ANNEX 4: STATE AID SELF-ASSESSMENT DECLARATION

***This questionnaire has been developed to help you to make an initial assessment of whether State aid is involved in your project. An additional assessment shall be carried out during the quality assessment of the Application.***

***When making the State Aid self-assessment, applicants should consider each project activity.***

***Please note:***

***All parts of this Declaration have to be filled in and submitted with the Application.***

|  |  |  |
| --- | --- | --- |
|  | **Key questions** | **Answers** |
| 1. | **Is the support provided granted by the State or through State resources?**  ***The definition of state resources is aid that is granted by the state; this includes resources received by any public and private bodies to which public funds are distributed by state. State resources include Funds which the state may direct, such as European funds like ENI, ERDF, IPA, etc.*** | **Yes X**  **No □**  ***This criterion is automatically fulfilled for Black Sea Basin Programme 2014-2020*** |
| 2. | **Is the beneficiary an 'undertaking'?**  *Undertakings: An undertaking is defined as any entity, regardless of its legal status, which is engaged in economic activity and where there is a market in comparable goods or services. It does not have to be profit-making as long as the activity carried out is one which, in principle, has commercial competitors. It can include voluntary and non-profit-making public or public authorities when they are engaged in economic activity. Institutions such as local authorities, public universities, research institutions, other public sector bodies and NGOs may therefore be deemed to be undertakings when they are engaged in economic activity. Support in favour of non-undertakings (i.e. entities which are not involved in economic activity) is not state aid.*  *Economic activity: Activity which consists of offering goods or services on a given market and which could, at least in principle, be carried out by private actors in order to make profits (e.g. training and capacity building, rental of premises, etc.).*  *Article 107 TFEU does not apply where the State acts “by exercising public power” or where public entities act “in their capacity as public authorities”, namely where the activity in question is a task that forms part of the essential functions of the State or is connected with those functions by its nature, its aim and the rules to which it is subject. These are considered as non-economic activities and refer to a) the army or the police; (b) air navigation safety and control; (c) maritime traffic control and safety; (d) anti-pollution surveillance; (e) the organisation, financing and enforcement of prison sentences; and (f) the collection of data to be used for public purposes on the basis of a statutory obligation imposed on the undertakings concerned to disclose such data.*  *Also, Commission considers that certain activities of universities and research organisations fall outside the ambit of the State aid rules. This concerns their primary activities, namely: (a) education for more and better skilled human resources; (b) the conduct of independent research and development for more knowledge and better understanding, including collaborative research and development; and (c) the dissemination of research results.*  *For this purpose, according to footnote 25 of the Community Framework for State aid for research and development and innovation (2006/C323/01), “internal nature“ means a situation in which the management of the knowledge of the research organisation is conducted either by a department or a subsidiary of the research organisation or jointly with other research organisations. Contracting the provision of specific services to third parties by way of open tenders does not jeopardise the internal nature of such activities.* | **Yes □**  **No □**  **In case of YES, please explain which activities.** |
| 3. | **Do any activities foreseen in the proposal confer an advantage which an undertaking would not have obtained under normal market conditions?**  ***Advantage****: An advantage can take the form of direct payment of state resources in the form of grants as well as indirect benefits that affect the public budget such as provision of services for free or at below-market rates. The advantage can be obtained directly by the project partners or granted by them to third partners (indirect aid), such as entrepreneurs, SMEs, etc.*  *Also, the rehabilitation of any type of infrastructure that is meant to be exploited economically is an economic activity in itself, which means that State aid rules apply to the way in which it is funded. So the state aid rules apply to any infrastructure rehabilitation form public funds and operated for an economic activity.*  *The state aid elements may be eliminated if the operation of the infrastructure/equipment is granted through an open, transparent and unconditional tender and the operator pays to the public authority, for the use of the infrastructure, a fee/royalty set up at a value at least equal with the amortization of the infrastructure (namely proportionally with the value of the infrastructure and its use time).* | **Yes**  **□**  **No □**  **If YES, please provide an explanation.** |
| 4 | **Is the aid selectively favouring certain undertakings or the production of certain goods**  ***Selectivity****: Support that targets particular sectors, regions or types of entities e.g. support to handicraft sectors and not others is selective.* | **Yes**  **□**  **No □**  **If YES, please provide an explanation.** |
| 5. | **Do any activities foreseen in the proposal distort or have the potential to distort competition and trade within the European Union?**  *If the support has the potential to improve the competitive position of the recipient compared to other undertakings with which it competes, then this criterion is likely to be met. The potential to distort competition does not need to be substantial or significant, and this criterion can apply to relatively small amounts of financial support and entities (undertakings) with little market share.*  *A distortion of competition is thus assumed as soon as the State grants a financial advantage to an undertaking in a liberalized sector where there is, or could be, competition.*  *However, a possible distortion of competition is excluded if (i) a given service is subject to a legal monopoly (established in compliance with EU law) and is not in competition with similar (liberalised) services and (ii) the service provider cannot be active (due to regulatory or statutory constraints) in any other liberalised (geographical or product) market.*  *Public support can be considered capable to affect intra-EU trade even if the recipient is not directly involved in cross-border trade. For instance, the grant may make it more difficult for operators in other Member States to enter the market by maintaining or increasing local supply.*  *Even a public grant given to an undertaking which provides only local or regional services and does not provide any services outside its State of origin may nonetheless have an effect on trade between Member States where undertakings from other Member States might provide such services (also through the right of establishment) and this possibility is not merely hypothetical. For example, where a Member State gives a public grant to an undertaking for supplying transport services, the supply of these services may, by virtue of the grant, be maintained or increased with the result that undertakings established in other Member States have less of a chance of providing their transport services in the market in that Member State. Such an effect may however be less likely where the scope of the economic activity is very small, as may be evidenced by a very low turnover. In principle, trade can also be affected even if the recipient exports all or most of its production outside the Union, but in such situations the effect is less immediate and cannot be assumed from the mere fact that the market is open to competition.*  *However, the Commission has in several cases considered that, due to their specific circumstances, certain activities had a purely local impact and consequently did not affect trade between Member States. Common features of such decisions are that: (a) the aid does not lead to demand or investments being attracted to the region concerned and does not create obstacles to the establishment of undertakings from other Member States; (b) the goods or services produced by the beneficiary are purely local or have a geographically limited attraction zone; (c) there is at most a marginal effect on the markets and on consumers in neighbouring Member States.*  *IMPORTANT NOTE!!! In addition, in case of partners established in CBC Partner Countries, this criterion (5) shall also consider, where existing, the provisions of any bilateral agreements between the respective countries and the EU (e.g. the aid should not distort or threaten to distort competition and trade between the European Union and a specific CBC Partner Country). These agreements may include exceptions to state aid.* | **Yes**  **□**  **No □**  **If YES, please provide an explanation.** |

|  |
| --- |
| As a result of the self-assessment, we conclude that for the project <name of the project> …………… no activities that are subject to State aid rules were identified.  **Please note:**  **The state aid will be assessed by the Selection Committee during the evaluation and selection process as described under Section 4.**  **In case state aid (direct or indirect) is involved, the potential state aid relevant activity (ies) may be adjusted following the recommendations of the independent assessors. However, any adjustment should not affect the nature of the proposal or the score initially awarded for the quality assessment.**  **In case the option above is not applicable, the respective project shall be rejected.** |

* **Place and date:**
* **Name of signing person:**
* **Position of signing person:**
* **Signature of Lead Partner:**
* **Stamp of Lead Partner:**