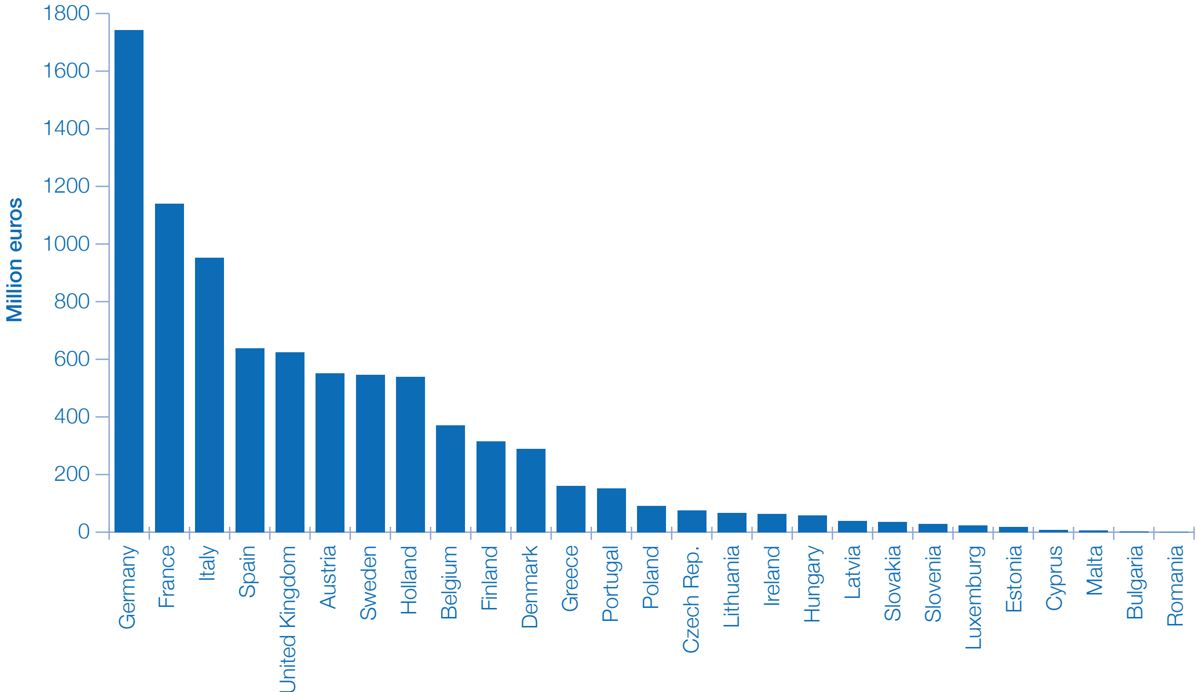
Source: Institute for Structural Research, *Evaluation of Benefits Gained by EU-15 States Resulting from the Implementation of Cohesion Policy in the Visegrad Group Countries* (2011).
© EuroGeographics

3.44 In his evidence, David Campbell Bannerman MEP said that in the financial period up to 2013, TEN-T financed 342 projects at a cost of €7.3bn but the EU contribution to UK only projects was just €76.8m, with a further €56.8m shared with one or more other Member States.[69]

3.45 The literature review suggested that the UK did slightly better over a longer time period. For 1995-2012, excluding multinational EU projects located in and providing benefits to several Member States, the UK received over €600m or about 7% of TEN-T funds, the fifth highest share, after Germany (21%), France (13%), (Italy 13%) and Spain (8%). However, when GDP share is taken into account, the UK fell back.

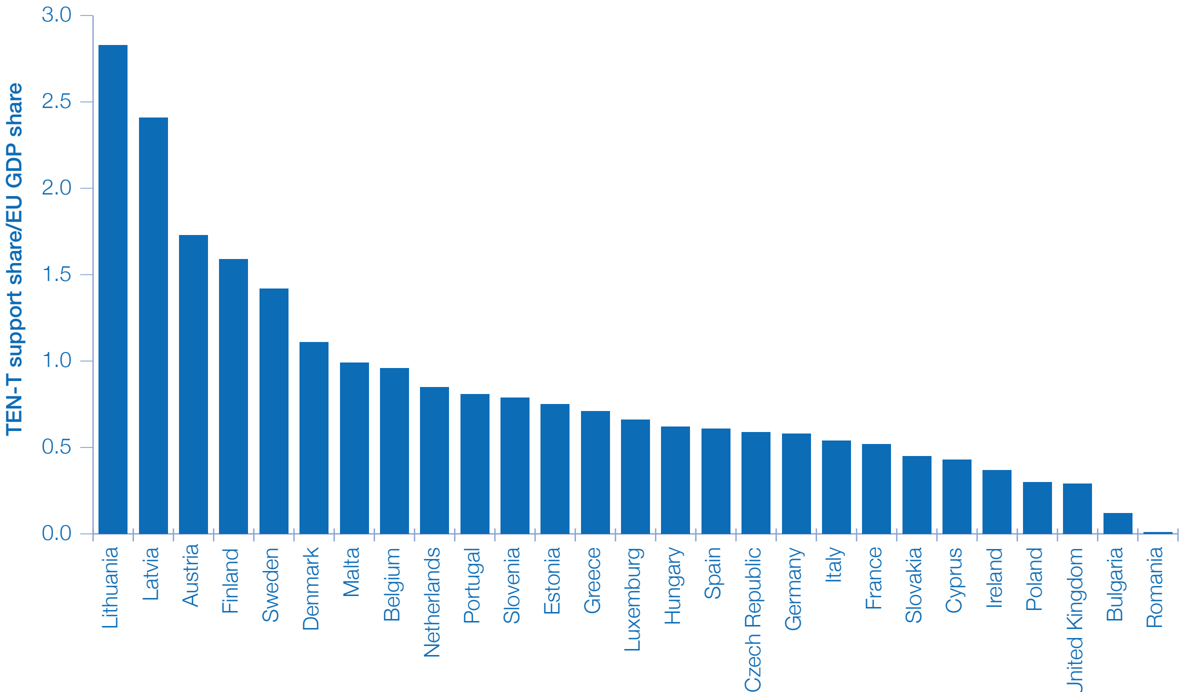
[69] David Campbell Bannerman MEP*, submission of evidence*.

Figure Five: TEN-T Funding (€m) by Country During 1995-2012, Excluding Multinational Projects



Source: Bothnian Green Logistics Corridor, *Allocation of TEN-T financing in the Trans-European Transport Network* (2013).

Figure Six: Ratio of TEN-T Support Share versus EU GDP Share by Country during 1995–2012



Source: Bothnian Green Logistics Corridor, *Allocation of TEN-T financing in the Trans-European Transport Network* (2013).

3.46 As with structural funds, examples were provided of specific projects in the UK that had been supported by TEN-T funding. A-CDM is a joint initiative between airlines, Ground Handlers, Eurocontrol, NATS and Heathrow Airport to facilitate the sharing of operational aircraft data and to make the best possible coordination of resources. Heathrow took the opportunity to secure TENs funding to ensure the redeployment of A-CDM was completed at minimal capital cost to the airlines and was successful in securing €270,552 of TEN-T funding.[70] The Rail Freight Group and East of England European Partnership both noted that TEN-T funding had contributed to developing rail freight facilities at end terminals such as Port of Felixstowe and London Gateway, as well as for other rail projects, such as the 'Ipswich Chord' and 'Nuneaton Chord' part of the Felixstowe to Nuneaton upgrade.[71]

3.47 On TEN-E, the amount contributed from EU funds to infrastructure is limited, but it plays a more important part in financing feasibility studies and it is possible to work out the UK share of these projects.

Table Four: TEN-E financed projects during 1995-2012

Year	€m Funding Total (number of projects)	€m Funding to the UK (number of projects)	UK share (%)
1995-99	89 (112)	5.2 (6)	5.8
2000-06	124.2 (97)	17 (11)	13.7
2007-12	129.3 (109)	7.3(8)	5.6

Source EPRC calculations based on European Commission, *TEN-E Financed Projects 1995-2012 for Europa* (2012). Available at: www.ec.europa.eu/energy/infrastructure/tent_e/doc/2013_ten_e_financed_projects_1995_2012.pdf, accessed on 12 May 2014.

3.48 UK receipts for the Competitive and Innovation Programme totalled €96.3m for 2006-12 out of a total of €1,148.9m overall, excluding the support provided through financial instruments with the EIF.[72] In terms of the three constituent programmes:

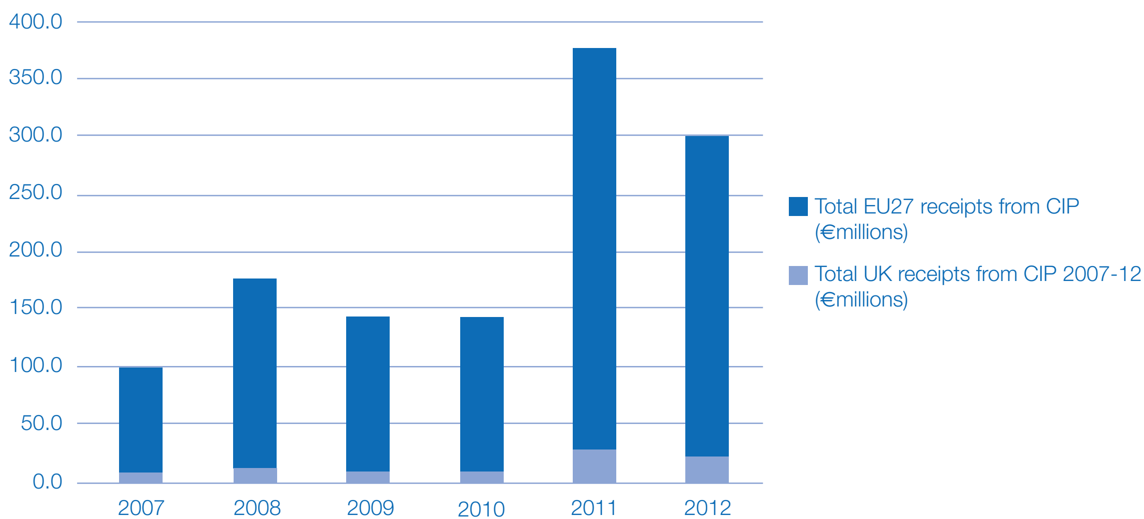
- **Enterpreneurship and innovation** – The UK received €44.7m out of €475.4m, a share of 9.4%.
- **ICT policy support** – The UK received €22m out of a total of €256.1m, a share of 8.6%.
- **Intelligent energy** – The UK received €29.7m out of a total of €417.4m, a share of 7.1%.

[70] Heathrow Airport, *submission of evidence*.

[71] Rail Freight Group, East of England European Partnership, *submission of evidence*.

[72] Figures for 2013 receipts are not yet available.

Figure Seven: UK Receipts from Competitiveness and Innovation Programme 2007-12



Source: European Commission, *Overview of Beneficiaries of Awarded Grants and Intermediaries of the Financial Instruments in Participating Countries* (annual publication 2007-12)

Geographical Coverage

3.49 A more fundamental question is where responsibility for regional policy should lie, particularly for rich Member States. Why should the EU fund activity in Member States that can afford to support their own regions? These questions have been given added resonance as EU enlargement, particularly as countries with GDP levels below the EU average joined, placed pressure on the size of the EU budget.

3.50 Many agreed that the funds should continue to focus on the poorest member states and regions. The House of Commons Communities and Local Government Select Committee considered that ERDF resources should be targeted at the poorest EU regions.[73] The Welsh Local Government Association argued that, as there was a finite amount of funding across the EU, it would be spread too thinly if targeted at economic development across all areas, and it supported the continuation of targeting less developed areas and disadvantaged groups.[74]

3.51 The more difficult question was the extent to which structural funds should benefit richer regions, or indeed richer Member States. The Government's position for the 2014-20 period was set out in its response to the Commission's fifth cohesion report which argued for a phased withdrawal from funding for richer regions: 'wealthier Member States have the financial and administrative resources to support investment, including in their less developed areas. So cohesion funding should therefore focus on stimulating economic development in Member States where income per capita is far below the EU average, where EU money can significantly add value to economic development efforts and where there are clear economies of scale with respect to financial and institutional capacity […] receipts in richer regions, particularly in the richer Member States should fall significantly. The policy should not create a dependence on financial transfers from the EU budget. Instead, it should concentrate its limited resources on those areas which can have the most impact'.[75] The UK Government pressed for a reduction in the budget for more developed regions and argued against the creation of a new category of transition region.

---

[73] Communities and Local Government Committee, *Second Report European Regional Development Fund* (2012).

[74] Welsh Local Government Association, *submission of evidence*.

[75] UK Government, HMG Response to the European Commission's Consultation on the Conclusions of the Fifth Report on Economic and Social Cohesion (2011).

3.52 Reports commissioned by the European Commission in the past have suggested a different role for the Funds. The Sapir Report proposed a convergence fund allocated to low income countries, not regions, which, according to analysis by Pelkmans and Casey, would immediately avoid some 40% of transfers in the EU15, and a restructuring fund, which would, rather like the ESF, provide support for displaced workers.[76,77] There would also be a centrally managed growth for research and innovation, SMEs and other activity. A later study commissioned from ECORYS by DG Budget suggested that funding for richer regions under the then Competitiveness and Employment strand did not pass the subsidiarity test. In its impact assessment for the 2014-20 period, the Commission examined the option of restricting funding to those member states with gross national income per capita of less than 90%. It rejected the option for four reasons:

- Cohesion policy would become a redistributive policy and lose its allocative focus;
- There would be lower incentives for cross border spillover effects, whether between regions of member states;
- The incentives to contribute to EU-wide priorities would decline; and
- There would be lower growth effects on the EU economy.

3.53 Evidence to this review from Open Europe and Fresh Start set out strong arguments why richer Member States should be responsible for their own regional policy and EU cohesion funding focussed only on the poorest Member States and how this might benefit the UK financially.

3.54 Open Europe recommended limiting structural funds to the less wealthy Member States where they could have the biggest comparative impact. It suggested that most of the money the UK received went back to the same region from which it came and that only a small amount was redistributed from richer regions to poorer regions. Only two regions in the UK, Cornwall and Isles of Scilly and West Wales and the Valleys, were net beneficiaries. It suggested that, because of the amount the UK contributed to funding regional policy in richer regions in other Member States, the UK could save £12.6bn gross and £3.8bn net if it decided to spend the same domestically as it had received from the structural funds. Whilst acknowledging that some member states would lose out, Open Europe questioned whether any of the EU15 group should continue receiving structural funds and suggested that length of EU membership might be another condition for the allocation of funds, with older member states no longer qualifying, although they could get transitional support to help overcome specific economic problems. Finally, Open Europe argued that a regional development policy funded and coordinated at EU level carried a heavier administrative burden than a national development scheme.

3.55 Fresh Start also believed that for wealthier Member States, the recycling of money via Brussels not only within the same country but often within the same region was ineffective and costly. Redistribution of resources within a Member State could be done without EU involvement, consistent with the principle of subsidiarity. It suggested the allocation of scarce funding to richer areas was contrary to the objective of convergence and served only to reinforce disparities, as well as risking crowding out private sector investment that it believed would have happened anyway. If richer Member States no longer received structural funds, the UK could use its savings to commit at least as much to regional development as it currently receives from structural funds. Fresh Start suggested that a new time-limited transitional fund might be offered to countries that would lose in net terms

[76] André Sapir et al., *An Agenda for a Growing Europe: The Sapir Report,* (2003).

[77] Jacques Pelkmans and Jean-Pierre Casey, *Can Europe Deliver Growth? The Sapir Report and Beyond* (2004).

from restricting the structural funds to poorer Member States. As an alternative approach, Fresh Start suggested limiting the size of the structural funds budget, increasing local flexibility and introducing greater rigour to financial management. According to Fresh Start, this might involve just a single objective for the Funds – economic convergence, a similar approach to that in the Sapir report.

3.56 The recycling of structural funds has been highlighted too in papers by Bruegel. It suggested that, for 2000-6 only 27% of structural funds flows were between Member States and of the remainder, three-quarters were recycled within the same region. Enlargement in 2004 increased the amount of transfers between different Member States in 2007-13, but structural funds still tend to redistribute resources within the same region. As an example, it suggested that 97% of the structural funds received in each UK region had been contributed by local taxpayers.[78]

3.57 Some have taken more nuanced positions to the question of the geographical targeting of structural funds. The House of Lords European Union Committee argued that all regions should continue to receive ESF but that ERDF should be available only to the less developed regions.[79] The House of Commons Communities and Local Government Committee agreed that ERDF should be for the poorest regions and supported repatriation of regional policy funding, provided that 'funding could be protected and ring-fenced over the long-term to ensure that the poorest English regions continued to receive the same level of support they would have received under the current system'.[80]

3.58 Others however argued equally strongly for structural funds to be available to all regions. For example, the Local Government Association noted that 'local authorities remained strong supporters for an EU-wide regional development policy and strong supporters to the EU's competences in this field'.[81] The Regional Studies Association believed that regions with problems of transitions and adjustment existed in all Member States, not just the poorer ones, and the issue was not whether all or just some should receive the funding but rather what was an appropriate distribution.[82] The East of England European Partnership endorsed the continuation of the current approach where ERDF was available both to reduce disparities and boost regional capacity so that it was able to tackle its structural weaknesses and strengthen its local assets to support its longer term competitiveness.[83]

3.59 Those on both sides of the 'repatriation' argument noted that within richer regions there were often pockets of deprivation. It was not evident from the responses that this justified intervention at the EU level, although as noted above groups such as NCVO were supportive of community led initiatives to implement structural funds projects. Fresh Start and Open Europe believed this was more appropriately a responsibility for national, regional or local authorities.

3.60 Some pointed to specific benefits of the way structural funds were programmed. For many respondents, the seven year programme period was a strength that was not seen in comparable domestic schemes. For others, the rules on structural funds meant there was a partnership involved in determining how funds were spent, bringing in different levels of governance.

---

[78] Santos, *EU Cohesion Policy*.

[79] House of Lords EU Committee, *EU Financial Framework from 2014* (HL 2010-11, 125).

[80] Communities and Local Government Committee, *Second Report European Regional Development Fund* (2012).

[81] Local Government Association, *submission of evidence*.

[82] Regional Studies Association, *submission of evidence*.

[83] East of England European Partnership, *submission of evidence*.

3.61 For some, what mattered was the scale of funding, not its source. Many respondents noted the commitment given by the previous Government in its white paper on regional policy in 2003 that it would ensure no part of the country lost out from removal of structural funds.[84] Even so, the Industrial Communities Alliance said a transfer of funding and responsibilities from EU to UK raised concerns, as general elections and potential changes of government as well as the acute squeeze on public spending raised question marks about the value of any guarantees.

3.62 Furthermore, some respondents raised practical objections to the arguments put forward by Open Europe and Fresh Start. The Regional Studies Association for example pointed to evidence from Professor Steve Fothergill to the House of Commons Communities and Local Government Select Committee that the impact on the UK's budget abatement would reduce the savings foreseen by Open Europe and the reforms proposed by Open Europe would be very difficult to negotiate as the EU budget settlement required unanimity and while there were winners from 'repatriation' there were losers too.

3.63 Open Europe and Fresh Start both complained that not only was the money recycled, but it was done so with extra conditions attached, both in terms of what it could be spent on and how. This raised the question whether the money would have been spent on different objectives if it had not been channelled through Brussels and whether it would have been more productively spent. As already noted above, the evidence on value for money is inconclusive but that which does exist seems to suggest there is not that much difference between EU and domestic projects. In terms of what funds are spent on, those representing local and regional bodies noted that they would have welcomed greater flexibility in determining priorities. The Industrial Communities Alliance argued that in respect of specifying the measures to be supported, 'the balance of competences needs to be tipped towards the Member State governments'.[85]

3.64 The Scottish Government argued that structural funds helped implement EU policies and thereby helped make the EU a more coherent and cohesive single market, suggesting that all Member States and regions should benefit from the assistance EU funding provided. The case for all regions receiving structural funds may be stronger if the purpose is to support growth and economic development more generally rather than being merely a redistributive tool.

3.65 The Treaty does not define what a region is as such. Eurostat breaks them down into different levels NUTS 1, 2 and 3, each respectively moving from larger to smaller territorial units.[86] Beneath NUTS 3, there are two levels of local administrative units (LAU).

- NUTS 1: equivalent in the devolved administrations of Scotland, Wales and Northern Ireland, and in England to the areas covered by the former Government offices.
- NUTS 2: equivalent in UK to large counties or groups of smaller counties.
- NUTS 3: equivalent in UK to smaller counties.

3.66 The regulations governing structural funds use the NUTS 2 level classification as the basis for allocating money to Member States and identifying the less developed ones, although programmes can be drawn up to cover larger areas.[87] While NUTS 2 statistics

---

[84] HM Treasury, Department of Trade & Industry, Office of the Deputy Prime Minister, *A Modern Regional Policy for the United Kingdom* (2003).

[85] Industrial Communities Association, *submission of evidence.*

[86] Nomenclature of territorial units for statistics.

[87] Article 99 Common Provisions Regulation 1303/2013/EU.

provide a manageable basis for comparison between regions and Member States, they will not always reflect the way local economies function in practice and the interaction and overlap between them. In England, the UK Government has moved away from basing and delivering strategies around artificial administrative boundaries: for example, abolishing the Regional Development Agencies that had managed ERDF programmes in previous periods, and encouraging the establishment of Local Enterprise Partnerships based on functional economic areas.

3.67 In terms of the delivery of structural funds, the West of Scotland European Forum was critical of the reliance on one indicator (per capita GDP) at one spatial level (NUTS 2) to designate areas for the highest levels of support from structural funds and noted the distortions caused by commuting and retirement patterns on GDP data at regional level.[88] Indeed in its press release of February 2014 announcing the latest regional GDP figures, Eurostat noted that for some regions these can be significantly influenced by consumer flows, whether pushing up production to levels that could not be achieved by the resident population or depressing output as workers contribute to production elsewhere.[89] Open Europe suggested that GNI per capita, focusing on income, not output, was a better measure as this 'better reflected relative wealth levels of individuals, including spending power and ability to meet living costs'. It noted that as a result of the EU using GDP per capita for national allocations, there was in the UK little correlation between wealth levels of regions and receipts from structural funds.[90]

3.68 The Industrial Communities Alliance argued that while statistics at NUTS 2 level were a necessary tool for working out financial allocations between Member States, they were a relatively crude tool for targeting resources within Member States.[91] Fresh Start noted that spending was often planned on EU regions that were too large and did not reflect local economic and political realities.[92] In the past, ERDF had been directed at more local areas for specific purposes as had ESF, and the LGA and others noted that the regulations for 2014-20 provided opportunity for community-led local development and integrated territorial investments at lower levels as part of operational programmes.[93]

3.69 The question of what is the most appropriate geographical level for an activity is relevant to other EU funds. The House of Commons and the House of Lords have doubted whether aid for the most deprived persons should be supported at EU level, believing this is most appropriately dealt with at national or regional level. Both Houses issued reasoned opinions under the 'yellow card' procedure introduced by the Lisbon Treaty. The UK Government voted against the regulation in March 2013 and issued a statement to be added to the minutes of the Council meeting, setting out its belief that the Fund for Aid to the Most Deprived was inconsistent with the principle of subsidiarity and that support for social inclusion should be delivered through the ESF rather the creation of a new fund. The Welsh Government too, while believing that structural funds should continue to support regions with the weakest economic base regardless of the wealth of the Member State, believed that initiatives such as the Fund for Aid to The Most Deprived as well as the Youth

---

88 West of Scotland European Forum, *submission of evidence.*

89 Eurostat, *News Release* 29/201, February 2014.

90 Open Europe, *submission of evidence*.

91 Industrial Communities Alliance, *submission of evidence.*

92 Fresh Start, *submission of evidence*.

93 For example, please see Objective Two for 1989-93 and 1996-99 programmes in UK and community initiatives in 1996-99 and 2000-06 programmes, as illustrated in evidence from Policy Economics on behalf of the European Movement.

Employment Initiative were ill-conceived as EU interventions and better suited to regional development, control and deployment.[94]

Management of Funds and Administrative Requirements

3.70 One of the most widespread criticisms of EU funds is they are perceived as difficult to access, with burdensome requirements on monitoring, reporting and audit.

3.71 Structural and cohesion funds operate under what is known as shared management. The Commission retains overall responsibility for the EU budget but responsibility for implementation is delegated to Member States. In contrast, TENs and the Connecting Europe Facility and CIP/COSME are managed directly by the European Commission or its executive agencies.

3.72 Shared management does not mean that the Commission has no say in implementation. It still has to approve partnership agreement and operational programmes. It sits in an advisory role on programme management committee and it maintains the right to audit projects.

3.73 Many respondents pointed to the complexity of EU funding rules, the bureaucracy and the perceived burden, although, as the Industrial Communities Alliance noted, domestic funding streams were perceived as often little better. A separate consultation undertaken by the Government ahead of preparation of its partnership agreement with the Commission had also revealed strong support for a more standardised approach to application, timescales and selection procedures across the funds; simplified management and audit procedures; integrated systems for aligned projects and shorter time frames for decisions, authorisation and disbursement of payments.[95]

3.74 There was acceptance that there needed to be proper scrutiny and accountability for public funds. The continued use of funds required a high level of public confidence in them and this meant some oversight mechanism was needed. There was also recognition that simplifications had been introduced, although perhaps not as many as some would have hoped for. Open Europe noted the exemption of smaller projects from some auditing requirements and the reduction in the length of time during which projects would have stored records.

3.75 The question however was whether measures were proportionate and the right balance between financial management and the need to stimulate innovation. For Cooperation and Working Together (CAWT), the burden of verification process, given expenditure had already gone through an audit and quality assurance process, was akin to 'spending £10 to save £1'.[96] Research UK acknowledged that audit was necessary to manage such large sums of money but thought that the system lacked balance and therefore discouraged participation. It wondered whether the audit system for FP7 (the EU's framework programme for research and development for 2007-13) could prove to be a model for the structural funds.

3.76 Complexity was, according to NCVO, due in part to the European Commission's proposals but also in part to interpretation at the national level.[97] The Welsh Government too believed problems were caused by the 'numerous layers of rules and regulations (EU Financial Regulations, Cohesion Legislation, Commission Implementing Regulations, Operational Programme, national eligibility rules and EU compliance in areas such as […] state aid and

---

[94] Welsh Government, *submission of evidence.*

[95] HM Government, *Partnership Agreement: Delivery of Structural Funds, Rural Development Funds and Maritime and Fisheries Funds in England - Government Response to Informal Consultation* (2012).

[96] Cooperation and Working Together, *submission of evidence*.

[97] NCVO, *submission of evidence*.

public procurement) [which created] anomalies, inconsistencies and misunderstandings that in turn can result in errors and loss of funds to projects and programmes'.[98] Its solution was to call for greater harmonisation of EU regulations. The Scottish Government recognised that some complexity was necessary to ensure structural funds addressed both regional and EU policies.[99] For the Welsh Local Government Association, one problem was simply too much jargon which was difficult to interpret and relate to local issues,[100] and for local partners in the East of England, it was the reporting requirements that were considered particularly complex.[101]

3.77 These difficulties were compounded by what some respondents saw as changes in the way rules were interpreted and retrospective application of these. For the West of Scotland European Forum, this problem concerned the eligibility of types of costs that could be minimised by making guidance publicly available at an early stage.[102]

3.78 There were similar criticisms of the administrative burdens of TEN funding. Heathrow said 'the overly complex and lengthy process (eight months) of completing the changing demands of greater reveals of legal paperwork, references, bankers drafts, project documents etc. called into the question the "effort versus return" for what in context of our other Heathrow initiatives was a relatively small grant'. The Rail Freight Group also thought the administrative process and various requirements were seen as a big participation to participation.

3.79 In its report on the 2011 EU budget the European Court of Auditors found 59% of the 180 regional policy payments audited to be affected by error.[103] The most likely overall error estimated by the Court was 6.0%. For 62% of the regional policy transactions affected by error, the Court considered that sufficient information was available for the Member State authorities to have detected and corrected at least some of the errors prior to certifying the expenditure to the Commission. For expenditure from the ERDF and the Cohesion Fund, the main risks related to the funding of projects which do not comply with EU and national public procurement rules or which do not fulfil the eligibility conditions specified in the EU Regulations or the Operational Programmes. In addition, the risk also exists that beneficiaries declare specific costs that are ineligible.

3.80 Respondents to the call for evidence recognised that some controls were needed to manage significant chunk of EU funding. But, according to Universities UK, different levels of audit confuse, and there were concerns from some respondents about repeated audits. The East of England European Partnership too was concerned about multiple audits which were burdensome and often inconsistent. Another common complaint was that audit was too often focused on narrow points of technical compliance and failed to look at bigger questions of how programmes were performing in terms of delivering the intended outcomes.

3.81 As the Scottish Government noted in its evidence, the audit and compliance capability and capacity of Member States varied. It wanted the more developed national audit regimes to assume their own responsibility for EU audit and compliance, in line with the subsidiarity principle. The West of Scotland European Forum said more trust was needed between the EU institutions on one hand and managing authorities and local delivery bodies on the other, and it wanted to see a smarter approach to audit that focused on major, high-

[98] Welsh Government, *submission of evidence*.

[99] Scottish Government, *submission of evidence*.

[100] Welsh Local Government Association, *submission of evidence*.

[101] East of England European Partnership, *submission of evidence*.

[102] West of Scotland European Forum, *submission of evidence*.

[103] European Court of Auditors, *Annual Report concerning the financial year 2011* (2012).

risk elements of expenditure. The Regional Studies Association however cautioned of the danger that 'devolving management and control of the funds to national and sub-national authorities would expose the use of the Funds to pressure from party-political and other vested interests and misuse or corruption'.

3.82 The Regional Studies Association also noted that cohesion policy was heavily scrutinised in accounting terms and greater accountability would come by transparency of intended objectives and the ongoing monitoring and evaluation of outcomes.[104]

3.83 As a final point, many respondents pointed to changes in the way structural funds would be delivered in the 2014-20 period, as a consequence of both the new regulations and the models for delivery being adopted in different parts of the UK. For example, the Local Government Association noted that the new EU framework promoted stronger partnership working between the local level and central government, and plans in England were a 'welcome departure from the […] 2007-13 programme which had been characterised by a centralised management and delivery approach'.[105] The NCVO welcomed new instruments such as Community Led Local Development which could focus on very specific localities to deal with worklessness and benefit from a sense of local involvement and ownership. It is too early to judge the impact that changes introduced for the 2014-20 period, whether at EU or national level, will have on the effectiveness and value for money of the funds.

Industrial Policy

3.84 Article 173 TFEU forms the legal basis for Union action in the fields of industry and business. It provides for the coordination with other Union policies and activities, and specific measures in support of action taken in the Member States, but excludes any harmonisation of the laws and regulations of the Member States. These clauses denote the reluctance of the Member States to weaken national policies in favour of a common industrial policy. Hence, most industrial policy in Europe is carried out not at EU level but at national level. Furthermore, actions relevant to industrial policy and industrial strategy may be undertaken under other Articles of TFEU.

3.85 In its 2010 Communication *An Integrated Industrial Policy for the Globalisation Era*, the Commission set out its vision for the governance of the industrial policy at the European level.[106] Governance was to have two strands. The first strand related to the coordination and interaction of policies affecting competitiveness. The second strand related to monitoring the success and competitiveness performance of policies at both the European and Member-State level.

3.86 The first strand of governance identified in the 2010 Communication is in line with the 'horizontal' dimension of EU industrial policy and its interaction with a broad range of other policy areas as indicated by Figure One at paragraph 2.43 above. The Communication thus set out competitiveness-focussed actions relating to regulation; access to finance; the Single Market; intellectual property; infrastructure; standardisation; innovation; skills; trade; raw materials; resource efficiency; structural adjustments; and corporate social responsibility. Additionally the Communication outlined the concept of 'competitiveness proofing', in which the impact assessment process is reinforced by a specific analysis of the impact of a new policy proposal on competitiveness, taking into account its likely impact on investment, cost, price and innovation, as well as the views of businesses and other stakeholders.

[104] Regional Studies Association, *submission of evidence.*

[105] Local Government Association, *submission of evidence*.

[106] European Commission, *An Integrated Industrial Policy for the Globalisation Era* (2010).

3.87 Only a limited number of respondents addressed industrial policy. There was support among some respondents for the focus of EU industrial policy on competitiveness. From its perspective as a customer, it was important to NATS 'that EU industrial policy continues to champion competition and does nothing to create or enshrine EU-wide monopolies. Without adequate competition between suppliers, we cannot negotiate effectively to keep equipment costs down.' Likewise from its perspective as a supplier, 'effective competition is also needed to ensure access to service provision markets.'[107]

3.88 The Engineering and Machinery Alliance (EAMA) stressed the impact on competitiveness of the single market and intellectual property rights including adequate enforcement of intellectual property, in the context of the EU representing a large export market for UK manufacturers.[108] For the Scottish Government, 'initiatives on intellectual property rights, legislative simplification and [an] integrated approach to industrial research and innovation' had the potential to 'facilitate, simply and accelerate economic activity'.[109]

3.89 The Road Haulage Association was more cautious on the value of EU-level action in supporting industrial competitiveness, arguing that 'Competition is based on harmonisation first, or rather not hitting existing sectors. In our sector it is virtually impossible to innovate operationally without being forced to take account of less efficient modes [...] It is hard for an individual, company or member state to innovate without getting EU membership approval first.'[110]

3.90 Some respondents to the call for evidence drew a connection between industrial policy and cohesion policy. According to both the Regional Studies Association and the Welsh Government, the concept of smart specialisation, required as precondition in order to inform funding priorities for ERDF, meant that programmes needed to build on competitive strengths (actual or potential) within regions.[111] This is being reflected in the way the ERDF programme is being developed within England where links are being made with the sector-based approach of the UK's industrial strategy as well as the eight great technologies identified as part of it.[112]

3.91 There is also a strong focus on support for SMEs within the plans for use of structural funds for 2014-20. The Commission estimates that support for SMEs will double from €70bn in 2007-13 to at least €140bn in the current period.[113] The Welsh Government pointed to its *Pro-Act* programme funded in part by ESF, as a good example of how EU funding was being used by companies to support business competitiveness.[114]

3.92 Overall, the breadth of the EU's industrial policy makes it difficult to make a firm assessment of its impact on the UK national interest. It does appear to the UK Government though that the UK has a strong interest in ensuring that EU action in other policy areas supports and does not hinder industrial competitiveness. This suggests that the supporting competence set out in Article 173 which in part is given practical realisation in the new tool of 'competitiveness proofing' is of benefit to the UK.

---

[107] NATS, *submission of evidence*.

[108] EAMA, *submission of evidence*.

[109] Scottish Government, *submission of evidence*.

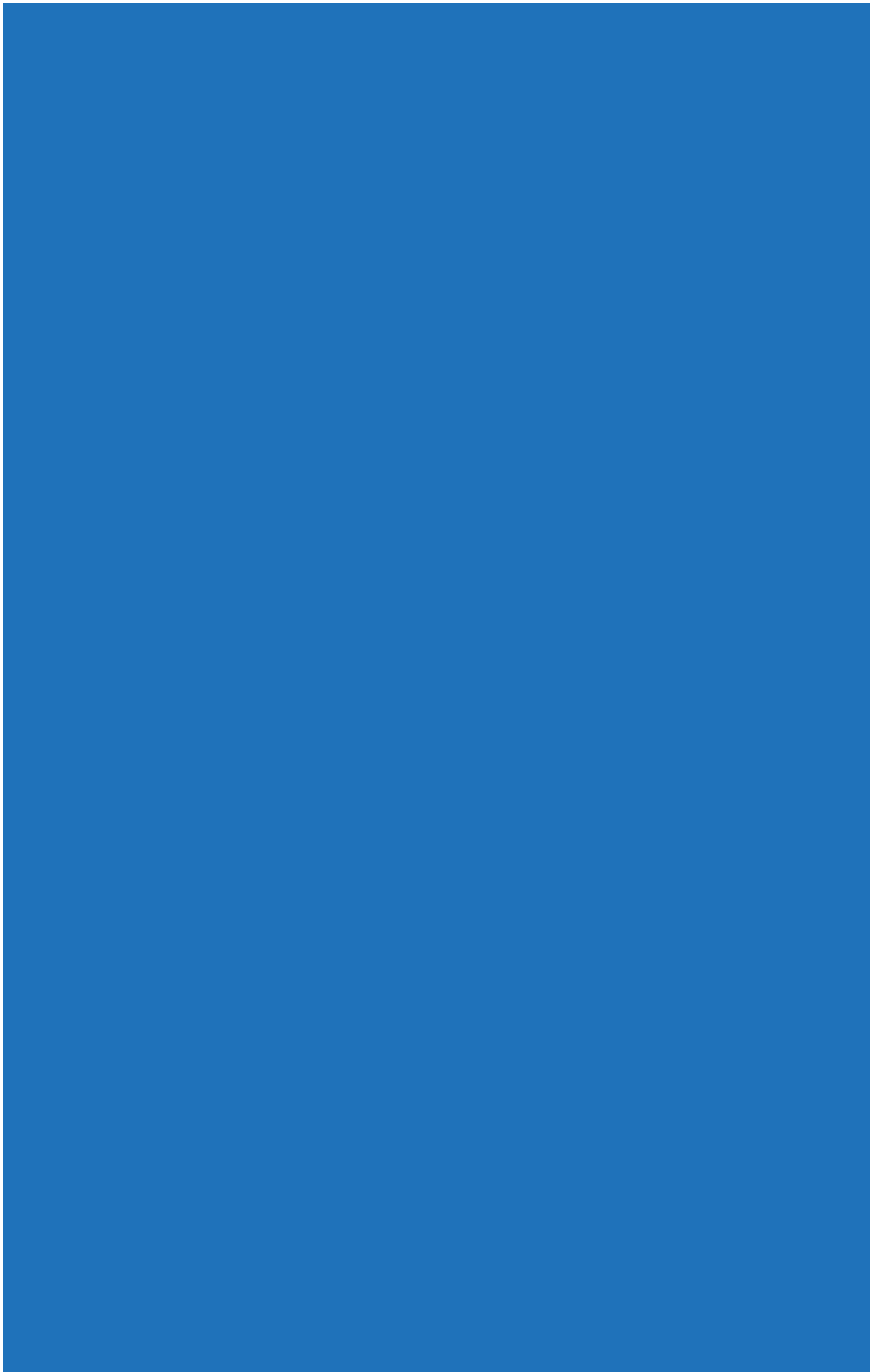
[110] Road Haulage Association, *submission of evidence*.

[111] Regional Studies Association, *submission of evidence*; Welsh Government, *submission of evidence*.

[112] UK Government, *HMG Industrial Strategy, Government and Industry in Partnership* (2014), accessible at: www.gov.uk/government/collections/industrial-strategy-government-and-industry-in-partnership, accessed on 15 May 2014.

[113] European Commission Press Release, *A New Cohesion Policy for Growth and Jobs in Europe* (2013).

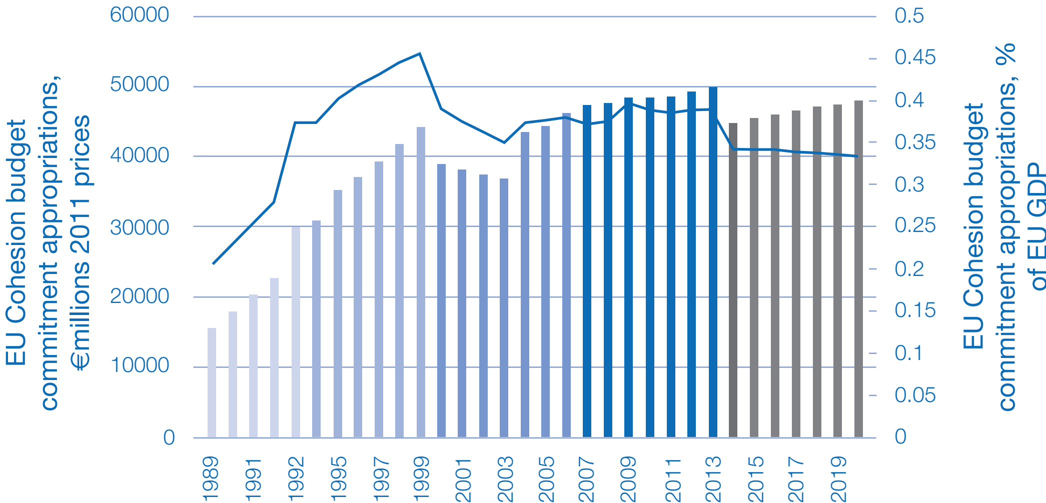
[114] Welsh Government, *submission of evidence*.



Chapter 4: Future Options and Challenges

4.1 The funding devoted to cohesion policy has increased greatly over time, although it has fallen as a share of EU GDP since 1999.

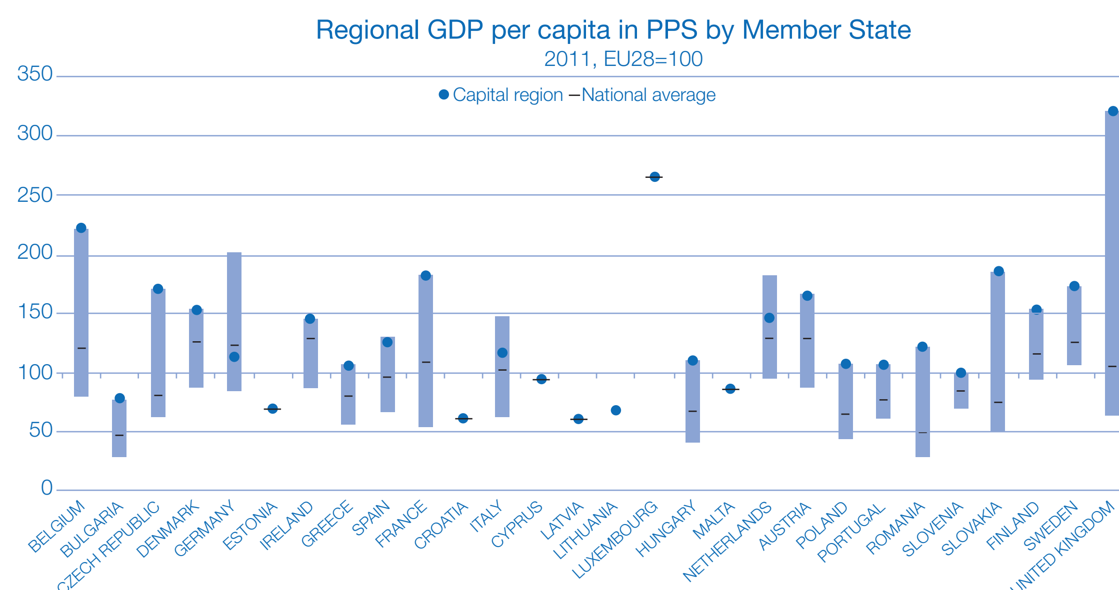
Figure Eight: EU Cohesion Budget 1989-2019



Source: European Policies Research Centre, University of Strathclyde

4.2 The latest available figures from Eurostat do however show continuing wide disparities in gross domestic product at NUTS 2 level across the EU, with the richest area (Inner London) with a GDP per capita over three times the EU average and the poorest area (Severozapden) less than a third of the EU average.

Figure Nine: Regional GDP Per Capita in PPS by Member State



Source: Eurostat, *News Release 29/2014* (27 February 2014).

The accession of new Member States is likely to increase these disparities and place further pressure on the EU cohesion budget. The GDP per capita of five of the current applicant countries are below the poorest current Member State, Bulgaria.

Table Four: GDP of Countries Wishing to Join the EU

EU28 = 100	2010	2011	2012
Romania	48	48	50
Bulgaria	44	47	47
Turkey	50	53	54
Serbia	35	36	36
Montenegro	42	42	41
FYR Macedonia	36	36	35
Albania	26	30	30
Bosnia & Herzegovina	29	29	29

Source: Eurostat news release 190/2013, 12 December 2013.

4.3 There is still therefore a long way to go in terms of meeting the Treaty objectives of promoting economic, social and territorial cohesion. The question is what is the most effective way to do so, given constraints on the size of the EU budget.

4.4 Member States who joined the EU in or after 2004 have had to put in place significant reform programmes as a condition of accession and to meet the demands and challenges of the Single Market. There is a strong argument for continuing financial support to help them build up their economic capacity and open up access to markets. Growing their own economies will provide more opportunities for their citizens to fulfil their potential within their own countries. Increased trade offers benefits to their companies, as well as those in the UK and other Member States. Funding from cohesion policy for the newer Member States can be seen as a supporting investment tool to work alongside structural reforms that still need to be implemented.

4.5 Some who joined before 2004 have suffered particularly severely from the economic crisis and have received special assistance measures. Others however are generally able to fund themselves the necessary investments for growth, including in regions lagging behind. Furthermore, the EU15 have had much more time to put in place structural changes and to benefit from structural and cohesion funds. There is a question as to how long funding should be allowed to continue if no significant results or changes in economic performance are achieved.

4.6 The UK Government's position has been clear. It supports the objective of reducing regional disparities. Indeed the Coalition Agreement calls for economic opportunities to be more evenly shared between regions. However, richer Member States should be able to afford to fund their regional policy.

4.7 The Treaty sets a broad objective of promoting economic, social and territorial cohesion but provides several means to do so. Support from the structural and cohesion funds are only one means. Article 175 TFEU refers to other financing instruments such as the EIB and requires that the cohesion objectives are taken into account when implementing all Union's policies and actions, including implementation of the Single Market, and contribute to their achievement. It also emphasises the coordination of economic policies between Member States (and this has been an element of the treaty provisions ever since the Treaty of Rome). One point for reflection is whether the balance in the past has been too much on the contribution that structural and cohesion funds make to the Treaty objectives and too little on other means. Large-scale expenditure has high visibility but the evidence of its effectiveness is inconclusive. Other means may be less visible publicly but may deliver equivalent or better outcomes.

4.8 In a significant number of Member States including the United Kingdom, the amount of national funding available to economic development and growth is far greater than the amount of EU structural funds they receive. The question therefore arises whether such Member States need EU funds if they can afford to use domestic funding to achieve the cohesion policy objectives and to support projects that would otherwise have drawn on EU funds. Does it make sense for them to pay money into the EU budget so that part of such money is simply returned to them to support activities they could have funded anyway?

4.9 The issue of whether the UK specifically, or richer Member States more generally, should continue to receive structural funds can be looked at in several ways.

- Should richer Member States no longer receive any structural and cohesion funds, so they are focused on poorer Member States? This may mean that richer regions in poorer Member States continue to be eligible for funding but that poorer regions in richer Member States are not.

- Should richer regions no longer receive any structural and cohesion funds, so that they are focused on poorer regions, regardless of the wealth of the Member State? This may mean that poorer regions in richer Member States continue to be eligible for funding.

- Should a distinction be drawn between ERDF and ESF, so that in this scenario, richer Member States or regions continue to receive ESF which is aimed at social objectives that may have a spatial aspect but are not confined to specific regions? Richer Member States or regions would not be eligible for ERDF which is aimed at reducing regional disparities and therefore, it could be argued, should to be targeted only on poorer parts of the EU.

4.10 In all these cases, the reduced EU budget that would result would lead to a fall in the UK's contribution and this would likely outweigh the amount of structural funds it would forego. The level of savings to the UK would depend on the exact interaction with the UK abatement, but would be positive. The less EU funds the UK would receive, the greater the savings. It would then be up to the Government to decide how to use these savings in the best interests of UK taxpayers. One option could be to use the savings to fund the same level of activity domestically, taking account of the need to ensure value for money, and there could still be a net gain to the Exchequer. It may also be necessary to consider arrangements with the devolved administrations.

4.11 It is important to note that under this scenario these arrangements would not be specific to the UK. They would apply to all richer regions or richer Member States in the EU, depending on the approach adopted. Not all Member Sates would benefit from this approach. The assessment from Open Europe was that only three Member States (Italy, Spain and Cyprus) would lose out.[1] Furthermore, some net recipients also favour universal coverage partly for fear that support might erode for structural funds in poorer Member States and partly because richer Member States are more likely to support simplification of the rules and a reduction of administrative burdens if they too receive funds.

4.12 The formula for allocating structural funds between Member States is agreed at European Council level as part of the overall settlement on the EU budget. It is often viewed as a game of net balances. Each Member State will calculate as a whole what it gains and what it pays out. Agreements at the European Council require unanimity. If some Member States lose out from a change in the coverage of structural funds, they are likely to oppose the change, unless they are compensated in some other way.

4.13 While the overall EU budget is agreed by the European Council and reflected in the Regulation on the Multiannual Financial Framework that requires unanimity in the Council of Ministers and the assent of the European Parliament, the criteria for allocations is normally set out as an annex to the General Regulation governing the use of structural and cohesion funds (the Common Provisions Regulation for 2014-20). This Regulation also contains the provision on categorisation of regions. This is adopted through the ordinary legislative procedure, so requires QMV in the Council of Ministers and needs to be agreed jointly with the European Parliament. Member States will respect agreements reached between their leaders. The European Parliament is however protective of its role as co-legislator. As noted by Begg, all the main political groupings seemed to favour a wide geographical coverage of cohesion policy and to reject the 'renationalisation' of regional policy.[2]

4.14 In any case, with the EU budget for the 2014-20 period and the corresponding regulations for the structural and cohesion funds agreed, any narrowing of the scope of structural funds to apply only to the least developed regions or the poorer member states would therefore need to be negotiated as part of the agreement on the EU budget and regulations for the 2021-27 period.

---

[1] Open Europe, *submission of evidence.* In its original study, Greece too would lose out, but on latest GDP figures, it has slipped beneath 90% EU GDP.

[2] Iain Begg, *The Future of Cohesion Policy* (2009).

4.15 It is also possible, as Open Europe considered and dismissed,[3] for the UK simply to refuse to draw down ERDF, ESF or both. With the exception of a percentage for pre-financing,[4] allocations of structural funds are not handed over by the Commission to Member States each year, but are paid retrospectively in response to claims submitted. If the UK does not submit any claims, the argument is that money will in due course be returned to the UK through the abatement mechanism. There are five points to be borne in mind.

- Firstly, the amount returned to the UK will not be as much as the UK's allocation for structural funds. Assuming there is no change in payment ceilings, the most that would be returned to the UK would be 66%, namely around two-thirds of the total, if all of the savings to the EU budget were spent in the rest of the EU15. To the extent that the savings are spent in Member States that joined the EU during or after 2004, this percentage would be lower.
- Secondly, there is a time lag. The abatement mechanism operates a year in arrears.
- Thirdly, the regulations suggest that pre-financing is not optional. It does not seem possible for the UK to refuse to accept the pre-financing. There would therefore need to be a mechanism to hand it back, or simply to use only this amount for the purpose of funding projects.
- Fourthly, the regulations for 2014-20 impose a tough performance framework on Member States to ensure funds are spent effectively and deliver the outputs and results intended. There are risks of financial penalties for the UK, if targets and milestones in the programmes agreed with the European Commission are not met.
- Finally, whilst the post-abatement gross costs of the EU budget to the UK would fall, the UK's net position in respect of the EU budget would worsen.

4.16 The Treaty requires that the EU supports the achievement of the cohesion objectives by the action it takes through the structural funds, including the ERDF. Thus the ERDF needs to support the broad objectives of economic, social and territorial cohesion. In particular and as provided by Article 176 TFEU, it is intended to help redress the main regional imbalances through participation in the development and structural adjustment of regions whose development is lagging behind. These are normally defined as NUTS-2 regions whose GDP per capita is below 75% of the EU average. As already noted in this report, this includes regions in richer Member States, including, Cornwall and Scilly Isles and West Wales and the Valleys in the UK.

4.17 The ERDF is also required to support the conversion of declining industrial regions. There is more subjectivity as to how this objective might be defined. Initial definitions for the 1988-1993 period were based on unemployment statistics and the share of industrial employment but in later periods Member States were given an increased role in selecting the assisted areas and the national priorities and situations. It is unlikely that declining industrial areas would be restricted to poorer Member States but much industrial change has already taken place.

4.18 Issues around the ESF are linked more to the scope of activities it is designed to fund rather than its geographical coverage. Article 162 to 164 TFEU that set up the regulatory framework for the ESF makes no reference to regions or Member States. The ESF's goal is to improve employment opportunities and thereby raise standards of living. It does so by making the employment of workers easier and increasing their geographical and

---

3 Open Europe, *Off Target: The Case for Bringing Regional Policy Back Home* (2012).

4 Article 134 Common Provisions Regulation 1303/2013.

occupational mobility. It also is intended to help workers adapt to industrial change, in particular through vocational training and retraining. These challenges may be argued to exist through the EU and in all regions, although domestic funding is also used to address them and the additionally of EU funding may be much less in richer regions or Member States.

4.19 The case for the structural and cohesion funds to continue to be available in the poorer Member States is much stronger. Although evidence of the effectiveness of the Funds is mixed and inconclusive, there is broad acceptance of the need to address disparities in levels of economic development between Member States in order to ensure proper functioning of the internal market. The focus then should be on how to improve the effectiveness of the Funds, with clearer demonstration of the results that are to be achieved and effective measurement and monitoring of the progress towards them.

4.20 In terms of ESF, a more pertinent issue than geographical cover may be to determine whether the scope of activities currently covered is significantly broader than what is intended in Article 162 TFEU. The ESF is firmly linked to the labour market. It is not, despite its name, a general social fund. The question is what type of activity helps to improve employment opportunity. This could legitimately be at some remove from direct entry into the labour market. The question is particularly relevant to the objective of social inclusion and the extent and manner in which this objective is supported by ESF.

4.21 Another issue linked to the ESF is how it fits with the EGF. Article 162 TFEU refers to the adaption of workers to industrial change. The ESF Regulation for 2014-20 includes specific investment priorities relating to the adaptation of workers, enterprises and entrepreneurs.[5] ESF is however programmed over seven years, and it is not possible to foresee individual instances of restructuring for which the EGF can provide a reasonably quick response.

4.22 If richer Member States no longer received structural funds, would other mechanisms need to be put in place? In his paper for the European Commission, Iain Begg noted that the scope for EU-level coordination of Regional policy in richer regions and Member States, rather than direct funding, deserved more attention.[6]

4.23 Any decision not to allocate structural funds to all or part of the UK would mean a shortfall in resources available for economic development, unless such resources were replaced by domestic funding. In this context, many respondents drew attention to the pledge made by the then Government in its 2003 White Paper on Regional Policy that it would make up any shortfall in receipts.

4.24 The other challenge is that structural funds are programmed over a seven year period, with a further three years allowed for projects to be completed and claims submitted through managing authorities to the European Commission.[7] Many respondents saw this as a significant benefit of structural funds, allowing long-term planning beyond the normal domestic funding cycle.

4.25 One of the criticisms of structural funds expressed by many respondents was not so much that money was recycled through Brussels (the UK paying in money to the EU budget only to get it back) but that conditions were attached and burdensome requirements were imposed. There are already strong controls and requirements imposed for the proper assessment and evaluation imposed on domestic spending to ensure value for money and state aid and public procurements rules would still apply to projects regardless of whether

5 Article 3(a)(v) Regulation 1285/2013.

6 Iain Begg, *The Future of Cohesion Policy in Richer Regions* (2009).

7 This is a result of the N+3 rule, which in the 2014-20 period has replaced the previous N+2 rule.

they are supported by EU or domestic funds. If money that had been funnelled through the EU to support economic development in richer regions were in future to be used directly by the relevant Member States, there would still be a need for it to comply with applicable EU and national laws, and for its expenditure to be properly audited.

4.26 Even if richer Member States no longer received structural funds to support the development of their own regions, there may be a case for them continuing to benefit from European Territorial Cooperation programmes, particularly where these are developed around functional economic areas that cross national borders.

The Balance between Sound Financial Management and Administrative Complexity and Burden

4.27 A constant theme throughout the review has been the complexity of the rules for EU funds. The perceived administrative burden associated with them can act as a deterrent to businesses and communities. Because of these perceived burdens, good projects that might support growth and local development may not therefore be brought forward. Programmes might concentrate on projects that are simple to deliver rather than those that have the greatest potential impact. Sub-optimal investment decisions might be made as a result. It is in the UK's interest to ensure as wide a range of projects as possible are available, so that the best choices can be made.

4.28 As a Member State that pays in more to the EU budget than it receives from it, the UK has a strong interest in ensuring there is effective financial discipline. This has several aspects. It is important to ensure that money is being spent with due propriety and according to best accounting practice. There needs to be procedures in place to ensure value for money is secured, including robust appraisal of programmes and projects and monitoring and evaluation of outputs and results. There should be greater transparency of what is being funded and how. There should be more accountability for the results to be delivered by funding. If projects and programmes are not delivering what they promised, there should be effective sanctions applied.

4.29 The new regulations put in place for the 2014-20 period are a step in the right direction. The Common Provisions Regulation offers the possibility to develop an integrated package of financial support to drive sustainable growth and jobs, in line with the EU's Europe 2020 Strategy. But it is a complex piece of legislation with, according to the European Court of Auditors, seven different layers of interaction between the different funds. It could have gone much further to ensure beneficiaries have a common and consistent experience no matter what fund supports their projects – that they can expect the same requirements, administrative burdens and audit requirements. That in turn would make the operation of the funds much more effective, enabling them to be used in a much more integrated manner and therefore increasing the potential gains from each euro spent.

4.30 One area where greater responsibility might be brought back to some Member States is audit. Many Member States, particularly the richer ones, have well-developed audit systems and internationally respected national audit offices. They need to, because the amount of money they oversee nationally is much in excess of that provided through the EU. If the Commission is satisfied by the professional capability and capacity of national audit systems, as well as their robustness, then there may be a case of giving the national systems a greater role in the oversight of how EU funds are managed, without compromising financial discipline or increasing risks to the EU budget.

4.31 The Commission could also concentrate on ex-ante audits of systems. For example, common audit standards could be laid down, control activities coordinated and audit results reciprocally accepted without reservations in order to avoid double controls and different interpretation. In practice, this could be assured as follows: the Commission accredits the audit authorities, their audit method and strategy and subsequently accepts their conclusions – also those regarding the descriptions of the national management and control systems – as long as the accreditation is not withdrawn.

4.32 The focus of audit could also change. Rather than focus on strict compliance with very technical regulatory requirements, there is scope for a more sophisticated risk-based approach and a focus on making sure the promised outcomes are on course for delivery.

4.33 TENs funding is managed directly by the European Commission. Given the cross-border nature of projects, it is difficult to conceive how a system of shared management might operate. The centralisation of TENs under the Connecting Europe Facility offers the potential for greater efficiency and administrative saving, which is in the interest of the UK as a net contributor to the EU budget, but it is too early to judge its success.

A Stronger Focus on Competitiveness

4.34 EU competence on industrial policy is limited. The EU can act only in support of actions at Member State level. Given the differing industrial structures of Member States and the fact the business environment results from an interaction of a range of factors that come together at a local level, this balance is right.

4.35 It is important to ensure the conditions necessary for the competitiveness of the Union's industry exist. The EU's actions to support this objective have been outlined above. The 'competitiveness proofing' of initiatives has the potential to offer some protection for UK interests. An option to develop this approach further would be a competitiveness test to be applied to all pieces of EU legislation, perhaps stated in a recital to each regulation or directive.

4.36 Industrial policy has moved up the EU's agenda in recent months, receiving attention at the European Council of March 2014. The Conclusions of this Council called for the systematic mainstreaming of industrial competitiveness concerns across all EU policy areas, including by considering competitiveness in all impact assessments, and deploying competitiveness proofing. The Council called on the Commission to present a roadmap for taking work forward, building on the Commission communication: *For a European Industrial Renaissance*.[8]

[8] European Commission, *For a European Industrial Renaissance* (2010).

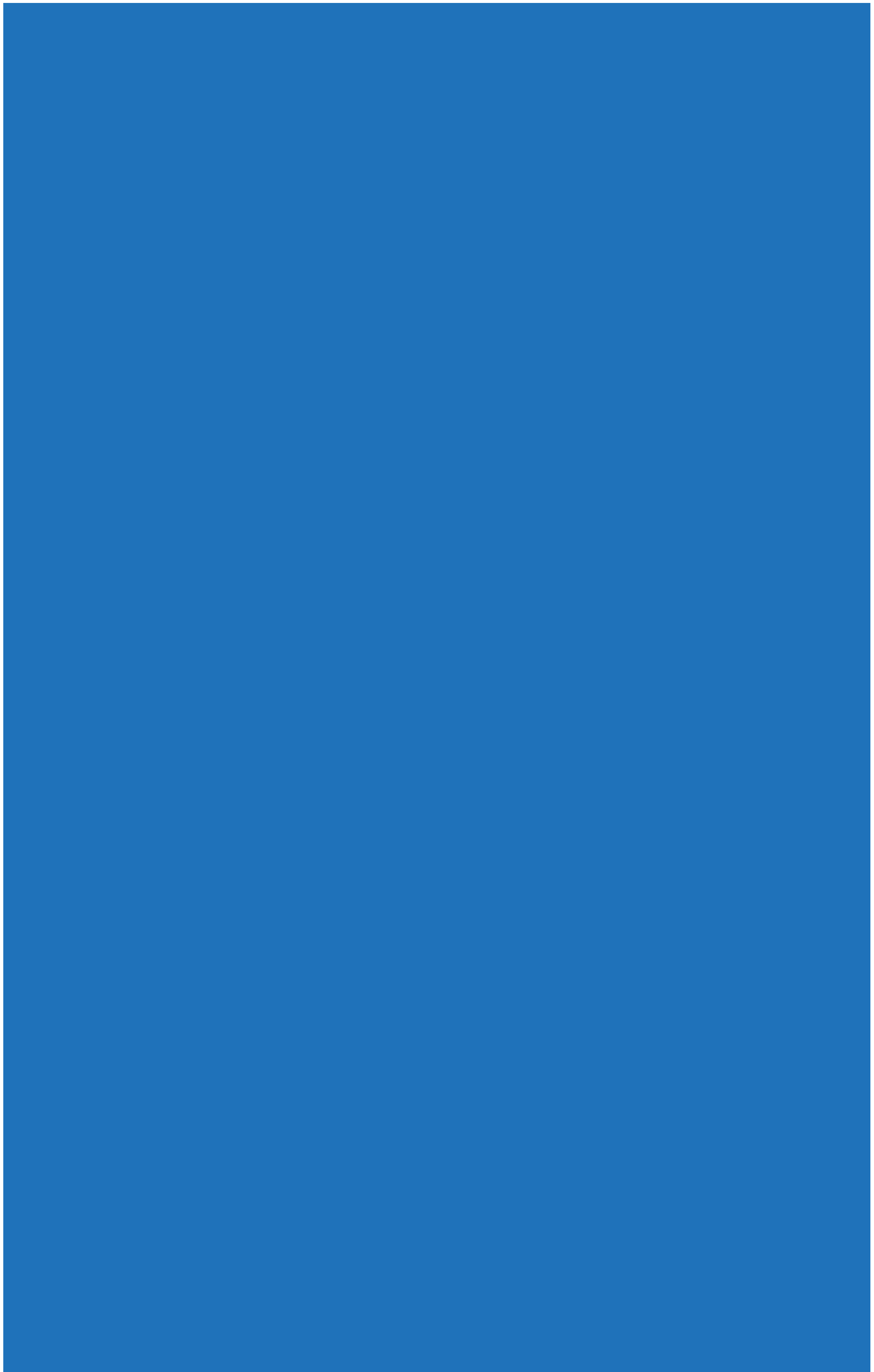
European Council March 2014

The conclusions of the European Council of March 2014 called for an increased focus by the EU on industrial competitiveness, arguing that a stable, simple and predictable business environment was required to support competitiveness including by encouraging the creation and growth of SMEs. The conclusions set out priority actions to support industrial competitiveness including:

- An ambitious 'REFIT' programme to promote better regulation;
- The inclusion of industrial competitiveness considerations in all impact assessments;
- Greater use of competitiveness proofing;
- Completion of the internal market in goods and services and exploitation of its potential;
- Timely adoption of the 'Connected Continent' package helping to build the internal market in the digital economy;
- Use of the EU Budget including the Structural and Investment Funds, COSME, Horizon 2020 and COSME as well as market based and other financial instruments to support competitiveness and SME access to finance;
- Promotion of smart specialisation at all levels;
- Promotion of free, fair and open trade in a spirit of reciprocity and mutual benefit;
- Promotion of European and international standards and regulations including combatting counterfeiting;
- Modernisation of state aid rules (entering into force in June 2014);
- Addressing of skills shortages (both through Commission and Member State action); and
- Strengthening of intellectual property and patenting including ratification of agreement on the Unified Patent Court and entry into force of the EU patent regime by the end of 2014.

4.37 The UK Government welcomed the European Council conclusions and the strong focus they place on industrial competiveness. The conclusions provide a sound framework for the incoming Commission to develop measures that will give businesses the confidence for investment and growth and not constrain them through over-regulation. These measures should be capable of working alongside the UK's own industrial strategy which it has developed in partnership with industry across a range of sectors and cross-cutting areas.

4.38 Whether structural funds are available all parts of the EU, or limited to the poorer regions or Member States, the UK Government considers that it is important they contribute to the EU goals of smart, sustainable and inclusive growth. This should continue to be the benchmark for programmes and projects.



Annex A: List of Evidence Received, Including Oral Evidence

Professor Catherine Barnard, Cambridge University

Jan Cadil, Department of Regional Studies, Prague

Co-operation & Working Together

Brian Binley MP, Davit Harutyuntan MP and David T. C. Davies MP

David Campbell Bannerman, MEP for East of England

East of England European Partnership

European Commission

European Movement

Evidence from Bulgarian Study covering cohesion policy & other areas

Fresh Start Project

Heathrow Airport Ltd

Industrial Communities Alliance

Institute for European Environmental Policy

Jasmine Jones, Economic Development Officer (Europe) Devon County Council

Leeds University

Liberal Democrat European Parliamentary Party

Local Government Association

London School of Economics

Jane Morrice, Vice President, EESC Engineering & Machinery Alliance

National Air Traffic Services

National Council for Voluntary Organisations

Open Europe

Rail Freight Group

Regional Studies Association

Research Councils UK

Road Haulage Association

Dr Lee Rotherham

Scottish Government

The Centre for Cross Border Studies

Three

Universities UK

Professor Sascha Becker, University of Warwick

Welsh Government

Welsh Local Government Association

West of Scotland European Forum

Two contributions were specifically commissioned: a literature review by Laura Polverari and John Bachtler of the Strathclyde University European Policies Research Centre, and a legal analysis by Catherine Barnard of Cambridge University.

Two respondents submitted evidence in a private capacity and did not wish to be publicly identified.

Any references to MEPs reflect their status at the time of the Call for Evidence period.

Annex B: Engagement Events

7 November	EU Budget/Cohesion/Agriculture	London
21 November	Cohesion and TENs	London
13 December	Cohesion	Held by NI Executive]
17 December	Cohesion – Welsh stakeholders	Telecon London/Wales
7 January	Cohesion/TENs/Industrial Pol	Brussels
21 January	Cohesion/TENs/Industrial Pol	London – Emerging Themes Workshop with Horizontal Interest Groups

Attendees

7 November 2013

Country Land & Business Association
National Farmers Union
RSPB
Open Europe
IEEP
Fresh Start
National Council for Voluntary Organisations (NCVO)
Strathclyde University European Policies Research Centre
Representation of the European Commission to the UK
Research Councils UK
Senior European Experts Group
Local Government Association
Convention of Scottish Local Authorities (COSLA)
Business For Britain
BIS
Defra
HMT
DCLG
Cabinet Office

21 November 2013
The Institute of Explosives Engineers
Department of Finance and Personnel Northern Ireland
Greater London Authority
European Commission Representation in the United Kingdom
Warwick University
Association of Colleges
National Council for Voluntary Organisations (NCVO)
GLA
Local Government Association
Open Europe
Federation of Small Business
EE
BIS
FCO
Virgin Media
Department for Transport
DECC
Rail Industry Association
London Gateway
NATS
Road Haulage Association
Network Rail

13 December 2013
Arts Council of Northern Ireland
Ashton Community Trust
Centre for Cross Border Studies
Disability Action NI
Early Years the Organisation for Young Children
NI Association for the Care and Resettlement of Offenders
NI Council for Voluntary Action
Rural Community Network NI
SAIL (Support Acceptance Information & Learning)
Sandy Row Community Forum
South Tyrone Empowerment Programme

17 December 2013
Welsh Government
Wales Social Partners Unit
Education Endowment Foundation
WCVA – voluntary sector in Wales
Welsh Local Government Association
BIS

7 January 2014
European Parliament
College of Europe, Bruges
East of England European Partnership

COSLA
SCOTLAND EUROPA
Southern England Local Partners
European Policy Centre
London's European Office
Highlands and Islands European Partnership
Merseyside Brussels Office
Institute for European Environmental Policy
UKRep
BIS
FCO
Welsh Local Government Association

21 January 2014

RSPB
Open Europe
FCO
Leeds University
Hanover Communications
BT
Birmingham University
British Venture Capital Association
European Policy Forum
European Commission Representation in the United Kingdom
City of London
The City UK
Business for New Europe
Cicero Consulting
The Law Society
European Foundation
Luther Law Firm
British Academy
Wilton Park
Tate & Lyle Sugar
Country Land and Business Association
Federation of Small Businesses
Road Haulage Association
National Council for Voluntary Organisations (NCVO)
Engineering Council
Institute of Civil Engineers
Young Foundation
Euclid
RWE
BP
Shell
EDF Energy
UK Chamber of Shipping
BAA
Consumer Focus

Annex C: Other Sources

The following list is not exhaustive but sets out some of the main sources drawn upon in preparing the analysis:

Bachtler, J., Mendez, C. and Wishlade, F., *EU Cohesion Policy and European Integration – the Dynamics of EU Budget and Regional Policy Reform* (2013).

Barca, F., *An Agenda for a Reformed Cohesion Policy – a Place Based Approach to Meeting European Union Challenges and Expectations* (2009).

Becker, S., *EU Structural Funds: Do They Generate More Growth* (2012).

Begg, I., *The Future of Cohesion Policy in Richer Regions* (2009).

Department of Trade and Industry, *A Modern Regional Policy for the United Kingdom* (2002).

European Commission, *European Social Fund – 50 Years Investing in People (*2007). Brussels.

European Commission: *Investing in Europe's Future – Fifth Report on Economic, Social and Territorial Cohesion* (2010).

European Court of Auditors, *Are EU Cohesion Policy Funds Well Spent on Roads?* (2013).

HM Treasury, Department of Trade & Industry and Office of the Deputy Prime Minister, *A Modern Regional Policy for the United Kingdom* (2003)

House of Commons Communities and Local Government Committee, *European Regional Development Fund, HC81* (2012).

House of Lords European Union Committee, *The Future of EU Regional Policy, HL Paper 141* (2008).

House of Lords European Union Committee, *Making it Work: the European Social Fund, HL Paper 92-I* (2010).

House of Lords European Union Committee, *the Multiannual Financial Framework 2014-20* (2012).

Manzella, G. P. and Mendez, C., *The Turning Points of EU Cohesion Policy, Working Report for the Barca Report* (2009).

Mendez, C. and Bachtler, J., 'Administrative Reform and Unintended Consequences: An Assessment of the EU Cohesion Policy "Audit Explosion"' *Journal Of European Public Policy, 18:5, 746-765* (2011).

Monfort, P., *Regional Convergence, Growth and Interpersonal Inequalities Across EU*, Report Working Paper *for DG Regio, European Commission* (2009).

Open Europe, *Off Target: The Case for Bringing Regional Policy Back Home.* London (2012).

Pelkmans, J. and Casey, J.P., *Can Europe Deliver Growth? The Sapir Report and Beyond* (2004).

Regeneris, *ERDF Analytical programme: Workstream 1* (draft report to DCLG, February 2013).

RGL Forensics, Faber Maunsell/Aecom and Frontier Economics, *Ex Post Evaluation of Cohesion Policy Programmes 2000-6. Work Package 10: Efficiency: Unit Costs of Major Projects, Final Report to the European Commission* (2009).

Santos I., *EU Cohesion Policy: Some Fundamental Questions* (2009).

Varga, J and in 't Veld, J, A Model-Based Analysis of the Impact of Cohesion Policy Expenditure 2000-06: Simulations with the QUEST III Endogenous R&D Model, *European Economy Economic Papers* 387 (2009).

Ward, T and Wolleb, E, Ex Post Evaluation of Cohesion Policy Programmes 2000-2006 financed by the European Regional Development Fund in Objective 1 and 2 Regions, synthesis report to the European Commission (2010)

Table Seven: Table of Relevant Legal Bases

Subject matter	Treaty of Rome 1957	Single European Act 1986	Treaty of Maastricht 1992	Amsterdam renumbering 1997 and substantive changes	Lisbon renumbering 2009	Examples of legislation adopted (where appropriate)
Agriculture						
General policy	Art. 38 EEC			Art. 32 EC	Art. 38 TFEU The Treaty has been amended to make clear that it applies to fisheries as well as agriculture	
Provision for Council to grant aid	Art. 42 EEC (powers as for Art. 43 EEC)			Art. 36 EC	Art. 42 TFEU	
Powers to develop CAP	Art. 43 EEC Council acts by unanimity during the first two stages and after consulting EP, QMV thereafter			Art. 37 EC Council acts only by Qualified Majority Voting (QMV).	Art. 43 TFEU EP and Council now act by the ordinary legislative procedure	The original EAGF Regulation 25/1962
European Social Fund						
Establishment of fund and uses	Art. 123 EEC		 Amended in the light of extensive revision of the ESF Treaty provisions	Art. 146 EC	Art. 162 TFEU	
Responsibility for the admin. of the fund	Art. 124 EEC			Art. 147 EC	Art. 163 TFEU	
Uses of the fund	Art. 125 EEC		 Became the legal basis for implementing decisions under the ESF: cooperation procedure under Art. 189c	Art. 148 EC Cooperation procedure replaced by co-decision procedure	Art. 164 TFEU Implementing regulations now subject to ordinary legislative procedure.	

Table Seven: Table of Relevant Legal Bases *(continued)*

Subject matter	Treaty of Rome 1957	Single European Act 1986	Treaty of Maastricht 1992	Amsterdam renumbering 1997 and substantive changes	Lisbon renumbering 2009	Examples of legislation adopted (where appropriate)
Powers for the Council on the use of the fund	Art. 126 EEC -Council acting by QMV after consulting EP can rule that all or some of the assistance granted under Art. 125 shall no longer be granted -Council acting by unanimity can determine what new tasks may be entrusted to the fund		Deleted			3
Powers concerning implementing provisions	Art. 127 EEC -Council acting by QMV after consulting the EP		Deleted			
EIB						
EIB establishment	Art. 129 EEC		Art. 198d	Art. 266 EC	Art. 308 TFEU Council's powers to amend the statute of the Bank set out in text of Art. 308 (acting unanimously in accordance with the special legislative procedure[1]).	
EIB powers	Art. 130 EEC		Art. 198e	Art. 267 EC	Art. 309 TFEU	
TENs						
Aims			Art. 129b	Art. 154 EC	Art. 170 TFEU	
Tasks			Art. 129c	Art. 155 EC minor amendments and updating of text	Art. 171 TFEU	

Table Seven: Table of Relevant Legal Bases *(continued)*

Subject matter	Treaty of Rome 1957	Single European Act 1986	Treaty of Maastricht 1992	Amsterdam renumbering 1997 and substantive changes	Lisbon renumbering 2009	Examples of legislation adopted (where appropriate)
Powers			Art. 129d Council/EP to adopt guidelines under Art. 189b (co-decision) procedure; other measures to be adopted by Art. 189c cooperation procedure	Art. 156 EC cooperation procedure replaced by co-decision	Art. 172 TFEU Guidelines and other measures now adopted under the ordinary legislative procedure	
Industry						
Aims and powers			Art. 130 Specific measures taken in support of MS action adopted by Council by unanimity after consulting EP	Art. 157 EC	Art. 173 TFEU The powers of the Commission extended to include a wider range of OMC methods. The EP has to be kept fully informed. Specific measures now to be adopted by the ordinary legislative procedure.[2] However, harmonisation is now expressly excluded.	
Economic and social cohesion					Economic, social and territorial cohesion	
Policy		Art. 130a EEC		Art. 158 EC minor amendment to include addition of 'islands' to 'least favoured regions or islands'	Art. 174 TFEU Greater emphasis placed on assisting regions.	
Role of MS and EU		Art. 130b EEC	Increased powers to act outside the frame of the structural funds; Council acts unanimously, consultation with EP	Art. 159 EC	Art. 175 TFEU Specific actions taken outside the funds by ordinary legislative procedure[3]	EU Solidarity Fund Reg 2012/2002 part adopted under this legal basis; EGAF Reg 1309/2012 adopted under this basis.

Table Seven: Table of Relevant Legal Bases *(continued)*

Subject matter	Treaty of Rome 1957	Single European Act 1986	Treaty of Maastricht 1992	Amsterdam renumbering 1997 and substantive changes	Lisbon renumbering 2009	Examples of legislation adopted (where appropriate)
Role of ERDF		Art. 130c EEC		Art. 160 EC	Art. 176 TFEU	
Power to legislate for common provisions in respect of the structural funds		Art. 130d EEC Council acts unanimously, but consults EP.	Council acts unanimously, assent from EP; same procedure applies for setting up new Cohesion Fund	Art. 161 EC	Art. 177 TFEU Ordinary legislative procedure applies in respect of structural funds and the cohesion fund[4]	First Coordination Reg.2052/88
Implementing decisions (now regulations after Lisbon) concerning ERDF		Art. 130e EEC Council acts by QMV, cooperation with EP	Article 189c cooperation procedure	Art. 162 EC Co-decision procedure applies	Art. 178 TFEU Ordinary legislative procedure applies	Regulation 4254/88
Committee of the Regions						
Establishment and number of members			Art. 198a	Art. 263 EC some amendments made by Treaties of Amsterdam and Nice	Art. 305 TFEU	
Internal procedure			Art. 198b	Art. 264 EC Some amendments	Art. 306 TFEU	
Involvement in decision making			Art. 198c	Art. 265 EC New paragraph added giving increased consultation	Art. 307 TFEU	
Other relevant legal bases						
Measures necessary to attain one of the objectives set out in the Treaty	Art. 235 EEC			Art. 308 EC	Art. 352 TFEU Special procedure (Council acting unanimously, EP gives consent); subsidiarity procedure referred to; limits on harmonisation	Used to adopt original ERDF Reg 724/75; ISPA Reg. 1267/1999 and other pre-accession instruments; Part of the legal basis for the European Solidarity Fund Reg. 2012/2002.

Table Seven: Table of Relevant Legal Bases *(continued)*

Subject matter	Treaty of Rome 1957	Single European Act 1986	Treaty of Maastricht 1992	Amsterdam renumbering 1997 and substantive changes	Lisbon renumbering 2009	Examples of legislation adopted (where appropriate)
Territorial application of the Treaties	Art. 227 EEC		Amendments introduced to give Council, acting by unanimity, to extend other Treaty provisions to French overseas territories. It adds account must be taken of the economic and social development of these areas.	Art.299 EC significant amendments to para 2 to give Council power, acting by QMV to adopt specific measures aimed, in particular, at laying down the conditions of application of the present Treaty to those regions. This included structural funds.	Arts. 349 TFEU Specific measures to be adopted by special legislative procedure	

Source: Catherine Barnard, *submission of evidence*.

Footnotes

[1] The Treaty of Nice had already provided for this.

[2] The co-decision procedure had already been specified by the Treaty of Nice.

[3] The co-decision procedure had already been prescribed by the Treaty of Nice.

[4] Treaty of Nice had provided 'from 1 January 2007, the Council shall act by a qualified majority on a proposal from the Commission after obtaining the assent of the European Parliament and after consulting the Economic and Social Committee and the Committee of the Regions if, by that date, the multiannual financial perspective applicable from 1 January 2007 and the Inter-institutional Agreement relating thereto have been adopted. If such is not the case, the procedure laid down by this paragraph shall apply from the date of their adoption.'