Study on specific tax regimes for outermost regions belonging to France and Spain

Final Report

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General Structure

Abstract

This Study provides a comprehensive evaluation of two special tax regimes applied in outermost regions belonging to Spain and France, namely the *Arbitrio sobre las Importaciones y Entregas de Mercancías en las Islas Canarias* and the *Octroi de mer*. These regimes aim at supporting the competitiveness of local production activities through differentiated tax rate mechanisms, with a view to mitigating the effects of remoteness, small size, isolation, and other structural handicaps affecting outermost regions.

The EU Council Decisions authorising the implementation of special regimes are set to expire at the end of 2020, and this Study has the twofold purpose of (1) evaluating how these regimes performed against their stated objectives, and (2) analysing prospective policy scenarios.

The results of the Study are based on quantitative data analysis, stakeholder interviews, business surveys, and desk review of available documentary sources. Among other things, the Study investigates the coherence of special tax regimes with other EU policies and their effectiveness in supporting local production activities, including their possible side effects on competition, external trade, and price levels. The Study also evaluates the suitability of implementation and monitoring arrangements currently in place, and assesses various policy improvement scenarios for the way forward.

Glossary of Terms, Abbreviations and Acronyms

AIEM	*Arbitrio sobre las Importaciones y Entregas de Mercancías*. Special tax imposed on the delivery of certain products in the Canary Islands, for which the Council Decision 377/2014 authorises tax exemptions for local production.
ACP	African, Caribbean and Pacific Group of States, signatories of the 'ACP-EC Partnership Agreement' with the European Union.
CANA	*Codes additionnels nationaux.* Additional national customs codes added to the CN classification.
CN	Combined Nomenclature. EU-specific subdivision of the World Customs Organisation nomenclature for the classification of traded goods.
CARIFORUM	Forum of the Caribbean Group of African, Caribbean and Pacific (ACP) States. It is the body in charge of promoting and coordinating policy dialogue, cooperation and regional integration in the Caribbean region. It includes 16 members: Antigua and Barbuda, The Bahamas, Barbados, Belize, Cuba, Dominica, Dominican Republic, Grenada, Guyana, Haiti, Jamaica, Suriname, Saint Lucia, St. Christopher and Nevis, St. Vincent and the Grenadines, Trinidad and Tobago.
DG REGIO	Directorate General for Regional and Urban Policy
DG TAXUD	Directorate General for Taxation and Customs Union
DG TRADE	Directorate General for Trade
EAFRD	European Agricultural Fund for Rural Development
EMFF	European Maritime Fisheries Fund
EQ	Evaluation Question(s)
EPA	Economic Partnership Agreement. The EPAs stipulated by the EU and ACP countries are free-trade agreements aimed at fostering the integration of ACP partners into the world economy and ultimately contribute, through trade and investment, to sustainable development and poverty reduction.
ERDF	European Regional Development Fund
ESA	Eastern and Southern Africa. Six countries of the ESA region (Comoros, Madagascar, Mauritius, the Seychelles, Zambia and Zimbabwe) concluded an interim Economic Partnership Agreement with the EU at the end of 2007
ESF	European Social Fund
EU	European Union
GBER	General Block Exemption Regulation. Commission Regulation (EU) N°651/2014 of 17 June 2014 declaring certain categories of aid compatible with the internal market if they fulfil certain conditions, thus exempting them from the requirement of prior notification and Commission approval.
GDP	Gross Domestic Product
IGIC	*Impuesto General Indirecto Canario*. Indirect tax applicable to the delivery of goods and services in the Canary Islands, with mechanisms similar to the value-added tax (VAT)
ISTAC	*Instituto Canario de Estadística* (Canarian statistical institute)
MS	Member State(s)
MAU	*Marché Unique Antillais*. Since 1995, Guadeloupe and Martinique form one single fiscal area (French Antilles single market), for the purposes of the OdM but also of VAT and excise duties.
OdM	Octroi de Mer. Also known as 'dock dues', it is a special tax imposed on the delivery of certain products in French outermost regions, for which the Council Decision 940/2014 authorises tax exemptions or reductions for local production.
OR	Outermost Region. Territories belonging to certain EU Member States, which are located in areas of the globe that are remote from continental Europe.
POSEI	Programme of Options Specifically Relating to Remoteness and Insularity. EU programme supporting the EU outermost regions which face specific challenges due to remoteness, insularity, small size, difficult topography or climate.
REF	*Régimen Económico Fiscal.* A set of specific policies and measures in place in the Canary Islands to promote the social and economic development of the region and to cope with its specific structural constraints and challenges
SAA	Specific additional allocation. Within the ERDF it is an additional allocation aimed at addressing the specific constraints of outermost regions.
SME	Small and medium-size enterprise

SSA	Specific supply arrangements. Within the POSEI, it is a scheme guaranteeing the supply to the outermost regions of essential agricultural products for human consumption, mitigating the costs incurred due to extreme remoteness.
TFEU	Treaty on the Functioning of the European Union
WTO	World Trade Organization

Note on Terminology: in this Report the terms 'import' and 'export' also include the transactions between outermost regions and the mainland as well as other EU Member States, in accordance with the terminology used in the special regimes' legal framework. Unless otherwise indicated all import and export figures in this Report refer to merchandise trade.

ISO country codes used in the Study: GLP= Guadeloupe, GUF= French Guiana, MTQ= Martinique, MYT= Mayotte, REU= Réunion

PART 1

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Arbitrio sobre las Importaciones y Entregas de Mercancías (AIEM)

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EXECUTIVE SUMMARY (EN)

1. Overview of the Study

The subject of the Study is the tax advantages granted to some enterprises engaged in production activities and based in certain EU Outermost Regions (ORs), under the following special tax regimes:

- The '***Arbitrio sobre las Importaciones y Entregas de Mercancías en las Islas Canarias***' **(AIEM),** applicable in the Canary Islands; and
- The '***Octroi de mer***' **(OdM)** or 'dock dues', applicable in five French outermost regions, i.e.: Réunion, Mayotte, French Guiana, Guadeloupe, and Martinique.

The purpose of the Study is to provide a comprehensive and evidence-based evaluation of the EU policy enabling these special regimes, laid down in Council Decision 377/2014 for AIEM and in Council Decision 940/2014 (amended by Council Decision 644/2019) for OdM, including its overall coherence with other relevant EU policies. The Decisions currently in force are set to expire at the end of 2020, so the Study includes both a ***retrospective component*** – aimed at investigating performance and results achieved by special regimes - and a ***prospective component*** consisting in the analysis of policy scenarios available for the way forward.

The two regimes have similar objectives and implementation mechanisms but separate legal and administrative frameworks, embedded in their respective national legislation. For this reason, the Study is divided in two parts of which Part 1 deals with the AIEM regime and Part 2 with the *Octroi de mer* regime.

The Study findings are based on evidence gathered from different sources and processed through appropriate qualitative and quantitative ***methodologies***. In particular:

- ***desk research*** and review of relevant documentary sources, involving EU and Member States' policy documents and reports on both the special tax regimes and other relevant EU policies (e.g. programmes, State aid measures etc.) in support of outermost regions, as well as a variety of academic and 'grey' literature;
- comprehensive ***stakeholder consultation***, including interviews (120) and on-site visits in four regions (Canary Islands, Réunion, Guadeloupe, and Martinique), and a survey of businesses (378) covering all of the six regions concerned;
- ***quantitative data analysis***, based on existing raw datasets and statistics collected from competent national authorities.

2. Overview of the AIEM regime

The *Arbitrio sobre las Importaciones y Entregas de Mercancías* (AIEM) is a special tax regime adopted in 2002 with the aim of supporting the development and diversification of production activities in the Canary Islands. The special regime consists of an *ad valorem* tax on the delivery of certain goods in the region, but while products of external origin are subject to the full rate, ***tax exemptions are extended to locally-made products***. The purpose of the special regime is to support local production activities' competitiveness and mitigate the effects of remoteness, small size, isolation, and other structural constraints affecting the region.

Overall, the special regime is applied to ***157 product categories*** (designated by CN code – from 4 to 8 digits). Supported products belong primarily to manufacturing industries – food and beverage, tobacco, chemicals, paper and others – and to a lesser extent to agriculture and fishery sectors. Altogether, the AIEM target sectors are worth EUR 3.33 billion and the aggregate ***value of supported productions*** amounts, conservatively, to EUR 1.92 billion. The tax differentials applied range from 5% to 15%, with an average difference of approximately 7%. In 2017, the AIEM ***tax receipts*** amounted to EUR 148 million, while the official estimates on the ***tax not collected*** due to exemptions (the 'foregone' tax revenue) are of EUR 92 million.

3. Summary of the evaluation findings

The AIEM regime is one of several special legal measures for the Canary Islands as a recognised outermost region and it is aligned with the EU's overall approach towards the outermost regions, which is based on the objective of taking into account their structural social and economic constraints. In particular, it contributes to fostering growth and job creation in the region through diversification of the local economy and enabling high value-added activities, such as industrial manufacturing. The regime constitutes an evident derogation from the EU policy on internal market and competition, whose legal basis is firmly anchored in ***Article 349 TFEU***, which explicitly recognises the need to adopt special measures in support of outermost regions, to address their structural constraints and contribute to their development. The AIEM regime is subject to double-track authorisation at the EU level: (a) in EU fiscal policy, through periodic ***Council Decisions*** which authorise the application of differential treatment to a set of explicitly identified products; and (b) as a ***regional State aid*** measure. The latter ensures the regime's compliance with EU competition rules and its proportionality.

The EU approach towards the outermost regions in general, and the Canary Islands specifically, encompasses a number of other measures financed by the European structural and investment funds (ESIF) and through other specific State aid measures. Some of these measures address the same sectors/beneficiaries of the AIEM and have the same purpose of mitigating the effects of structural constraints on the operating costs of Canarian businesses. In this sense, there are evident ***synergies between the AIEM and these other schemes*** and cumulative effects are frequent. At the enterprise level, there are administrative procedures in place to avoid the risk of aid cumulation leading to an excess of compensation, while at the macro-level it has been verified that the sum of the AIEM and of the other compensation schemes does not exceed the estimated additional costs caused by structural constraints (some 54% of the estimated additional costs are compensated overall). Still, at product level, there is insufficient information to verify the cumulative effects, so occasional cases of overcompensation cannot be ruled out *a priori*.

The scope of the AIEM regime is fairly comprehensive, thus addressing satisfactorily the ***needs of the economic operators*** concerned. The system is, however, poorly responsive to the evolving market conditions because the list of supported products is laid down in the Council Decision. This means that any revision – e.g., to include a newly emerging production line or to modify the extent of support – would require a burdensome legal amendment process or its postponement to the next renewal of the policy. The other issue – frequently lamented by trade representatives – relates to the identification of supported products through reference to CN categories which sometimes also include items which are not locally produced or are produced in limited quantities. This calls into question the ***criteria adopted by competent authorities to select the products*** which are eligible for the support. At present, the main criterion is reportedly the 'market share' of supported products, but no further specification is available on how this criterion is applied in practice and what is the minimum or maximum market share threshold relevant for the AIEM support. Analysis of AIEM product portfolio showed that some 15% of supported products have a market share which is lower than 5%, while some 11% of them are in a clearly dominant position (95% or more of market share). The strategic value of certain productions may certainly justify waiving the 'market share' criterion, but the absence of explicit, transparent rules has seemingly fuelled distrust among certain economic operators regarding how the special regime is implemented.

The inclusion of some particular products in the AIEM list is controversial at times. ***Tobacco products*** are a case in point, due to the existence of EU tobacco control policies aimed at discouraging consumption. From 2002 to 2015, the AIEM differential for tobacco products was 25% (the highest permitted rate), then it decreased to 15% (Ley 9/2015). The Council Decision presents this as an 'exceptional case', justified by the importance of the tobacco industry for the Canarian economy. While the AIEM is not the cause of low prices for tobacco products in the region – which, instead, are due to the low excise duty rates applied – apparently no consideration was given to being consistent with other EU measures which forbid supporting tobacco, such as the ERDF policy.

The AIEM special regime supports local production activities by ***reducing the competitiveness gap between local products and imports*** from mainland Spain or the EU, which is caused by additional production costs. Quantitative assessments of such additional costs are carried out periodically but, despite the efforts made, the exercise remains subject to intrinsic methodological limitations, so estimates have to be considered with due caution. The latest assessment was completed in 2019 and estimated total ***additional costs*** of the private sector in the Canary Islands to be EUR 5.23 billion, of which EUR 1.04 billion was attributable to AIEM supported sectors (manufacturing and the primary sector). The major source of additional costs for AIEM industries are the freight costs of raw materials and production inputs, which amount to 14.3% of local producers' turnover. In second place, additional costs are caused by idle production capacity and related diseconomies of scale, which account for approximately 9% of total turnover. Additional costs vary across sectors and branches, ranging from 36% for the food industry to 7.3% for the mining sector. ***More granular assessments*** of AIEM supported products by CN code have not been conducted so far.

The AIEM regime compensates for only a portion of estimated additional cost. On average, tax differentials address about one-quarter of additional costs, but in monetary terms the total compensation - measured in relation to the total tax charged on imports – accounts for 14% of the overall additional costs. This limited incidence combined with fairly irregular compensation patterns across products makes the impact on the competitiveness gap rather unclear. According to the majority of beneficiaries, the AIEM support has been essential to ***sustaining the competitiveness of local products***. However, while the value-added of AIEM-supported industries has remained substantially stable over time, the value of imports has been steadily growing, so in relative terms the market share of AIEM-supported industries decreased by approximately one percentage point over the past decade. In this sense, the AIEM's main contribution consisted of mitigating such decline rather than fostering development and growth.

The results of the quantitative data analysis suggest that, in the absence of AIEM support, performance of ***local production activities*** would have been significantly worse. About one-third of the value of AIEM-supported products (approximately EUR 570 million) was theoretically enabled by the tax differential mechanism, with positive repercussions also on ***employment*** - which registered an increase of nearly 2,000 units in the AIEM sectors since 2014 – and on the ***number of active enterprises***, which has grown by approximately 300 units in the same period. On the other hand, there is no evidence of benefits for the total value of investments and for diversification of production. Finally, the AIEM shows an overall positive balance between costs and benefits, with the estimated value of local production enabled by the special regime being approximately three times greater than its 'cost' in terms of foregone tax revenue.

At the macro-economic level, the effects of the AIEM regime are too small to be noticeable. In the past five years, the ***manufacturing industry production index*** has been growing at a much faster pace than the other sectors' indices, but manufacturing continues to be a minor component of Canarian GDP. The ***trade balance*** continues to be largely negative, with potential AIEM effects on import substitution accounting for less than 1% of the total imbalance (EUR 12.5 billion). Finally, the ***consumer price index*** trend in the Canary Islands does not show any relevant disparity with the overall trend in Spain, with the effects of the AIEM tax accounting for an estimated 1.0% of Canarian household expenditure.

Regarding ***administrative and compliance costs*** related to the AIEM regime, the implementation arrangements are straightforward and do not impose particularly complex or burdensome procedures on competent authorities or economic operators. The most critical implementation issue regards product classification, which is sometimes uncertain and a potential cause of dispute and disparity in treatment. At a broader level, some current policy arrangements appear to be overly complex or rigid, possibly causing ***unnecessary burdens*** for EU and national authorities. One such aspect is the impossibility of revising the list and the exemptions extended to specific products without a legal amendment of the Council Decision. In second place, the current ***monitoring*** requirements involve significant effort from competent authorities, and the lack of a proper, harmonised monitoring framework and the less-than optimal timing of the monitoring reports affect their informative value and utility for the policy process.

4. Policy scenarios for the way forward

While the results of the evaluation confirm the overall utility and benefits of the AIEM regime for the target group, some inefficiencies and dysfunctions have been detected which might limit the measure's effectiveness and/or cause unnecessary burden. With expiration of the terms of the current Council Decision set for the end of 2020, three main policy scenarios emerge for the way forward:

- the ***'no change' scenario,*** i.e., to renew the current special regime in the next programming period (2021-27) without any significant modification,
- prolongation of the current system with ***revisions of the current arrangements*** aimed at fixing the identified policy problems,
- ***discontinuation*** of the special regime.

Stakeholders' views regarding possible renewal of the AIEM are highly polarised. As expected, enterprises engaged in production activities, which typically benefit from tax differentials, are generally in favour of the policy being renewed (95%), although for the majority of them (75%) some change of the current mechanisms is necessary. Conversely, the majority (70%) of businesses in other sectors would be in favour of discontinuing the current policy.

The Study has identified a set of possible modifications to the current policy and has examined their expected impact in various areas. The policy options considered by the Study regard three main aspects, namely:

1. Criteria for the ***identification of eligible products and updating of product lists***. The proposed revision consists of two distinct, although connected provisions. The first is the identification in the Council Decision of only the 'broad' categories of supported products (i.e., using CN4 level codes), leaving to competent national authorities the responsibility of selecting, within these categories, the specific products (CN8 or lower levels) which would actually be supported. This measure would allow more flexible management of the regime by competent authorities, removing the needs for EU-level legal amendments for ordinary revisions and updates of product lists. In second place, adoption of clearer, verifiable criteria for the selection of products set to benefit from AIEM support is proposed. In line with current practice, such criteria should take into consideration the product's market share *inter alia*, and in the case of products in residual or largely dominant position

on the local market, proper justification for support should be provided in a transparent way. Overall, this provision would prevent greater flexibility in list management leading to unwarranted extension of the policy's scope, and would respond to the demand for greater clarity and objectivity expressed by AIEM opponents. The revised arrangements should ensure that productions of particular and strategic importance continue to be supported, and that coherence with other EU policies and programmes be enhanced.

2. Revision of mechanisms for ***establishing the maximum permitted tax differential***. This proposed option is made up of three specific measures. The first intends to simplify arrangements regarding the establishment of tax differentials, replacing the current four distinct product lists with only one list with a single maximum permitted threshold. The benefits of this measure would include more flexible management of the differential rates applied by the competent authorities, allowing for revisions without a formal amendment of the Council Decision. With its aim being to avoid enabling an unwarranted increase in support, the second proposed measure consists of introducing a global reference value in the policy, i.e., a monetary ceiling for the estimated 'foregone tax revenue' which competent authorities will have to respect. As measurement of foregone revenue is subject to uncertainties and fluctuations, a buffer provision should be envisaged. The third proposed measure aims at improving the utility, for policy purposes, of additional cost assessments, disaggregating estimates at the level of CN4 product categories, and ensuring that the tax differentials applied do not exceed such estimates. To prevent the risk of overcompensation, the support extended under the other EU schemes and State aid measures should be considered.

3. Revision of the ***policy duration*** and of ***monitoring arrangements***. The proposed revision has the parallel objectives of reducing the burden of unnecessarily frequent re-assessment and renewal of the policy, and enhancing the utility and effectiveness of monitoring and evaluation activities. In the first case, extending the current duration to 10 years was considered, but it was found that the benefits of diluting the policy renewal burden could be outweighed by the drawbacks of de-synchronisation of the Council Decision with the corresponding State aid policy. Regarding monitoring, the proposed revision consists of the adoption of a standardised reporting structure, based on a harmonised set of indicators common to all EU outermost regions which benefit from a special tax regime, and deemed sufficient to assess the impact of the regime properly. Additionally, the timing of submission of monitoring reports could be moved back to the fifth year from the adoption of the policy, in order to ensure greater availability of monitoring data, and closer alignment with the needs of the policy renewal process.

None of the identified problems with implementation appeared to be so severe as to justify adopting more radical options such as ***discontinuing the special regime***. On the one hand, replacing it with other similar EU support measures does not look feasible/desirable for two reasons: the numerous fiscal and non-fiscal aid schemes that already exist, and the fact that the AIEM is currently implemented with no cost for the EU budget. On the other hand, discontinuing the special regime without any replacement would damage local production activities significantly, potentially increase the local economy's dependence on tourism and service sectors, and hamper its resilience to global economic shocks.

RESUMEN EJECUTIVO (ES)

1. Descripción general del estudio.

El objeto central del estudio es el análisis sobre las ventajas fiscales otorgadas a algunas empresas dedicadas a determinadas actividades de producción con sede en las Regiones Ultraperiféricas de la UE bajo los siguientes regímenes fiscales especiales:

- El "***Arbitrio sobre las Importaciones y Entregas de Mercancías en las Islas Canarias"*****(AIEM),** aplicable en Islas Canarias; y
- El "**Òctroi de Mer" (OdM)** o "Arbitrios Insulares", aplicables en cinco regiones ultraperiféricas francesas, es decir: Reunión, Mayotte, Guayana Francesa, Guadalupe y Martinica.

El objetivo del estudio es realizar una evaluación, amplia y basada en evidencias, de la política de la UE implementada con estos regímenes especiales que ha sido establecida en la Decisión del Consejo 377/2014 para AIEM y en la Decisión del Consejo 940/2014 (modificada por la Decisión del Consejo 644/2019) para OdM, así como, su coherencia con otras políticas relevantes de la UE.

Las Decisiones vigentes actualmente expirarán a finales de 2020, por lo que el Estudio incluye un ***componente retrospectivo,*** destinado a investigar el desempeño y los resultados conseguidos, y un ***componente prospectivo,*** que consiste en el análisis de escenarios de políticas posibles a implementar en periodos subsiguientes.

Los dos regímenes tienen mecanismos objetivos de implementación similares pero marcos legales y administrativos diferenciados e integrados en sus respectivas legislaciones nacionales. Por esta razón, el Estudio se divide en dos partes, la parte 1 trata sobre el régimen AIEM, y la parte 2 sobre el régimen *Octroi de mer*.

Las conclusiones del Estudio se basan en evidencias recopiladas de distintas fuentes y procesadas a través de las ***metodologías*** cualitativas y cuantitativas más apropiadas para cada caso. En particular:

- ***investigación documental*** y revisión de las fuentes documentales relevantes, que incluyen documentos e informes de políticas de la UE y los Estados Miembros sobre ambos regímenes fiscales especiales y otras políticas relevantes de la UE en apoyo a las regiones ultraperiféricas (p.ej. programas, medidas de ayudas de Estado, etc.), así como una variedad de literatura académica y de investigación de expertos;

- ***consulta exhaustiva con las partes interesadas*** incluyendo entrevistas (120) y visitas *in situ* a cuatro regiones (Islas Canarias, Reunión, Guadalupe y Martinica), así como una encuesta a empresas (378) que abarca las seis regiones involucradas;

- ***análisis cuantitativo de los datos***, sobre bases de datos existentes sin procesar y estadísticas recopiladas de las autoridades nacionales competentes.

1. Descripción general del régimen AIEM.

El Arbitrio sobre las Importaciones y Entregas de Mercancías (AIEM) es un régimen fiscal especial adoptado en 2002 con el objetivo de apoyar el desarrollo y la diversificación de las actividades de producción en las Islas Canarias. El régimen especial consiste en un impuesto *ad valorem* sobre la importación de ciertos productos que a su vez son producidos localmente; mientras que opera una exención para aquellos producidos localmente en la región. El propósito del régimen especial es apoyar la competitividad de las actividades de producción local y mitigar los efectos de la lejanía, el tamaño limitado del mercado, el aislamiento y otras restricciones estructurales que afectan a la región.

En general, el régimen especial se aplica a ***157 categorías de productos*** (designadas por el código de NC, de 4 a 8 dígitos). Los productos incluidos pertenecen principalmente a las industrias manufactureras (alimentación y bebidas, tabaco, productos químicos, papel y otros) y, en menor medida, a los sectores de la agricultura y la pesca. Los sectores objetivo tienen un valor total de 3.330 millones de euros y el **valor de las producciones respaldadas por el AIEM** asciende, de manera conservadora, a 1.920 millones de euros. Los diferenciales impositivos aplicados varían del 5% al 15%, con una diferencia promedio de aproximadamente del 7%. En 2017, ***los ingresos fiscales*** de AIEM ascendieron a 148 millones de euros, mientras que las estimaciones oficiales sobre el ***impuesto no recaudado*** debido a exenciones (ingresos fiscales "perdidos") ascienden a 92 millones de euros.

2. Resumen de los resultados de la evaluación.

El régimen AIEM es una de las diversas medidas legales especiales para las Islas Canarias que se enmarcan en el enfoque general de la UE hacia las regiones ultraperiféricas, que se basa, fundamentalmente, en el objetivo de tener en cuenta las limitaciones estructurales desde el punto de vista social y económico que se presenta en estas regiones. En particular, contribuye a fomentar el crecimiento y la creación de empleo en la región mediante la diversificación de la economía local y el desarrollo de actividades de alto valor añadido, como la fabricación industrial. El régimen constituye una derogación evidente de la política de la UE sobre mercado interno y competencia, cuyo fundamento jurídico está firmemente anclado en el ***Artículo 349 del TFUE*** que reconoce, explícitamente, la necesidad de adoptar medidas especiales en apoyo de las Regiones Ultraperiféricas, para abordar sus limitaciones estructurales y contribuir a su desarrollo. El régimen AIEM está sujeto a una doble vía de autorización a nivel de la UE: (a) en la política fiscal de la UE, a través de ***Decisiones*** periódicas ***del Consejo,*** que autorizan la aplicación de un trato diferenciado a un conjunto de productos identificados explícitamente; y (b) como medida ***regional de ayudas de Estado***. Este último garantiza el cumplimiento de dicho régimen fiscal con las normas de competencia de la UE y su proporcionalidad.

El enfoque de la UE hacia las regiones ultraperiféricas en general, y las Islas Canarias en particular, abarca una serie de otras medidas financiadas por los Fondos Estructurales y de Inversión Europeos (FEIE) y otras medidas regionales específicas de ayudas de Estado. Algunas de estas medidas abordan los mismos sectores/beneficiarios del AIEM y tienen el mismo propósito de mitigar los efectos de las restricciones estructurales sobre los costes operativos de las empresas canarias. En este sentido, existen ***sinergias evidentes entre el AIEM y otras medidas*** con lo que los efectos acumulativos son frecuentes. A nivel empresarial, existen procedimientos administrativos para evitar el riesgo de que la acumulación de ayudas conduzca a un exceso de compensación; a nivel macro se ha verificado que la suma del AIEM y de los otros esquemas de compensación no excede los costes adicionales estimados por las restricciones estructurales (en general, se compensan en torno al 54% de los costes adicionales). Aún así, a nivel de producto, no hay información suficiente para verificar los efectos acumulativos, por lo que no se pueden descartar, *a priori*, casos ocasionales de sobrecompensación.

El alcance del régimen AIEM es bastante amplio, por lo que aborda satisfactoriamente las necesidades de los diversos operadores económicos interesados. Sin embargo, el sistema responde poco a las condiciones cambiantes del mercado porque la lista de productos admitidos se establece en la Decisión del Consejo. Esto significa que cualquier revisión, por ejemplo, para incluir una nueva línea de producción emergente o para alterar el alcance del apoyo, requeriría un proceso legal de modificación complejo o su aplazamiento a la próxima renovación de la política. La otra cuestión, a menudo lamentada por los importadores, se refiere a la identificación de productos mediante las categorías de NC, dado que, en casos observados, las definiciones de productos incluyen determinados artículos que no se producen localmente o se producen en cantidades limitadas. Esto cuestiona los ***criterios adoptados por las autoridades competentes para seleccionar los productos*** que son elegibles para el apoyo. En la actualidad, según los informes, el criterio principal es la "cuota de mercado" de los productos admitidos, pero no hay más especificaciones disponibles sobre cómo se aplica este criterio en la práctica y cuál es el umbral mínimo o máximo de cuota de mercado relevante para determinar la inclusión en el listado de los productos protegidos por el AIEM. El análisis del listado de productos AIEM mostró que aproximadamente el 15% de los productos admitidos tienen una participación de mercado inferior al 5%, mientras que el 11% de ellos, se encuentra en una posición claramente dominante (95% o más de la participación de mercado). El valor estratégico de ciertas producciones ciertamente puede justificar la renuncia al criterio de "cuota de mercado", pero la ausencia de reglas explícitas y transparentes ha alimentado, aparentemente, la desconfianza entre ciertos operadores económicos con respecto a la forma de implementación del régimen especial.

La inclusión de determinados productos en la lista AIEM ha sido controvertida. Los ***productos de tabaco*** son un buen ejemplo debido a la existencia de políticas de la UE destinadas a desalentar el consumo de este producto. De 2002 a 2015, el diferencial AIEM para productos de tabaco fue del 25% (la tasa más alta permitida) para, posteriormente, disminuir al 15% (Ley 9/2015). La Decisión del Consejo para este producto se presenta como un "caso excepcional" justificado por la importancia de la industria tabacalera para la economía canaria. Si bien el AIEM no es la causa de los bajos precios de los productos de tabaco en la región, que se imputa a los bajos tipos de impuestos especiales aplicados, aparentemente no se consideró la coherencia con otras medidas de la UE que prohíben apoyar el tabaco como es el FEDER.

El régimen especial del AIEM apoya las actividades de producción local al ***reducir la brecha de competitividad entre los productos locales y las importaciones*** de España continental o de la UE, que es causada por costes de producción adicionales en la región. Las evaluaciones cuantitativas de dichos costes adicionales se llevan a cabo periódicamente, pero, a pesar de los esfuerzos realizados, el ejercicio sigue sujeto a limitaciones metodológicas intrínsecas, por lo que las estimaciones deben considerarse con la debida prudencia. La última evaluación se completó en 2019 y estimó que los ***costes adicionales*** totales del sector privado en las Islas Canarias son de 5.230 millones de euros, de los cuales, 1.040 millones de euros fueron atribuibles a los sectores respaldados por el AIEM (manufactura y sector primario). La principal fuente de costes adicionales para las industrias AIEM son los costes de flete de las materias primas y los insumos de producción, que representan el 14,3% de la facturación de los productores locales. En segundo lugar, los costes adicionales son causados por la capacidad de producción inactiva y las deseconomías de escala relacionadas, que representan aproximadamente el 9% de la facturación total. Los costes adicionales varían según los sectores y las sucursales, y van del 36% para la industria alimentaria al 7.3% para el sector minero. Hasta ahora no se han realizado ***evaluaciones detalladas*** de productos compatibles con el AIEM por código de NC.

El régimen AIEM compensa solo una parte del costo adicional estimado. En promedio, los diferenciales impositivos abordan aproximadamente una cuarta parte de los costes adicionales, pero en términos monetarios, la compensación total, medida en relación con el impuesto total cobrado a las importaciones, representa el 14% de los costes adicionales generales. Esta limitada incidencia, sumada con unos esquemas de compensación bastante diferenciados entre los productos, hace que el impacto en la brecha de competitividad sea poco clara.

Según la mayoría de los beneficiarios, el apoyo de AIEM ha sido esencial para mantener la ***competitividad de los productos locales***. Sin embargo, si bien el valor agregado de las industrias respaldadas por AIEM se ha mantenido sustancialmente estable a lo largo del tiempo, el valor de las importaciones ha estado creciendo constantemente, por lo que, en términos relativos, la participación de mercado de las industrias respaldadas por el AIEM disminuyó aproximadamente un punto porcentual en la última década. En este sentido, la principal contribución del AIEM consistió en mitigar dicha disminución en lugar de fomentar el desarrollo y el crecimiento de las producciones locales.

Los resultados del análisis de datos cuantitativos sugieren que, en ausencia del apoyo de AIEM, el desempeño de las ***actividades de producción local*** habría sido significativamente peor. En teoría, en torno a un tercio del valor de los productos apoyados por el AIEM (aproximadamente 570 millones de euros) se ha producido gracias al mecanismo de diferencial positivo, con repercusiones positivas también en el ***empleo***, que registró un incremento de casi 2.000 unidades en los sectores AIEM desde 2014, y en el ***número de empresas activas***, que ha crecido en aproximadamente 300 unidades en el mismo período. Por otro lado, no hay evidencia de beneficios derivados del incremento de las inversiones y de la diversificación de la producción. Finalmente, el AIEM muestra un equilibrio general positivo entre costes y beneficios, ya que, el valor estimado de la producción local habilitado por el régimen especial es aproximadamente tres veces mayor que su "coste" en términos de ingresos fiscales no percibidos.

A nivel macroeconómico, los efectos del régimen AIEM son demasiado pequeños para ser perceptibles. En los últimos cinco años, el ***índice de producción de la industria manufacturera*** ha estado creciendo a un ritmo mucho más rápido que los índices de los otros sectores, pero la manufactura sigue siendo un componente de poco peso en el PIB canario.
La ***balanza comercial*** sigue siendo muy negativa, teniendo que destacarse que los efectos potenciales de substitución de importaciones por producciones locales de AIEM se sitúan por debajo del 1% del desequilibrio total (12.500 millones de euros). Finalmente, la tendencia del ***índice de precios al consumidor*** en las Islas Canarias no muestra ninguna disparidad relevante con la tendencia general en España, siendo los efectos del impuesto AIEM aproximadamente el 1% del gasto familiar canario.

En cuanto a los ***costes administrativos y de cumplimiento*** relacionados con el régimen AIEM, es de destacar que la gestión de implementación es sencilla y no impone procedimientos particularmente complejos o gravosos a las autoridades competentes u operadores económicos. El problema de implementación más crítico se refiere a la clasificación del producto, que a veces es incierto y posible causa de disputa y disparidad en el tratamiento. En un plano más general, algunos de los actuales acuerdos políticos parecen ser demasiado complejos o rígidos, posiblemente causando cargas innecesarias para las autoridades nacionales y de la UE. Uno de esos aspectos es la imposibilidad de revisar la lista y las exenciones extendidas a productos específicos sin una modificación legal de la Decisión del Consejo. Por otro lado, los actuales requisitos de **seguimiento** implican un esfuerzo significativo por parte de las autoridades competentes, aspecto que se agrava por la falta de un marco armonizado de seguimiento, lo que implica una demora en la realización de los informes de seguimiento y, por tanto, a su utilidad para los procesos de toma de decisiones en la elaboración de políticas

3. Escenarios de políticas posibles a implementar.

Si bien los resultados de la evaluación confirman la utilidad y los beneficios generales del régimen AIEM para el grupo objetivo de operadores económicos, se han detectado algunas ineficiencias y disfunciones que podrían limitar la efectividad de la medida y/o causar una carga innecesaria. Con el vencimiento de los términos de la actual Decisión del Consejo establecida para finales de 2020, surgen tres escenarios de política a seguir:

- El ***"escenario sin cambios"***, es decir, renovar el régimen especial actual en el próximo período de programación (2021-27) sin ninguna modificación significativa

- prolongación del sistema actual con ***revisiones de los acuerdos en curso*** destinados a solucionar los problemas identificados

- ***Suspensión*** del régimen especial

Las ***opiniones de las partes interesadas*** sobre la posible renovación del AIEM están altamente polarizadas. Como se esperaba, en general, las empresas dedicadas a actividades de producción, que normalmente se benefician de los diferenciales impositivos, están a favor de que se renueve la política (95%), aunque para la mayoría de ellas (75%) es necesario algún cambio en los mecanismos actuales. Por el contrario, la mayoría de las empresas (70%) en otros sectores estarían a favor de interrumpir la política actual.

El estudio ha identificado un conjunto de posibles modificaciones a la política actual y ha examinado su impacto esperado en varias áreas. Las opciones de política consideradas se refieren a tres aspectos principales, a saber:

1. Criterios para la ***identificación de productos elegibles y la actualización de las listas de productos***. La revisión propuesta consta de dos disposiciones distintas aunque relacionadas. La primera es la identificación en la Decisión del Consejo de, solamente, categorías 'amplias' de productos admitidos (es decir, utilizando códigos de nivel NC4), dejando a las autoridades nacionales competentes la responsabilidad de seleccionar, dentro de estas categorías, los productos específicos incluidos (NC8 o niveles inferiores). Esta medida permitiría una gestión más flexible del régimen por parte de las autoridades competentes, eliminando la necesidad de enmiendas legales a nivel de la UE para revisiones y actualizaciones ordinarias de las listas de productos. En segundo lugar, se propone la adopción de criterios más claros y verificables para la selección de productos que se beneficiarán del apoyo del AIEM. De acuerdo con la práctica actual, dichos criterios deben tener en cuenta la cuota de mercado del producto, entre otras cosas, y en el caso de aquellos productos con cuota residual o con cuota dominante en el mercado local, se debe proporcionar una justificación adecuada justificando el apoyo de manera transparente. En general, esta disposición evitaría una excesiva flexibilidad en la inclusión de productos en las listas con lo que se limitaría la extensión injustificada del alcance de la política y, por tanto, respondería a la demanda de una mayor claridad y objetividad expresada por los opositores del AIEM. Las disposiciones revisadas deberían garantizar que se sigan apoyando las producciones con una importancia particular y estratégica, y que se mejore la coherencia con otras políticas y programas de la UE.

2. Revisión de los mecanismos para ***establecer el diferencial impositivo máximo permitido***. Esta opción propuesta se compone de tres medidas específicas. La primera, tiene la intención de simplificar los acuerdos con respecto al establecimiento de diferenciales impositivos, reemplazando las cuatro listas actuales de productos distintos por una lista con un único umbral máximo permitido. Los beneficios de esta medida incluirían una gestión más flexible de las tasas diferenciales aplicadas por las autoridades competentes, permitiendo revisiones sin necesidad de una enmienda formal de la Decisión del Consejo. Con el objetivo de evitar un aumento injustificado de la ayuda, la segunda medida propuesta consiste en introducir un valor de referencia global en la política, es decir, un límite monetario estimado para el "ingreso fiscal no percibido" que las autoridades competentes deberán respetar. Como la medición de los ingresos no percibidos está sujeta a incertidumbres y fluctuaciones, debe preverse un rango de desviaciones. La tercera medida propuesta tiene como objetivo mejorar la utilidad, con fines de aplicación de

la política, de las evaluaciones de sobrecostes, desglosando las estimaciones a nivel de las categorías de productos NC4 y garantizando, por tanto, que los diferenciales impositivos aplicados no excedan dichas estimaciones. Para evitar el riesgo de sobrecompensación, debe considerarse el apoyo otorgado en virtud de los programas de la UE y las medidas de ayudas de Estado.

3. Revisión de la ***duración de la política*** y de los ***acuerdos de seguimiento***. La revisión propuesta tiene los objetivos paralelos de reducir la carga de la reevaluación y renovación innecesariamente frecuentes de la política, y mejorar la utilidad y la eficacia de las actividades de seguimiento y evaluación. En el primer caso, se consideró extender la duración actual a 10 años, pero se concluyó que los beneficios de aligerar la carga para renovar las políticas podrían contrarrestar los inconvenientes de la descoordinación de la Decisión del Consejo con las políticas de ayudas de Estado correspondiente. En lo que respecta al seguimiento, la revisión propuesta consiste en la adopción de una estructura de informes estandarizada, basada en un conjunto armonizado de indicadores comunes a todas las regiones ultraperiféricas de la UE que se benefician de un régimen fiscal especial, y que se consideran suficientes para evaluar el impacto del régimen adecuadamente. Además, el momento de presentación de los informes de monitoreo podría retroceder al quinto año desde la adopción de la política, a fin de garantizar una mayor disponibilidad de datos de monitoreo y una alineación más cercana con las necesidades del proceso de renovación de la política.

Ninguno de los problemas identificados con la implementación parecía ser tan severo como para justificar la adopción de opciones más radicales como la ***suspensión del régimen especial*** dado que, por un lado, reemplazarlo con otras medidas de apoyo similares de la UE no parece factible / deseable por dos razones: los numerosos esquemas de ayuda fiscal y no fiscal que ya existen, y el hecho de que el AIEM se implementa actualmente sin coste para el Presupuesto de la UE. Por otro lado, suspender el régimen especial sin ningún reemplazo dañaría significativamente las actividades de producción local, potencialmente aumentaría la dependencia de la economía local en los sectores de turismo y servicios, y dificultaría su resistencia a los shocks económicos mundiales.

RÉSUMÉ EXÉCUTIF (FR)

1. Présentation de l'étude

L'étude porte sur les avantages fiscaux accordés à certaines entreprises exerçant des activités de production, basées dans certaines régions ultrapériphériques (RUP) de l'UE, dans le cadre des régimes fiscaux spéciaux suivants :

- L' "***Arbitrio sobre las Importaciones y Entregas de Mercancías en las Islas Canarias***" **(AIEM),** applicable dans les Canaries ; et
- L' ***Octroi de mer*** **(OdM)**, applicable dans les cinq régions ultrapériphériques françaises : la Réunion, Mayotte, la Guyane française, la Guadeloupe et la Martinique.

L'objectif de l'étude est de fournir une évaluation complète et factuelle de la politique de l'UE permettant ces régimes spéciaux, résultant de la décision du Conseil 377/2014 pour l'AIEM et de la décision du Conseil 940/2014 (modifiée par la décision du Conseil 644/2019) pour l'OdM. L'évaluation comprend notamment l'examen de la cohérence globale de cette politique avec les autres politiques pertinentes de l'UE. Les décisions actuellement en vigueur devant expirer à la fin de l'année 2020, l'étude comporte à la fois un ***volet rétrospectif*** - visant à étudier les performances et les résultats obtenus par ces régimes spéciaux - et un ***volet prospectif*** consistant en l'analyse des différents scénarios de politiques envisageables pour l'avenir.

Les deux régimes ont des objectifs et des mécanismes de mise en œuvre similaires. Cependant, ces régimes étant intégrés dans leurs législations nationales, leurs cadres juridiques et administratifs sont différents. C'est pourquoi l'étude est organisée en deux parties : la partie 1 traite du régime de l'AIEM et la partie 2 du régime de l'*Octroi de mer*.

Les résultats de l'étude sont basés sur les éléments factuels recueillis auprès de différentes sources et traités selon les ***méthodologies*** qualitatives et quantitatives appropriées. En particulier :

- ***La recherche documentaire*** et l'examen des sources documentaires pertinentes, y compris les documents de politique de l'UE et des États membres et les rapports concernant à la fois les régimes fiscaux spéciaux mais aussi toutes autres politiques communautaires pertinentes (par exemple, programmes spéciaux, mesures d'aide d'État, etc.) en faveur des régions ultrapériphériques, ainsi que des documents issus de la littérature académique et de la littérature "grise" ;
- Une ***consultation*** exhaustive ***des parties prenantes***, comprenant des entretiens (120) et des visites dans quatre régions (Canaries, Réunion, Guadeloupe et Martinique), ainsi qu'une enquête auprès des entreprises implantées dans ces RUP (378) couvrant l'ensemble des six régions concernées ;
- ***Une analyse quantitative des données***, basée sur l'ensemble des données brutes existantes et sur les statistiques collectées auprès des autorités nationales.

2. Aperçu du régime de l'AIEM

L'*Arbitrio sobre las Importaciones y Entregas de Mercancías* (AIEM) est un régime fiscal spécial adopté en 2002 qui vise à soutenir le développement et la diversification des activités de production aux Canaries, région ultrapériphérique espagnole (RUP). Ce régime spécial consiste en une taxe *ad valorem* sur la livraison de certains produits dans cette RUP. Toutefois, alors que les produits d'origine extérieure sont soumis à cette taxe à taux plein, des ***exonérations fiscales sont accordées aux produits fabriqués localement***. L'objectif de ce régime spécial est de soutenir la compétitivité de la production locale et d'atténuer les effets liés à l'éloignement, la petite taille, l'isolement et aux autres contraintes structurelles auxquelles cette RUP doit faire face.

Globalement, ce régime spécial est appliqué à pas moins de ***157 catégories de produits*** (référencées par un code de la nomenclature commune, NC, - de 4 à 8 chiffres). Les produits bénéficiant d'un différentiel de taxation appartiennent principalement aux industries manufacturières - alimentation et boissons, tabac, produits chimiques, papier et autres - et, dans une moindre mesure, aux secteurs de l'agriculture et de la pêche. Au total, les secteurs ciblés par l'AIEM représentent 3,33 milliards d'euros et une estimation prudente établit la ***valeur globale des productions soutenues*** à 1,92 milliard d'euros. Les différentiels de taxation appliqués vont de 5 à 15 %, avec un différentiel moyen d'environ 7 %. En 2017, les ***recettes fiscales*** liées à l'AIEM s'élevaient à 148 millions d'euros, tandis que les estimations officielles concernant les ***taxes non perçues*** en raison des exonérations (« manque à gagner » fiscal) étaient de 92 millions d'euros.

3. Résumé des résultats de l'évaluation

Le régime de l'AIEM est l'une des mesures juridiques spéciales prévues pour les Canaries en tant que région ultrapériphérique reconnue. Il est conforme à l'approche globale de l'UE à l'égard des régions ultrapériphériques, dont l'objectif est de prendre en compte leurs contraintes structurelles, sociales et économiques. Il contribue notamment à favoriser la croissance et la création d'emplois dans cette RUP par une diversification de l'économie locale et à permettre le développement d'activités à forte valeur ajoutée, telles que la production industrielle. Ce régime constitue une dérogation évidente à la politique de l'UE sur le marché intérieur et la concurrence, dont la base juridique est fermement ancrée dans l'***article 349 du TFUE***. Cet article reconnaît explicitement la nécessité d'adopter des mesures spéciales en faveur des régions ultrapériphériques, pour faire face à leurs contraintes structurelles et contribuer à leur développement. Le régime de l'AIEM est soumis à une double autorisation au niveau de l'UE : (a) dans le cadre de la politique fiscale de l'UE, par le biais de ***décisions périodiques du Conseil*** qui autorisent l'application d'un traitement différencié à un ensemble de produits explicitement identifiés ; et (b) en tant que mesure d'***aide d'État à finalité régionale***. Cette dernière garantit la conformité du régime avec les règles de concurrence de l'UE et son principe de proportionnalité.

L'approche de l'UE à l'égard des régions ultrapériphériques en général, et des Canaries en particulier, englobe un ensemble d'autres mesures financées par les Fonds structurels et d'investissement européens (Fonds ESI) et au travers d'autres mesures spécifiques d'aides d'État à finalité régionale. Certaines de ces mesures s'adressent aux mêmes secteurs/bénéficiaires que l'AIEM et ont pour même objectif d'atténuer les effets des contraintes structurelles sur les coûts de fonctionnement des entreprises canariennes. En ce sens, il existe des ***synergies évidentes entre l'AIEM et ces autres régimes*** et les effets cumulatifs sont fréquents. Au niveau des entreprises, des procédures administratives sont en place pour éviter que le cumul des aides n'entraîne une surcompensation. De plus, au niveau macroéconomique, il a été vérifié que le cumul de l'AIEM et des autres régimes d'indemnisation ne dépasse pas les surcoûts estimés engendrés par les contraintes structurelles (au total environ 54 % des surcoûts estimés sont compensés). Cependant, les informations récoltées restent insuffisantes pour estimer les effets cumulés au niveau des produits et, dans certains cas peu fréquents il est impossible d'exclure *a priori* une surcompensation.

Le champ d'application du régime de l'AIEM est relativement vaste, ce qui permet de répondre de manière satisfaisante aux ***besoins des opérateurs économiques*** concernés. Toutefois, le système est peu réactif à l'évolution des conditions du marché car la liste des produits soutenus est fixée par la décision du Conseil. Cela signifie que toute révision - par exemple pour inclure une production émergente ou pour modifier l'étendue du dispositif - implique un processus législatif d'amendement lourd ou son report au prochain renouvellement du dispositif. Le second problème – fréquemment déploré par les représentants du commerce - concerne l'identification des produits soutenus par référence aux catégories de la NC qui incluent parfois aussi des articles qui ne sont pas produits localement ou qui sont produits en quantités limitées. Cela soulève des questions sur les ***critères adoptés par les autorités compétentes pour sélectionner les produits*** éligibles au différentiel de taxation. Actuellement, le principal critère de sélection affiché est la "part de marché" des produits bénéficiant d'un différentiel de taxation à l'AIEM, mais aucune autre spécification n'est fournie quant à la manière dont ce critère est appliqué dans la pratique et à la fourchette de part de marché à prendre en compte pour la mise en place de l'AIEM. L'analyse du portefeuille des produits soumis à l'AIEM a montré que près de 15 % des produits bénéficiant d'un différentiel de taxation ont une part de marché inférieure à 5 %, et 11 % d'entre eux sont en position clairement dominante (95 % ou plus de part de marché). La valeur stratégique de certaines productions peut aisément justifier une dérogation au critère de "part de marché", mais l'absence de règles explicites et transparentes semble avoir alimenté la méfiance de certains opérateurs économiques quant à la manière dont le régime spécial est mis en œuvre.

Par ailleurs, l'inclusion de certains produits dans la liste des produits bénéficiant d'un différentiel de taxation à l'AIEM est parfois controversée. Les ***produits du tabac*** en sont un exemple. Malgré l'existence de politiques européennes de lutte contre le tabagisme visant à décourager la consommation, le différentiel de taxation à l'AIEM pour les produits du tabac était de 25 % de 2002 à 2015 (le différentiel de taxation le plus élevé autorisé), il a ensuite été réduit à 15 % (Ley 9/2015). La décision du Conseil présente ce cas comme un "cas exceptionnel", justifié par l'importance de l'industrie du tabac pour l'économie canarienne. Si le différentiel de taxation à l'AIEM n'est pas à l'origine de la faiblesse des prix des produits du tabac dans la région - qui sont plutôt dus aux faibles droits d'accises appliqués - il semble que la cohérence avec d'autres mesures de l'UE qui interdisent de soutenir le tabac, comme le FEDER, n'ait pas été prise en compte.

Le régime spécial de l'AIEM soutient les activités de production locale ***en réduisant l'écart de compétitivité entre les produits locaux et les importations*** en provenance de l'Espagne continentale ou de l'UE, cet écart étant causé par des surcoûts de production. Une évaluation quantitative de ces surcoûts est effectuée périodiquement mais, malgré les efforts déployés, l'exercice reste soumis à des limites méthodologiques intrinsèques, de sorte que ces estimations doivent être considérées avec prudence. La dernière évaluation a été achevée en 2019 et a estimé le ***total des surcoûts*** du secteur privé aux Canaries à 5,23 milliards d'euros, dont 1,04 milliard d'euros étaient imputables aux secteurs soutenus par l'AIEM (industrie manufacturière et secteur primaire). La principale source de surcoûts pour les industries soutenues par l'AIEM est le coût du fret des matières premières et des intrants de production, qui représente 14,3 % du chiffre d'affaires des producteurs locaux. En deuxième lieu, les surcoûts sont causés par le surdimensionnement des équipements (capacité de production inutilisée) et les déséconomies d'échelle que cela entraine : cela représente environ 9 % du chiffre d'affaires total. Les surcoûts varient selon les secteurs et les branches, allant de 36 % pour l'industrie alimentaire à 7,3 % pour le secteur minier. Aucune ***évaluation plus granulaire*** des produits soutenus par l'AIEM par code de la NC n'a été réalisée jusqu'à présent.

Le régime de l'AIEM ne compense qu'une partie des surcoûts estimés. En moyenne, les différentiels de taxation couvrent environ un quart des coûts additionnels, mais en termes monétaires, la compensation totale - mesurée par rapport à la totalité des recettes fiscales relatives à l'AIEM perçue sur les importations - représente 14 % de la totalité des surcoûts. Cette incidence limitée, combinée à des structures de compensation assez irrégulières d'un produit à l'autre, rend difficile une évaluation précise de l'impact de l'AIEM sur l'écart de compétitivité. Selon la majorité des bénéficiaires, le soutien apporté par l'AIEM a été essentiel pour ***maintenir la compétitivité des produits locaux***. Toutefois, si la valeur ajoutée des industries soutenues par l'AIEM est restée sensiblement stable au fil du temps, la valeur des importations a augmenté régulièrement, de sorte qu'en termes relatifs, la part de marché des industries soutenues par l'AIEM a diminué d'environ un point de pourcentage au cours de la dernière décennie. En ce sens, la principale contribution de l'AIEM a consisté à atténuer ce déclin plutôt qu'à favoriser le développement et la croissance.

Les résultats de l'analyse des données quantitatives suggèrent qu'en l'absence du régime de l'AIEM, les performances de ***la production locale*** auraient été nettement moins bonnes. Environ un tiers de ***la valeur de la production locale*** bénéficiant d'un différentiel de taxation (environ 570 millions d'euros) a été théoriquement générée par le mécanisme du différentiel de taxation, avec des répercussions positives également sur ***l'emploi*** - qui a enregistré une augmentation de près de 2 000 unités dans les secteurs bénéficiant de l'AIEM depuis 2014 - et sur le ***nombre d'entreprises actives***, qui a augmenté d'environ 300 unités au cours de la même période. En revanche, il n'existe pas de preuve d'un impact positif quant aux investissements et à la diversification de la production. Enfin, l'AIEM présente un bilan coûts/bénéfices globalement positif, la valeur estimée de la production locale générée grâce à ce régime spécial étant environ trois fois supérieure au "coût" de la mesure.

Au niveau macro-économique, les effets du régime de l'AIEM sont trop faibles pour être perceptibles. Au cours des cinq dernières années, ***l'indice de production de l'industrie manufacturière*** a augmenté à un rythme beaucoup plus rapide que les indices des autres secteurs. Cependant, l'industrie manufacturière demeure une composante mineure du PIB canarien. La ***balance commerciale*** reste largement négative et les effets potentiels du régime de l'AIEM sur la substitution des importations représentent moins de 1 % du déficit total (12,5 milliards d'euros). Enfin, l'évolution de ***l'indice des prix à la consommation*** aux Canaries ne présente aucune disparité pertinente avec la tendance générale en Espagne, les effets de la taxe de l'AIEM représentant, selon les estimations, 1,0 % des dépenses des ménages canariens.

En ce qui concerne les ***coûts administratifs et de mise en conformité*** liés au régime de l'AIEM, les modalités de mise en œuvre sont simples et n'imposent pas de procédures particulièrement complexes ou lourdes aux autorités compétentes ou aux opérateurs économiques. L'enjeu le plus important lié à la mise en œuvre concerne la classification des produits, dont les critères manquent parfois de transparence et constitue une cause potentielle de litige et de disparité de traitement. À un niveau plus général, certains éléments du dispositif actuel semblent trop complexes ou rigides, ce qui peut entraîner des ***charges inutiles*** pour les autorités européennes et nationales. L'un de ces aspects est l'impossibilité de réviser la liste des produits bénéficiant d'un différentiel de taxation à l'AIEM et des différentiels de taxation maximum autorisés sans une modification formelle de la décision du Conseil. En second lieu, les exigences actuelles en matière de ***contrôle*** impliquent un effort important de la part des autorités compétentes. De plus, l'absence d'un cadre de contrôle approprié et harmonisé ainsi que le calendrier peu optimal des rapports d'évaluation affectent leur valeur informative et leur utilité pour le processus politique.

4. Scénarios envisageables pour l'avenir

Si les résultats de l'évaluation confirment l'utilité et un bilan globalement positif du régime de l'AIEM pour le groupe cible, certaines inefficacités et dysfonctionnements ont été détectés et pourraient limiter l'efficacité de la mesure et/ou entraîner une charge inutile. Avec l'expiration des dispositions de la décision du Conseil actuelle fixée à la fin de 2020, trois principaux scénarios politiques se dégagent pour la suite de ce dispositif:

- le ***scénario "sans changement",*** c'est-à-dire le renouvellement du régime spécial actuel au cours de la prochaine période de programmation (2021-27) sans aucune modification significative,
- la prolongation du système actuel avec une ***révision des dispositions actuelles*** visant à résoudre les problèmes liés au régime tel qu'identifiés,
- ***la suppression*** du régime spécial.

L'avis des parties prenantes concernant un éventuel renouvellement de l'AIEM est très polarisé. Comme attendu, les entreprises exerçant des activités de production, qui bénéficient le plus souvent de différentiels de taxation, sont généralement favorables au renouvellement du régime spécial (95 %), bien que pour la majorité d'entre elles (75 %), certaines évolutions du mécanisme actuel soient nécessaires. À l'inverse, la majorité (70 %) des entreprises des autres secteurs seraient favorables à l'abandon de la politique actuelle.

L'étude a identifié une série de modifications possibles de la politique actuelle et a examiné leurs impacts potentiels dans différents domaines. Les modifications de la politique actuelle examinées par l'étude portent sur trois aspects principaux, à savoir :

1. ***Critères pour l'identification des produits éligibles et la mise à jour des listes de produits.*** La révision proposée consiste en deux dispositions distinctes, bien que liées. La première consiste à identifier dans la décision du Conseil uniquement les "grandes" catégories de produits pouvant bénéficier d'une aide (c'est-à-dire en utilisant les codes de la NC à 4 chiffres), en laissant aux autorités nationales compétentes la responsabilité de sélectionner, au sein de ces catégories, les produits spécifiques (code de la NC à 8 chiffres ou inférieurs) qui bénéficieraient effectivement de cette aide. Cette mesure permettrait une gestion plus souple du régime par les autorités compétentes, supprimant la nécessité d'apporter des modifications juridiques au niveau de l'UE pour les révisions et les mises à jour ordinaires des listes de produits. En second lieu, il est proposé d'adopter des critères plus clairs, vérifiables pour la sélection des produits devant bénéficier d'un différentiel de taxation à l'AIEM. Conformément à la pratique actuelle, ces critères devraient prendre en considération la part de marché de la production locale, entre autres, et dans le cas d'une faible part de marché ou au contraire d'une position largement dominante sur le marché local, une justification appropriée devrait être fournie de manière transparente. Dans l'ensemble, cette disposition permettrait d'éviter qu'une plus grande souplesse dans la gestion des listes ne conduise à une extension injustifiée du champ d'application du dispositif, et répondrait à la demande de plus de clarté et d'objectivité exprimée par les opposants à l'AIEM. Les dispositions révisées devraient garantir que les productions d'une importance particulière et stratégique continuent d'être soutenues et que la cohérence avec les autres politiques et programmes de l'UE soit renforcée.

2. Révision des mécanismes de ***fixation du différentiel de taxation maximum autorisé***. L'option proposée est composée de trois mesures spécifiques. La première vise à simplifier les modalités d'établissement des différentiels de taxation, en remplaçant les quatre listes de produits distinctes actuelles par une seule liste avec un seuil maximal autorisé. Cette mesure aurait notamment pour avantage de permettre une gestion plus souple des différentiels de taxation appliqués par les autorités compétentes, ce qui permettrait de procéder à des révisions sans modification formelle de la décision du Conseil. Cependant, afin de se prémunir contre une augmentation injustifiée de l'aide, la deuxième mesure proposée consiste à introduire une valeur de référence globale dans le dispositif, c'est-à-dire un plafond budgétaire du montant prévisionnel du « manque à gagner » fiscal que les autorités compétentes devront respecter. Comme la détermination du manque à gagner fiscal est sujette à des incertitudes et à des fluctuations, une disposition « tampon » devrait être envisagée. La troisième mesure proposée vise à améliorer l'utilité, à des

fins politiques, de l'évaluation des surcoûts. L'estimation des surcoûts doit être désagrégée au niveau des catégories de produits à 4 chiffres de la NC et ainsi garantir que les différentiels de taxation appliqués ne dépassent pas ces estimations. Pour prévenir le risque de surcompensation, l'aide accordée dans le cadre des programmes de l'UE et des mesures d'aide d'État devrait être pris en considération.

3. Révision de la ***durée du dispositif*** et des ***modalités de contrôle***. La révision proposée a pour objectifs parallèles de réduire la charge liée à la réévaluation et au renouvellement inutilement fréquent du dispositif, et de renforcer l'utilité et l'efficacité des activités de suivi et d'évaluation. Dans le premier cas, il a été envisagé d'étendre la durée actuelle à dix ans. Cependant, il a été constaté que les avantages de la dilution de la charge liée au renouvellement du dispositif pourraient être contrebalancés par les inconvénients lié à la désynchronisation de la décision du Conseil avec la politique correspondante en matière d'aides d'État. En ce qui concerne le suivi, la révision proposée consiste en l'adoption d'une structure de rapport standardisée, basée sur un ensemble harmonisé d'indicateurs communs à toutes les régions ultrapériphériques de l'UE qui bénéficient d'un régime fiscal spécial, et jugés suffisants pour évaluer correctement l'impact du régime. En outre, la présentation des rapports de suivi pourrait être reportée à la cinquième année suivant l'adoption du dispositif, afin d'assurer une plus grande disponibilité des données de suivi et un rapprochement avec les besoins du processus de renouvellement du dispositif.

Aucun des problèmes de mise en œuvre identifiés ne semble être suffisamment grave pour justifier l'adoption d'options plus radicales telles que ***la suppression du régime spécial***. D'une part, son remplacement par d'autres mesures d'aide similaires de l'UE ne semble pas faisable/désirable pour deux raisons : les nombreux régimes d'aide fiscale et non fiscale qui existent déjà, et le fait que l'AIEM est actuellement mis en œuvre sans coût pour le budget de l'UE. D'autre part, la suppression du régime spécial sans aucun remplacement porterait un préjudice important à la production locale, pourrait accroître la dépendance de l'économie locale à l'égard du tourisme et des secteurs de services et entraverait sa résistance aux chocs économiques mondiaux.

ZUSAMMENFASSUNG (DE)

1. Übersicht über die Studie

Gegenstand der Studie sind jene Steuervorteile, die manchen Unternehmen gewährt werden, die in den EU-Gebieten äußerster Randlage (GÄR) in Produktionsaktivitäten engagiert und dort ansässig sind, unter den folgenden Sondersteuerregelungen:

- Die '***Arbitrio sobre las Importaciones y Entregas de Mercancías en las Islas Canarias***' **(AIEM),** anwendbar auf den Kanarischen Inseln; und
- die '***Octroi de mer***' **(OdM)** oder 'Hafengebühren', anwendbar in fünf französischen Gebieten in äußerster Randlage, d. H.: Réunion, Mayotte, Französisch-Guayana, Guadeloupe, und Martinique.

Absicht der Studie ist die Zurverfügungstellung einer umfassenden und evidenzbasierten Evaluierung der EU-Maßnahmen, die diese Sonderregelungen, festgelegt im Beschluss 377/2014 des Rates für die AIEM und im Beschluss 940/2014 des Rates für die OdM, ermöglichen. Einschließlich einer Evaluierung der allgemeinen Kohärenz mit anderen relevanten EU-Maßnahmen. Es ist vorgesehen, dass die derzeit geltenden Beschlüsse mit dem Ende des Jahres 2020 auslaufen, weswegen die Studie sowohl einen ***retrospektiven Teil*** – auf eine Untersuchung des Funktionierens und der erreichten Ergebnisse der Sonderregelungen abzielend – als auch einen ***prospektiven Teil*** – aus einer Analyse der möglichen Maßnahmenszenarien für die Zukunft bestehend – enthält.

Die beiden Steuerregime haben ähnliche Ziele und Implementierungsmechanismen, aber unterschiedliche rechtliche und administrative Rahmenbedingungen, die jeweils in den nationalen Gesetzgebungen verankert sind. Aus diesem Grund ist die Studie in zwei Teile aufgeteilt, wobei sich Teil 1 mit der AIEM-Regelung und Teil 2 mit der *Octroi de mer*-Regelung beschäftigt.

Die Ergebnisse der Studie basieren auf Nachweisen, die an unterschiedlichen Stellen erfasst wurden und durch geeignete qualitative und quantitative ***Methodiken*** verarbeitet wurden. Insbesondere:

- ***Schreibtischforschung*** und Durchsicht der relevanten Dokumentationsstellen, einschließlich politischer Dokumente und Berichte der EU und Mitgliedsstaaten, die sich mit den Steuersonderregelungen und anderen relevanten EU-Maßnahmen (z.B. staatliche Hilfsmaßnahmen, Programme, etc.) zur Unterstützung der Gebiete in äußerster Randlage beschäftigen. Darüber hinaus auch eine Reihe akademischer und ‚grauer' Literatur;
- Umfassende ***Konsultation der Interessensgruppen***, inklusive Interviews (120) und vor-Ort Besuchen der vier Regionen (Kanarische Inseln, Réunion, Guadeloupe und Martinique) und eine Umfrage unter Unternehmen (378), die alle sechs betreffenden Regionen abdeckt;
- ***Quantitative Datenanalyse***, basierend auf existierenden Rohdatensätzen und von den zuständigen nationalen Behörden gesammelten Statistiken.

2. Übersicht über die AIEM-Regelung

Die *Arbitrio sobre las Importaciones y Entregas de Mercancías* (AIEM) ist eine spezielle Steuerregelung, die im Jahr 2002 eingeführt wurde, mit dem Ziel, die Entwicklung und Diversifizierung von Produktionsaktivitäten auf den Kanarischen Inseln zu unterstützen. Die Sonderreglung besteht aus einer Wertsteuer (*ad valorem*) auf die Lieferung bestimmter Güter in der Region, wobei jedoch die Produkte externen Ursprungs dem vollen Steuersatz unterliegen und Steuerbefreiungen für lokal hergestellte Produkte ermöglicht werden. Die Absicht dieser Sonderregelung ist die Unterstützung der Wettbewerbsfähigkeit lokaler Produktionsaktivitäten und die Abschwächung der Auswirkungen von Abgelegenheit, geringer Größe, Isolation und anderer struktureller Einschränkungen, die die Region betreffen.

Insgesamt wird diese Sonderregelung auf etwa ***157 Produktkategorien*** (bestimmt nach KN-Codes – von 4 bis 8 Ziffern) angewandt. Die unterstützten Produkte gehören in erster Linie zu Fertigungsindustrien – Lebensmittel und Getränke, Tabak, Chemikalien, Papier und andere – und in geringerem Ausmaß zu Agrar- und Fischereisektoren. Alles in allem haben die AIEM Zielbranchen einen Wert von etwa EUR 3.33 Milliarden und der aggregierte ***Wert der unterstützten Produktionen*** beträgt, konservativ geschätzt, etwa EUR 1.92 Milliarden. Die steuerlichen Unterschiede bewegen sich zwischen 5% und 15%, mit einer durchschnittlichen Differenzierung von etwa 7%. Im Jahr 2017 beliefen sich die AIEM ***Steuerbelege*** auf EUR 148 Millionen, während sich die offizielle Schätzung der ***nicht erhobenen Steuern*** aufgrund der Befreiung (die ‚entgangenen' Steuereinnahmen) auf EUR 92 Millionen beläuft.

3. Zusammenfassung der Evaluierungsergebnisse

Die AIEM-Regelung ist eine von mehreren speziellen gesetzlichen Maßnahmen für die Kanarischen Inseln als ein anerkanntes Gebiet in äußerster Randlage und ist auf den allgemeinen EU Ansatz gegenüber Gebieten in äußerster Randlage ausgerichtet, welcher auf der Zielvorgabe basiert, die strukturellen sozialen und wirtschaftlichen Einschränkungen in Betracht zu ziehen. Insbesondere trägt es zur Förderung von Wachstum und Schaffung von Arbeitsplätzen in der Region durch die Diversifizierung lokaler Wirtschaft und Befähigung von Aktivitäten mit hoher Wertschöpfung, wie industrielle Fertigung, bei. Die Regelung stellt eine offenkundige Ausnahme der EU-Politik für den Binnenmarkt und Wettbewerb dar, deren rechtliche Grundlage im ***Artikel 349 AEUV*** verankert ist, welcher explizit die Notwendigkeit spezieller Maßnahmen zur Unterstützung der Gebiete in äußerster Randlage, Auseinandersetzung mit strukturellen Einschränkungen und Unterstützung derer Entwicklung anerkennt. Die AIEM-Regelung unterliegt zweigleisiger Autorisierung auf EU-Ebene: (a) in der EU-Fiskalpolitik durch ***Beschlüsse des Rates***, welche eine Anwendung von Sonderbehandlungen auf explizit ausgewählte Produkte autorisieren; und (b) als Maßnahme von ***Regionalbeihilfen***. In letzterem Fall gewährleistet die Regelung die Compliance mit EU-Wettbewerbsregeln und deren Verhältnismäßigkeit.

Der EU-Ansatz in Bezug auf die Gebiete in äußerster Randlage im Allgemeinen, und die Kanarische Inseln im Speziellen, umfasst eine Reihe von anderen Maßnahmen, die durch die Europäischen Struktur- und Investitionsfonds (ESI-Fonds) und/oder andere spezielle Regionalbeihilfemaßnahmen finanziert werden. Manche dieser Maßnahmen befassen sich mit den gleichen Sektoren/Begünstigten wie AIEM und haben das gleiche Ziel die Effekte struktureller Einschränkungen auf die Betriebskosten kanarischer Unternehmen abzuschwächen. Insofern gibt es offenkundige ***Synergien zwischen der AIEM und diesen anderen Programmen*** und kumulative Wirkungen sind häufig. Auf der Unternehmensebene bestehen administrative Verfahren, um das Risiko von überschüssiger Entschädigung durch Beihilfekumulierung zu vermeiden, während auf der Makroebene verifiziert wurde, dass die Summe der AIEM und anderer Entschädigungen nicht die geschätzten zusätzlichen Kosten durch strukturelle Einschränkungen überschreitet (in etwa 54% der geschätzten zusätzlichen Kosten werden insgesamt kompensiert). Dennoch ist auf der Produktebene aufgrund unzureichender Informationen keine Verifizierung der kumulativen Auswirkungen möglich, weswegen gelegentliche Fälle von Überentschädigung nicht *a priori* ausgeschlossen werden können.

Der Umfang der AIEM-Regelung ist einigermaßen umfassend, wodurch die ***Bedürfnisse der betreffenden Wirtschaftsteilnehmer*** zufriedenstellend behandelt werden. Das System ist jedoch kaum reaktionsfähig auf sich verändernde Marktbedingungen, weil die Liste der unterstützten Produkte in dem Beschluss des Rates festgelegt ist. Dies bedeutet, dass jegliche Überarbeitung – z.B. um neu entstehende Produktlinien aufzunehmen oder das Ausmaß der Unterstützung zu verändern – einen beschwerlichen Prozess der rechtlichen Anpassung oder einen Aufschub bis zur nächsten Erneuerung der Maßnahme impliziert. Das andere Problem – oft von Handelsvertretern beklagt – liegt darin, dass die Identifizierung der unterstützten Produkte durch Bezug auf die KN-Kategorien geschieht, welche mitunter Waren enthalten, die nicht lokal oder in geringen Mengen produziert werden. Dies stellt die ***von den zuständigen Behörden adaptierten Kategorien zur Auswahl der Produkte***, welche für Unterstützung zulässig sind, in Frage. Gegenwärtig ist das Hauptkriterium, laut Berichten, der Marktanteil der unterstützten Produkte, jedoch gibt es keine weitere Spezifizierung darüber wie dieses Kriterium in der Praxis angewandt wird und was der minimale oder maximale Schwellenwert des Marktanteiles für AIEM-Unterstützung ist. Eine Analyse des AIEM-Produktportfolios zeigt, dass etwa 15% der begünstigten Produkte einen Marktanteil von weniger als 5% haben, während in etwa 11% in einer eindeutig dominanten Position sind (95% oder mehr Marktanteil). Die strategische Bedeutung mancher Produkte mag gewiss einen Verzicht des Marktanteilkriteriums rechtfertigen, aber die Abwesenheit von expliziten, transparenten Regeln hat scheinbar Misstrauen unter gewissen Wirtschaftsteilnehmern in Bezug auf die Umsetzung der Sonderregelung geschürt.

Die Einbeziehung bestimmter Produkte in die AIEM-Liste ist manchmal umstritten. ***Tabakprodukte*** sind hier ein typisches Beispiel, aufgrund der Existenz von EU-Maßnahmen zur Tabakkontrolle, mit dem Ziel dem Konsum entgegenzuwirken. Von 2002 bis 2015 war das AIEM-Differenzial für Tabakprodukte 25% (höchste zulässige Rate) und wurde dann auf 15% reduziert (Ley 9/2015). Der Beschluss des Rates stellt dies als einen ‚Ausnahmefall' dar, welcher mit der Wichtigkeit der Tabakindustrie für die kanarische Wirtschaft gerechtfertigt wird. Auch wenn die AIEM nicht der Grund für niedrige Preise auf Tabakprodukte in der Region ist – welche stattdessen in den niedrigen angewandten Verbrauchssteuersätzen begründet sind – wurde offensichtlich der Übereinstimmung mit anderen EU-Maßnahmen, welche die Begünstigung Tabaks verbieten (wie etwa der EFRE), keine Berücksichtigung gegeben.

Die AIEM-Sonderregelung unterstützt lokale Produktionsaktivitäten durch die ***Reduzierung der Wettbewerbslücke zwischen lokalen Produkten und Importen*** vom spanischen Festland oder der EU, welche durch zusätzliche Produktionskosten verursacht wird. Quantitative Einschätzungen solch zusätzlicher Kosten werden regelmäßig durchgeführt, aber trotz der unternommenen Anstrengungen unterliegt diese Aufgabe intrinsischer methodischer Beschränkungen, weswegen diese Einschätzungen mit der nötigen Vorsicht betrachtet werden müssen. Die letzte Einschätzung wurde 2019 durchgeführt und die geschätzten gesamten ***zusätzlichen Kosten*** des Privatsektors auf den Kanarischen Inseln sind EUR 5.23 Milliarden, wovon EUR 1.04 Milliarden den von der AIEM begünstigten Sektoren zurechenbar sind (Fertigung und der primärer Wirtschaftssektor). Die Hauptquelle zusätzlicher Kosten für die AIEM-Industrien sind Frachtkosten für Rohstoffe und Produktionsmittel, welche sich auf 14.3% des Umsatzes eines lokalen Produzenten belaufen. An zweiter Stelle werden zusätzliche Kosten durch ungenutzte Produktionskapazitäten und damit verbundenen negativen Skaleneffekten verursacht, welche sich auf etwa 9% des gesamten Umsatzes belaufen. Zusätzliche Kosten variieren zwischen den Sektoren und Branchen und schwanken zwischen 36% in der Lebensmittelindustrie und 7.3% im Bergbausektor. ***Detailliertere Einschätzungen*** der von AIEM begünstigten Produkte nach KN-Codes wurden bisher nicht durchgeführt.

Die AIEM-Regelung kompensiert nur für einen Teil der geschätzten zusätzlichen Kosten. Im Durchschnitt deckt die Steuerermäßigung in etwa ein Viertel der Zusatzkosten, aber in monetärer Hinsicht beläuft sich die gesamte Kompensation – gemessen im Verhältnis zu den insgesamt verlangten Steuern auf Importe – auf etwa 14% der gesamten Zusatzkosten. Diese beschränkte Häufigkeit in Verbindung mit relativ unregelmäßigen Kompensationsmustern zwischen den Produkten führt zu einem eher unklaren Einfluss auf die Wettbewerbslücke. Laut einer Mehrheit der Begünstigten war die AIEM-Unterstützung bisher wesentlich zur ***Erhaltung der Wettbewerbsfähigkeit lokaler Produkte***. Allerdings ist der Wert der Importe stetig gewachsen, während die Wertschöpfung der AIEM-begünstigten Industrie im Laufe der Zeit im Wesentlichen stabil geblieben ist, wodurch relativ betrachtet der Marktanteil von AIEM-unterstützten Branchen im letzten Jahrzehnt um etwa einen Prozentpunkt gefallen ist. So gesehen lag der wichtigste Beitrag der AIEM eher in der Abschwächung dieses Rückgangs als in der Förderung von Entwicklung und Wachstum.

Die Ergebnisse der quantitativen Datenanalyse weisen darauf hin, dass in Ermangelung der Unterstützung durch AIEM die Leistung der ***lokalen Produktionsaktivitäten*** wesentlich schwächer gewesen wäre. In etwa ein Drittel des Werts von AIEM-begünstigten Produkten (ungefähr EUR 570 Millionen) wurde theoretisch durch den Steuerermäßigungsmechanismus ermöglicht, mit positiven Auswirkungen auf ***Beschäftigung*** und die ***Anzahl der aktiven Unternehmen***, welche in der gleichen Zeit um etwa 300 Einheiten gewachsen ist. Demgegenüber gibt es keine Hinweise zu Nutzen für den Gesamtinvestitionswert und die Diversifizierung von Produkten. Letztlich zeigt die AIEM eine insgesamt positive Balance zwischen Kosten und Nutzen mit einem geschätzten, durch die Sonderregelung ermöglichten, Wert lokaler Produktion der in etwa dreimal so hoch ist wie die Kosten in Form von entgangenen Steuereinnahmen.

Auf der Makroebene sind die Auswirkungen der AIEM-Regelung zu klein, um erkennbar zu sein. In den letzten fünf Jahren ist der ***Produktionsindex der Fertigungsindustrie*** mit deutlich größerer Geschwindigkeit gewachsen als die Indizes anderer Sektoren, jedoch ist die Fertigung weiterhin ein Nebenbestandteil des kanarischen BIP. Die ***Handelsbilanz*** ist nach wie vor weitestgehend negativ, mit einem potenziellen AIEM-Effekt auf die Importsubstitution, der sich auf weniger als 1% des gesamten Ungleichgewichts (EUR 12.5 Milliarden) beläuft. Letztendlich zeigt der Trend des ***Verbraucherpreisindex*** auf den Kanarischen Inseln keine maßgeblichen Disparitäten zum allgemeinen Trend in Spanien, wobei sich die Auswirkungen der AIEM-Steuer auf geschätzte 1.0% des kanarischen Haushalts belaufen.

In Puncto ***Verwaltungs- und Compliance-Kosten*** mit Bezug zur AIEM-Regelung sind die Implementationsregelungen unkompliziert und verlangen keine besonders komplexen oder aufwändigen Verfahren von den zuständigen Behörden oder Wirtschaftsteilnehmern. Das kritischste Implementationsthema betrifft die Produktklassifizierung, welche manchmal unklar und eine mögliche Ursache für Auseinandersetzungen und Disparitäten in der Behandlung ist. Auf einer übergeordneten Ebene erscheinen manche der aktuellen Maßnahmenregelungen übermäßig komplex oder starr und verursachen möglichweise ***unnötige Belastungen*** für EU- und nationale Behörden. Ein solcher Aspekt ist die Unmöglichkeit zur Überarbeitung der Liste und gewährten Befreiungen für bestimmte Produkte ohne eine rechtliche Anpassung des Beschlusses des Rates. An zweiter Stelle ist zu nennen, dass die derzeitigen Kontrollanforderungen signifikante Anstrengungen der zuständigen Behörden beinhalten und dass das Fehlen eines klaren, harmonisierten Kontrollrahmens und das nicht optimale Timing der Kontrollberichte deren Informationsgehalt und Nutzen für den Politikprozess beeinflusst.

4. Maßnahmenszenarien für die Zukunft

Während die Resultate der Evaluierung die allgemeine Zweckmäßigkeit und Vorteile der AIEM-Regelung bestätigen, wurden auch gewisse Ineffizienzen und Dysfunktionen festgestellt, welche möglicherweise die Wirksamkeit der Maßnahme einschränken und/oder unnötige Belastungen verursachen. Mit dem Auslaufen der Bestimmungen des aktuellen Beschlusses des Rates mit dem Ende des Jahres 2020 zeichnen sich für den

Weg vorwärts besonders drei Maßnahmenszenarien ab:

- Das ***'keine Veränderung'-Szenario***, d. H. die Erneuerung der derzeitigen Sonderregelung ohne signifikante Änderungen für den nächsten Planungszeitraum (2021-27),
- Verlängerung des aktuellen Systems mit ***Überarbeitungen der aktuellen Maßnahmen*** mit dem Ziel die identifizierten Probleme zu beheben,
- ***Einstellung*** der aktuellen Regelung.

Die ***Ansichten der Stakeholder*** bezüglich einer möglichen Erneuerung der AIEM sind stark gespalten. Erwartungsgemäß sind jene Unternehmen, deren Produktionsaktivitäten normalerweise von der Steuerermäßigung profitieren, im Allgemeinen für eine Erneuerung der Regelung (95%), auch wenn für die Mehrheit (75%) Veränderungen der aktuellen Maßnahmen notwendig sind. Hingegen ist eine Mehrheit (70%) der Unternehmen in anderen Branchen für eine Einstellung der aktuellen Regelung.

Die Studie hat eine Reihe von möglichen Änderungen der aktuellen Regelung identifiziert und diese in Bezug auf ihre zu erwartenden Auswirkungen in verschiedenen Bereichen untersucht. Die von der Studie berücksichtigten Optionen betreffen drei zentrale Aspekte, und zwar:

1. Kriterien für die ***Identifizierung zulässiger Produkte und Aktualisierung der Produktliste***. Die vorgeschlagene Überarbeitung besteht auf zwei unterschiedlichen, aber zusammenhängenden, Bestimmungen. Die erste Überarbeitung ist, dass im Beschluss des Rates nur die ‚groben' Kategorien der begünstigten Produkte (d. H., unter Einsatz der Codes auf KN4-Position) identifiziert werden und innerhalb dieser Kategorien die Verantwortung zur Auswahl der spezifischen Produkte (KN8 oder niedrige Position) zur Begünstigung den zuständigen nationalen Behörden überlassen wird. Diese Maßnahme würde den zuständigen Behörden mehr Flexibilität in der Verwaltung der Regelung erlauben und die Notwendigkeit rechtlicher Änderungen auf EU-Ebene für einfache Überarbeitungen und Aktualisierungen der Produktlisten entfernen. An zweiter Stelle wird die Verabschiedung klarer und überprüfbarer Kriterien für die Auswahl jener Produkte, die von AIEM-Unterstützung profitieren sollen, vorgeschlagen. Im Einklang mit geltenden Praktiken sollten diese Kriterien, unter anderem, den Marktanteil des Produktes in Betracht ziehen und im Falle von residualer oder weitestgehend dominanter Marktposition sollte in transparenter Weise eine angemessene Rechtfertigung zur Begünstigung geleistet werden. Alles in allem würde diese Maßnahme verhindern, dass die höhere Flexibilität bei der Listenverwaltung zu ungerechtfertigten Erweiterungen des Rahmens der Steuerregelung führt und sie würde dem Verlangen nach größerer Klarheit und Objektivität nachkommen, das von AIEM-Gegnern ausgedrückt wurde. Die überarbeiteten Regelungen sollen sicherstellen, dass Produkte von besonderer und strategischer Wichtigkeit weiterhin unterstützt werden und die Kohärenz mit anderen EU-Maßnahmen und Programmen verbessert wird.

2. Überarbeitung der Mechanismen zur ***Ermittlung der maximal zulässigen Steuerermäßigung***. Diese vorgeschlagene Option besteht aus drei spezifischen Maßnahmen. Die erste Maßnahme beabsichtigt eine Vereinfachung der Regulierungen zur Ermittlung der Steuerermäßigung, indem man die aktuell bestehenden vier verschiedenen Produktlisten mit nur einer Liste mit einem einzigen maximal zulässigen Schwellenwert ersetzt. Zu den Vorteilen dieser Maßnahme gehört eine flexiblere Verwaltung der von den zuständigen Behörden angewandten Differenzsätze, die eine Überarbeitung ohne formelle Änderung des Ratsbeschlusses ermöglichen. Mit dem Ziel eine ungerechtfertigte Erhöhung der Unterstützung zu vermeiden, besteht die zweite vorgeschlagene Maßnahme darin, einen globalen Referenzwert in die Regelung aufzunehmen, d. H. eine Geldobergrenze für die

geschätzten „entgangenen Steuereinnahmen", die die zuständigen Behörden einhalten müssen. Da die Messung der entgangenen Einnahmen Unsicherheiten und Schwankungen unterliegt, sollte eine Pufferregulierung vorgesehen werden. Die dritte vorgeschlagene Maßnahme zielt darauf ab, die Nützlichkeit zusätzlicher Kostenbewertungen für politische Zwecke zu verbessern, Schätzungen auf der Ebene der KN4-Produktkategorien zu disaggregieren und sicherzustellen, dass die angewandten Steuerdifferenzen diese Schätzungen nicht überschreiten. Um das Risiko einer Überkompensation zu vermeiden, sollte die im Rahmen von EU-Programmen und staatlichen Beihilfemaßnahmen gewährte Unterstützung in Betracht gezogen werden.

3. Überarbeitung der ***Maßnahmendauer*** und der ***Kontrollmechanismen***. Die vorgeschlagene Überarbeitung verfolgt die beiden parallelen Ziele, einerseits die Belastung durch unnötig häufige Neubewertung und Erneuerung der Regelung zu reduzieren und andererseits die Nützlichkeit und Wirksamkeit der Kontroll- und Evaluierungsaktivitäten zu erhöhen. Im ersten Fall wurde eine Verlängerung der derzeitigen Laufzeit auf 10 Jahre in Betracht gezogen. Es wurde jedoch festgestellt, dass die Vorteile der Verringerung des Erneuerungsaufwandes von den Nachteilen der Desynchronisation des Beschlusses des Rates mit der entsprechenden staatlichen Beihilfepolitik überwogen werden könnten. In Bezug auf die Kontrolle besteht die vorgeschlagene Überarbeitung in der Annahme einer standardisierten Berichtsstruktur, die auf einer Reihe von harmonisierten Indikatoren basiert, die wiederum in allen von der Steuersonderregelung profitierenden EU-Gebieten in äußerster Randlage gleich sind und als ausreichend für die geeignete Bewertung der Regelungsauswirkungen angesehen werden. Darüber hinaus könnte der Zeitpunkt für die Einreichung von Kontrollberichten auf das fünfte Jahr nach Verabschiedung der Maßnahme verschoben werden, um eine bessere Verfügbarkeit von Überwachungsdaten und eine engere Anpassung an die Anforderungen des Prozesses zur Erneuerung der Sonderregelung sicherzustellen.

Keines der identifizierten Implementierungsprobleme erschien schwerwiegend genug, dass es die Annahme radikalerer Optionen, wie etwa einer ***Einstellung der Sonderregelung***, rechtfertigen würde. Einerseits erscheint es aus zwei Gründen nicht möglich/wünschenswert, sie durch andere ähnliche EU-Unterstützungsmaßnahmen zu ersetzen: die zahlreichen bereits existierenden steuerlichen und nichtsteuerlichen Hilfsmaßnahmen und die Tatsache, dass die AIEM derzeit ohne Kosten für das EU-Budget umgesetzt wird. Andererseits würde eine Einstellung der Sonderregelung ohne jeglichen Ersatz die lokalen Produktionsaktivitäten signifikant schädigen und möglicherweise die Abhängigkeit der lokalen Wirtschaft vom Tourismus- und Dienstleistungssektor erhöhen und ihre Widerstandsfähigkeit gegenüber globalen Wirtschaftsschocks beeinträchtigen.

MAIN TEXT

1. INTRODUCTION

1.1 Nature and contents of the Report

➢ NATURE OF THE REPORT

This report (the 'Report') has been prepared in the framework of the *Study on specific tax regimes for outermost regions belonging to France and Spain* (the 'Study' or the 'Assignment'). The Report is submitted to the European Commission – Directorate General for Taxation and Customs Union (DG TAXUD) by a consortium led by Economisti Associati and including Centre for European Policy Studies, EUROPE Ltd, CASE - Center for Social and Economic Research, wedoIT- solutions GmbH and ECOPA ('the Consultants').

➢ STRUCTURE OF THE REPORT

The overall Report is structured in two stand-alone parts, of which ***Part 1*** deals with the Spanish special tax regime - *Arbitrio sobre las Importaciones y Entregas de Mercancías en las Islas Canarias (AIEM*), while ***Part 2*** focuses on the French special tax regime – *Octroi de mer*. The present Part 1 of the Report (the 'Main Text') is structured as follows:

- ***Section 1*** contains the introduction of the Study;
- ***Section 2*** provides a review of the AIEM special tax regime and implementation arrangements, as well as of the socio-economic context and the other policies and measures in support of the Canary Islands;
- ***Section 3*** describes the methods and tools used for the collection and analysis of data;
- ***Section 4*** focuses on the retrospective evaluation of the AIEM regime, responding to the evaluation questions of the Assignment;
- ***Section 5*** summarises the 'policy problems' emerging from the evaluation findings and describes the policy scenarios for the way forward;
- ***Section 6*** provides an impact analysis of the prospective policy options and their comparative assessment;
- ***Section 7*** contains the conclusions of the Study.

Part 3 contains a series of annexes including, in particular:

- Annex A - Synopsis Report from the stakeholder consultation;
- Annex B –proposed monitoring template and list of indicators for the way forward;
- Annex C – specifications and full results of the analytical models used for the quantitative data analysis;
- Annex D –detailed review of the other EU schemes for outermost regions and the analysis of coherence;
- Annex F – full bibliography of the Study.

1.2 Purpose and scope of the Assignment

➢ THE SUBJECT OF THE EVALUATION

The overall subject of the Assignment is the tax advantages granted to some enterprises engaged in production activities and based in certain EU Outermost Regions (ORs), under the following special tax regimes:

1. The '***Arbitrio sobre las Importaciones y Entregas de Mercancías en las Islas Canarias***' **(AIEM),** applicable in the Canary Islands; and
2. The '***Octroi de mer***' **(OdM)** or 'dock dues', applicable in five French outermost regions, i.e., Réunion, Mayotte, French Guiana, Guadeloupe, and Martinique.

The two regimes have separate legal and administrative frameworks, embedded in their respective national legislation, but have similar objectives and implementation mechanisms. In particular:

- Both regimes consist of an *ad valorem* ***tax applied to selected goods*** delivered in the region(s) concerned. The tax applies to both local production and imports (including from the EU)[1] but tax exemptions/reductions are extended to local production.
- The ***justification for these tax differentials*** lies in the need to compensate for the additional costs borne by local producers and restore their competitiveness vis-à-vis mainland's and, more generally, EU-based competitors. Such additional costs are caused by the structural constraints faced by ORs economies, explicitly acknowledged in Art. 349 TFEU.
- The implementation of differentiated tax rates based on product origin implies a derogation of EU internal market and competition rules and constitutes a form of State aid granted to ORs local producers. Therefore, these regimes require a double-track authorisation at the EU level:

    - Regarding ***fiscal policy***, they are authorised by ad hoc EU Council Decisions that are revised and renewed periodically. The Decisions currently in force are:
        (a) Council Decision 377/2014 for AIEM[2]; and
        (b) Council Decision 940/2014 amended by Council Decision 644/2019 for the OdM[3].
    - Regarding ***State aid*** policy, the OdM is specifically authorised under State aid decision SA.46899 (2016/N), while the AIEM regime is, since 2015, enacted under Art. 15 of the *General Block Exemption Regulation*.[4]

- The respective EU Council Decisions set down the ***lists of products*** that may benefit from the differentiated tax regime, as well as the ***maximum permitted differential*** applicable. They also require that the revenues collected are incorporated in the resources of the local administrations and allocated to the local ***economic and social development*** strategy.

It is important to underline that while the EU policy is essential to permitting the implementation of these special regimes, they remain primarily ***national policy initiatives***, subject to the national legal and administrative frameworks of the concerned Member State (MS). In particular, Member States are responsible for: policy design, collection and submission of underpinning evidence, concrete implementation and enforcement, monitoring and reporting to the EU, periodic revisions and updates, and embedding EU policy provisions in national policy; whereas the EU policy focuses essentially on the permitted application of differentiated tax rates to certain products. This type of differential tax mechanism is the core element of both special tax regimes;

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[1] As clarified in the 'Note on Terminology' (see the Glossary of Terms), in this Report the terms 'import' and 'export' – unless differently stated - include also the transactions between outermost regions and the mainland as well as other EU Member States, in accordance with the terminology used in the special regimes' legal basis.

[2] Council Decision No 377/2014/EU of 12 June 2014 on the AIEM tax applicable in the Canary Islands.

[3] Council Decision No 940/2014/EU of 17 December 2014 concerning the dock dues in the French outermost regions; Council Decision No 2019/664 of 15 April 2019 amending Decision No 940/2014/EU regarding products eligible for exemption from or a reduction in dock dues.

[4] Commission Regulation (EU) No 651/2014 declaring certain categories of aid compatible with the internal market in application of Articles 107 and 108 of the Treaty (amended by Commission Regulation (EU) 2017/1084 of 14 June 2017).

however, it is important to underline that the ***focus of the Study is on the EU dimension of AIEM/OdM regimes*** and not on the national policies on the whole.

➢ THE PURPOSE AND TASKS OF THE ASSIGNMENT

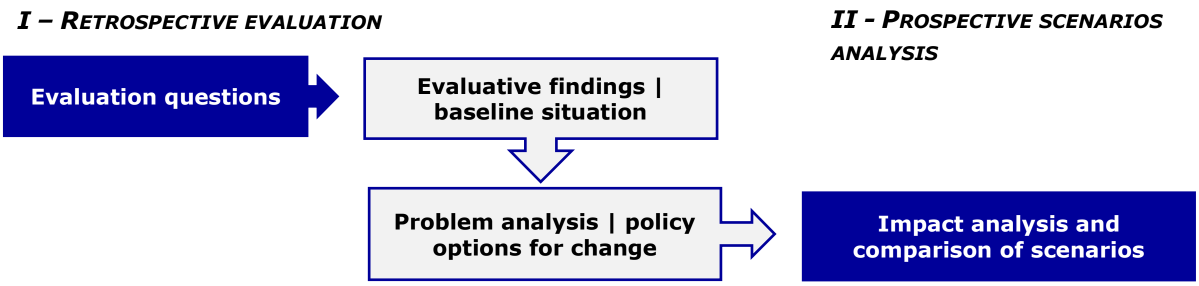
The Decisions currently in force are set to expire at the end of 2020. The ***overall purpose*** of the Study is to conduct a comprehensive evaluation of these regimes contributing to the analysis of the policy scenarios available for the way forward, or more specifically:

- to collect and elaborate evidence on the past performance of these special tax regimes in the regions concerned,
- to identify and assess possible revisions of the current policy, and
- to provide conclusions and recommendations on the various policy scenarios available.

The Study consists of a retrospective (evaluative) component and of a prospective component that have been implemented 'back-to-back', as depicted in Figure 1.1 below.

- ***Retrospective Evaluation***. This component – developed in Section 4 - regards how the special tax regimes considered have performed in relation to the stated objectives and expectations. It was driven by a set of 'evaluation questions' and is structured on the basis of a detailed evaluation matrix elaborated in the initial phase of the Assignment.
- ***Prospective Scenarios Analysis***. The prospective dimension of the Study has been implemented in the form of an impact analysis. The outcomes of the above retrospective evaluation have informed the development of policy options to address emerging issues (Section 5); then, such options have been examined and compared with respect to their expected impacts (Section 6).

Figure 1.1 – Structure of the Assignment



➢ SCOPE OF THE STUDY

The scope of the Assignment covers, as mentioned, the EU policy for AIEM and OdM special tax regimes since their establishment in the current form – i.e., 2002 and 2004 respectively – and in all the geographical regions of implementation – respectively the Canary Islands and five French outermost regions, namely: Réunion, Mayotte, French Guiana, Guadeloupe, and Martinique (collectively referred to as the 'French ORs').

As highlighted, the Assignment regards the EU dimension of these national measures, and in specific, the tax differential system and its design, implementation and monitoring arrangements. In this sense, the evaluation of special regimes' performance and impacts regards ***specifically the production activities which fall under the tax***

differential system, and these represent only part of the overall scope of AIEM and OdM regimes.[5]

Sector-wise, these regimes cover productive sectors of the ORs, mainly manufacturing activities and, to a lesser extent, agriculture, fisheries and mining activities. The specific products supported by the regimes are identified in relation to their customs classification, typically using the 8-digit subheading of the Combined Nomenclature ('CN8'), but sometimes using a less granular – i.e., CN4 or CN6[6] – or more granular classification (TARIC 10-digit classification and ad hoc product definitions). An overall 157 product categories are supported by the AIEM regime, and some 976 – including all five ORs - by the OdM regime.

For the analysis of policy coherence and of the overall operating environment, the perimeter of the Study extended to the mapping and review of other (main) policies that form part of the EU approach for these regions, including, for example cohesion funds, State aid measures and other relevant programmes and schemes.

[5] This specific feature of the Assignment is the main reason for apparent disparities with the results of other studies, which focused, instead, on special regimes on the whole, i.e. including the effects of the tax applied on products that do not benefit from exemptions/reductions.
[6] At the 4- and 6-digit levels, the CN classification actually coincides with the international Harmonised System (HS) classification, and in this sense these levels can be consistently designated as HS4 and HS6. However, to avoid confusion, in this Report we always refer to the CN classification, irrespectively of the granularity of the coding.

2. OVERVIEW OF THE INTERVENTION

2.1 The socio-economic context

The Canary Islands archipelago is a Spanish autonomous community (*comunidad autónoma*) comprising the provinces of Las Palmas and Santa Cruz de Tenerife, as well as seven insular councils. The archipelago is formed by eight main islands and various islets located in the Atlantic Ocean, at a distance of about 1,800 km from the capital of Spain. The Canary Islands have a population of almost 2.1 million inhabitants, mostly concentrated in the two capital islands: Gran Canaria (40%) and Tenerife (43%).

The Canary Islands are the 8th largest regional economy in Spain by nominal GDP, worth EUR 46 billion in 2018 (corresponding to a GDP per capita of EUR 21,000). The service sector accounts for the greatest share of the economy, namely 85% of total value added (see Table 2.1). In particular, the regional economy is largely based on tourism, which in 2018 totalled some 15.5 million visitors (of which 89% internationals), and accounts for 30% of total employment). However, the recent trends register a decline in the arrivals (see Figure 2.1). Regarding the secondary sector, construction makes up 6.2% of the value added and 5% of total employment, while manufacturing industries account for 3.8% of value added and 4% of total employment. The primary sector contributes only 1.2% of the GDP. The main agricultural products are bananas and tomatoes, which are grown for export to Europe and the Americas. Overall, the productive sectors addressed by AIEM represent some 8% of the total GDP of the Canary Islands.

The private sector of the Canary Islands comprises some 117,000 enterprises (excluding agriculture and financial services). Trade and business services account for nearly 28% and 24% of the business population. Food and accommodation services and construction are other important economic activities, each accounting for a share of 14% of all firms. Manufacturing accounts for nearly 4% of the total. The vast majority of firms are either individual business (55% has no employees) or micro undertakings (41% has between 1 and 9 employees). Small firms (with between 10 and 49 employees) and medium-large companies (with more than 50 employees) account for 4% and 1% of the total business population, respectively.

The economy of the Canary Islands is heavily dependent on trade of goods with the mainland, which accounts for 68% of the total value of Canarian external trade. Excluding oil and petroleum products, the Canarian imports – including from the mainland and the EU - totalled some EUR 14.06 billion in 2018 (30.5% of GDP), largely driven by vehicles (18% of total), machinery and electrical equipment (14%), and agri-food products. Canarian exports of goods – including to the mainland and the EU - reached some EUR 2.79 billion in 2018 (excluding fuels), including machineries and equipment (10%), vehicles (5.6%), boats (3.7%), fruits (5.5%), tobacco (5.2%), fish (4.4%), oils and cosmetics (3.5%).

In 2019, the unemployment rate in the Canary Islands amounted to 20.5% of the active population, i.e. some 6 percentage points higher than the total national rate. Unemployment incidence is particularly high among young people (about 37% in the 20-24 years cohort). Unemployment soared in 2009 (+9 percentage points), in connection with the global financial crisis which hit severely the local economy (Figure 2.2). In 2013, it reached its peak at nearly 34% (more than 60% in the 20-24 years group), then it started declining in line with the economic recovery trend and the positive growth rates registered in the 2014-18 period.

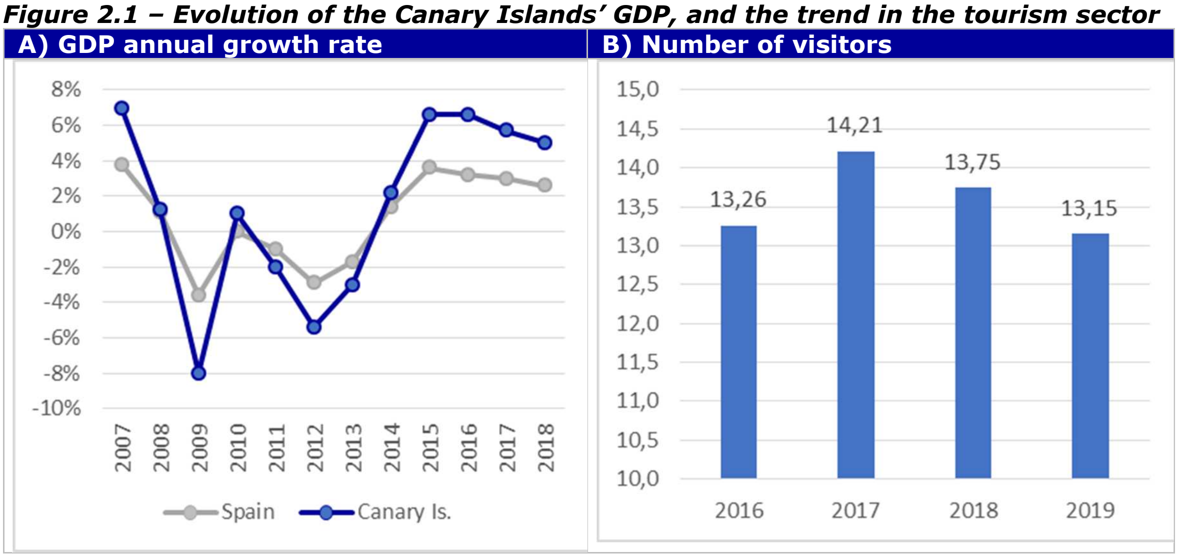
Table 2.1 – Canary Islands: Key socio-economic data (2018)

Indicator	
Distance from Spanish mainland (Madrid, km – average of all the islands)	1,800
Population (000' people)	2,127
Unemployment (% of labour force 15-74)	20.1%
GDP (billion EUR)	46.0
GDP per capita (in 000' EUR)	21.0
Primary (% of value added)	1.4%
Industry and Construction (% of value added)	13.9%
Service (% of value added)	84.7%
Imports of goods (million EUR)	17,375*
Exports of goods (million EUR)	3,711*
Number of tourists (000' visitors)	15,560

Sector	# of firms
Mining	50
Manufacturing	4,808
Construction	15,938
Trade	33,196
Transport	9,110
Food and accommodation	16,558
Professional and administrative services	27,756
IT	2,570
Real Estate	7,044
Total	**117,030**

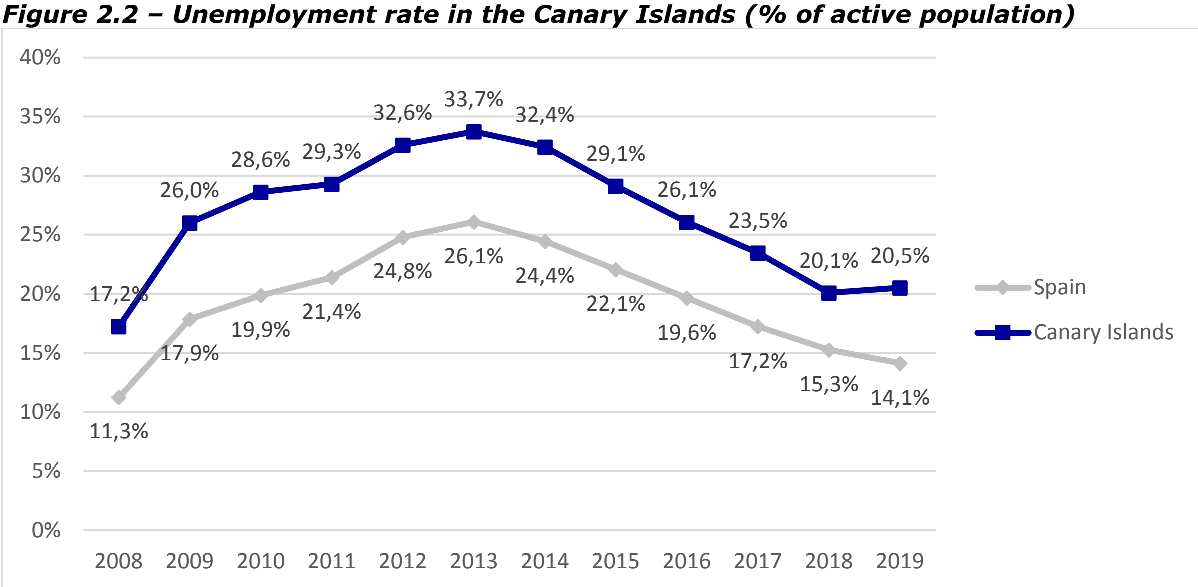
***Sources**: ISTAC and Eurostat; *provisional figures.*

Figure 2.1 – Evolution of the Canary Islands' GDP, and the trend in the tourism sector



***Sources**: ISTAC.*

Figure 2.2 – Unemployment rate in the Canary Islands (% of active population)



***Source**: Instituto Nacional de Estadística (INE)*

2.2 Review of the AIEM regime

➢ **THE OVERALL POLICY FRAMEWORK**

The *Arbitrio sobre las Importaciones y Entregas de Mercancías en las Islas Canarias* (AIEM) is an indirect tax that can be levied on the production and import of certain goods in the Canary Islands. The AIEM is one of the components of the Economic and Fiscal Regime of the Canary Islands *(Régimen Económico Fiscal – REF),* which comprises a set of special measures to promote the social and economic development of the region and to cope with its structural constraints and challenges. The origins of REF date back to the XIX century, but its modern version is enshrined in legal acts adopted in the early 90s[7]. The REF economic and fiscal measures include:

- ***Economic regime***. It consists of a series of measures aimed at mitigating the effects of remoteness and insularity, such as aid to transport, support to investments, support to education and training, promotion of tourism and commercial activities, support to employment, aid for waste management, and other specific measures for the telecommunication, water and energy sectors.
- ***Fiscal regime***. In addition to the AIEM – described in greater detail below – the other main fiscal measures include (non-exhaustive list):
    - *Impuesto General Indirecto Canario (IGIC),* which replaces the value-added tax (VAT) applied in the mainland with a similar mechanism (but with lower rates);
    - *Reserva para Inversiones en Canarias (RIC),* i.e., fiscal incentives to investment in the form of reduction of the corporate tax;
    - *Zona Especial Canaria* (ZEC), which is a low tax area accessible to companies operating in immature and emerging economic sectors.
    - *Special Tariff measure.* The Canary Islands have a special status within the EU customs union. This involves a series of ad hoc measures to protect the local economy, such as the suspension of tariffs for certain important productions, the establishment of *zona franca*, and the aids under the POSEI programme for the external procurement of certain basic consumption goods or inputs – i.e., Special Supply Arrangement (SSA) or *Régimen Específico de Abastecimiento* (REA).

At the EU level, the REF legal basis is anchored to Art. 349 of the Treaty, which explicitly recognises the need to adopt special measures in support of outermost regions like the Canary Islands, to address their structural constraints and contribute to their development.[8]

As an integral part of the REF, the AIEM regime shares its objectives and underlying justification. More specifically:

- The underlying policy need originates in the structural handicaps of the Canary Islands due to their remoteness, double insularity[9], small size, and predominance of service sector. These cause additional operating costs for local producers as compared to similar economic activities carried out on the mainland and, therefore, a competitive disadvantage for locally produced goods vis-à-vis imported ones.

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[7] *Ley 20/1991, de 7 de junio, de Modificación de los Aspectos Fiscales del Régimen Económico Fiscal de Canarias,* followed by *ley 19/1994,* more recently modified by *Ley 8/2018*.
[8] An Opinion issued in 2015 by the CJEU (for the Joined Cases C 132/14, C 133/14, C 134/14, C 135/14 and C 136/14) clarified that Art 349 does not allow only to derogate from the relevant provision of the Treaties, but can be retained per se as sufficient legal basis for establishing specific conditions of application of the EU law in the ORs, including secondary legislation.
[9] 'Double insularity' refers to the fragmentation of the Canarian archipelago into several islands and the fact that minor, non-capital islands depends from the major, capital islands for supplies, provision of services etc. In this sense the handicap of insularity condition of the Canary Islands vis-à-vis the mainland is augmented by the handicap of smaller islands vis-à-vis main ones.

- To compensate for such handicaps and to sustain the competitiveness of local production against imports, the AIEM regime introduces a differential tax mechanism, where products of local origin are exempted from the payment of the tax which is instead levied on equivalent imported products.

The AIEM regime implies a derogation from EU internal market rules and constitutes, at the same time, a form of regional State aid, therefore, since its establishment, it has required the adoption of specific authorisations in two policy areas:

- In the EU ***fiscal policy***, through periodic Council Decisions authorising the application of differential treatment to a set of explicitly identified products. The first Council Decision 2002/546 had a ten-year validity and was later revised and extended until 2020 by Council Decision 377/2014 (still in force).
- In the EU ***State aid policy***, through the adoption of a series of ad hoc authorisations that eventually expired in 2014. For the following period (2015-2020), the Spanish authorities decided to take advantage of the notification exemption offered by the general block exemption regulation[10] (GBER), and to implement AIEM in compliance with Article 15 thereof.

The AIEM regime, in its current form, was adopted in 2002, but it followed previous mechanisms of partially different nature but similar effects. The main antecedent was the *Arbitrio Insular*, introduced in the REF in 1972 (and entered into force in 1978), which consisted in a special tariff applicable to the import of industrial and agricultural products for which there was a production in the Canary Islands. The *Arbitrio Insular* continued until the early 90s when, with the full integration of the Canary Islands in the Community (1991), it became incompatible with the single market rules. It was then replaced with a temporary measure – the *Arbitrio sobre la Producción y sobre las Importaciones* (APIM) – a tax applied to certain products of both imported and local origin, but with exemptions for local productions. The APIM was progressively phased out and eventually discontinued in 2001, when it was replaced by the AIEM.

The current AIEM Decision is set to expire at the end of 2020. In line with the monitoring requirements, in 2017 the Spanish authorities prepared a mid-term report on the implementation of the AIEM.[11] On this base, the Commission prepared and presented to the Council a report examining the impact of the AIEM Decision, including on local economic development. The report was published in February 2019[12]. Then, in April 2019, the Spanish authorities submitted a request for renewal of the AIEM Decision beyond 2020.

➢ IMPLEMENTING ARRANGEMENTS

Unlike VAT, the AIEM is a ***single stage*** tax, i.e., imposed at only one stage of the supply chain, namely: (a) for imports, when the product is cleared through customs, and (b) for local products, when they are put on the market by the producer.

The AIEM structure is fully ***ad valorem***, i.e., its rate is expressed as a percentage of the product value, with the exception of fuels and petroleum products – subject to a specific tax amount per volume - and tobacco, where a minimum tax floor is applied when the amount due falls below a certain threshold.

The ***tax base*** varies depending on the origin of the product:

[10] COMMISSION REGULATION (EU) No 651/2014 of 17 June 2014 declaring certain categories of aid compatible with the internal market in application of Articles 107 and 108 of the Treaty, amended by Commission Regulation (EU) 2017/1084 of 14 June 2017.
[11] AIEM, *Análisis de su incidencia sobre las actividades económicas locales*, *Informe Intermedio* 2014-2016.
[12] COM(2019) 116 final, Report from the Commission to the Council on the application of the special arrangements concerning the AIEM tax applicable in the Canary Islands.

- in the case on imports, the AIEM is levied on the customs value inclusive of shipment and insurance costs - the 'Cost, Insurance, and Freight' (CIF) value - and is payable along with the customs declaration;
- in the case of locally produced goods, the amount of AIEM due is computed on the producer's selling price net of other indirect taxes (IGIC), and is paid on a quarterly basis through tax declarations submitted to the competent tax authority (*Agencia Tributaria Canaria*)[13].

The products subject to the AIEM regime are identified in the legislation with reference to their ***customs classification*** (i.e., CN or TARIC codes). Products are identified with different levels of granularity ranging from very narrow classification levels (i.e., TARIC 10-digit) to broad ones (CN 4-digit).[14] At present, an overall 182 categories of products fall within the scope of the AIEM regime.[15]

A series of ***exemptions*** are foreseen, the most important being the tax exemption extended to the local production of some 132 out of the 182 product categories listed in the AIEM domestic policy. These 132 products are explicitly identified and listed in the EU policy, namely in Annex to the Council Decision.[16] For the other 50 products (mostly fuels and petroleum products), no exemption is applied, so also local production is subject to an 'internal' AIEM tax. Other exemptions regard:

- a set of specific products, identified in the domestic policy, such as certain agricultural products, newspapers and magazines, fuels for electricity generators etc.;
- exports and assimilated operations;
- import of personal goods, temporary import, import of commercial goods worth less than EUR 22, and other special cases.

Being a single stage tax, the AIEM paid on intermediate goods cannot be recovered, except the very rare cases of inputs used for the production of goods subject – and not exempted – to the 'internal' AIEM. In those case a ***refund*** may be demanded to the tax administration.

➢ TAX SCOPE AND RATES

The Council Decision establishes not only which product categories may benefit from the differentiated rates regime, but also the ***maximum permitted tax differential***. This is expressed in percentage points and represents the upper threshold that the local competent authorities must respect when setting the actual tax rate, which can also be lower than the maximum allowed. It should be noted that the threshold is expressed in terms of the difference between the rate applied on imports and the rate applied on local products, so for example, a 'differential' of 10% may therefore result from an external rate of 10% and an internal rate of 0%, but also from an external rate of 25% and an internal rate of 15%. However, there are currently no cases of 'tax reduction' and all products under the AIEM tax differential regime benefit from a total exemption.

[13] *Modelo 450. Régimen general / simplificado. Autoliquidación Trimestral*

[14] Note: at the level of 4-digit heading and 6-digit sub-heading, the EU Combined Nomenclature (CN) coincides with the international Harmonised System (HS) governing the customs classification of products. For simplicity, in this Study it was chosen to always refer to the coding of products using the CN levels (CN4, CN6, CN8), except for 10-digit codes that are designated as 'TARIC10'.

[15] 'Ley 4/2014, de 26 de junio, por la que se modifica la regulación del arbitrio sobre importaciones y entregas de mercancías en las Islas Canarias'. Note: the figure refers to all products subject to the AIEM and not only those benefitting from tax differential.

[16] Some CN categories identified in the Decision has been split into sub-categories after 2014, so the original number of items in the Annex of the Decision does no longer correspond to the actual number of CN categories of product that are currently supported.

In the Council Decisions, the supported products are grouped in ***four 'lists'*** characterised by different levels of the 'maximum permitted tax differential'. In particular:

- List A (84 product categories) – maximum differential of 5%;
- List B (12 product categories) – maximum differential of 10%;
- List C (35 product categories) – maximum differential of 15%;
- List D (1 product category) - maximum differential of 25%. The list consists of manufactured tobacco products only, and the tax treatment includes the *caveat* that if the tax on imported cigarettes fall below EUR 18 per 1,000 sticks, the tax authorities may levy a minimum tax equal to this amount.[17]

The Council Decision does not contain any reference to the ***eligibility criteria*** for the identification of target products or other principles underpinning the setting up of lists. In this sense, the AIEM regime differs from the French *Octroi de mer*, for which such principles are laid down in the Decision. In the case of AIEM, some indications are provided in the regional legislation, which states that the support is extended to products with a significant volume of production or with the potential to achieve such level and whose firms require specific support to improve their competitiveness and to consolidate and develop their activities.[18]

The policy does not clarify how the different products are allocated to the different lists; it only states, generically, that the classification was made taking into account the needs of the industrial sectors at stake and the tax differential deemed appropriate to ensure the effectiveness of the measure. However, unlike the case of *Octroi de mer*, no product-level estimation of the additional costs borne by local producers was carried out in the Canary Islands and no official 'product *fiche'* was prepared to justify the tax differential applied to specific items. External studies on additional costs have been periodically conducted in the Canary Islands but with a focus on sectoral aggregates and without any explicit reference to the implementation of the policy.[19]

The actual rates applied are set in the Canarian legislation[20] and occasionally modified through legal amendments, as occurred with tobacco in 2015.[21]

➢ TAX COLLECTION AND USE

In the 2011-17 period the AIEM tax yielded between ***EUR 120 and 150 million*** per year, i.e. some 0.3% of the gross regional product of the Canary Islands. As shown in Table 2.2 below, revenues increased after 2014, following the revision of the rate applied to certain products. However, the AIEM accounts for a minor and declining share of the total indirect tax revenue, i.e., some 5% of the total in 2017. The trend is opposite to the other main tax forming the *Régimen Económico Fiscal* of the Canary Islands, i.e., the IGIC, whose yield has doubled, from EUR 800 to 1600 million, in the same period.

[17] Since 2015, the actual differential applied to tobacco products is lower than the maximum permitted, i.e. 15%.

[18] 'Ley 4/2014, de 26 de junio, por la que se modifica la regulación del arbitrio sobre importaciones y entregas de mercancías en las Islas Canarias'.

[19] The latest additional costs study, published in 2019, is: UTE Eco-CoRe (consortium), "El coste privado de la ultraperiferia y la doble insularidad en Canarias", 2018.

[20] Currently, Ley 4/2014.

[21] The applicable rates have seldom changed in the past. One such cases was the treatment of tobacco products whose tax differential reduced from 25% to 15% in 2015, through an amendment introduced in Ley 9/2015. https://www.boe.es/buscar/doc.php?id=BOE-A-2015-5801

Table 2.2 – Indirect tax revenue collection in the Canary Islands (EUR million)

	2011	2012	2013	2014	2015	2016	2017
Total Indirect Taxes	1592.6	1974.1	2251.2	2536.7	2610.5	2765.9	2953.7
Total REF	969.8	1061.9	1237.6	1395.9	1563.4	1695.1	1797
in % of indirect taxes	*60.9%*	*53.8%*	*55.0%*	*55.0%*	*59.9%*	*61.3%*	*60.8%*
AIEM	124.7	118.6	120.1	145.1	145.1	141.9	148.1
in % of indirect taxes	*7.8%*	*6.0%*	*5.3%*	*5.7%*	*5.6%*	*5.1%*	*5.0%*

Source: *Confederación Canaria de Empresarios, based on data from Consejería de Economía, Industria, Comercio y Conocimiento.*

The amount of ***foregone tax revenue*** associated with exemptions is not published and can only roughly be estimated. In fact, such amount depends primarily on the value of local production that benefits from AIEM exemption, but only recently local authorities have started a systematic collection of these data, and gaps and incongruences are still numerous.[22] According to State aid monitoring data, non-collected taxed amounted to some EUR 86.3 million in 2015 and EUR 92 million in 2016.

Regarding ***enforcement*** and control, the responsibility falls primarily on the *Agencia Tributaria Canaria*. When introducing AIEM products in the territory of the Canary Islands, importers should declare the AIEM tax on the single administrative document accompanying the movement. At this point, the procedure follows a parallel double track: (1) national customs verify the document and the compliance/conformity of the product with applicable legislation; while (2) the *Agencia Tributaria Canaria* verifies all fiscal aspects. Clearance must be obtained by both administrations, but since the procedure is largely informatised, this double-track system does not extend the duration of the process.

The revenues of REF, including the AIEM tax, are ***transferred to local authorities***. In particular, in 2016, some 42% of resources were allocated to the *Comunidad Autónoma de Canarias* (the regional authority) while 58% were transferred to local *Cabildos* and *Ayuntamientos* (the municipal and communal authorities). This complies with an explicit requirement of the Council Decision that states that the revenues from AIEM are '*incorporated in the resources of the Canary Islands' economic and tax system*'.[23] The Decisions also requires that such resources are used '*for an economic and social development strategy involving the promotion of local activities*' but – unlike the French *Octroi de mer* – there is no earmarking of AIEM resources to any specific fund, since this is not permitted by the national budgetary rules.

➢ RECONSTRUCTED INTERVENTION LOGIC

To conclude this review of the salient features of the AIEM regime, it is useful to summarise its overall ***intervention logic*** as reconstructed by the Consultant based on the available policy documents and implementation reports. The diagram overleaf (Figure 2.3) illustrates the AIEM intervention logic using the standard elements and pathways of the EU *Better Regulation.*[24] In particular:

- The ***need*** for EU action originated in the structural constraints of ORs that lay at the base of art. TFEU 349, which in the case of the Canary Islands refer specifically to: the high dependence of the local economy from services - and tourism in particular - isolation, small size and geographical fragmentation of the market, the dependence

[22] ISTAC, Encuesta de la Industria en Canarias (EICAN).
[23] Recital 16 of Decision 377/2014.
[24] See: *Better Regulation Toolbox* - TOOL #46. DESIGNING THE EVALUATION.

on energy and raw materials, the impact of diseconomies of scale, the additional costs for transport, waste management, maintenance etc.

- The EU tax policy for the AIEM has the overall ***objective*** of addressing these handicaps contributing to the development and diversification of Canarian economy and its full integration in the Single market.
- The primary ***input*** of the EU tax policy consists of the derogations - and the corresponding State aid regime - that allow Spain to apply differentiated tax rates to certain locally produced goods as compared to imported ones, to compensate for the additional costs caused by the above-mentioned structural handicaps.[25] The measure is articulated in a series of provisions, as follows:

    - the lists of product categories (defined with reference to customs classification codes) for which tax differentials are allowed;
    - the maximum tax differentials permitted for eligible products expressed as a difference (in percentage points) between the rate applied to imported products and to locally produced ones;
    - the arrangements concerning monitoring and reporting, the periodic revision of lists and permitted differentials, and other principles laid down in the recitals of the Decisions (e.g., the use of tax receipts for the local economic development strategy etc.).

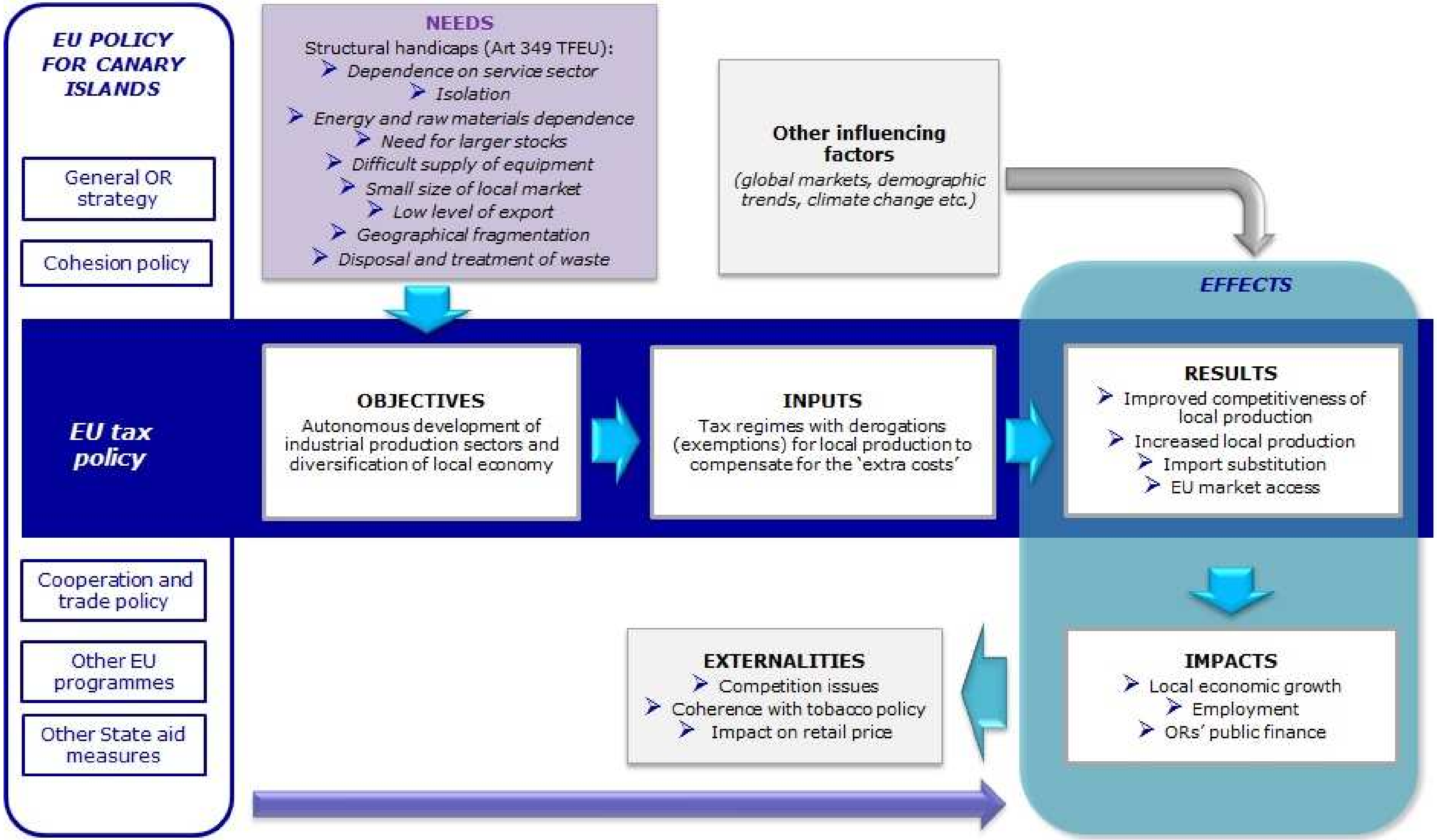
- The expected ***results*** of the policy involve, in the first place, the restoring of the competitiveness of locally produced goods vis-à-vis equivalent imported ones. This is a key step of the intervention logic: without the differential tax regimes, the locally produced goods could hardly compete with equivalent imported ones, because the additional costs caused by ORs' structural handicaps would make them noticeably more expensive.[26] By applying higher tax rates to imports than to local production, this disadvantage is expected to level out[27]. The expected consequences of mitigating the competitive disadvantages faced by local producers include an increase in local production and a certain degree of substitution of imports. The development of local manufacturing sector may eventually facilitate the integration and participation of local enterprises in the EU continental market.
- Ultimately, the effects of the policy may contribute to more generalised ***impacts,*** such as on Canarian GDP, public budget, employment levels and other macro-economic indicators.
- At the same time, the policy may have unintended effects of different types, that are considered in this Study. In particular:

    - the differentiated tax regimes may have distortive effects on competition and give rise to complaints by economic operators that are charged with the tax (e.g., importers and distributors). It is also possible that the development of certain sectors occurs 'at the expense' of other sectors;[28]
    - the tax advantages extended under the special regime may be in contrast with the objectives of other EU policies, as it is for instance the case with the support provided by AIEM to the tobacco manufacturing industry and the EU public health policy on tobacco control;
    - by raising the import-price of a number of consumer goods, the differentiated tax regime may result in an increase in retail price levels and a net loss of purchasing power for residents.

[25] It should be noted that the 'inputs' are not the special tax regimes per se – which are sovereign MS fiscal policies – but just the subject of the EU 'action', i.e., the authorisation to apply tax differentials and the related provisions.
[26] Reference is made here to the 'cost-price', i.e., the producer's or importer's price, and not to the retail price.
[27] The strong underlying assumption here is that prices reflect with sufficient accuracy the production costs and that taxes paid are passed on along the value chain to the final consumer.
[28] That is, since it may influence the repartition of investments and human capital available in the local economy.

- It is important to note that, the EU AIEM policy is one element of a much ***broader EU policy framework*** for the Canary Islands that includes several other measures, programmes and aid schemes. Sometimes these other schemes address the same production activities/beneficiaries covered by the AIEM with mutually reinforcing effects or overlapping effects or, more rarely, conflicting effects.
- Finally, other countless ***external factors*** may also influence the development of the local economy, making it particularly difficult to extrapolate the net impact of the EU tax policy.

Figure 2.3 – Reconstructed intervention logic behind special tax regimes



2.3 Other relevant EU policies and schemes

➢ **THE EU STRATEGIC APPROACH FOR OUTERMOST REGIONS**

The social and economic development of EU outermost regions is challenged by a series of factors related to their structural features or handicaps. These are explicitly identified in ***Article 349 TFEU*** with reference to: "*remoteness, insularity, small size, difficult topography and climate, economic dependence on a few products*".[29] Since 1999, EU legislation has been addressing the vulnerability and constraints of these regions through a mix of cohesion policy measures (for regional, social, agriculture and fisheries development) and various regional State aid measures, including special economic and fiscal regimes. A brief overview of the Commission strategic framework for ORs from its origin to present time is provided in Box 2.1 below.

Box 2.1 – Policy background of the EU strategic approach for ORs

The special features of ORs and the need for a tailored approach for their development were acknowledged in EU institutions' policies and acts since the early 90s, but became the subject of articulated strategic documents only in the 2000s. The early documents consisted of Commission's reports on the measures deployed to support ORs in accordance with the then Article 299(2) of the EC Treaty,[30] and culminated with the adoption in 2004 of the ***first strategic document*** for a 'stronger partnership' with the ORs.[31] The 2004 approach envisaged establishing ad hoc measures for ORs beyond and within the general cohesion instrument, in the form of a specific programme dealing with OR structural handicaps and an action plan for a 'wider neighbourhood'.

With the ***2008 renewal*** of the approach[32], the emphasis shifted from ORs structural constraints to their unique assets and their potential benefits for the EU. As summarised in a more recent communication: "*[ORs] provide a European presence in strategic areas of the world, and have exceptional geographical and geological characteristics which make them useful laboratories for research and innovation in industries of the future such as biodiversity, terrestrial and marine ecosystems, pharmacology, renewable energies, and the space sciences*."[33] The framework was further ***reviewed in 2012***[34], building, inter alia, on the outcomes of ad hoc studies on the growth potential of ORs[35] and the influential report prepared by P. Solbes in 2011, which examined the constraints to full integration of ORs in the EU single market and formulated a set of policy recommendations to enhance their competitiveness and harness their growth potential.

The latest comprehensive ***Communication*** on the strategic partnership with the ORs was ***adopted in 2017.***[36] Among others, it was informed by: the joint *Memorandum* submitted by ORs in March 2017[37] and the contributions of the three concerned MS authorities[38], the relevant

[29] Source: TFEU Art. 349. The scope of application of Article 349 was significantly extended in December 2015 following a European Court of Justice decision (C-132/14 Judgment), which ruled that the Council had the power, under Article 349, to adopt specific measures laying down the conditions of application to outermost regions not only for the provisions of the Treaties i.e., primary legislation but also in respect of the provisions of secondary legislation, affirming Council's right to adopt measures such as regulations on the basis of Article 349. (Source: EPRS, Briefing on ORs of March 2017).
[30] See: COM(2000) 147 final; COM(2002) 723 final;
[31] See: COM(2004) 343 final and COM(2004) 543 final.
[32] See: COM(2008) 642 final. The new document was elaborated based on the results of a large consultation held in 2007 and the publication of the Commission report on the results of the previous framework - COM(2007) 507 final and SEC(2007) 1112.
[33] DG REGIO, "The Outermost Regions. European Lands in the World", 2014.
[34] COM(2012) 287 final and accompanying SWD(2012) 170.
[35] Furthermore, it is worth mentioning the Report of the European Parliament on "The role of Cohesion Policy in the outermost regions of the European Union in the context of EU 2020", 18 April 2012 (rapporteur Nuno Teixeira).
[36] COM(2017) 623 final and SWD(2017) 349.
[37] 'Mémorandum Conjoint Des Régions Ultrapériphériques. Pour un nouvel élan dans la mise en œuvre de l'article 349 TFUE', March 2017 (revised in June 2017).
[38] Available on DG REGIO website on ORs:
https://ec.europa.eu/regional_policy/en/policy/themes/outermost-regions/#6

resolutions of the European Parliament[39], and the high-level dialogue between the Commission and ORs representatives in 2016 and 2017[40]. In particular, the *Memorandum* of the ORs Conference of Presidents highlighted the importance of cohesion policy for OR development, thus calling for maintenance of the specific provisions, with special emphasis on the role of economic sectors with high growth and jobs potential, namely agriculture and fisheries and emerging sectors such as renewable energy. Another major point raised there concerned the EU trade policy, and the need to take greater account of the effects of trade agreements with third countries on the economies of the ORs.[41]

The policy priorities for ORs were discussed in an enlarged setting at the *Forum of the Outermost Regions* that took place in Brussels on 30-31 March 2017, with the title *'The Outermost Regions, European lands in the world: toward a renewed strategy'*,[42]. Finally, policy analysis was supported by a series of background studies commissioned by DG REGIO and focusing on specific aspects of the EU policy for ORs, such as: green and circular economy, climate change adaptation, energy, transport accessibility, digital accessibility, 'smart' skills development, and migration.[43]

The ***current Commission Communication*** on the strategic partnership with the ORs, on the one hand recognises the positive effects of the support extended in the previous period, but on the other hand points out the persisting fragility of the OR economic, social and environmental situation, caused by insufficient basic infrastructures, limited economic diversification, difficult access to the single market for local SMEs, youth unemployment, and climate change-related vulnerabilities. In this respect, the Communication calls for a 'stronger partnership' with the ORs involving at the same time policies that are better tailored to the specificities of the local context[44] and a greater ownership of the policy objectives and efforts from the national/sub-national counterparts. More specifically, the Communication revolves around three main pillars, which are outlined here.

1) ***Building on ORs' assets***. The Communication reviews and updates the previous analysis of the assets that ORs can leverage to unleash their potential and boost growth. These include, inter alia: rich biodiversity – and its potential for tourism, fisheries, forestry, agriculture and certain production activities; special economic zones, offering 'blue economy' opportunities[45]; proximity to third countries' markets; certain location and climate features (suitable for space and astrophysics activities, for example); and other human capital and cultural assets.
2) ***Enabling growth and job creation***, through the adoption by ORs of smart specialisation strategies to support investments in research and innovation. This

[39] European Parliament resolution of 6 July 2017 (2013/2178(INI), Rapporteur: Younous Omarjee; European Parliament resolution of 27 April 2017 (2016/2016(INI), Rapporteur: Ulrike Rodust. See also the Briefing of the EPRS - European Parliamentary Research Service on "Outermost regions of the EU. Towards a renewed strategy", March 2017.

[40] President Juncker's meetings with the Presidents of the outermost regions in Brussels in April 2016 and in March 2017, and annual Conference of Outermost Regions in French Guiana in October 2017.

[41] At the same time, closer integration and cooperation between ORs and third countries in their geographical areas should be encouraged – according to the *Memorandum* - based on a robust analysis of the geopolitical, economic and trade situation in the respective regions.

[42] The Forum involved more than 600 participants including the Presidents of the outermost regions, representatives of the three Member States involved, members of civil society and external actors, as well as the representatives of EU institutions. The Report of the Forum, as well as keynote speeches, presentations and other materials are published on the DG REGIO dedicated webpage.

[43] See the following studies commissioned by DG REGIO: (1) P. ten Brink, M. Kettunen and E. Watkins (2017) Expert Group on Green and Circular Economy in the Outermost Regions: Final Report; (2) "The economic impact of climate change and adaptation in the Outermost Regions", June 2014; (3) : "Energy in the EU Outermost Regions (Renewable Energy, Energy Efficiency)", 2017; (4) "Transport Accessibility For The EU Outermost Regions' (ORs)", 2017; (5) "Analyse De La Mise En Oeuvre Des Stratégies De Spécialisation Intelligente Dans Les Régions Ultrapériphériques", 2017; (6) "On Digital Accessibility And ICT (Coverage And Use) For The Outermost Region", 2017; (7) "Les tendances démographiques et migratoires dans les régions ultrapériphériques: quel impact sur leur cohésion économique, sociale et territoriale?", 2012.

[44] In accordance with the CJEU judgment C-132/14 of 15 December 2015 that clarified the scope of Art. 349 TFEU and its conditions of application with respect to both primary and secondary EU law.

[45] On this topic, the strategic approach was informed by the study made by COGEA et al. on "Realising the potential of the Outermost Regions for sustainable blue growth", 2017.

pillar encompasses actions in support of youth employability, local competitiveness, digital accessibility and transport.
3) ***Scaling up ORs' cooperation with their neighbourhood and beyond,*** through policy dialogue, territorial cooperation programmes and Economic Partnership Agreements (EPA), especially with African, Caribbean and Pacific (ACP) neighbouring countries.

Additionally, the Communication identifies a series of cross-cutting priorities and principles for strengthening partnership with ORs, including firstly the need to better adapt EU policies to the geopolitical and economic context of ORs, especially when stipulating international agreements in geographical areas and on matters of primary interest for ORs (e.g., fisheries and trade); secondly, to set up dialogue platforms and task forces to better analyse and take stock of ORs specific needs and interests; finally, to enhance the knowledge of local contexts through efforts for improving the availability and reliability of statistics and data on ORs' socio-economic situation.

The concrete implementation involves a variety of ***supporting measures*** briefly described below.

- **REGIONAL DEVELOPMENT INSTRUMENTS**

The *European Regional Development Fund* (ERDF) and the *European Social Fund* (ESF) are the main instruments supporting the EU Cohesion Policy (at regional and territorial levels). As compared to other EU regions, the ORs have access to additional support, i.e., ***specific additional allocation*** (SAA) because of the structural handicaps referred to in art. 349 of the TFEU. The SAA was introduced in the ERDF in 2007[46] and renewed in the 2014-20 multiannual financial framework. The Commission proposed to continue it in the next programming period (2021-27).[47]

In the Canary Islands, the financial amount allocated to regional development (ERDF and ESF combined) is approximately EUR 1.38 billion in the period 2014-20, of which more than 80% through ERDF (i.e. some 4% of the gross regional product). The SAA corresponds to around 49% of the total support from ERDF. The specific additional allocation has been used for the following categories of operations[48]: (a) investments, (b) operating aid, and (c) funding of Public Services Obligations and contracts. The financial support to enterprises is allocated based on State Aid provisions.

Besides the mainstream programmes, the ORs also benefit from ***European Territorial Cooperation*** support, co-financed by ERDF, IPA funds or EDF[49]. In the 2014-20 programming period, two *Interreg* cross-border or transnational programmes, worth some EUR 333 million, have involved the Canary Islands.

- **AGRICULTURE AND FISHERIES INSTRUMENTS**

Since its establishment in 1991[50], the ***POSEI programme*** represents the main instrument of EU support to ORs in the agricultural sector. In terms of allocations, the POSEI reaches an annual budget of EUR 268 million for the Canary Islands[51], funded

[46] See article 11 Reg. 1080/2006 on the European Regional Development Fund and repealing Regulation (EC) No 1783/1999 and article 12 of Reg. 1301/2013 on specific provisions concerning the 'Investment for growth and jobs' goal and repealing Regulation (EC) No 1080/2006.
[47] See article 11 of the Commission proposal for a new ERDF regulation - COM(2018) 372 final.
[48] With some differences between the two programming periods.
[49] Chapter 3 Reg. 1080/2006 dealing with the specific provisions for the European Territorial Objective and Reg. 1299/2013 on specific provisions for the support from the ERDF to the European territorial cooperation goal.
[50] Council Decision of 26 June 1991 (91/314/EEC).
[51] Additionally, Spain's national complementary allocations within the programme amount to EUR 25 million.

from the European agricultural guarantee fund (EAGF). The POSEI is articulated in two parts:

1) the ***Specific Supply Arrangements*** (SSA) – aimed at mitigating the supply costs for: (a) essential products for human consumption and (b) inputs necessary for agricultural and processing activities. The support may cover exemptions from duties on imports of agricultural products from third countries or aid for the supply of products from the mainland. As shown in Table 2.3, SSA represents some 24% of the total EAGF allocations (EUR 63.7 million annually). The volume of products to be supplied is set annually by the competent authorities based on need forecasts.
2) ***Support to Local Production***, including both support to animal production and crop production. A significant share is allocated for the support of banana growers. SLP represents some 76% of the total POSEI allocations.

Table 2.3 – Financial data for the POSEI in the Canary Islands (EUR million)

	Financial fiche	EU funding	Additional funding	Payments
SSA	63.7	63.7		60.6
Support for banana growers	141.1	141.1		140.1
Support for crop production	51.5	36.7	14.9	36.4
Support for livestock production	34.0	26.9	7.1	26.6
TOTAL	**290.4**	**268.4**	**22.0**	**263.7**

Source: *Annual execution report (2018 – Campaign POSEICAN 2017).*

The ***European Agricultural Fund for Rural Development Fund*** (EAFRD) – also mentioned as the CAP second pillar – contributes to the development of rural areas. It also provides a strong support to a climate-friendly, innovative and competitive agricultural industry. The EAFRD is set for a period of 7 years, currently on the programming period 2014-2020, and implemented through Rural Development Programs (RDP) set at the regional level. With some EUR 1.5 billion of allocation, the EAFRD accounts for nearly 25% of EU funds for agriculture and rural development in the ORs. For the 2014-2020 period, the total amount allocated to the Canary Islands reaches EUR 185 million.

The ***structural funds for fishery and aquaculture*** provided important support to the development of this sector in the ORs. Over the period covered by the Study, these include: (a) Financial Instrument for Fisheries Guidance (FIFG), 2000-2006, (b) European Fishery Fund (EFF), 2007-2013, and (c) European Maritime and Fisheries Fund (EMFF), 2014-2020. In the current EMFF (2014-2020), six main priorities were identified:

- Priority 1: promoting environmentally sustainable, resource–efficient, innovative, competitive and knowledge–based fisheries,
- Priority 2: fostering environmentally sustainable, resource-efficient, innovative, competitive and knowledge-based aquaculture,
- Priority 3: fostering the implementation of the Common Fisheries Policy (CFP),
- Priority 4: increasing employment and territorial cohesion (community-led local development (CLLD)),
- Priority 5: fostering marketing and processing,
- Priority 6: fostering the implementation of the integrated maritime policy (IMP).

Priority 5 includes, in particular, *compensation plans* for the outermost regions.[52] Compensation plans are established separately by each ORs on the basis of a detailed

[52] The relevant EU regulations for compensation plans in the period considered are as follows: (1) 1998-2002: Council Regulations (EC) No 1587/98 amended by Council Regulation (EC) No 579/2002; (2) 2003-2006:

assessment of the additional costs faced by local activities as compared to mainland operators. The allocations to Spain under the EMFF 2014-2020 are the EU-largest, amounting to EUR 1,558 million. The budget specifically allocated to the Canary Islands amounts to EUR 83 million, of which EUR 61 million for compensation plans and EUR 22 million for other measures (Table 2.4). Based on the proposal from the Commission for the post-2020 EMFF Regulation, compensation plans are expected to be maintained in the next multiannual financial framework.

Table 2.4 - State of play of EMFF implementation in the Canary Islands (2018, in EUR ,000)

Priority	National contribution	EMFF Budget for the Canary Isl.	Number of operations committed	EMFF support committed	Payment rate
P1 - Total	1 618	4 454	3	**103**	2%
P2 - Total	1 814	5 418	2	**6 400**	118%
P3 - Total	58	369	0	**0**	0%
P4 - Total	746	4 230	0	**0**	0%
P5 - Total	1 533	65 500	290	**18 132**	28%
of which compensation plans	0	60 900	285	**17 400**	29%
P7 - Total	967	2 900	20	**944**	10%
TOTAL	**6 737**	**82 871**	**315**	**25 578**	**30%**

Source: *Implementation of the EMFF in outermost regions, Coffey, AND-I for DG MARE, 2019 - based on data from national authorities on 09/11/2018.*

➢ OTHER REGIONAL STATE AID MEASURES

In addition to the AIEM and the other schemes described in the previous paragraphs, the Canary Islands receive support under a number of other regional State aid measures.[53] As detailed in Annex D, an overall 96 State aid cases for the Canary Islands were notified over the past three multiannual financial periods[54]. These included various types of fiscal advantages (allowances, rate and base reduction) as well as several direct grants supporting the specific sectors, infrastructure, transport, emergency relief etc. As shown in Table 2.5 below, the number of measures had increased over time, becoming less and less specific (i.e., covering also other Spanish regions). The majority of measures (65%) regards regional development in the broad sense, while the remaining 35% focuses on agriculture and rural development. In some cases, these measures are implemented with (co)financing from the above EU programmes.

It should be noted that only part of these measures appears to be complementary/overlapping with the AIEM, while the majority of them have a limited or no evident connection. A deeper analysis of the relevant schemes is carried out in Section 4.1.

Table 2.5 – Mapping of regional State aid in the Canary Islands

Period	Total	Regional dev.	Agriculture and rural dev.	Under GBER	Only for Canary Is.	Canary Is. and other ES regions
2000-06	**18**	9	9		17	1
2007-13	**35**	13	22		32	3
2014-20	**43**	40	3	36	35	8
Total	**96**	**62**	**34**	**36**	**84**	**12**

Source: *Own processing of data collected on the DG COMP database of State aid cases.*

Council Regulation (EC) No 2328/2003; (3) 2007-2013: Council Regulation (EC) No 791/2007; (4) 2014-2020: EMFF Regulation (Regulation (EU) No 508/2014).

[53] As seen, AIEM and other schemes like the ERDF-SAA are actually delivered as State aid support.
[54] Based on DG COMP State aid case platform (accessed on 05 January 2020).

3. METHODOLOGY

This section describes the methodology and tools that have been used to retrieve and process data and other information relevant for the Study. The methodology was developed in the initial phase of the Study on the basis of a detailed evaluation matrix, and has been refined in the course of implementation in accordance with the data that were made available by the competent authorities. There are no significant differences in the approach and methods used for analysis of AIEM and *Octroi de mer*, so the information provided in this section covers both regimes.

The evidence sources used in this Study are of three main types:

- ***desk research*** and review of documentary sources (Section 3.1);
- ***stakeholder consultation***, consisting of in-depth qualitative interviews and of questionnaire surveys (Section 3.2);
- ***quantitative data analysis***, based on existing raw datasets and statistics (Section 3.3).

3.1 Desk research

The variety of analytical objectives set for the Study and the multiple geographical region covered by the policies, required a comprehensive mapping and review of documentary sources, which was conducted primarily in the structuring phase of the Assignment. A total of +300 documents[55] in English, French and Spanish were retrieved in the course of the Study, including to a large extent non-published administrative and implementation documents provided by the competent authorities, as well as market analyses and other reports and papers provided by private sector stakeholders. Annex F (Part 3) contains a full list of the published literature consulted for the exercise.

For classification purposes, the various types of documentary sources can be put in four main groups, as described below.

1. The first category of documents includes the ***EU policy for special tax regimes*** and related documents. In specific:

    - EU tax policy for the AIEM and the OdM, i.e., Council Decisions and amendments, including legacy versions;
    - State aid policy for the AIEM and the OdM, i.e., the relevant decisions, the legislation (e.g. the GBER) and implementation guidelines;
    - Commission periodic reports on the AIEM and the OdM;
    - relevant Treaty provisions and salient jurisprudence (CJEU rulings).

2. The second group regards the ***broader EU policy framework for ORs***, including the overall EU approach to the ORs as enshrined in a 2017 Commission Communication on a stronger and renewed strategic partnership with the EU outermost regions and sectoral/thematic policies, including:

    - regional development policy and programmes, and sectoral programmes in the field of agriculture and fisheries policy, including ERDF/ESF programmes (especially SAA allocations), POSEI and rural development programmes, EMFF and Compensation Plans, etc. and related implementation, monitoring and evaluation reports;

[55] Conservative estimate not inclusive of the several EU policy documents, Operational Programmes, implementation reports, State aid decisions etc. regarding other supports for ORs, and not including OR-level administrative and informative documents on the tax rates applied.

- other State aid measures extended in the above fields and on specific issues;
- the Economic Partnership Agreement (EPA) stipulated by the EU with ORs' neighbouring countries and related documentation on existing disputes;
- memoranda and papers produced by the Conference of Presidents of the ORs and the periodic OR Forum;
- various studies mainly commissioned by DG REGIO addressing specific policy aspects of OR, e.g. green and circular economy, climate change adaptation, energy, transport accessibility, digital accessibility, 'smart' skills development, etc.

3. The third group concerns specific ***national and regional documents on the special tax regime*** that, in the case of AIEM, includes:

   - the national legal and administrative framework (since 2002);
   - mid-term reports submitted to the Commission;
   - underlying studies on the estimation of additional costs for the Canary Islands,
   - other local authorities' guidance and administrative documents on specific aspects of AIEM implementation;
   - policy documents and analyses concerning the overall *Régimen Económico Fiscal*;
   - private sector letters of support or complaints on the AIEM submitted to the Commission;
   - yearbook publications on social and economic development in the Canary Islands.

4. The fourth group includes a variety of relevant ***academic and 'grey literature***' published by several scholars, 'think-tanks' or private sector bodies. This last group encompasses:

   - methodological literature useful for designing the approach to the quantitative analysis of impacts;
   - scholars' publications and 'grey literature' analysing legal or economic aspects of special tax regimes, and/or their impact on specific policy issues (such as on price levels, trade flows, etc.), and/or their contribution to the overall economy of the ORs;
   - scholars' publications and 'grey literature' analysing the socio-economic structure and constraints of the ORs and/or of specific sectors;
   - position papers, reports and other information provided by the private sector.

3.2 Stakeholder consultation

➢ **TARGETED INTERVIEW PROGRAMME**

Overall, some 120 stakeholders were interviewed in the framework of the Assignment, largely exceeding the initial minimum target of 70. The interview programme was partly conducted in the initial structuring phase of the Study – involving the relevant Commission services and the representatives of the two Member States concerned (Spain and France) - and partly through ***on-site visits*** in selected outermost regions, namely: (1) the Canary Islands; (2) Réunion; (3) Guadeloupe; and (4) Martinique.

In building up the interview programme, attention was paid to ensure an appropriate coverage of and balance between the relevant stakeholders, and in particular[56]:

- to involve all relevant public authorities in terms of administration levels (both central and local levels) and areas of competence (policy-making authorities, tax and customs administrations, statistical institutes, etc.);

[56] The consumer's perspective was also taken into account by investigating the impact of special tax regimes on household expenditure and on the cost of living in the outermost regions.

- to include both the representatives of the local productive sectors - i.e., the beneficiaries of the special regimes - and the trade and service sectors that are directly or indirectly affected by it;
- to cover, as much as possible, the most important branches of the local productive sectors, i.e., foods, beverage, tobacco, paper, fisheries and agricultural products.

A break-down of interviews by geographical region and by type of stakeholder is provided in Table 3.1 below.[57]

Table 3.1 – Overview of stakeholders interviewed

Stakeholder category	Geographic region
EU institutions: **18** MS authorities: **36** Enterprise associations: **21** Firms: **44** Others (academic expert)[58]: **1**	EU level: **18** Spain: • Central level: **2** • Canary Islands: **38** France: • Central level: **7** • Réunion: **22** • Guadeloupe: **26** • Martinique: **7**
Total: 120	**Total: 120**

➢ ENTERPRISE SURVEYS

The second pillar of the stakeholder consultation strategy consisted of a targeted online survey of economic operators in the ORs. The targeted survey responded to the need for structured and homogeneous information on firms' conduct and performance, allowing to connect the outcomes of qualitative stories collected via interview, with the quantitative statistical data gathered. The exercise actually consisted of two separate surveys, of which one covering the Canary Islands and the AIEM regime, and the other covering French ORs and the *Octroi de mer* regime. The two surveys have been developed and implemented in parallel, albeit with partially different questionnaires, adapted to the specificities of the regime.

- ***The questionnaire***. The survey questionnaire consists of four main sections:

  a) an introductory section regarding the respondent's profile;
  b) a section collecting the respondent's views on the key features of the special tax regime, i.e., positive impacts, side effects, changes needed etc.
  c) a section gathering more specific, factual information on the respondent's experience with the special tax regime - this section involved different, customised paths per type of business;
  d) a final section for additional remarks and respondent's affiliation and contact information.

  Each survey questionnaire was translated in two languages: Spanish and English for the AIEM; French and English for the *Octroi de mer*.

- ***Implementation***. The questionnaire was accessible through a proprietary, secured online platform. Respondents could complete the questionnaire online or download

[57] Regarding the geographical coverage, it should be added that the competent authorities of Mayotte and of French Guiana were invited to take part in the consultation through a written questionnaire. The invitation was acknowledged by the authorities but by the time of completing the present Report, no feedback was received.
[58] Limited focus was placed on academic stakeholders, because prominent experts with such profile were already part of the Study team.

an offline version and submit it via email. To facilitate collaborative and/or multi-session completion of the questionnaire, the online platform offered the option to suspend and resume completion at a later time, without any loss of data.

The survey was distributed primarily through the relevant business associations active in the different territories, including industry associations, trade/services associations, primary sector inter-professional organisations, employers' organisations and the like. This approach seemed appropriate considering the small size of OR market, the ensuing limited number of intermediate organisations and their generally high representativeness and, secondly, the effective support in promoting the survey among enterprises that such organisations could guarantee.

The roll-out period of the two surveys was of six weeks for the AIEM (between 11 November 2019 and 20 December 2019), and of five weeks for the *Octroi de mer* (between November 26 and December 23 2019).[59]

A total of ***378 valid responses*** were collected, in line with the initial target of 300. In particular:

- AIEM survey: a total of 366 responses were received, of which 182 have been validated (i.e., after removal of duplicates, severely incomplete or incoherent, etc.). Respondents covered five islands, with the majority based in Gran Canaria (116) and in Tenerife (55). Most of the firms (112) involved in the survey are active in productive sectors (including 90 beneficiaries of the AIEM regime) and the remainder (70) falls under the trade and service sectors. In terms of business size, the sample includes 28 micro-firms (with between 1 and 9 employees), 81 small-size firms (10 to 49 employees), 50 medium-sized enterprises (50 to 249 employees) and 20 large firms (with more than 250 employees)[60].
- OdM survey: a total of 544 responses were received, of which 196 have been validated (i.e., after removal of duplicates, severely incomplete or incoherent etc.).[61] Valid questionnaires were received from all French ORs. In particular, the larger numbers of respondents are based in Martinique (71) and Réunion (70); 34 are from Guadeloupe, 19 from French Guiana and 2 from Mayotte. The majority of respondents (119) are active in the trade and service sectors; 77 firms are local producers, and 71 are liable to the OdM. The bulk of the survey sample consists of firms of micro (74) and small (70) size. The rest of respondents are individual firms (28), with no employees, and firms of medium-large size, with at least 50 employees (21)[62].

3.3 Quantitative data analysis

- **DATASETS**

The Study required a robust foundation of quantitative data and statistics, and several datasets have been gathered to this end from a variety of sources. Publicly-available data regarding specifically the ORs and the sectors benefitting from special regimes were limited, so to a large extent the raw data used in the Study have been provided directly by the competent authorities (i.e., customs and tax administrations, statistical institutes, local governments, etc.) and by the Commission.

[59] A couple of questionnaires received in early January 2020 have been included in the survey sample.
[60] The remaining three respondents did not disclose information on their work force.
[61] It is assumed that the majority of responses were collected through the active promotion done by business organisations among their members, and only a minor share from the large-scale invitations sent to the businesses listed in the Chamber of Commerce directory. This is empirically demonstrated by the high response recorded in Martinique, which was not included in the Chamber of Commerce's lists.
[62] The remaining three respondents did not disclose information on their work force.

Despite efforts, several data gaps and inconsistencies remained, inevitably affecting the significance of the quantitative analysis. Such limitations regarded, in specific:

- the limited availability of local production data (at the required level of disaggregation);
- the data gaps on actual *Octroi de mer* rates (internal rates before 2015, in specific);
- the difficult matching between product data based on customs classification and on NACE classification;
- the limited availability of monitoring data on the other aid measures implemented in the ORs; and
- the lack of availability of cost price data.

The data gaps regarded primarily the early period of special regime implementation of the special regimes, while in recent years the amount and the quality of the data collected at the local level have largely improved, although validated estimates on the value of local AIEM-goods production of are not yet available for all products.

The type of data collected for the Study are summarised in Table 3.2 below. A full review of the data gathering activities carried out, as well as the details on the comprehensiveness and depth of the data collected is provided in Annex C.

Table 3.2 – Datasets collected for the Study

Analytical areas	Datasets
Policy implementation	• Data on permitted AIEM/OdM differentials • Data on actual AIEM/OdM differentials • Data on fiscal revenues
Additional costs	• Input-output data at ORs and mainland level • Micro-data from regional level estimates/product '*fiches*'
Trade and market impacts	• Data on imports, by product/origin • Data on local production, by product/sector • Other 'control' data for gravity modelling (distance etc.)
Macroeconomic impacts	• Macroeconomic data on employment • Macroeconomic data on industrial added-value • Data on price levels

- **QUANTITATIVE DATA METHODS**

The collected raw data have been gathered in a comprehensive database and assessed through quantitative methodologies in order to determine the impacts of special tax regimes on competitiveness, markets, trade flows and tax revenues (including foregone revenues). As discussed above, the datasets presented issues of completeness and/or consistency that affected the results' robustness. In such circumstances, the Study findings were integrated with and complemented by the qualitative evidence collected through the stakeholder consultation.

A summary of the approach adopted for the quantitative analysis is provided here below, while a detailed technical description of the methods and models used, as well as the full results are provided in Annex C.

Review of policy implementation. The analysis focused on collected tax revenues, broken down by external (on imports) and internal (on local production) tax receipts, as well as on the estimates of the 'foregone' revenue (i.e., the tax not collected due to exemptions/reductions).

- The collected revenue data were provided for most products/years by customs authorities or other competent authorities. When not available, revenues have been estimated applying the relevant tax rate to the tax base, i.e., the value of imports or local production.
- For the foregone revenue, the official estimates have been triangulated by calculating the amount of exemptions at product level (multiplying the value of local production by the corresponding tax differential) and aggregating the results. It should be highlighted that the value of foregone revenues is theoretical. In fact, were tax exemptions not applied, the demand for local products would likely decline and the same would happen with the tax levied on them.

Analysis of additional costs and competitiveness. Additional costs provided at the micro-level (i.e., in product *fiches* or reports) have been at first triangulated using input/output tables available for the ORs.[63] The matching allowed showing disparities both in the total additional costs for a given sector but also on the distribution of the cost factors (i.e., transports, labour, energy, etc.). Secondly, the compiled and systematised micro-data have been used to assess how much of these costs are compensated for by the tax differentials applied under the special tax regimes. This analysis was done at the product level as well as the aggregate level.

Analysis of trade and market impact. The third step consisted of the modelling of imports and local production as a function of (a) the tax differentials applied under the special regimes and (b) the internal tax rates applied. The main difficulty was the comparability/normalisation of the value of local production and imports for different products. To overcome this difficulty, three measures were adopted: (i) using the logarithm of variables so that the impact of the tax differential is expressed in percentage terms, (ii) aggregating the products (dependent variable) at the CN 4-digit level, (iii) applying individual fixed effects for each product (also defined at the CN 4-digit level). Two separate models were used:

- The impact on trade was estimated based on gravity modelling of imports (CN4 level) between ORs and other countries (including the mainland). In addition to the tax rates, other variables including economic weight and distance of the trading partners were used as explanatory variables to predict trade flows.
- The impact on local production was estimated based on data panel modelling. To overcome the data gaps, only products (CN4 level) for which comprehensive data on local production were considered.

Analysis of macroeconomic impacts. The impact of special regimes on added-value and employment was estimated by extrapolation of the impact on local production described above. For each economic sector, we calculated the ratios of added-value and employment over local production, using data from ORs' economic statistics. The impact on added value and employment were then derived from the impact on local production, with the assumption that these ratios were constant. Finally, to estimate the impact of special regimes on retail prices, it was assumed that the tax paid is fully passed onto consumers. Then, the tax receipts - increased by retailer margins[64] - were related to household expenditure to derive an index of the maximum additional price borne by final consumers. The results were triangulated with the official statistics on price index in the ORs elaborated by national statistical institutes as well as with other literature sources.

[63] In input-output tables, payments made by a sector to other sectors (for example: agricultural products, energy, water, transportation) and to production factors (for example: labour, capital, land) are valued for a given year, in effect providing its costs structure. The resulting estimates of additional costs for each sector can therefore be compared with estimated additional costs based on micro-level data used in French ORs and direct micro-level estimates used for the Canary Islands.

[64] A fixed margin was assumed. For comparability with Part 2 of the Study, and considering that no valid estimate for the Canary Islands is available, the average sales margin estimated by INSEE for retail activities in French ORs (vehicles not included) was used.

4. RETROSPECTIVE EVALUATION

4.1 Coherence

Evaluation Question #1: *To what extent does the current system address EU, regional and employment policy, State aid aspects and trade issues? Which other measures (European, national or regional) do the products benefit from, including measures related to agricultural policy?*

➢ **OVERALL COHERENCE WITH EU POLICY**

The AIEM special regime is part of the overall ***EU approach for Outermost Regions*** (see Section 2.3)[65], and its coherence is ensured *prima facie* by the substantial alignment of its objectives with the objectives of the EU broad policy framework for the ORs. In particular, the AIEM special regime addresses two interrelated objectives of the Commission Communication on the strategic partnership with the ORs, as follows:

- ***'Building on the ORs' assets'*** is the first objective. The emphasis on the unique assets of ORs for EU policy was introduced in 2008,[66] shifting the strategic approach from a pure 'cohesion' perspective centred on development aid for regions lagging-behind, to a 'partnership for growth' perspective centred on leveraging the specific features of ORs, i.e., the exceptional geographical and geological characteristics, the biodiversity of terrestrial and marine ecosystems, etc. The AIEM concurs with this objective by promoting and sustaining local production activities, which, in turn, contributes to attracting investments, building capacity and skills, and reducing dependence on the mainland.
- ***'Enabling growth and job creation'*** remains a central objective, considering the high unemployment and lower income levels characterising most of ORs. In this sense, the approach aims at promoting the diversification of local economies and, in particular, fostering activities with high value-added and job creation potential, which are in many cases the industrial activities supported by the AIEM in the Canary Islands.

The third objective of the Communication consists of scaling up ORs' cooperation with their neighbourhood, through policy dialogue, territorial cooperation programmes, trade agreements, etc. The AIEM special regime is not contributing to this goal, conversely – regarding regional trade – it may even constitute an obstacle to greater integration. However, this is an inevitable effect due to the nature of the scheme and to its underlying rationale, which is explicitly and clearly laid down in Article 349 TFEU: the ORs' economy suffers from vulnerabilities and constraints that severely affect their competitiveness, and a complete free opening to external trade may seriously damage their productive activities. This point was reiterated, inter alia, in the latest *Memorandum* of the ORs' Conference of Presidents that stressed the need for the EU to take greater account of the effects of trade agreements with third countries on the economies of the ORs.[67]

So, the AIEM special regime constitutes an evident derogation from the EU general policy on internal market and competition but its legal basis is firmly anchored to ***Art. 349 TFEU,*** which explicitly recognises the need to adopt special measures in support of outermost regions like the Canary Islands, to address their structural constraints and contribute to their development. In a recent judgement, the CJEU clarified that Art. 349

[65] COM(2017) 623 final and SWD(2017) 349.
[66] See: COM(2008) 642 final.
[67] *Mémorandum Conjoint Des Régions Ultrapériphériques, "Pour un nouvel élan dans la mise en œuvre de l'article 349 TFUE",* Mars 2017.

can be retained per se as a sufficient legal basis for establishing specific conditions of application of the EU law in the ORs.[68]

As discussed in Section 2.2, the differentiated rates regime constitutes ***regional State aid*** and is, therefore, subject to the relevant EU legislation and controls. Until 2014, the compatibility of AIEM with EU competition law was subject to an explicit authorisation that was renewed periodically. Since 2015, the AIEM falls under Art. 15 of the General Block Exemption Regulation (GBER)[69], which on the one hand allows a simpler information procedure, on the other hand it imposes stricter implementation ceilings, in particular regarding the cumulation of various lines of operating aid at the level of individual enterprise. These ceilings refer to: (a) the gross value added annually generated by the beneficiary, (b) the annual labour costs incurred by the beneficiary, and (c) the annual turnover of the beneficiary. In 2017, an amendment of GBER regulation raised significantly these ceilings. In particular, the permitted cumulated aid moved from 10% to 30% of the beneficiary's turnover, thus making the highest AIEM tax differential compatible with the GBER ceilings.

The compliance with the GBER ceilings is controlled by the competent tax authority through annual declarations (*Modelo 282*[70]) that beneficiaries must submit, which detail all State aids received in the framework of the *Régimen Económico y Fiscal* (REF), including operating aid, investment aid, SME aid, and other measures (see Section 2.2).

- **COHERENCE WITH OTHER COMPLEMENTARY EU SCHEMES**

As shown in Section 2.3, the EU policy includes a number of other measures for ORs – including the Canary Islands - financed under the European structural and investment funds (ESIF) and/or through a series of specific regional State aid measures. Depending on their targets and delivery mechanisms, these schemes can be considered more or less directly complementary to the AIEM regime. In this context, we consider fully 'complementary' the schemes that have in common with the AIEM:

- the targeted scope - i.e., the products/sectors addressed (primary sector, manufacturing sector);
- the justification - i.e., the compensation for additional operating costs (as opposed to, for instance, support to investments); and
- the beneficiaries - i.e., enterprises eventually benefiting from tax exemptions (as opposed to, for instance, public sector, households and other beneficiary groups other than firms).

It is important to underline that being 'complementary' does not necessarily entail duplication of efforts or 'overcompensation', for two main reasons: (1) individual schemes may cover only part of the need, so a cumulation of measures might be required to fully address the problem; (2) the AIEM does not consist of monetary aid extended directly to the beneficiary (like subsidies, direct tax breaks etc.) but of 'indirect' support – i.e. through the taxation of external competitors, so the cumulation is only figurative.[71]

Table 4.1 below reviews the main EU funding instruments for the Canary Islands, identified already in Section 2.3. In this section the analysis is limited to the coherence

[68] Judgment of the Court (Grand Chamber) of 15 December 2015, European Parliament and European Commission v Council of the European Union. Actions for annulment — Regulation (EU) No 1385/2013 — Directive 2013/62/EU — Directive 2013/64/EU — Legal basis — Article 349 TFEU — Outermost regions of the European Union — Amendment of the status of Mayotte with regard to the European Union. Joined Cases C-132/14 to C-136/14.
[69] COMMISSION REGULATION (EU) No 651/2014 of 17 June 2014
[70] See: https://www.fiscal-impuestos.com/sites/fiscal-impuestos.com/files/NFL017908.pdf
[71] This comment refers to policy coherence in general terms. However, it is useful to remark that from a State aid perspective all types of support are taken into account in the assessment of compliance with GBER ceilings.

in the scope and the objectives of the schemes, while possible issues of overlapping and overcompensation are addressed in greater detail under Evaluation Question (EQ) #2 below. The results of the analysis can be summarised as follows:

- various other measures ***address the same targets of the AIEM regime***, with the same underlying justification of helping local enterprises to cope with the additional costs due the outermost status of the region;
- at a general level, these measures are in line with the AIEM objective of ***strengthening the competitiveness*** of local producers in the manufacturing sector as well as agriculture and fisheries; at a more granular level, the possible synergies or overlapping are difficult to assess for lack of detailed implementation data (e.g. on specific products);
- the operating costs of enterprises are addressed primarily through ***fiscal advantages*** or compensation schemes, such as for the fisheries ***compensation plans*** or the various aids addressing ***freight costs*** (including under the ERDF specific additional allocations).

Table 4.1 – Review of the main complementary aid measures for the Canary Islands

Measure	Summary of the coherence analysis
European Regional Development Fund (ERDF) – specific additional allocation	• **Target sector**: the ERDF SAA in the Canary Islands addressed to a large extent public sector (e.g. allowances to civil servants and managers in the health sector). A minor share of funds was allocated to the support of production activities, with the exclusion of agriculture. • **Type of support**: only a minor share of the support is attributable to compensation for operational costs of enterprises, and, in particular, for freight costs both within the archipelago and for import/export of goods (in the 2007-13 period). The support is extended through State aid measures (see below). • **Beneficiaries:** as regards the allocations for freight costs compensation, the beneficiaries of the SAA scheme might also coincide with those benefitting from the AIEM.
POSEI – special supply arrangements	• **Target sector**: the POSEI SSA supports the supply of agricultural products in the ORs, which is also a sector addressed by the AIEM, albeit on a limited scale as compared to industrial activities. The SSA products cannot be subject to the AIEM tax differential regime. • **Type of support**: the aid concerns external procurement, so it does not relate to additional costs compensation. The logic of the scheme explicitly indicates the need to prevent any harm to internal local production activities. • **Beneficiaries**: the SSA addresses private enterprises engaged in the delivery of the supported products. As discussed, those products cannot be subject to the AIEM, but the beneficiary-firms of SSA might benefit from the AIEM regime for other products or in the framework of manufacturing activities.
POSEI – support to local production	• **Target sector**: the POSEI SLP supports agricultural activities, which is also a sector addressed by the AIEM, albeit on a limited scale. The bulk of SLP focuses on productions that are not subject to the AIEM differential regime (e.g. bananas). • **Type of support**: the aid concerns primarily additional costs compensation. Unlike the AIEM, SLP support addresses farmers income directly • **Beneficiaries**: the SLP addresses local farmers and producers, who might also benefit from the AIEM differentials in the case of specific products (e.g. potatoes and onions).
European Agricultural Fund for Rural Development (EAFRD)	• **Target sector**: the EAFRD supports agricultural activities, which is a sector also addressed by AIEM, albeit on a smaller scale as compared to industrial activities. The aid has no specific product orientation. • **Type of support**: in the Canary Islands, EAFRD funds have been used primarily for investments, training and improved management of resources. In this sense, there is limited overlapping with the AIEM focus. • **Beneficiaries**: the EAFRD addresses farmers and producers, who might also benefit from the AIEM differentials in the case of specific products (e.g. potatoes and onions).

Measure	Summary of the coherence analysis
European Maritime and Fisheries Fund (EMFF)	• **Target sector**: the EMFF supports fisheries and aquaculture sectors, which are also addressed by the AIEM, albeit on a very limited scale (only two products in the AIEM list). • **Type of support**: one of the EMFF measures is the 'compensation plans' for fisheries activities, whose objective largely coincides with the AIEM objective of increasing the competitiveness of local activities. The other EMFF funds regard essentially investment aids. • **Beneficiaries**: the beneficiaries of 'compensation plans' might also benefit from the AIEM tax differential, but only with reference to smoked salmon and trout.
Régimen económico y fiscal de Canarias (REF) (SA 40258)	• **Target sector**: all manufacturing sectors, excluding shipbuilding, steel and synthetic fibres, are eligible to the REF, so a substantial overlapping with the AIEM target sectors is registered. • **Type of support**: the REF includes different types of instruments, including incentives to investment (not relevant from the AIEM perspective) and special fiscal advantages for enterprises engaged in production activities, which are referred to the additional costs. • **Beneficiaries**: the target beneficiaries of REF are the same of the AIEM: enterprises engaged in production activities.
Zona Especial Canaria (ZEC) (SA 40257)	• **Target sector**: various types of activities can have access to the ZEC advantages, including – but not limited to - manufacturing activities, but excluding agriculture. Services and trade can also be supported. • **Type of support**: the ZEC gives access to a special low-tax regime for start-ups, which is permitted in relation to the additional costs caused by the structural handicaps of the Canary Islands. • **Beneficiaries**: the target beneficiaries of ZEC are newly created private sector enterprises.
Compensation for the transport costs of goods (SA 40195 – SA 54214)	• **Target sector**: the compensation regards the transport of goods other than agricultural products within the archipelago or to the EU and, in some cases, from the EU to the Canary Islands. The target sectors are manufacturing activities, which are also the beneficiaries of the AIEM. • **Type of support**: direct grants covering transport costs (maritime and aerial transport), thus potentially overlapping with the AIEM. • **Beneficiaries**: the measure addresses local producers, who might potentially benefit from the AIEM tax differentials.
Compensation for the transport costs of agricultural goods (SA 38654)	• **Target sector**: the compensation regards the transport of agricultural products within the archipelago or to the EU and, in some cases, from the EU to the Canary Islands. The support cannot cover the products subject to POSEI SSA but, in principle, may overlap with the scope of the AIEM. • **Type of support**: direct grants covering transport costs (maritime and aerial transport), thus potentially overlapping with the AIEM. • **Beneficiaries**: the measure addresses local producers, who might potentially benefit from the AIEM tax differentials.

Most of these schemes are part of the EU's general approach towards the ORs – enshrined in a series of Commission Communications, the most recent in 2017. Progress towards implementing this approach is monitored regularly through reports – an implementation report was adopted on 23 March 2020[72] – and regular meetings between the different departments of the European Commission. This process allows coordination at the general level. A further contribution to strategic coherence is provided by regular interactions with the target regions, through the ORs' Conference of Presidents and dedicated fora, such as the Commission-led working group with the outermost regions, their Member States, and dedicated workshops. This process has apparently improved over time, and the current Commission Communication on a strategic partnership with the ORs appears to be more integrated than earlier versions. This seems to be connected also with the reported shift from a paradigm of ad hoc instruments for ORs to an approach aimed at enabling and enhancing the participation of ORs in the general EU instruments.

Conversely, ***operational-level coordination*** among the various schemes is limited. No structured mechanisms seem to be in place to maximise synergies among

[72] COM(2020) 104 final.

interventions in the same sector and to prevent duplication of efforts. In this sense, while the overall coherence of the AIEM with the EU policy and overall strategic approach for ORs is broadly satisfactory, some specific, operational-level incongruences may be detected in some of the areas targeted by the AIEM, as examined in the next section.

Evaluation Question #2: *Are there any obstacles arising from the current levels of taxation in other policy areas? If so, in which policy areas and what are those obstacles? In particular, do they distort competition with firms situated in the mainland or in other EU Member States?*

- **THE ISSUE OF COMPETITION DISTORTION**

The AIEM regime explicitly derogates the rules of functioning of the EU internal market and is therefore, by design, potentially distortive for the competition, as it supports a specific economic target group (economic operators engaged in local production activities) by means of a differentiated tax treatment that penalises another target group (economic operators engaged in the importation of goods). In this respect, the AIEM is influencing market development and the behaviour of economic operators and consumers, just like most other similar State aid measures that target specific activities. On the other hand, the AIEM has been judged to be compatible with EU rules because it actually aims at redressing pre-existing competition issues that are caused by structural handicaps affecting the economy of the Canary Islands. In this sense, the AIEM aims at restoring a 'level playing field' for all economic operators competing in the market, producers and traders alike. Furthermore, the AIEM is justified by its more general objective of contributing to the social and economic development of the Canary Islands, through the diversification of the economy, the promotion of productive investments, and the support for new job creation.

For this reason, the coherence of AIEM with EU competition rules needs to be assessed within the big picture of the benefits it delivers. In other words, the question is not whether the AIEM is intrinsically a distortive mechanism for the market (which it probably is, by definition), but ***whether such distortion is acceptable*** in the light of effects it has on the local economy.

These considerations are important for understanding the ongoing debate in the Canary Islands, as well as the ***highly polarised views of economic operators*** on this subject. These are collected in a number of field interviews: while local producers place a lot of emphasis on their contribution to jobs and added value, traders and other sectors focus on the discriminatory aspects of the regime and the drawbacks of its implementation arrangements. To properly frame the debate, it is useful to summarise here the main arguments raised by supporters and opponents of the AIEM regime in relation to its supposed market effects. A fully-fledged analysis of the different arguments and underpinning evidence is developed throughout the following sections of the Study (relevance, effectiveness and efficiency):

- ***Local producers.*** For local producers, the AIEM is an essential pillar of the local development strategy: maintaining and promoting industrial activities allows for diversifying the economy and reducing dependence on tourism sector. Furthermore, its importance in the creation of direct and indirect jobs in the secondary sector is often emphasised. Competitive pressure is reportedly growing over time, making it even more necessary to support the competitiveness of local production against ever-cheaper imported products. The main cause of the competitiveness 'gap' is linked to economies of scale: while, on the continent, industries grow in size and degree of specialisation, with falling unit production costs, in the Canary Islands, growth is constrained by the size of the market, and the need to produce a larger variety of products with the same production lines have a significant impact on costs. Additionally, the following issues have been reported by local producers:

  - the decline in freight costs, also due to the development of the Canarian logistics infrastructure and business platform, which makes it less expensive to ship products from the mainland or elsewhere;
  - the growing economies of scale and costs optimisation achieved by large distributors and purchasing centres;
  - the practice of importing stocks and production surpluses (including products subject to seasonality) from the mainland at cost price. The isolation and small size of the Canarian market makes these practices feasible, whereas, on the mainland, they would cause brand-value deterioration and/or disturbances in the distribution chain.

- ***Importers / traders***. Conversely, these players emphasise the distortive effects of the AIEM for local markets and trade, backing their views with a series of arguments regarding both the justification of the policy and the way it is concretely implemented. Most of these arguments were also laid down in written complaints that local trade associations and individual traders submitted to DG TAXUD in 2019 (and are, therefore, examined in this Study). In particular:

  - According to critics, the additional costs reported are either non-existing or already compensated for by other aids (e.g. water, idle capacity), or common to all economic activities (transport costs, multiple establishments for the double insularity of the Canary Islands), so the application of tax differentials is not justified. This argument is analysed under EQ#6 below.
  - Various products should not be in the AIEM list because there is no or minimal production in the Canary Islands, or because the production is seasonal (e.g. potatoes). These arguments are analysed under EQ#4.
  - For certain products, the quality and/or the quantity of local production is insufficient to meet the need (e.g. glass bottles, wine). This argument is analysed under EQ#4.
  - Various local products have a market share exceeding 85%, so they would arguably not need further support. This point is discussed under EQ#4.
  - Local industry has access to several aid measures under the *Régimen Económico y Fiscal* and this cumulation of aid may translate into 'overcompensation' (see next point, below).

The arguments outlined above are at the core of the current debate on the AIEM in the Canary Islands. Evidently, they call into question several different perspectives, from global market dynamics to specific product implementation issues. Besides the strong contrast that exists on certain points, it is interesting to note the elements of possible convergence that emerged from field interviews with stakeholders, in particular:

- there is widespread agreement on the importance of the general objectives the AIEM pursues, namely a stronger, diversified local economy, and a contribution to the creation and maintenance of jobs. In other words, the controversial aspects regard primarily the concrete implementation rather than the general principles or aims of the policy;
- most players agree that more objective information (robust and detailed implementation data) and transparency in the decision-making process are needed.

➢ THE POSSIBLE RISK OF 'OVERCOMPENSATION'

One of the main policy questions emerging from the picture described under EQ#1 above is the extent to which the different lines of support cumulate at the level of individual enterprises, and whether there is a risk that the aggregated support received exceed the extent of the targeted constraints, leading to a risk of 'overcompensation'. The matter is a major source of debate in the Canary Islands, and one of the primary arguments against AIEM raised by importers/traders. In a formal complaint submitted to the Commission, various trade and service associations highlighted how some 50 AIEM products also receive significant support from POSEI and the various aid measures of the REF. In particular:

- tax advantages for the producers of tangible goods (*bonificación por producción*, Art. 26 of Ley 19/1994), i.e., reduction of 50% on the corporate or personal tax on revenue;
- the deduction for investments in the Canary Islands (Art. 94 of Ley 20/1991);
- the incentives for the *Zona Especial Canaria* (Artt. 43 - 46 Ley 19/1994);
- the *Reserva para inversiones en Canarias* (provision for investment) (art. 27 of Ley 19/1994);
- aid to transports of goods (RD 362/2009) compensating through direct subsidies the additional costs of maritime and aerial transports of goods to and from the Canary Islands.

The polarisation of stakeholders' views on this subject is substantial: for over 60% of trade and service businesses the cumulation of AIEM with other aids cause a 'major' distortion of competition, whereas almost 60% of local producers deny any impact in this respect.

From a legal perspective, as already discussed under Evaluation Question #1, GBER rules allow a cumulation of operating aid up to 30% of beneficiary's turnover and there are control mechanisms in place to verify compliance[73]. However, the GBER ceilings are not set in relation to estimated additional costs[74] so, in theory, the total support associated with a specific production may exceeds its estimated additional costs, while the GBER threshold remains complied with.[75] In other words, the current mechanisms allow verifying and ensuring the compliance with the ***State aid proportionality rule***, but not necessarily with the principle of ***'proportionate support'*** affirmed by the CJEU with reference to the fiscal dimension of the policy.[76] In this respect, the following considerations can be made:

- The implementation of the AIEM regime has not required (so far) the elaboration of 'product *fiches'* detailing for each supported product the additional costs of production, the other aids received, and eventually the justification for the compensation extended through the AIEM tax differentials.[77]
- On the other hand, the extent of the AIEM tax differentials, which in most cases is limited to 5%, appears well below the estimated additional costs of production in the Canary Islands – i.e., 30% on average[78] - so the risk of product-level 'overcompensation' is, in practice, very limited.
- At any rate, the available information on the other relevant schemes is insufficient to firmly assess the cumulation of aid related to a specific production activity, both

[73] All enterprises benefitting from regional state aid must compile each year a declaration detailing the aid received under the various lines ('model 282'), in order to allow a punctual verification of the compliance with the GBER limits.
[74] It useful to recall that while GBER general ceilings are not set with reference to additional costs, Article 15 of the GBER aims precisely at allowing compensation for such costs, which have to be justified and documented by MS.
[75] The AIEM was designed with a focus on 'products' and the related production costs while from State aid perspective proportionality has to be assessed at the level of beneficiary (i.e. the aid should compensate for only the additional costs encountered by the enterprise). The discrepancy in the approach makes it difficult to verify the cumulation of aid at product level, especially in the case of enterprises for which AIEM-supported activities represent only a share of turnover. As the AIEM is implemented under the GBER, the proportionality assessment can be carried out straightforwardly at beneficiary level. However, strictly speaking, this does not ensure there is no overcompensation of specific production activities, hence distortion of competition for specific products, even if enterprise-level GBER ceilings are respected.
[76] We refer here to the CJEU Order OF 7. 7. 1998 — JOINED CASES C-405/96, C-406/96, C-407/96 AND C-408/96. The cases regard to the Octroi de mer regime but can be retained by analogy applicable also to the AIEM.
[77] This is instead the case with the French *Octroi de mer* regime.
[78] Source: UTE Eco-CoRe (consortium), "El coste privado de la ultraperiferia y la doble insularidad en Canarias", 2018

for the fact that only aggregate implementation data are available and because of uncertain correspondence between the classification of AIEM products (based on CN codes) and the classification of production activities (based on NACE, or the like).

Having considered the above caveats, the review of the other EU schemes for ORs carried out under the framework of this Study (see Table 4.1 above) made possible estimating the ***total operational costs compensation*** for enterprises engaged in production activities (manufacturing and primary sector) in the Canary Islands at roughly ***EUR 390 million/year*** (see Table 4.2 below), of which roughly 23% attributable to primary sector and 77% to manufacturing activities.

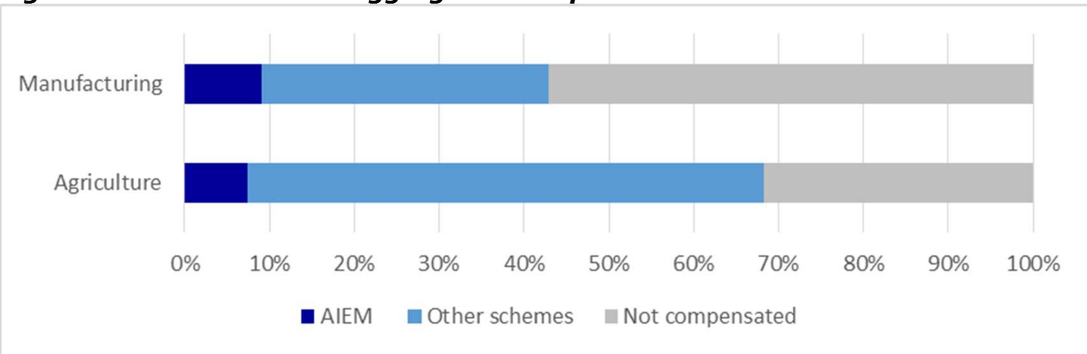
Table 4.2 – Estimated value of other measures addressing operational costs

Measure	Value (annual, in EUR)	Sector	Notes
Régimen económico y fiscal de Canarias (REF)	EUR 238 million (budget)	All producers	The budget refers to the 'operating cost' component of the measure.
Zona Especial Canaria (ZEC)	EUR 30 million (budget)	All sectors (including manufacturing but not agriculture)	Assuming a distribution of activities proportional to Canarian economy, some 15% of the measure can be attribute to production activities.
Compensation for transport of non-agricultural goods	EUR 26.3 million (annual average 2015-18)	Manufacturing activities	The maximum budget permitted is EUR 40 million / year.
EMFF – compensation plans	EUR 12.8 million / year (budget)	Fisheries	A very low percentage actually covering AIEM products (but in principle 100% overlapping with AIEM target).
Compensation for transport of agricultural goods	EUR 15.4 million (annual average 2015-17)	Agriculture	The maximum budget permitted is EUR 34.6 million / year.
POSEI – specific supply arrangements	EUR 60.4 million (payments, 2017)	Agriculture / food industries	Indirect overlapping, i.e., the use of SSA-products for the production of AIEM products (flours, beer etc.). In the absence of detailed data, it is hypothetically assumed that 50% of the budget refers to products that are used to manufacture AIEM goods.
POSEI – support to local production	EUR 203.1 million (payments 2017)	Agriculture	Of which 69% for support of banana sector, which is no longer under the AIEM.
TOTAL	**EUR 390 million (approximately)**		Based on the assumptions formulated above.

Source: *Own estimates based on a variety of sources, i.e., State aid fiches and programme implementation reports.*
Notes: *The estimates are subject to strong assumptions in some cases and should be taken with caution (see the explanatory notes). The monetary value refers to the actual expenditure where available; otherwise, the provisional budget is indicated. This might partly inflate the total estimate, since the budget is generally higher than the actual expenditure.*

Finally, for a ***global proportionality*** assessment, the estimated total compensation (including the AIEM and other schemes) can be compared to the estimated total additional costs addressed. Overall, the additional costs borne by private sector in the Canary Islands has been estimated being approximately EUR 5,228 million, of which some EUR 148 million for the primary sector and EUR 889 million for manufacturing industries (not including construction).[79] According to Canarian authorities, the AIEM budget – measured in terms of foregone revenues – was EUR 92 million in 2016 of which – according to this Study's estimates - the primary sector accounts for some 12%.[80] As shown in Figure 4.1 below, the analysis shows that altogether the measures deployed to compensate for the additional costs of producers in the Canary Islands address less than half of the estimated costs (45%), with the primary sector more compensated – in relative terms – than the manufacturing sector.

Figure 4.1 – Extent of the aggregated compensation for additional costs



Source: *Own estimates based on the analyses presented in this section.*

Regarding specific products, the analysis of compensation proportionality is made difficult by lack of detailed data. Nonetheless, the review of the above schemes allows for some considerations on the appropriateness of the support. In particular:

- ***POSEI Specific Supply Arrangements (SSA).*** According to the administrative rules in force, products benefitting from SSA support cannot be subject to AIEM taxation. The rationale is to avoid that the aid extended to make certain imported agricultural products more affordable be offset by the tax. The crossed analysis of AIEM and SSA lists confirms that this ban is respected.

  On the other hand, the implementation mechanisms of these schemes do not impede indirect forms of cumulation. More specifically, it is permitted to use raw materials imported with the aid of SSA to produce goods that benefit from the differentiated AIEM regime. An example – which is frequently debated in the Canary Islands – is the cumulation of the AIEM tax differential on beer (15%) with the SSA aid received by breweries for the import of malt and hop. More generally, cumulation issues may emerge with products imported under SSA and transformed into AIEM-supported products, especially when the transformation process adds limited value. However, the evidence is anecdotal and the magnitude of the problem is largely unknown.

- ***EMFF.*** There are two AIEM processed products (smoked salmon and smoked trout) that benefit also from EMFF Compensation Plans. This aid regards the processing activity itself, as well as storage and marketing. The extent of the overlap seems, however, limited, considering that the bulk of support extended under the Compensation Plans falls outside of the scope of AIEM.

- ***Freight costs.*** The State aid allocated to alleviate freight costs (including the funding of ERDF-SAA) is notable, amounting to some 10% of the total compensation examined. This aid covers both the costs of shipping within the archipelago as well as to/from the EU. Freight costs are also the main justification for additional costs compensation under the AIEM - accounting for between 43% and 66% of AIEM support. However, the risk of excessive compensation in this area seems limited, because the AIEM focuses on the freight costs related to production inputs, while

[79] Source: UTE Eco-CoRe (consortium), 2018.

[80] Actually, according to this Study, the total foregone revenues can be as high as EUR 166 million (see Section 4.3), but firm estimates are not feasible due to uncertain local production value.

other schemes target primarily the shipping of finished products within the archipelago or towards the EU. Still, the availability of subsidies for the transport costs of inputs may contribute to discouraging internal production of such inputs.

Summing up, there are administrative procedures in place to prevent the risk of overcompensation at the enterprise level and the cumulative aid received seems not to exceed the additional costs caused by structural handicaps. Still, at the level of specific products supported by the AIEM, there is insufficient information to quantify the extent of aid cumulation, so occasional cases of overcompensation cannot be ruled out a priori.

➢ **COHERENCE WITH SPECIFIC POLICIES: THE CASE OF TOBACCO**

The analysis of AIEM policy coherence of AIEM may extend to other EU policies. A case in point – explicitly raised in the specifications of the Assignment – regards manufactured tobacco products and the coherence of AIEM tax differential with the tobacco control policy of the EU, namely Directive 2014/40/EU concerning the manufacture, presentation and sale of tobacco and related products (the 'Tobacco Product Directive' or TPD), and related implementing measures. In general terms, the policy problem regards whether the AIEM support to tobacco industry is compatible with the TPD objective of ensuring a 'high level of protection of human health'. In practice, it contains two specific problems:

(a) whether the local tobacco industry does require the support of the AIEM, and;
(b) whether such support eventually enhances the affordability of tobacco, incentivising its consumption.

To answer these questions, it is useful to briefly recapitulate the policy background and context, including reference to the legal framework and salient market data.

- ***The policy background and impact.*** Tobacco is explicitly mentioned in the AIEM Decision as an 'exceptional case'. The tobacco industry used to play a major role in the Canarian economy but started declining at the end of the 1990s, in connection with the phasing out of the APIM and other supporting measures. In 1998, tobacco sales hit EUR 475 million, then a rapid decline commenced, driven primarily by the closing of local manufacturing plants and the substitution of local production with imports.[81] In this framework, the adoption of a high AIEM differential (25%) for tobacco in 2002 aimed to reverse this trend and encourage restoration of local manufacturing activities, which used to represent an important share of the regional industrial value added. In this respect, AIEM support was coupled with other measures, such as import duty exemptions for raw or semi-finished tobacco (no longer in place). The policy apparently achieved its goal: the decline of manufacturing activities slowed down and eventually stabilised. The manufacturing of tobacco is today one of the main industry in the Canary Islands, with 39 players – including both big tobacco companies and SMEs (especially in the cigars/cigarillos segment), a direct employment of approximately 600 units and an indirect employment of 3,500 units, and a turnover of EUR 358 million (2018).

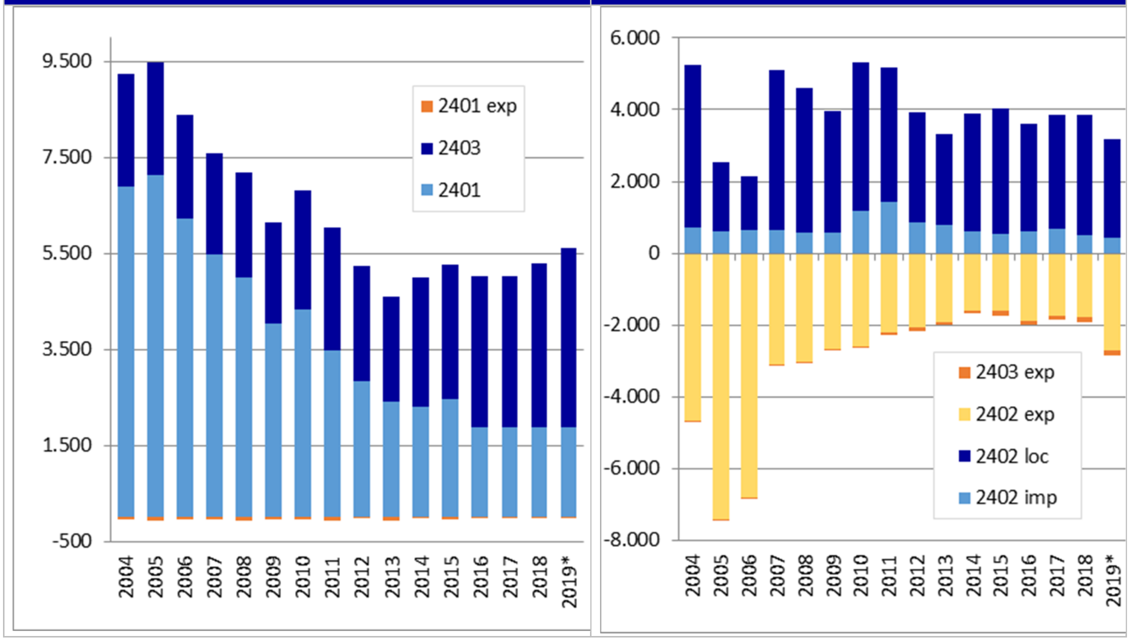
  The Figure 4.2 below shows the evolution of the tobacco manufacturing activities in the Canary Islands based on trade statistics published by ISTAC. Some moderate data inconsistencies have been detected comparing these figures with the Spanish central ComExt statistical database and with the ATC figures on the imports of AIEM-taxable products, so the estimates have to be taken with some caution. According to these figures the following considerations can be made:

[81] Source: the industrial enteprise surveys of INE, and ISTAC, elaborated by J.L. Rivero and U.M Hernandez, 'Estudio sobre el efecto del AIEM en la Industria Tabaquera Localizada en Canarias', Universidad de la Laguna, March 2015 (restricted circulation). The research was commissioned by ASINCA (Asociaciòn de Industriales de Canarias).

- as data on imports of raw / semi-processed tobacco suggest, the volume of manufacturing activities declined between 2004 and 2011, then remained substantially stable between 2012 and 2018;
- the production of manufactured tobacco is to a significant extent destined to external markets: a fairly stable share of about 40% of the total production is exported (including in the EU). Overall, manufactured tobacco products are Canarian second-largest exported goods (some EUR 147 million in 2017) after bananas;
- cigars and cigarillos represent an increasing share of production and export. Since 2015, this category accounts for some 7% of tobacco exports (in volume);
- imported finished products account for only a small share of the Canarian domestic market.

Figure 4.2 – Trade and tobacco manufacturing activities in the Canary Islands (tonnes)

A) Import/export of non-manufactured tobacco	**B) Manufactured tobacco – exports and local sales**



Source: *Author's elaboration of ISTAC statistics.*
Legend: *2401: Unmanufactured tobacco; tobacco refuse; 2402: Cigars, cheroots, cigarillos and cigarettes of tobacco or of tobacco substitutes; 2403: Manufactured tobacco and manufactured tobacco substitutes and "homogenised" or "reconstituted" tobacco, tobacco extracts and tobacco essences (excl. cigars, incl. cheroots, cigarillos and cigarettes); "exp": export; "imp": import; "loc": local delivery.*
Notes: *imports and local delivery are displayed on the positive axis of the diagrams while exports are displayed on the negative axis. In panel A), it is assumed that the bulk of 2403 imports consist of semi-processed manufactured tobacco, although the category may include also finished products (fine-cut tobacco). The data available do not allow a more granular distinction. (*) 2019 data are provisional.*

- ***Tobacco taxation in the Canary Islands***. The differentiated tax regime for tobacco products evolved over time:
  - under Council Decision 2002/546 (2002-2014) a differential rate of 25% with a minimum tax of EUR 6 per 1000 cigarettes was permitted;
  - when the Decision was renewed in 2014, the 25% permitted rate was maintained, but the minimum tax was raised to EUR 18 per 1000 cigarettes;
  - eventually, in 2015, the tax differential was decreased to 15% in order to ensure compatibility with the then State aid threshold of Art. 15 GBER (which was later increased in 2017).

Regarding other tobacco taxes, the Canary Islands fall outside of the scope of the EU excise harmonised system (Art. 5 of Directive 2008/118), so the minimum excise duty rates envisaged by Directive 2011/64[82] do not apply. The tax levied on tobacco products in Canary Island is therefore much lower than in mainland: in 2018, it amounted to EUR 35 per 1000 sticks, increased to EUR 60 for cigarettes falling below a reference price of EUR 93 per 1000 sticks, which is less than half the EUR 131.5 minimum excise duty on cigarettes levied in mainland Spain. The value-added tax (IGIC in the Canary Islands) amounts in both cases to 20%. Tobacco is a major source of revenue for the public budget, estimated approximately EUR 188 million in 2018.[83]

- ***The additional costs of local production***. An estimation of the additional costs of local production vis-à-vis production on mainland was carried out in 2015 in the framework of a research on the impact of the AIEM on tobacco industry.[84] Comparing the balance sheets and the results posted by tobacco industries in the Canary Islands and in mainland, the study estimated the local additional costs at some 30% (average for the period 2008-2013). In the 2018 additional costs study commissioned by the Canarian government[85], this figure was broadly confirmed – i.e., 32.7%, of which 17.8% for the freight costs of raw materials and supplies, 9.0% for idle production capacity, 2.2% for stocks keeping costs, and the rest for other miscellaneous factors. The 2018 estimates of the additional costs of tobacco are substantially in line with the average additional costs of industrial activities in the Canary Islands (29.7%). However, it is unclear how this level of additional costs does not obstruct significant exports of Canarian tobacco products to mainland and the EU. Considering the self-reporting bias intrinsic to the methodology, the additional costs estimated might be somehow inflated.

- ***Local demand and cross-border shopping.*** The smoking prevalence[86] in the Canary Islands is around 26% (2015, ISTAC), slightly higher than national average (25% in 2014, EHIS survey), but in both cases a declining trend is registered. In the Canary Islands, smoking prevalence dropped by 5 percentage points since 2004, while the *Eurobarometer* registered a decline of 6 points in Spain since 2006. It is important to consider that in the Canary Islands tourists and travellers represent a significant share of tobacco demand, due to average prices being much lower than in the EU: as seen, the Canarian 'reference' price of cigarettes in 2018 was EUR 93 per 1000 sticks vis-à-vis an EU average of EUR 243 (in 2017). The estimated volume of locally delivered tobacco, shown in Figure 4.2.B above, appears to be almost double the demand that could be associated with the Canarian smoker population. Accurate estimates are unfeasible, but it is plausible that travellers purchase roughly between 1.5 and 2.0 billion of the local annual cigarette production. The majority is consumed on site while an estimated 0.5 billion cigarettes may be brought by travellers to their home countries.[87]

To sum up, the AIEM tax differential compensates for nearly half of the estimated competitiveness gap of local products vis-à-vis mainland products: i.e. some 15% (which is the tax differential actually applied since 2015) out of some 32.7% additional costs. Tobacco manufacturers may also have access to other non-specific REF aids, but the GBER threshold (30%) impedes that the cumulation of aid exceeds the estimated

[82] Council Directive 2011/64/EU of 21 June 2011 on the structure and rates of excise duty applied to manufactured tobacco.
[83] ACIT data, reported by:
https://cincodias.elpais.com/cincodias/2019/05/15/companias/1557908863_434178.html
[84] J.L. Rivero and U.M Hernandez, 2015.
[85] UTE Eco-CoRe, 2018.
[86] Percentage of the population aged 16 years old or over who report that they are regular smokers.
[87] Author's estimate, based on data from KPMG, "Project SUN", 2016.

additional costs, thus preventing 'overcompensation'.[88] On the other hand, considering that a significant share of local production is shipped to the mainland and the EU, the competitiveness 'gap' of local production vis-à-vis mainland production is possibly less critical than what the estimated additional costs suggest.

By imposing a tax on external deliveries, the AIEM encouraged some big companies to invest on local production (through own production plants or partnerships with local players) instead of serving the local markets through imports and, in this sense, it achieved its stated goal of promoting industrial activities and mitigating the dependence on imports.

From the public health policy perspective, the availability in the Canary Islands of tobacco products which are significantly less expensive than on the mainland (and in the EU) is a source of concern. Such concern regards not only residents – whose smoking prevalence and trends are similar as on the mainland – but also tourists and travellers from the EU, who possibly account for the majority of retail sales of tobacco in the region. However, the root cause of the low price of tobacco in the region ***is not the AIEM but the low excise duty rates***. In fact, were AIEM not in place, tobacco products could be even cheaper, because imports would not be charged with the current 15% rate (which can translate into a 20% price difference at retail level). Similarly, the ***AIEM is not affecting the price of tobacco products exported*** to the EU, because the measure regards only the Canarian market (exports are not chargeable) and the applicable excise rates are those of the country of destination (i.e., where the product is released for consumption).

In this sense, the anomaly of tobacco prices in the Canary Islands is primarily linked to the special status of this region within the tax and customs union. As an outermost region, the Canary Islands are, as discussed, exonerated from minimum taxation obligations and, arguably, this is the key incentive for big multinational players to focus on the Canarian market. So, any attempt to address this price anomaly should begin by applying internal minimum taxation in line with the EU levels.

It should be added that as long as the Canary Islands are outside of the scope of the EU excise system, there are strict quantitative limits to the amount of tobacco that travellers can move across the border. So, travellers from the Canary Islands can bring into the EU no more than 200 cigarettes or equivalent quantities of other tobacco products[89], whereas within the EU there is no such quantitative limit on products for personal consumption.[90] The quantitative limits applied to cross-border movement of Canarian tobacco products help mitigate the magnitude of flow, but enforcement is clearly complex. Moreover, the price differential with the mainland can fuel illicit trade. According to an industry study, the Canary Islands are the second-largest origin of contraband products in Spain, accounting for an estimated 9.3% of the total contraband in the country.[91] However, these issues are not directly related with AIEM tax differentials but – as discussed – with excise rates.[92]

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[88] It is useful to clarify that the lower excise duty rates applied in the Canary Islands compared to continental EU do not qualify as compensation or aid, but are linked to the special status of the Canary Islands in the fiscal union.

[89] I.e. 250 g of fine-cut tobacco, or 100 cigarillos, or 50 cigars. Certain EU countries may apply lower limits: 40 cigarettes, 20 cigarillos, 10 cigars or 50 g of fine-cut tobacco.

[90] Article 32 of Directive 2008/118 on the acquisition [*of excise products*] by private individuals, establishes the aspects that Member States should consider to ascertain the intended use of the products moved. It does not establish any upper threshold, but allows Member States to adopt guide levels, provided they do not fall below certain amounts laid down in the Directive, i.e. 800 cigarettes, 1 kg of fine cut tobacco, 200 cigars, and 400 cigarillos.

[91] Based on a study published by *Altadis* (2017), using data from the 'empty pack' survey method. Cited in: https://www.eldiario.es/canariasahora/sociedad/tabaco-contrabando-Canarias_0_693631692.html

[92] For a review of the issue of cross-border shopping in the EU, see the recently published study of Economisti Associati for DG TAXUD on Directive 2011/64.
https://ec.europa.eu/taxation_customs/business/excise-duties-alcohol-tobacco-energy/excise-duties-tobacco/revision-excise-rules-tobacco_en

Finally, it is worth highlighting that while manufacturing of tobacco cannot be supported by the ERDF[93], there are no restrictions of this kind in the AIEM and in the overall *Régimen Económico Fiscal* (REF). In fact, the Commission's Guidelines on the regional State aid[94] do not exclude manufacturing tobacco from the scope of the aid that is a priori compatible with the internal market, so no formal policy consistency issues are detected. Still, an alignment of ERDF and REF policy in this area could be in order, but this should be part of a broader policy coordination effort that cannot be limited to the Canary Islands and to the AIEM regime whose effects, as discussed, are not per se undermining tobacco control policy.

Evaluation Question #3: *To what extent does the current system affect the trade with third countries, in particular with those in neighbouring regions?*

This evaluation question is of limited relevance for the AIEM regime since, unlike the *Octroi de mer* regime, there is no issue of policy coherence with trade agreements in force with regional neighbouring countries. At the moment, the EU has bilateral agreements in place with Côte d'Ivoire and Ghana. A regional Economic Partnership Agreement (EPA) with West Africa countries was negotiated in 2014, but not all countries have signed it yet (e.g. Nigeria). Upon signature from all Parties, the agreement will be submitted for ratification. At that point, policy coherence issues, similar to those that followed the signing of the EPA with CARIFORUM and ESA countries might pop up.

At the moment, the regional trade volume remains limited (see Evaluation Question #9), but, except sporadic cases, AIEM seems to play a marginal role in it. Similar conclusions were reached in a Study conducted in 2016 by the Canarian Government on the possible impact on the local economy of the EPA being negotiated with ECOWAS and Mauritania.[95]

4.2 Relevance

Evaluation Question #4: *Are the criteria used to select the products to which the tax exemptions or reductions may apply still valid? (i.e., the existence of local production; the existence of significant "imports" and the existence of additional costs of local production compared to the cost of "imports")?*

- **CLARITY AND TRANSPARENCY OF ELIGIBILITY CRITERIA**

By 'eligibility' criteria we refer here to the criteria used to determine the list of products subject to differentiated taxation. In the AIEM Decision these criteria are not explicitly mentioned but, as confirmed by competent authorities, they do not differ from the criteria applicable to the French *Octroi de mer* regime, i.e., the existence of substantial local production that is threatened by imports because of the additional operating costs faced by local producers. The key indicator is the ***market share of local production***, but no specific threshold for the triggering of the exemption has been established. Analogously, the special treatment is justified by additional costs but, unlike the French *Octroi de mer*, such costs were always estimated at sectoral / branch level but never at the level of individual product (intended as CN category).

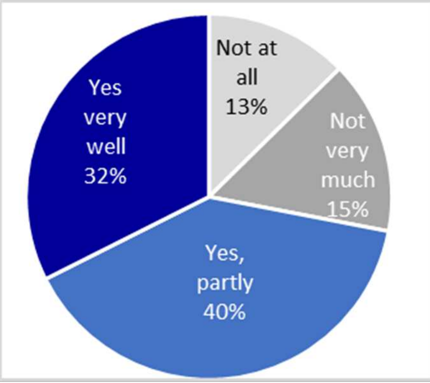
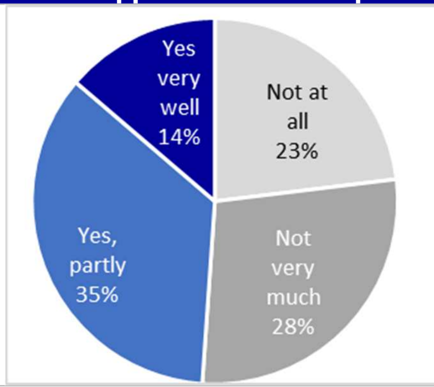
A recent parliamentary request (Oct 2018) looked into the criteria for selecting the supported products and setting tax rates and differentials. In its official response, the

[93] Art. 3 (c) of Regulation (EU) No 1301/2013 of the European Parliament and of the Council of 17 December 2013 "on the European Regional Development Fund and on specific provisions concerning the Investment for growth and jobs goal and repealing Regulation (EC) No 1080/2006".
[94]Guidelines on regional State aid for 2014-2020 (2013/C 209/01).
[95] Consejería de Economía y Hacienda GdC, "Estudio sobre los Acuerdo de Partenariado Económico, Informe Final", 2016.

competent service clarified that local production and import levels are taken into account, but no further explanation was provided on how market shares are used for decision making and whether there are 'benchmarks' triggering the application of special regime.

It is therefore not surprising that a significant share of both local producers (20%) and trade and service businesses (40%) expressed limited or no knowledge of how the AIEM lists are set up, and more than half of respondents admitted poor knowledge of how tax differential are established (see Figure 4.3). As already noted under EQ#2, the lack of transparency is apparently fuelling economic operators' mistrust towards the AIEM regime.

Figure 4.3 – Stakeholders' knowledge of the criteria underlying AIEM implementation

A) Respondents' knowledge of the criteria for inclusion of certain products in the AIEM lists	**B) Respondents' knowledge of the methods used to establish the tax differential applicable to AIEM products***
	

Source: *Business survey.*
Note: *(*) the question did not refer to specific official guidelines that are not publicly available in the Canary Islands, but more generally to the process that lead to the establishment of a tax differential, e.g. from the additional costs assessment (many enterprises participate in the periodic surveys conducted in this respect), to the policy decision and negotiations at EU level.*

The ***'additional cost' criterion*** is discussed in detail under evaluation question #6 below. With respect to its clarity and transparency, a few considerations apply:

- the additional costs assessment is a participatory process, which involves the concerned industries as the main providers of data and estimates for the calculation of additional costs;
- however, the results of additional costs estimation are not publicly available and, secondly, specific assumptions and calculations made are not reported in detail.

➢ VALIDITY OF CRITERIA

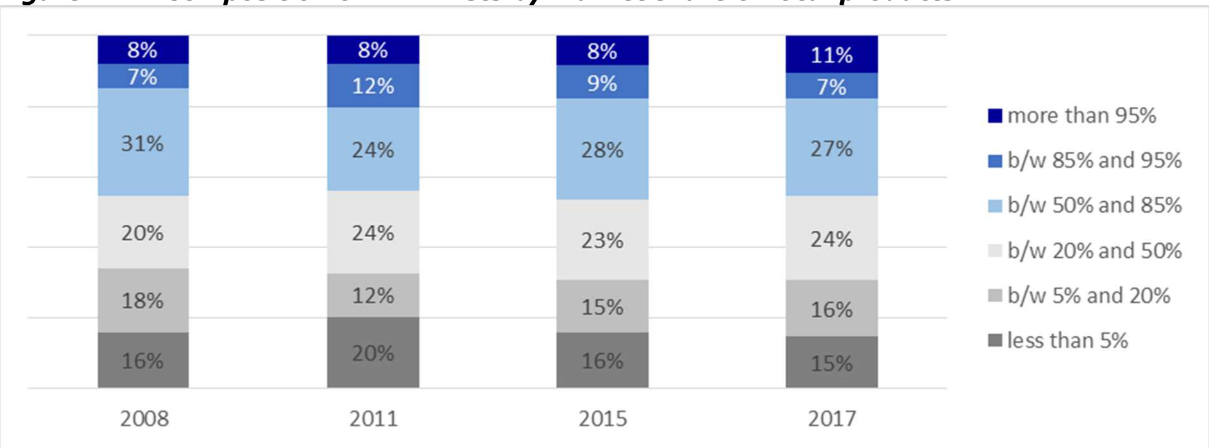
To assess the 'validity' of current eligibility criteria, we consider three aspects: (a) their measurability in objective terms, (b) whether they are consistently applied; and (c) stakeholders' opinion in this respect.

The ***objective measurement*** of the eligibility criteria has been problematic for many years, but significant improvement has been registered recently. The issue regards the availability of robust data on the market share of local production (by CN code, at the level indicated in the products list) that, as discussed, is the main indicator used by competent authorities to determine eligibility. Such data have been systematically collected and published for the first time by the Canarian statistical institute (ISTAC) in 2019 (covering the 2015-17 period). Previously, market shares were estimated with a lower degree of precision, combining customs data on imports, the estimates of the national enterprise survey and private sector estimates.[96] The new *Encuesta de la Industria en Canarias (EICAN*) run by ISTAC addresses this data gap by collecting production data directly from the producers and matching them with the national enterprise survey data to produce fairly robust estimates broken down by CN category. The exercise has, however, some limitations. In particular: (a) it cannot disaggregate exports – which are not relevant for AIEM purposes - from the volume of local production, and therefore the market share of certain products appears inflated; and (b) it covers only products currently included in the AIEM list, so it is of limited use for the ex ante assessment of products to be added in the future.

At any rate, the EICAN data allow to review how the market share criterion is currently applied, and the over time evolution. Figure 4.4 below shows the distribution of AIEM products by market share of local production, combining the recent ISTAC estimates (for the 2015-17 period) with the estimates elaborated by the competent authorities in 2014 for the renewal of the Council Decision (covering 2008-2011). The results show that:

- the AIEM regime covers almost evenly products that are primarily imported and products that are primarily produced in the region;
- there was no substantial change over time in the structure of the distribution, minor changes can be attributed to margins of error in the measurement;
- local products with less than 20% of market share account for some 30% of the AIEM list, while local products with less than 5% of the market account for approximately 15% (slightly decreasing over time);
- less than 20% of products in the AIEM list holds more than 85% of the respective markets; for some 10% the market share exceeds 95%.

Figure 4.4 – Composition of AIEM lists by market share of local products



Source: *Own processing of ISTAC data (2015, 2017) and data provided by the competent authority (2008, 2011).*
Note: *based on 95 AIEM products for which sufficient data are available.*

The above data indicate that there are indeed cases where the market share criteria may not be sufficient to justify the inclusion of certain products in the AIEM list, because the local production level is marginal, or, conversely, local producers are in a largely dominant position. In this respect, there are also ***other aspects which are considered by local authorities***, such as the impact on jobs (both direct and indirect), the strategic value for the local economy of the production at stake, and other special needs (such as for activities located on 'non-capital' islands[97]).

[96] Among the various limitations, it is worth highlighting: (a) the national enterprise survey used the NACE classification of activities and not the CN classification and, as discussed, the correspondence between classification is not precise; (b) the legislation does not permit processing fiscal data for statistical purposes.
[97] The six non-capital islands (*islas no capitalinas*) are El Hierro, La Gomera, La Palma, Fuerteventura, Lanzarote and La Graciosa.

At the same time, the data broadly confirm the figures laid down in the letters of complaint submitted to DG TAXUD by some Canarian trade associations, which highlighted that some 31 AIEM products have market shares lower than 20%, while 19 products have market shares higher than 85%. These figures are largely in line with the ISTAC data processed in Figure 4.4, although the products concerned partly differ. It was also claimed that the AIEM list includes 28 products for which there is no manufacturing activities in the Canary Islands, but this figure is not confirmed by ISTAC data, although some 14 local products have a market share below 5%.[98]

The results of the survey indicate that for most respondents (60%) - including a relevant share of local producers (38%) - there are indeed products ***with negligible production*** in the Canary Islands that should be removed from the list. Instead, less than 40% of respondents (and less than 15% of local producers) believe that there is need to remove from the list also products in a large dominant position.

These criticisms clearly reflect specific and commercial interests of the stakeholders involved that should be taken into account; but, at the same time, they highlight the ***limitations of the market share criterion*** and the need to avoid pure quantitative approaches to the selection of eligible products. In this respect, a few considerations apply:

- Regarding products with a low market share, the main drawback of AIEM support is that the capacity of local industries is in some cases insufficient to meet demand and – since imports account for the bulk of it – application of the AIEM may lead to a significant fiscal charge for a fairly limited benefit. On the other hand, it can be argued that industries with limited market share are those who most needs the support of the AIEM to grow.
- Regarding products with a high market share, the AIEM support may seem less necessary as they seem less threatened by the competition of imported products. However, there are special cases, for instance, commodities and various consumer goods for which the competitive edge is very narrow. Overall, the risk of 'overcompensation' for these products is higher but cannot be taken for granted.

A full-fledged analysis of the ***additional costs criterion*** is carried out under evaluation question#6. At any rate, its validity as a criterion is not disputed, as it can be directly inferred from the CJEU 1998 Order which established that exemptions must be necessary and proportionate[99] - requirements that are consistently interpreted as the need to demonstrate the existence of addition costs associated with the supported products. The CJEU Order regarded the French *Octroi de mer* but the underlying principles can arguably apply also to the AIEM.

Evaluation Question #5: *To what extent does the scope of the Decisions address the current needs of the Outermost Regions and of the economic operators concerned?*

➢ SUITABILITY OF THE AIEM'S SCOPE

The suitability of AIEM coverage can be evaluated, in the first place, with respect to the existence of relevant ***products omitted from the list***. The results of the stakeholder consultation suggest that, for some half of the local producers surveyed, there are gaps

[98] More specifically, the ISTAC reported existence of local production for 20 of the 28 claimed products. For three products the ISTAC did not provide any data, so the issue could not be verified (CN 0210 11 31; CN 0210 1981; and CN 4823 90 85 90). The rest (5 products) are actually not subject to the differential tax regime.

[99] CJEU, ORDER OF 7. 7. 1998 — JOINED CASES C-405/96, C-406/96, C-407/96 AND C-408/96.

in the scope of the AIEM, and some products should be added to the list[100]. The main problem lamented by stakeholders, in this respect, is a lack of flexibility in the process of revision of the lists, which makes it difficult to respond in a timely manner to emerging needs of the local economy and to correct errors or omissions.

The main issue, however, regards the application of tax differentials to products for which it is claimed that ***there is no 'equivalent' local production***. The issue is generally connected to certain CN categories that include heterogeneous products of which only some of which are produced locally. An example is pork meat (CN 0210 11), which also includes also *serrano* ham (CN 0210 11 31), not produced in the Canary Islands. Similar points are made on varieties of wine and other macro-categories of products. Leaving aside the complex matter of substitutability across products (*serrano* ham could, in theory, be substituted by local ham), the issue is often connected to the intrinsic, though inevitable, limitation of using the CN classification to identify AIEM products. Its impact is possibly magnified by the frequent use of 4-digit or 6-digit categories (some 60% of the total AIEM products) instead of 8-digit or more narrowly defined categories.

At the same time, it should be acknowledged that in various cases the competent authorities have added further specifications to the standard definition to better distinguish between products falling in the same category but requiring a different tax treatment, for instance:

- The category CN 1905 (bread, pastries etc.) is split in two subcategories with different AIEM rates, of which one is specifically for frozen bread (typically imported).
- A *caveat* is added to the categories CN 3208, 3209, 3210 (various types of paints) to exclude all products used for vehicles bodywork painting.
- The category CN 3924 10 (plastic tableware and kitchenware) is split in two subcategories of which one is specifically for mono-use products.

Including the possible revisions of the AIEM lists that are currently under consideration, ad hoc specifications are added to 33 CN product categories.

➢ **PRODUCTION INPUTS**

The AIEM regime does not envisage ***exemptions for imported inputs*** used in other production activities, i.e., raw materials, packaging and/or other supplies (see Section 2.2). This is one of the main differences with the *Octroi de mer* regime that instead distinguishes between products intended for final sales or intermediate use. There are only few cases where an AIEM tax refund (*devolución*) is permitted and regard AIEM products that are subject to the 'internal tax'. The AIEM paid on the imported inputs necessary for manufacturing these goods, as well as the AIEM paid on the exports of these products, can be refunded, but these remain rather sporadic events. So, the taxation of inputs used in the production of AIEM goods can de facto mitigate the benefits of the special regime.

The approach adopted in the Canary Islands to mitigate this effect is to add ad hoc specifications to CN definitions, so as to distinguish products for retail from products for wholesale – which are typically used as production inputs - and exempt the latter. Examples include:

- regarding CN 1806 (chocolate etc.) only packs of less than 20kg are taxed;
- the fruit juice categories (from CN 2009 11 to 2009 90) are taxed only when delivered in packs of less than 150kg;

[100] According to survey results the products to be included in the AIEM list include, e.g.: (i) cheese, (ii) liquors, (iii) fruit mash/jam/jelly, (iv) goat meat, (v) pre-prepared fruit and vegetables, (vi) glue and adhesive agents, (vii) polyethylene and packaging films; (viii) insulating glass units and others.

- mustard and mustard flour (CN 2103 30) is only taxed on packs of less than 20kg.

This approach is, in certain respects, more straightforward for businesses, which do not have to carry out any additional administrative activity to request exemption or refund of the AIEM paid. On the other hand, it makes product identification more complex and requires a constant revision of definitions by competent authorities. Furthermore, according to the survey, the majority (about two-thirds) of local producers use imported production inputs that are charged with AIEM. Considering that imported raw materials and other production inputs represent some 40% of total production costs[101], and assuming an average tax on the import of AIEM goods of 7% (official estimate), the tax levied on inputs might account for roughly 2.8% of local production costs.

More controversial is the impact of AIEM on the inputs used by other economic sectors, in particular services. Typical examples are the bedlinen, table linen etc. (CN 6302) used by hotels and restaurants and cement (CN 2523 29) used in the construction sector. The taxation of these inputs, although often with low rates, is a major source of discontent in these sectors towards the AIEM regime: about 85% of the survey respondents operating in trade and service sectors rated these negative impacts as 'major' or 'moderate', and this share increases to 93% among respondents operating in the tourism sector.

4.3 Effectiveness

***Evaluation Question #6:** What is the "additional cost" of local production by products to which differentiated taxation may apply?*

> **ESTIMATION OF ADDITIONAL COSTS**

The establishment and subsequent renewals of the AIEM regime were underpinned by a series of external studies which estimated the nature and extent of the additional costs faced by the Canarian economy due to the region's structural handicaps. In particular, ad hoc assessments were completed in 2002, 2010 and 2018.[102] The methodologies employed in the different studies combined qualitative analysis (interviews and survey data) with quantitative methodologies, i.e., cost structure comparison between the Canary Islands and mainland Spain, and structural economic data processing. Over time, the catalogue of cost factors which were affected by 'outermost-ness' remained substantially stable, but estimates changed partially, as shown in Table 4.3 below:

- Freight costs have remained the major source of additional costs, with an incidence of 4.4% on the aggregated turnover of local enterprises, and increasing from 3.7% in 2008, and 1.5% in 1999. They are followed by 'idle production capacity', that is fairly stable around 1% of the total turnover. The estimated additional costs of energy decreased significantly, while the impact of 'multiple establishments' (connected to the 'double insularity' feature) has substantially increased.
- Overall, the impact of additional costs has apparently grown over time, from some 5.1% in 1999, to 7.6% in 2008, to 8.0% in 2016. In monetary terms, the total impact of outermost-ness on private sector is worth some EUR 5.23 billion (2016).
- The incidence of additional costs varies across islands: the most affected are western islands, where additional costs reach 10% of the total turnover (especially because of freight costs), whereas in capital islands the estimated incidence is 6.4%. The gap between capital and non-capital islands reportedly decreased by 0.9 percentage points between 2008 and 2016.

[101] Median value based on 59 observations, characterized by high dispersion (range: 96%; standard deviation: 31).
[102] Centro de Estudios Económicos Tomillo, "Los costes de ultraperiferia de la economía canaria", 2002; Centro de Estudios Económicos Tomillo, "Los costes de la ultraperiferia en la economía canaria", 2010; and UTE Eco-CoRe (consortium), "El coste privado de la ultraperiferia y la doble insularidad en Canarias", 2018.

- Similarly, the incidence is inversely proportional to firm size: for micro-enterprises with less than 10 employees the additional costs account for 11.3% of the turnover, while for enterprises with more than 250 employees their incidence is 'only' 4.8%.

Table 4.3 – Estimated additional costs for the Canary Islands, by cost factor

Cost Factor	2016		2008	1999*		Western islands	1-9 employees
	EUR million (2016)	***% of turnover***	***% of turnover***	***% of turnover***		***% of turnover***	***% of turnover***
Freight costs	2,860	4.4%	3.7%	1.5%		6.8%	6.9%
Idle production capacity	631	1.0%	1.1%	n/a		1.1%	1.1%
Multiple establishments	575	0.9%	0.3%	0.1%		n/a	0.1%
Keeping stocks	347	0.5%	0.7%	0.8%		0.8%	1.0%
Energy	344	0.5%	1.0%	n/a		0.4%	0.6%
Business travels	326	0.5%	0.3%	0.1%		0.5%	1.3%
Financial costs	98	0.1%	0.3%	0.8%		0.12%	0.2%
Water	48	0.07%	0.1%	n/a		0.12%	0.1%
				1.3% (human resources) 0.5% (marketing)			
TOTAL	**5,228**	**8.0%**	**7.6%**	**5.1%**		**10.0%**	**11.3%**

Source: *UTE Eco-CoRe 2018; CEET 2002, 2010. The years displayed are the only years for which additional costs were estimated.*
Notes: *(*) the structure of costs used in the 2002 study differed from the following studies. Overall, 1999 data are not fully comparable in methodological terms with later estimates.*

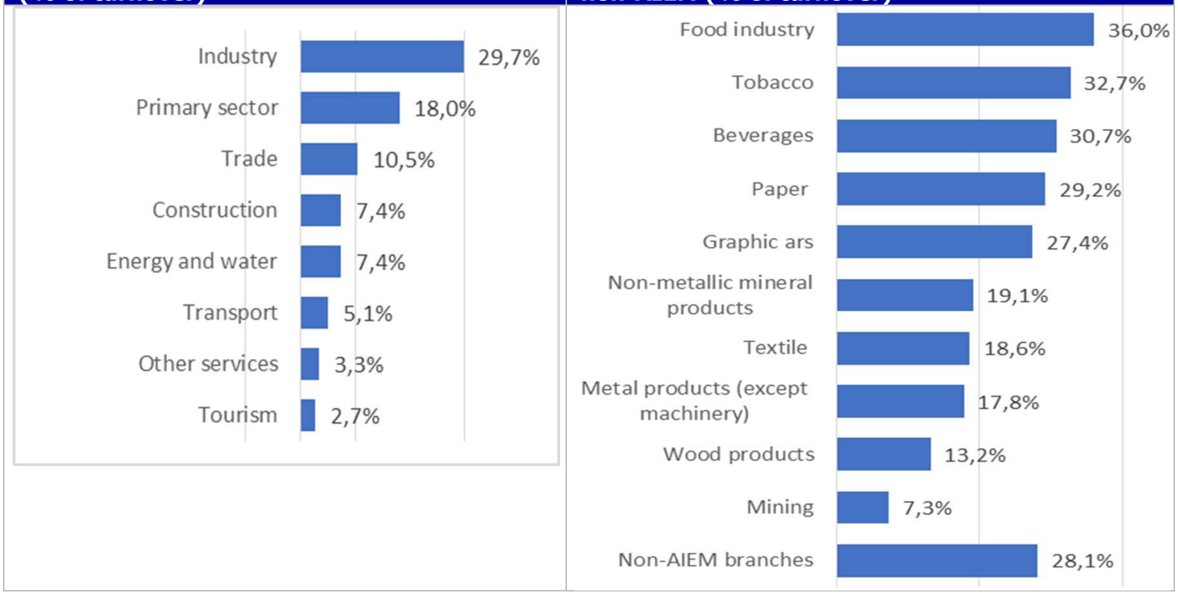
The data reported above concern the whole economy, but there are significant ***differences between economic sectors*** and specific branches. Figure 4.5 below reports the estimates of the latest external study (2018). The results indicate that the bulk of additional costs are borne by productive sectors, namely industry (29.7% of sectoral turnover, i.e., EUR 889 million) and the primary sector (18%, EUR 148 million). The estimated incidence for trade sector is 10.5%, but since this is the largest sector of the Canarian economy, in monetary terms the impact is the greatest (EUR 2.77 billion). The least affected is the tourism sector with a 2.7% incidence and approximately EUR 200 million of additional costs. The pervasive impact of outermost-ness on all sectors, and not only productive sectors, is one of the arguments raised by critics of the AIEM regime to affirm its discriminatory effect. In theory, to prevent competitive distortions, setting AIEM differentials should be done considering not only producers additional costs but also importers'. In practice, the additional costs of industry are some 20 percentage points greater than traders', while the maximum AIEM differential is currently 15%, so also in this respect no 'overcompensation' is apparent.

There are also substantial differences ***across specific industrial branches***. The highest incidence of additional costs is reported by the food industry (36%), followed by tobacco (32.7%), while the mining industry reports only 7.3% of additional costs. The industry branches with no products benefitting from AIEM tax differential represents only a minor share of the secondary sector (some 16.3% of the turnover). Interestingly, their estimated additional costs (28.1%) do not differ significantly from the industry average. At any rate, the more granular the classification is, the less accurate estimates are, given the limited number of observations available. So far, the additional costs studies never attempted a more granular quantification of costs at product level (in CN terms)[103]. In this sense, the AIEM arrangements differ significantly from the French *Octroi de mer*, that requires a specific additional costs *fiche* for every individual product benefitting from tax differentials.

[103] Occasionally, certain industry associations prepared by own initiative detailed analyses of the additional costs of production of individual products as background information for inclusion of new products in the AIEM lists or to demand an increase in the tax differential.

Figure 4.5 – Estimated additional costs by sector and industry branch (2016)

A) Additional costs by sectors of the economy (% of turnover)	A) Additional costs by industry branch – AIEM v. non-AIEM (% of turnover)

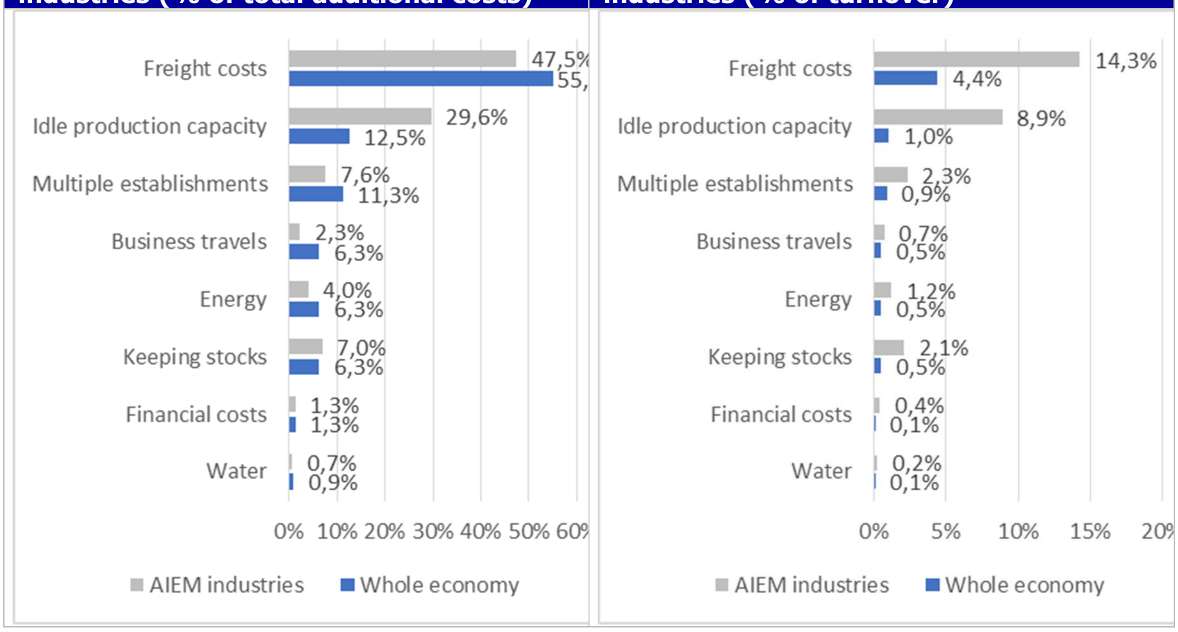


Source: *UTE Eco-CoRe 2018*

As shown in Figure 4.6, there are similarities in the ***structure of the cost factors*** registered by AIEM industries and by the whole Canarian economy. The ranking order is largely the same but, as expected, the costs linked to diseconomies of scale (e.g. oversized equipment) are more significant for industry players than for other economic operators, while freight costs and costs linked to multiple establishments are comparatively higher in sectors other than the AIEM industries. Another difference regards the distribution of cost factors. For AIEM industries, additional costs concentrate on two items: 'freight costs' and 'idle production capacity' that cumulatively account for 77% of the total. Conversely, the additional costs for the whole economy are more evenly distributed among the various cost factors.

Figure 4.6 – Estimated additional costs for the Canary Islands, by cost factor and AIEM industries

A) Cost factor – Whole economy v. AIEM industries (% of total additional costs)	B) Cost factor – Whole economy v. AIEM industries (% of turnover)



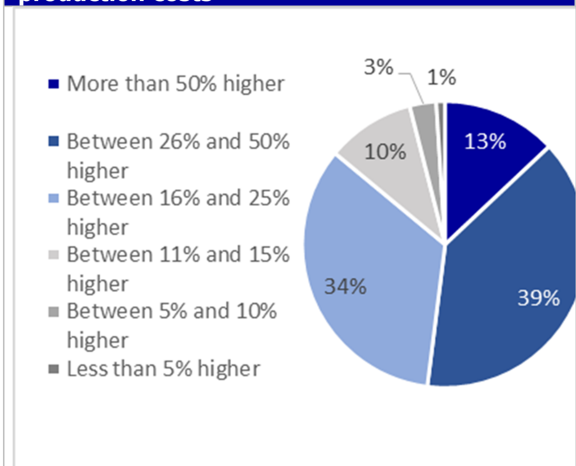
Source: *UTE Eco-CoRe 2018.*

The above results can be triangulated with the findings of the ***business survey***, which gathered information on the total additional costs borne by local producers as well as on the top three registered cost factors. Despite some methodological differences[104], the survey findings broadly confirm the results of the 2018 additional costs assessment. In particular:

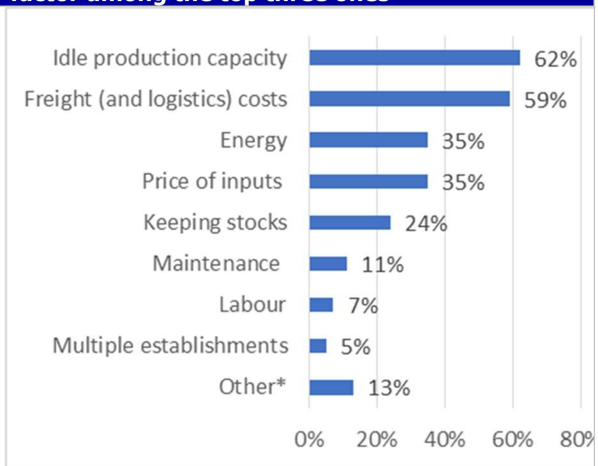
- The large majority (73%) of AIEM beneficiaries surveyed assessed their production costs to be between 16% and 50% higher than those borne by mainland competitors. This range is in line with the above-mentioned estimates for the AIEM industries (30%) as well as with the estimated additional costs registered by manufacturing activities (between 13.2% and 36%). The inverse relationship between additional production costs and firm size is also confirmed: almost 80% of the micro-firms surveyed reported some 25% of additional production costs, while a sound majority (62%) of medium and larger firms reported much lower estimates.
- 'Idle production capacity' and 'freight costs'[105] are the most frequently cited cost factors, mentioned among the top-three by 62% and 59% of local producers, respectively. Then, some 35% of respondents mentioned the higher costs of inputs due to orders' small size and limited bargaining power. A similar share of respondents indicated energy as a main additional costs factor, while about one quarter of respondents mentioned additional costs deriving from larger stocks.
- The perceived incidence of cost factors changes with the respondent's size: (i) 'freight costs' are a major factor especially for SMEs; (ii) the 'idle production capacity' is, by far, the biggest concern for medium and large firms; while (iii) the higher price of production inputs is more frequently lamented by micro-enterprises.

Figure 4.7 – Stakeholders' assessment of additional production costs and top-three cost factors

A) Share of respondents by size of additional production costs



B) Share of respondents mentioning the cost factor among the top three ones



Source: *Business Survey.*
Notes*: * It includes other cost factors mentioned by less than 3 firms (such as water, waste, and land) as well as very general replies, encompassing several different cost factors (e.g. 'lejanía' and 'insularidad').*

[104] The comparability of the results of the survey with the additional costs estimates is partly affected by some differences in the approach adopted and in the sample of respondents: (a) the business survey investigated production costs for specific AIEM product, while additional costs estimates are calculated at sectoral level; (b) the sample of the business survey is smaller than the sample used in the 2018 additional costs study and characterised by a possible underrepresentation of micro enterprises.
[105] It includes maritime and inter-island transport costs for imported inputs as well as for sold products ("*Costes de transporte, fletes, consignatarios materias primas y auxiliaries*"; "*Coste de transporte de ventas entre islas*"; "*Hay que pagar transporte por mar hasta las islas desde proveedores*").

➢ VALIDITY AND LIMITATIONS OF ADDITIONAL COSTS ESTIMATES

Additional costs borne by local producers - expressed as a ratio of production costs of a similar competitor from the mainland - represent at the same time one of the eligible criteria for the application of tax differentials (see EQ#4) and the benchmark for setting the maximum permitted tax differential. The underlying assumption is that, if the tax differential does not exceed the estimated additional costs of production, there is no risk of overcompensation or of a disproportionate distortion of the market. The estimation of additional costs is, therefore, a pillar of the justification and quantification of the AIEM tax differential regime.

The quality and depth of additional costs studies have improved over time, both regarding the coverage (i.e. the number of local enterprises involved in the assessment) and the methodology. So, it can be reasonably assumed that the most recent estimates reflect the situation with the maximum degree of accuracy that the methodology consent. Nonetheless, the exercise has some intrinsic, unavoidable limitations that require taking the results with caution. In particular:

- Several ‘cost factors’ that concur to the total additional costs are estimated based on an enterprise survey. Although the response rate to the latest edition was significant (+2000 enterprises participated in the *Encuesta a Empresas Canarias* – EEC, in 2017), the survey cannot guarantee ***statistical representativeness*** in all the relevant industrial branches (for various branches the coverage was well below 10%). Secondly, the results are inevitably affected by the self-selection bias caused by voluntary participation in the survey and by the self-reporting of certain critical data.
- The aim of the exercises was to compare the production costs of ‘like products’ in the outermost regions and on the mainland. Leaving aside the complexity of the notion of ‘like products’, it should be considered that the ***structure of the market and competition*** in the Canary Islands and in the mainland is radically different, as it is the production structure. A large player in the Canary Islands would be considered small on the mainland, and while in the Canary Islands industries are required adopting multi-product strategies to serve their market, mainland enterprises increasingly move toward extreme specialisation. In this sense, it is not clear which comparators should be selected, and under which conditions, to ensure the validity of the comparison exercise.
- Additional costs are defined in relative terms, i.e., with respect to the production costs on the mainland, but the background ***enterprise surveys cover only Canarian firms***.
- In certain circumstances, when the additional costs estimates are used to justify tax differentials, it would be important to distinguish between the additional costs affecting the target production activities from ***costs affecting also non-target activities*** to prevent the risk of distortions (see Figure 4.5 above).

Evaluation Question #7: *To what extent has the fiscal advantage contributed to: realising the objectives of Article 349 TFEU and in particular has achieved the objectives of compensating for higher production cost of goods in the different Outermost Regions?*

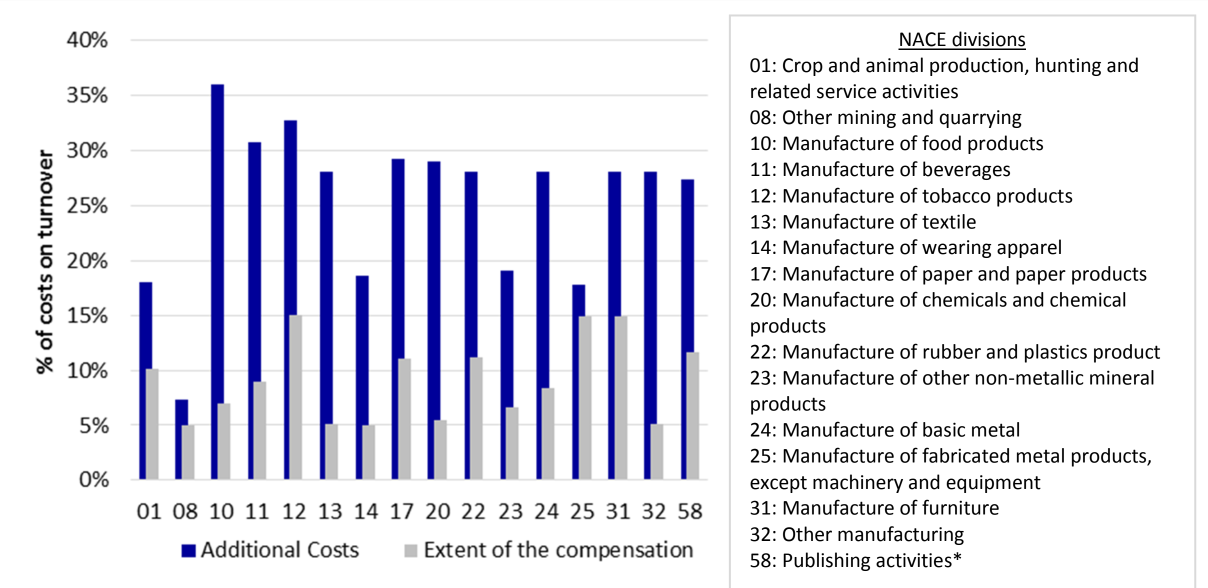
➢ THE EXTENT OF ADDITIONAL COSTS COMPENSATION

The first part of the answer to this evaluation question examines the extent to which the additional costs faced by local producers are compensated for by the AIEM special regime. Before proceeding with an analysis, it is useful to remark that the notion of ‘compensation’ in this context is figurative, because the policy does not directly subsidise beneficiaries (like other aid measures do), but it mitigates the production costs ‘gap’ with their competitors, thus having effects similar to a direct compensation.

The most straightforward indicator for the extent of the compensation is the ***ratio between the tax differentials applied and the additional costs estimated***. The tax differential typically compensates for only part of the additional costs estimated, i.e., some 27% of them with no relevant difference from the previous policy period. The extent of the compensation does not correlate with the additional costs estimates: for some products, compensation exceeds 50% of the estimated costs, while for others no more than 15% of additional costs are compensated. Figure 4.8 illustrates compensation disparities across NACE sector:[106]

- The highest degree of compensation (exceeding 50%) is found in the primary and mining sectors, as well as in the fabricated metal sector.
- Conversely, the lowest compensation (below 30%) is registered in food and beverage sectors, garment and chemical industries, among others.

Figure 4.8 – Average compensation of additional costs by NACE division



Source: *Own processing of tax differential data provided by competent authorities and additional costs estimates from UTE Eco-CoRe 2018.*
Notes: *(*) depending on the CN: NACE conversion table used, these products may be classified under NACE division 18: Printing and reproduction of recorded media*

For a meaningful estimation of the weight of the compensation extended under the AIEM special regime, reference should be made to the amount of the tax charged on imports. This approach accounts for the particular features of the regime, which does not compensate local producers directly - i.e., through subsidies or financial aid – but supports local production by taxing the competing imported products. In this sense, the extent of the compensation roughly corresponds to the amount of tax revenue collected, i.e., EUR 160 million in 2018 – or, more precisely, some EUR 125 million after deducting the receipts from AIEM products with no differential rate applied (especially fuels and certain types of furniture). Considering that the additional costs of AIEM sectors amount to EUR 889 million altogether[107], the ***overall extent of the compensation for additional costs amounts to approximately 14%***. This ratio depends not only on the AIEM rates, but also on local production and import trends, which influence respectively the extent of additional costs (which relates to enterprise's turnover) and tax receipts.

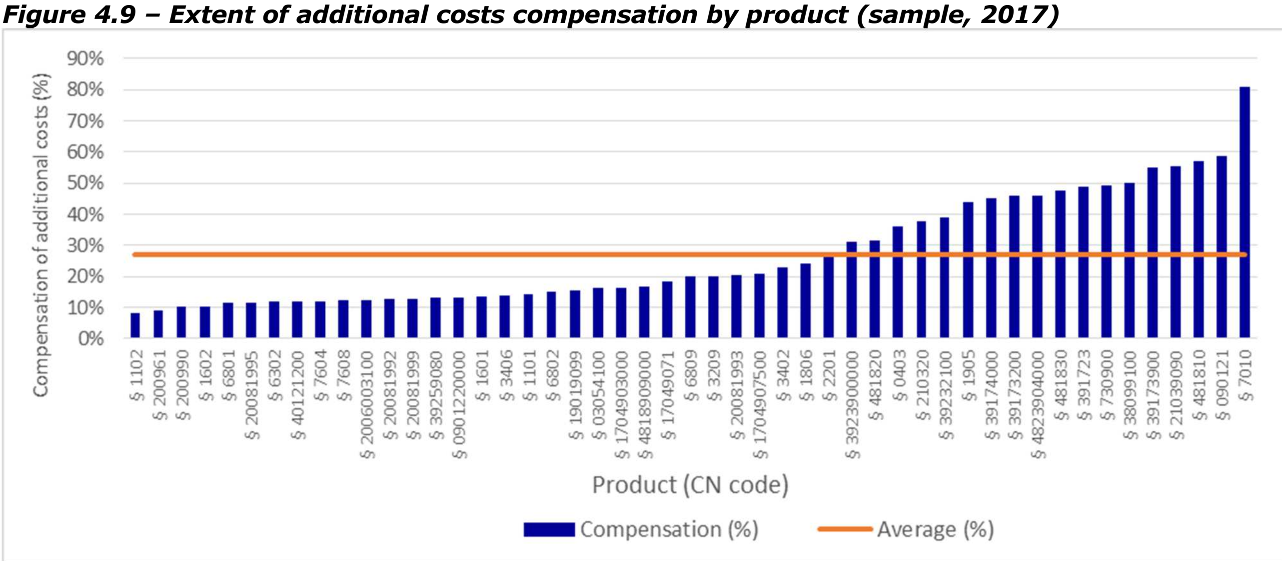
The same approach can be used to estimate empirically the ***actual compensation that each AIEM product benefits from***. Since detailed cost price for AIEM products are not

[106] The analysis is presented by NACE sector for consistency with the approach used in the additional costs estimation.
[107] Source: UTE Eco-CoRe, 2018, unpublished. The reconstructed additional costs estimated in this Study are only moderately higher, i.e., EUR 967 million in 2017.

available, a proxy indicator can be used. In specific, we estimated the ratio between (a) the monetary amount of the tax collected on a unit of imported product and (b) the monetary estimate of the additional costs related to a unit of the same good produced locally. The method has clearly some limitations which are due, inter alia, to: the heterogeneity of products falling under the same CN code, the intrinsic limitation of additional costs assessments (described in the previous section), and the data issues affecting local production estimates. To cope with these limitations, the analysis was restrained to a sample of products (approximately one-third of AIEM products) for which data series appeared to be more consistent and reliable[108]. The results (Figure 4.9) provide an overview of the varying intensity of the AIEM support extended to individual products. In particular:

- As already noted, the least compensation rates are found among food industry products, with products like cereal flours, certain preserved meats and some kinds of fruit juice being compensated for less than 10% of the additional costs claimed.
- Above-average compensation is extended to a range of products belonging to rubber/plastic industries (especially tubes, pipes and hoses) and paper industry.
- With the exception of a few outliers[109], the vast majority of products benefits from a compensation between 15% and 50% of the additional costs claimed.
- The coefficient of variation of the data distribution displayed in Figure 4.9 is 0.65, indicating a relatively low variability in the treatment extended to the different products examined.

Figure 4.9 – Extent of additional costs compensation by product (sample, 2017)



Source: *Own processing of Canarian authorities' data and additional costs estimates from UTE Eco-CoRe 2018.*

➢ IMPACT OF THE AIEM ON PRICE-COMPETITIVENESS

In evaluating the effectiveness of the AIEM it is important to consider the underlying logic behind the measure. As described previously, the particular logic of the AIEM regime consists of sustaining the competitiveness of local production by taxing the competing products of external origin. In this sense, in theory, if the tax rate is well-calibrated, local producers and importers compete on equal terms and price differences reflect only individual operators' competitiveness but not the effects of structural handicaps. In practice, this fairly straightforward logic faces numerous obstacles in its practical implementation. First and foremost, there is the abovementioned impossibility to univocally determine the additional costs caused by structural handicaps at product level (see EQ#6). Secondly, an obstacle arises due to the fact that costs differentials ***do not***

[108] Products with huge variations in the volume/value ratio over time are not included in the analysis.
[109] Possibly caused by data uncertainties.

automatically translate into equivalent price differentials. Various reasons for this fact are worth summarising:

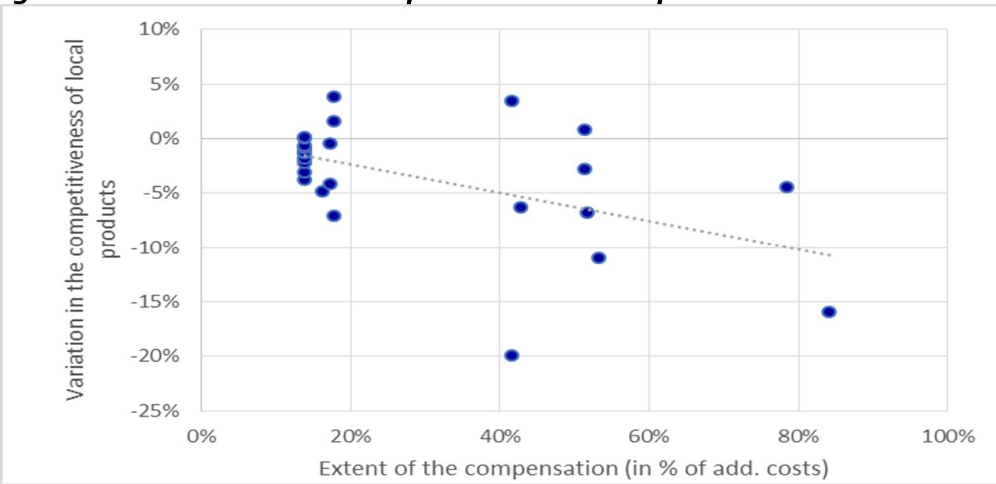
- Due to their remoteness and small size, the Canary Islands are clearly far from being a 'perfect competition' market. On the contrary, both imports and local production activities feature oligopolistic traits. For this reason, as documented in the economic literature, the price dynamics and the operating margins established by economic players are subject to a number of influential factors that go beyond the production costs and the characteristics of the demand. A recent academic paper examining the impact of the French *Octroi de mer* in Martinique showed that the effectiveness of tax differentials in redressing price-competitiveness goes down, the higher the trade margins on imported products go up.[110] It can be assumed that similar effects occur with the AIEM in the Canary Islands.
- The AIEM is calculated on the CIF value of imported goods (i.e., the value declared at customs, inclusive of freight and insurance) and not only on the cost price of the product. According to the importers surveyed these represent about 8% of their wholesale selling price, i.e., more than the estimated incidence of the AIEM itself (i.e., about 5%)[111]. Based on this estimate, some 0.4% of the tax is actually levied on the shipping costs. The application of the tax on the CIF value responds to evident practical and procedural needs, still this distortive effect, although minor, should be factored into the calibration of rates. On the other hand, the impact of freight costs is generally minimised through the practice of mixed containers i.e., filled up with low-value and high-value goods to spread out shipping costs.
- Being a fully *ad valorem* tax, the amount of the AIEM levied on imported goods is proportional to the customs valuation. In this respect, various local industry stakeholders complain that large suppliers adopt transfer pricing and fiscal optimisation strategies to minimise the impact of the AIEM. The issue is largely anecdotal, and no hard evidence was collected in this respect, but it was ascertained that these practices are technically possible and there are no tools available to competent administrations to systematically verify and/or prevent them.
- Finally, the Canary Islands are an isolated market and are therefore prone to commercial practices which are unfeasible on the mainland, such as importing and selling at cost price or with low margins, stocks of products that come from production surpluses or that cannot be sold on the mainland for seasonality reasons.

For these reasons - combined with the reported data weaknesses – the analysis of market data does not return conclusive evidence on the effects of the special regime on the competitiveness of local production. In particular, we tested for possible correlations between the extent of compensation described in the previous section and the variation over time in the cost price difference between local products and imported products. Figure 4.10 plots two variables: (a) the ratio between tax differential and additional costs; and (b) the variation (in percentage points) in the cost price differential between local and imported products over time, for a sample of goods.[112] As the diagram shows, a fairly weak inverse correlation is found, which indicates that a ***greater compensation is not associated with a reduction of cost price gap*** between imported and local product.[113] Possibly, it suggests that the compensation tends to be more intense for local products that face the greatest competitive pressure. This is confirmed econometrically by the results of a simple regression: the different levels of the AIEM differential poorly explain the cost price differential between imports and local products. At the same time, the model suggests a significant direct correlation between non-compensated additional costs and the cost price differentials (see Annex C for the full analysis).

[110] Marques, Bruno. 'Contribution à une compréhension économique de l'octroi de mer – le cas de la Martinique', 10 October 2018.
[111] Being median values of self-reported estimates, these figures have to be taken with due caution.
[112] The sample includes the same products displayed in Figure 4.9. To level out temporary fluctuations, the variation is measured on the three-year average value for 2009-11 and 2015-17.
[113] Correlation does not entail causation, but as AIEM rates have not changed in the period considered, they can be reasonably considered to be the independent variable.

The matter is further examined in the following section based on the direct evidence collected from Canarian private sector stakeholders.

Figure 4.10 – Extent of the compensation and competitiveness trends



Source: *Own processing of Canarian authorities' data and additional costs estimates from UTE Eco-CoRe 2018.*
Notes: *the variation in the competitiveness compares the average ratio of unit cost price of local v. imported products in two periods: 2009-11 and 2015-17. The difference is expressed in percentage points.*

➢ **STAKEHOLDERS' PERCEIVED EFFECTS ON COMPETITIVENESS**

The business survey provides some additional evidence of the effectiveness of the AIEM regime in redressing the competitiveness gap which affects local producers. To measure the magnitude of this effect, producers' self-reported additional costs estimates can be compared with the market price differentials registered for like products of imported origin. As illustrated in Table 4.4, the estimated gap in production costs is higher than the retail price difference between local and imported products for only a few respondents (red cells). In contrast, for the large majority of surveyed firms, the additional production costs appear to be compensated somehow. As a result, a 'positive' (light green cells) or 'very positive' (dark green cells) impact of the AIEM can be assumed for two-thirds of respondents. Still, in most cases (58%), the price-competitiveness is restored only partially, as the retail price of imported products remains lower than that of local ones.

Table 4.4 – Distribution of local producers based on additional costs and market price differences

Average retail price differential	**Size of additional local production costs**				**Total**
	Low-moderate (b/w 5%-15%)	**Medium-high (b/w 16%-25%)**	**High (b/w 26%-50%)**	**Very high (in excess of 50%)**	
Price of local goods extremely higher than imported ones (in excess of 50%)				1%	**1%**
Price of local goods much higher than imported ones (b/w 21%-50%)		1%	18%	6%	**25%**
Price of local goods moderately higher than imported ones (b/w 6%-20%)	4%	15%	10%	1%	**31%**
Price of local goods in line with imported ones	4%	16%	9%	1%	**31%**
Price of local goods lower than imported ones		6%	1%	3%	**10%**
Total	**9%**	**39%**	**39%**	**13%**	**100%**

Source: *Business survey. Respondent base: 67.*
Legend*: red cell = no impact; yellow cell = none/limited impact; light green cell = positive impact; dark green cell = very positive impact.*

The AIEM ***impact on price competitiveness*** looks comparatively more marked for products with a higher tax differential - with the exception of agricultural and fishery products. For products falling in AIEM List C (with a 15% tax differential) and facing medium to high additional costs, such as sacks and bags of ethylene (CN 3923 21), and toilet paper (CN 4818), the AIEM support may be crucial for competitiveness (see Table 4.5). Conversely, the producers of goods falling in AIEM List A (with a 5% tax differential) – primarily food products – have more mixed views on the importance of the AIEM for their competitiveness, partly in connection with the fact that in this category of products the price of local products is often lower than the price of imported goods. In fact, imported food and beverage consist to a large extent of high-quality products (e.g. wine), whose market price is higher than local substitutes, irrespectively of taxes. This clearly poses questions about the substitutability potential of local products and the appropriateness of AIEM support for such cases. The importers' responses tend to confirm these considerations: imported wines, waters, etc., for example, consist primarily of high-range products. Conversely, in segments with a greater substitutability, such as breads, meats, etc., the price gap between local and imported products is narrow. Finally, some 30% of the importers could not provide an assessment of the price gap due to a claimed lack of comparable local product.

The AIEM impact on price-competitiveness seems more pronounced for medium and large enterprises. Such a result is consistent with the comparatively lower additional costs reported by larger firms.

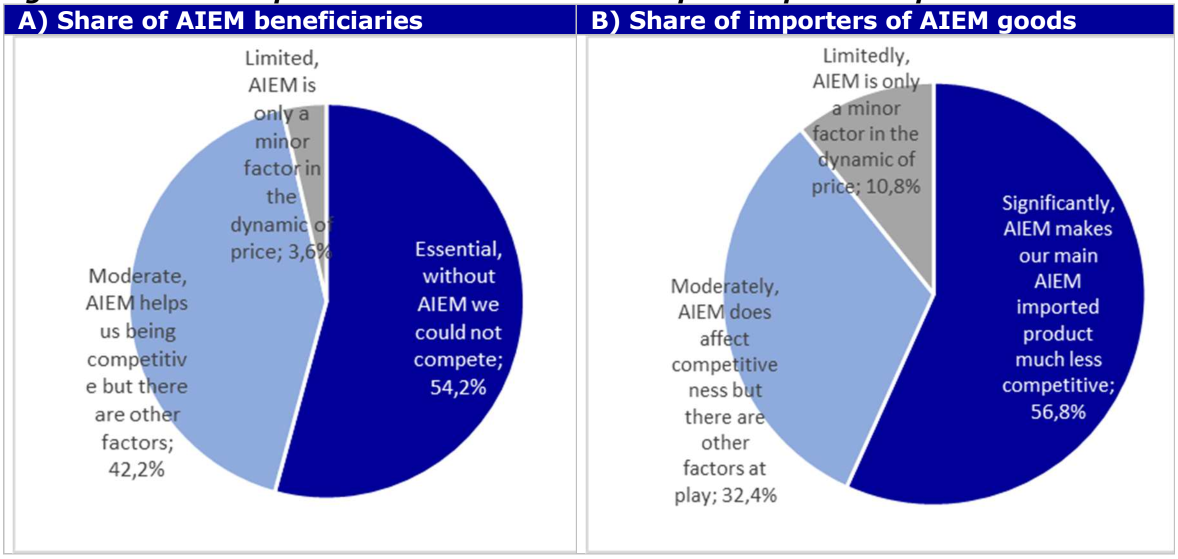
Table 4.5 – AIEM impact on price-competitiveness, by tax differential and firm size

AIEM impact of price-competitiveness	AIEM differential*				Firm size class		
	5%	10%	15%	All	Micro / Small	Medium / Large	All
Very positive	30%	60%	68%	**46%**	34%	50%	**41%**
Positive	39%	40%	21%	**33%**	29%	32%	**30%**
None-limited	30%	0%	11%	**21%**	37%	18%	**29%**
Total	**100%**	**100%**	**100%**	**100%**	**100%**	**100%**	**100%**

Source: *Business survey. Respondent base: 57 (AIEM differential) and 66 (firm size).*
Note: **Agricultural and fishery products not included.*

The importance attributed to the AIEM by local producers involved in the survey in shaping the conditions for competition seems to exceed its actual magnitude and scope. The majority (54%) of local producers qualifies the AIEM as 'essential', adding that without it they could not compete, while 42% of respondents qualifies its impact as 'moderate'. So, overall, the number of local producers who consider the AIEM to be important for competitiveness (96%) is greater than the number of them who actually registered a positive impact (66%), based on our estimates shown in Table 4.4. above. Analogously, the majority of importers (57%) claims that the AIEM 'significantly' affects the competitiveness of their imported AIEM products, and another 32% assessed this impact as 'moderate'.

Figure 4.11 – Self-reported assessment of AIEM impact on price-competitiveness



Source: *Business survey. Respondent base: 83 (AIEM beneficiaries) and 37 (importers).*

Evaluation Question #8: *To what extent has the fiscal advantage contributed to: maintaining, promoting and developing the local economic activities and employment in the different Outermost Regions?*

Following the logic model underpinning this Study, evaluation question #8 concerns the outcomes of the policy, and specifically how restored competitiveness (see EQ#7) have translated into tangible improvements with regard to various factors, e.g., growth and diversification of local production activities, job creation, improved trade balance, etc. The answer to this question is based on the triangulation of the primary evidence gathered through stakeholder consultation with the available statistical and quantitative data.

Regarding business survey findings, it is worth reiterating that the sample contains a greater proportion of small and, especially, medium and large firms than the actual business population. The survey sample includes about 60% of all medium-large firms active in AIEM industries and some 10% of the small firms. This sample composition has two main consequences with regard to the interpretation of results: (a) given that medium and large businesses account for a major share of the total production at sectoral level, the results can be regarded as highly representative of the overall performance of the AIEM industries[114]; (b) the results can be hardly generalised to micro-firms, whose economic performance are significantly different.

- **LOCAL PRODUCTION ACTIVITIES**

As seen in Section 2.1, after a period of decline following the global financial crisis, the industrial GDP in the Canary Islands reversed its trend in 2014 and, in 2018, reached EUR 3.2 billion, i.e., going back to 2012 levels. In terms of turnover, and considering only manufacturing and mining activities, a constant decline is registered since 2005 (despite occasional fluctuations). However, ***in the AIEM sectors the downward trend was milder*** and, based on provisional data, a positive growth was registered in recent years. For this reason, the share of AIEM industries' turnover on the total appears on the rise (Table 4.6).[115]

[114] The total turnover of the AIEM beneficiaries surveyed is about EUR 1.7 billion (in 2018), which corresponds to 63% of AIEM industries' total turnover (in 2017).

[115] In accordance with the methodology used in the AIEM mid-term reports, the 'AIEM industries' are the productive activities – defined by means of NACE classification – that fall within the scope of the AIEM, based

Between 2003 and 2008, the yearly value of private sector investments in the Canary Islands ranged between EUR 250 and EUR 300 million. By 2010 it had fallen to less than EUR 150 million, reaching again the pre-crisis levels only in 2017 (Table 4.6). However, the statistical data suggest that ***investments in the AIEM sectors have not recovered*** at the same pace. Before the crisis, AIEM industries used to account for more than 60% of the investments, while in the past few years their share remained well below 40%.

Table 4.6 – Turnover and investment trend in the manufacturing and mining sectors in the Canary Islands

	2005	2008	2011	2014	2017*
Turnover					
Total manufacturing and mining (in € billion)	5.61	7.27	5.38	3.20	3.10
AIEM industries (in € billion)	2.66	2.65	2.31	2.06	2.69
AIEM industries (in %)	*47%*	*36%*	*43%*	*64%*	*87%*
Investment					
Total manufacturing and mining (in € million)	295.9	246.3	162.6	216.3	258.5
AIEM industries (in € million)	177.5	151.1	109.7	73.0	93.6
AIEM industries (in %)	*60%*	*61%*	*67%*	*34%*	*36%*

Source: *INE datasets, AIEM Informe Intermedio 2017, 2010*
Note: *(*) 2017 data are own estimates and may not be coherent with previous years. As the turnover of tobacco industry is not available in the INE datasets, the most recent value (2014) has been used.*

The results of the survey confirm a recent growth in the AIEM industries' production level: the number of AIEM good producers who reported an ***increase in the volume of production*** over the past five years is almost twice as high as the number of those reporting a decrease. Medium-large size firms performed better than small firms in this respect, but also in the small size segment the number of firms that increased production prevails. In about two-thirds of cases, the growth rate was moderate, falling in the 5-25% range (corresponding to an annual growth rate between 1% and 5%).

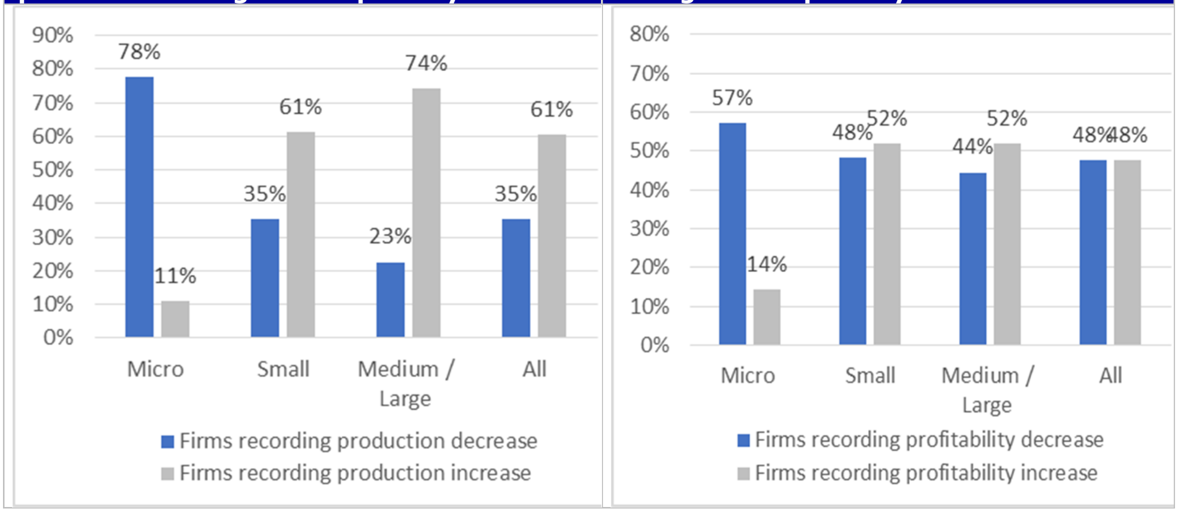
About 70% of AIEM beneficiaries that recorded an increase in the production volume also reported improved profitability. Overall, however, the performance of AIEM goods producers in terms of ***profitability*** looks rather modest. The shares of firms recording a positive and a negative evolution of profit margins are equivalent, and in the case of micro-firms, the situation has apparently worsened. Based on the respondents' feedback – and as largely confirmed by direct interviews – the contraction of profit margins is the result of increased competitive pressure. Over 70% of the firms recording a decline in profit margin also reported a reduction in market shares held by local producers in their sector.

As expected, local producers deny that the AIEM support can discourage their efforts to boost efficiency and ***productivity***: less than 10% of AIEM beneficiaries consider such side-effect of the special regime as relevant. On the other hand, enterprises not benefitting from the AIEM expressed opposite views, with 70% of them considering this impact as 'major' or 'moderate'.

on CN to NACE correspondence tables. Needless to say, not all the activities of 'AIEM industries' actually regard 'AIEM products'.

Figure 4.12 – Past performance of AIEM beneficiaries: local production and profitability

A) Share of respondents by volume of production change in the past 5 years	**B) Share of respondents by profitability change in the past 5 years**



Source: *Business survey. Respondent base: 71.*
Notes: *'Don't know' answers are excluded; the share of micro-firms should be seen as purely indicative of a general trend, given the very limited number of valid observations.*

The efforts made by local producers to bridge the competitiveness gap with imported products and remain profitable are also witnessed by the fact that the vast majority of the them purchased some fixed assets, such as machinery or equipment, in the past five years, and some 30% set up new establishments. The average size of ***investment*** made is about EUR 4 million (median value: EUR 900,000), largely triggered by larger businesses: about one-fifth of the manufacturers, almost invariably of medium-large size, reported investments greater than EUR 5 million, while the average amount invested by small and micro-firms was significantly lower[116].

➢ **MARKET SHARES OF IMPORTS AND LOCAL PRODUCTION**

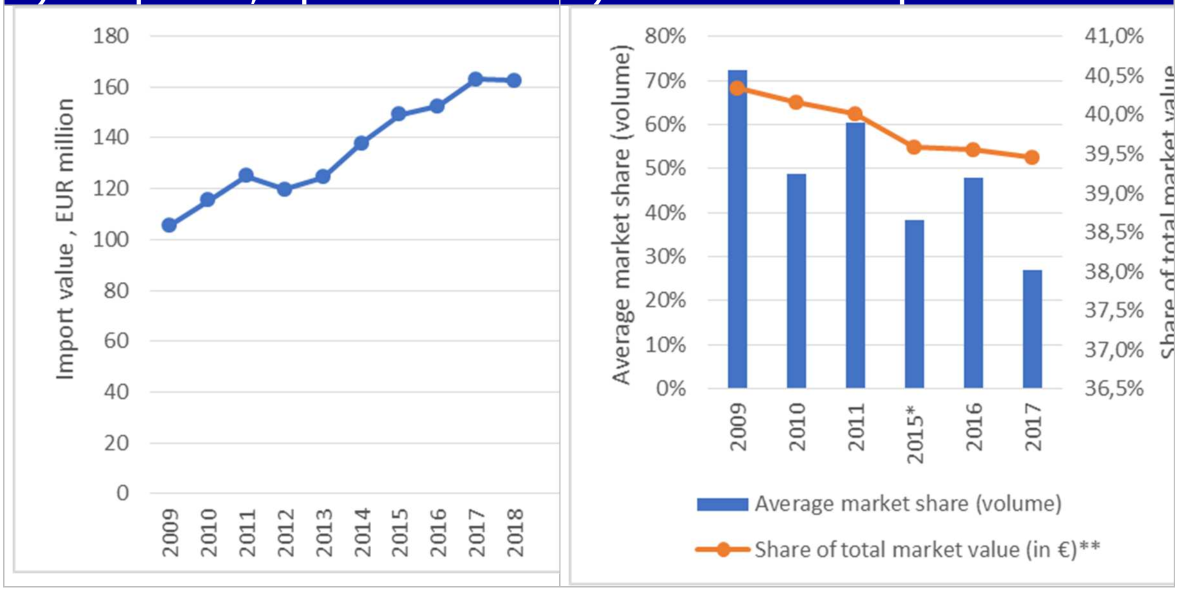
As discussed, the local production has been exposed to increasing competition from imports in the past years: the ***value of imports*** of products subject to the AIEM differential regime increased by approximately 50% in 8 years (between 2009 and 2017) while in the same period the local production has grown by only 24%. Consequently, the market share of local products declined over time, both in volumetric terms and in monetary terms, as shown in Figure 4.13 below. This trend varied across sectors, namely:

- Food and beverage industries, as well as the primary sector, registered the steepest market share loss, with a contraction of approximately 20 percentage points.
- Conversely, plastic and rubber industries registered a market share increase in excess of 30 percentage points), while chemical and basic metal industries registered an increase of 15 percentage points each.

[116] If the median value of the investment made by medium-large firms (EUR 5.1 million) is multiplied by the total number of AIEM goods producers falling in this size class, the total figurative value of investments would amount to EUR 55 million per year. This figure represents about 60% of the total investments of AIEM industries (as reported in Table 4.6). In fact, as discussed, the Study sample represents some 60% of the total AIEM industries, so the estimated investment figure is largely plausible.

Figure 4.13 – Overall trend in local production and market share

A) AIEM products, import value	**B) Market share of local production**

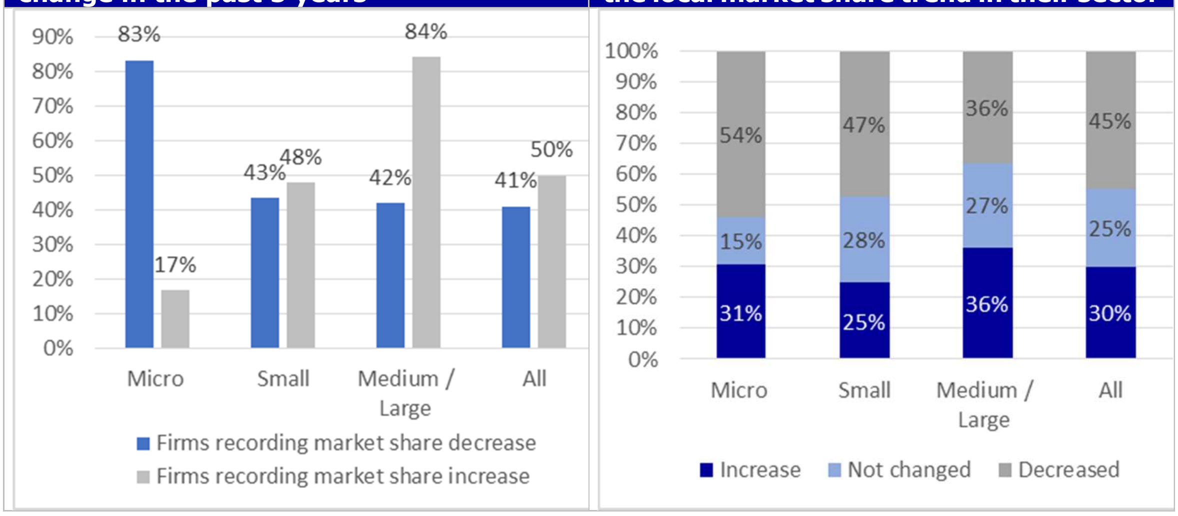


Source: *Own processing of data provided by Canarian authorities and ISTAC.*
Notes: *(*) interruption in the data series between 2011 and 2015. (**) tobacco products not included.*

The results of the survey somehow confirm these trends. The AIEM beneficiaries who record an increase in their ***market share*** are slightly more numerous than those who record a decline (50% vs. 41%). However, this result is possibly inflated by the overrepresentation in the survey sample of medium-large firms, whose economic performance is generally better than the performance of firms belonging to other size classes. Respondents' outlook on the overall trends registered in their sectors are, however, less positive: 45% of local producers assessed them as being on a declining path, as opposed to 30% of respondents who reported a growing trend. In line with what we have seen, the views expressed by micro and small businesses are much less positive.

Figure 4.14 – AIEM beneficiaries' feedback on market share trends

A) Share of respondents by market share change in the past 5 years	**B) Share of respondents by assessment of the local market share trend in their sector**



Source: *Business survey. Respondent base: 56*
Notes: *'Don't know' answers are excluded; the share of micro-firms should be considered purely indicative of a general trend, given the very limited number of valid observations.*

- **NUMBER OF ACTIVE FIRMS AND EMPLOYMENT TRENDS**

According to official enterprise statistics, ***AIEM industries represent the majority of the manufacturing and mining sectors*** ranging in the period considered between 58% and 68% of the registered enterprises. The 2009 global crisis and the ensuing economic recession did not spare Canarian industries: in the AIEM sector, the number of firms declined by 26% between 2008 and 2014 (in the same period in Spain the decline was 20%).[117] Since then, an upward trend has been registered, which accelerated in the past few years. In particular, in 2018, some additional 200 firms were recorded in the AIEM supported sectors, mainly food & beverage, manufacture of structural metal products and printing sectors. As a result, the total number of active firms reached 3,260, which is still, however, below the 2008 level.

According to regional statistics, the estimated ***total number of employees*** in AIEM industries has remained between 20,000 and 25,000 units since the introduction of the special regime, representing approximately 60% of the employment in the manufacturing and mining sectors. The number of employees has been moderately increasing since 2014, but the decline following the 2009 crisis has not been fully recovered yet. The average number of employees in AIEM industries increased from 5.7 units in 2008 to 7.2 units in 2017. In addition, since 2015, the share of self-employed on the total number of active firms has declined, confirming the above-indicated consolidation process.

Table 4.7 – Number of active firms and employment trend in the manufacturing and mining sectors in the Canary Islands

	2005*	2008	2011	2014	2015	2016	2017**	2018
Number of active firms (self-employed included)								
Total manufacturing and mining	3,668	6,132	4,845	4,281	4,286	4,312	4,515	4,831
AIEM industries	2,127	3,945	3,279	2,925	2,939	2,980	3,057	3,258
AIEM industries (in %)	*58%*	*64%*	*68%*	*68%*	*69%*	*69%*	*68%*	*67%*
Firm's size and employment in AIEM industries								
% share of self-employed				*41.5%*	*43.7%*	*44.6%*	*43.2%*	*41.9%*
% of micro-firms				*47.8%*	*45.8%*	*44.5%*	*45.3%*	*47.1%*
% of small firms				*9.1%*	*9.1%*	*9.4%*	*9.9%*	*10.1%*
% of medium-large firms				*1.5%*	*1.4%*	*1.5%*	*1.6%*	*1.7%*
Number of employees	22,879	..	23,325	20,231	20,764	21,541	22,103	..

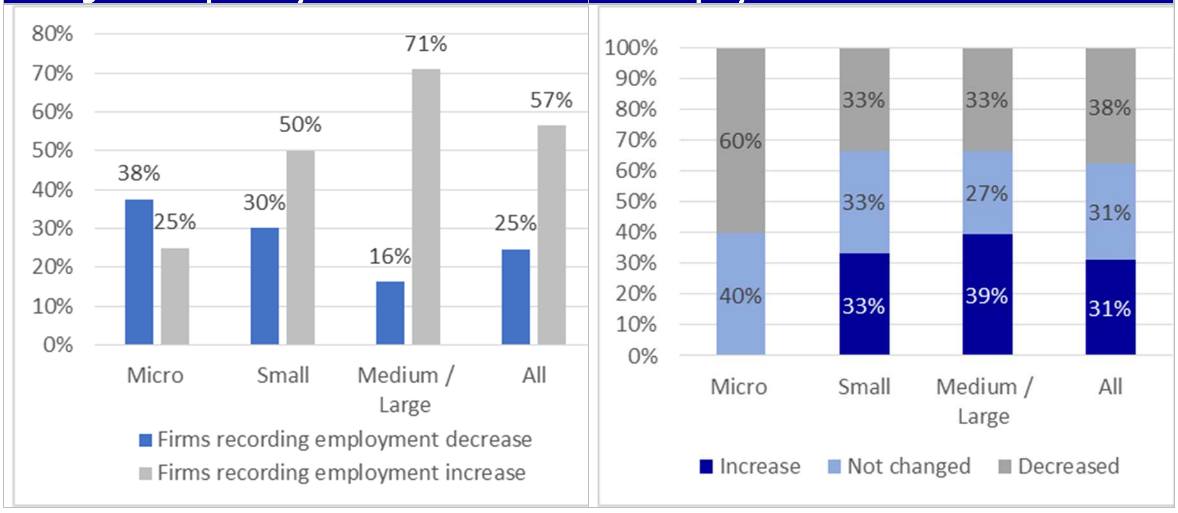
Source: *(i) for the number of active firms, AIEM Informe Intermedio 2017, 2010 (based on INE data), and own processing of ISTAC data; (ii) for firm's size classes, own processing of ISTAC data; (iii) for employment, AIEM Informe Intermedio 2017, 2010 (based on ISTAC estimates).*
Notes: *(i) for the number of active firms, (*) a break is possible in the data series: the 2005 data seemingly do not include individual enterprises; (ii) for employment, (**) 2017 data were estimated by the Author and may not be coherent with previous years.*

The results of the survey (Figure 4.15) confirm a slowly growing ***employment trend*** in the AIEM industries. The performance of AIEM beneficiaries is moderately positive in terms of jobs creation, thanks to the growing trend recorded by medium-large firms (over 70% reported an increase in the number of employees in the past five years), but partly offset by the negative performance registered by micro-firms (albeit based on few respondents). The same picture emerges from respondents' feedback on the more general employment trends in their sector: micro-firms mostly report decreasing or stable trends, while over two-thirds of the medium-large firms report a positive growth.

[117] Source: Eurostat SBS.

Figure 4.15 – Employment: views and performance of AIEM beneficiaries

A) Share of respondents by employment change in the past 5 years	**B) Share of respondents by assessment of the employment trend at sector level**



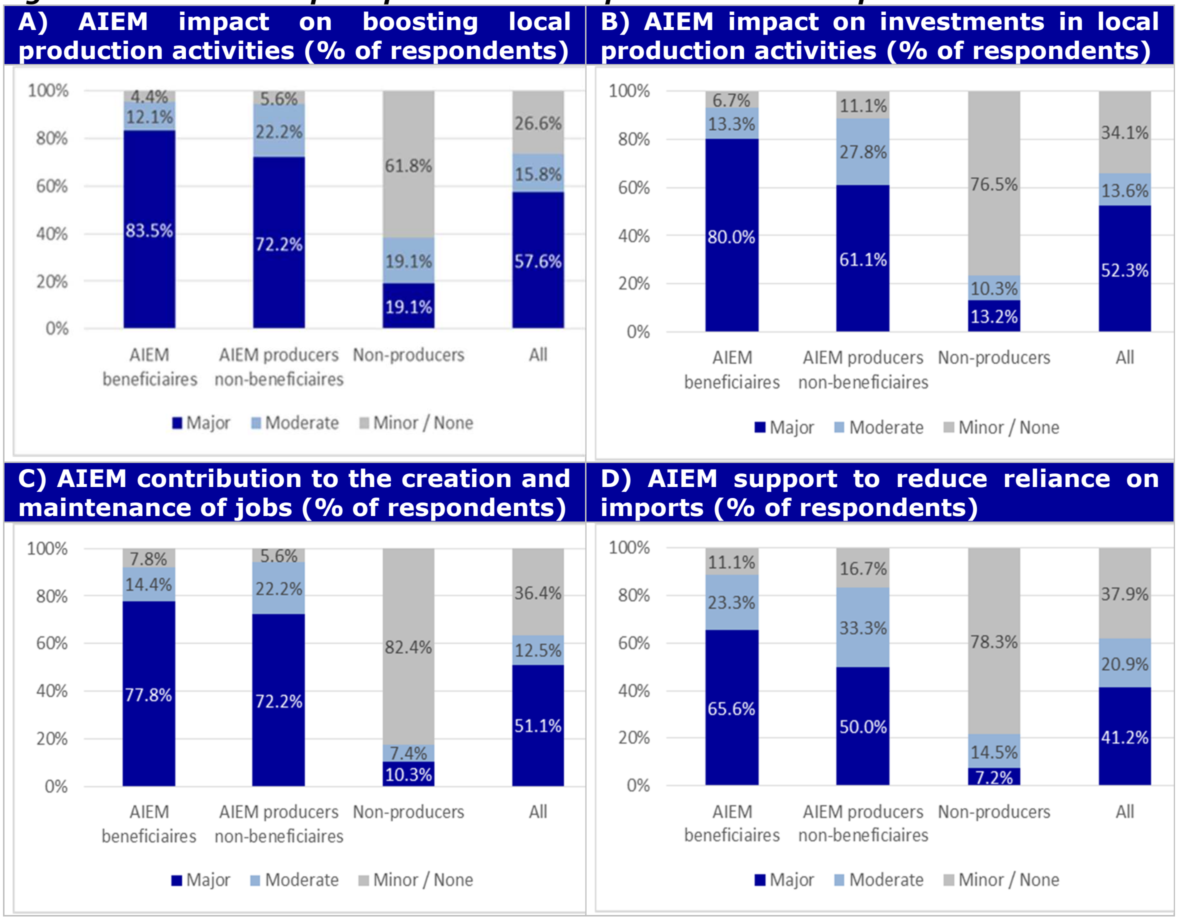
Source: *Business survey. Respondent base: 69.*
Notes: *'Don't know' answers are excluded; the share of micro-firms should be considered purely indicative of a general trend, given the very limited number of valid observations.*

- **AIEM IMPACT ON BUSINESS PERFORMANCE**

Views on the role played by the tax in the moderately positive performance recorded by the AIEM industries illustrated above largely differ between local producers and other respondents. The former segment, and especially AIEM beneficiaries, is as expected much keener to assess the importance of AIEM as critical, while the latter is much more sceptical. Overall, the impact of the AIEM is regarded as more significant in terms of expanded local production, investment and employment, while respondents are less persuaded of the AIEM positive effects in terms of market share of local products. In particular, as summarised in Figure 4.16:

- almost three-quarters of respondents maintained that the AIEM had a moderate to major impact in ***boosting local production*** activities in the Canary Islands. This share includes 83% of tax beneficiaries – which qualify such impact as 'major' - but also 40% of the enterprises active in sectors other than manufacturing;
- the perceived AIEM's contribution to ***employment*** and ***investments*** is comparatively more controversial. The vast majority of local producers believe that by contributing to the viability of their business, the AIEM is also helping maintain and possibly create jobs, as well as to foster investments. However, this view, is not shared by non-producers, who generally consider such impacts as minor or absent;
- regarding the possible impact of the AIEM on reducing the local economy's ***reliance on imports,*** feedback is generally less positive, even among local producers who appear to be aware that other more important factors influence trade dynamics (see EQ#7). Less than one-third of AIEM beneficiaries assessed this impact as 'major', and this share declines to 50% in the case of producers which are not directly benefitting from the tax.

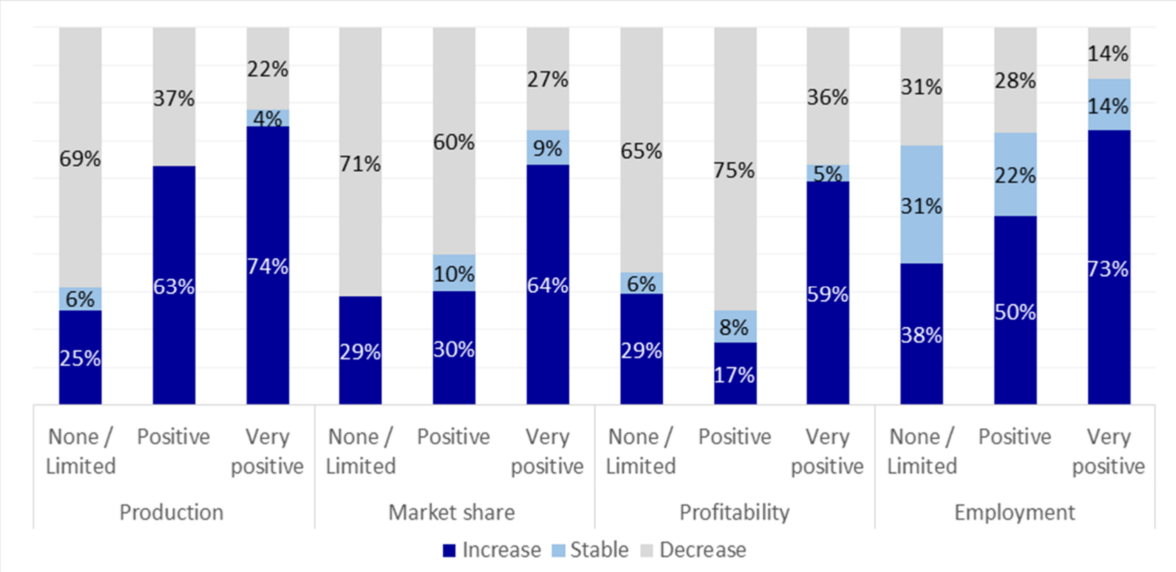
Figure 4.16 – Business perception of AIEM impacts on economic performance



Source: *Business survey.*

Additional indications on the extent to which the AIEM contributed to promoting local economic activities can be drawn comparing the tax impact on price-competitiveness (see previous section) with firms' recent economic performance. As shown by Figure 4.17 below, the strength of the AIEM price-competitiveness impact features a positive linkage with other dimensions of firms' performance. In line with the self-reported assessments presented above, this seems to be especially true in the case of production and employment: a 'very positive' tax impact in terms of price-competitiveness is associated with almost three-quarters of firms reporting a positive past trend. On the contrary, the majority of the firms reporting a lacking/small price competitiveness impact recorded a negative performance. In the case of market share and profitability, the importance of other factors at play is also confirmed: although a positive relationship is detected in the case of firms experiencing a 'very positive' price-competitiveness impact, the majority of firms mentioning a positive impact actually recorded a negative performance.

Figure 4.17 – AIEM price-competitiveness impact and business performance



Source: *Business survey.*

➢ **PRODUCTION DIVERSIFICATION**

The possible influence of the AIEM regime on the diversification of productive activities is controversial. By its nature, the scheme is fairly conservative: the existence of non-negligible local production level is a pre-condition for the application of tax differentials, and amending the list to insert new products requires a lengthy and burdensome process. Since its establishment, the product categories covered by the AIEM increased from 118 in 2002 to 132 in 2014. With the 2020 revision, local authorities are reportedly planning to insert some new products and remove a few of current ones, but the extent of the change appears to be limited. This suggests that the AIEM had ***limited influence on the diversification of production activities***. On the other hand, certain categories of products are defined in terms that are sufficiently ample to include new product lines within the same branch of activity.

Tax beneficiaries are not concerned by the 'rigidity' of the mechanism: over 90% of local producers of AIEM goods do not consider this tax as an obstacle to the emergence of new activities, and a similar share even attributes to the AIEM a positive effect in terms of production diversification. These positive opinions are substantiated by hard facts: about two-thirds of the manufacturers surveyed (and 86% of medium-large firms) introduced new products in the past five years, and only 6% reduced their range of products. In fact, for most local manufacturers, diversifying and deepening the product portfolio (especially in terms of stock keeping units) has lately become imperative to maintaining market shares and remaining competitive. On the contrary, as expected, the large majority (76%) of non-producer firms denies the existence of a positive effect of the tax on product diversification or assesses it as being minimal, while most of them (58%) believe that the AIEM draws resources towards existing 'supported' sectors, thus ***hampering the development of new ones***.

Box 4.1 –Independent firms v. subsidiary companies: a comparative review of performance

Subsidiary companies – with parent company based in mainland Spain, other EU Member State, or non-EU countries - account for almost one-fifth (18.5%) of all AIEM beneficiaries surveyed. Predictably, the average size of subsidiary companies is more than double than that of locally-owned independent firms, with a comparatively higher incidence of medium-large firms (59%

against 38%). The distribution of the two business groups by sector of activity/AIEM product category is largely comparable, although the lack of producers of agricultural and fishery products and the comparatively higher proportion of firms active in the paper industry among subsidiary companies is worth to be mentioned.

The AIEM impact in terms of price-competitiveness is comparatively more marked for subsidiary companies. This impact is estimated[118] as 'positive' or 'very positive' by 82% of the relevant respondents, compared to 68% of independent firms. The higher impact estimated for subsidiaries is the result of a more uniform and moderate assessment of the price gap between their products and similar imported ones (for 75% of subsidiaries, the retail price of their AIEM product is in line or only slightly higher), on the one hand, and of higher additional production costs, on the other. The latter aspect looks peculiar considering the average larger size and the advantages that their status can arguably provide (e.g. better access to production inputs, technology and R&D through 'parent' companies). In line with the expectations, subsidiaries attribute a higher importance to the AIEM regarding competitiveness, with 64% of relevant respondents qualifying it as 'essential', compared to 52% of independent firms.

Regarding past performance, differences among the two business groups are minimal, suggesting a fairly equitable impact of the tax. The firms' distribution by production trend is almost identical, even though the growth rate recorded by subsidiaries is comparatively higher (almost invariably above 20%). Coherently, the share of subsidiaries reporting an increase in the market share is a bit larger. The performance in terms of employment and profitability is very similar. The average size of investments by subsidiaries in the past five years is significantly larger than those made by local independent firms, and such a difference is confirmed even if – for comparability - only medium-large firms in the two groups are taken into consideration.

Finally, the qualitative assessment of the tax impacts in boosting local production activities, creating/maintaining jobs and fostering investments is generally more positive among subsidiaries, with about / above 90% of relevant respondents assessing all of them as 'major'. On the other hand, the share of subsidiaries that consider the AIEM effective in reducing the local economy's reliance on imports is much smaller.

Table 4.8 – comparative performance of independent firms v. subsidiary companies

	Independent firms	Subsidiaries
AIEM competitiveness impact		
% of firms with a 'positive' / 'very positive' price-competitiveness impact	68%	82%
% of firms assessing AIEM competitiveness impact as 'essential'	52%	64%
Firm's past performance		
% of firms recording production increase	59%	61%
% of firms recording profitability increase	46%	50%
% of firms recording market share increase	48%	54%
% of firms recording employment increase	56%	54%
Firm's self-reported assessment of AIEM impact		
% of firms assessing AIEM impact on production as 'major'	81%	94%
% of firms assessing AIEM impact on investment as 'major'	77%	94%
% of firms assessing AIEM impact on local market share as 'major'	70%	47%
% of firms assessing AIEM impact on employment as 'major'	75%	88%

Source: *Business survey*

[118] For a description of the approach applied to measure this impact, reference can be made to the sub-section on 'Stakeholders' perceived effects on competitiveness' above.

4.4 EU Added-value

Evaluation Question #9: *To what extent did the Decisions generate benefits for local and regional markets (including the labour market) and the EU Internal Market?*

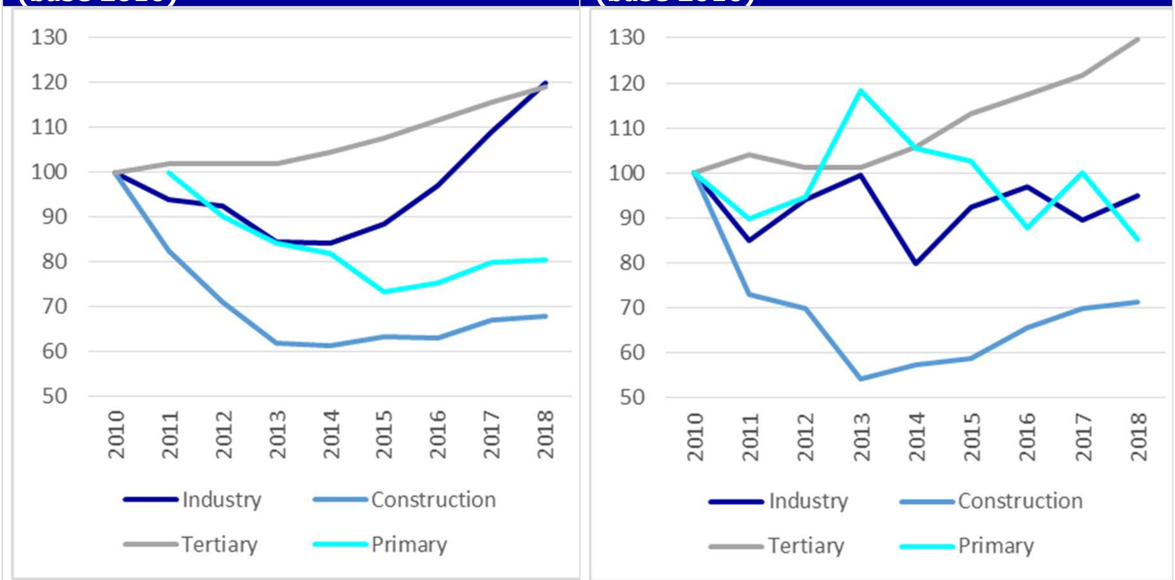
➢ **BENEFITS FOR THE LOCAL ECONOMY**

According to the vast majority of local producers consulted, without the AIEM, local products could hardly compete with imported products. Half of manufacturers surveyed characterised the AIEM contribution as 'essential' while the rest characterised it as 'moderate', recognising that other factors are at play. The AIEM is largely considered to be a pre-condition to preserving industrial activities in the Canary Islands, but local producers seldom attribute development effects to it: in most cases, it is primarily viewed as a tool for mitigating the decline and disappearance of local industry rather than for expanding it.

As shown in Figure 4.18 below, the industry sector – which is to a large extent formed by AIEM-supported enterprises – performed better than other sectors in terms of sectoral GDP growth, especially in the past three years, whereas in terms of employment it witnessed a decline but not as marked as other sectors.

Figure 4.18 – Sectoral Trends in the Canary Islands

A) Sectoral GDP annual variation index (base 2010) | **B) Employment annual variation index (base 2010)**



Source: *CES Canarias, Informe Anual (editions from 2015 to 2019).*

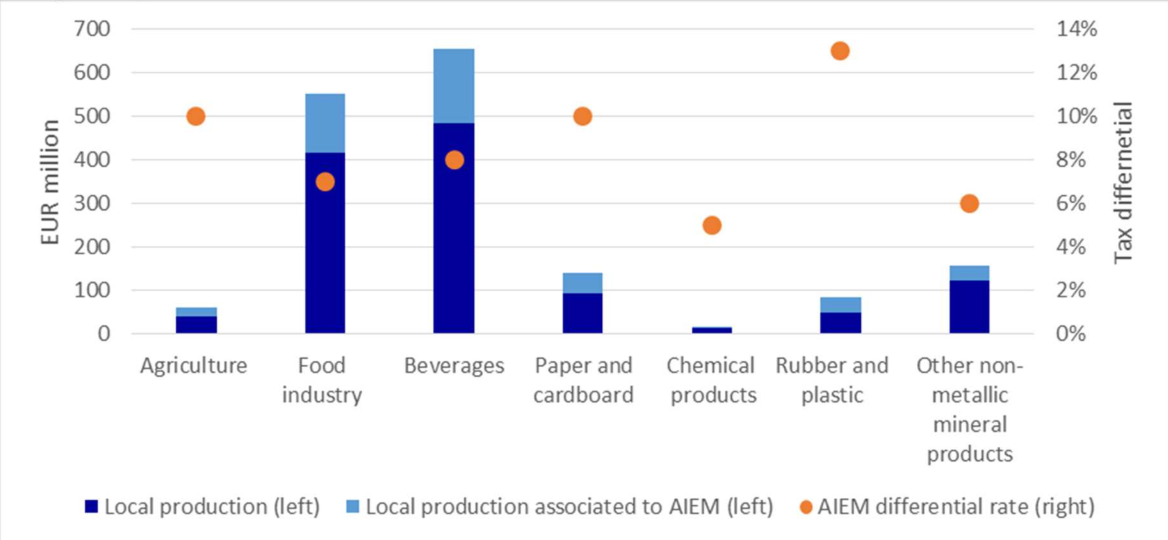
To test this assumption, we have set up a quantitative model which ***estimates the marginal effects*** of tax differentials and the extent of compensation on the value of local production disaggregated at CN4 level (see Annex C for the model specifications and full results). The model covers both the AIEM and the French *Octroi de mer* (appropriate control variables have been included to take regional differences into account). The results indicate that the performance of local production can be partly explained by the effects of the special regime in place. In particular, the model suggests that an increase of one percentage point of tax differential is correlated with an ***increase of 3.9% of production value***.[119] The compensation 'gap' - i.e., the part of the additional costs not covered by the AIEM differential – is negatively correlated with the production value – as predicted – but with effects of very limited magnitude, possibly explained by the fact that additional costs estimates present a significant degree of approximation.

[119] The impact is not linear, however, because the model computed variations in logarithmic terms

The impact estimated by the model ***should be seen as indicative***, due to the limitations in the quality and availability of data described in Section 3 and to the various underlying assumptions that have been made (see Annex C for details). Furthermore, it is important to consider that (a) the effects of the AIEM cannot be easily disentangled from those of other parallel policies and measures, (b) there is no strict correspondence between product-level impact (defined in CN terms) and sectoral-level effects (defined in NACE terms), as the enterprises which benefit from the AIEM exemptions are often engaged in a variety of other activities unrelated to the AIEM regime. Still, the results of the analysis can provide a useful reference for the overall magnitude of the AIEM effects, and a benchmark for future assessments.

In practice, based on the model's estimates, the current tax differentials can be associated with nearly one-third of the value of local production of AIEM goods, worth ***approximately EUR 570 million***. The monetary magnitude of impacts varies with the intensity of aid (i.e., the tax differential), as displayed in Figure 4.19 below.

Figure 4.19 – Estimated production value associated with AIEM effects (selected categories)



Source: *Own processing based on quantitative analysis of AIEM rates and production value data.*
Notes: *The estimates are theoretical and represent the possible share of production enabled by the special regime, based on a general coefficient estimated through the quantitative model described in Annex C. The impact within specific sectors at the level of individual products may actually depend on other variables not included in the model.*

Some ***qualitative evidence*** can be added to frame the impact of AIEM on the local economy properly:

- The level of compensation extended under the AIEM regime is in many cases much lower than the declared additional costs. Some 85 categories benefit from a tax differential of 5% and, according to the competent authority, the weighted average incidence of the tax on imports of AIEM products is approximately 7%. Considering that the estimated additional costs for AIEM industries is on average of 29.7%, it is reasonable to assume that tax differentials influence only a minor share of the local production output. At the same time, it cannot be excluded that, because of self-reporting bias, the estimated additional costs are inflated and, therefore, the true incidence of AIEM compensation is higher.
- In similar respect, one of the major impact attributable to AIEM consists in encouraging foreign players to serve the local markets through local production facilities instead of imports. This, unsurprisingly, happened in sectors with a comparatively higher tax differentials, i.e., paper industries, breweries and, especially, tobacco.

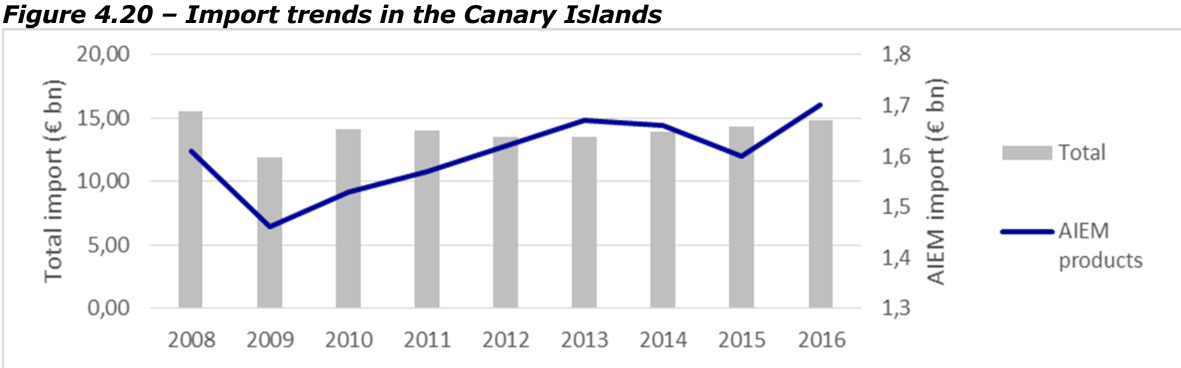
- Finally, it is worth remarking that certain productions enjoy some forms of 'natural' protection that support their competitiveness beyond any form of aid. The classical example is water, which is not profitable to import from the mainland because of the high incidence of freight costs. In this case, even if the AIEM differential is only 5% - a compensation that local producers consider far below the additional costs incurred – it allows local products to maintain a market share of 78%.

➢ IMPACT ON IMPORT SUBSTITUTION

The acceptability of the 'distortions' caused by the special regime lies, inter alia, in its proportionality, i.e., the lack of disruptive effects on the local market and the structure of demand. In accordance with the State aid policy, one of the relevant criteria to verify such proportionality regards the extent of import substitution with locally manufactured products. It is important to underline that there are no explicit benchmarks for this, but trends in the imports of AIEM products and their market share remain central aspects of the monitoring of the proportionality of the regime.

As Figure 4.20 shows, the total value of imports in the Canary Islands recovered quickly after the 2009 drop and, in the 2010-16 period, has remained fairly stable. In the same period, imports of AIEM products (i.e., some 10-12% of total imports) recovered at a slower but steadier pace, and in 2016 their level was well-above the pre-crisis level. In other words, despite the tax being charged, ***importation of AIEM products has kept growing***, and this suggests that, at the aggregate level, the AIEM differentials are unlikely to disrupt the import flows of concerned products.

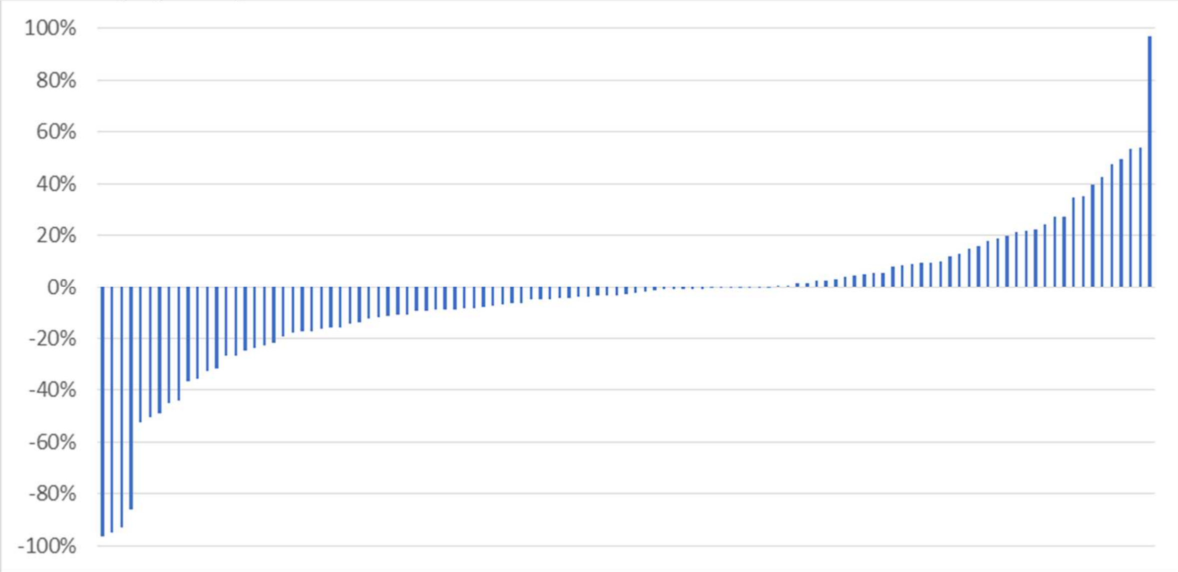
Figure 4.20 – Import trends in the Canary Islands



Source: *Own processing of data from ISTAC and CES Informe Annual (editions from 2015 to 2019).*

Coherently, the ***market share of locally produced AIEM goods vis-à-vis imported ones*** slightly decreased over time, although – as shown in Figure 4.21 below – the situation varies significantly across products: some 30% of local products have lost more than 10% of their market share, nearly 20% has instead acquired more than 10 percentage points, while for the majority of products no significant change has occurred. As indicated above, the perception of local producers surveyed is in line with these figures, with a prevalence of respondents indicating a general decline in the market shares of local products.

Figure 4.21 – Estimated market share variation for AIEM products (2011-17, in percentage points)



Source: *Own processing of data from ISTAC and Canarian competent authorities.*
Note: *Based on volume of sales of 111 AIEM products (on the horizontal axis). The two data series used may not be methodologically consistent. The market share of local producers may be inflated by the inclusion of exports.*

For a quantitative estimation of the effects of the special regimes on imports, we have developed a '***gravity model'*** which covers both the Canary Islands and the French outermost regions subject to the *Octroi de mer* regime (see Annex C for the technical specifications). The model examines the variation in the level of imports in relation to the tax differentials and a series of geographical and structural features of the regions concerned. Overall, the results indicate that tax differentials do affect imports and, specifically, ***one percentage point increase in the tax differential is associated with a 0.75% decrease of import***. However, the explanatory power of the model is fairly low, so other factors are clearly at play. Based on this estimate, in the hypothetical scenario of removal of the AIEM differentials, the value of imports of AIEM products could increase by 5.4%, i.e., some EUR 91 million (equivalent to a +0.5% growth of total merchandise import value).

➢ INTEGRATION IN THE EU AND IN THE REGIONAL MARKET

The statistics on Canarian external trade show a worsening in their trade balance over time, especially in trade with the mainland and, to a lesser extent, with the EU (Table 4.9). In 2018, the imports from the mainland accounted for 87% of total imports, i.e., 15 percentage points more than ten years before. Globally, ***trade with EU countries*** (including Spain) exceeded EUR 16 billion in 2018 – a figure that is some EUR 2.5 billion higher than in 2008 and nearly EUR 5 billion higher than in 2012. As the incidence of the AIEM did not change in the period, it seems that the special regime is not affecting or significantly hampering the participation of the Canary Islands in the EU internal market.

Conversely, trade in the geographical neighbourhood remains limited. The ***imports from Africa*** has fallen in 10 years from some EUR 1.7 billion (primarily fuels) to nil, while exports remain below EUR 100 million (mainly to Morocco, Cape Verde and Mauritania).

Table 4.9 – External trade of the Canary Islands (2008-18, EUR million)

		2008	2012	2015	2018*
Spain	Imports	10,082.0	8,697.0	11,309.0	13,411.5
	Exports	1,505.3	1,121.3	949.4	928.3
	Balance	-8,576.7	-7,575.8	-10,359.6	-12,483.2
Rest of EU	Imports	1,548.1	1,152.9	1,062.9	1,544.6
	Exports	353.6	290.5	228.3	222.1
	Balance	-1,194.5	-862.4	-834.6	-1,322.5
Africa	Imports	1,715.2	562.0	26.6	0.6
	Exports	220.0	90.9	64.7	83.8
	Balance	-1,495.2	-471.1	38.0	83.2
Rest of the World	Imports	783.5	618.2	404.8	518.8
	Exports	54.0	27.7	19.0	35.2
	Balance	-729.5	-590.4	-385.8	-483.6

Source: *Own processing of ISTAC data, based on the 12 major trade partner countries.*
Note: *(*) provisional data.*

The results of the survey of importers broadly confirm the above figures: for two-thirds of respondents, the majority of goods are imported from the mainland, while less than one-quarter of respondents reportedly purchase a minor share of their goods in neighbouring countries.

Manufacturers and operators from other economic sectors, such as construction and tourism, also import part of the raw materials and supplies used in their business activity. For the vast majority of respondents, the origin of imports is the mainland, but some two-thirds also reported imports from other EU countries. About one-quarter of respondents - almost invariably enterprises in food, beverages and tobacco sectors as well as tourism sector - purchase some production inputs from neighbouring countries.

By far (85% of relevant respondents), the most frequent reason for importing inputs is the unavailability of such items on the local market. Other main reasons for importing inputs and supplies include: the unsuitable quality of locally produced goods (27% of relevant respondents) and the lower price of imported goods – despite the AIEM (22%).

4.5 Efficiency

Evaluation Question #10: *What are the costs for the administration of maintaining these tax advantages and the typical compliance costs for business?*

➢ **ADMINISTRATION AND ENFORCEMENT BURDEN**

As described in Section 3.2, the implementation arrangements for the AIEM regime are not particularly complex for competent authorities nor firms. The most critical aspect regards the ***classification of products***, which is not always straightforward and can occasionally lead to inconsistencies and disputes. This is clearly part of a more general issue concerning the correct application of customs classification, but since the AIEM relates to CN codes, the matter can also have fiscal implications. More specifically:

- The CN codes used to identify AIEM products are not always straightforward to apply, and, sometimes, small differences in product characteristics may lead to different classification, especially in the case of newly imported products for which there is no established practice. Additionally, CN product definitions inevitably leave some room for interpretation so, according to some stakeholders, it may happen that customs and fiscal authorities have different views on the classification of certain products, or that the same product is assessed differently by customs agents of Gran Canaria or Tenerife.

- Such uncertainties may be exploited for fiscal optimisation purposes. For instance, a practice that is frequently lamented by local producers consists of classifying certain imports in the residual category of a CN heading (typically the codes ending with 90 or 99) whose AIEM rate is typically lower or nil. To prevent this practice, the AIEM lists should also include such CN residual categories, but this would collide with the CJEU's principle of 'precise identification' of products benefitting from the special regime (residual categories are normally defined simply as 'others') and, often, with the criterion of 'existence of local production'.
- The CN classification – and more generally the HS classification – is periodically revised, so it may happen that codes included in the Decision become outdated. Occasionally, a mere change of CN code definitions has led to removal of the AIEM support from certain products (e.g. kitchen paper rolls). More generally, the periodic revision of the CN codes generates additional burden and potential uncertainties: to determine the tax applicable to certain products, the tax authority has to refer to the 'old' classification, but the correct correspondence is sometimes complex to draw. In the 2002-16 period, some 19 AIEM products witnessed a change of CN code and, additionally, some 12 cases of change in the classification structure (typically the splitting of a CN category into more sub-categories) were registered.

The ***administrative effort for local authorities*** to deal with this system can be estimated as follows:

- Two full-time staff within the competent service of Canarian administration, primarily responsible for identification and classification of AIEM products.
- The Canarian tax authorities have some 90-100 staff in the indirect tax sector. Using a pro-quota distribution based on revenues, some 5% of them can be virtually attributed to the administration of AIEM[120].

Regarding the ***administrative burden for the private sector***, less than half of importers surveyed characterised compliance with AIEM requirements as a 'major burden'. Considering that the AIEM requires no separate procedures but it is part of the customs declaration and is paid contextually, this feedback appears inflated in the more general critical outlook of importers on the AIEM. Still, as discussed, the identification of applicable customs codes and corresponding AIEM rates can be complex and, in this respect, three-quarters of respondents consider this task to be a 'moderate' or 'major' burden.

A similar view is registered among other types of business (manufacturing industries etc.) which import raw materials and supplies that are subject to the AIEM. Their feedback confirms that identification of the applicable CN code is sometimes complex and burdensome: about two-thirds of respondents faced this issue at least once, and for over 40% of them this problem occurs frequently. Half of respondents reported at least one change in the customs code and/or definition of the raw materials/supplies usually imported. A slightly higher share (56%) also reported at least one dispute with customs or tax authorities over the proper classification of an imported good.

Regarding ***quantification of the administrative burden*** connected to the AIEM, the estimates provided by importers are characterised by an extreme variability, ranging from one-two working days per year to a full-time staff year-round. A median value of 20 working days per year can be used for the purpose of the analysis, but the figure should be regarded with caution due to the possible attribution to the AIEM of administrative activities that importers should perform anyway. Converting this working time into monetary value (based on gross salary estimates for the Canary Islands[121]) and adding

[120] The internal organisation of the Canarian tax authority does not envisage the allocation of staff by type of tax.
[121] Data on the gross monthly salary paid to a full-time employee in year 2018 are provided by the INE (see, INSEE, *Encuesta de Población Activa*, 2019). The monthly value of EUR 1,820 reported by the INE has been incremented to include 25% overheads, in line with the 'standard cost model' methodology.

the fees reportedly paid to external service providers (some 40% of respondents reported having incurred external costs related to AIEM), the total incidence of administrative and compliance burden on the turnover of importers can be roughly estimated at 0.3%, on average. As discussed, it is highly likely that this estimate is inflated, as the main activities related to imports of AIEM products are in fact part of the ordinary customs clearance procedure even in the absence of the AIEM.

- **AMENDMENT OF AIEM PRODUCT LISTS**

The need to revise and update the product lists in the Annex to the Council Decision may stem from evolving conditions of the local market and competition and/or classification incongruences and other issues. However, at present, the ***process for updating the lists*** is far from straightforward, as any revision requires a legal amendment of the Council Decision. This applies to both including/removing certain product categories in/from the lists and moving certain product categories from one list to another. The process has to follow the ordinary procedure, with a significant investment of time and resources by national and EU administrations.

Unlike the French *Octroi de mer*, the AIEM regime has never undergone an interim revision because the expected benefits were thought not to be worth the efforts required. In this sense, the burden of the legal amendment process was not incurred but acted as a deterrent, preventing authorities from demanding for such changes. By consequence, the AIEM has progressively lost part of its relevance, as it did not keep pace with the evolving needs of the local economy.

Simpler and more flexible mechanisms for list revision constitute the main request for policy revision expressed by local competent authorities.

- **MONITORING ARRANGEMENTS**

The EU policy requires competent national authorities periodically submit monitoring reports to the Commission regarding implementation of the AIEM regime, its impact on and contribution to the promotion and/or maintenance of local economic activities.[122]
Since 2002, three ***mid-term reports*** (*Informe Intermedio*) have been submitted, namely in 2005, in 2010 and in 2017. The mid-term reports constitute, at the same time, monitoring documents and evaluation documents, as they contain:

- a review of the (updated) applicable legal framework,
- a product-by-product review of the relevant tax rates and their evolution during the monitoring period, considering also the changes occurred in the CN classification,
- a review of main regional economic trends,
- an assessment of the degree of achievement of the AIEM objectives, regarding: enterprise demography, production levels, market shares, investment and employment generated, and price index trends,
- an assessment of constraints affecting local production, their evolution and persistence.

While the first part of the mid-term report deals with monitoring information, the parallel evaluative nature of the document emerges clearly in the second part. In this sense, the mid-term report appears more articulated and burdensome than a standard monitoring document, but also less complex and rigorous than a full-fledged impact evaluation.

The estimated additional costs caused by regional structural constraints are not in the scope of mid-term reports as they are the subject of separate, external studies. In

[122] Art. 2 of Council Decision 377/2014/EU.

particular, since the establishment of the AIEM, three studies measuring additional costs have been implemented: in 2002[123], in 2010[124], and in 2018[125].

A monetary quantification of the ***burden of monitoring*** is not feasible, but some considerations based on the analysis of documents seem useful:

- The double nature of the mid-term report may not be the most cost-efficient approach:
    - As monitoring document, the mid-term report has some deficiencies: (a) insufficient detail (e.g. product-level data on volume, value and market share of product by origin, number of active players, estimated foregone revenues etc., are missing); and (b) poor timeliness, as up to 7 years may pass from one report to the next.
    - As evaluation document, the mid-term report lacks (a) robustness (the conclusions are mainly based on descriptive statistics, while no quantitative analysis is carried out), and (b) focus (no ad hoc primary data collection is carried out).

- More generally, the main limitation of the monitoring system so far has been the lack of detailed data on various implementation aspects: first and foremost, the absence of detailed and validated data on local production of AIEM goods and their market share. Only recently (November 2019), the regional statistical office (ISTAC) was able to complete and publish the results of the first Survey of Industry in the Canary Islands *(Encuesta de la Industria en Canarias – EICAN)*, which specifically aims at measuring the effects of the AIEM on the market structure of target products. The published data refer to the 2015-17 period, and there are plans to conduct this exercise periodically, so the problem of 'data gaps' will likely be addressed in the future. Some methodological issues should be nonetheless considered:
    - The market share of local production may be inflated by the fact that part of the production may be exported – and therefore not relevant for the AIEM regime (EICAN data do not provide the disaggregation).
    - The estimations on the volume of production derive from the triangulation of the EICAN survey – which collects data on products by CN code - and of the *Encuesta Industrial Anual de Productos* (carried out by INE) - which collects data on production by NACE code. The correspondence between the two classification systems has some margin of uncertainty.
    - The EICAN survey covers the products currently in the scope of AIEM, so it is of limited use for newly introduced products.

Evaluation Question #11: *To what extent are the benefits of the fiscal measures compensating for the loss of fiscal revenue in Spain and France, in particular in the Outermost Regions?*

- **BUDGETARY IMPACTS OF THE AIEM**

To respond to this evaluation question, it is useful to examine the actual loss of fiscal revenue caused by the AIEM regime. In formal terms, the AIEM exemptions constitute a fiscal loss equal to the amount of tax not collected. However, the rationale of the AIEM lies in its differentiated rates regime so, arguably, were tax differentials not permitted,

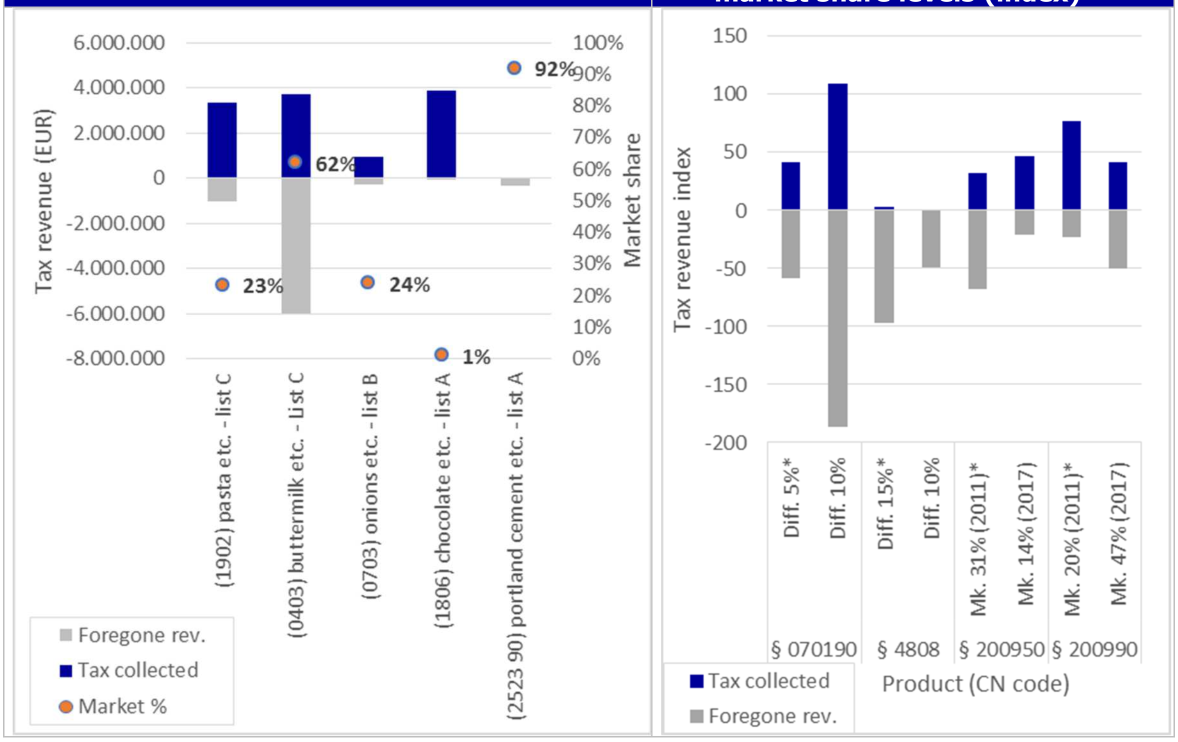
[123] Centro de Estudios Económicos Fundación Tomillo, 'Los costes de ultraperiferia de la economía Canaria', 2002.
[124] Centro de Estudios Económicos Fundación Tomillo, 'Cuantificación de los costes de la ultraperiferia en Canarias', 2010.
[125] UTE Eco-CoRe, 'El coste privado de la ultraperiferia y la doble insularidad en Canarias', 2018.

the AIEM regime would have no reason to remain in place, as its (limited) budgetary effect could also be obtained by a re-calibration of the value-added tax (IGIC). In this sense, it is important to underline that the foregone revenues linked to AIEM exemptions constitute in fact a ***virtual loss of revenue*** for tax authorities.

The second important consideration is that there is an evident trade-off between the tax collected on imported goods and the tax exemptions on local production. In simple terms, assuming the demand is stable, the balance between tax collected and not collected is ***determined by the respective market shares*** of imports and local products: where imports prevail, the tax revenue balance will be positive and vice versa (see Figure 4.22.A). The intensity of this effect is correlated to the extent of the differential applied, so an increase in the differential would at the same time increase the revenues collected and deepen the virtual losses. At the same time the objective of the AIEM policy is to sustain local production, so the more successful the policy is in boosting the market share of local production, the higher the amount of foregone revenues. The Figure 4.22.B below illustrates empirically these concepts with concrete product examples.

Figure 4.22 – The determinants of impact on tax collected and not collected revenue

A) Balance b/w tax collected and foregone revenues	B) Impact on revenues of a change in tax differentials or in the market share levels (index)



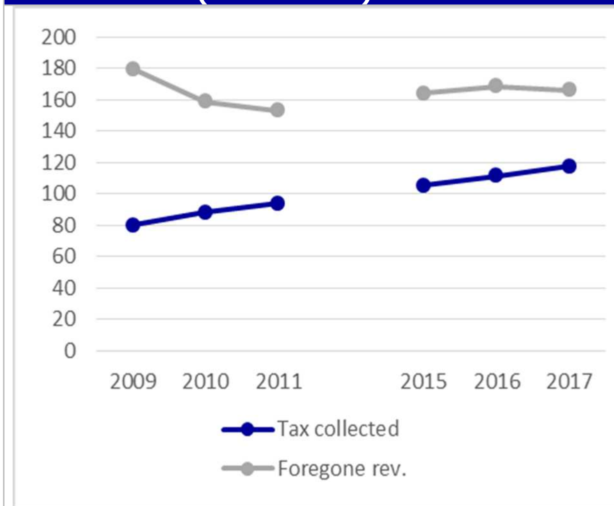
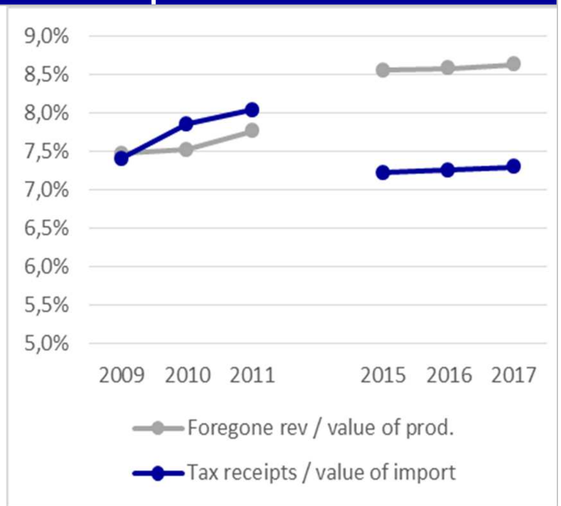
Source: *Own processing of data from ISTAC and Canarian authorities.*
Notes: *Panel B shows the effects of change over the baseline situation (designated with *). The baseline situation is displayed as an index (equal to 100) where tax receipts are represented above the horizontal axis, and foregone revenues below it. The change in both variables is displayed in percentage variation from the baseline.*
Legend: *in Panel B 'Diff.'= tax differential applied; 'Mk'=market share.*

The amount of foregone revenue is not only volatile for the reasons described above, but it is also difficult to calculate precisely. An accurate estimation would require data on the market value of locally produced goods delivered internally (i.e., not exported), for all the products subject to a differentiated regime. As discussed, these data were historically unavailable at such level of detail, and only in 2019 did the ISTAC start publishing market share estimates for AIEM products. Despite this major improvement in data availability, various gaps and uncertainties that hinder a precise estimation of foregone revenue persist. For this reason, the foregone revenue calculated in this Study partly diverges from the estimates communicated to the Commission in the framework of State aid obligations.

The results of our estimates are reported in figure 4.23 below. The analysis covers two time periods (2009-11) and (2015-17), but it is important to highlight that the two periods are not fully comparable because of disparities in the data collection methodology and changes occurred in the AIEM lists in 2014. Furthermore, in various instances, the market value of local production had to be inferred triangulating market share data with data on the import value of AIEM products, so estimates have to be taken with some caution. The outcomes of analysis can be summarised as follows:

- The ***tax collected*** on imports of AIEM products has ***steadily increased*** over time. However, its average incidence on the import value has apparently declined by 0.5 percentage points, so it can be assumed that the upward trend of receipts was primarily driven by imports growth and not by heavier tax charge.
- The amount of ***foregone revenues*** related to AIEM products ***has remained fairly stable*** in the range of EUR 155-165 million/year. The figure may be inflated by the inclusion of exports in the estimation (in the case of tobacco exports account for nearly 40% of the total production). Another major source of foregone revenue is the production of beer that benefits from a virtual AIEM compensation of EUR 23 million/year (2015-2017 average).
- The ***ratio between foregone revenues and the value of local production*** has ***increased over time*** from 7.5% in the 2009-11 period to more than 8.5% in the 2015-17 period. The underlying cause seems the decline in the value of production registered with several products.

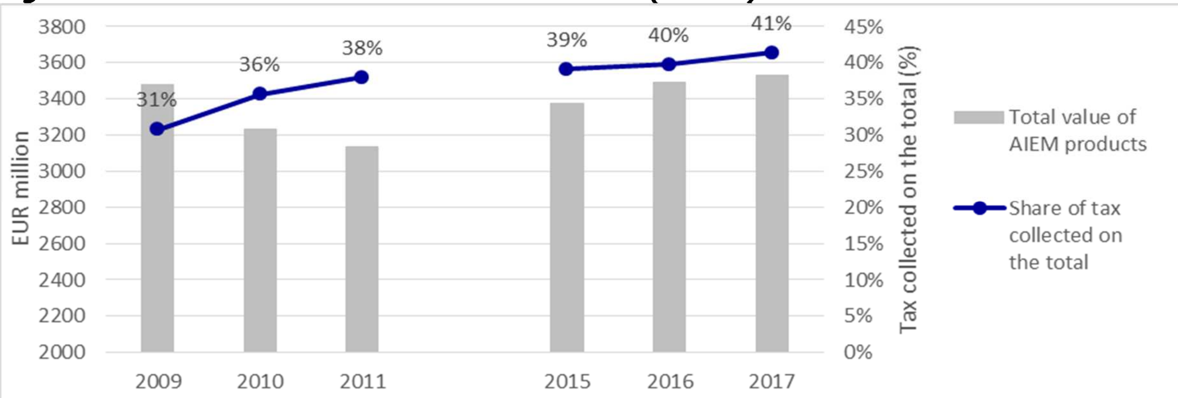
Table 4.23 – Over time evolution of fiscal impacts and incidence on market value

A) Trends in tax collected and foregone revenues (EUR million)	**B) Incidence on the value of production and imports**
	

Source: *Own processing of data from ISTAC and Canarian authorities. For various products data have been extrapolated from incomplete datasets, and has to be taken with caution.*
Notes: *The comparison between the two periods displayed (2009-11) and (2015-17) requires caution because of disparities in the collection methods. Differences are also due to changes in the composition of the AIEM lists across the two periods.*

Another way to look at the budgetary efficiency of the AIEM regime consists in assessing what share of the overall tax applicable to concerned products is actually collected. In practice, the indicator reflects the ratio between actual tax receipts and theoretical amount due if tax exemptions were not in place. The results are shown in Figure 4.24 below and indicate that over time the ***balance between tax collected and not collected*** has progressively moved towards the former (albeit the latter still account for the majority of the 'virtual' tax revenue). As the average level of taxation did not changed significantly, this trend seems again a consequence of the loss of market shares by local products.

Figure 4.24 – Share of AIEM tax collected on the (virtual) total



Source: *Own processing of data from ISTAC and Canarian authorities.*
Notes: *The comparison between the two periods displayed (2009-11) and (2015-17) requires caution because of disparities in the collection methods. Differences are also due to changes in the composition of the AIEM list across the two periods.*

➢ **EFFICIENCY OF THE AIEM**

How well the budgetary effects of the AIEM regime have converted into benefits remains very complex to quantify, due to the reported data validity limitations, and the absence of a clear baseline for a counterfactual analysis. Still, results of the analysis conducted in the previous section allow for the elaboration of a ***general conversion index*** for the AIEM special regime. The index is calculated as the ratio between the additional production virtually enabled by tax differentials and the cost of the special regime in terms of foregone tax revenues. As shown in Table 4.10 below, this ratio is 1:2.9, that is, one Euro of foregone revenue can be roughly associated with 2.9 Euro of local production.

Similarly, it is possible to estimate efficiency in terms of ***employment***, by estimating the amount of foregone revenue associated with the number of jobs hypothetically enabled by the AIEM (i.e., based on the additional value-added). As table 4.10 shows this metric can be roughly estimated at less than EUR 35,000 per job.[126]

In comparative terms, it emerges that the AIEM indexes are higher than those registered for the similar *Octroi de mer* scheme applied in French ORs, whose conversion index is 1:2.5 and the virtual cost per job is approximately 80,000. The difference can be explained by the greater impact of structural constraints in French ORs compared to the Canary Islands (higher distance, smaller markets, etc.) and, therefore, the need for more intense support to achieve the same results.

It is important to underline that these figures are derived from the estimated impact of special regimes on the value of local production (see EQ#8) and does not stem from an ad hoc, separate quantitative assessment. In this sense, they are subject to the limitations of the model used for estimating impacts on production value (see Annex C) and therefore ***should be seen as indicative*** and not comparable with the similar indicators elaborated through more robust and dedicated models for analysis of EU policies' cost-efficiency.

[126] There are no standard benchmark for this metric, but for purely indicative purposes it is worth citing: (a) the CSES, 'Study on measuring employment effects', June 2006, which examined the impact of EU Structural Funds on employment, estimating the cost per job at EUR 36,000 on average; (b) the more recent evaluation of the ERDF and Cohesion Fund (2014), concluded that an overall investment of EUR 269.9 billion led to the creation of about 1 million jobs, i.e., a ratio of EUR 270,000 per job (see: SWD(2016) 318 final).

Table 4.10 – Efficiency indexes of the AIEM regime

AIEM foregone revenues	Production value associated with the AIEM	Associated jobs	Monetary Ratio (conversion index)	EUR per job
EUR 165 million	EUR 570 million	4,673	**1 : 2.9**	**35,309**

Evaluation Question #12: *To what extent does the current system of tax advantages affect retail prices in the Outermost Regions?*

One of the possible 'externalities' of the AIEM regime concerns its repercussion on retail price of consumer goods and, therefore, on the ***cost of living in the Canary Islands*** and the purchasing power of residents. The underlying logic is that since a large share of AIEM products remain of imported origin, and assuming that the tax is not absorbed by the trader but passed onto the retail price, consumer expenditure is inflated by the application of the tax.

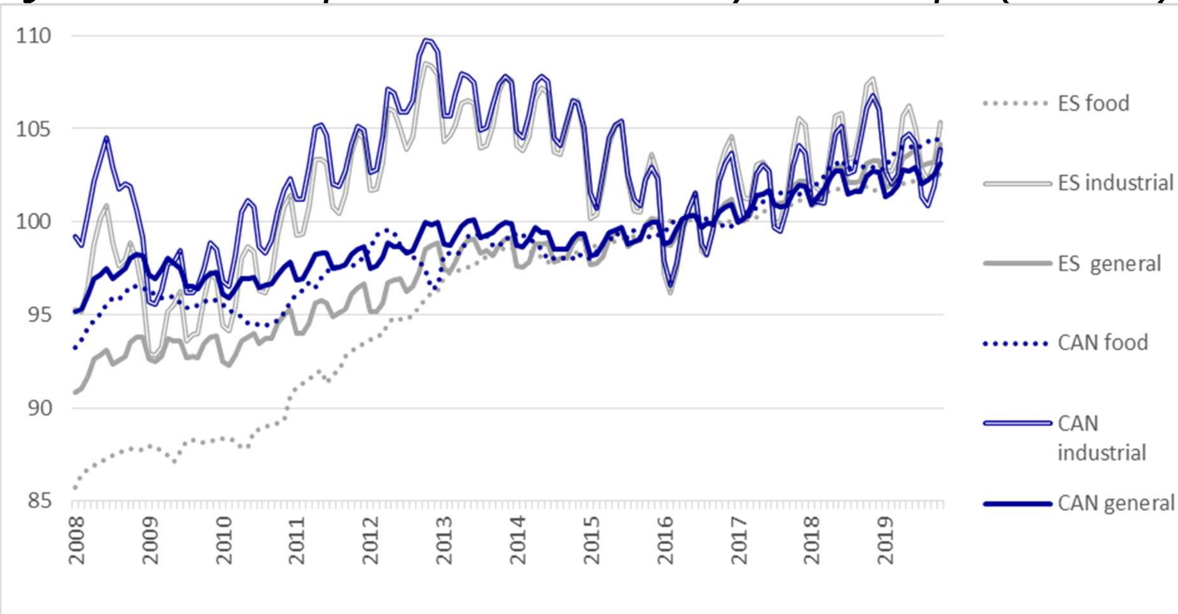
This argument is at the core of the debate between opponents and supporters of the AIEM regime, with the former highlighting the inflationary character of any protectionist tax like the AIEM, while the latter claims the absence of tangible evidence of such effects in price level statistics. According to survey results, almost 80% of non-producer firms maintained that the AIEM translates into higher consumer prices. In contrast, the large majority (84%) of local producers denied the existence of a similar inflationary effect or assessed it as minimal.

For a factual assessment of these conflicting views, a simple analysis was carried out to estimate the overall magnitude of the ***impact of the AIEM*** on consumption expenditure in the Canary Islands, under the (strong) assumption that the tax borne by importers is passed on entirely to prices. If this is true, the AIEM 'bill' for consumers would be equal to the total AIEM receipts – i.e. EUR 162 million in 2018, including products which do not benefit from tax differentials – possibly augmented by the retail mark-up, which can be set, conventionally, at 30%[127]. The total amount obtained, i.e. EUR 210 million accounts for ***approximately 1% of Canarian household expenditure*** (EUR 20.27 billion in 2018). This estimate has evident limitations, for example: (a) it does not take into account the differentiated impact on various income classes of the population, (b) it assumes that there is no absorption of the tax in the value chain, and (c) it does not consider how a possible reduction in the price of imported goods would also pull down the price of local products (assuming there is scope for local producers to reduce margins).

From a different perspective, the analysis of the ***consumer price index***, elaborated by the national statistical institute (INE) offers additional insights on the dynamic of prices in the region. As shown in Figure 4.25 below, the general price indexes of the Canary Islands and Spain have been growing at a similar pace in the past decade, with mainland prices actually increasing slightly faster than Canarian prices. The same holds true for the sectoral indexes of goods mostly affected by the AIEM, namely industrial goods, and specifically the food, beverage and tobacco macro-category (Figure 4.25).

[127] For comparison, we use here the same mark-up used for the French *Octroi de mer* study, which is based on the INSEE's estimated average sales margin (29.1%) for retail activities (vehicles not included).

Figure 4.25 – Consumer price index trends in the Canary Islands and Spain (2008-2019)



Source: *INE, consumer price index series (2015=100).*
Notes: *'Food' CPI includes beverage and tobacco; 'general' CPI does not include energetic products. ES=Overall Spain data; CAN=Canary Islands data.*

A more granular analysis was carried out in the latest mid-term report submitted by Canarian authorities, which examined and compared the ***price indexes of individual products***, including both AIEM and non-AIEM products. The results can be summarised as follows:

- For 23 out of 26 AIEM product categories examined, the price level has been growing faster in Spain than in the Canary Islands.
- Specifically, it was estimated that in the period 2003-16 the annual price index variation for AIEM products in the Canary Islands was on average 0.4 percentage points smaller than the same measure for the mainland.
- The same holds true for specific baskets of AIEM products, i.e.: food and non-alcoholic beverage (0.4 percentage points difference), alcoholic beverages and tobacco (0.4 percentage points difference), and all other AIEM products (0.3 percentage points difference).

5. POLICY SCENARIOS FOR THE WAY FORWARD

This section of the Report marks the transition from the retrospective to the prospective component of the Assignment. More specifically, it first discusses in narrative form the 'policy problems' emerging from the evaluation (Section 5.1) and, secondly, it describes policy scenarios for the way forward (Section 5.2), including a set of possible policy options for change that will be examined in Section 6 of the Report.

The policy scenarios and specific options laid out below have been selected by the Consultant after the presentation of a preliminary draft and subsequent discussion with the Commission and the competent national authorities.

5.1 Problem analysis

The current section is structured in two parts. The first part examines in detail and based on the results of the retrospective evaluation, the specific ***drivers*** representing the root cause of implementation or performance issues of the special regime. Each driver may have distinct effects in different areas of the policy. The second part aggregates the detected issues into a set of ***policy problems*** (corresponding to specific areas of the policy) for which possible solutions are being proposed.

- **POLICY PROBLEM DRIVERS**

1) The policy lacks a clear, strategic identification of the targeted activities, and the sole use of customs classification to identify beneficiaries is at the basis of various implementation issues.

The use of customs classification codes (CN or TARIC codes) to identify local productions in need of support has a practical rationale which is to facilitate the application of the tax on imported goods and, where relevant, to the equivalent locally produced goods. However, the customs classification is not fit (and therefore not used) for the design and analysis of sectoral development policies, which are instead typically defined on the basis of the economic activities classification (i.e., the NACE statistical classification, and the CPA for products). The issue is not merely technical and reveals a sort of overturning in the logic of the policy, which seems driven by CN product lists, whereas it should ideally be anchored to a clear, strategic identification of the production activities and sectors to be supported in the different ORs (and the related value-chains and clusters).

The use of the customs classification as the sole instrument to define the scope of the policy presents numerous shortcomings, including:

- it allows a questionable use of the concept of 'transformation', linking it to a change of CN code, even when this does not correspond to an operation adding real value (should minor transformation/ packaging activities be entitled to receiving the same support as manufacturing activities?);
- it may lead to disparities and fragmentation in the tax treatment of the outputs of similar production processes carried out by the same entities - hence arguably subject to similar additional costs – but classified differently for customs purposes. In some cases, such disparities might prevent operators from engaging in the production of new products that fall in the same segment of the existing productions but have a different and not-supported CN code;
- it might not allow distinguishing appropriately between sub-products falling under the same CN heading. In fact, certain CN categories encompass heterogeneous products of which only one or few are locally produced, while the tax remains

applicable to the totality of the category (except when ad hoc specifications/ exceptions are added by local competent authorities);
- it also affects the quality of monitoring, as production output and other relevant statistics are measured at sectoral/industry level, using the NACE classification (or the national equivalent classification). Correlation tables with customs classification do exist but are inevitably imprecise;
- finally, CN codes may and do change, which may reportedly lead to situations where the support is withdrawn only because of customs codes modifications.

Evidently, the use of customs classification remains necessary for the practical implementation of these measures, but there is the need to limit its use to technical enforcement, subordinating the objective of the policy to a clearer identification of the sectors/industries that the local development strategy intends to support.

2) The criteria for the identification of local productions threatened by external competition, and for their placement in one of the lists of the Council Decision, are not explicitly formulated, fuelling the perception of poor transparency and possible subjectivity in the decision-making process.

One of the recurrent criticisms raised by enterprises (both importers and local producers) against special tax regimes concerns the lack of transparency in the policy process leading to the application of tax differentials to certain categories of products and not others, and to the quantification of such differentials. The AIEM Decision does not mention explicitly any criteria. However, in the regional legislation and in the administration of the measures, the criteria applied are similar to those used under the French *Octroi de mer* namely: (1) the existence of local production (or the potential for it), (2) the existence of significant imports that could jeopardise the competitiveness of local production; and (3) the existence of additional costs affecting the competitiveness of local products. The three criteria are clear but lack objective elements for their verification, in specific:

- The 'existence of local production' leaves ample room for interpretation regarding:
    a) What is the minimum market share of local production triggering the need for special tax regime support? Specifically, can niche and/or artisanal productions justify the application of the tax to a vast range of imported industrial products falling under the same CN category?
    b) Is there a minimum number of local producers necessary to justify the introduction of tax differentials, or is it acceptable to support industries with only one local player, for example?

- The existence of a threat to the competitiveness of local production also poses interpretation uncertainties:
    a) What is the market share level for imported products to constitute a potential threat to local production? Does it differ product by product? How can this be translated in an objective parameter?
    b) Is the risk of jeopardising local production an essential element of the criterion, and if so, how can it be operationalised? For instance, are shrinking market shares a proper indicator of such risk? Should industries that have, for many reasons, limited future perspectives be nonetheless supported 'at all costs'?
    c) In connection with point 1) above, is the fact of belonging to the same CN category sufficient to assume the equivalence and potential substitution between imported and locally produced goods?

- The 'existence of additional costs' criterion and the way to measure it present numerous uncertainties that deserve dedicated analysis (see the next point).

The lack of clarity with the criteria applied for the selection of products and the underlying policy process may fuel the perception of an excess of subjectivity and possible disparities of treatment. In this sense there seems to be room for a change of paradigm, namely from a situation where the EU authorities are supposed to review, and eventually approve or reject, individual product dossiers 'one-by-one', and largely on the basis of petitioners' data, to a paradigm where the EU authorities establish clear and verifiable 'eligibility' rules for the local authorities to extend support to certain productions, and closely monitor their correct implementation, intervening where necessary - e.g. in the case of market 'shocks' or other circumstances signalling a major distortion of competition, or in the case of particular products whose support conflicts with other EU policies. Of course, given the variety of the products involved, the specificities of the region and of the market concerned it is important to maintain a certain room for manoeuvre for the local authorities and, to this end, EU rules should envisage some degree of flexibility, reinforcing at the same time monitoring requirements, to enhance the transparency and accountability of competent authorities (regarding monitoring, see 'policy problem' #6).

3) The additional costs caused by remoteness are estimated at sectoral / branch level by ad hoc studies, but they have no explicit connection with the design and implementation of the policy.

Since the establishment of the AIEM in 2002, external studies were regularly carried out to estimate the additional production costs for private sector linked to remoteness and the 'double insularity' of the Canary Islands. Such studies were based on surveys of local enterprises and provided an estimation of local production costs in comparison to mainland Spain, and broken down by cost factor. However, unlike the similar exercise carried out in French ORs for the *Octroi de mer* regime, additional costs estimates have not been used for justification of the tax differential applied to individual products. In fact, the AIEM Decision does not prescribe to verify the existence of additional costs as a pre-requisite for applying differentiated tax rates, although this principle is implicitly taken on in the implementation. Other differences between the AIEM and the *Octroi de me*r estimation of additional costs includes:

- the Spanish additional costs studies provide estimates by industrial sector/branch, while French product *fiches* provide disaggregated estimates at product level (from CN4 to CN8);
- in estimating additional costs no consideration is given to the compensation extended under other aid schemes, while such compensation is in principle deducted in the French product *fiches*.

Some of the criticisms on the current AIEM system that were voiced by local operators in the Canary Islands regarded precisely these aspects. First of all, the absence of a clear and robust estimation of the 'net' costs suffered by local production activities, i.e., with the exclusion (or appropriate recalculation) of costs that are suffered also by other local economic activities, which do not benefit from a tax differential and – on the contrary – are subject to the payment of the AIEM tax. Secondly, the omitted reference to the costs already compensated through other aid schemes. The current system appears to be insufficient regarding both the robustness of the estimates and the transparency of the process through which such estimates inform the policy decision.

The French approach may partly offer a good benchmark for the revision of the AIEM policy, in particular regarding (a) the explicit reference to additional costs as pre-requisite and justification for the application of tax differentials, (b) the standardised methodology adopted and (c) the deduction of the other compensation schemes from the estimation of needs. On the other hand, the French approach also showed various limitations of reliability and cost-efficiency that should be considered (see Part 2 of the Study). Some of these limitations regard the fundamentals of additional costs assessment and applies also to the Spanish external studies conducted so far. In particular:

- The first difficulty regards the very subject of the estimation: as discussed under problem driver #1 above, the customs classification is not always suitable for a precise identification of products, as certain CN categories may encompass a range of heterogeneous products, with arguably different production processes and costs. A significant degree of approximation is therefore needed to come to 'average' estimated production costs (and to 'additional costs').

- Then, to a large extent, the additional costs estimates derive from empirical information provided by the concerned local operators, through methodologies that are not statistically representative and that embed a certain degree of subjectivity and, possibly, of bias (e.g. certain additional costs are estimated directly by surveyed operators).

- The exercise aims at comparing the production costs of 'like products' in the outermost regions and in the mainland. Leaving aside the complexity of the notion of 'like products' in international trade[128], the logic and the practice behind such comparison appear weak:
  a) The structure of markets and competition in outermost regions and in the mainland is radically different, and the same can be said of the characteristics of local and of mainland enterprises. A few factors marking the substantial heterogeneity of the two contexts include: (i) firm size - the largest players in the Canary Islands would be considered small on the mainland; (ii) market structure, which is tendentiously oligopolistic in all outermost regions; (iii) development strategy, with local firms pursuing diversification to better serve all segments of their markets, whereas on the mainland enterprises move increasingly toward specialisation; (iv) market size – which is limited and essentially 'locked' for outermost regions. Against this framework, it is not clear which 'comparators' could be selected in the region and on the mainland for a valid comparison.
  b) Secondly, it is not clear – from an economic perspective - why the comparator should be just the mainland and not the entire EU, since outermost regions are de facto part of the internal market and a relevant share of their imports originate in the EU. The choice to use the mainland as comparator has practical utility and is in line with the fact that special regimes are ultimately national policies, so it is not disputed here. Additionally, the disparities of price and wage levels across EU Member States would trigger other methodological problems and comparability issues. Still, it is important to highlight that this approach does not necessarily reflect the 'real' competitiveness gap faced by local production vis-à-vis imports.

- The logic of the policy assumes that there is a direct connection between additional costs and competitiveness of local production vis-à-vis imports, but in fact this cannot be taken for granted. The difference in production costs (having in mind the above caveats) does not necessarily correspond to the difference in the cost price level of locally produced and imported goods, since various other factors influence it, for example:
  a) The freight costs are not necessarily always reflected in the price of imported goods. Especially in the case of large-scale distribution such costs can be absorbed or re-distributed over different products and different geographical markets.
  b) Trade margins are not fixed and depend on operators' strategies. The remote and isolated status of the Canary Islands may enable the roll-out of aggressive pricing strategies that would not be feasible on the mainland.

[128] The literature on the controversial use of this notion within WTO/GATT is huge and non-conclusive.

c) As mentioned previously, the costs difference is measured with respect to the mainland's operators, but actual competition in the local market concerns products coming from several other countries also.

Overall, a picture emerges where approximations, uncertainties and theoretical assumptions are abundant. In most cases, these either cannot be removed or huge efforts would be required just to obtain marginal improvements in the reliability of the assessment. In this sense, two main concluding remarks can be made:

- The segmentation of supported products into 4 distinct 'lists' with diverse maximum permitted differentials seems poorly justified, due to the inevitable lack of precision of any estimation of additional costs at product level. Such segmentation does not apparently contribute to have a more equitable system in place.
- Considering the above caveats and uncertainties, there seems to be limited value in estimating additional costs at a very granular level (e.g. CN8). Still it is necessary to connect estimates of the current sector/branch level additional costs to the policy and the tax differentials in a stronger and clearer way. This may require calculating additional costs at CN4 level and deducting other sources of compensation from the estimates.

4) The rigidity of the current legal framework hampers smooth adaptation of the regimes to the evolving market and sectoral needs in the outermost regions, reducing their effectiveness and imposing an administrative burden on the authorities and the stakeholders involved.

There might be various reasons for modifying *in itinere* the lists of products in annex to the Council Decision, before its expiration and subsequent renewal, for instance:

- to support new emerging local productions that were not in place when the Decision was adopted,
- to adjust the level of compensation extended to certain industries to cope with transformed conditions for competition (e.g. to cope with aggressive importation),
- to align with changes in the CN codes (or explanatory notes), occurring for product categories in the scope of the Council Decision,
- to remove from the list products which are no longer relevant (i.e., no longer produced locally).[129]

So, updating the lists *in itinere* (switching to 'living lists') allows for better response to evolving conditions of international competition and the needs of local producers, and for promptly addressing incongruences. However, at present the process for updating the lists is far from straightforward, as any revision of the lists requires a legal amendment of the Council Decision. This applies to both the inclusion/removal of certain product categories to the lists, and to the moving of certain product categories from one list to another. The process must follow the ordinary procedure rules with a significant investment of time and resources on the part of national and EU administrations. Evidently, undertaking such a process is worthwhile only in the presence of a critical mass of revisions to be made, and in this respect, there is anecdotal evidence of useful amendments that were not requested because of the complexity and the burden of the legal process.

Revising the current policy to make list updating more flexible, straightforward and rapid is by far the primary demand of public authorities and businesses alike.

[129] In the latter case, local authorities have the option of setting the actual differential at 0% to obtain the same results, so this kind of revision is generally made when the Decision is renewed.

5) In policy design and implementation, limited consideration is given to the permanent nature of the structural constraints addressed, as well as to the amount of additional costs caused by these constraints, which the policy intends to compensate.

Various studies on the additional costs faced by ORs have been conducted since the establishment of special tax regimes. In some cases, they contained thorough analysis of the specific nature of the structural constraints affecting economic activities in the ORs and attempted to estimate in aggregate and monetary terms such handicaps. These analyses arguably form part of the background of the EU policy, but some basic aspects are apparently not given sufficient emphasis, possibly because of an excessive importance attributed to the micro-economic dimension (see problem driver #3). At least two considerations should be made.

The first consideration is that the structural constraints affecting outermost regions, including the Canary Islands – i.e., small size, isolation, remoteness, climate etc. - are perennial and not transitory. Unlike other development policies, that may phase out after a certain period of time as the development objectives are achieved, the policies aimed at compensating such handicaps might in principle never reach their goal, because the root problems cannot be solved or removed. On the contrary, with global trade growing increasingly competitive, the 'gap' of outermost regions might become even more difficult to bridge over time. Various cases were reported of imported goods sold retail at a lower price (tax included) than the production costs of the same good made locally. So, the AIEM is generally viewed by enterprises as a tool to help mitigate/slow down local production's inevitable loss of competitiveness rather than as a development tool. The possible policy consequences are:

- Clear recognition that these regimes are not development policies in the strict sense, which can be phased out once the target is achieved, because the underlying problems are largely permanent. Abandoning these regimes would entail either replacing them with similar schemes of equivalent effects or accepting even greater dependence of the region on external aid.
- It follows that these schemes cannot and should not be seen only from the perspective of the micro-economic rationale, but in the big picture of the local economic and social strategy: i.e., whether they help diversify activities, making the economy more resilient to sectoral shocks; whether they create qualified jobs; whether they foster a circular economy; whether they contribute to healthy competition; whether they contribute to fiscal autonomy etc.
- In practical terms, the perennial nature of the structural handicaps would in principle allow for a longer legal duration of the special regime. An extension would be particularly useful and efficient if coupled with the abovementioned greater flexibility in updating lists.[130]

The second consideration is that the structural conditions of the Canary Islands necessarily generate handicaps that affect all kinds of production activity. The extent of the impact varies across sectors and depends on individual operators (size, equipment, production efficiency etc.), but it can be assumed that most activities in the region will generally be, by default, burdened with a competitive handicap compared to similar activities on the mainland. In this sense, it would be reasonable to design the policy starting from an overall estimation and quantification of such a handicap, fixing also the global value of the support (in absolute terms or as a % of the gross added value) with reference to it. This would not necessarily entail abandoning the product-level focus, but to place it in a coherent framework, to overcome the possibility that the same cost factor subjectively estimated by different operators from different industries leads to inconsistent levels of support. In addition, a system anchored to an aggregate

[130] Otherwise an extended duration of the scheme may result in 'locking-in' product lists for even longer period.

estimation of the handicap and to a distribution of the aggregate compensatory benefits among sectors and branches based on the respective needs, would also encourage a more harmonised and integrated development policy, ensuring at the same time the proportionality of the overall support – a dimension that is at present largely neglected.

6) The monitoring and evaluation arrangements of special tax regimes are robust overall but not always in line with the information needs, regarding timeliness, quantification and scope.

The Council Decision contains specific provisions requiring Spain to submit periodic reports to the Commission on the implementation of the AIEM regime and the impacts it has on local economic activities. These 'mid-term' reports are the basis of Commission's own reports to the Council.

In the past, the submitted mid-term reports were not always up to expectations. One of the main weaknesses of the current arrangements was that 'monitoring' and 'evaluation' needs were not properly distinguished and addressed. The mid-term reports prepared in the past often mixed these dimensions, resulting more burdensome to produce and less timely than ordinary monitoring documents, but not deep enough to make a proper impact evaluation possible. Secondly, there was no coherent approach in the reports across all outermost regions (including French ORs) making it more difficult for the Commission to carry out consistent comparative assessments.

Furthermore, some information gaps have been detected with respect to specific evaluative aspects, namely:

- The impact of special tax regimes on retail prices for residents in the Canary Islands. The matter goes beyond the scope of the EU policy in a strict sense, but it is nonetheless important for the evaluation of the scheme because the AIEM is frequently blamed for its presumed contribution to the 'cost of living'. However, there is no conclusive evidence on the extent of such effects, partly because of insufficient facilities for price monitoring and analysis.

- The interplay between special tax regimes and the other EU policies for outermost regions has been poorly investigated so far. Of particular relevance in this respect is the issue of cumulative effects and the risk of overcompensation. An example is provided by the POSEI's special supply arrangement (SSA). Cumulative effects may occur with the transformation process: i.e., it is possible to receive SSA aid for the supply of raw material that is used for the manufacturing of other products which benefit from AIEM differentials. However, an in-depth analysis of such cumulative effects is hampered by the lack of monitoring data.

➢ **THE POLICY PROBLEMS**

The issues described so far can be assigned to three main problem areas that, for analytical purposes, can be summarised as shown in Table 5.1 overleaf.

Table 5.1 – Summary of the policy problems

Policy problem	Problem drivers	Main consequences
Dysfunctions in the identification of supported productions	• Eligibility criteria not defined in the policy, causing the perception of subjectivity • Inadequacy of CN classification to define the policy scope, leading to implementation issues • Rigidity of the current legal framework regarding revisions and updates of product lists • The general and sectoral strategic dimension of the policy is not developed	• Mismatches between needs and support provided, due to the lack of flexibility • Issues with the scope and justification of the supported products • Implementation uncertainties
Dysfunctions in the establishment of the appropriate tax regime	• Lack of explicit connections between additional costs estimates and policy design • Rigidity of the current legal framework regarding revisions and updates of differentials • Global and sectoral assessment of handicaps and of compensation needs missing in the policy design	• Mismatches between needs and support provided, due to the lack of flexibility • Lack of verification of costs compensation extended to supported production • Risk of overcompensation from cumulating different lines of aid
Inefficiencies of the monitoring and impact evaluation system	• Mid-term reports which are not harmonised and not sufficiently informative • Global and sectoral assessment of handicaps and of compensation needs missing in the policy monitoring	• Little evidence of impact of the AIEM (e.g. on local production, retail price etc.) • Risk of overcompensation not detected

5.2 Policy scenarios

➢ **OVERVIEW**

With expiration of the terms of the current Council Decision set at the end of 2020, three main policy scenarios emerge for the way forward:

A. the ***'no change' scenario,*** which in this case does not correspond to 'do nothing', but rather to the continuation of the current special regime after 2020 without (significant) modification, as this is the closest scenario to the 'baseline' situation;
B. ***prolongation of the current system with revisions***, which may regard specific provisions of the policy as well as implementation arrangements;
C. the ***discontinuation*** of the current special regime, which coincides with the 'no-EU-Action scenario', since the regime is already set to expire. This scenario can be broken down into two main sub-options, namely: (i) replacing the discontinued regime with other EU support measures (of fiscal or non-fiscal nature); or (ii) 'do nothing' (no replacement).

Table 5.2 – Overview of the policy scenarios for the way forward

Overall Policy Scenarios		
A) 'No change' scenario	**B) Revision of current system**	**C) Discontinuation scenario**
Special regimes prolonged without changes (or minor amendments of lists)	Special regimes prolonged with modifications regarding, in particular: 1. Criteria for the identification of eligible products and updates 2. Revised mechanisms for the establishment of the maximum permitted differential 3. Revised duration and monitoring arrangements	Special regimes not prolonged. Sub-scenarios: • No replacement • Replacement with other EU support measures

5.2.1 The 'no change' scenario

In this context, the ***'no change' scenario*** consists of the renewal of the special regime without any significant modification. In this sense, this scenario corresponds with the baseline situation. For a general understanding of this scenario, it is useful to briefly recap the features of the current system that have been identified as possible sources of policy problems, and which would remain unchanged. These include, specifically:

- the identification of supported categories of products will continue to be based on positive lists included in Annex to the Council Decision, and defined with reference to CN/TARIC codes with granularity levels varying between 4-digit and 10-digit codes;
- the criteria for product eligibility will continue to be missing in the Decision;
- the supported products will continue to be subdivided in 4 different lists (in Annex to the Decision), with varying maximum permitted tax differentials;
- the additional costs affecting local production activities will continue to be estimated at industry/branch level and no official 'product *fiches*' will be prepared;
- the updating of product lists will continue to require a legal amendment of the Decision;
- the duration of the measure will continue to be 7 years, with one mid-term report envisaged for monitoring;
- no explicit monetary ceiling for the measure will be established in the fiscal policy (but the budget of the measure will continue to be indicated in the corresponding State aid Decision);
- the interplay between different schemes addressing ORs will not be the subject of systematic analysis, examining synergies as well as overlaps and potential risks of overcompensation.

These aspects represent the baseline against which the impacts of the possible policy options are assessed in Section 6.

5.2.2 Revision of the current system

The second scenario considered involves prolonging the current regime introducing a series of revisions to the policy and its implementation arrangements. Based on the problem analysis developed in the previous section, the proposed changes regard four main aspects, described in the following paragraphs. The proposed changes are not mutually exclusive and are technically independent of each other, although in some duly highlighted cases there are evident interconnections.

➢ **#1 - REVISION OF CRITERIA FOR THE IDENTIFICATION OF ELIGIBLE PRODUCTS AND UPDATES**

Rationale and objectives. The possible policy change presented here regards the mechanism for setting up and updating the lists of products supported through the AIEM tax differentials, and the related underlying principles and criteria. The policy problems addressed are the rigidity and the burden of the current mechanism for revising and updating such lists (problem driver 4 in Section 5.1) and the insufficient clarity in the principles and criteria used in the building up of the lists (problem driver 2). Less directly, the proposed revision would help overcome the possible uncertainties which come from defining the scope of the policy based on narrowly defined customs codes (CN8 or lower levels), without a broader strategic umbrella (problem driver 1).

The concrete objectives of this proposed revision are:

- to clarify at a higher level, and in line with the relevant development strategy, the sectors/branches of activity that should benefit from the measure, removing the risk of disruptions due to changes in the CN classification/definition[131];
- to simplify and reduce the burden for amending the list of products by the competent authorities;
- to enhance the transparency and the accountability of the beneficiary product selection process, clarifying its underlying principles and improving *modus operandi*.

Description of specific provisions. In practical terms, the proposed options consist of two distinct although related provisions:

a. Identification of beneficiary product at a higher classification level. This consists of identifying only the 'broad' categories of product (i.e., CN4 levels) in the Council Decision – which correspond to a large extent to specific production 'branches' - leaving to national competent authorities the tasks and the responsibility of selecting, within these broad categories, the specific products (CN8 or lower levels) which will actually be supported. This approach means that any change in the list of specific supported products could be made by the national authorities without a legal amendment of the Decision (or any other EU-level authorisation), if the specific product added to the list belongs to one of the approved broad categories. As most of the CN classification changes occur at a level lower than CN4, this provision would also facilitate adjusting lists as required by changes in classification.

   This option may involve also – as an additional, though not essential provision – explicit identification in the Decision of the sector/branches which are strategically addressed by the policy.

b. Adoption of operationally verifiable eligibility criteria. To counterbalance the greater flexibility introduced in the system and prevent the risk of its improper use, it is necessary to lay down in the Decision explicit principles for product selection and eligibility criteria, also taking into account other relevant EU policies. As discussed, the current AIEM policy is informed by the same criteria underpinning the French *Octroi de mer* regime for French ORs, but such criteria should be made explicit, objective and verifiable. In particular, the criterion of 'existence of a significant production' could be operationalised by setting a minimum market share threshold and/or a minimum of active players; while the criterion of 'existence of a significant imports possibly jeopardising local production' could be operationalised by setting, again, a trigger market-share level. The adoption of objectively-verifiable thresholds would respond to the need for transparency and accountability which emerged from field work interviews and which is required by EU rules.

[131] Including the possible changes in the interpretation of the CN classification following a modification of the CN Explanatory Notes (CNEN).

At the same time, it is important to maintain some room for flexibility to avoid that excessively strict application of these criteria causes undue disruption to certain productions that do not meet the criteria, but still legitimately require the support of the special regime. The following situations may constitute useful cases in point: (a) labour-intensive productions (or otherwise relevant for the quality/quantity of jobs); (b) productions which are strategic for the local development in other ways (such as those in the field of circular economy, leveraging biodiversity and environmental protection, or other innovative/high added-value productions); (c) productions subject to fluctuations (that might temporarily fall above or below the prescribed thresholds); (d) productions related to residual categories (i.e., the 'other' category present in any CN heading)[132]; (e) productions located in non-capital islands of the archipelago and/or in particularly disadvantaged areas, and other emerging needs (e.g. in relation to products required to address health crises). To extend such flexibility, there are two possible approaches:

(i) Indicate market share thresholds in the Decision, envisaging at the same time derogations for special and duly justified cases.
(ii) Not indicate market share thresholds in the Decision, but require competent authorities adopt them in their administrative acts, along with the criteria and conditions for derogations, in a transparent and verifiable manner.

Finally, the criteria for eligibility should also include the evidence of additional costs impacting on local products' competitiveness, and caused by Canarian structural handicaps. The proposed implementation method for this criterion is described in the following section.

Table 5.3 – Summary of the proposed changes concerning the identification of beneficiary products

Current situation		Proposed changes
Individual products specifically identified in the Decision (from CN4 to TARIC 10-digit codes)	→	Only 'broad' categories identified in the Decision (CN4 or the like). The individual products (CN8 or below) selected by MS within these categories. ***Optional***: Identification of the target sectors/branches in the policy
General criteria for product eligibility laid down in the policy	→	Operationally-verifiable criteria laid down in the policy, along with flexibility safeguards for special cases. Alternatives: • Market share lower/upper thresholds laid down in the policy, with possible derogations • Market share lower/upper thresholds laid down in the rules of procedures of competent authorities, as well as the conditions for derogations

Other options dropped at the interim stage. During the process of identification/selection of the policy options to retain for the impact analysis, the possibility of delegating the identification of the product list to a separate act of the Commission was also considered. This approach would have granted more flexibility and rapidity in the case of requests for policy amendment. At the same time, however, it would have placed on the Commission the responsibility for product assessment and selection – a responsibility that should instead belong to national competent authorities, for the very nature of the measure and of the underlying legal framework.

[132] MS sometimes include residual CN categories in the list of taxed products even when there is no significant local production (or clearly identifiable production), as a tool to prevent the risk they are used to import products circumventing the tax.

#2 - REVISION OF MECHANISMS FOR ESTABLISHING THE MAXIMUM PERMITTED DIFFERENTIAL

Rationale and objectives. This proposed option has a similar rationale and objectives as the previous one, but it is technically separate, and the two options can be adopted or dismissed independently from one another. This option responds again to the need for greater flexibility in establishing and modifying the extent of support provided to specific products (see problem driver 4 under Section 5.1); it addresses pragmatically the need for consistent additional costs estimates for specific product categories (problem driver 3); and contributes to filling a policy gap concerning the estimation of the total impact of structural constraints and of the appropriate 'compensation' due (problem driver 5).

The concrete objectives of this proposed revision are:

- to simplify and reduce the burden for modifying the tax treatment which is extended to the supported products;
- to underpin tax differentials by specific estimates of additional production costs;
- to clarify the extent of the compensation needs addressed by the policy, thus also facilitating the coordination and complementarity with other EU schemes which address the same constraints.

Description of specific provisions. The proposed revision consists of three interrelated measures (described below) that derive from a more fundamental change of approach in the policy design: from a paradigm where needs and compensation are assessed and established for individual products without a comprehensive framework of reference, to a paradigm where the policy is driven by an assessment of the constraints and needs of the ORs' economies, in the first place, and then of the relevant economic sectors and branches in the second, and where the estimated 'total compensation' (i.e., the value of the scheme) is determined while taking into account the other existing schemes.

a. <u>Establish one single maximum permitted differential.</u> At present, the products supported through the AIEM special regime are grouped in four distinct 'lists', each having a different 'maximum permitted differential'[133] specified in the Council Decision (art. 2). In particular, the 'maximum permitted differential' currently ranges from 5% (list A) to 10% (list B) to 15% (list C) and to 25% (list D). It is useful to recall that the 'maximum permitted differential' represents the upper ceiling and not the differential actually applied, which must remain below the maximum level prescribed. Segmentation into four lists and the ceilings applied to each of them are implementation arrangements established conventionally, i.e., there is no empirical reason to have four lists instead of e.g. three or five, for example, and the differentiate ceilings serve the only purpose of roughly segmenting products based on the extent of the 'compensation' needs'. However, as discussed in Section 5.1, such 'compensation needs' refer to additional costs estimates which are subject to a significant degree of approximation and whose link with the tax differential applies is not explicit.[134] The uncertainties affecting additional costs estimates combined with the freedom for authorities to set the 'actual differential' at any point below the 'permitted differential', makes the segmentation in separate lists of little use for the determination of the appropriate regime, and a potential factor of rigidity and

[133] The 'maximum permitted differential' is expressed as the difference, in percentage point, between the rate applied to products of external origin and the rate applied to local products.
[134] In this sense, there is no clear evidence explaining how certain products are placed in List A of the Council Decision, while others may benefit from a much higher differentials (e.g. the List D for tobacco products).

distortion in its implementation.[135] In other words, the system of segmentation between lists does not tangibly contribute to the matching of needs and support received, but only acts as a constraint limiting the upward revision of the actual differential applied.

Therefore, the resulting suggestions are to abandon the current system and to introduce a simplified mechanism based on one single 'maximum permitted differential', applicable to all CN8 products that competent authorities aim at supporting. As in the current system, the maximum permitted differential would represent the upper threshold to be respected when setting the actual applied rate. This option would allow a more flexible revision of the differential when the need for it arises. At the same time, it would not add uncertainties to a system that is already characterised by a certain degree of approximation. Considering that the current list D includes only one product (manufactured tobacco), which actually benefits from list C's permitted differential (15%), the proposal is to set the new single maximum permitted differential at 15% so as to include all the existing situations.

b. Introduction of a global reference value for the policy. The proposed enhanced flexibility in the implementation of the regime does not intend to lead to a change in the scope and intensity of its use. At present, the global value of the measure is not indicated in the fiscal policy, but is laid down in the corresponding State aid *fiche* in terms of estimated annual budget planned. The budget of the measure is conventionally calculated in terms of the 'foregone tax revenues', i.e., the tax not collected because of exemptions. Such an estimate – properly recalculated and adjusted – could be introduced in the fiscal policy as the global monetary value of reference to be respected in the implementation of the policy, to prevent a scale-up of compensation. In practice, the existence of such a ceiling would encourage competent authorities to allocate the (virtual) budget of the scheme across sectors/industries based on a thorough assessment of the respective need and, ideally, in the framework of a general strategic framework.

   The second utility of this provision is that of enabling of better matching between the total needs (expressed as Canarian aggregate additional costs) and the aid extended, taking into account also other EU programmes and schemes. In practice, it would become feasible to determine what share of the total additional costs caused by structural handicaps are compensated for by the AIEM special regime and what share by the other schemes and, as a consequence: (a) to improve coordination and synergies; (b) to prevent 'overcompensation' (at the 'macro' level); (c) to make more robust impact analyses possible. Depending on the breakdown of data collected under the various schemes, this type of analysis could be performed also at sectoral/branch level.

   As it is difficult to predict how local production and the market would evolve, the expected 'foregone tax revenues' cannot be estimated with a high degree of precision, therefore in setting the global reference value it will be important to maintain sufficient flexibility.

c. Estimate additional costs with reference to CN4 categories. Until present, the justification of tax differentials applied to individual products has not been underpinned by any product-level additional costs estimation. The available external studies on additional costs focussed on sector/branch-level aggregates with no apparent link to the actual tax treatment extended to individual products. In the perspective of a more flexible and transparent system, it would be appropriate to

[135] A few examples can be made: (1) if two products, of which one having estimated additional costs of 14% and the second of 10% are both placed under List B of AIEM and supported with the maximum differential permitted (10%), the second product will result compensated in full, while the first only in part; (2) if a product with additional costs of 11% is placed in list C and is supported with the maximum permitted differential (15%) there would be potentially an 'overcompensation' of 4%.

introduce additional costs estimates for individual product categories, so as to enable verifying the compliance of tax differentials with the additional costs eligibility criterion described previously. In line with the proposed switch to CN4-based identification of product categories eligible for support, additional costs estimates should also refer to CN4-level categories.[136] This option does not require any major change in the approach and/or methodology currently in place for estimating additional costs in the Canary Islands, so extra burden would be limited. At the same time, the revised system would significantly improve the monitoring of the special regime's proportionality.

Table 5.4 – Summary of the proposed changes concerning the establishment of differentials

Current situation		Proposed changes
Some 4 lists of products with different maximum permitted tax differentials	➡	One single list with one maximum permitted differential applicable to all products ('one list').
No global ceiling established in the fiscal policy	➡	Introduce a global reference value ceiling (in terms of 'foregone revenues'), with due flexibility to cope with unexpected market evolution.
Additional costs estimated at sectoral/branch level with no clear link to the differentials applied.	➡	In connection with the existing approach, to carry out additional costs estimation at CN4 level, and use it to justify the tax differentials applied.

Other options dropped at the interim stage. Another option which was considered initially aimed at harmonising the additional costs assessment to the system applied in French ORs for the *Octroi de mer*: i.e., the elaboration of detailed CN8-level product *fiches*. To mitigate the associated additional burden, the option envisaged that for small differentials (e.g. 5%) no product *fiche* was required, on the assumption of negligible risk of competitive distortion be associated with such small tax differential. The option was dropped, however, for two main reasons: (a) the intrinsic limitations in CN8-level estimation emerged from analysis of the French *Octroi de mer*; (b) EU rules would in any case require justifying the special tax treatment with reference to demonstrated needs.

➢ #3 - Revised duration and monitoring arrangements

Rationale and objectives. This proposed option primarily concerns revisions of the monitoring and evaluation (M&E) arrangements in force for the AIEM special regime, with a view to addressing the gaps and weaknesses highlighted under problem driver 6 (Section 5.1). The proposal is also connected to the lack of clear appreciation of the perennial and structural nature of the issues addressed by the special regime in the policy (problem driver 5). In practice, the objectives of the proposed revision are:

- to enhance the utility and effectiveness of monitoring and evaluation activities,
- to reduce the burden of unnecessarily frequent re-assessment and renewal of the policy.

Description of specific provisions. The proposed option is composed of three interconnected measures, described below.

[136] Parallel analysis of the French *Octroi de mer* regime (Part 2 of the Report) revealed that CN8-level (CN8) additional costs estimates are not very efficient, since the significant effort required to carry out estimation at this level of detail is not accompanied by a significantly higher degree of precision and reliability. For this reason, the recommendation is to conduct additional costs assessments at CN4 level.

a. Extended duration of the policy. The constraints addressed by the special regime - as well as by the other aid measures for ORs adopted with reference to Art. 349 TFEU – are of permanent and structural nature. Their characteristics and severity for local private sector do certainly evolve, but they cannot be eradicated, so unlike the typical 'development' instruments that can be phased out once their objective is reached, the need for support of local production activities is going to be perpetual. In this sense, there is room to extend the duration of the policy from the current 7 years to a longer period of e.g. 10 years, for example, thus reducing the frequency and the burden of re-assessment and renewal of the policy.

   This option would be beneficial, though, only in the event the abovementioned options for introducing greater flexibility in the system are implemented. In fact, allowing the competent authorities to adapt the scheme more flexibly to the evolving local needs and markets would limit the need for periodic revisions of the overall EU legal framework to update product lists.

b. Revision of monitoring and evaluation system - periodicity. The extension of the policy duration described under point (a) and the greater flexibility discussed earlier may invite a fine-tuning of the current periodicity of the monitoring system. Two sub-options can be envisaged in this respect:

   (i) The introduction of a 'two-tiered system' to address, at the same time, the need for more frequent updates of the basic monitoring data and the need to avoid unnecessary additional burdens for the competent authorities. Such a system would envisage:

   - a frequent – yearly or biennial - 'light' notification of basic monitoring data, dealing essentially with the list of supported products and the tax differentials applied and – in the case of new products – the evidence related to the eligibility criteria, in order to make their verification possible;
   - a periodic – e.g. every 5 years - in-depth impact analysis concerning the effects of the regime on production activities, market structure, trade flows, price levels, and employment, as well as on public budget. The impact analysis should provide, inter alia, the evidence required to revise the CN4 categories eligible for support in the Decision, the 'single' maximum permitted differential, and the global reference value of the policy.

   (ii) In the event the duration of the policy remains of 7 years, the 'two-tiered system' might not be necessary, but the need to better align the monitoring and evaluation activities to the timeframe of the policy cycle would remain. In this sense the timing of the mid-term report - already envisaged in the current system – could be moved to Y+5 (where 'Y' stands for the start year of the policy), to enhance its utility for the next policy renewal. This would also ensure that the evidence needed to carry out a thorough impact analysis of the policy is available, as data and statistics are generally collected and made available with a 2-4 years of *decalage*.

c. Revision of monitoring and evaluation system – harmonised indicators. To enhance their information value, the outputs of monitoring and impact evaluation activities should be harmonised across ORs with respect to structure and contents. This can be obtained through the adoption of a common list of agreed indicators. In practice, the proposal is to add a harmonised list of indicators/information requirements to the current reporting obligation as established by the Council Decision. As there are disparities in the statistical systems and data collection arrangements across the ORs, it is important to allow some room for manoeuvre in the specifications of the indicators, to permit national authorities to exploit as much as possible the information that is already part of their statistical exercises and avoid unnecessary duplications. Moreover, it should be acknowledged that certain data cannot be estimated with a high degree of precision.

The monitoring indicators that may be part of the harmonised inventory can be grouped in five headings as shown in Box 5.1 below (more details in Annex B).

Box 5.1 – Standard indicators for the revised monitoring system

1. Specifications of the regime:

(i) List of products subject to differentiated tax regime (CN8, and *caveats*[137])
(ii) Tax rates applied on imports ('external rate')
(iii) Tax rates applied on local production ('internal rate')
(iv) Tax differential applied

2. Compliance with eligibility criteria:

(i) Value and volume of local production
(ii) Value and volume of imports
(iii) Market share of local products
(iv) Estimated additional production costs by input factor

3. Impact on public budget:

(i) Foregone tax revenues
(ii) Tax receipts (imports)
(iii) Tax receipts (local production)
(iv) Repartition of tax revenues

4. Aid intensity:

(i) Regional aggregate additional costs
(ii) Share of additional costs compensated by tax regimes
(iii) Share of additional costs compensated by other measures

5) Impact on economic performance:

(i) Regional GDP growth
(ii) Employment data
(iii) Enterprise demography
(iv) Price level indices
(v) External trade in the geographic regions (import/export)

[137] In line with current practices, the possible *caveats* are: (1) selecting supported products with higher detail, i.e., 10-digit TARIC codes or ad hoc definitions; (2) excluding certain products from the special regime (via, again, TARIC or ad hoc definitions).

Table 5.5 – Summary of the proposed changes concerning the duration and the monitoring and evaluation system

Current situation		Proposed changes
Current duration of 7 years	→	Duration extended to 10 years (taking into account the permanent nature of the handicaps addressed)
M&E based on mid-term reports	→	Revised periodicity of the reporting. Alternatives: • A two-tiered system involving: (1) more frequent 'light' notification of basic monitoring data (in tabular form), and (2) less frequent in-depth impact analysis • Current system, with the timing of mid-term report moved to Y+5
Monitoring reports carried out with heterogeneous approaches	→	Revised M&E system, based on standardised indicators laid down in annex to the Decision

5.2.3 The 'discontinuation' scenario

Among the 'change scenarios' the most radical is the ***discontinuation of the current special regime***, which de facto corresponds to the 'No EU Action', since the EU policy is already set to expire in 2020 and lack of intervention would automatically lead to its termination. It is important to mention at the outset that this scenario is being considered primarily for the sake of the analysis' comprehensiveness. In fact, none of the policy problems examined in Section 5.1 is so severe as to require complete abandonment of the system. At the same time, Spain has already expressed the intention to renew the regime, therefore, the scenario of discontinuation requested by the Member State can be safely ruled out.

This scenario would not necessarily entail the complete withdrawal of the AIEM regime by Spanish authorities, but the current tax advantages for local productions would no longer be permitted. In other words, the regime could be maintained in the national legislation for budgetary or other policy purposes, but it would no longer support the competitiveness of local production. In this respect, two further theoretical sub-options may emerge: (i) replacing the discontinued regime with other support measures for local producers (of fiscal or non-fiscal nature); or (ii) 'do nothing', i.e., tax differentials would no longer be permitted, and no alternative measure would be adopted.

1) ***Replacement with other EU measures***. The first sub-option consists of replacing support to local production competitiveness extended through the AIEM regime with another EU measure to the same effect. This approach can be further specified considering two main aspects: (a) the fiscal or non-fiscal nature of the replacement measure; and (b) the type of funding envisaged. In fact, the current AIEM regime is a fiscal measure entailing no expenditure of EU funds, and replacing it with a different kind of measure is not a suitable option for two main reasons:

- Replacing the current regime with a non-fiscal equivalent measure would entail de facto extending support through one of the existing EU schemes for the ORs (i.e., the regional development policies and/or the other schemes mapped out in Section 4.1 and Annex D), increasing the allocations and possibly creating ad hoc lines for additional costs compensation (to ensure the equivalence of the effects with the current regimes). This would have implications for both EU-level policy design and for specific programming and aid implementation. Responsibility for it would fall outside the remit of the Commission's fiscal services and would involve the other line services responsible for the regional development and cohesion policy. Early discussion held with the Commission on this scenario clarified its excessive complexity and poor feasibility, it is therefore dropped from this analysis.

- Currently, the estimated budget for the AIEM special regime (measured in terms of non-collected taxes) according to the corresponding State aid fiche amounts to EUR 80 million/year.[138] At present, the measure is implemented at no cost for the EU budget as it consists of 'non-collected' taxes. Replacing it with an expenditure scheme of equivalent impact, would therefore require additional monetary transfers of up to EUR 560 million for the next EU programming period (2021-27). This is unrealistic in the current context and this option is therefore discarded.

Based on the above considerations, the only practicable approach would be to replace the current regime with another fiscal measure implying no direct expenditure for the EU budget. However, this approach also faces a major difficulty, that is the fact that – as shown in the aid map provided in Annex D – Canarian enterprises already benefit from several other fiscal advantages (in the form of regional State aid), which leave practically no room for other schemes.

2) ***No replacement.*** The 'do nothing' scenario entails that the current EU Decision for the AIEM not be renewed after its expiration in 2020, and not be replaced by other EU support mechanisms. This would lead to the removal of the tax differential system based on the origin of products, although – as seen - not necessarily to the withdrawal of the AIEM as a 'budgetary' measure.

From an analytical perspective, this scenario coincides with the 'counterfactual' scenario for the EU policy, i.e., the estimated hypothetical situation in the Canary Islands without the support of the special regime. As was shown in Section 4.4 and 4.5 of this Report – i.e., the evaluation of EU added-value and efficiency of the policy – the estimated impact of the measure is globally positive, so its plain withdrawal would predictably not lead to an improvement but rather to a worsening of the current situation. On this basis, the discontinuation scenario does not qualify as a valid option to address the policy problems identified and, more generally, as a realistic scenario for the way forward. An analysis of its possible impact is nonetheless conducted in Section 6.3.4 below, for the main purpose of establishing a comparative benchmark to assess the other options under consideration.

5.2.4 The underlying logic of proposed options

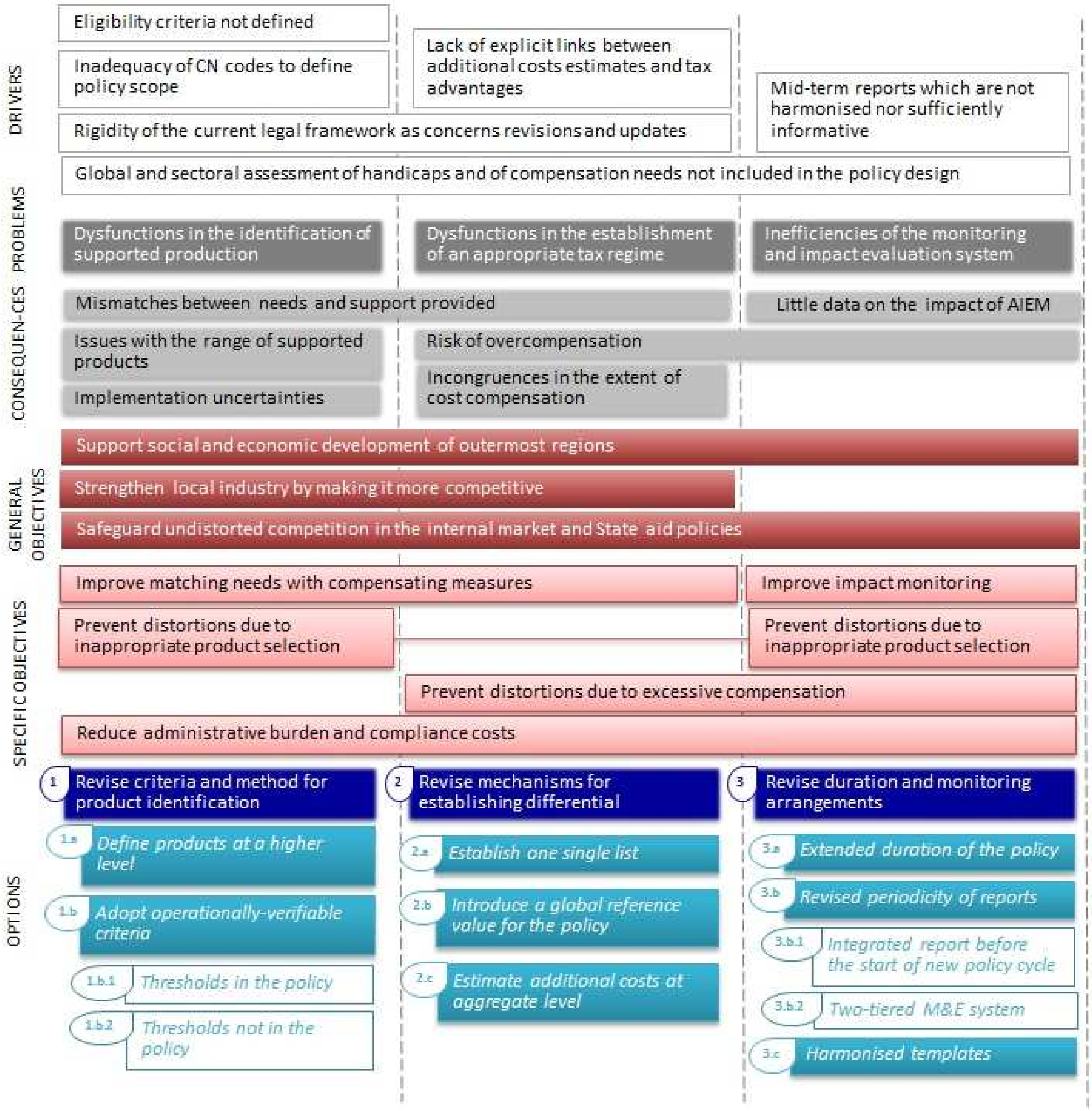
To conclude this section, it can be useful to recapitulate and illustrate, with the help of a logic diagram, how the proposed options for change connect to the identified policy problems and drivers, and what the general and specific objectives they pursue are. Figure 5.1 below is structured around the correspondence between the three main ***policy problems*** and ***proposed options*** identified here, which concern specifically:

- identification and selection of products which benefit from the special regime;
- methods for estimating additional costs and the extent of the differentials; and
- monitoring and evaluation arrangements.

For each policy problem the underlying ***drivers*** described in Section 5.1 are mentioned. An indication of the negative ***consequences*** expected from the problem is also provided. The policy options are broken down into specific measures and – where relevant – alternative approaches, as detailed in this section (5.2). The ***specific and the general policy objectives*** pursued are also made explicit.

[138] SA.40255 (2014/X) - HAC - Arbitrio sobre importaciones y entregas de mercancías en las Islas Canarias.

Figure 5.1 – The underlying logic of proposed options



6. IMPACT ANALYSIS

6.1 The impact analysis framework

The policy scenarios described in Section 5 can have different types of impact which are examined in this section, making reference to the classification of impact areas put forward in the *Better Regulation.*[139] Before proceeding with the detailed analysis, a few general considerations can be made on the types of impact that are relevant for the Study. In particular, and with reference to the four main headings of *Better Regulation,* these are:

- ***Economic impacts***. This is, by definition, the macro-area where the most relevant impacts are expected. More specifically, the impact of special tax regimes can be detected at the micro-economic (enterprise) level as well as at market level. In the first case, analysis of the policy's intervention logic suggests direct effects on operating costs and enterprise competitiveness (in particular MSME). In the second case, it can be assumed that the policy influences the structure of competition and trade in OR markets. At the same time, the special tax regime has an impact on public budgets through the tax receipts collected and not collected because of exemptions. Of particular relevance for the type of options proposed are also the possible administrative and enforcement costs of the policy. Ultimately, the special tax regime can contribute to the macro-economic situation of the region, i.e., the regional GDP and value-added, trade flows, price levels, etc. However, the specific contribution of the special tax regime in this respect can hardly be disentangled from the impact of the several other EU polices and measures in support of the ORs' economy.
- ***Social impacts***. By revising the attribution of responsibilities in the implementation of the policy, and enhancing monitoring and transparency, the proposed options would touch upon 'governance' impact areas, which in the *Better Regulation* scheme falls under the 'social impacts'. Furthermore, one of the main underlying justifications of the policy is the generalised need of ORs to create and sustain employment opportunities, reducing dependence on imports and incentivising more labour-intensive production activities. Apart from this, there are no other relevant social impacts connected to the special regime, although some of the 'economic impacts' described above can have social repercussions (e.g., the effects on the inflation rate on the purchasing power of residents).
- ***Environmental impacts.*** The environmental impacts which could be associated with the policy are indirect and non-specific. 'Indirect' because they do not derive from the policy as such, but from the economic activities that are eventually supported by the policy – whose environmental impact depends on the production processes, the embedded technology, and the value-chain integration at the local level (i.e., the 'circular economy' development). In second place, it is 'non-specific' because the policy may, in principle, support almost any type of relevant local production activity. The selection of beneficiary products is made by local competent authorities based on needs (the additional costs) and importance for the local economy (value added, job creation etc.) while there is no sectoral focus in the policy. In this sense, whether the OR authorities decide to support waste recycling activities or fisheries or activities that require a certain type of land use, etc. does have consequences for the local environment, but as this decision is not influenced by the underlying objectives and targets of the EU policy, this category of impacts remains outside the scope of the analysis carried out in this section.
- ***Fundamental rights***. This category of impacts listed in *Better Regulation* did not seem relevant for the subject matter and has been discarded at an early stage.

[139] See Better Regulation Toolbox. Chapter III; see also Cf. Commission Staff Working Document, Better Regulation Guidelines, SWD(2015)111, 19.5.2015.

A more detailed map of the identified seven relevant ***impact areas*** is provided in Table 6.1 below. The analytical importance of individual impact areas depends on the policy option considered so - as shown in Table 6.1 - certain impacts can be, in principle, very relevant for one option and irrelevant for another. The options are numbered in accordance with the structure provided in the previous Table 5.2, that is:

- B1) – revision of criteria for the identification of eligible products and updates
- B2) – revision of mechanisms for setting the permitted differential
- B3) – revised policy duration and monitoring arrangements
- C) – policy discontinuation.

Table 6.1 – Overview of the impact areas which are relevant for the different policy change scenarios proposed

Impact Areas	**Brief overview**	**Relevance for options**			
		B1	**B2**	**B3**	**C**
Impact on public budget	*The special tax regime is at the same time a source of tax receipts for local authorities and a cause of 'foregone' revenues, due to the exemptions extended to certain products. Any revision should consider the impact in this area.*	*	*	-	*
Governance and good administration	*The introduction of greater flexibility and simplification implies a change in policy governance. Similarly, the adoption of clearer and more transparent rules in policy design and implementation and an enhanced monitoring system may improve its administration.*	*	*	*	-
Regulatory costs and savings for public authorities	*The proposed changes regard first and foremost policy design and implementation, with a view to making it more flexible and, at the same time more effective. The expected impacts regard both MS and EU levels. The options do not regard everyday administration.*	*	*	*	-
Regulatory costs and savings for enterprises	*Namely the administrative costs for firms due to dealing with obligations imposed by the tax, including classification issues, as well as the additional costs estimation exercises.*	*	*	-	-
Operating costs and competitiveness of business	*The policy addresses, by design, local producers' operating costs which mitigate their negative effects on competitiveness by raising the costs of competing imports. This may have consequences on the development of local businesses and their market share.*	*	*	-	*
Functioning of the market and competition	*By design, the policy has an impact on competition, which has to be proportionate and not distortive. The aspects to be considered regard the appropriateness of the 'compensation', the conditions for competition, and consumer welfare.*	*	*	*	*
Macroeconomic impacts on growth and employment	*Ultimately, the policy may contribute to economic growth and job creation/maintenance in the target sectors.*	*	-	-	*

***Legend**: (*) relevant area; (-) limited/no relevance.*
***Notes:** Policy scenario A "no change" is not displayed as it implies (by definition) no modification of the status quo. The "no change" scenario is the baseline of reference for the assessment of impacts of the various 'change' scenarios.*

6.2 Stakeholders' attitude towards policy scenarios

This section summarises the stakeholders' views and positions regarding the future of the special regime, as collected through the enterprise surveys and field interviews. The analysis regards two main aspects: (a) the general attitude toward the renewal of the regime; and (b) possible revisions of the policy that are required. The stakeholders' opinion is not a formal element of impact analysis, however, it is a useful predictor of how the proposed policy changes may be received by the impacted groups (beneficiaries and 'taxpayers'), and of the unintended effects that might emerge.

➢ GENERAL ATTITUDE TOWARDS REGIME RENEWAL

The stakeholders' general attitude towards the renewal of the AIEM regime is characterised by a strong polarisation of views based on the type of business and on the different effects of the AIEM on its activities. As expected, respondents engaged in production activities - i.e. the typical beneficiaries of the special regime - are generally in favour of renewal of the policy (95%), although for the majority of them (75%) some changes of the current arrangements are necessary. Similar patterns can be found across the islands, with enterprises having establishments on non-capital islands even more in favour (98%) of renewing the policy. Not all producers surveyed actually benefit from the AIEM regime and among non-beneficiaries the rate of support to the policy is somehow lower, i.e. 85%.

Conversely, the majority (70%) of businesses from other sectors (i.e., not engaged in production activities), would be in favour of a discontinuation of the current policy, with the relative majority of respondents (37%) rejecting also its replacement with other forms of support for local production activities. This outcome is not surprising considering that all other types of business are directly or indirectly affected by the AIEM. Interestingly, opponents are more frequent in the tourism sector (87%), than in the trade sector. This result confirms an argument frequently raised during field interviews, i.e., a main problem of the AIEM is that it increases the cost of 'inputs' for which there is no or insufficient (in terms of quantity or quality) local production.

A further segmentation of the two main groups by firm size reveals similar patterns: with medium-large enterprises in both groups being relatively more in favour of keeping the *status quo* or replacing the AIEM with other forms of support, while micro-small enterprises in both groups being more supportive of revising the regime or dropping it altogether.

Table 6.2 – Stakeholders' attitude towards the renewal of the AIEM regime

Scenarios	Total	Non producers	*micro-small*	*medium-large*	Producers	*micro-small*	*medium-large*
Renew the Decision without major changes	**16%**	**6%**	*5%*	*7%*	**22%**	*20%*	*26%*
Renew the Decision, introducing some revisions	**55%**	**24%**	*26%*	*19%*	**73%**	*75%*	*70%*
Not renew the Decision, and introduce alternative support mechanisms	**14%**	**33%**	*26%*	*41%*	**3%**	*2%*	*5%*
Not renew the Decision	**15%**	**37%**	*42%*	*33%*	**2%**	*3%*	*0%*

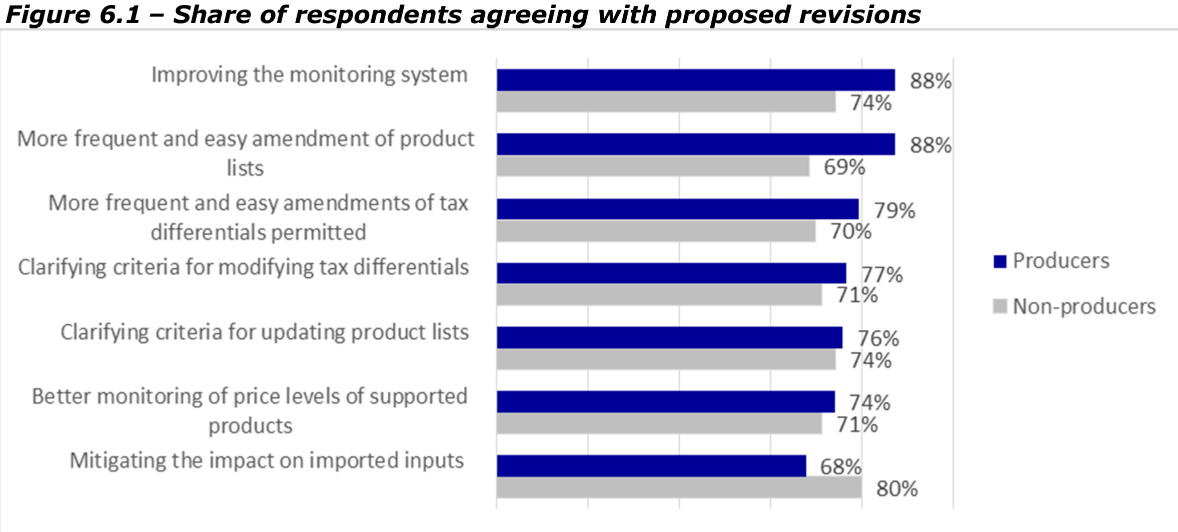
Source: *Business survey.*
Notes: *Based on 182 replies (excluding 'don't know answers). Micro-small enterprises have up to 49 employees, medium-large enterprises have 50 employees or more.*

➢ STAKEHOLDERS' VIEWS ON WHICH POLICY REVISIONS ARE NECESSARY

The enterprise survey also investigated the respondents' positions on the possible areas for change deemed to be necessary. As the survey was launched well before finalisation of the policy options, the questions posed in it do not coincide fully with them, but can still provide useful indications on the stakeholders' orientations regarding the main issues at stake. Figure 6.1 below illustrates the percentage of respondents fully or partly agreeing with a set of proposed areas for revision of the policy, distinguishing between enterprises engaged in production activities (including for non-supported products) and all other sectors. The salient results can be summarised as follows:

- Most of the proposed revisions were ***reviewed positively*** by the majority of respondents, irrespective of the nature of the business. The 'producers' group generally expressed more favourable feedbacks but for most options only limited differences are registered.
- Producers are more markedly interested in improving the ***flexibility*** of the system, permitting more frequent and easier modifications to the supported products list and to tax differentials. Regarding this option, various enterprises specified that this flexibility should indeed enable better alignment with evolving needs, but it should not translate into excessively frequent rate changes, which would undermine market stability and predictability.
- Conversely, non-producers appear particularly interested in measures mitigating the impact of the AIEM on ***imported production inputs*** (raw materials, supplies etc.). At present, there is no mechanism to deduct the AIEM paid on such inputs and in certain sectors (e.g. tourism) this is viewed as the main critical aspect of the special regime. Notably, the issue is remarked – although less frequently – also by the majority of producers. The consensus with this option increases with firm-size in both groups.
- There is large consensus from both groups (and especially among producers) on the need to improve the ***monitoring system*** on the whole and for ***price levels*** specifically. For certain producers it is important to include a monitoring of import prices to prevent the practice of declaring artificially low prices.
- There is substantial and cross-cutting agreement also on the need for more transparent and clear ***criteria*** for both selecting the supported products and establishing the applicable rates. From the perspective of non-producers, improved and transparent criteria should ensure that products for which there is no local production are excluded from the special regime.
- Additional suggestions were occasionally raised by stakeholders: (a) to increase efforts to address the issue of incorrect coding for tax circumvention; (b) to exclude freight costs from the tax base of imported products; and (c) to consider mechanism to ensure benefits are extended primarily to small companies.

Figure 6.1 – Share of respondents agreeing with proposed revisions



Source: *Business survey.*
Notes: *Based on 182 replies. For the full text of the questions see Annex A.*

6.3 Expected impacts of the proposed options

This Section examines the expected impacts of the proposed policy options listed in Section 5.2.2 above. For consistency, the nature of impacts taken into consideration refers to the 'impact area' preliminarily identified in Table 6.1 above. Impacts are analysed in comparative terms, i.e., against the baseline scenario (Option A – 'no change'), clarifying if and how the expected change would depart from the current situation.

The proposed options for change concerns primarily procedural and governance aspects of the policy, so most of the impacts examined are of a qualitative nature. Nonetheless, in some cases, a quantification of the effects has been attempted – especially for the expected regulatory burden and savings - taking the current or the past situation as benchmarks. With the exception of the 'discontinuation' scenario, ***the examined options do not intend to alter the current scope or intensity of the special regime***, as these decisions fall in remit of national competent authorities. Rather, they aim at improving the mechanisms for implementation and monitoring of the policy so as to make them more flexible, fair, robust and consistent. Any possible impact which concerns specific products or sectors should be intended as the result of national authorities' decisions and not as a direct consequence of the proposed options.

6.3.1 Option B1 – On the identification of eligible products

The policy options discussed in this section are those described in detail under point #1 of Section 5.2.2 above; for easier reference they have been coded as follows:

- **B1a** – Identification of beneficiary product at a higher classification level
- **B1b** – Adoption of verifiable eligibility criteria

➢ **B1a - IDENTIFICATION OF BENEFICIARY PRODUCTS AT A HIGHER CLASSIFICATION LEVEL**

As described in Section 5.2.2, the proposed option envisages a shift in the method used for the identification of the products supported through the special tax regime, namely from the current approach where each specific product is explicitly identified in the Decision (based on a coding ranging from CN4 to TARIC10) to a system where the Decision indicates only the eligible product categories (CN4) while specific products (CN8 or higher) are detailed by national authorities in their legal and administrative frameworks.

The proposed option would respond to one of the main requests for change expressed by competent authorities and private sector stakeholders, which is to allow ***more flexible modification and updating of product lists*** since, at present, any change would require a legal amendment of the Council Decision. It is important to underline that, in spite of being formally sanctioned in the EU policy, the product lists are already composed through a bottom-up approach, where the local productions deserving support are identified by the competent national authorities, presented to the Commission, and eventually included in Annex to the Decision. In this process, the evidence justifying support for a specific product remains based on competent authorities' assessment with the data provided by sectoral stakeholders. Scrutiny conducted at the EU level regards the completeness of the information provided and compliance with formal requirements, but no cross-check or verification of the data estimates on e.g. market shares etc. can be carried out at this level. In other words, the correctness of the justification provided remains, implicitly, under the applicant authority's responsibility. The proposed option would make such a division of responsibility more explicit, maintaining overall supervision of the policy and its underlying principles and conditions at the EU level, and delegating the policy decision on product lists to the competent national authorities.

This reform of policy governance would be in line with the subsidiarity principle, but in order to produce benefits and prevent distortions at the local level it is important to establish ***clear, verifiable rules and implementing procedures*** for the revision of lists. Regarding the EU policy, the proposed revision of product eligibility criteria is discussed under *option B1b* below. In addition, the competent authorities may adopt specific rules of procedure to cope with pressures from economic operators which might follow the introduction of greater flexibility in the management of lists. Such measures may include, for instance, stakeholder discussion platforms, specific time windows for list revision, additional criteria for the eligibility of products, clear and transparent principles for derogations and special cases. It is not in the scope of this Study to suggest local-level administrative procedures, still it seems useful to remark that in the Canary Islands - as well as in the French ORs applying the *Octroi de mer* regime - efficient mechanisms for managing the private sector's demands are already in place and could be effectively leveraged for the proposed revised approach.

The implementation flexibility introduced by the proposed option would ***not affect the legal certainty*** because the permitted product categories would continue to be identified explicitly in the Decision. In this respect, it should be noted that the identification of target products by means of CN4 codes has been practiced since the adoption of the special regime in 2002 and can therefore be deemed compliant with CJEU jurisprudence, which – with reference to the French *Octroi de mer* regime - required exempted products to be '*precisely determined*'.[140] Actually, the proposed revision may even allow a more precise identification of supported products since – as opposed to the current system - it envisages that MS authorities clearly indicate which of the CN8 products - within an approved CN8 category - would actually benefit from the tax differential and which not.

To further underline the proposed paradigm shift, it could be appropriate to present the eligible CN4 categories in the Decision as structured ***in accordance with the relevant economic sector*** (in accordance with NACE nomenclature[141]). This optional feature would have no practical effect, but could help clarify the sectoral strategy underpinning the policy and its effects on sector developments. A concrete example of the possible modified lay-out of product lists in the Decision is provided in Table 6.3 below.

Table 6.3 – Example of revised product list lay out in the Decision

A) Current lay-out	B) Proposed revision
Food industry: […] 0210 11 11 00; 0210 11 31 00; 0210 12 11 00; 0210 12 19 00; 0210 19 40 00; 0210 19 81 […] 1601 […]	Meat and poultry meat products (NACE 10.13) **CN codes**: 0210; 1601

Notes: *the codes in panel A cover both List A and List B of Decision 377/2014.*

One of the most tangible impacts of the proposed option consists of the ***removal of the regulatory burden*** associated with product list amendments. Actually, in the case of the AIEM, the product list was revised only once, at the end of the first policy period (2014). No interim amendment of the Decision was ever adopted, as was the case with the French *Octroi de mer* Decision. So, no additional burden for list amendment was actually registered by Canarian authorities. However, the complexity and the burden of the amendment procedure may have deterred competent authorities from demanding an interim update of product lists so, indirectly, this issue may have hampered keeping the policy in line with the evolving needs of the local economy. A possible confirmation

[140] CJEU, ORDER OF 7. 7. 1998 — JOINED CASES C-405/96, C-406/96, C-407/96 AND C-408/96.
[141] As applied by the Spanish national statistical office - INE.

of this assumption can be found by examining the draft list of revisions that are considered by local authorities for the next policy period (see Table 6.4 below).[142] The magnitude of the revision is significant, with 55 new products to be introduced, i.e., an increase of about 40% in the current number of supported products. For comparison, the 2019 amendment of the French *Octroi de mer* regarded some 15% of product lists.[143] The magnitude of the revision can be explained by the fact that - unlike the *Octroi de mer* lists - the list of AIEM products has not been amended since 2014 and the requests for change may have piled-up.

Were the proposed option already in place, for about ***one-third of products*** to be introduced in the list a policy amendment would not be necessary, as they already belong to an approved CN4 category. This figure provides a rough proxy of the burden that can be potentially saved with the proposed more flexible approach to updates. In reality, costs saving could be even greater taking into account that, according to the proposed option, competent authorities may lawfully require including in the EU Decision certain CN4 categories for which it is foreseen a future development of local production is foreseen (58% of products falling into new CN4 categories actually belong to NACE sectors already covered by the AIEM). There is no risk of undesirable side-effects: if such development does not happen, no specific CN8 products could be supported, and pre-approval of the corresponding CN4 category would have no tangible effect.

Some ***reduction of the private sector's regulatory burden*** is also envisaged, but on a smaller scale. These benefits would concern more timely resolution of any issue deriving from the periodic revision of the HS/CN customs classification. For a rough understanding of the magnitude of benefits, it should be considered that 37% of the enterprises surveyed reported a change of CN code for at least one of the AIEM products in their portfolio, and for nearly 20% of respondents the time spent on identifying the correct coding is a source of 'major burden'.

Table 6.4 – Review of possible product list revisions in the pipeline for the next policy period

	TOT	In %
Possible new products (based on CN codes)	**55**	***100%***
- CN4	18	*33%*
- CN6	10	*18%*
- CN8	2	*4%*
- TARIC10	25	*45%*
Belonging to an already approved CN4 category (including legacy Decision)	**17**	***31%***
Belonging to an entirely new CN4 category	**38**	***69%***

Source: *Own processing of draft information provided by the competent authorities.*

The ***budgetary effects*** of the proposed option are ambivalent. As discussed, in the AIEM regime the tax differential normally coincides with the external rate (i.e., the AIEM rate on import), as the internal rate (applied to local production) is typically 0%.[144] From the tax revenue perspective, the introduction of new products would theoretically imply a reduction of receipts, however:

(i) a tax differential is normally introduced by applying a positive rate on imports, while maintaining a zero rate on local products, so an increase in revenue from newly taxed imports can be expected;
(ii) the production level of new products is generally low at the time of their introduction in the list, so the associated revenue losses are expected to be limited.

[142] Based on draft information collected from competent authorities, reported here only for scenario simulation purposes.
[143] Some 24 products out of 162, of which 11 reintroduced after a temporary exclusion due to procedural reasons.
[144] Except for a few products for which, at any rate, there is no tax differential in place.

The enhanced flexibility described above would extend to the removal of products from the list. As products are typically removed when local production levels are no longer relevant, the prevailing effect on revenue would be negative, and determined by the removal of the external rates applied to imports.

For the concerned products, the advantage of greater flexibility is clear and direct: timelier adoption of the special regime, and therefore an ***enhanced impact on competitiveness*** and, possibly, growth. More specifically, compared to the current situation, new products might have access to special treatment a few years before the next policy renewal (up to 7 years). Assuming local enterprises would schedule the launch of new production activities taking into consideration the entry in force of the special regime, the proposed option might reduce the time-to-market of new products by 3-4 years, on average. Similarly, competent authorities would also be able to ***remove from the list products which are no longer relevant*** sooner, but no tangible impact is expected in this respect as currently authorities may, at any moment, set the AIEM rate and/or the differential at 0% for products that no longer require support.

The general ***functioning of the market*** would also benefit, in principle, from more timely and flexible updates of product lists. In particular:

- facilitating the development of new productions would contribute to the diversification of the local economy,
- where this translates into greater market competition, an improvement of consumer welfare is assumed.

These impacts should not be overemphasised, though, because – as discussed earlier - ORs markets are far from being competitive and the conditions for competition continue to be heavily influenced by their structural features, i.e., primarily small size and distance from the mainland. Furthermore, it should be kept in mind that any increase in external rates to support new local production can have repercussions on price levels. Finally, and in line with the concern expressed by various economic operators, it is important for the proper functioning of the market that the greater flexibility not be accompanied by an excessive frequency of change, as the stability and predictability of the regime is essential for firm's mid-term strategy and investment plans.

Whether the abovementioned benefits would lead to tangible ***macro-impacts***, such as on the growth of industrial value-added or employment is difficult to say, but based on the results of the retrospective evaluation it seems unlikely. The proposed option would regard only a small fraction of the supported products and with low-magnitude effects, still it can occasionally lead to non-negligible sectoral impact, especially in emerging economic sectors for which there are currently no activities in the Canary Islands.

Table 6.5 – Summary and rating of option B1a's expected impacts

Impact area	Impact	Subject	Rating and magnitude	Notes
Governance and good administration	***Improved alignment with needs***, through enhanced subsidiarity in the policy update process	EU / MS authorities	**+2**	assuming MS authorities put in place appropriate arrangements
Regulatory costs and savings for public authorities	***Reduced burden*** (theoretical) for the legal amendment of the Decision regarding product lists (at least by one-third)	EU / MS authorities	**+2**	possible increased pressure on local authorities
Budgetary effects	***Ambivalent,*** depending on the internal and external rates established	MS authorities	**+1/-1**	
Functioning of the market and competition	***Improved functioning*** of the market thanks to the possibility of quicker reaction to evolving conditions	All economic operators	**+1**	assuming the frequency of changes remains low
Operating costs/ competitiveness of business	***Enhanced support*** for emerging production activities, reducing time-to-market by 3-4 years	Beneficiary firms	**+1/+2**	greater magnitude (+2) for the specific products concerned
Regulatory costs and savings for enterprises	***Reduced burden*** linked to classification uncertainties/code changes	All economic operators	**+1**	
Macroeconomic impacts	***Enhanced impact,*** connected to the support in emerging sectors	All economic operators	**0/+1**	possible benefits (+1) only in emerging sectors

Legend: *Rating scale: +2 major positive impact; +1 minor positive impact; 0 neutral impact; -1 minor negative impact; -2 major negative impact.*

➢ **B1b – ADOPTION OF VERIFIABLE ELIGIBILITY CRITERIA**

The proposed option envisages a refinement of the principles underpinning the justification for the special treatment extended to certain products and their transformation into mandatory eligibility criteria. At present, such principles are not explicitly mentioned in the Decision but indications are laid down in the national policy[145] and clarifications were provided in 2018 in response to a parliamentary interrogation.[146] Other aspects are considered by the competent authorities, but these are not laid down in any official policy document. In summary:

[145] Ley 4/2014, de 26 de junio, por la que se modifica la regulación del arbitrio sobre importaciones y entregas de mercancías en las Islas Canarias.
[146] Questions 9L/PE-5324 to 9L/PE-5329 see: https://www.parcan.es/files/pub/bop/9l/2019/050/bo050.pdf

- the fundamental criterion is the existence of local production which, in some documents, is further qualified as 'noticeable', with reference to the volume of production and the market share (with respect to imports). In this sense, the policy seems to imply that the market share of local production should exceed a 'minimum' level to be relevant;
- the existence of disadvantages caused by the outermost status of the Canary Islands is a structural feature that is considered to be affecting any local production;
- although not formalised in official documents, attention is reportedly paid to other criteria that can contribute to policy decision, namely: the number of beneficiary enterprises, the direct/indirect employment created, the investment generated, the strategic or other general interest.

The proposed option takes into account these pre-existing orientations with the aim of specifying them into binding and verifiable criteria laid down in the EU policy. In particular, it is comprised of three actions.

1. Laying down the criteria in the ***enacting terms of the Decision***, to provide them with full legal authority.
2. Mandating the adoption of lower and upper ***market share thresholds*** for local products, as references for verifying the conditions for the support. These thresholds might be, either:
    a. laid down in the EU policy; or
    b. delegated to an administrative act of the competent national authority.
3. There might be situations where specific productions require support even if they do not comply with the thresholds, so the policy should allow the possibility of ***derogating from thresholds in well-justified cases*** based on a set of agreed criteria. The responsibility for providing such justifications should fall on competent authorities and should be based on robust, transparent and verifiable arguments (see Section 5.2.2 for illustrative examples). To prevent any misuse of such flexibility, the recommendation is to make the provision of such justifications legally binding in the Decision, also indicating the possible criteria that can justify derogating from the market-share thresholds.

This option is strictly connected with the previous one and should ideally be implemented in parallel, since it enhances legal certainty of the system against the risks of the proposed openness and flexibility in the selection of supported products. In other words, greater flexibility should facilitate updating and fine-tuning the regime but, in principle, it should not alter significantly the scope of support. The establishment of binding eligibility criteria for the selection of products would precisely ***prevent unwarranted extension of policy scope*** beyond demonstrated needs.

The adoption of well-calibrated, verifiable criteria would be beneficial for all public and private sector stakeholders, as follows:

- ***EU authorities***. The establishment of binding criteria provides a safeguard against possible distortive uses of the policy, at the same time facilitating supervision tasks. The application of the same criteria in all contexts – including the French regions applying the *Octroi de mer* regime - would also enhance treatment parity across all ORs.
- ***Competent authorities.*** The proposed criteria are in line with the existing policy so they would not cause any friction at the administrative level. In fact, they would help competent authorities cope with potential increased pressure from private sectors which might accompany the proposed greater implementation flexibility. The option may also lead to removing the special treatment on products for which there is no or negligible local production, thus addressing the concerns frequently raised by importers and eventually reducing/eliminating one of the major causes of complaints and disputes.

- ***Economic operators.*** The adoption of objectively-verifiable criteria would respond to the need for transparency and accountability which emerged from field work interviews with private sector stakeholders from both productive sectors (i.e., the beneficiaries of the regime) and trade sectors (i.e., the 'taxpayers'). In this sense, this option would improve the implementation of the policy, preventing/removing the application of the special regime to products that do not arguably meet the required conditions, and ultimately contributing to eliminating competition distortions and to the proper functioning of the market.

The two alternative approaches described under point (2) above would have the same effects but there are ***differences in terms of governance*** that are worth briefly underlining. In particular, indicating thresholds in the EU policy would give them a stronger legal status and would ease the pressure that competent authorities would face in fixing levels. Conversely, the establishment of thresholds at the local level would comply with the subsidiarity principle that inspires the whole proposed reform and would allow aligning them better to the economic reality of the region. At any rate, the two possible approaches would not differ regarding the practical efficacy of the measure.

Compared to the arrangements currently in place, the proposed option could imply some ***additional efforts for competent authorities***, as follows:

- The adoption of the necessary administrative framework and/or rules of procedure to enact the reform, i.e., the fixing of market share thresholds, the procedure for market share assessment, the modality and criteria for special cases. This effort would be made only once, upon the adoption of the revised approach, except for periodic revisions.
- The verification of compliance with criteria any time a request for support for a new product emerges – although this can be considered negligible in terms of additional burden, since the handling of new requests is already subject to administrative work in the current system.
- The elaboration of proper dossiers to justify 'special cases', i.e., productions that do not meet the market-share prescribed thresholds but are nonetheless deserving of special tax treatment for other reasons which competent authorities should duly clarify and document. For a quantification of the possible number of 'special cases' reference can be made to two theoretical scenarios, as described in Table 6.6 below. Regarding the ***lower threshold***, the percentage of special cases requiring an ad hoc justification would range between 9% (assuming a threshold of minimum 5%) to 14% (with a threshold of 10%). For the ***upper threshold***, the impact would be similar: with 6% of current AIEM products whose market share exceeds 95%, and 11% exceeding 90%.

Table 6.6 – Number of 'special cases' which fall outside of market share thresholds

	Number of products outside of the range	In % on the total
Lower threshold criterion		
At least 5%:	9	9%
At least 10%	14	14%
Upper threshold criterion		
At most 95%:	6	6%
At most 90%	11	11%

Source: *Own processing of market share indicators based on competent authorities and ISTAC's data.*
Note: *Market share could be estimated for 100 products in the AIEM list.*

Regarding the impact on the ***competitiveness of local firms***, the proposed option is in principle neutral, in the sense that it does not intend to modify the current scope of the special regime and the tax treatment of any particular products. If some currently supported product loses the requisites for the support, the option implies its removal from the list, but this is already envisaged by the current provisions, so the option would not have different or additional effects. Still, making the justification of support more transparent and verifiable could lead to an improved assessment of the real needs of producers and a timelier detection and resolution of possible incongruences in the product lists. The ensuing benefits of removing products which do not meet the eligibility criteria from the list would regard, again, the general proper functioning of the market, but the impact on the competitiveness of local enterprises would be negligible, since the market share of the excluded products would be either not significant or so large that arguably no support for competitiveness is required.[147]

Table 6.7 – Summary and rating of option B1b's expected impacts

Impact area	Impact	Subject	Rating and magnitude	Notes
Governance and good administration	***Enhanced transparency and accountability*** in the selection of supported products	EU / MS authorities	**+1**	Delegating the establishment of thresholds to MS authorities enhances subsidiarity but potentially fuels disparities
Regulatory costs and savings for public authorities	***Increased burden***, related to the required ad hoc justification for special cases	MS authorities	**-1**	
Operating costs/ competitiveness of business	***Neutrality of effects*** on the current state of play should be ensured	Beneficiary firms	**0**	Except for non-eligible products, which have to be removed anyway
Functioning of the market and competition	***Reduced complaints*** and disputes over unjustified disparities of treatment and undue distortion	All economic operators	**+1**	

Legend: *Rating scale: +2 major positive impact; +1 minor positive impact; 0 neutral impact; -1 minor negative impact; -2 major negative impact.*

6.3.2 Option B2 – On setting the permitted differential

The policy options discussed in this section are those described in detail under point #2 of Section 5.2.2 above; for easier reference they have been coded as follows:

- **B2a** – Establishment of one single maximum permitted differential
- **B2b** – Introduction of a global reference value for the policy
- **B2c** - Estimation of additional costs at product aggregates level.

➢ **B2a – ESTABLISHMENT OF ONE SINGLE MAXIMUM PERMITTED DIFFERENTIAL**

As with *option B1a* above, this proposed option is also aimed at simplification and greater flexibility in policy implementation. Notably, it does not intend to modify the intensity of the support extended to products benefitting from tax differentials but only to facilitate those revisions which currently imply moving a product from one list to another with a higher permitted differential. In fact, the proposed option regards essentially procedural aspects and therefore its fundamental impacts fall in the category of ***governance and good administration***.

[147] It is important to remember that, according to the proposed option, compliance with the prescribed market share window can still be derogated, if duly justified, so products falling above or below the established thresholds would not be automatically excluded.

As described in Section 5, the underlying argument is that the current subdivision into four lists does not add value to the efficacy or the relevance of the policy, and constitutes unnecessary complexity. For this reason, the proposal is to replace this mechanism with a more straightforward, single list which has a single maximum permitted differential. The maximum permitted differential applicable to the single list would be 15%, which is the highest differential actually applied under the AIEM regime.[148] The main advantage of this solution is to facilitate the transition to the new approach, as all products currently supported would automatically comply with the single maximum threshold. The main disadvantage would be making room for increased pressure from potential beneficiaries to augment the differential applied to certain products.

In practical terms, the option would ***eliminate the need for any administrative action to move products across lists*** and the related burden. On the other hand, this option can result advantageous for competent authorities only if there are effective administrative rules and procedures in place to cope with the possible increased pressures from the private sector.

The ***budgetary impact*** of the proposed option would be neutral 'by design': the option does not include the objective of increasing tax differentials and, in general, of modifying the intensity of aid, but rather to allow revisions – where needed - without a legal amendment procedure. In this sense, the amount of tax levied would not be affected by the option. In practice, to prevent the risk of a generalised increase in tax differentials, this option should be accompanied by the establishment of a global ceiling for costs compensation, as detailed in the following *option B2b*.

For the ***competitiveness of individual local production***, the proposed option could be beneficial as it would enable timelier modification of the differential applied, i.e., without the restriction of periodic renewal or interim legal amendments. However, this typically regards a limited number of products (i.e., only 8 products were moved to a higher list in the 2014 renewal of the policy) and an improved timeliness of 3-4 years compared to the present situation. So, from a general market perspective and in aggregate terms (including macro-economic aspects), the expected impacts would hardly be noticeable.

Table 6.8 – Summary and rating of option B2a's expected impacts

Impact area	Impact	Subject	Rating and magnitude	Notes
Governance and good administration	***Improved alignment with needs***, but enhanced risk of increased pressures	EU / MS authorities	**+1/-1**	depending on ORs rules of procedure
Regulatory costs and savings for public authorities	***Reduced burden***, for revising the differentials applied in a straightforward way	MS authorities	**+1**	
Budgetary effects	***Neutral,*** by design (it does not enable changes which are already possible under the current system)	MS authorities	**0**	provided no distortive use is made and safeguard tools are adopted
Operating costs/ competitiveness of business	***More timely revision of support*** for specific products requiring higher differentials	Beneficiary firms	**0/+1**	greater magnitude (+1) for the few specific products concerned

Legend: *Rating scale: +2 major positive impact; +1 minor positive impact; 0 neutral impact; -1 minor negative impact; -2 major negative impact.*

[148] The 'List D' would allow a differential of up to 25% but since 2015 the only product in this list, manufacturing tobacco, has a tax differential of 15%.

➢ **B2b – INTRODUCTION OF A GLOBAL REFERENCE VALUE FOR THE POLICY**

The proposed option concerns the introduction in the EU policy of a global reference value for support, expressed in monetary terms and measured in relation to the estimated 'foregone tax revenue', i.e., the tax not collected because of exemptions/reductions. The reference value will constitute a ceiling that competent authorities must respect to avoid having the greater flexibility permitted by *options B1a* and *option B2a* translate into an undue expansion of policy scope and aid intensity. In this sense, this option would ***contribute to good administration of the policy*** and the prevention of distortions. The global reference value laid down in the fiscal policy should be in line with the budget indicated in the State aid information sheet to ensure full coherence.

The global reference value provides a general measure of compensation extended by the policy to cope with structural handicaps affecting production activities in ORs. In this sense, it should be set in relation with the estimated total additional costs - hence competitiveness gap – faced by local producers, net the aid received under other schemes for the same purpose (i.e., the other schemes which compensate for producers' operational costs). In other words, the approved value of the policy should not exceed the difference between total additional costs and total costs compensation delivered under other EU instruments or State aid schemes described in Section 4.1. This would facilitate ***coordination between the various schemes*** and would contribute to ***preventing the risk of overcompensation*** at the aggregate regional level (for the product level see *option B2c*).

It is important to consider the global reference value as being indicative, because none of the relevant variables can be measured with a high degree of precision as emerged from Study findings presented in Section 4. Furthermore, the foregone tax revenue depends on the market evolution and cannot be controlled by the competent authority. So, for a proper functioning of the provision, setting a ***ceiling which allows some room for manoeuvre*** is advisable, more specifically:

- The State aid budget indicated for the current policy period (adopted in 2015) is EUR 80 million/year. In the annual State aid information submitted by national authorities the actual budget was slightly higher, i.e., EUR 86 million in 2015 and EUR 92 million in 2016. Based on this Study's estimates, the amount of foregone revenue could be even higher, around EUR 166 million (2017), but the figure could be inflated by the inclusion of exports in the taxable amounts.
- According to the most recent estimates, the total additional costs for Canarian private sector amount to EUR 5,288 million of which EUR 1,037 million for the sectors targeted by the AIEM special regime (industries and primary sector).[149] The additional costs already compensated for by other aid measures in these sectors amounted to approximately EUR 390 million (see Section 4.1), so the estimated AIEM budget accounted for between 14% and 27% of the compensation 'gap' (i.e., the outstanding additional costs) depending on which foregone revenue estimate is selected.
- At any rate, the current reference value is far from hitting the 'overcompensation' ceiling and there are ample margins for revision. However, to ensure stability in the market, it is advisable to avoid major changes and proceed incrementally, adopting a reference value which is comparable with the current level of foregone revenues, adjusted by a nominal growth rate of 2% / year (which is higher than the zero

[149] Based on the estimates of UTE Eco-CoRe (consortium), "El coste privado de la ultraperiferia y la doble insularidad en Canarias", 2018. More specifically the estimated additional costs amounted to EUR 148 million for agriculture and primary sector and EUR 889 million for manufacturing industries.

growth registered in the AIEM sectors since 2005), i.e. EUR 191 million[150] - with a buffer of, for example, 20% to cope with unforeseeable fluctuations over time.

The option is ***not expected to have tangible impacts on tax revenues.*** On the contrary, it would contribute to their stability, preventing unwarranted expansion of the scope and/or the intensity of the aid, and encouraging competent authorities to adopt an integrated approach to the special regime, calibrating each modification in light of the overall ceiling. This can have positive repercussions also on the ***functioning of the market***: all players (beneficiaries and taxpayers) would benefit from more stable, predictable regimes and – if adopted – the integrated approach may result in fine-tuning the support extended to individual products in accordance with their needs. As discussed, the ceiling should not be excessively stringent, to avoid it resulting in tax exemptions being granted to politically influential sectors rather than to sectors that can generate broader benefits for the local economy.

Despite being pegged to the foregone revenue and, therefore, linked to both internal production levels and rates, it is ***unlikely that the proposed ceiling will eventually constrain local production growth*** for the following reasons:

- The current foregone revenue accounts for 77% of the proposed ceiling – inclusive of the 20% buffer. So, assuming AIEM rates are stable, local production of AIEM goods may grow by 29% of the current levels, before hitting the ceiling. A compounded annual growth rate of 4.5% would be necessary to surpass the ceiling in the next programming period (2021-2027), but considering the trends registered in the previous period (see Section 4.3 "Effectiveness") and the expected economic downturn due to the COVID-19 pandemic, such growth rates appear very unlikely. Furthermore, this figure may be conservative: if current foregone revenues are in line with 2016 local authorities' estimates (EUR 92 million), the local production of AIEM goods could theoretically increase by more than 10% annually and the ceiling would not be surpassed.
- So, the ceiling can be surpassed only through a major increase in the intensity of aid and, more specifically by an increase in tax differentials, since all main internal productions are already covered by the AIEM, and any new local production that might be added to the regime in the future would likely consist of small volumes. Assuming a nominal annual growth rate of 2% for local production, foregone revenues would increase in 7 years by approximately EUR 26 million, remaining some EUR 41 million below the ceiling (considering the 20% buffer). So, a hypothetical increase in the current AIEM differentials of 1.5 percentage points average 7% to 8.5%, would still be technically possible before hitting the ceiling. This is clearly a speculative scenario, since sustained, positive growth of local production would not justify an increase in AIEM differentials.

The main downside of the proposed option concerns the ***additional actions required to ensure compliance*** with the established ceiling. Measurement of the relevant variables, i.e., aggregated additional costs and foregone tax revenues, is part of the activities that are already carried out to a large extent, so limited additional burden is expected in this area. The major burden would instead emerge from: (a) assessing the effects on foregone revenues of possible changes prior to their introduction, and (b) estimating the amount of the relevant compensation already extended under the other aid schemes, as discussed under *option B3b* below.

[150] A more precise estimation of the reference value will be possible when all local production data collected by ISTAC through the EICAN survey is officially validated.

Table 6.9 – Summary and rating of option B2b's expected impacts

Impact area	Impact	Subject	Rating and magnitude	Notes
Governance and good administration	***Enhance policy coherence*** and prevent excessive compensation at aggregate level	EU / MS authorities	**+1**	Some flexibility in setting the ceiling should be envisaged
Regulatory costs and savings for public authorities	***Increased burden***, for estimating the relevant variables and ensuring compliance	MS authorities	**-1**	
Functioning of the market and competition	***Ensure stability*** and improve the consistency of treatment across products	All economic operators	**+1**	Assuming an integrated approach to the policy is adopted
Budgetary impact	***Neutral,*** enhancing stability and predictability	MS authorities	**0**	

Legend: *Rating scale: +2 major positive impact; +1 minor positive impact; 0 neutral impact; -1 minor negative impact; -2 major negative impact.*

- **B2c - ESTIMATION OF ADDITIONAL COSTS AT CN4 PRODUCT LEVEL**

The proposed option envisages the introduction of a mechanism similar to the system already in place in French ORs for the assessment of additional costs borne by local players. In addition to periodic comprehensive studies on additional costs, which are carried out also in the Canary Islands,[151] French ORs generally carry out ad hoc product-level estimates to justify the introduction or modification of tax differentials on specific products. In the current system, these product *fiches* address products classified at various levels, i.e., CN4, CN6, CN8 or TARIC10. The proposed reform would maintain this activity while ***harmonising the focus of the analysis on CN4 level product categories***, and would extend it to the AIEM regime. This would align the exercise with the revised CN4-based approach of the policy (in accordance with *option B1a*) and, more generally, enhance matching with production activity classification (NACE, or the like).

As discussed under *option B1b* above, the assessment of additional costs would underpin the ***verification of compliance with eligibility criteria*** adding transparency and objectivity to the decision process. Secondly, it would establish ceilings to the tax differentials applicable to specific products in line with their actual needs, ***improving the precision*** and thus the fairness of the regime. At the same time, this option ***would not affect the coherence with the State aid policy,*** and in particular with the GBER rules on the cumulation of aid, because those rules regard the intensity of aid at enterprise level – including the aid perceived for activities that does not concern AIEM products - whereas this option aims at preventing/mitigating competition distortions in the market of specific products.

Compared to the current situation, where additional costs are estimated only at sector/branch level, the introduction of an obligation to assess them at CN4-level might imply ***additional efforts*** for public authorities – which will have to materially elaborate the product *fiches*. Collecting the raw data and information necessary to estimate additional costs will require support from the private sector, but no additional effort is expected from enterprises as they are already involved in periodic additional costs assessments. Actually, in many cases, the datasets already available from external studies can be exploited to estimate additional costs at the more granular level required (CN4), reducing the extra effort required.

[151] i.e. UTE Eco-CoRe, 2018.

Table 6.10 – Summary and rating of option B2c's expected impacts

Impact area	Impact	Subject	Rating and magnitude	Notes
Governance and good administration	***More transparency and precision,*** in the application of tax differentials	EU/ MS authorities	**+1**	
Regulatory costs and savings for public authorities	***Increased burden*** for the estimation of additional costs *at a* more granular level	MS authorities	**-1**	although sector/branch level estimates already available
Regulatory costs and savings for businesses	***Increased burden*** for estimation of additional costs at a more granular level	Beneficiaries	**0**	raw datasets are already collected
Functioning of the market and competition	***Improved consistency*** of tax differentials with the estimated needs	All economic operators	**+1**	

Legend: *Rating scale: +2 major positive impact; +1 minor positive impact; 0 neutral impact; -1 minor negative impact; -2 major negative impact.*

6.3.3 Option B3 – On policy duration and monitoring

The policy options discussed in this section are those described in detail under point #3 of Section 5.2.2 above. For easier reference they have been coded as follows:

- **B3a** – Extended duration of the policy to 10 years
- **B3b** – Revision of the periodicity of the monitoring system, through either
  - (i) a two-tiered system (basic data each year; impact analysis every 5 years), or
  - (ii) maintaining a mid-term report but improving its time alignment with the policy cycle
- **B3c** – Harmonisation of the mid-term report's structure and indicators.

➢ **B3a – EXTENDED DURATION OF THE POLICY**

The main benefits of extending the duration of the policy from the current 7 years to 10 years would consist primarily of ***reducing the frequency*** of re-assessment and renewal of the policy and of related ***regulatory burden*** for both the EU and the MS authorities involved (at central and OR levels). As described in Section 2.2 of the report, the renewal of the policy follows the ordinary legislative procedure for Council Decisions, which involves, in the case of the AIEM, the preparation of a Commission proposal and the active contribution of the Spanish authorities. Such policy-making costs cannot be precisely estimated, but diluting the process over a longer period would de facto reduce the regulatory burden by roughly 40%.

Indirectly, the proposed option may also benefit economic operators by enhancing the ***stability and predictability*** of the regulatory environment – although implementation aspects may still see some changes under the responsibility of national competent authorities.

The policy option presents also two main downsides, namely:

- Possible ***misalignment with the corresponding State aid*** decision, which would arguably remain pegged to the 7-year duration of the EU multiannual financial framework. This misalignment may require the adoption of bridging solutions to cover the 3-year difference. The Study has not examined in depth which solution would be recommended and its expected burden for the competent Commission service, but, at any rate, this might partly neutralise the benefits described above. Furthermore, considering the close interconnection between the two policy frameworks, introduction of friction in their implementation timeframes is not advisable.

- Secondly, this option would be beneficial for private sector stakeholders only in the event the abovementioned 'flexibility' options (i.e., *options B1a* and *B2a*) are implemented. If this is not the case, an extension of duration might result in ***further delays in updating*** the policy to the evolving needs of ORs' markets and enterprises.

Table 6.11 – Summary and rating of option B3a's expected impacts

Impact area	Impact	Subject	Rating and magnitude	Notes
Regulatory costs and savings for public authorities	***Mixed impact***, reduced burden for the renewal of the regime but also increased for maintaining State aid policy aligned	EU / MS authorities	**+1/-1**	
Functioning of the market and competition	***Improved functioning*** of the market thanks to better stability and predictability	All economic operators	**+1**	
Operating costs/ competitiveness of business	***Delays*** in updating policy to evolving needs	Beneficiary firms	**(-1)**	only if not accompanied by greater implementation flexibility

Legend: *Rating scale: +2 major positive impact; +1 minor positive impact; 0 neutral impact; -1 minor negative impact; -2 major negative impact.*

➢ B3b – REVISION OF MONITORING PERIODICITY

The policy duration extension suggested under *option B3a* above, combined with the greater implementation flexibility proposed under *options B1a* and *B2a*, can modify the monitoring needs of the policy, including its periodicity and timing. As discussed, two sub-options are being considered; their efficacy depends on the adoption or lack thereof of the proposed extended policy duration to 10 years.

(i) **Introduction of a 'two-tiered' system.** The first sub-option involves introducing a two-tiered system, with a yearly 'light' notification from MS to the Commission of basic implementation data, and a periodic (every 5-years) in-depth impact analysis. Regarding the indicators listed in Box 5.1, the yearly notification would cover the specifications of the regime while the periodic report would address all the other mandatory indicators. This sub-option would be beneficial only in the event of an extension of policy duration to 10 years, since it would allow early detection of emerging competition issues and contribute to general good governance of the regime.

The main downside of this option regards the additional burden that it would impose on local authorities for the collection and annual notification of basic monitoring data – which is probably modest, because this information would be collected anyway by competent authorities – as well as on the Commission services responsible for the review of the submitted information.

(ii) **Alignment of the mid-term report timeframe to the policy cycle.** In the event the duration of the policy continues to be 7 years, the 'two-tiered system' described above might not be necessary. However, the current monitoring system can be made more effective and informative by moving the timing of the mid-term report to Y+5 (where 'Y' stands for the policy's start year). In practice, for the policy period 2021-27, the report will have to be submitted by the end of 2025 and span, ideally, the period 2019-24. The benefits of this revised timing are qualitative and include: (a) more evidence available to assess the impact of the new policy, also in comparison with the previous one (the data are typically available with 2-4 years' delay); and (b) enhanced utility and timeliness of information for the subsequent policy cycle (which would start right after the submission of the monitoring report). As the proposed option regards only the timing of the report, no other positive or negative effects seem relevant.

Table 6.12 – Summary and rating of option B3b's expected impacts

Impact area	Impact	Subject	Rating and magnitude	Notes
(i) Introduction of a 'two-tiered' system				
Governance and good administration	***More punctual monitoring***, and earlier detection of emerging issues	EU authorities	**+1**	relevant only in the case of extended policy duration
Regulatory costs and savings for public authorities	***Increased burden***, for submitting/reviewing annual notification data	EU/MS authorities	**-1**	
(ii) Alignment of mid-term report timeframe to the policy cycle				
Governance and good administration	***More informative*** mid-term reports, providing more punctual and useful evidence for policy-making	All economic operators	**+1**	

Legend: *Rating scale: +2 major positive impact; +1 minor positive impact; 0 neutral impact; -1 minor negative impact; -2 major negative impact.*

- **B3c – Harmonisation of the mid-term report structure and indicators**

One of the main shortcomings of the current monitoring system regards, as discussed, the heterogeneous quality and contents of the mid-term implementation reports submitted by the national competent authorities to the Commission. For this reason, *option B3c* proposes harmonising the structure and the indicators provided in those reports in order to: (a) enhance their ***consistency over time***; (b) make ***comparisons with other regimes*** (namely the French *Octroi de mer*) possible; and (c) prevent and ***address the information 'gaps'*** characterising some of the past reports. All these outcomes would contribute to a better design and administration of the policy, providing the competent EU and Canarian authorities with more robust evidence of the effects of the special regime on the local socio-economic structure (including in the medium/long-run). This would include dimensions poorly investigated so far due to insufficient data, such as the impact on market structure, on trade flows, on price levels and other macroeconomic indicators. To ensure compliance, the harmonised structure and the indicators for the mid-term report should be annexed to the Council Decision.

The benefits of the improved arrangements would go beyond institutional oversight. The mainstreaming of more robust and comprehensive impact evidence into the policy design, can eventually improve its efficiency and help competent authorities ***correct possible distortions in the market***, thus responding to concerns raised by various stakeholders and preventing the emergence of disputes. The 'knowledge' areas that might particularly benefit from the proposed overhaul of the system include: (a) the specific impact of the AIEM special regime on sectoral value-added (and employment); (b) the impact of the tax differentials on price levels; and (iii) the assessment of the intensity of the aid, taking into account the other support measures.

The costs of this option are those imposed on the competent authorities for the collection and processing of data and the preparation and transmission of the revised mid-term report. However, as monitoring obligations already exist in the current framework, the actual burden would be limited to the ***additional information requirements*** introduced with the revision. More specifically, the additional burden would consist of two activities:

- one-time familiarisation with the harmonised structure and the indicators requested;
- recurrent collection and processing of data which are not currently included in the periodic monitoring reports.

To ***minimise the additional burden***, the proposed indicators have been selected considering the information that is already collected and reported by Spanish authorities - or easily available, such as customs data - and introducing modifications only where deemed important. An overview of the situation and of additional required actions is shown in Table 6.13 below (see Annex B for a full list and indicator specifications). Of the 18 indicators proposed, some 11 are readily available, and 6 are partly collected, although some processing is required to enhance their quality and/or comparability. Only one indicator is totally new, but it can be worked out based on information that is assumed to be available to the competent authorities.

No additional burden for enterprises is expected. All the indicators listed derive from information collected by public authorities or statistical data. Some data do require the consultation of enterprises (e.g. the estimation of additional production costs) but this is information that is being collected anyway and not an obligation introduced by the policy option.

Table 6.13 – Availability of monitoring indicators in the Canary Islands and required actions

Indicators	Availability	Required action
Specifications of the regime		
List of products subject to differentiated tax regime	YES – official documents	-
Tax rates applied on imports ('external rate')	YES – official documents	-
Tax rates applied on local production ('internal rate')	YES – official documents	-
Tax differential applied	YES – official documents	-
Reference to product criteria		
Value and volume of local production	PARTLY – reliable data for AIEM products collected since 2019, not validated for all products	• validate estimates for all AIEM products, and extrapolate exports from the estimates
Value and volume of import	YES – customs data	-
Market share of local products	PARTLY – see above	• see above
Estimated additional production costs by input factor	PARTLY – currently done at sectoral level, to be standardised and focused on CN4	• familiarisation with the revised approach
Impact on public budget		
Foregone tax revenues	PARTLY – it can be calculated based on local production data	• it requires the validation of production data (see above)
Tax receipts (imports)	YES – current reports	-
Tax receipts (local production)	YES – current reports	-

Indicators	Availability	Required action
Aid intensity		
Regional aggregate additional costs	PARTLY – it can be estimated from current additional costs studies	• a consistent methodological approach should be validated
Share of additional costs compensated by tax regimes	PARTLY – it can be estimated from the aggregated costs and the foregone revenues	• see above
Additional costs compensated by other measures	NO – the information is not readily available but can be obtained from other measures' implementing authorities	• it requires mapping the other relevant measures and the estimated compensation
Impact on economic performance		
Regional gross value added	YES – elaborated in the report	• stabilisation of the methodology
Employment data	YES – elaborated in the report	• same as above
Number of active enterprises	YES – elaborated in the report	• same as above
Price level indices	YES – elaborated in the report	• same as above

Source: *Own review of the latest mid-term reports and of datasets made available by Canarian authorities.*

Table 6.14 – Summary and rating of option B3c's expected impacts

Impact area	Impact	Subject	Rating and magnitude	Notes
Governance and good administration	***More informative monitoring*** and better stock-taking of impacts, also in comparative terms	EU/MS authorities	**+2**	
Functioning of the market and competition	***Improved policy design and implementation,*** preventing market distortions, and the risk of overcompensation	All economic operators	**+1**	assuming the results of the analysis are fed back into policy design
Regulatory costs and savings for public authorities	***Increased burden***, for filling information gaps and elaborating a small number of new indicators	EU authorities	**-1**	

Legend: *Rating scale: +2 major positive impact; +1 minor positive impact; 0 neutral impact; -1 minor negative impact; -2 major negative impact.*

The three proposed options examined in this section – namely B1, B2 and B3 – relate to different aspects of the current policy and, as discussed, are independent of each other. In this sense, it would be technically feasible to adopt/reject any one of them irrespective of the other. As the benefits of the proposed changes have been assessed separately, they will cumulate if all three options are implemented. The same would evidently apply to burden and challenges, but since each option displays a positive balance of pros and cons it can be assumed that ***benefits would be maximised by the adoption of all three proposed options***.

6.3.4 Option C – The 'discontinuation' scenario

The discontinuation scenario examined in this section entails the current special regime not being renewed after its expiration at end 2020 and not being replaced by other EU measures, in line with the considerations made in Section 5.2.3. In practice, the scenario would constitute the counterfactual situation of the current system, i.e., how the local economy and market would evolve in the absence of support from the AIEM special regime. Before venturing into analysis of the possible impacts, it is important to reiterate a few considerations:

- The scenario is purely theoretical, as the outcomes of the retrospective evaluation ***do not suggest it as a viable option*** for the way forward. At the same time, there is no demand for it from public and private stakeholders, except from certain taxpayer firms whose complaints could nonetheless be addressed through a reform of the implementation mechanisms of the policy.
- The counterfactual scenario is ***inevitably speculative*** and uncertain, because the special regime has been in place, in different forms, for a few decades, and with no major changes. There is no pre-existing situation that can be used as a benchmark for building a counterfactual scenario.
- The ***reaction of competent authorities*** as well as of ***private sector*** stakeholders to the discontinuation of the current regime is difficult to predict. For the sake of comparison, it has been assumed that all other variables except AIEM tax differentials would not change but, in reality, this is very unlikely, and all players would presumably adopt measures to mitigate the effects of the discontinuation.
- For the above reasons, the analysis provided in this section is ***limited to the major impacts*** expected and measured in terms of order of magnitude, as more detailed predictions would be poorly feasible and somehow unwarranted.

First and foremost, the removal of AIEM tax differentials would ***affect the competitiveness*** of local firms engaged in production activities – manufacturing activities in the first place, then enterprises in the agriculture and fisheries sectors. The overwhelming majority of the affected firms would be SMEs. It has been estimated that the AIEM special regime compensate for some 14% of the additional costs of local producers (EUR 125 million), which corresponds to 5% of sales value of AIEM products. In other words, to remain competitive, local producers should roughly absorb some EUR 125 million of additional costs or increase their prices by 5% on average.

Some local producers might be able to reduce their trade margins, but others – some 54% according to survey results – would no longer be able to compete and might eventually discontinue activities[152]. On the other hand, an increase in the prices of local products would have repercussions on ***sales and market share***, the extent of which would depend on the characteristics of the demand for each specific product affected. Assuming – for the purposes of analysis - that the demand for local products would shrink by an equivalent 5%, the average market share of AIEM products would decline by 2.7 percentage points.[153]

For the ***macroeconomic aspects*** of the regional economy, the following theoretical impacts can be expected:

- Decline of production value proportional to the 5% reduction of sales anticipated (i.e., EUR 107 million). The contribution of the industrial sector to the local economy will decrease enhancing the dependence on service and tertiary sector.
- Similarly, a parallel decrease in the number of employees engaged in the industrial sector, as well as in the level of mobilised investment can be expected.
- Dependence on external supply will increase, as local production will be substituted by imported goods.

The above estimates are summarised in Table 6.15 below.

[152] Based on firm's self-reported assessment, to be taken with caution.
[153] Note: the market share in value terms would actually not change, but it would change in volumetric terms.

Table 6.15 – Hypothetical impacts of the discontinuation scenario in the Canary Islands

	Expected impact
Additional costs (EUR)	889 million
Additional costs (as a % of turnover)	29.7%
AIEM total compensation (EUR)	125 million
AIEM relative compensation (as a % of additional costs)	14%
Impact of removal of AIEM compensation (in % of turnover)	5%
Market share theoretically lost if additional costs are not absorbed (in percentage points)	-2.7
Corresponding impact on local production sales (in EUR)	EUR 107 million

Source: *Own estimates (estimation methods and details described in Section 4 and Annex C).*

The ***budgetary effects*** of this policy change are rather unpredictable as they depend on the actual policies deployed by competent authorities in response to the discontinuation of the special regime. In essence, if the removal of differentiated rates translates into an increase in internal rates to the same level of external AIEM rates, the collected tax revenues would clearly increase – and precisely by the current amount of the tax not collected because of exemptions (assuming demand is stable). If, conversely, the AIEM is removed altogether on internal and external delivery a loss of tax revenue is expected, equal to the AIEM receipts currently collected (EUR 160 million). The first approach is unrealistic, as it would lead to a price levels increase which consumers would not be likely to accept. On the other hand, the second approach would deprive the regional administration of part of its budget (some 5% of total indirect tax receipts), which could be nonetheless compensated for by an increase in the IGIC or other local taxes. A 'halfway' solution seems also possible, i.e., at the same time decreasing external rates and increasing internal rates until reaching the point of equilibrium that would offset any budgetary impact – or the replacement of the AIEM with another tax measure (e.g., IGIC) to the same effect.

For the same reasons, the impact on ***price levels*** of the discontinuation scenario is difficult to predict, as it depends on the approach chosen by competent authorities to eliminate AIEM tax differentials. In the extreme case of bringing internal rates to the level of external rates, the 'bill' for consumers would be equal *ceteris paribus* to the extra tax receipts levied (EUR 166 million) and would increase household expenditure by 0.8%.[154] In the event of a complete removal of AIEM (offset by an increase in the IGIC) or of an adjustment of rates to equal the current burden, no aggregate effects would be registered, in principle, on price levels. However, considering the oligopolistic features of ORs market, the actual change in price levels, would largely depend on the evolution of competition: in the event local producers remain able to compete on the market, a generalised reduction of price levels can be expected; but if local production disappears due to the removal of AIEM, it can be expected that, after an initial decrease, prices would go up in the medium-term, due to the reduced competition.

[154] Based on an estimated total household expenditure of EUR 19,875 million (2017). Source: *Informe Anual del CES, 2019.*

Table 6.16 – Summary and rating of option C's expected impacts

Impact area	Impact	Subject	Rating and magnitude	Notes
Operating costs/ competitiveness of business	***Severe reduction of competitiveness*** of local products vis-à-vis import	Beneficiary firms	**-2**	
Budgetary effects	***Unpredictable,*** but potentially significant depending on authorities' decisions	MS authorities	**-1/+1**	From (+1) if harmonised on external rates to (-1) if removed (and not compensated)
Functioning of the market and competition	***Major changes in the market structure*** (increased import) and reduced competition	All economic operators	**-2**	
Macroeconomic impacts	***Worsening of trade balance,*** and possible negative effects on ***employment, investments***.	MS authorities	**-1**	Effects on consumer prices would depend on the policy adopted

Legend: *Rating scale: +2 major positive impact; +1 minor positive impact; 0 neutral impact; -1 minor negative impact; -2 major negative impact.*

6.4 Comparative assessment

This concluding section summarises the results of the above analysis in comparative terms. In line with the salient comparison criteria laid down in *Better Regulation*, the three dimensions examined regard:

- ***effectiveness*** of the options – i.e., the extent to which different options would achieve the objectives;
- ***efficiency*** of the options – i.e., the benefits versus the costs;
- ***coherence*** of each option with the overarching objectives of EU policies.

The comparison is made between the ***baseline scenario*** (Option A – 'No change'), the proposed ***revisions scenario*** (Option B - articulated in three non-mutually exclusive sub-options: B1, B2, and B3), and the ***discontinuation scenario*** (Option C – 'No EU Action'). For clarity and consistency, reference is made to the impact areas and ratings used in Section 6.3.

For a correct understanding of the multicriteria approach to comparison used below, it is important to consider that the qualitative ratings provided to different aspects / criteria ***cannot simply be added up***, as the importance of the various aspects from a policy perspective may vary significantly. In other words, a +2 score given to a 'minor' aspect may be offset by a -1 score given to a 'major' aspect and vice versa. The judgment on whether certain aspects are 'minor' or 'major' is primarily a policy decision, and different stakeholders may have different views in this respect. So, in this Study we purposely refrain from attributing a specific weight to individual criteria and/or providing synthetic general scores for the three macro-options considered.

➢ EFFECTIVENESS

For a comparative analysis of the effectiveness of the different options reference can be made to the stated objectives of the EU policy (see Figure 5.1), and how the expected impacts described in Section 6.3 would contribute to or hamper their achievement.

Overall, the policy aims at enhancing the ***competitiveness of local industries and production activities*** mitigating the handicaps caused by the outermost status of the regions concerned. The proposed options B1 and B2, and especially the measures aimed at facilitating updating the special regime to evolving needs, could prove beneficial in this respect, in particular regarding support to emerging activities. The majority of beneficiaries of special regimes are SMEs, so the benefits would be apparent especially in that segment. Conversely, discontinuation of the policy would have, by definition, severe adverse effects on local producers' competitiveness.

The proposed policy revisions (options B1, B2 and B3) are also expected to ***improve the functioning of the market***, mitigating the risk of undue distortions of competition, which is the second overall objective of the policy. This result would be achieved by a series of specific measures concerning the selection of eligible products, the application of tax differentials in line with needs, the prevention of overcompensation risks, and regime effective monitoring. Individually, all proposed measures would have moderate effects, but altogether they might respond effectively to various concerns raised by trade and service sectors over the fairness and proportionality of the special regime. Also in this case, the effects of a discontinuation of the regime (option C) would be markedly negative: various local producers would no longer be able to compete, and the market would become even more oligopolistic, with adverse effects also for consumers.

Ultimately, the policy aims at contributing to the ***social and economic development*** of the Canary Islands. The proposed revisions of the current system would have limited effect in this area, first and foremost because they do not intend to modify the current scope and intensity of the support made available through the special regime. The improvements described above might have beneficial effects in a few specific product areas – e.g. improving alignment with needs or redressing existing distortions – but at the macro-economic level these effects would hardly be noticeable. Instead, the negative impacts of discontinuation would probably be visible on the industrial value-added indicators and, eventually, on investments and employment.

Table 6.17 – Summary of the comparative impact of options on the effectiveness of the policy

Criteria	Option A	Option B1	Option B2	Option B3	Option C
General objective - Strengthening local industry, making it more competitive					
Impacts on operating costs/ business competitiveness	A: **0**	B1a: **+1/+2** B1b: **0**	B2a: **0/+1**	B3a: **(-1)***	C: **-2**
General objective - Safeguarding undistorted competition in the in the internal market					
Impact on the functioning of the market and competition	A: **0**	B1a: **+1** B1b: **+1**	B2b: **+1** B2c: **+1**	B3a: **+1** B3c: **+1**	C: **-2**
General objective - Supporting the social and economic development of outermost regions					
Macroeconomic impacts on growth and employment	A: **0**	B1a: **0/+1**			C: **-1**

Legend: *Rating scale: +2 major positive impact; +1 minor positive impact; 0 neutral impact; -1 minor negative impact; -2 major negative impact.*
Notes: *The impacts of Option A are set at '0' by default, as no relevant change of the baseline scenario is expected. (*) This effect applies only if option B1a and B2a are not adopted*

- **EFFICIENCY**

The policy options examined here do not envisage modifications that might affect the amount of ***tax revenues collected*** and, therefore, the budget of the regional administrations concerned. The budgetary effects of the proposed options would be either neutral, by design, or ambivalent and unpredictable since they would depend on policy decisions made at the local level.

In terms of the ***regulatory burden for EU and MS authorities***, the specific measures proposed for policy revision are expected to have differentiated effects. Compared to the baseline situation, the impact of *options B1* would contribute to the reduction of the current burden - especially because of the simplification and the greater flexibility introduced in the system. Conversely, certain aspects of *options B2* and *B3* such as the establishment of a global reference value for the policy, the revised mechanisms for additional costs estimation, and the improvement of the monitoring system, could imply an increase in the efforts required. At any rate, the anticipated additional burden would remain limited and largely offset by the benefits of the proposed revisions.

The ***regulatory burden imposed on enterprises*** would likely decrease under *option B1,* in connection with its greater flexibility in the management of supported products. On the other hand, some of the measures envisaged under *option B2* and *option B3* may require additional efforts on the side of competent authorities, and namely: (a) for conducting additional costs assessment at CN4 level; and (b) to comply with the revised monitoring requirements.

Table 6.18 – Summary of the comparative impact of options on the efficiency of the policy

Criteria	Option A	Option B1	Option B2	Option B3	Option C
Budgetary effects	A: **0**	B1a: **+1/-1**	B2a: **0** B2b: **0**		C: **-1/+1**
Regulatory costs and savings for public authorities	A: **0**	B1a: **+2** B1b: -**1**	B2a: **+1/-1** B2b: **-1** B2c: **-1**	B3a: **+1/-1** B3b: **0/-1** B3c: **-1**	
Regulatory costs and savings for enterprises	A: **0**	B1a: **+1**	B2c: **0**		

Legend: *Rating scale: +2 major positive impact; +1 minor positive impact; 0 neutral impact; -1 minor negative impact; -2 major negative impact.*
Notes*: The impacts of Option A are set at '0' by default, as no relevant change of the baseline scenario is expected.*

➢ COHERENCE

For the coherence of the proposed options with the EU policy, the primary reference is the impact on ***governance and good administration,*** which is analysed in Section 6.3. This also included – where relevant – consistency between the parallel State aid policy on the AIEM and its possible evolution. As most of the proposed revisions explicitly address policy governance and implementation arrangements, generalised improvements can be expected under this scenario. In particular, the proposed policy changes would enhance subsidiarity and transparency, while reinforcing monitoring.

Table 6.19 – Summary of the comparative impact of options on the coherence of the policy

Criteria	Option A	Option B1	Option B2	Option B3	Option C
Governance and good administration	A: **0**	B1a: **+2** B1b: **+1**	B2a: **+1/-1** B2b: **+1** B2c: **+1**	B3b: **+1** B3c: **+2**	

Legend: *Rating scale: +2 major positive impact; +1 minor positive impact; 0 neutral impact; -1 minor negative impact; -2 major negative impact.*
Note*: The impacts of Option A are set at '0' by default, as no relevant change of the baseline scenario is expected.*

7. CONCLUSIONS

- **BRIEF OVERVIEW OF THE AIEM REGIME**

The *Arbitrio sobre las Importaciones y Entregas de Mercancías* (AIEM) is a special tax regime adopted in 2002 with the aim of supporting the development and diversification of production activities in the Canary Islands. The special regime consists of an *ad valorem* tax on the delivery of certain goods in the region, but while products of external origin are subject to the full rate, tax exemptions are extended to locally-made products. The purpose of the special regime is to support local production activities' competitiveness and mitigate the effects of remoteness, small size, isolation, and other structural constraints affecting the region.

Overall, the special regime is applied to 157 product categories (designated by CN code – from 4 to 8 digits). Supported products belong primarily to manufacturing industries – food and beverage, tobacco, chemicals, paper and others – and to a lesser extent to agriculture and fishery sectors. Altogether, the AIEM target sectors are worth EUR 3.33 billion and the aggregate value of supported productions amounts, conservatively, to EUR 1.92 billion. The tax differentials applied range from 5% to 15%, with an average difference of approximately 7%. In 2017, the AIEM tax receipts amounted to EUR 148 million, while the official estimates on the tax not collected due to exemptions (the 'foregone' tax revenue) are of EUR 92 million.

- **SUMMARY OF THE EVALUATION FINDINGS**

The AIEM regime is one of several special legal measures for the Canary Islands as a recognised outermost region and it is aligned with the EU's overall approach towards the outermost regions, which is based on the objective of taking into account their structural social and economic constraints. In particular, it contributes to fostering growth and job creation in the region through diversification of the local economy and enabling high value-added activities, such as industrial manufacturing. The regime constitutes an evident derogation from the EU policy on internal market and competition, whose legal basis is firmly anchored in ***Article 349 TFEU***, which explicitly recognises the need to adopt special measures in support of outermost regions, to address their structural constraints and contribute to their development. The AIEM regime is subject to double-track authorisation at the EU level: (a) in the EU fiscal policy, through periodic ***Council Decisions*** which authorise the application of differential treatment to a set of explicitly identified products; and (b) as a ***regional State aid*** measure. The latter ensures the regime's compliance with EU competition rules and its proportionality.

The EU approach towards the outermost regions in general, and the Canary Islands specifically, encompasses a number of other measures financed by the European structural and investment funds (ESIF) and through other specific State aid measures. Some of these measures address the same sectors/beneficiaries of the AIEM and have the same purpose of mitigating the effects of structural constraints on the operating costs of Canarian businesses. In this sense, there are evident ***synergies between the AIEM and these other schemes*** and cumulative effects are frequent. At the enterprise level, there are administrative procedures in place to avoid the risk of aid cumulation leading to an excess of compensation, while at the macro-level it has been verified that the sum of the AIEM and of the other compensation schemes does not exceed the estimated additional costs caused by structural constraints (some 54% of the estimated additional costs are compensated overall). Still, at product level, there is insufficient information to verify the cumulative effects, so occasional cases of overcompensation cannot be ruled out *a priori*.

The scope of the AIEM regime is fairly comprehensive, thus addressing satisfactorily the ***needs of the economic operators*** concerned. The system is, however, poorly responsive to the evolving market conditions because the list of supported products is laid down in the Council Decision. This means that any revision – e.g., to include a newly emerging production line or to modify the extent of support – would require a burdensome legal amendment process or its postponement to the next renewal of the policy. The other issue – frequently lamented by trade representatives – relates to the identification of supported products with reference to CN categories which sometimes also include items which are not locally produced or are produced in limited quantities. This calls into question the ***criteria adopted by competent authorities to select the products*** which are eligible for the support. At present, the main criterion is reportedly the 'market share' of supported products, but no further specification is available on how this criterion is applied in practice and what is the minimum or maximum market share threshold relevant for the AIEM support. Analysis of AIEM product portfolio showed that some 15% of supported products have a market share which is lower than 5%, while some 11% of them are in a clearly dominant position (95% or more of market share). The strategic value of certain productions may certainly justify waiving the 'market share' criterion, but the absence of explicit, transparent rules has seemingly fuelled distrust among certain economic operators regarding how the special regime is implemented.

The inclusion of some particular products in the AIEM list is controversial at times. ***Tobacco products*** are a case in point, due to the existence of EU tobacco control policies aimed at discouraging consumption. From 2002 to 2015, the AIEM differential for tobacco products was 25% (the highest permitted rate), then it decreased to 15% (Ley 9/2015). The Council Decision presents this as an 'exceptional case', justified by the importance of the tobacco industry for the Canarian economy. While the AIEM is not the cause of low prices for tobacco products in the region – which, instead, are due to the low excise duty rates applied – apparently no consideration was given to being consistent with other EU measures which forbid supporting tobacco, such as the ERDF policy.

The AIEM special regime supports local production activities by ***reducing the competitiveness gap between local products and imports*** from mainland Spain or the EU, which is caused by additional production costs. Quantitative assessments of such additional costs are carried out periodically but, despite the efforts made, the exercise remains subject to intrinsic methodological limitations, so estimates have to be considered with due caution. The latest assessment was completed in 2019 and estimated total ***additional costs*** of the private sector in the Canary Islands to be EUR 5.23 billion, of which EUR 1.04 billion was attributable to AIEM supported sectors (manufacturing and the primary sector). The major source of additional costs for AIEM industries are the freight costs of raw materials and production inputs, which amount to 14.3% of local producers' turnover. In second place, additional costs are caused by idle production capacity and related diseconomies of scale, which account for approximately 9% of total turnover. Additional costs vary across sectors and branches, ranging from 36% for the food industry to 7.3% for the mining sector. ***More granular assessments*** of AIEM supported products by CN code have not been conducted so far.

The AIEM regime compensates for only a portion of estimated additional cost. On average, tax differentials address about one-quarter of additional costs, but in monetary terms the total compensation - measured in relation to the total tax charged on imports – accounts for 14% of the overall additional costs. This limited incidence combined with fairly irregular compensation patterns across products makes the impact on the competitiveness gap rather unclear. According to the majority of beneficiaries, the AIEM support has been essential to ***sustaining the competitiveness of local products***. However, while the value-added of AIEM-supported industries has remained substantially stable over time, the value of imports has been steadily growing, so in relative terms the market share of AIEM-supported industries decreased by approximately one percentage point over the past decade. In this sense, the AIEM's main contribution consisted of mitigating such decline rather than fostering development and growth.

The results of the quantitative data analysis suggest that, in the absence of AIEM support, performance of ***local production activities*** would have been significantly worse. About one third of the value of AIEM-supported products (approximately EUR 570 million) was theoretically enabled by the tax differential mechanism, with positive repercussions also on ***employment*** - which registered an increase of nearly 2,000 units in the AIEM sectors since 2014 – and on the ***number of active enterprises***, which has grown by approximately 300 units in the same period. On the other hand, there is no evidence of benefits for the total value of investments and for diversification of production. Finally, the AIEM shows an overall positive balance between costs and benefits, with the estimated value of local production enabled by the special regime being approximately three times greater than its 'cost' in terms of foregone tax revenue.

At the macro-economic level, the effects of the AIEM regime are too small to be noticeable. In the past five years, the ***manufacturing industry production index*** has been growing at a much faster pace than the other sectors' indices, but manufacturing continues to be a minor component of Canarian GDP. The ***trade balance*** continues to be largely negative, with potential AIEM effects on import substitution accounting for less than 1% of the total imbalance (EUR 12.5 billion). Finally, the ***consumer price index*** trend in the Canary Islands does not show any relevant disparity with the overall trend in Spain, with the effects of the AIEM tax accounting for an estimated 1.0% of Canarian household expenditure.

Regarding ***administrative and compliance costs*** related to the AIEM regime, the implementation arrangements are straightforward and do not impose particularly complex or burdensome procedures on competent authorities or economic operators. The most critical implementation issue regards product classification, which is sometimes uncertain and a potential cause of dispute and disparity in treatment. At a broader level, some current policy arrangements appear to be overly complex or rigid, possibly causing ***unnecessary burdens*** for EU and national authorities. One such aspect is the impossibility of revising the list and the exemptions extended to specific products without a legal amendment of the Council Decision. In second place, the current ***monitoring*** requirements involve significant effort from competent authorities, and the lack of a proper, harmonised monitoring framework and the less-than optimal timing of the monitoring reports affect their informative value and utility for the policy process.

- **POLICY SCENARIOS FOR THE WAY FORWARD**

While the results of the evaluation confirm the overall utility and benefits of the AIEM regime for the target group, some inefficiencies and dysfunctions have been detected which might limit the measure's effectiveness and/or cause unnecessary burden. With expiration of the terms of the current Council Decision set for the end of 2020, three main policy scenarios emerge for the way forward:

- the ***'no change' scenario,*** i.e., to renew the current special regime in the next programming period (2021-27) without any significant modification,
- prolongation of the current system with ***revisions of the current arrangements*** aimed at fixing the identified policy problems,
- ***discontinuation*** of the special regime.

Stakeholders' views regarding possible renewal of the AIEM are highly polarised. As expected, enterprises engaged in production activities, which typically benefit from tax differentials, are generally in favour of the policy being renewed (95%), although for the majority of them (75%) some change of the current mechanisms is necessary.

Conversely, the majority (70%) of businesses in other sectors would be in favour of discontinuing the current policy.

The Study has identified a set of possible modifications to the current policy and has examined their expected impact in various areas. The policy options considered by the Study regard three main aspects, namely:

1. Criteria for the ***identification of eligible products and updating of product lists***. The proposed revision consists of two distinct, although connected provisions. The first is the identification in the Council Decision of only the 'broad' categories of supported products (i.e., using CN4 level codes), leaving to competent national authorities the responsibility of selecting, within these categories, the specific products (CN8 or lower levels) which would actually be supported. This measure would allow more flexible management of the regime by competent authorities, removing the needs for EU-level legal amendments for ordinary revisions and updates of product lists. In second place, adoption of clearer, verifiable criteria for the selection of products set to benefit from AIEM support is proposed. In line with current practice, such criteria should take into consideration the product's market share *inter alia*, and in the case of products in residual or largely dominant position on the local market, proper justification for support should be provided in a transparent way. Overall, this provision would prevent greater flexibility in list management leading to unwarranted extension of the policy's scope, and would respond to the demand for greater clarity and objectivity expressed by AIEM opponents. The revised arrangements should ensure that productions of particular and strategic importance continue to be supported, and that coherence with other EU policies and programmes be enhanced.

2. Revision of mechanisms for ***establishing the maximum permitted tax differential***. This proposed option is made up of three specific measures. The first intends to simplify arrangements regarding the establishment of tax differentials, replacing the current four distinct product lists with only one list with a single maximum permitted threshold. The benefits of this measure would include more flexible management of the differential rates applied by the competent authorities, allowing for revisions without a formal amendment of the Council Decision. With its aim being to avoid enabling an unwarranted increase in support, the second proposed measure consists of introducing a global reference value in the policy, i.e., a monetary ceiling for the estimated 'foregone tax revenue' which competent authorities will have to respect. As measurement of foregone revenue is subject to uncertainties and fluctuations, a buffer provision should be envisaged. The third proposed measure aims at improving the utility, for policy purposes, of additional cost assessments, disaggregating estimates at the level of CN4 product categories, and ensuring that the tax differentials applied do not exceed such estimates. To prevent the risk of overcompensation, the support extended under other EU schemes and State aid measures should be considered.

3. Revision of the ***policy duration*** and of ***monitoring arrangements***. The proposed revision has the parallel objectives of reducing the burden of unnecessarily frequent re-assessment and renewal of the policy, and enhancing the utility and effectiveness of monitoring and evaluation activities. In the first case, extending the current duration to 10 years was considered, but it was found that the benefits of diluting the policy renewal burden could be outweighed by the drawbacks of de-synchronisation of the Council Decision with the corresponding State aid policy. Regarding monitoring, the proposed revision consists of the adoption of a standardised reporting structure, based on a harmonised set of indicators common to all EU outermost regions which benefit from a special tax regime, and deemed sufficient to assess the impact of the regime properly. Additionally, the timing of submission of monitoring reports could be moved back to the fifth year from the

adoption of the policy, in order to ensure greater availability of monitoring data, and closer alignment with the needs of the policy renewal process.

The three proposed options are independent of each other, but since each of them displays a positive balance of pros and cons it can be assumed that ***benefits would be maximised by the adoption of all the three proposed options***.

None of the identified problems with implementation appeared to be so severe as to justify adopting more radical options such as ***discontinuing the special regime***. On the one hand, replacing it with other similar EU support measures does not look feasible/desirable for two reasons: the numerous fiscal and non-fiscal aid schemes that already exist, and the fact that the AIEM is currently implemented with no cost for the EU budget. On the other hand, discontinuing the special regime without any replacement would damage local production activities significantly, potentially increase the local economy's dependence on tourism and service sectors, and hamper its resilience to global economic shocks.

PART 2

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Octroi de mer (OdM)

Table of Contents

EXECUTIVE SUMMARY (EN)

1. Overview of the Study

The subject of the Study is the tax advantages granted to some enterprises engaged in production activities and based in certain EU Outermost Regions (ORs), under the following special tax regimes:

- The '***Arbitrio sobre las Importaciones y Entregas de Mercancías en las Islas Canarias***' **(AIEM),** applicable in the Canary Islands; and
- The '***Octroi de mer***' **(OdM)** or 'dock dues', applicable in five French outermost regions, i.e.: Réunion, Mayotte, French Guiana, Guadeloupe, and Martinique.

The purpose of the Study is to provide a comprehensive and evidence-based evaluation of the EU policy enabling these special regimes, laid down in Council Decision 377/2014 for AIEM and in Council Decision 940/2014 (amended by Council Decision 644/2019) for OdM, including its overall coherence with other relevant EU policies. The Decisions currently in force are set to expire at the end of 2020, so the Study includes both a ***retrospective component*** – aimed at investigating performance and results achieved by special regimes - and a ***prospective component*** consisting in the analysis of policy scenarios available for the way forward.

The two regimes have similar objectives and implementation mechanisms but separate legal and administrative frameworks, embedded in their respective national legislation. For this reason, the Study is divided in two parts of which Part 1 deals with the AIEM regime and Part 2 with the *Octroi de mer* regime.

The Study findings are based on evidence gathered from different sources and processed through appropriate qualitative and quantitative ***methodologies***. In particular:

- ***desk research*** and review of relevant documentary sources, involving EU and Member States' policy documents and reports on both the special tax regimes and other relevant EU policies (e.g. programmes, State aid measures etc.) in support of outermost regions, as well as a variety of academic and 'grey' literature;
- comprehensive ***stakeholder consultation***, including interviews (120) and on-site visits in four regions (Canary Islands, Réunion, Guadeloupe, and Martinique), and a survey of businesses (378) covering all of the six regions concerned;
- ***quantitative data analysis***, based on existing raw datasets and statistics collected from competent national authorities.

2. Overview of the *Octroi de mer* regime

The *Octroi de mer (OdM)* is a special tax regime aimed at supporting the development and diversification of production activities in the French Outermost Regions (ORs). The OdM has existed in different forms since the XVII century, but the current format was adopted in 2004. The special regime consists of an *ad valorem* tax on the delivery of certain goods in the ORs, but while products of external origin are subject to the full rate, ***tax exemptions/reductions are extended to locally-made products***. Additionally, local enterprises with a turnover below EUR 300,000 / year are excluded from the application of the tax. The purpose of the special regime is to support local production activities' competitiveness and mitigate the effects of remoteness, small size, isolation, and other structural constraints affecting outermost regions.

Overall, the special regime is applied to ***976 products categories*** (designated by CN code). Supported products belong primarily to manufacturing industries – food and beverage, chemicals, paper and others – and to a lesser extent to agriculture, fishery, and mining sectors. Altogether, the aggregate ***value of supported productions*** amounts, conservatively, to EUR 2.28 billion. The allowed tax differentials range from 10% to 30%, with an average actual difference of approximately 15%. In 2018, the OdM ***tax receipts*** amounted to EUR 1,270 million, of which some EUR 526 million from products subject to the differentiated rates regime, while the estimates on the ***tax not collected*** due to exemptions (the 'foregone' tax revenue) are of EUR 344 million.

3. Summary of the evaluation findings

The OdM regime is one of several special legal measures for the French outermost regions and it is aligned with the EU's overall approach towards them, which is based on the objective of taking into account their structural social and economic constraints. In particular, it contributes to fostering growth and job creation in the ORs through diversification of the local economies and enabling high value-added activities, such as industrial manufacturing. The regime constitutes an evident derogation from the EU policy on internal market and competition, whose legal basis is firmly anchored in ***Article 349 TFEU***, which explicitly recognises the need to adopt special measures in support of outermost regions, to address their structural constraints and contribute to their development. The OdM regime is subject to double-track authorisation at the EU level: (a) in EU fiscal policy, through periodic ***Council Decisions*** which authorise the application of differential treatment to a set of explicitly identified products, and (b) as a ***regional State aid*** measure. The latter ensures the regime's compliance with EU competition rules and its proportionality.

The EU approach towards the outermost regions encompasses a number of other measures financed by the European structural and investment funds (ESIF) and through other specific regional State aid measures. Some of these measures address the same sectors/beneficiaries of the OdM and have the same purpose of mitigating the effects of the ORs' structural constraints on the operating costs of local businesses. In this sense, there are evident ***synergies between the OdM and these other schemes*** and cumulative effects are frequent. At the enterprise level, there are administrative procedures in place to avoid the risk of aid cumulation leading to an excess of compensation, while at the macro-level it has been verified that the sum of the OdM and of the other compensation schemes does not exceed the estimated additional costs caused by structural constraints (some 40%-45% of the estimated additional costs are compensated overall). Still, at product level, there is insufficient information to verify the extent of cumulative effects, so occasional cases of overcompensation cannot be ruled out *a priori*.

As far as ***external trade*** is concerned, the EU's general approach for the ORs pursues two main objectives: (a) strengthening the integration of the ORs in their regional neighbourhood, and (b) taking into account the ORs' interest in trade agreements negotiated by the EU to avoid adverse effects on the local economy. In the case of the OdM, these two objectives are difficult to reconcile, and the regime has been criticised repeatedly by CARIFORUM countries and by certain Eastern and Southern Africa (ESA) countries, which have claimed the OdM is contrary to the spirit of the Economic Partnership Agreement (EPA) these countries have signed with the EU. Beyond legal considerations – the OdM is formally allowed by the EPA – and economic motives supporting the existence and maintenance of the OdM in the ORs, the results of regional trade data analysis highlight that OdM differentials have moderate impact on the value of French ORs' imports from CARIFORUM and ESA countries, and a hypothetical complete removal of the OdM would benefit primarily exporters from the EU and third countries other than CARIFORUM and ESA. In this sense, to improve intra-regional trade, other softer and more tailored approaches should be sought.

The scope of the OdM regime is fairly comprehensive, thus addressing satisfactorily the ***needs of the economic operators*** concerned. The system is, however, poorly responsive to the evolving market conditions because the list of supported products is laid down in the Council Decision. This means that any revision – e.g., to include a newly emerging production line or to modify the extent of support – would require a burdensome legal amendment process or its postponement to the next renewal of the policy. The other issue – frequently lamented by trade representatives – relates to the identification of supported products through reference to CN categories which sometimes also include items which are not locally produced or are produced in limited quantities. This calls into question the ***criteria adopted by competent authorities to select the products*** which are eligible for the support. The OdM policy requires that local production exist and, secondly, that there be a sufficient level of imports to jeopardise local production, but no further specification is provided on the minimum or maximum market share threshold relevant for the application of these criteria. Analysis of the OdM product portfolio showed that nearly 20% of supported products have a market share which is lower than 5%, while some 6.5% of them are in a clearly dominant position (95% or more of market share). The strategic value of certain productions may certainly justify waiving the 'market share' criterion, but the absence of explicit, transparent rules has seemingly fuelled distrust among certain economic operators regarding how the special regime is implemented.

The OdM special regime supports local production activities by ***reducing the competitiveness gap between local products and imports*** from mainland France or the EU, which is caused by additional production costs. Quantitative assessments of such additional costs are carried out periodically but, despite the efforts made, the exercise remains subject to intrinsic methodological limitations, so estimates have to be considered with due caution. The latest assessment was completed in 2016 and estimated total ***additional costs*** in French ORs to be EUR 4.51 billion, of which EUR 1.76 billion was attributable to OdM supported sectors (manufacturing and the primary sector). Furthermore, additional cost assessments have been carried out regularly at the product level, to justify the differential treatment and establish appropriate tax rates. From analysis of these 'product *fiches',* it emerged that the bulk of additional costs – approximately 83% on average - is generated by four cost factors, apparent in all French ORs: the additional costs of inputs (including freight costs); oversized equipment (idle production capacity); lower productivity of labour; and the need for larger stocks. However, there is variability in the assessments that seems unrelated to regional specificities, but rather are connected to methodological incongruences and the inevitable subjectivity of business' own estimates.

The OdM regime compensates for about half of additional costs. With some exceptions, the applied tax differentials proved to be fairly proportional to the additional costs declared for specific products. This contributes to perceptions of the ***importance of the OdM for competitiveness*** among local economic operators, even though the price gap between their products and imported ones is not fully closed. The results of the quantitative data analysis suggest that, in the absence of OdM support, performance of ***local production activities*** would have been significantly worse. About 37% of the value of OdM-supported products (approximately EUR 850 million) was theoretically 'enabled' by the tax differential mechanism, with positive repercussions also on ***employment*** - which registered a positive increase in the OdM sectors since 2014 (against a decline in non-OdM industries) – and on the ***number of active enterprises***, which has grown by approximately 1.7% in the same period (against an overall decline of 3%). On the other hand, there is no evidence of benefits for the total value of investments and for diversification of production. Finally, the OdM shows an overall positive balance between costs and benefits, with the estimated value of local production enabled by the special regime being approximately 2.5 times greater than its 'cost' in terms of foregone tax revenue.

Application of the OdM did not apparently cause excessive ***import substitution***. Actually, the majority of local products supported by the OdM registered a loss of market share over time, confirming that the OdM is actually a measure which mitigates the loss of local production's competitiveness more than a development instrument, strictly speaking. A slight inverse correlation was found between OdM differentials and import flows, but this did not impede a general worsening of French ORs' ***trade balance*** over time.

The Study investigated the possible contribution of the OdM differentials to the ***consumer price index*** and the cost of living in French ORs. Overall, statistics confirm the existence of significant price differences between French ORs and the mainland, with gaps ranging between 7% and 12%, and concentrating on food products, communications, alcohol and tobacco products. According to the relevant literature, this gap is due to a combination of structural factors and fiscal policies, including the OdM. However, only a minor share of the estimated OdM impact on household expenditure in French ORs can be attributed to OdM-supported products. Rough estimates suggest that the additional tax levied on products subject to tax differentials does not exceed 1.5% of final consumption in the ORs (but approximately 4% if only manufactured goods are considered).

Regarding ***administrative and compliance costs*** related to the OdM regime, the implementation arrangements are straightforward and do not impose particularly complex or burdensome procedures on competent authorities or economic operators. The most critical implementation issue regards product classification, which is sometimes uncertain and a potential cause of dispute and disparity in treatment. The total administrative costs of OdM for economic operators (including dealing with exemptions on inputs and reimbursements) are estimated to be approximately EUR 600,000/year. At a broader level, some current policy arrangements appear to be overly complex or rigid, possibly causing ***unnecessary burdens*** for EU and national authorities. One such aspect is the impossibility of revising the list and the exemptions extended to specific products without a legal amendment of the Council Decision. In second place, the current ***monitoring*** requirements involve significant effort from competent authorities, and the lack of a proper, harmonised monitoring framework and the less-than optimal timing of the monitoring reports affect their informative value and utility for the policy process.

4. Policy scenarios for the way forward

While the results of the evaluation confirm the overall utility and benefits of the OdM regime for the target group, some inefficiencies and dysfunctions have been detected which might limit the measure's effectiveness and/or cause unnecessary burden. With expiration of the terms of the current Council Decision set for the end of 2020, three main policy scenarios emerge for the way forward:

- the ***'no change' scenario,*** i.e., to renew the current special regime in the next programming period (2021-27) without any significant modification,
- prolongation of the current system with ***revisions of the current arrangements*** aimed at fixing the identified policy problems,
- ***discontinuation*** of the special regime.

Stakeholders' views regarding possible renewal of the OdM are highly polarised. As expected, enterprises engaged in production activities, which typically benefit from tax differentials, are generally in favour of the policy being renewed (86%), although for the majority of them (59%) some change of the current mechanisms is necessary. Conversely, the majority (58%) of businesses in other sectors would be in favour of discontinuing the current policy.

The Study has identified a set of possible modifications to the current policy and has examined their expected impact in various areas. The policy options considered by the Study regard three main aspects, namely:

1. Criteria for the ***identification of eligible products and updating of product lists***. The proposed revision consists of two distinct, although connected provisions. The first is the identification in the Council Decision of only the 'broad' categories of supported products (i.e., using CN4 level codes), leaving to competent national authorities the responsibility of selecting, within these categories, the specific products (CN8 or lower levels) which would actually be supported. This measure would allow more flexible management of the regime by competent authorities, removing the needs for EU-level legal amendments for ordinary revisions and updates of product lists. In second place, adoption of clearer, verifiable criteria for the selection of products set to benefit from OdM support is proposed. In line with current practice, such criteria should take into consideration the product's market share *inter alia*, and in the case of products in residual or largely dominant position on the local market, proper justification for support should be provided in a transparent way. Overall, this provision would prevent greater flexibility in list management leading to unwarranted extension of the policy's scope, and would respond to the demand for greater clarity and objectivity expressed by most of OdM opponents. The revised arrangements should ensure that productions of particular and strategic importance continue to be supported, and that coherence with other EU policies and programmes be enhanced.

2. Revision of mechanisms for ***establishing the maximum permitted tax differential***. This proposed option is made up of three specific measures. The first intends to simplify arrangements regarding the establishment of tax differentials, replacing the current three distinct product lists with only one list with a single maximum permitted threshold. The benefits of this measure would include more flexible management of the differential rates applied by the competent authorities, allowing for revisions without a formal amendment of the Council Decision. With its aim being to avoid enabling an unwarranted increase in support, the second proposed measure consists of introducing a global reference value in the policy, i.e., a monetary ceiling for the estimated 'foregone tax revenue' which competent authorities will have to respect. As measurement of foregone revenue is subject to uncertainties and fluctuations, a buffer provision should be envisaged. The third proposed measure aims at improving the utility, for policy purposes, of additional cost assessments, harmonising their focus on the CN4-level product categories identified in the Decision (according to the previous proposed option). To prevent the risk of overcompensation, the support extended under the other EU schemes and State aid measures should be considered.

3. Revision of the ***policy duration*** and of ***monitoring arrangements***. The proposed revision has the parallel objectives of reducing the burden of unnecessarily frequent re-assessment and renewal of the policy, and enhancing the utility and effectiveness of monitoring and evaluation activities. In the first case, extending the current duration to 10 years was considered, but it was found that the benefits of diluting the policy renewal burden could be outweighed by the drawbacks of de-synchronisation of the Council Decision with the corresponding State aid policy. Regarding monitoring, the proposed revision consists of the adoption of a standardised reporting structure, based on a harmonised set of indicators common to all EU outermost regions which benefit from a special tax regime, and deemed sufficient to assess the impact of the regime properly. Additionally, the timing of submission of monitoring reports could be moved back to the fifth year from the adoption of the policy, in order to ensure greater availability of monitoring data, and closer alignment with the needs of the policy renewal process.

None of the identified problems with implementation appeared to be so severe as to justify adopting more radical options such as ***discontinuing the special regime***. On the one hand, replacing it with other similar EU support measures does not look feasible/desirable for two reasons: the numerous fiscal and non-fiscal aid schemes that already exist, and the fact that the OdM is currently implemented with no cost for the EU budget. On the other hand, discontinuing the special regime without any replacement would significantly damage local production activities, hamper ORs' resilience to global economic shocks, and deprive local public budgets of a non-negligible component. Theoretically, discontinuing the special regime may be beneficial in reducing price levels, but the risk of increased market concentration and the possible introduction of a regional tax to compensate for budget losses would likely offset this benefit.

RÉSUMÉ EXÉCUTIF (FR)

1. Présentation de l’étude

L'étude porte sur les avantages fiscaux accordés à certaines entreprises exerçant des activités de production, basées dans certaines régions ultrapériphériques (RUP) de l'UE, dans le cadre des régimes fiscaux spéciaux suivants :

- L’ “***Arbitrio sobre las Importaciones y Entregas de Mercancías en las Islas Canarias***” **(AIEM),** applicable dans les Canaries ; et
- L’ ***Octroi de mer*** **(OdM)**, applicable dans les cinq régions ultrapériphériques françaises : la Réunion, Mayotte, la Guyane française, la Guadeloupe et la Martinique.

L'objectif de l'étude est de fournir une évaluation complète et factuelle de la politique de l'UE permettant ces régimes spéciaux, résultant de la décision du Conseil 377/2014 pour l'AIEM et de la décision du Conseil 940/2014 (modifiée par la décision du Conseil 644/2019) pour l'OdM. L’évaluation comprend notamment l’examen de la cohérence globale de cette politique avec les autres politiques pertinentes de l'UE. Les décisions actuellement en vigueur devant expirer à la fin de l’année 2020, l'étude comporte à la fois un ***volet rétrospectif*** - visant à étudier les performances et les résultats obtenus par ces régimes spéciaux - et un ***volet prospectif*** consistant en l'analyse des différents scénarios de politiques envisageables pour l’avenir.

Les deux régimes ont des objectifs et des mécanismes de mise en œuvre similaires. Cependant, ces régimes étant intégrés dans leurs législations nationales, leurs cadres juridiques et administratifs sont différents. C'est pourquoi l'étude est organisée en deux parties : la partie 1 traite du régime de l’AIEM et la partie 2 du régime de l’Octroi de mer.

Les résultats de l'étude sont basés sur les éléments factuels recueillis auprès de différentes sources et traités selon les ***méthodologies*** qualitatives et quantitatives appropriées. En particulier :

- ***La recherche documentaire*** et l’examen des sources documentaires pertinentes, y compris les documents de politique de l'UE et des États membres et les rapports concernant à la fois les régimes fiscaux spéciaux mais aussi toutes autres politiques communautaires pertinentes (par exemple, programmes spéciaux, mesures d'aide d'État, etc.) en faveur des régions ultrapériphériques, ainsi que des documents issus de la littérature académique et de la littérature "grise" ;
- Une ***consultation*** exhaustive ***des parties prenantes***, comprenant des entretiens (120) et des visites dans quatre régions (Canaries, Réunion, Guadeloupe et Martinique), ainsi qu'une enquête auprès des entreprises implantées dans ces RUP (378) couvrant l'ensemble des six régions concernées ;
- ***Une analyse quantitative des données***, basée sur l’ensemble des données brutes existantes et sur les statistiques collectées auprès des autorités nationales.

2. Aperçu du régime de l’OdM

L'Octroi de mer (OdM) est un régime fiscal spécial qui vise à soutenir le développement et la diversification des activités de production dans les régions ultrapériphériques (RUP) françaises. L'OdM a existé sous différentes formes depuis le XVIIe siècle, mais le format actuel a été adopté en 2004. Ce régime spécial consiste en une taxe *ad valorem* sur la livraison de certains produits dans les RUP. Toutefois, alors que les produits d'origine extérieure sont soumis à cette taxe à taux plein, des exonérations/réductions fiscales sont accordées aux produits fabriqués localement. En outre, les entreprises locales dont le chiffre d'affaires est inférieur à 300 000 EUR/an sont exclues du champ d'application de la taxe. L'objectif de ce régime spécial est de soutenir la compétitivité de la production locale et d'atténuer les effets liés à l'éloignement, la petite taille, l'isolement et aux autres contraintes structurelles auxquelles les régions ultrapériphériques doivent faire face.

Globalement, ce régime spécial est appliqué à pas moins de ***976 catégories de produits*** (désignés par le code NC). Les produits bénéficiant d'un différentiel de taxation appartiennent principalement aux industries manufacturières - alimentation et boissons, produits chimiques, papier et autres - et, dans une moindre mesure, aux secteurs de l'agriculture, de la pêche et de l'exploitation minière. Au total, une estimation prudente établit la ***valeur globale des productions soutenues*** à 2,28 milliards d'euros. Les différentiels de taxation autorisés vont de 10 à 30 %, avec un différentiel appliqué moyen d'environ 15 %. En 2018, les ***recettes fiscales*** liées à l'OdM s'élevaient à 1 270 millions d'euros, dont 526 millions d'euros provenant des produits soumis à des différentiels de taxation, tandis que les estimations concernant les ***taxes non perçues*** en raison des exonérations ("manque à gagner" fiscal) étaient de 344 millions d'euros.

3. Résumé des résultats de l'évaluation

Le régime de l'OdM est l'une des mesures juridiques spéciales prévues pour les RUP françaises. Il est conforme à l'approche globale de l'UE à l'égard des régions ultrapériphériques, dont l'objectif est de prendre en compte leurs contraintes structurelles, sociales et économiques. Il contribue notamment à favoriser la croissance et la création d'emplois dans les RUP par une diversification de l'économie locale et à permettre le développement d'activités à forte valeur ajoutée, telles que la production industrielle. Ce régime constitue une dérogation évidente à la politique de l'UE sur le marché intérieur et la concurrence, dont la base juridique est fermement ancrée dans l'***article 349 du TFUE***. Cet article reconnaît explicitement la nécessité d'adopter des mesures spéciales en faveur des régions ultrapériphériques, pour faire face à leurs contraintes structurelles et contribuer à leur développement. Le régime de l'OdM est soumis à une double autorisation au niveau de l'UE : (a) dans le cadre de la politique fiscale de l'UE, par le biais de ***décisions périodiques du Conseil*** qui autorisent l'application d'un traitement différencié à un ensemble de produits explicitement identifiés ; et (b) en tant que mesure d'***aide d'État à finalité régionale***. Cette dernière garantit la conformité du régime avec les règles de concurrence de l'UE et son principe de proportionnalité.

L'approche de l'UE à l'égard des régions ultrapériphériques englobe un ensemble d'autres mesures financées par les Fonds structurels et d'investissement européens (Fonds ESI) et au travers d'autres mesures spécifiques d'aides d'État à finalité régionale. Certaines de ces mesures s'adressent aux mêmes secteurs/bénéficiaires que l'OdM et ont pour même objectif d'atténuer les effets des contraintes structurelles sur les coûts de fonctionnement des entreprises. En ce sens, il existe des ***synergies évidentes entre l'OdM et ces autres régimes*** et les effets cumulatifs sont fréquents. Au niveau des entreprises, des procédures administratives sont en place pour éviter que le cumul des aides n'entraîne une surcompensation. De plus, au niveau macroéconomique, il a été vérifié que le cumul de l'OdM et des autres régimes d'indemnisation ne dépasse pas les surcoûts estimés engendrés par les contraintes structurelles (au total environ 40 % - 45 % des surcoûts estimés sont compensés). Cependant, les informations récoltées restent insuffisantes pour estimer les effets cumulés au niveau des produits et, dans certains cas peu fréquents il est impossible d'exclure *a priori* une surcompensation.

En ce qui concerne le ***commerce extérieur***, l'approche générale de l'UE pour les RUP poursuit deux objectifs principaux : (a) renforcer l'intégration des RUP dans leur voisinage régional, et (b) prendre en compte l'intérêt des RUP dans les accords commerciaux négociés par l'UE pour éviter des effets négatifs sur l'économie locale. Dans le cas du régime de l'OdM, ces deux objectifs sont difficilement conciliables, et ce régime a été critiqué à plusieurs reprises par les pays du CARIFORUM et par certains pays d'Afrique orientale et australe (AfOA), qui ont affirmé que l'OdM est contraire à l'esprit de l'accord de partenariat économique (APE) que ces pays ont signé avec l'UE. Au-delà des considérations juridiques – le régime de l'OdM est formellement autorisé par l'APE - et des motivations économiques qui soutiennent l'existence et le maintien du régime de l'OdM dans les RUP, les résultats de l'analyse des données commerciales régionales soulignent que les différentiels de taxation à l'OdM ont un impact modéré sur le montant des importations des RUP françaises en provenance des pays du CARIFORUM et de l'AfOA. De plus, une hypothétique suppression complète de l'OdM bénéficierait principalement aux exportateurs de l'UE et des pays tiers autres que ceux du CARIFORUM et de l'AfOA. En conséquence, pour améliorer le commerce intra-régional, d'autres approches plus souples et plus adaptées devraient être recherchées.

Le champ d'application du régime de l'OdM est relativement vaste, ce qui permet de répondre de manière satisfaisante aux ***besoins des opérateurs économiques*** concernés. Toutefois, le système est peu réactif à l'évolution des conditions du marché car la liste des produits soutenus est fixée par la décision du Conseil. Cela signifie que toute révision - par exemple pour inclure une production émergente ou pour modifier l'étendue du dispositif - implique un processus législatif d'amendement lourd ou son report au prochain renouvellement du dispositif. Le second problème – fréquemment déploré par les représentants du commerce - concerne l'identification des produits soutenus par référence aux catégories de la NC qui incluent parfois aussi des articles qui ne sont pas produits localement ou qui sont produits en quantités limitées. Cela soulève des questions sur les ***critères adoptés par les autorités compétentes pour sélectionner les produits*** éligibles au différentiel de taxation. La politique de l'OdM exige, premièrement, l'existence d'une production locale et, deuxièmement, l'existence d'importations significative de biens pouvant compromettre le maintien de la production locale, mais aucune autre spécification n'est fournie quant à la fourchette de part de marché pertinente pour l'application de ces critères. L'analyse du portefeuille des produits soumis à l'OdM a montré que près de 25 % des produits bénéficiant d'un différentiel de taxation ont une part de marché inférieure à 5 %, et 6,5 % d'entre eux sont en position clairement dominante (95 % ou plus de part de marché). La valeur stratégique de certaines productions peut aisément justifier une dérogation au critère de "part de marché", mais l'absence de règles explicites et transparentes semble avoir alimenté la méfiance de certains opérateurs économiques quant à la manière dont le régime spécial est mis en œuvre.

Le régime spécial de l'OdM soutient les activités de production locale ***en réduisant l'écart de compétitivité entre les produits locaux et les importations*** en provenance de la France continentale ou de l'UE, cet écart étant causé par des surcoûts de production. Une évaluation quantitative de ces surcoûts est effectuée périodiquement mais, malgré les efforts déployés, l'exercice reste soumis à des limites méthodologiques intrinsèques, de sorte que ces estimations doivent être considérées avec prudence. La dernière évaluation a été achevée en 2016 et a estimé le ***total des surcoûts*** du secteur privé des RUP à 4,51 milliards d'euros, dont 1,76 milliard d'euros étaient imputables aux secteurs soutenus par l'OdM (industrie manufacturière et secteur primaire). En outre, une évaluation des surcoûts est effectuée régulièrement au niveau des produits, afin de justifier les différentiels de taxation et d'établir des taux d'imposition appropriés. L'analyse de ces "*fiches produits*" fait apparaître que l'essentiel des surcoûts - environ 83% en moyenne - est généré par quatre facteurs de coûts, présents dans toutes les RUP françaises : les surcoûts des intrants (y compris les frais de transport), le surdimensionnement des équipements (capacité de production inutilisée), la moindre productivité du travail et la nécessité de stocks plus importants. Il existe cependant une disparité des estimations des surcoûts entre les différentes évaluations et entre les différents RUP qui semble sans rapport avec les spécificités régionales, mais qui semble plutôt liée à des incongruités méthodologiques et à l'inévitable subjectivité des estimations propres des entreprises.

Le régime de l'OdM compense environ la moitié des surcoûts. À quelques exceptions près, les différentiels de taxation appliqués se sont avérés plutôt proportionnels aux surcoûts déclarés pour les différents produits. Cela contribue à la perception qu'ont les opérateurs économiques locaux de ***l'importance du régime de l'OdM pour leur compétitivité***, même si l'écart de prix entre leurs produits et les produits importés n'est pas totalement comblé. Les résultats de l'analyse des données quantitatives suggèrent qu'en l'absence du régime de l'OdM, les performances de ***la production locale*** auraient été nettement moins bonnes. Environ 37% de ***la valeur de production locale*** bénéficiant d'un différentiel de taxation (environ 850 millions d'euros) a été théoriquement générée par le mécanisme du différentiel de taxation, avec des répercussions positives également sur ***l'emploi*** - qui a enregistré une croissance dans les secteurs bénéficiant de l'OdM depuis 2014 (par rapport à un déclin dans les industries qui n'en bénéficient pas) - et sur le ***nombre d'entreprises en activité***, qui a augmenté d'environ 1,7% au cours de la même période (contre une baisse globale de 3%). En revanche, il n'existe pas de preuve d'un impact positif quant aux investissements et à la diversification de la production. Enfin, l'OdM présente un bilan coûts/bénéfices globalement positif, la valeur estimée de la production locale générée grâce à ce régime spécial étant environ 2,5 fois supérieure au "coût" de la mesure.

L'application du régime de l'OdM ne semble pas avoir entraîné une ***substitution excessive des importations***. En pratique, la majorité des produits locaux bénéficiant d'un différentiel de taxation a enregistré une perte de part de marché dans le temps, ce qui confirme que le régime de l'OdM est en fait plus une mesure qui atténue la perte de compétitivité de la production locale qu'un instrument de développement à proprement parler. Une légère corrélation inverse a été constatée entre les différentiels de taxation à l'OdM et les flux d'importation, mais cela n'a pas empêché une dégradation générale de la ***balance commerciale*** des RUP françaises dans le temps.

L'étude a examiné l'impact possible des différentiels de taxation à l'OdM sur ***l'indice des prix à la consommation*** et sur le coût de la vie dans les RUP françaises. Globalement, les statistiques confirment l'existence de différences de prix significatives entre les RUP françaises et la métropole, avec des écarts allant de 7 à 12 %, se concentrant sur les produits alimentaires, les communications, l'alcool et les produits du tabac. Selon la littérature spécialisée, cet écart est dû à une combinaison de facteurs structurels et de politiques fiscales, dont l'OdM. Cependant, seule une part mineure de l'impact estimé de l'OdM sur les dépenses des ménages dans les RUP françaises peut être attribuée aux produits bénéficiant de l'OdM. Des estimations approximatives suggèrent que la taxe supplémentaire prélevée sur les produits sujets à des différentiels de taxation ne dépasse pas 1,5% de la consommation finale dans les RUP (mais environ 4% pour les produits manufacturés).

En ce qui concerne les ***coûts administratifs et de mise en conformité*** liés au régime de l'OdM, les modalités de mise en œuvre sont simples et n'imposent pas de procédures particulièrement complexes ou lourdes aux autorités compétentes ou aux opérateurs économiques. L'enjeu le plus important lié à la mise en œuvre concerne la classification des produits, dont les critères manquent parfois de transparence et constitue une cause potentielle de litige et de disparité de traitement. Le coût administratif total de l'OdM pour les opérateurs économiques (y compris le traitement des exonérations sur les intrants et les remboursements) est estimé à environ 600 000 EUR/an. À un niveau plus général, certains éléments du dispositif actuel semblent trop complexes ou rigides, ce qui peut entraîner des ***charges inutiles*** pour les autorités européennes et nationales. L'un de ces aspects est l'impossibilité de réviser la liste des produits bénéficiant d'un différentiel de taxation à l'OdM et des différentiels de taxation maximum autorisés sans une modification formelle de la décision du Conseil. En second lieu, les exigences actuelles en matière de ***contrôle*** impliquent un effort important de la part des autorités compétentes. De plus, l'absence d'un cadre de contrôle approprié et harmonisé ainsi que le calendrier peu optimal des rapports d'évaluation affectent leur valeur informative et leur utilité pour le processus politique.

4. Scénarios envisageables pour l'avenir

Si les résultats de l'évaluation confirment l'utilité et un bilan globalement positif du régime de l'OdM pour le groupe cible, certaines inefficacités et dysfonctionnements ont été détectés et pourraient limiter l'efficacité de la mesure et/ou entraîner une charge inutile. Avec l'expiration des dispositions de la décision du Conseil actuelle fixée à la fin de 2020, trois principaux scénarios politiques se dégagent pour la suite de ce dispositif:

- le ***scénario "sans changement",*** c'est-à-dire le renouvellement du régime spécial actuel au cours de la prochaine période de programmation (2021-27) sans aucune modification significative,
- la prolongation du système actuel avec une ***révision des dispositions actuelles*** visant à résoudre les problèmes liés au régime tel qu'identifiés,
- ***la suppression*** du régime spécial.

L'avis des parties prenantes concernant un éventuel renouvellement de l'OdM est très polarisé. Comme attendu, les entreprises exerçant des activités de production qui bénéficient le plus souvent de différentiels de taxation, sont généralement favorables au renouvellement du régime spécial (86 %), bien que pour la majorité d'entre elles (59 %), certaines évolutions du mécanisme actuel soient nécessaires. À l'inverse, la majorité (58 %) des entreprises des autres secteurs seraient favorables à l'abandon de la politique actuelle.

L'étude a identifié une série de modifications possibles de la politique actuelle et a examiné leurs impacts potentiels dans différents domaines. Les modifications de la politique actuelle examinées par l'étude portent sur trois aspects principaux, à savoir :

1. ***Critères pour l'identification des produits éligibles et la mise à jour des listes de produits.*** La révision proposée consiste en deux dispositions distinctes, bien que liées. La première consiste à identifier dans la décision du Conseil uniquement les "grandes" catégories de produits pouvant bénéficier d'une aide (c'est-à-dire en utilisant les codes de la NC à 4 chiffres), en laissant aux autorités nationales compétentes la responsabilité de sélectionner, au sein de ces catégories, les produits spécifiques (code de la NC à 8 chiffres ou inférieurs) qui bénéficieraient effectivement de cette aide. Cette mesure permettrait une gestion plus souple du régime par les autorités compétentes, supprimant la nécessité d'apporter des modifications juridiques au niveau de l'UE pour les révisions et les mises à jour ordinaires des listes de produits. En second lieu, il est proposé d'adopter des critères plus clairs, vérifiables pour la sélection des produits devant bénéficier d'un différentiel de taxation à l'OdM. Conformément à la pratique actuelle, ces critères devraient prendre en considération la part de marché de la production locale, entre autres, et dans le cas d'une faible part de marché ou au contraire d'une position largement dominante sur le marché local, une justification appropriée devrait être fournie de manière transparente. Dans l'ensemble, cette disposition permettrait d'éviter qu'une plus grande souplesse dans la gestion des listes ne conduise à une extension injustifiée du champ d'application du dispositif, et répondrait à la demande de plus de clarté et d'objectivité exprimée par les opposants à l'OdM. Les dispositions révisées devraient garantir que les productions d'une importance particulière et stratégique continuent d'être soutenues et que la cohérence avec les autres politiques et programmes de l'UE soit renforcée.

2. Révision des mécanismes de ***fixation du différentiel de taxation maximum autorisé***. L'option proposée est composée de trois mesures spécifiques. La première vise à simplifier les modalités d'établissement des différentiels de taxation, en remplaçant les trois listes de produits distinctes actuelles par une seule liste avec un seuil maximal autorisé. Cette mesure aurait notamment pour avantage de permettre une gestion plus souple des différentiels de taxation appliqués par les autorités compétentes, ce qui permettrait de procéder à des révisions sans modification formelle de la décision du Conseil. Cependant, afin de se prémunir contre une augmentation injustifiée de l'aide, la deuxième mesure proposée consiste à introduire une valeur de référence globale dans le dispositif, c'est-à-dire un plafond budgétaire du montant prévisionnel du « manque à gagner » fiscal que les autorités compétentes devront respecter. Comme la détermination du manque à gagner fiscal est sujette à des incertitudes et à des fluctuations, une disposition « tampon » devrait être envisagée. La troisième mesure proposée vise à améliorer l'utilité, à des fins politiques, de l'évaluations des surcoûts. Cette évaluation devrait être harmonisée et faite au niveau des catégories de produits à 4 chiffres de la NC comme identifiées dans la décision (selon l'option proposée précédemment). Pour prévenir le risque de surcompensation, l'aide accordée dans le cadre des programmes de l'UE et des mesures d'aide d'État devrait être pris en considération.

3. Révision de la ***durée du dispositif*** et des ***modalités de contrôle***. La révision proposée a pour objectifs parallèles de réduire la charge liée à la réévaluation et au renouvellement inutilement fréquent du dispositif, et de renforcer l'utilité et l'efficacité des activités de suivi et d'évaluation. Dans le premier cas, il a été envisagé d'étendre la durée actuelle à dix ans. Cependant, il a été constaté que les avantages de la dilution de la charge liée au renouvellement du dispositif pourraient être contrebalancés par les inconvénients lié à la désynchronisation de la décision du Conseil avec la politique correspondante en matière d'aides d'État. En ce qui concerne le suivi, la révision proposée consiste en l'adoption d'une structure de rapport standardisée, basée sur un ensemble harmonisé d'indicateurs communs à toutes les régions ultrapériphériques de l'UE qui bénéficient d'un régime fiscal spécial, et jugés suffisants pour évaluer correctement l'impact du régime. En outre, la présentation des rapports de suivi pourrait être reportée à la cinquième année suivant l'adoption du dispositif, afin d'assurer une plus grande disponibilité des données de suivi et un rapprochement avec les besoins du processus de renouvellement du dispositif.

Aucun des problèmes de mise en œuvre identifiés ne semble être suffisamment grave pour justifier l'adoption d'options plus radicales telles que ***la suppression du régime spécial***. D'une part, son remplacement par d'autres mesures d'aides similaires de l'UE ne semble pas faisable/désirable pour deux raisons : les nombreux régimes d'aide fiscale et non fiscale qui existent déjà, et le fait que l'OdM est actuellement mis en œuvre sans coût pour le budget de l'UE. D'autre part, la suppression du régime spécial sans aucun remplacement porterait un préjudice important aux activités de production locales, entraverait la résistance des RUP aux chocs économiques mondiaux et priverait les budgets publics locaux d'une composante non négligeable. En théorie, la suppression du régime spécial peut être bénéfique pour réduire le niveau des prix, mais le risque d'une concentration accrue du marché et l'introduction éventuelle d'une taxe régionale pour compenser la perte budgétaire associée effacerait probablement ce bénéfice.

RESUMEN EJECUTIVO (ES)

1. Descripción general del estudio.

El objeto central del estudio es el análisis sobre las ventajas fiscales otorgadas a algunas empresas dedicadas a determinadas actividades de producción con sede en las Regiones Ultraperiféricas de la UE bajo los siguientes regímenes fiscales especiales:

- El ″***Arbitrio sobre las Importaciones y Entregas de Mercancías en las Islas Canarias″*****(AIEM),** aplicable en las Islas Canarias; y
- El "**Òctroi de Mer" (OdM)** o "Arbitrios Insulares", aplicables en cinco regiones ultraperiféricas francesas, es decir: Reunión, Mayotte, Guayana Francesa, Guadalupe y Martinica.

El objetivo del estudio es realizar una evaluación, amplia y basada en evidencias, de la política de la UE implementada con estos regímenes especiales que ha sido establecida en la Decisión del Consejo 377/2014 para el AIEM y en la Decisión del Consejo 940/2014 (modificada por la Decisión del Consejo 644/2019) para OdM, así como, su coherencia con otras políticas relevantes de la UE.

Las Decisiones vigentes actualmente expirarán a finales de 2020, por lo que el Estudio incluye un ***componente retrospectivo,*** destinado a investigar el desempeño y los resultados conseguidos, y un ***componente prospectivo,*** que consiste en el análisis de escenarios de políticas posibles a implementar en periodos subsiguientes.

Los dos regímenes tienen mecanismos objetivos de implementación similares pero marcos legales y administrativos diferenciados e integrados en sus respectivas legislaciones nacionales. Por esta razón, el Estudio se divide en dos partes, la parte 1 trata sobre el régimen del AIEM, y la parte 2 sobre el régimen *Octroi de mer*.

Las conclusiones del Estudio se basan en evidencias recopiladas de distintas fuentes y procesadas a través de las ***metodologías*** cualitativas y cuantitativas más apropiadas para cada caso. En particular:

- ***investigación documental*** y revisión de las fuentes documentales relevantes, que incluyen documentos e informes de políticas de la UE y los Estados Miembros sobre ambos regímenes fiscales especiales y otras políticas relevantes de la UE en apoyo a las regiones ultraperiféricas (p.ej. programas, medidas de ayudas de Estado, etc.), así como una variedad de literatura académica y de investigación de expertos;

- ***consulta exhaustiva con las partes interesadas*** incluyendo entrevistas (120) y visitas *in situ* a cuatro regiones (Islas Canarias, Reunión, Guadalupe y Martinica), así como una encuesta a empresas (378) que abarca las seis regiones involucradas;

- ***análisis cuantitativo de los datos***, sobre bases de datos existentes sin procesar y estadísticas recopiladas de las autoridades nacionales competentes.

2. Descripción general del régimen Octroi de Mer.

Octroi de mer (OdM) es un régimen fiscal especial destinado a apoyar el desarrollo y la diversificación de las actividades de producción en las regiones ultraperiféricas (RUP) francesas. El régimen de OdM ha existido en diferentes formas desde el siglo XVII, pero el formato actual se adoptó en 2004. El régimen especial consiste en un impuesto *ad* *valorem* sobre la entrega de ciertos bienes en las regiones, de tal manera que mientras que los productos de origen externo están sujetos a la tasa completa, los productos de fabricación local gozan de exenciones o reducciones de impuestos. Además, las empresas locales con una facturación inferior a 300.000 euros / año están excluidas de la aplicación del impuesto. El propósito del régimen especial es apoyar la competitividad de las actividades de producción local y mitigar los efectos de la lejanía, el tamaño reducido de sus mercados, el aislamiento y otras restricciones estructurales que afectan a las regiones ultraperiféricas.

En general, el régimen especial se aplica a unas ***976 categorías de productos*** (designadas por el código de la NC). Los productos admitidos pertenecen principalmente a las industrias manufactureras (alimentos y bebidas, productos químicos, papel y otros) y, en menor medida, a los sectores agrícola, pesquero y minero. En total, el ***valor agregado de las producciones incluidas*** asciende, con una visión conservadora, a 2.280 millones de euros. Los diferenciales de impuestos permitidos varían del 10% al 30%, con una diferencia real promedio de aproximadamente el 15%. En 2018, los ***ingresos fiscales*** de OdM ascendieron a 1.270 millones de euros, de los cuales unos 526 millones de euros provienen de productos sujetos al régimen de tasas diferenciadas, mientras que las estimaciones sobre el ***impuesto no recaudado*** debido a exenciones (los ingresos fiscales 'perdidos') fueron de 344 millones de euros.

3. Resumen de los resultados de la evaluación.

El régimen OdM es una de las diversas medidas legales especiales para las RUP francesas que se enmarcan en el enfoque general de la UE hacia las regiones ultraperiféricas, que se basa, fundamentalmente, en el objetivo de tener en cuenta las limitaciones estructurales desde el punto de vista social y económico que se presenta en estas regiones. En particular, contribuye a fomentar el crecimiento y la creación de empleo en las RUP mediante la diversificación de la economía local y el desarrollo de actividades de alto valor añadido, como la fabricación industrial. El régimen constituye una derogación de la política de la UE sobre mercado interno y competencia, cuyo fundamento jurídico está firmemente anclado en el ***Artículo 349 del TFUE*** que reconoce, explícitamente, la necesidad de adoptar medidas especiales en apoyo de las Regiones Ultraperiféricas, para abordar sus limitaciones estructurales y contribuir a su desarrollo. El régimen OdM está sujeto a una doble vía de autorización a nivel de la UE: (a) en la política fiscal de la UE, a través de ***Decisiones*** periódicas ***del Consejo,*** que autorizan la aplicación de un trato diferenciado a un conjunto de productos identificados explícitamente; y (b) como medida ***regional de ayudas de Estado***. Este último garantiza el cumplimiento de dicho régimen fiscal con las normas de competencia de la UE y su proporcionalidad.

El enfoque de la UE hacia las regiones ultraperiféricas abarca una serie de otras medidas financiadas por los Fondos Estructurales y de Inversión Europeos (FEIE) y mediante otras medidas regionales específicas de ayudas de Estado. Algunas de estas medidas abordan los mismos sectores/beneficiarios del OdM y tienen el mismo propósito de mitigar los efectos de las restricciones estructurales sobre los costes operativos de las empresas locales. En este sentido, existen ***sinergias evidentes entre el OdM y otras medidas*** con lo que los efectos acumulativos son frecuentes. A nivel empresarial, existen procedimientos administrativos para evitar el riesgo de que la acumulación de ayudas conduzca a un exceso de compensación; a nivel macro se ha verificado que la suma del OdM y de los otros esquemas de compensación no excede los costes adicionales estimados por las restricciones estructurales (en general se compensan en torno al 40-45% de los costes adicionales). Aún así, a nivel de producto, no hay información suficiente para verificar los efectos acumulativos, por lo que no se pueden descartar, *a priori*, casos ocasionales de sobrecompensación.

En lo que respecta al ***comercio exterior***, el enfoque general de la UE para las RUP persigue dos objetivos principales: (a) fortalecer la integración de las RUP con los países terceros vecinos, y (b) tener en cuenta el interés específico de las RUP en los acuerdos comerciales negociados por la UE para evitar efectos adversos en la economía local. En el caso de OdM, estos dos objetivos son difíciles de conciliar, y el régimen ha sido criticado repetidamente por los países del CARIFORUM y por ciertos países de África Oriental y Meridional (ESA), que han afirmado que el OdM es contrario al espíritu de los Acuerdos de Partenariado Económico (APE) que estos países han firmado con la UE. Más allá de las consideraciones legales, los motivos económicos que respaldan la existencia y el mantenimiento del OdM en las RUP está reflejado en el marco de los APE y, además, los resultados del análisis de datos comerciales regionales resaltan que los diferenciales del OdM tienen un impacto moderado en el valor de las importaciones de las RUP francesas de los países del CARIFORUM y de la ESA, por lo que una eliminación hipotética completa del OdM beneficiaría principalmente a los exportadores de la UE y de terceros países distintos de CARIFORUM y la ESA. En este sentido, para mejorar el comercio intrarregional, se deben buscar otros enfoques menos estrictos y más personalizados.

El alcance del régimen OdM es bastante amplio, por lo que aborda satisfactoriamente las ***necesidades de los diversos operadores económicos interesados***. Sin embargo, el sistema responde poco a las condiciones cambiantes del mercado porque la lista de productos admitidos se establece en la Decisión del Consejo. Esto significa que cualquier revisión, por ejemplo, para incluir una nueva línea de producción emergente o para alterar el alcance del apoyo, requeriría un proceso legal de modificación complejo o su aplazamiento a la próxima renovación de la política. La otra cuestión, a menudo lamentada por los importadores, se refiere a la identificación de productos mediante las categorías de la NC, dado que, en casos observados, las definiciones de productos incluyen determinados artículos que no se producen localmente o se producen en cantidades limitadas. Esto cuestiona los ***criterios adoptados por las autoridades competentes para seleccionar los productos*** que son elegibles para el apoyo. La aplicación de la política del OdM requiere, por un lado, que exista producción local y, por otro, que el nivel de importaciones ponga en riesgo la viabilidad de la producción local, sin embargo, no se determina un umbral mínimo o máximo de cuota de mercado necesario para la aplicación de estos criterios. El análisis del listado de productos OdM mostró que aproximadamente el 20% de los productos admitidos tienen una participación de mercado inferior al 5%, mientras que el 6.5% de ellos, se encuentra en una posición claramente dominante (95% o más de la participación de mercado). El valor estratégico de ciertas producciones ciertamente puede justificar la renuncia al criterio de "cuota de mercado", pero la ausencia de reglas explícitas y transparentes ha alimentado, aparentemente, la desconfianza entre ciertos operadores económicos con respecto a la forma de implementación del régimen especial.

El régimen especial de OdM apoya las actividades de producción local al ***reducir la brecha de competitividad entre los productos locales y las importaciones*** de Francia continental o de la UE, que es causada por costes de producción adicionales en la región. Las evaluaciones cuantitativas de dichos costes adicionales se llevan a cabo periódicamente, pero, a pesar de los esfuerzos realizados, el ejercicio sigue sujeto a limitaciones metodológicas intrínsecas, por lo que las estimaciones deben considerarse con la debida prudencia. La última evaluación se completó en 2016 y estimó que los ***costes adicionales*** totales del sector privado en las RUP francesas eran de 4.510 millones de euros, de los cuales, 1.760 millones de euros fueron atribuibles a los sectores respaldados por el OdM (manufactura y sector primario). Además, regularmente, se han realizado evaluaciones de costes adicionales a nivel de producto para justificar el tratamiento diferencial y establecer tasas impositivas apropiadas. A partir del análisis de estas "fichas de producto", se puso de manifiesto que la mayor parte de los costes adicionales, aproximadamente el 83% en promedio, se genera por cuatro factores de costes evidentes en todas las RUP francesas: los costes adicionales de los insumos (incluidos los costes de flete); el sobredimensionamiento productivo (capacidad de producción inactiva); la menor productividad del trabajo; y la necesidad de mayores stocks de mercancías. Sin embargo, existe una variabilidad en las evaluaciones que parece no estar relacionada con las especificidades regionales, sino que están conectadas con incongruencias metodológicas y la subjetividad inevitable de las propias estimaciones de las empresas.

El régimen OdM compensa aproximadamente la mitad de los costes adicionales. Con algunas excepciones, en general, las diferencias impositivas aplicadas demostraron ser bastante proporcionales a los costes adicionales declarados para productos específicos. Esto contribuye a la percepción de la ***importancia del OdM para la competitividad*** entre los operadores económicos locales a pesar de que la brecha de precios entre sus productos y los importados sigue existiendo. Los resultados del análisis de datos cuantitativos sugieren que, en ausencia del apoyo de OdM, el desempeño de las ***actividades de producción local*** habría sido significativamente peor. En teoría, el mecanismo de diferencial impositivo ha propiciado aproximadamente el equivalente al 37% del valor de la producciones incluidas en el OdM (aproximadamente 850 millones de euros) generando, además, repercusiones positivas en el ***empleo***, que registró un aumento positivo en los sectores OdM desde 2014 (contra una disminución en industrias no OdM) y en el ***número de empresas activas***, que ha crecido aproximadamente un 1,7% en el mismo período (frente a una disminución general del 3%). Por otro lado, no hay evidencia de beneficios para el valor total de las inversiones y para la diversificación de la producción. Finalmente, el OdM muestra un equilibrio general positivo entre costes y beneficios, ya que, el valor estimado de la producción local habilitado por el régimen especial es aproximadamente 2.5 veces mayor que su "coste" en términos de ingresos fiscales no percibidos.

La aplicación del OdM aparentemente no causó una ***sustitución excesiva de importaciones***. En realidad, la mayoría de los productos locales respaldados por el OdM registraron una pérdida continuada de cuota de mercado con el tiempo, lo que confirma que el OdM es en realidad una medida que mitiga la pérdida de la competitividad de la producción local más que un instrumento de desarrollo. Se pone de manifiesto una ligera correlación inversa entre los diferenciales de OdM y los flujos de importación pero esto no ha impedido un empeoramiento general de la ***balanza comercial*** de las RUP francesas con el tiempo.

El estudio analiza la posible contribución de los diferenciales de OdM al ***índice de precios al consumidor*** y al coste de vida en las RUP francesas. En general, las estadísticas confirman la existencia de diferencias de precios significativas entre las RUP francesas y el continente, con brechas que oscilan entre el 7% y el 12%, y que se concentran en productos alimenticios, servicios de comunicación, alcohol y tabaco. Según la literatura relevante estudiada, esta brecha se debe a una combinación de factores estructurales y políticas fiscales, incluido el OdM. Sin embargo, solo una pequeña parte del impacto estimado de OdM en el gasto de los hogares en las RUP francesas puede atribuirse a los productos respaldados por esta política fiscal. Según las estimaciones realizadas, el impuesto adicional que se aplica a los productos sujetos a diferenciales impositivos no excede el 1.5% del consumo final en las RUP (este dato se sitúa aproximadamente en el 4% si solo se consideran los bienes manufacturados).

En cuanto a los ***costes administrativos y de cumplimiento*** relacionados con el régimen OdM, es de destacar que la gestión de implementación es sencilla y no impone procedimientos particularmente complejos o gravosos a las autoridades competentes u operadores económicos. El problema de implementación más crítico se refiere a la clasificación del producto, que a veces es incierto y posible causa de disputa y disparidad en el tratamiento. Los costes administrativos totales de OdM para los operadores económicos (incluida gestión de exenciones en insumos y reembolsos) se estiman en aproximadamente 600.000 euros / año. En un plano más general, algunos de los actuales acuerdos políticos parecen ser demasiado complejos o rígidos, posiblemente causando cargas innecesarias para las autoridades nacionales y de la UE. Uno de esos aspectos es la imposibilidad de revisar la lista y las exenciones extendidas a productos específicos sin una modificación legal de la Decisión del Consejo. Por otro lado, los actuales requisitos de ***seguimiento*** implican un esfuerzo significativo por parte de las autoridades competentes, aspecto que se agrava por la falta de un marco armonizado de seguimiento, lo que implica una demora en la realización de los informes de seguimiento y, por tanto, a su utilidad para los procesos de toma de decisiones en la elaboración de políticas

4. Escenarios de políticas posibles a implementar.

Si bien los resultados de la evaluación confirman la utilidad y los beneficios generales del régimen OdM para el grupo objetivo de operadores económicos, se han detectado algunas ineficiencias y disfunciones que podrían limitar la efectividad de la medida y/o causar una carga innecesaria. Con el vencimiento de los términos de la actual Decisión del Consejo establecida para finales de 2020, surgen tres escenarios de política a seguir:

- el ***"escenario sin cambios"***, es decir, renovar el régimen especial actual en el próximo período de programación (2021-27) sin ninguna modificación significativa

- prolongación del sistema actual con ***revisiones de los acuerdos en curso*** destinados a solucionar los problemas identificados

- ***suspensión*** del régimen especial

Las ***opiniones de las partes interesadas*** sobre la posible renovación del OdM están altamente polarizadas. Como se esperaba, en general, las empresas dedicadas a actividades de producción, que normalmente se benefician de los diferenciales impositivos, están a favor de que se renueve la política (86%), aunque para la mayoría de ellas (59%) es necesario algún cambio en los mecanismos actuales. Por el contrario, la mayoría de las empresas (58%) en otros sectores estarían a favor de interrumpir la política actual.

El estudio ha identificado un conjunto de posibles modificaciones a la política actual y ha examinado su impacto esperado en varias áreas. Las opciones de política consideradas se refieren a tres aspectos principales, a saber:

1. Criterios para la ***identificación de productos elegibles y la actualización de las listas de productos***. La revisión propuesta consta de dos disposiciones distintas aunque relacionadas. La primera es la identificación en la Decisión del Consejo de, solamente, categorías 'amplias' de productos admitidos (es decir, utilizando códigos de nivel de NC4), dejando a las autoridades nacionales competentes la responsabilidad de seleccionar, dentro de estas categorías, los productos específicos incluidos (NC8 o niveles inferiores). Esta medida permitiría una gestión más flexible del régimen por parte de las autoridades competentes, eliminando la necesidad de enmiendas legales a nivel de la UE para revisiones y actualizaciones ordinarias de las listas de productos. En segundo lugar, se propone la adopción de criterios más claros y verificables para la selección de productos que se beneficiarán del apoyo de OdM. De acuerdo con la práctica actual, dichos criterios deben tener en cuenta la cuota de mercado del producto, entre otras cosas, y en el caso de aquellos productos con cuota residual o con cuota dominante en el mercado local, se debe proporcionar una justificación adecuada del apoyo de manera transparente. En general, esta disposición evitaría una mayor flexibilidad en la gestión de listas con lo que se limitaría la extensión injustificada del alcance de la política y, por tanto, respondería a la demanda de una mayor claridad y objetividad expresada por los opositores a OdM. Las disposiciones revisadas deberían garantizar que se sigan apoyando las producciones de importancia particular y estratégica, y que se mejore la coherencia con otras políticas y programas de la UE.

2. Revisión de los mecanismos para ***establecer el diferencial impositivo máximo permitido***. Esta opción propuesta se compone de tres medidas específicas. La primera, tiene la intención de simplificar los acuerdos con respecto al establecimiento de diferenciales impositivos, reemplazando las tres listas actuales de productos distintos por una lista con un único umbral máximo permitido. Los beneficios de esta medida incluirían una gestión más flexible de las tasas diferenciales aplicadas por las autoridades competentes, permitiendo revisiones sin necesidad de una enmienda formal de la Decisión del Consejo. Con el objetivo de evitar un aumento injustificado de la ayuda, la segunda medida propuesta consiste en introducir un valor de referencia global en la política, es decir, un límite monetario estimado para el "ingreso fiscal no percibido" que las autoridades competentes deberán respetar. Como la medición de los ingresos no percibidos está sujeta a incertidumbres y fluctuaciones, debe preverse un rango de desviaciones. La tercera medida propuesta con fines de aplicación de la política, tiene como objetivo mejorar la utilidad de las evaluaciones de sobrecostes, desglosando las estimaciones a nivel de las categorías de productos NC4 identificadas en la Decisión (de acuerdo con la anterior opción propuesta). Para evitar el riesgo de sobrecompensación, debe considerarse el apoyo otorgado en virtud de los programas de la UE y las medidas de ayudas de Estado.

3. Revisión de la ***duración de la política*** y de los ***acuerdos de seguimiento***. La revisión propuesta tiene los objetivos paralelos de reducir la carga de la reevaluación y renovación innecesariamente frecuentes de la política, y mejorar la utilidad y la eficacia de las actividades de seguimiento y evaluación. En el primer caso, se consideró extender la duración actual a 10 años, pero se concluyó que los beneficios de aligerar la carga para renovar las políticas podrían contrarrestar los inconvenientes de la descoordinación de la Decisión del Consejo con las políticas de ayudas de Estado correspondiente. En lo que respecta al seguimiento, la revisión propuesta consiste en la adopción de una estructura de informes estandarizada, basada en un conjunto armonizado de indicadores comunes a todas las regiones ultraperiféricas de la UE que se benefician de un régimen fiscal especial, y que se consideran suficientes para evaluar el impacto del régimen adecuadamente. Además, el momento de presentación de los informes de monitoreo podría retroceder al quinto año desde la adopción de la política, a fin de garantizar una mayor disponibilidad de datos de monitoreo y una alineación más cercana con las necesidades del proceso de renovación de la política.

Ninguno de los problemas identificados con la implementación parecía ser tan severo como para justificar la adopción de opciones más radicales como la ***suspensión del régimen especial*** dado que, por un lado, reemplazarlo con otras medidas de apoyo similares de la UE no parece factible / deseable por dos razones: los numerosos esquemas de ayuda fiscal y no fiscal que ya existen, y el hecho de que el OdM se implementa actualmente sin coste para el Presupuesto de la UE. Por otro lado, suspender el régimen especial sin ningún reemplazo dañaría significativamente las actividades de producción local, obstaculizaría la resiliencia de los las RUP a los shocks económicos globales y privaría a los presupuestos públicos locales de unos ingresos no despreciables. Teóricamente, la supresión del régimen especial puede ser beneficiosa para reducir los niveles de precios, pero se corre el riesgo de una mayor concentración del mercado y la posible introducción de un impuesto regional para compensar la caída de recaudación derivada del OdM.

ZUSAMMENFASSUNG (DE)

1. Übersicht über die Studie

Gegenstand der Studie sind jene Steuervorteile, die manchen Unternehmen gewährt werden, die in den EU-Gebieten äußerster Randlage (GÄR) in Produktionsaktivitäten engagiert und dort ansässig sind, unter den folgenden Sondersteuerregelungen:

- Die '***Arbitrio sobre las Importaciones y Entregas de Mercancías en las Islas Canarias***' **(AIEM),** anwendbar auf den Kanarischen Inseln; und
- die '***Octroi de mer***' **(OdM)** oder 'Hafengebühren', anwendbar in fünf französischen Gebieten in äußerster Randlage, d. H.: Réunion, Mayotte, Französisch-Guayana, Guadeloupe, und Martinique.

Absicht der Studie ist die Zurverfügungstellung einer umfassenden und evidenzbasierten Evaluierung der EU-Maßnahmen, die diese Sonderregelungen, festgelegt im Beschluss 377/2014 des Rates für die AIEM und im Beschluss 940/2014 des Rates für die OdM, ermöglichen. Einschließlich einer Evaluierung der allgemeinen Kohärenz mit anderen relevanten EU-Maßnahmen. Es ist vorgesehen, dass die derzeit geltenden Beschlüsse mit dem Ende des Jahres 2020 auslaufen, weswegen die Studie sowohl einen ***retrospektiven Teil*** – auf eine Untersuchung des Funktionierens und der erreichten Ergebnisse der Sonderregelungen abzielend – als auch einen ***prospektiven Teil*** – aus einer Analyse der möglichen Maßnahmenszenarien für die Zukunft bestehend – enthält.

Die beiden Steuerregime haben ähnliche Ziele und Implementierungsmechanismen, aber unterschiedliche rechtliche und administrative Rahmenbedingungen, die jeweils in den nationalen Gesetzgebungen verankert sind. Aus diesem Grund ist die Studie in zwei Teile aufgeteilt, wobei sich Teil 1 mit der AIEM-Regelung und Teil 2 mit der *Octroi de mer*-Regelung beschäftigt.

Die Ergebnisse der Studie basieren auf Nachweisen, die an unterschiedlichen Stellen erfasst wurden und durch geeignete qualitative und quantitative ***Methodiken*** verarbeitet wurden. Insbesondere:

- ***Schreibtischforschung*** und Durchsicht der relevanten Dokumentationsstellen, einschließlich politischer Dokumente und Berichte der EU und Mitgliedsstaaten, die sich mit den Steuersonderregelungen und anderen relevanten EU-Maßnahmen (z.B. staatliche Hilfsmaßnahmen, Programme, etc.) zur Unterstützung der Gebiete in äußerster Randlage beschäftigen. Darüber hinaus auch eine Reihe akademischer und ‚grauer' Literatur;
- Umfassende ***Konsultation der Interessensgruppen***, inklusive Interviews (120) und vor-Ort Besuchen der vier Regionen (Kanarische Inseln, Réunion, Guadeloupe und Martinique) und eine Umfrage unter Unternehmen (378), die alle sechs betreffenden Regionen abdeckt;
- ***Quantitative Datenanalyse***, basierend auf existierenden Rohdatensätzen und von den zuständigen nationalen Behörden gesammelten Statistiken.

2. Übersicht über die OdM-Regelung

Das *Octroi de Mer (OdM)* ist ein spezielles Steuersystem, das die Entwicklung und Diversifizierung der Produktionsaktivitäten in den französischen Gebieten in äußerster Randlage (GÄR) unterstützen soll. Die OdM existiert in unterschiedlichen Formen bereits seit dem 17. Jahrhundert, aber in ihrer aktuellen Form wurde sie im Jahr 2004 beschlossen. Die Sonderregelung besteht aus einer Wertsteuer (*ad valorem*) auf die Lieferung bestimmter Güter in den Regionen, aber während Produkte externer Herkunft dem vollen Steuersatz unterliegen, werden lokal hergestellten Produkten Steuerbefreiungen/-vergünstigungen ermöglicht. Darüber hinaus sind lokale Unternehmen mit einem Umsatz von weniger als 300.000 EUR / Jahr von der Anwendung der Steuer ausgeschlossen. Ziel des Sonderregimes ist es, die Wettbewerbsfähigkeit der lokalen Produktionsaktivitäten zu unterstützen und die Auswirkungen von Abgelegenheit, geringer Größe, Isolation und anderer struktureller Einschränkungen, die die äußersten Regionen betreffen, zu mildern.

Insgesamt wird die Sonderregelung auf etwa ***976 Produktkategorien*** (bestimmt nach KN-Code) angewandt. Die unterstützten Produkte gehören in erster Linie zu Fertigungsindustrien – Lebensmittel und Getränke, Chemikalien, Papier und andere – und in geringerem Ausmaß zu Agrar-, Fischerei- und Bergbausektoren. Alles in allem beläuft sich der ***Gesamtwert der unterstützten Produktionen***, konservativ geschätzt, auf EUR 2.28 Milliarden. Die steuerlichen Unterschiede bewegen sich zwischen 10% und 30%, mit einem durchschnittlichen tatsächlichen Unterschied von etwa 15%. Im Jahr 2018 beliefen sich die OdM-***Steuerbelege*** auf EUR 1.270 Millionen, davon etwa EUR 526 Millionen von Produkten, die den differenzierten Steuersätzen unterliegen; während die Schätzung der ***nicht erhobenen Steuern*** aufgrund der Befreiungen (die ‚entgangenen' Steuereinnahmen) EUR 344 Millionen beträgt.

3. Zusammenfassung der Evaluierungsergebnisse

Die OdM-Regelung ist eine von mehreren speziellen gesetzlichen Maßnahmen für die GÄR und ist auf den allgemeinen EU Ansatz gegenüber Gebieten in äußerster Randlage ausgerichtet, welcher auf der Zielvorgabe basiert, die strukturellen sozialen und wirtschaftlichen Einschränkungen in Betracht zu ziehen. Insbesondere trägt es zur Förderung von Wachstum und Schaffung von Arbeitsplätzen in den GÄR durch die Diversifizierung lokaler Wirtschaft und Befähigung von Aktivitäten mit hoher Wertschöpfung, wie industrielle Fertigung, bei. Die Regelung stellt eine offenkundige Ausnahme der EU-Politik für den Binnenmarkt und Wettbewerb dar, deren rechtliche Grundlage im ***Artikel 349 AEUV*** verankert ist, welcher explizit die Notwendigkeit spezieller Maßnahmen zur Unterstützung der Gebiete in äußerster Randlage, Auseinandersetzung mit strukturellen Einschränkungen und Unterstützung derer Entwicklung anerkennt. Die OdM-Regelung unterliegt zweigleisiger Autorisierung auf EU-Ebene: (a) in der EU-Fiskalpolitik durch ***Beschlüsse des Rates***, welche eine Anwendung von Sonderbehandlungen auf explizit ausgewählte Produkte autorisieren; und (b) als Maßnahme von ***Regionalbeihilfen***. In letzterem Fall gewährleistet die Regelung die Compliance mit EU-Wettbewerbsregeln und deren Verhältnismäßigkeit.

Der EU-Ansatz in Bezug auf die Gebiete in äußerster Randlage im Allgemeinen umfasst eine Reihe von anderen Maßnahmen, die durch die Europäischen Struktur- und Investitionsfonds (ESI-Fonds) und/oder andere spezielle Regionalbeihilfemaßnahmen finanziert werden. Manche dieser Maßnahmen befassen sich mit den gleichen Sektoren/Begünstigten wie OdM und haben das gleiche Ziel die Effekte struktureller Einschränkungen auf die Betriebskosten Unternehmen abzuschwächen. Insofern gibt es offenkundige ***Synergien zwischen der OdM und diesen anderen Programmen*** und kumulative Wirkungen sind häufig. Auf der Unternehmensebene bestehen administrative Verfahren, um das Risiko von überschüssiger Entschädigung durch Beihilfekumulierung zu vermeiden, während auf der Makroebene verifiziert wurde, dass die Summe der OdM und anderer Entschädigungen nicht die geschätzten zusätzlichen Kosten durch strukturelle Einschränkungen überschreitet (in etwa 40%-45% der geschätzten zusätzlichen Kosten werden insgesamt kompensiert). Dennoch ist auf der Produktebene aufgrund unzureichender Informationen keine Verifizierung der kumulativen Auswirkungen möglich, weswegen gelegentliche Fälle von Überentschädigung nicht *a priori* ausgeschlossen werden können.

In Bezug auf den ***Außenhandel*** verfolgt der allgemeine Ansatz der EU für die GÄR zwei vorwiegende Ziele: (a) Stärkung der Integration der GÄR in die regionale Nachbarschaft und (b) Berücksichtigung der Interessen der GÄR bei der Verhandlung von Handelsabkommen durch die EU, um nachteilige Effekte auf die lokale Wirtschaft zu vermeiden. Im Falle der OdM sind diese beiden Ziele schwer miteinander in Einklang zu bringen und das System wurde wiederholt von Ländern des CARIFORUM und von gewissen Ländern in Ost- und Südafrika (ESA) kritisiert, weil diese behaupteten, die OdM widerspreche dem Geist des Wirtschaftspartnerschaftsabkommen (WPA), das diese Länder mit der EU unterzeichnet haben. Abgesehen von rechtlichen Erwägungen – die OdM wird vom WPA offiziell erlaubt – und wirtschaftlichen Motiven, die die Existenz und Aufrechterhaltung der OdM in den GÄR unterstützen, zeigen die Ergebnisse der regionalen Handelsdatenanalyse, dass OdM-Differenziale einen moderaten Einfluss auf den Wert der Importe französischer GÄR aus CARIFORUM- und ESA-Ländern haben. Eine hypothetische vollständige Entfernung der OdM würde in erster Linie Exporteuren aus der EU und anderen Drittländern als CARIFORUM und ESA zugutekommen. In diesem Sinne sollten zur Verbesserung des intraregionalen Handels andere weichere und maßgeschneiderte Ansätze gesucht werden.

Der Umfang der OdM-Regelung ist einigermaßen umfassend, wodurch die ***Bedürfnisse der betreffenden Wirtschaftsteilnehmer*** zufriedenstellend behandelt werden. Das System ist jedoch kaum reaktionsfähig auf sich verändernde Marktbedingungen, weil die Liste der unterstützten Produkte in dem Beschluss des Rates festgelegt ist. Dies bedeutet, dass jegliche Überarbeitung – z.B. um neu entstehende Produktlinien aufzunehmen oder das Ausmaß der Unterstützung zu verändern – einen beschwerlichen Prozess der rechtlichen Anpassung oder einen Aufschub bis zur nächsten Erneuerung der Maßnahme impliziert. Das andere Problem – oft von Handelsvertretern beklagt – liegt darin, dass die Identifizierung der unterstützten Produkte durch Bezug auf die KN-Kategorien geschieht, welche mitunter Waren enthalten, die nicht lokal oder in geringen Mengen produziert werden. Dies stellt die ***von den zuständigen Behörden adaptierten Kategorien zur Auswahl der Produkte***, welche für Unterstützung zulässig sind, in Frage. Die OdM-Sonderregelung schreibt vor, dass eine lokale Produktion vorhanden sein muss und zweitens eine ausreichende Menge an Importen vorhanden sein muss, um die lokale Produktion zu gefährden. Es wird jedoch keine weitere Spezifikation für den für die Anwendung dieser Kriterien relevanten minimalen oder maximalen Marktanteilsschwellenwert angegeben. Eine Analyse des OdM-Produktportfolios zeigt, dass etwa 20% der begünstigten Produkte einen Marktanteil von weniger als 5% haben, während in etwa 6.5% in einer eindeutig dominanten Position sind (95% oder mehr Marktanteil). Die strategische Bedeutung mancher Produkte mag gewiss einen Verzicht des Marktanteilkriteriums rechtfertigen, aber die Abwesenheit von expliziten, transparenten Regeln hat scheinbar Misstrauen unter gewissen Wirtschaftsteilnehmern in Bezug auf die Umsetzung der Sonderregelung geschürt.

Die OdM-Sonderregelung unterstützt lokale Produktionsaktivitäten durch die ***Reduzierung der Wettbewerbslücke zwischen lokalen Produkten und Importen*** vom französischen Festland oder der EU, welche durch zusätzliche Produktionskosten verursacht wird. Quantitative Einschätzungen solch zusätzlicher Kosten werden regelmäßig durchgeführt, aber trotz der unternommenen Anstrengungen unterliegt diese Aufgabe intrinsischer methodischer Beschränkungen, weswegen diese Einschätzungen mit der nötigen Vorsicht betrachtet werden müssen. Die letzte Einschätzung wurde 2016 durchgeführt und die geschätzten gesamten ***zusätzlichen Kosten*** des Privatsektors auf den GÄR sind EUR 4.51 Milliarden, wovon EUR 1.76 Milliarden den von der OdM begünstigten Sektoren zurechenbar sind (Fertigung und der primärer Wirtschaftssektor). Darüber hinaus wurden regelmäßig zusätzliche Kostenbewertungen auf Produktebene durchgeführt, um die unterschiedliche Behandlung zu rechtfertigen und angemessene Steuersätze festzulegen. Aus der Analyse dieser „Produktinformationsblätter" ging hervor, dass der Großteil der zusätzlichen Kosten – durchschnittlich etwa 83% – durch vier Kostenfaktoren verursacht wird, die in allen französischen GÄR erkennbar sind: die zusätzlichen Kosten für Inputs (einschließlich Frachtkosten); überdimensionierte Ausstattung (ungenutzte Produktionskapazität); geringere Arbeitsproduktivität; und die Notwendigkeit größerer Lagerbestände. Es gibt jedoch Unterschiede in den Bewertungen, die nicht mit regionalen Besonderheiten in Zusammenhang zu stehen scheinen, sondern vielmehr mit methodischen Inkongruenzen und der unvermeidlichen Subjektivität der eigenen Schätzungen der Unternehmen zusammenhängen.

Die OdM-Regelung kompensiert etwa die Hälfte der zusätzlichen Kosten. Mit einigen Ausnahmen erwiesen sich die angewandten Steuerdifferenzen als einigermaßen proportional zu den zusätzlichen Kosten, die für bestimmte Produkte angegeben werden. Dies trägt zur Wahrnehmung der ***Wichtigkeit der OdM für die Wettbewerbsfähigkeit*** der lokalen Wirtschaftsteilnehmer bei, obwohl die Preislücke zwischen ihren und importierten Produkten nicht vollständig geschlossen ist. Die Ergebnisse der quantitativen Datenanalyse weisen darauf hin, dass in Ermangelung der Unterstützung durch OdM die Leistung der ***lokalen Produktionsaktivitäten*** wesentlich schwächer gewesen wäre. Ungefähr 37% des Wertes von OdM-unterstützten Produkten (ungefähr EUR 850 Millionen) wurden theoretisch durch den Steuerdifferenzmechanismus „ermöglicht“, mit positiven Auswirkungen auch auf die ***Beschäftigung*** – die seit 2014 einen positiven Anstieg in den OdM-Sektoren verzeichnete (gegenüber einem Rückgang in Nicht-OdM-Branchen) – und auf die ***Anzahl der aktiven Unternehmen***, die im gleichen Zeitraum um etwa 1,7% gewachsen ist (gegenüber einem insgesamten Rückgang von 3%). Andererseits gibt es keine Hinweise auf Vorteile für den Gesamtwert der Investitionen und für die Diversifizierung der Produktion. Letztlich zeigt die OdM eine insgesamt positive Balance zwischen Kosten und Nutzen mit einem geschätzten, durch die Sonderregelung ermöglichten, Wert lokaler Produktion der in etwa 2.5 mal so hoch ist wie die Kosten in Form von entgangenen Steuereinnahmen.

Die Anwendung der OdM führte offenbar nicht zu einer übermäßigen ***Importsubstitution***. Tatsächlich verzeichnete die Mehrheit der OdM-unterstützten lokalen Produkte im Laufe der Zeit einen Marktanteilsverlust, was bestätigt, dass die OdM streng genommen eher eine Maßnahme zur Minderung des Verlusts der Wettbewerbsfähigkeit lokaler Produktion als ein Entwicklungsinstrument ist. Es wurde eine leichte inverse Korrelation zwischen OdM-Differenzialen und Importströmen festgestellt, die jedoch eine allgemeine Verschlechterung der ***Handelsbilanz*** der französischen GÄR im Laufe der Zeit nicht verhinderte.

Die Studie untersuchte den möglichen Beitrag der OdM-Differenziale zum ***Verbraucherpreisindex*** und den Lebenshaltungskosten in französischen GÄR. Insgesamt bestätigen Statistiken das Vorhandensein signifikanter Preisunterschiede zwischen französischen GÄR und dem Festland, mit Lücken zwischen 7% und 12%, die sich auf Lebensmittel, Kommunikation, Alkohol und Tabakprodukte konzentrieren. Laut einschlägiger Literatur ist diese Lücke auf eine Kombination von strukturellen Faktoren und fiskalpolitischen Maßnahmen zurückzuführen, einschließlich der OdM. Allerdings kann nur ein geringer Teil der geschätzten OdM-Auswirkungen auf die Haushaltsausgaben in französischen GÄR auf von OdM unterstützte Produkte zurückgeführt werden. Grobe Schätzungen gehen davon aus, dass die zusätzliche Steuer, die auf Produkte erhoben wird, die steuerlichen Unterschieden unterliegen, 1,5% des Endverbrauchs in den GÄR nicht überschreitet (aber ungefähr 4%, wenn nur Industrieerzeugnisse berücksichtigt werden).

In Puncto ***Verwaltungs- und Compliance-Kosten*** mit Bezug zur OdM-Regelung sind die Implementationsregelungen unkompliziert und verlangen keine besonders komplexen oder aufwändigen Verfahren von den zuständigen Behörden oder Wirtschaftsteilnehmern. Das kritischste Implementationsthema betrifft die Produktklassifizierung, welche manchmal unklar und eine mögliche Ursache für Auseinandersetzungen und Disparitäten in der Behandlung ist. Die Gesamtverwaltungskosten der OdM für Wirtschaftsteilnehmer (einschließlich dem Umgang mit Befreiungen für Inputs und Erstattungen) werden auf ca.

600,000 EUR / Jahr geschätzt. Auf einer übergeordneten Ebene erscheinen manche der aktuellen Maßnahmenregelungen übermäßig komplex oder starr und verursachen möglichweise ***unnötige Belastungen*** für EU- und nationale Behörden. Ein solcher Aspekt ist die Unmöglichkeit zur Überarbeitung der Liste und gewährten Befreiungen für bestimmte Produkte ohne eine rechtliche Anpassung des Beschlusses des Rates. An zweiter Stelle ist zu nennen, dass die derzeitigen Kontrollanforderungen signifikante Anstrengungen der zuständigen Behörden beinhalten und dass das Fehlen eines klaren, harmonisierten Kontrollrahmens und das nicht optimale Timing der Kontrollberichte deren Informationsgehalt und Nutzen für den Politikprozess beeinflusst.

4. Maßnahmenszenarien für die Zukunft

Während die Resultate der Evaluierung die allgemeine Zweckmäßigkeit und Vorteile der OdM-Regelung bestätigen, wurden auch gewisse Ineffizienzen und Dysfunktionen festgestellt, welche möglicherweise die Wirksamkeit der Maßnahme einschränken und/oder unnötige Belastungen verursachen. Mit dem Auslaufen der Bestimmungen des aktuellen Beschlusses des Rates mit dem Ende des Jahres 2020 zeichnen sich für den Weg vorwärts besonders drei Maßnahmenszenarien ab:

- Das ***'keine Veränderung'-Szenario***, d. H. die Erneuerung der derzeitigen Sonderregelung ohne signifikante Änderungen für den nächsten Planungszeitraum (2021-27),
- Verlängerung des aktuellen Systems mit ***Überarbeitungen der aktuellen Maßnahmen*** mit dem Ziel die identifizierten Probleme zu beheben,
- ***Einstellung*** der aktuellen Regelung.

Die ***Ansichten der Stakeholder*** bezüglich einer möglichen Erneuerung der OdM sind stark gespalten. Erwartungsgemäß sind jene Unternehmen, deren Produktionsaktivitäten normalerweise von der Steuerermäßigung profitieren, im Allgemeinen für eine Erneuerung der Regelung (86%), auch wenn für die Mehrheit (59%) Veränderungen der aktuellen Maßnahmen notwendig sind. Hingegen ist eine Mehrheit (58%) der Unternehmen in anderen Branchen für eine Einstellung der aktuellen Regelung.

Die Studie hat eine Reihe von möglichen Änderungen der aktuellen Regelung identifiziert und diese in Bezug auf ihre zu erwartenden Auswirkungen in verschiedenen Bereichen untersucht. Die von der Studie berücksichtigten Optionen betreffen drei zentrale Aspekte, und zwar:

1. Kriterien für die ***Identifizierung zulässiger Produkte und Aktualisierung der Produktliste***. Die vorgeschlagene Überarbeitung besteht auf zwei unterschiedlichen, aber zusammenhängenden, Bestimmungen. Die erste Überarbeitung ist, dass im Beschluss des Rates nur die ‚groben‛ Kategorien der begünstigten Produkte (d. H., unter Einsatz der Codes auf KN4-Position) identifiziert werden und innerhalb dieser Kategorien die Verantwortung zur Auswahl der spezifischen Produkte (KN8 oder niedrige Position) zur Begünstigung den zuständigen nationalen Behörden überlassen wird. Diese Maßnahme würde den zuständigen Behörden mehr Flexibilität in der Verwaltung der Regelung erlauben und die Notwendigkeit rechtlicher Änderungen auf EU-Ebene für einfache Überarbeitungen und Aktualisierungen der Produktlisten entfernen. An zweiter Stelle wird die Verabschiedung klarer und überprüfbarer Kriterien für die Auswahl jener Produkte, die von OdM-Unterstützung profitieren sollen, vorgeschlagen. Im Einklang mit geltenden Praktiken sollten diese Kriterien, unter anderem, den Marktanteil des Produktes in Betracht ziehen und im Falle von residualer oder weitestgehend dominanter Marktposition sollte in transparenter Weise eine angemessene Rechtfertigung zur Begünstigung geleistet werden. Alles in allem würde diese Maßnahme verhindern, dass die höhere Flexibilität bei der Listenverwaltung zu

ungerechtfertigten Erweiterungen des Rahmens der Steuerregelung führt und sie würde dem Verlangen nach größerer Klarheit und Objektivität nachkommen, das von OdM-Gegnern ausgedrückt wurde. Die überarbeiteten Regelungen sollen sicherstellen, dass Produkte von besonderer und strategischer Wichtigkeit weiterhin unterstützt werden und die Kohärenz mit anderen EU-Maßnahmen und Programmen verbessert wird.

2. Überarbeitung der Mechanismen zur ***Ermittlung der maximal zulässigen Steuerermäßigung***. Diese vorgeschlagene Option besteht aus drei spezifischen Maßnahmen. Die erste Maßnahme beabsichtigt eine Vereinfachung der Regulierungen zur Ermittlung der Steuerermäßigung, indem man die aktuell bestehenden drei verschiedenen Produktlisten mit nur einer Liste mit einem einzigen maximal zulässigen Schwellenwert ersetzt. Zu den Vorteilen dieser Maßnahme gehört eine flexiblere Verwaltung der von den zuständigen Behörden angewandten Differenzsätze, die eine Überarbeitung ohne formelle Änderung des Ratsbeschlusses ermöglichen. Mit dem Ziel eine ungerechtfertigte Erhöhung der Unterstützung zu vermeiden, besteht die zweite vorgeschlagene Maßnahme darin, einen globalen Referenzwert in die Regelung aufzunehmen, d. H. eine Geldobergrenze für die geschätzten „entgangenen Steuereinnahmen", die die zuständigen Behörden einhalten müssen. Da die Messung der entgangenen Einnahmen Unsicherheiten und Schwankungen unterliegt, sollte eine Pufferregulierung vorgesehen werden. Die dritte vorgeschlagene Maßnahme zielt darauf ab, die Nützlichkeit zusätzlicher Kostenbewertungen für politische Zwecke zu verbessern und ihren Schwerpunkt auf die in der Entscheidung festgelegten Produktkategorien auf KN4-Ebene zu harmonisieren (gemäß der zuvor vorgeschlagenen Option). Um das Risiko einer Überkompensation zu vermeiden, sollte die im Rahmen von EU-Systemen und staatlichen Beihilfemaßnahmen gewährte Unterstützung in Betracht gezogen werden.

3. Überarbeitung der ***Maßnahmendauer*** und der ***Kontrollmechanismen***. Die vorgeschlagene Überarbeitung verfolgt die beiden parallelen Ziele, einerseits die Belastung durch unnötig häufige Neubewertung und Erneuerung der Regelung zu reduzieren und andererseits die Nützlichkeit und Wirksamkeit der Kontroll- und Evaluierungsaktivitäten zu erhöhen. Im ersten Fall wurde eine Verlängerung der derzeitigen Laufzeit auf 10 Jahre in Betracht gezogen. Es wurde jedoch festgestellt, dass die Vorteile der Verringerung des Erneuerungsaufwandes von den Nachteilen der Desynchronisation des Beschlusses des Rates mit der entsprechenden staatlichen Beihilfepolitik überwogen werden könnten. In Bezug auf die Kontrolle besteht die vorgeschlagene Überarbeitung in der Annahme einer standardisierten Berichtsstruktur, die auf einer Reihe von harmonisierten Indikatoren basiert, die wiederum in allen von der Steuersonderregelung profitierenden EU-Gebieten in äußerster Randlage gleich sind und als ausreichend für die geeignete Bewertung der Regelungsauswirkungen angesehen werden. Darüber hinaus könnte der Zeitpunkt für die Einreichung von Kontrollberichten auf das fünfte Jahr nach Verabschiedung der Maßnahme verschoben werden, um eine bessere Verfügbarkeit von Überwachungsdaten und eine engere Anpassung an die Anforderungen des Prozesses zur Erneuerung der Sonderregelung sicherzustellen.

Keines der identifizierten Implementierungsprobleme erschien schwerwiegend genug, dass es die Annahme radikalerer Optionen, wie etwa einer ***Einstellung der Sonderregelung***, rechtfertigen würde. Einerseits erscheint es aus zwei Gründen nicht möglich/wünschenswert, sie durch andere ähnliche EU-Unterstützungsmaßnahmen zu ersetzen: die zahlreichen bereits existierenden steuerlichen und nichtsteuerlichen Hilfsmaßnahmen und die Tatsache, dass die OdM derzeit ohne Kosten für das EU-Budget umgesetzt wird. Andererseits würde die Einstellung des Sonderregimes ohne jeglichen Ersatz die lokalen Produktionsaktivitäten erheblich schädigen, die Widerstandsfähigkeit der GÄR gegenüber globalen Wirtschaftsschocks beeinträchtigen und den lokalen öffentlichen Haushalten eine nicht zu vernachlässigende Komponente entziehen. Theoretisch kann die Einstellung des Sonderregimes zur Senkung des Preisniveaus beitragen, aber das Risiko einer erhöhten Marktkonzentration und die mögliche Einführung einer regionalen Steuer zum Ausgleich von Haushaltsverlusten würde diesen Vorteil wahrscheinlich aufheben.

MAIN TEXT

1. INTRODUCTION

1.1 Nature and contents of the Report

➢ NATURE OF THE REPORT

This report (the 'Report') has been prepared in the framework of the *Study on specific tax regimes for outermost regions belonging to France and Spain* (the 'Study' or the 'Assignment'). The Report is submitted to the European Commission – Directorate General for Taxation and Customs Union (DG TAXUD) by a consortium led by Economisti Associati and including Centre for European Policy Studies, EUROPE Ltd, CASE - Center for Social and Economic Research, wedoIT- solutions GmbH and ECOPA ('the Consultants').

➢ STRUCTURE OF THE REPORT

The overall Report is structured in two stand-alone parts, of which ***Part 1*** deals with the Spanish special tax regime - *Arbitrio sobre las Importaciones y Entregas de Mercancías en las Islas Canarias (AIEM*), while ***Part 2*** focuses on the French special tax regime – *Octroi de mer*. The present Part 2 of the Report ('Main Text') is structured as follows:

- ***Section 1*** contains the introduction of the Study;
- ***Section 2*** provides a review of the *Octroi de mer* special tax regime and implementation arrangements, as well as of the socio-economic context and the other policies and measures in support of French outermost regions;
- ***Section 3*** describes the methods and tools used for the collection and analysis of data;
- ***Section 4*** focuses on the retrospective evaluation of the *Octroi de mer* regime, responding to the evaluation questions of the Assignment;
- ***Section 5*** summarises the 'policy problems' emerging from the evaluation findings and describes the policy scenarios for the way forward;
- ***Section 6*** provides an impact analysis of the prospective policy options and their comparative assessment;
- ***Section 7*** contains the conclusions of the Study.

Part 3 contains a series of annexes including:

- Annex A - Synopsis Report from the stakeholder consultation;
- Annex B – proposed monitoring template and list of indicators for the way forward;
- Annex C – specifications and full results of the analytical models used for the quantitative data analysis;
- Annex D – detailed review of other EU schemes for outermost regions and an analysis of coherence;
- Annex E – analysis of the external trade of French ORs, with a focus on CARIFORUM and countries in Eastern and Southern Africa;
- Annex F – full bibliography of the Study.

1.2 Purpose and scope of the Assignment

➢ **THE SUBJECT OF THE EVALUATION**

The overall subject of the Assignment is the tax advantages granted to some enterprises engaged in production activities and based in certain EU Outermost Regions (ORs), under the following special tax regimes:

1. The '***Arbitrio sobre las Importaciones y Entregas de Mercancías en las Islas Canarias***' **(AIEM),** applicable in the Canary Islands; and
2. The '***Octroi de mer***' **(OdM)** or 'dock dues', applicable in five French outermost regions, i.e., Réunion, Mayotte, French Guiana, Guadeloupe, and Martinique.

The two regimes have separate legal and administrative frameworks, embedded in their respective national legislation, but have similar objectives and implementation mechanisms. In particular:

- Both regimes consist of an *ad valorem* ***tax applied to selected goods*** delivered in the region(s) concerned. The tax applies to both local production and imports (including from the EU)[155] but tax exemptions/reductions are extended to local production.
- The ***justification for these tax differentials*** lies in the need to compensate for the additional costs borne by local producers and restore their competitiveness vis-à-vis mainland's and, more generally, EU-based competitors. Such additional costs are caused by the structural constraints faced by ORs economies, explicitly acknowledged in Art. 349 TFEU.
- The implementation of differentiated tax rates based on product origin implies a derogation of EU internal market and competition rules, and constitutes a form of State aid granted to ORs local producers. Therefore, these regimes require a double-track authorisation at the EU level:
    - Regarding ***fiscal policy***, they are authorised by ad hoc EU Council Decisions, that are revised and renewed periodically. The Decisions currently in force are:
        (a) Council Decision 377/2014 for AIEM[156]; and
        (b) Council Decision 940/2014 amended by Council Decision 644/2019 for the OdM[157].
    - Regarding ***State aid*** policy, the OdM is specifically authorised under State aid decision SA.46899 (2016/N), while the AIEM regime is, since 2015, enacted under Art. 15 of the *General Block Exemption Regulation*.[158]

- The respective EU Council Decisions set down the ***lists of products*** that may benefit from the differentiated tax regime, as well as the ***maximum permitted differential*** applicable. They also require that the revenues collected are incorporated in the resources of the local administrations and allocated to the local ***economic and social development*** strategy.

[155] As clarified in the 'Note on Terminology' (see the Glossary of Terms), in this Report the terms 'import' and 'export' – unless differently stated - include also the transactions between outermost regions and the mainland as well as other EU Member States, in accordance with the terminology used in the special regimes' legal basis.
[156] Council Decision No 377/2014/EU of 12 June 2014 on the AIEM tax applicable in the Canary Islands.
[157] Council Decision No 940/2014/EU of 17 December 2014 concerning the dock dues in the French outermost regions; Council Decision No 2019/664 of 15 April 2019 amending Decision No 940/2014/EU regarding products eligible for exemption from or a reduction in dock dues.
[158] Commission Regulation (EU) No 651/2014 declaring certain categories of aid compatible with the internal market in application of Articles 107 and 108 of the Treaty (amended by Commission Regulation (EU) 2017/1084 of 14 June 2017).

It is important to underline that while the EU policy is essential to permitting the implementation of these special regimes, they remain primarily ***national policy initiatives***, subject to the national legal and administrative frameworks of the concerned Member State (MS). In particular, Member States are responsible for: policy design, collection and submission of underpinning evidence, concrete implementation and enforcement, monitoring and reporting to the EU, periodic revisions and updates, and embedding EU policy provisions in national policy; whereas the EU policy focuses essentially on the permitted application of differentiated tax rates to certain products. This type of differential tax mechanism is the core element of both special tax regimes; however, it is important to underline that the ***focus of the Study is on the EU dimension of AIEM/OdM regimes*** and not on the national policies on the whole.

- **THE PURPOSE AND TASKS OF THE ASSIGNMENT**

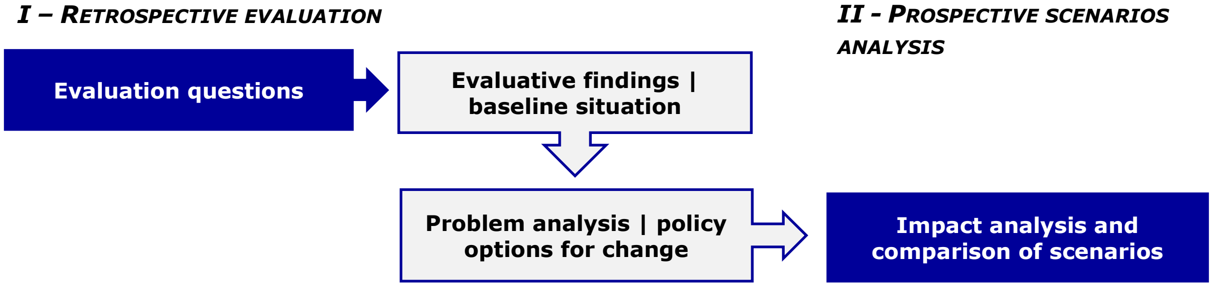
The Decisions currently in force are set to expire at the end of 2020. The ***overall purpose*** of the Study is to conduct a comprehensive evaluation of these regimes contributing to the analysis of the policy scenarios available for the way forward, or more specifically:

- to collect and elaborate evidence on the past performance of these special tax regimes in the regions concerned,
- to identify and assess possible revisions of the current policy, and
- to provide conclusions and recommendations on the various policy scenarios available.

The Study consists of a retrospective (evaluative) component and of a prospective component that have been implemented 'back-to-back', as depicted in Figure 1.1 below.

- ***Retrospective Evaluation***. This component – developed in Section 4 - regards how the special tax regimes considered have performed in relation to the stated objectives and expectations. It was driven by a set of 'evaluation questions' and is structured on the basis of a detailed evaluation matrix elaborated in the initial phase of the Assignment.
- ***Prospective Scenarios Analysis***. The prospective dimension of the Study has been implemented in the form of an impact analysis. The outcomes of the above retrospective evaluation have informed the development of policy options to address emerging issues (Section 5); then, such options have been examined and compared with respect to their expected impacts (Section 6).

Figure 1.1 – Structure of the Assignment



- **SCOPE OF THE STUDY**

The scope of the Assignment covers, as mentioned, the EU policy for AIEM and OdM special tax regimes since their establishment in the current form – i.e., 2002 and 2004 respectively – and in all the geographical regions of implementation – respectively the

Canary Islands and five French outermost regions, namely: Réunion, Mayotte, French Guiana, Guadeloupe, and Martinique (collectively referred to as the 'French ORs').

As highlighted, the Assignment regards the EU dimension of these national measures, and in specific, the tax differential system and its design, implementation and monitoring arrangements. In this sense, the evaluation of special regimes' performance and impacts regards ***specifically the production activities which fall under the tax differential system***, and these represent only part of the overall scope of AIEM and OdM regimes.[159]

Sector-wise, these regimes cover productive sectors of the ORs, mainly manufacturing activities and, to a lesser extent agriculture, fisheries and mining activities. The specific products supported by the regimes are identified in relation to their customs classification, typically using the 8-digit subheading of the Combined Nomenclature ('CN8'), but sometimes using a less granular – i.e., CN4 or CN6[160] – or more granular classification (TARIC 10-digit classification and ad hoc product definitions). An overall 157 product categories are supported by the AIEM regime, and some 976 – including all five ORs - by the OdM regime.

For the analysis of policy coherence and of the overall operating environment, the perimeter of the Study extended to the mapping and review of other (main) policies that form part of the EU approach for these regions, including, for example cohesion funds, State aid measures and other relevant programmes and schemes.

[159] This specific feature of the Assignment is the main reason for apparent disparities with the results of other studies, which focused, instead, on special regimes on the whole, i.e. including the effects of the tax applied on products that do not benefit from exemptions/reductions.
[160] At the 4- and 6-digit levels, the CN classification actually coincides with the international Harmonised System (HS) classification, and in this sense these levels can be consistently designated as HS4 and HS6. However, to avoid confusion, in this Report we always refer to the CN classification, irrespectively of the granularity of the coding.

2. OVERVIEW OF THE INTERVENTION

2.1 The socio-economic context

The *Octroi de mer* is in force in the French outermost regions of Martinique, Guadeloupe, French Guiana, Réunion and Mayotte. Under the French administrative system, these five territories are overseas departments and overseas regions (*département et régions d'outre-mer* or DROM), where a region consists of a single department. Since 1 January 2016, French Guiana and Martinique have opted for the new status of unique territorial collectivities (*collectivités territoriales uniques*), unifying the legislative competence of region and department, while Guadeloupe and Réunion have maintained the pre-existing status with separate departmental and regional councils. Mayotte became the 5th French overseas department in 2011 (and an EU outermost region in 2014) and has a status similar to the unique territorial collectivity.

With the exception of French Guiana, French ORs are insular territories, of which two are located in the Indian ocean (Réunion and Mayotte) and two in the Caribbean region (Guadeloupe and Martinique), at a distance from the French mainland ranging between 7,500 km (Guadeloupe) and 9,900 km (Réunion). Overall, the French OR population amounts to 2.18 million inhabitants, with Réunion accounting for nearly 40% of the total and the others ranging from 17% (Guadeloupe and Martinique) and 12% (Mayotte)[161].

Based on the latest available data, the total GDP of French ORs amounts to EUR 42.8 billion, i.e., some 1.5% of the total GDP of France. Guadeloupe and Martinique register the highest GDP per capita of all French ORs - approximately EUR 23,300 per capita – followed by Réunion, with EUR 21,500 per capita. With EUR 9,200 annually, Mayotte has not only the lowest GDP per capita among the ORs but lowest in all of France. Over the past decade, the economy of Martinique, Guadeloupe and Réunion witnessed mild growth, largely in line with France's mainland economy, while French Guiana and Mayotte have been growing at a faster pace, on average.

The economy of French ORs is dominated by the service sector, which typically accounts for some 80-85% of the total value added. Public services – i.e., public administration expenditure, education, health, welfare, etc. – is a major component of it, representing on average some 37% of the total value added (nearly 55% in Mayotte). In Guadeloupe and Martinique this is also fuelled by tourism activities, which contribute to some 4% of the GDP. The secondary sector represents between 10% (Mayotte) and 16% (F. Guiana) of value added, with industrial and manufacturing activities ranging from 3% to 9% of the total. Finally, the primary sector activities (agriculture, fisheries and forestry activities) provide the least contribution to ORs' economy, especially in Réunion (1.4%). Compared to the mainland, the ORs have clearly less developed industry (7.5% of value added against 14.3% on the mainland) and a significantly greater reliance on public service expenditure. Overall, the sectors targeted by the OdM regime (i.e., the primary sector and industrial activities) represent approximately 10% of the total added value.

The private sector of French ORs comprises some 170,000 firms[162], of which less than 9% engaged in manufacturing and production activities. The vast majority of local firms are of small size. In particular, micro-enterprises account for 95% of the total, and the average number of employees is 2.1 units per firm (ranging from 1.7 in Martinique to 2.5 in Réunion).[163] Unemployment is a major issue in the ORs, with rates ranging between 18% (Martinique) and 35% (Mayotte) of the total labour force. Youth unemployment rate is particularly severe in Mayotte (61%) and Guadeloupe (55%).

[161] The island of Mayotte is characterised by a fast-growing population due to mass-immigration from neighbouring countries, which makes it the region with the highest population density of France (720 inhabitants per Km2) after the 'Île de France'.
[162] Some 189,000 if all establishments are included.
[163] Data for Mayotte not available.

Another key feature of French ORs is the large reliance on imports of goods and the substantial trade imbalance. In 2018, the aggregate value of imports of merchandises was EUR 12.3 billion, while external deliveries (i.e. exports including deliveries to the mainland and the EU) amounted to EUR 1.0 billion. Overall, the trade deficit accounts for some 26% of ORs' GDP, reaching 31% in F. Guiana. Most of the export of goods from the ORs consists of agri-food and beverage products, e.g., bananas and sugar from the Antillean ORs, fish from Réunion and F. Guiana, rum from most of the regions.

Table 2.1 – French ORs: key socio-economic data

Indicator	GLP	MTQ	GUF	REU	MYT
Distance from French mainland (Paris, km)	7,578	7,641	7,871	9,921	8,050
Population (000' people)	383	365	297	866	270
Unemployment (% of labour force 15-74)	23.1%	17.7%	19.1%	24.3%	35.1%
GDP (in billion EUR)	9.1*	8,6*	4.2*	18.5*	2.3*
GDP per capita (in 000' EUR)	23.3*	23.3*	15.3*	21.5*	9.2*
Imports of goods (in million EUR)	2,939	2,159	1,530	5,051	572
Exports of goods (in million EUR)	280	211	213	324	11
Number of tourists (000' visitors)***	1,166	1,047	202	574	61.8*
Structure of regional value-added**					
Primary sector (% of value added)	3.0%	3.5%	4.2%	1.4%	5.0%
Secondary sector (% of value added) *of which industrial activities*	11.7% 5.9%	13.9% 8.4%	16.5% 9.2%	15.3% 8.0%	10.1% 3.0%
Tertiary sector (% of value added) *of which public services*	85.3% 37.4%	82.6% 33.2%	79.3% 35.5%	83.3% 36.7%	84.9% 54.8%
Number of firms					
Manufacturing	4,077	3,120	1,614	5,432	501
Construction	7,071	5,714	2,650	7,449	1,405
Trade, Transport, Food and Accommodation	16,875	13,317	4,801	19,193	6,359
Business market services	12,706	10,458	3,938	12,749	1,056
Consumer market services	8,081	6,630	1,971	12,301	758
Total	48,810	39,239	14,974	57,124	10,079

Sources: *INSEE, IEDOM, and Eurostat*
Notes: **data refer to 2017 (MYT: 2016); **data refer to 2015; *** including cruise tourism*

2.2 Review of the *Octroi de Mer* regime

➢ **ORIGINS AND POLICY FRAMEWORK**

The origin of the *Octroi de mer* (OdM) dates back to the tax levied on goods entering French colonies since the XVII century. In the course of the XIX century an '*octroi aux portes de mer*' was adopted first by Martinique as a tool to finance the local public budget and subsequently by Guadeloupe, Réunion and, eventually, French Guiana. From being a pure instrument of fiscal autonomy, the OdM acquired a second growth-oriented objective in the 1970s, first in Martinique and then in the other ORs. In that period the tax rates started being modulated based on the estimated competitiveness gap faced by local production vis-à-vis imports, and therefore used as a tool to promote the development of local industry and substitute imports.

With the integration of French ORs in the European Community, compatibility of OdM with the principle of free circulation of goods within the internal market emerged as an issue. The ***Council Decision 89/688***, which entered into force in 1993, recognised the need to strike a balance between, on the one hand, the importance of the OdM to support local production and to ensure the self-reliance of ORs (in accordance with the then Article 227 (2) of the Treaty), and on the other hand the need to complete the internal market. The reform extended the application of the OdM to all products, be they imported or produced in the ORs, while at the same time allowing the competent French authorities to apply total or partial exemptions for local productions. The Decision did not indicate which products and the level of exemptions permitted, but stated that: "*these exemptions must contribute to the promotion or maintenance of an economic activity in the French overseas departments and be in line with the economic and social* *development strategy of each French overseas department, taking account of its Community aid framework, while not being such as to adversely affect the terms of trade to an extent contrary to the common interest*".[164]

The following period was characterised by several ***legal disputes*** brought before the CJEU concerning the compatibility of the OdM and its de facto equivalence to a custom duty.[165] In its Order of 7 June 1998, the Court eventually concluded that: "*Council Decision 89/688 […] precludes exemptions of a general or systematic order, which would thus amount to the reintroduction of a charge having an effect equivalent to that of a customs duty. That decision does, however, authorise exemptions which are necessary, proportionate and precisely determined […].*"[166]

This jurisprudence informed the following revision of the special tax regime, adopted under Decision 162/2004[167] and renewed under ***Decision 940/2014***[168] – amended in 2019[169] - which is currently in force until the end of 2020. The reform consisted of the explicit identification and justification of the local products requiring tax exemption and the establishment of maximum thresholds for such exemptions, differentiated by products and consistent with the actual needs. In the EU law, the underlying basis for the Decision remains the TFEU and in particular ***Article 349***, which envisages the possibility of introducing special measures for ORs because of the existence of permanent handicaps affecting their economic and social situation.[170]

The OdM special tax regime not only derogates from the EU internal market rules but constitutes, at the same time, a form of regional ***State aid***, therefore, since its establishment, it has required the adoption of specific authorisation under the EU State aid policy. The first 'no objection' was adopted in 2004 (N 107/04) with reference to the then Council Decision 2004/162. The estimated value of aid was set at EUR 165 million/year, and the expiration date at end-2016. The measure was subsequently prolonged on the same conditions. The State aid decision currently in force was adopted by the Commission in 2017 - SA 46899 (2016/N)[171] - in relation to the renewed EU fiscal policy (Decision 940/2014), and is set to expire at the end of 2020. The scope was extended to Mayotte and the budget raised to EUR 475 million/year (of which EUR 25 million for support to the firms exempted from the OdM because of their small size). Unlike the Canarian AIEM scheme, France did not make use of the notification exemption of the general block exemption regulation[172] (GBER) because the requirements of the GBER regime on the cumulation of aid (Art. 15 of GBER) were difficult to comply with, since French OR enterprises benefitted from several other support measures.

At country level, the legal framework currently in force was adopted under the *loi n° 2015-762* (which replaced the previous *loi n° 2004-639*) and the implementing decree

[164] COUNCIL DECISION of 22 December 1989 concerning dock dues in French overseas departments.
[165] See: C-163/90 Administration des Douanes et Droits Indirects v Legros and Others; (C-212/96) Chevassus-Marche v Conseil Régional de L· Réunion; Joined Cases (C-37/96) and (C-38/96) Sodiprem and Others v Direction Générale des Douanes; Société Béton Express (C-405/96); Société Nouvelle de Concassage (C-406/96); Société Bourbon Lumière (C-407/96); Société Ouest Concassage (C-408/96) et al.
[166] CJEU, ORDER OF 7. 7. 1998 — JOINED CASES C-405/96, C-406/96, C-407/96 AND C-408/96.
[167] COUNCIL DECISION of 10 February 2004 concerning dock dues in French overseas departments and extending the period of validity of Decision 89/688/EEC.
[168] COUNCIL DECISION No 940/2014/EU of 17 December 2014 concerning dock dues in French outermost regions.
[169] COUNCIL DECISION (EU) 2019/664 of 15 April 2019 amending Decision No 940/2014/EU regarding products eligible for exemption from or a reduction in dock dues.
[170] An Opinion issued in 2015 by the CJEU (for the Joined Cases C 132/14, C 133/14, C 134/14, C 135/14 and C 136/14) clarified that Art 349 does not allow only derogating from the relevant provision of the Treaties, but can be retained per se as sufficient legal basis for establishing specific conditions of application of the EU law in the ORs, including secondary legislation.
[171] C(2017)1661 final. Aide d'État SA.46899(2016/N)– 'France Taxe *octroi de mer'*.
[172] COMMISSION REGULATION (EU) No 651/2014 of 17 June 2014 declaring certain categories of aid compatible with the internal market in application of Articles 107 and 108 of the Treaty, amended by Commission Regulation (EU) 2017/1084 of 14 June 2017.

n° 2015-1077. The legitimacy of the current OdM arrangements was also confirmed by a 2018 decision of the French Constitutional Court, in response to a question on the possible disparities of fiscal treatment caused by the exemptions.[173]

➢ IMPLEMENTING ARRANGEMENTS

The OdM is an indirect tax that can be levied on two types of transaction, namely: (a) imports of goods, and (b) sales of locally produced goods. More specifically, the OdM regime consists of the following components:

- ***External OdM*** (‘*Octroi de mer externe*’), levied on imported goods, including products from other French ORs (with the exception of merchandise trade between Guadeloupe and Martinique, as explained below), mainland France, EU and third countries;
- ***Internal OdM*** (‘*Octroi de mer interne*’), levied on local production;
- ***Regional OdM*** (‘*Octroi de mer regional’)* – an extra rate that regional authorities can apply in addition to the standard (external and internal) OdM.

The tax base and applicability of the OdM differ partly across transaction type, as follows:

- ***Imports*** In the case of imports – including from the mainland and the EU - the external OdM is levied on the customs value of goods comprising shipment and insurance costs, i.e., the Cost, Insurance, and Freight (CIF) value. The tax becomes chargeable upon entry of the product in the region or when it is released for consumption, in the case of goods introduced under tax suspension arrangement or other special customs regimes/procedures (e.g., customs warehousing, free zone, inward processing, temporary admission, etc.). External OdM must be paid at the time of the customs declaration.
- ***Local production***. In the case of locally produced goods, the amount of internal OdM is calculated on the producer selling price, net of value-added tax and excise duties, and becomes chargeable at the time of delivery. Payment of the OdM is due quarterly, based on the tax declarations filed by taxpayers with the territorially competent customs office. The notion of ‘production’ encompasses manufacturing, processing, and renovation activities as well as agriculture and mining operations. Since the end of 2016, in accordance with the *loi n° 2016-1918,* ‘processing’ requires a change in tariff heading (4-digit code) to trigger the application of the OdM. Since 2014, local firms with an annual turnover from relevant production activities not exceeding EUR 300,000 fall outside of the field of application of the regime.[174]

A series of ***exemptions*** are foreseen in the law, including mandatory and optional exemptions. The mandatory exemptions cover imports under the franchise regime, export of local products (including external delivery to the mainland and the EU), and merchandise trade within the *Marché Unique Antillais* (MAU), as well as between the MAU and French Guiana which is subject to a specific regime aimed at avoiding double taxation, as summarised in Box 2.1 below.

[173] Décision n° 2018-750/751 QPC du 7 décembre 2018, Société Long Horn International et autre [Régime juridique de l'octroi de mer].

[174] This provision replaced a similar facilitation for small firms included in the 2004 Decision, which allowed competent authorities to further reduce by 5 percentage points the rates applied to local companies having a relevant turnover below EUR 550,000.

Box 2.1 – The French Antilles single market

Since 1995, Guadeloupe and Martinique form one single fiscal area, referred to as the '*Marché Unique Antillais*' (French Antilles single market), for the purposes of the OdM (as well as of VAT and excise duties). Consequently, the goods produced, introduced or imported into one of these two regions can freely move to the other region. The *Marché Unique Antillais* intends to prevent double taxation. In fact, in case of imports, the OdM is due only in the region where the goods are cleared. If the goods are then shipped to the other region, the operator is not required to pay the tax again.

To correct any possible budgetary distortion induced by the disparities of OdM rates applied in the two regions, a financial compensation mechanism is in place, requiring each region to retrocede the tax collected on imported goods that were shipped to the other region. In the past four years, the OdM annual compensation of Guadeloupe to Martinique ranged between EUR 3.2 million and EUR 5.7 million (including the regional OdM), while the amount due by Martinique to Guadeloupe was approximately EUR 1.5 million / year, on average.

It should be noted that the compensation is calculated on the external OdM rate applied in the region of import clearance, but this rate can be different from the rate applied in the region of release for consumption, which not only has budgetary implications but creates tax 'arbitrage' opportunities for traders. Indeed, the existence of some distortions were acknowledged by the authorities encountered during the fieldwork, but increased efforts for better harmonisation of rates and reduction of differences were also reported. The issue of tax arbitrage and the need to minimise tax differences within the MAU was also stressed in interviews of various private sector stakeholders.

There are also special arrangements concerning the movement of goods between the MAU and French Guiana. In this case, goods are taxed in the region of production (at the local, internal OdM rate) and are exempted from the application of the external OdM in the region of destination.

Regarding optional exemptions, the most important for imports is the ***exemption on inputs*** (*exonération des intrants*), which is applied to some raw materials or capital goods that are used by local economic activities. Local authorities can exempt the imports of these goods from the payment of the external OdM rate (the regional OdM normally remains due) through specific deliberations that specify the eligible sectors (by NAF activity code) and the tariff positions of the imported goods specifically targeted. The rationale for this exemption is to avoid that the competitiveness of local producers – which is the objective of the OdM special regime – is hampered by taxing the production inputs that they cannot procure locally. The access to this facility is subject to two main conditions: (a) the exemption is applied only to direct imports (even when done through a delegated agent); and (b) in the case of capital goods, they have to be retained for at least three years. In principle, this exemption is also available to small enterprises which fall outside of the scope of the OdM (i.e. with an annual turnover lower than EUR 300,000) but they seldom benefit from it, as they rarely procure their production inputs through direct importation.

Regarding local production activities, the main optional exemption - which is also the main subject of this Study - consists of ***reduced OdM rates*** applied to certain categories of products which fall within the scope of the OdM Council Decision, as detailed in the next section. This exemption covers the vast majority of locally produced goods, but, overall, it concerns only a minor share of the scope of the OdM. In fact, unlike the similar Canarian AIEM regime, the OdM applies to virtually all product categories imported or produced in French ORs, and the products subject to differentiated rates are only a small part of the full list.

Another significant difference with the Spanish AIEM regards the ***deductibility*** of the OdM, through a mechanism similar to VAT.[175] In practice, a firm may compensate the OdM due on final goods sold locally with the amount of the OdM paid on the intermediate goods imported and/or purchased from a local supplier. The deduction is made by the taxpayer and shown in the quarterly declaration. If the amount of the tax deductible exceeds the amount of tax due on sales, the excess is however not refundable, and is carried over to the next declaration, with the exception being when the tax credit is generated by (a) the acquisition of capital assets, or (b) the purchase of inputs used to produce goods locally, which are then exported; when the exceptions are met, the credit can be refunded.

- **TAX SCOPE AND RATES**

The OdM rates (external, internal and regional) are fixed independently by each OR, through ***deliberations*** of the Regional, Territorial or Department Councils – depending on the specific institutional set-up (see Section 2.1). In accordance with national legislation, as amended in 2015[176], the OdM rates have to be set with reference to CN8 classification or TARIC 10-digit codes (when so expressed in the OdM Decision).[177] In addition to the maximum thresholds established in the Council Decision, the deliberations must comply with certain thresholds established in the law, namely: (a) 90% maximum rate for alcoholic products and manufactured tobacco; and (b) 60% for other products[178]. As for the regional OdM, the law sets the ceiling rate at 5% for F. Guiana and 2.5% for the other French ORs. The rates can be periodically revised by the regional competent authorities to take into account the evolving financial needs of the local communities, the socio-economic developments of the region as well as the updates of the tariff and statistical nomenclature[179].

Each region applies a different set of internal or external OdM rate levels, ranging from 8 in Mayotte up to 32 in French Guiana. The ***OdM base rate*** - i.e., the rate applied to the majority of positions – also varies significantly across regions, from 6.5% in Réunion, to 9.5% in Guadeloupe and Martinique, 17.5% in French Guiana and 20% in Mayotte (see Table 2.2). The higher rates applied in French Guiana and Mayotte reflect the fact that no VAT is applied there, while in the other three regions a standard VAT rate of 8.5% is levied (compared to the standard VAT rate of 20% in mainland France).

Table 2.2 – OdM and VAT rates in French outermost regions (2019)

	F. Guiana	Guadeloupe	Martinique	Réunion	Mayotte
Number of OdM rate levels *(external & internal)*	32	13	14	17	8
OdM base rate (excluding regional OdM)	15%	7%	7%	4%	17.5%
Overall OdM base rate *(including the 2.5% regional OdM)*	17.5%	9.5%	9.5%	6.5%	20.0%
Standard VAT rate	*N/A*	*8.5%*	*8.5%*	*8.5%*	*N/A*

Source: *Own processing of data provided by French authorities.*

[175] The Spanish AIEM is a single-stage tax, so there is no mechanism to deduct the amounts paid on imported raw materials or production supplies. However, in the definitions of the categories of product subject to the AIEM ad hoc specifications are often added with the aim of excluding production inputs from the scope of taxable products.

[176] See article 12 of the decree n° 2015-1077, modifying article 27 of the *loi n° 2015-762*.

[177] Note: at the level of 4-digit heading and 6-digit sub-heading, the EU Combined Nomenclature (CN) coincides with the international Harmonised System (HS) governing the customs classification of products. For simplicity, in this Study the choice was made to refer always to the coding of products using the CN levels (CN4, CN6, CN8), except for 10-digit codes that are designated as 'TARIC10'.

[178] In the case of Mayotte, maximum rates can be increased by half and are, thus, capped at 135% and 90%, respectively.

[179] For instance, in Guadeloupe, since 2015, the OdM rates have been revised three times, as per: (i) Deliberation n° CR/16-02 adopted January 22, 2016, entered in force on February 8, 2016; (ii) Deliberation n° CR/17-1394 adopted December 27, 2017, entered in force on January 1, 2018 (iii) Deliberation n° CR/18-1506 adopted December 28, 2018, entered in force on January 1, 2019.

The EU policy permits, as discussed, the application of differentiated tax rates based on the internal or external origin of the product, under the following conditions: (a) existence of local production, (b) existence of significant imports that could threaten local production, and (c) additional production costs for local products compared to imported products, caused by the structural handicaps affecting ORs. The products which are with these criteria (the 'supported products') have been included in positive lists in the Annex to the relevant Council Decision. The EU policy does not only establish which products can benefit from the differentiated rates regime, but also the ***maximum permitted tax differential***. This is expressed in percentage points and represents the upper threshold that the local competent authorities must respect when setting the ***actual tax differential***, which can also be lower than the maximum allowed. It should be noted that the threshold is expressed in terms of the difference between the external and internal rates, so for example, a tax differential of 10% may stem from an external rate of 10% and an internal rate of 0%, but also from an external rate of 25% and an internal rate of 15%. In other words, the existence of a tax advantage for certain local products does not impede the levying of a (smaller) tax on their production.

In the Council Decision, the supported products are grouped in ***three 'lists'*** characterised by different levels of the 'maximum permitted tax differential', as shown in Table 2.3 below. The inclusion of a given product in the appropriate list is based on an estimation of the additional local production costs that the policy intends to compensate. Any revision of the lists in Annex to the Council Decision, i.e., to introduce a new product or to move a product from one list to another, requires a formal amendment of the Decision itself.

As the table shows, the composition of the lists varies from 84 product categories in Mayotte to more than 270 in Martinique and Réunion. Overall, nearly 660 different product categories are subject to tax differentials under the OdM regime in French ORs. The local productions that most frequently register high tax differentials include food commodities like rice, wheat flour, coffee, fruit juice, etc. as well as alcohol, alcoholic beverages and intermediate inputs (sugar cane, grape must, and other fermented beverages).

In general, full exemptions are rarely applied, with the notable exception of Réunion, where zero rates are set on almost all supported products (with the exception of alcoholic beverages and tobacco, for example). In Guadeloupe and Martinique, there are no cases of full exemptions; the regional OdM component is always charged. In French Guiana, a minority of local products are fully exempted, while in the majority of cases a reduced regional rate of 1% is levied. Finally, in Mayotte, only a couple of products are fully exempt. For all other supported products, the regional OdM is levied (at the base rate of 2.5%) and, in a dozen cases, also a positive internal rate is applied (typically, 7.5%).

Table 2.3 also reports estimates on the extent of OdM tax differentials actually applied in French OR. In nominal terms and based on the full list of CN8 products concerned, the average OdM differential applied across ORs ranges from 8% in Réunion to 15% in Mayotte. For economic analysis, a more significant indicator of the actual extent of differentials is the ratio between the total monetary value of tax reductions and the monetary value of the local production concerned. The results show that the OdM differentials represent between 12% (Réunion) and 23% (Mayotte) of local production value, with a (weighted) average ***value of OdM differentials for all French ORs of approximately 15%***.

Table 2.3 – OdM tax differentials and the number of product categories concerned

	Max. tax differential permitted	Number of products subject to special regime				
		F. Guiana	Guadeloupe	Martinique	Réunion	Mayotte
List A	10%	18	42	96	135	30
List B	20%	163	101	152	98	38
List C	30%	27	19	26	38	16
Total		*208*	*162*	*274*	*271*	*84*
*Nominal OdM differential applied (simple average)**		*14%*	*13%*	*14%*	*8%*	*15%*
*Actual OdM differential applied (weighted average)***		*16%*	*18%*	*18%*	*12%*	*23%*

Source: *Own processing of Council Decision and French authorities' data on the OdM rates applied.*
Notes: *Products are defined based on the lowest level of the Combined Nomenclature classification, as laid down in the Annex to the OdM Decision (updated in April 2019). (*) (simple) average of the OdM differential actually applied (based on French OR deliberations) on all CN8 products concerned (2018 data). (**) ratio between the total monetary value of tax reductions and the monetary value of the local production concerned (figures refer to 2016, as 2018 data for Réunion and F. Guiana are incomplete).*

➢ TAX REVENUE AND ALLOCATION

The OdM 'taxpayer' includes two main categories of operators:

1) ***importers***, who are subject to the external OdM (including the regional OdM); and
2) ***local producers***, with an annual turnover of production of at least EUR 300,000, who are subject to the internal OdM.[180]

Based on information collected from French customs, in 2018 the total number of local producers subject to the internal OdM in all French ORs was just above 1,000. It is important to highlight that this figure does not include the numerous local firms engaged in production activities but falling outside the scope of the tax because of their small size. Furthermore, about half of these 1,000 firms did not actually pay any OdM amount, because of the exemptions. As shown in Table 2.4 below, the share of local firms that were actually charged varies significantly across regions, from approximately 90% in Guadeloupe and Mayotte to 7% in Réunion. This variance reflects the different arrangements adopted by regional authorities, with Réunion applying a positive internal OdM to less than 10 products, for example.

The number of subjects liable to the payment of the external OdM is much greater, exceeding 31,000 units in 2018. However, this figure concerns any recipients of imported goods subject to the OdM taxation, comprising individuals/occasional importers, and including all products, and not only those subject to the differential regime. In this sense, the figure is not comparable with the above number of firms subject to the internal OdM. The evidence from fieldwork indicates that the number of specialised importers engaged in the trade of products subject to the OdM differential is significantly lower.

[180] Indirectly, local producers may also be subject to the external OdM when they purchase supplies or other inputs of imported origin and without the benefit of exemptions. To avoid double counting, this dimension is not considered here.

Table 2.4 – Number of subjects liable to the OdM in French ORs (2018)

	F. Guiana	Guadeloupe	Martinique	Réunion	Mayotte	TOTAL
No. of firms subject to internal OdM	136	215	298	354	39	1,042
No. of firms that actually paid any internal OdM	65	191	228	24	37	545
in % of the firms liable for tax payment	*48%*	*89%*	*77%*	*7%*	*95%*	*52%*
No. of firms subject to external OdM	3,681	6,612	5,819	13,076	2,489	31,677

Source: *French Customs.*

Between 2014 and 2018, the annual yield of the OdM (standard and regional) of all French ORs grew from ***EUR 1,140 million*** to ***EUR 1,270 million***. The differences in total tax yield across regions are largely due the different size of their economies, with Réunion accounting for about one third of the total OdM receipts and Mayotte for only 8%. The regional OdM accounts on average for nearly 25% of the total OdM receipts, but less in French Guiana and Mayotte, where the standard OdM base rate is higher than in the other regions.

When the respective contribution of the internal and external OdM component to the total tax yield is considered, it clearly emerges that the bulk of OdM receipts comes from imports. As shown in Table 2.5 below, the internal OdM receipts account for only 2%-4% of the total OdM revenues – except in French Guiana, where they reach 7%. Figures include the receipts collected on both products with tax differentials and those with no differential applied. The OdM is also the main tax levied on imports, with an average impact of 63.4% of total duties (higher in F. Guiana and Mayotte, which do not apply VAT).

Table 2.5 – OdM receipts, by OR and tax component (avg. 2015-2018, EUR million)

	F. Guiana	Guadeloupe	Martinique	Réunion	Mayotte	Total
External OdM (regional OdM included)	157.8	257.4	254.6	409.3	89.9	1,169.0
Internal OdM (regional OdM included)	11.0	9.3	11.7	9.3	3.8	45.1
Total OdM	168.8	266.7	266.4	418.6	93.7	1,214.1
External OdM in % of total	*93%*	*97%*	*96%*	*98%*	*96%*	*96%*
Internal OdM in % of total	*7%*	*3%*	*4%*	*2%*	*4%*	*4%*
Incidence of OdM on the total tax and duties levied on imports						*Average*
OdM	*70.9%*	*63.5%*	*54.8%*	*52.0%*	*75.8%*	*63.4%*
VAT	-	*26.4%*	*22.8%*	*29.1%*	-	*26.1%*
Others (tariff, excise duties etc.)	*29.1%*	*10.1%*	*22.4%*	*18.9%*	*24.2%*	*20.9%*

Source: *Own processing of data provided by French authorities. The data on incidence are drawn from Rapport Ferdi 2020 (based on French DGDDI).*[181]

The Council Decision explicitly requires that the revenues from OdM are entirely transferred to the budget of the local authorities and "*allocated to an economic and social development strategy involving aid for promoting local activities"*.[182] Based on the

[181] Rapport Ferdi | Geourjon A-M. Laporte B. 'Impact économique de l'octroi de mer dans les Départements d'Outre-mer français.' March 2020.
[182] Council Decision 940/2014, Recital #8.

information collected, the OdM receipts are divided among the State, the municipalities and the regions/departments/collectivities, as follows:

- some 1.5% (2.5% until 2017) is allocated to the State to cover the tax implementation and enforcement costs;
- the remaining 98.5% is allocated to the municipalities' operational budget in the form of a '*dotation globale de garantie*' (DGG). Every year, the value of this DGG is adjusted by customs in relation with registered economic development (i.e., the evolution of both the consumer price index and the national GDP);
- any possible surplus, after the DGG allocations, is allocated to the *Fonds Régional pour le Développement et l'Emploi* (FRDE), which is a regional fund set up in each French OR in the early 90s. The FRDE resources are distributed as follows: (a) 80% to the municipalities' investment budget, and (b) 20% to regions and departments;
- the tax yield of the regional OdM component follows a different path and is directly and entirely allocated to regions and departments.

As a result, the OdM constitutes the first source of fiscal revenue for OR municipalities. According to the figures provided by the Directorate General of Local Authorities, in the past three years, the OdM receipts represented between 36% (in Réunion) and 76% (in Mayotte) of ORs' resources (see Table 2.6). The OdM also accounts for a smaller, but still significant, share of the tax revenues of regions and departments, ranging between 12% (in Martinique and French Guiana) and more than 40% (in Guadeloupe).

Table 2.6 – OdM share of fiscal revenues of local authorities

	2016	2017	2018		2016	2017	2018
Municipalities				**Regions/Departments / Collectivities**			
F. Guiana	41.5%	43.8%	45.7%	**F. Guiana**	17.0%	11.6%	12.5%
Guadeloupe	42.3%	42.5%	43.5%	**Guadeloupe**	41.4%	40.7%	40.0%
Martinique	47.0%	47.2%	47.1%	**Martinique**	12.5%	15.5%	11.8%
Réunion	36.2%	36.2%	36.1%	**Réunion**	27.0%	24.6%	23.4%
Mayotte	59.2%	61.8%	76.5%	**Mayotte**	35.5%	26.0%	22.9%

Source: *'Rapport sur les finances des collectivités locales'* prepared by the Observatoire des finances et de la gestion publique locales (various years).

The '***foregone tax revenue'*** (*dépense fiscal*) corresponds to the tax receipts not collected because of the exemptions in place on local production. The foregone tax revenue is, in this sense, an indicator of the global value of the support extended under the OdM special regime. It is calculated on the basis of data from the customs authority as the gap between the internal OdM revenues actually collected and the potential revenues that would have been collected if tax differentials were not in place (assuming no change in the local production value). According to the OdM evaluation carried out in 2018[183], the aggregate foregone revenues amounted to approximately ***EUR 301.5 million*** (2016), of which 14% from the regional OdM. This figure represents some 5.4% of the total value of the local production of French ORs, but, in comparative terms, the incidence of foregone revenue is higher in Martinique (7%) and Mayotte (9.2%) than in the other ORs (Table 2.7). The estimated foregone revenue for 2017 communicated to the Commission under the State aid monitoring arrangement amounts to EUR 287.4 million, but no breakdown by region is available.

Figures on foregone revenue should be taken with some caution. As shown in Table 2.7, the mid-term reports on the OdM for Martinique and Guadeloupe provided a partially different estimate (while for the other ORs the foregone revenues were not estimated in the mid-term report). Furthermore, these estimates do not include the foregone revenue deriving from the exclusion of small firms from the scope of the tax, which de facto translates into other non-collected taxes.

[183] Technopolis et al., "Evaluation de l'octroi de mer", 2018, for the Ministère des Outre-mer.

Table 2.7 – Estimated foregone revenue associated with the OdM special regime (2016)

Indicator	GLP	MTQ	GUF	REU	MYT
Foregone revenue (EUR ,000)	53,127 [62,695**]	90,256 [109,615*]	25,326	120,447	12,323
Share of fiscal effort on the total value of local production	4.8%	7.0%	4.7%	4.7%	9.2%

Sources: *Technopolis 2018, *Martinique mid-term report 2018, **Guadeloupe mid-term report 2018.*

➢ Reconstructed intervention logic

To conclude this review of the salient features of the OdM regime, it is useful to summarise its overall ***intervention logic*** as reconstructed by the Consultant based on the available policy documents and implementation reports. The diagram overleaf (Figure 2.1) illustrates the OdM intervention logic using the standard elements and pathways of the EU *Better Regulation.*[184] In particular:

- The ***need*** for EU action originated in the structural constraints of ORs that lay at the base of art. TFEU 349, which in the case of French ORs refer specifically to: the remoteness, the dependence on energy and raw materials, the need to build up larger stocks, the small size of local markets and the low level of export.
- The EU tax policy for the OdM has the overall ***objective*** of addressing these handicaps contributing to the development of OR economies and their full integration in the Single market. In particular, the OdM Decision mentioned the need to strengthen local industry by making it more competitive.
- The primary ***input*** of the EU tax policy consists of the derogations - and the corresponding State aid authorisations - that allow France to apply differentiated tax rates to certain locally produced goods as compared to imported ones, to compensate for the additional costs caused by the above-mentioned structural handicaps.[185] The measure is articulated in a series of provisions, as follows:

    - the lists of product categories (defined with reference to customs classification codes) for which tax differentials are allowed;
    - the maximum tax differentials permitted for eligible products expressed as a difference (in percentage points) between the rate applied to imported products and to locally produced ones. The differentials should compensate for and not exceed the additional costs faced by local producers;
    - the exclusion of small operators with an annual turnover lower than EUR 300,000 from the field of application of the OdM regime;
    - the arrangements concerning monitoring and reporting, the periodic revision of lists and permitted differentials, and other principles laid down in the recitals of the Decisions (e.g., the use of tax receipts for the local economic development strategy, etc.).

- The expected ***results*** of the policy involve, in the first place, the restoring of the competitiveness of locally produced goods vis-à-vis equivalent imported ones. This is a key step of the intervention logic: without the differential tax regimes, the locally produced goods could hardly compete with equivalent imported ones, because the additional costs caused by ORs' structural handicaps would make them noticeably more expensive.[186] By applying higher tax rates to imports than to local production, this disadvantage is expected to level out[187]. The expected consequences of

[184] See: *Better Regulation Toolbox* - TOOL #46. DESIGNING THE EVALUATION
[185] It should be noted that the 'inputs' are not the special tax regimes per se – which are sovereign MS fiscal policies – but just the subject of the EU 'action', i.e. the authorisation to apply tax differentials and the related provisions.
[186] Reference is made here to the 'cost-price', i.e. the producer's or importer's price, and not to the retail price.
[187] The strong underlying assumption here is that prices reflect with sufficient accuracy the production costs and that taxes paid are passed on along the value chain to the final consumer.

mitigating the competitive disadvantages faced by OR producers include an increase in local production and a certain degree of substitution of imports. The development of local manufacturing sector may eventually facilitate the integration and participation of OR enterprises in the EU continental market.

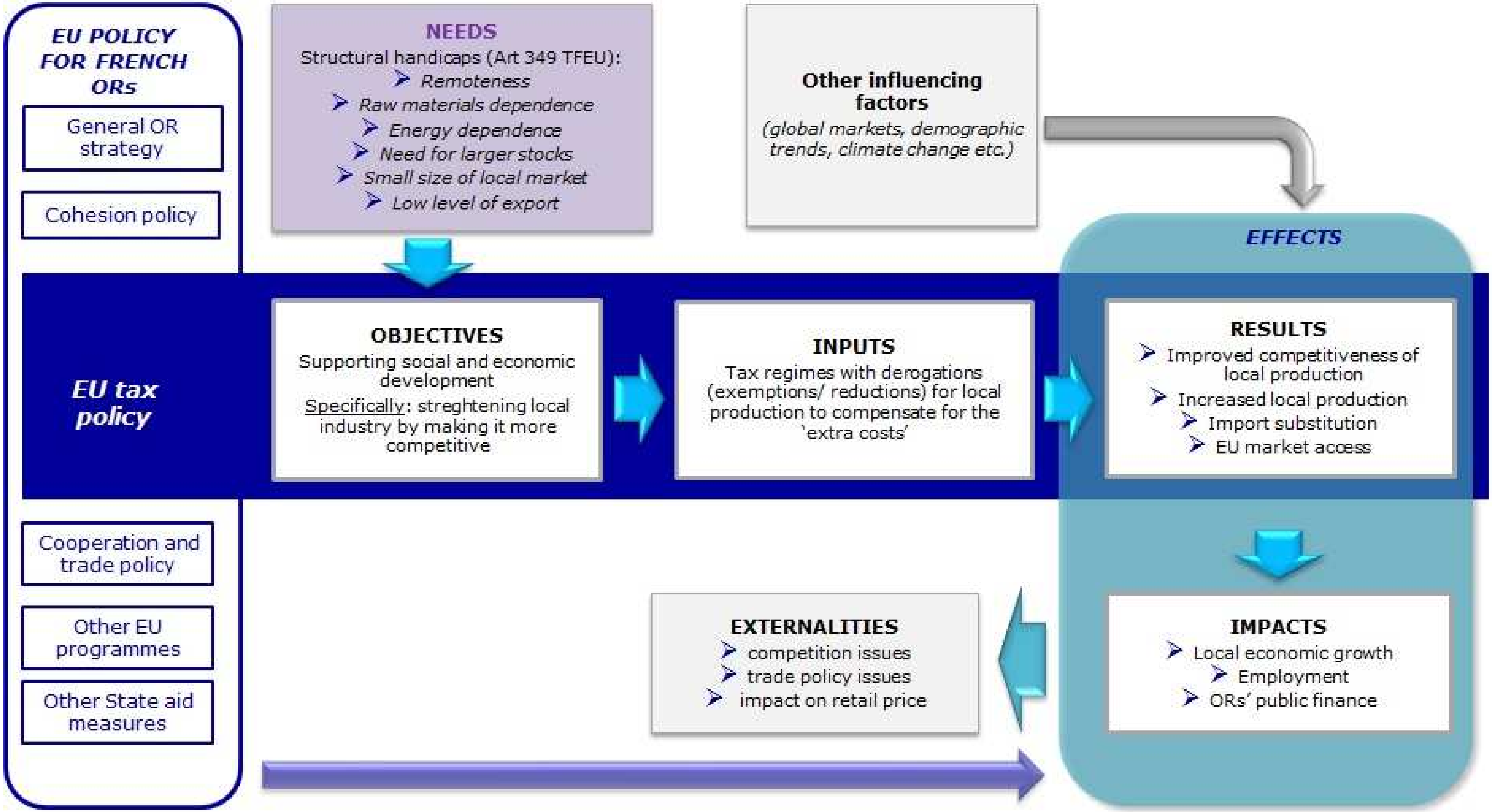
- Ultimately, the effects of the policy may contribute to more generalised ***impacts,*** such as on ORs' GDP, public budget, employment levels and other macro-economic indicators.
- At the same time, the policy may have ***unintended effects*** of different types, that are considered in this Study. In particular:

    - the differentiated tax regimes may have distortive effects on competition and give rise to complaints by economic operators that are charged with the tax (e.g., importers and distributors). It is also possible that the development of certain sectors occurs 'at the expense' of other sectors.[188]
    - the tax differentials may be seen by non-EU trade partners as a sort of protectionist measure conflicting with partnerships and free trade agreements signed with the EU;
    - by raising the import-price of a number of consumer goods, the differentiated tax regime may result in an increase in retail price levels and a net loss of purchasing power for residents.

- It is important to note that, the EU OdM policy is one element of a much ***broader EU policy framework*** for French ORs that includes several other EU measures, programmes and aid schemes. Sometimes, these other schemes address the same production activities/beneficiaries covered by the OdM with mutually reinforcing effects or overlapping effects or, more rarely, conflicting effects.
- Finally, other countless ***external factors*** may also influence the development of the local economy, making it particularly difficult to extrapolate the net impact of the EU tax policy.

[188] That is, since it may influence the repartition of investments and human capital available in the local economy.

Figure 2.1 – Reconstructed intervention logic behind special tax regimes



2.3 Other relevant EU policies and schemes

➢ **THE EU STRATEGIC APPROACH FOR OUTERMOST REGIONS**

The social and economic development of EU outermost regions is challenged by a series of factors related to their structural features or handicaps. These are explicitly identified in ***Article 349 TFEU*** with reference to: "*remoteness, insularity, small size, difficult topography and climate, economic dependence on a few products*".[189] Since 1999, EU legislation has been addressing the vulnerability and constraints of these regions through a mix of cohesion policy measures (for regional, social, agriculture and fisheries development) and various regional State aid measures, including special economic and fiscal regimes. A brief overview of the Commission strategic framework for ORs from its origin to present time is provided in Box 2.2 below.

Box 2.2 – Policy background of the EU strategic approach for ORs

The special features of ORs and the need for a tailored approach for their development were acknowledged in EU institutions' policies and acts since the early 90s, but became the subject of articulated strategic documents only in the 2000s. The early documents consisted of Commission's reports on the measures deployed to support ORs in accordance with the then Article 299(2) of the EC Treaty,[190] and culminated with the adoption in 2004 of the ***first strategic document*** for a 'stronger partnership' with the ORs.[191] The 2004 approach envisaged establishing ad hoc measures for ORs beyond and within the general cohesion instrument, in the form of a specific programme dealing with OR structural handicaps and an action plan for a 'wider neighbourhood'.

With the ***2008 renewal*** of the approach[192], the emphasis shifted from ORs structural constraints to their unique assets and their potential benefits for the EU. As summarised in a more recent communication: "*[ORs] provide a European presence in strategic areas of the world, and have exceptional geographical and geological characteristics which make them useful laboratories for research and innovation in industries of the future such as biodiversity, terrestrial and marine ecosystems, pharmacology, renewable energies, and the space sciences.*"[193] The strategic framework was further ***reviewed in 2012***[194], building, inter alia, on the outcomes of ad hoc studies on the growth potential of ORs[195] and the influential report prepared by P. Solbes in 2011, which examined the constraints to full integration of ORs in the EU single market and formulated a set of policy recommendations to enhance their competitiveness and harness their growth potential.

The latest comprehensive ***Communication*** on the strategic partnership with the ORs was ***adopted in 2017.***[196] Among others, it was informed by: the joint *Memorandum* submitted by ORs in March 2017[197] and the contributions of the three concerned MS authorities[198], the relevant

[189] Source: TFEU Art. 349. The scope of application of Article 349 was significantly extended in December 2015 following a European Court of Justice decision (C-132/14 Judgment), which ruled that the Council had the power, under Article 349, to adopt specific measures laying down the conditions of application to outermost regions not only for the provisions of the Treaties i.e. primary legislation but also in respect of the provisions of secondary legislation, affirming Council's right to adopt measures such as regulations on the basis of Article 349. (Source: EPRS, Briefing on ORs of March 2017).
[190] See: COM(2000) 147 final; COM(2002) 723 final.
[191] See: COM(2004) 343 final and COM(2004) 543 final.
[192] See: COM(2008) 642 final. The new document was elaborated based on the results of a large consultation held in 2007 and the publication of the Commission report on the previous framework - COM(2007) 507 final and SEC(2007) 1112.
[193] DG REGIO, "The Outermost Regions. European Lands in The World", 2014.
[194] COM(2012) 287 final and accompanying SWD(2012) 170.
[195] Furthermore, it is worth mentioning the Report of the European Parliament on "The role of Cohesion Policy in the outermost regions of the European Union in the context of EU 2020", 18 April 2012 (rapporteur Nuno Teixeira).
[196] COM(2017) 623 final and SWD(2017) 349.
[197] 'Mémorandum Conjoint Des Régions Ultrapériphériques. Pour un nouvel élan dans la mise en œuvre de l'article 349 TFUE', March 2017 (revised in June 2017).
[198] Available on DG REGIO website on ORs:
https://ec.europa.eu/regional_policy/en/policy/themes/outermost-regions/#6

resolutions of the European Parliament[199], and the high-level dialogue between the Commission and ORs representatives in 2016 and 2017[200]. In particular, the *Memorandum* of the ORs Conference of Presidents highlighted the importance of cohesion policy for OR development, thus calling for maintenance of the specific provisions, with special emphasis on the role of economic sectors with high growth and jobs potential, namely agriculture and fisheries and emerging sectors such as renewable energy. Another major point raised there concerned EU trade policy, and the need to take greater account of the effects of trade agreements with third countries on the economies of the ORs.[201]

The policy priorities for ORs were discussed in an enlarged setting at the *Forum of the Outermost Regions* that took place in Brussels on 30-31 March 2017, with the title 'The Outermost Regions, European lands in the world: toward a renewed strategy'[202]. Finally, policy analysis was supported by a series of background studies commissioned by DG REGIO and focusing on specific aspects of the EU policy for ORs, such as: green and circular economy, climate change adaptation, energy, transport accessibility, digital accessibility, 'smart' skills development, and migration.[203]

The ***current Commission Communication*** on the strategic partnership with the ORs, on the one hand, recognises the positive effects of the support extended in the previous period, but, on the other hand, points out the persisting fragility of the OR economic, social and environmental situation, caused by insufficient basic infrastructures, limited economic diversification, difficult access to the single market for local SMEs, youth unemployment, and climate change-related vulnerabilities. In this respect, the Communication calls for a 'stronger partnership' with the ORs involving at the same time policies that are better tailored to the specificities of the local context[204] and a greater ownership of the policy objectives and efforts from the national/sub-national counterparts. More specifically, the Communication revolves around three main pillars, which are outlined here.

1) ***Building on ORs' assets***. The Communication reviews and updates the previous analysis of the assets that ORs can leverage to unleash their potential and boost growth. These include, inter alia: rich biodiversity – and its potential for tourism, fisheries, forestry, agriculture and certain production activities; special economic zones, offering 'blue economy' opportunities[205]; proximity to third countries' markets; certain location and climate features (suitable for space and astrophysics activities, for example); and other human capital and cultural assets.
2) ***Enabling growth and job creation***, through the adoption by ORs of smart specialisation strategies to support investments in research and innovation. This

[199] European Parliament resolution of 6 July 2017 (2013/2178(INI), Rapporteur: Younous Omarjee; European Parliament resolution of 27 April 2017 (2016/2016(INI), Rapporteur: Ulrike Rodust. See also the Briefing of the EPRS - European Parliamentary Research Service on "Outermost regions of the EU. Towards a renewed strategy", March 2017.
[200] President Juncker's meetings with the Presidents of the outermost regions in Brussels in April 2016 and in March 2017, and annual Conference of Outermost Regions in French Guiana in October 2017.
[201] At the same time, closer integration and cooperation between ORs and third countries in their geographical areas should be encouraged – according to the *Memorandum* - based on a robust analysis of the geopolitical, economic and trade situation in the respective regions.
[202] The Forum involved more than 600 participants including the Presidents of the outermost regions, representatives of the three Member States involved, members of civil society and external actors, as well as the representatives of EU institutions. The Report of the Forum, as well as keynote speeches, presentations and other materials are published on the DG REGIO dedicated webpage.
[203] See the following studies commissioned by DG REGIO: (1) P. ten Brink, M. Kettunen and E. Watkins (2017) Expert Group on Green and Circular Economy in the Outermost Regions: Final Report; (2) "The economic impact of climate change and adaptation in the Outermost Regions", June 2014; (3) : "Energy in the EU Outermost Regions (Renewable Energy, Energy Efficiency)", 2017; (4) "Transport Accessibility For The EU Outermost Regions' (ORs)", 2017; (5) "Analyse De La Mise En Oeuvre Des Stratégies De Spécialisation Intelligente Dans Les Régions Ultrapériphériques", 2017; (6) "On Digital Accessibility And ICT (Coverage And Use) For The Outermost Region", 2017; (7) "Les tendances démographiques et migratoires dans les régions ultrapériphériques: quel impact sur leur cohésion économique, sociale et territoriale?", 2012.
[204] In accordance with the CJEU judgment C-132/14 of 15 December 2015 that clarified the scope of Art. 349 TFEU and its conditions of application with respect to both primary and secondary EU law.
[205] On this topic, the strategic approach was informed by the study made by COGEA et al. on "Realising the potential of the Outermost Regions for sustainable blue growth", 2017.

pillar encompasses actions in support of youth employability, local competitiveness, digital accessibility and transport.

3) ***Scaling up ORs' cooperation with their neighbourhood and beyond,*** through policy dialogue, territorial cooperation programmes and Economic Partnership Agreements (EPA), especially with African, Caribbean and Pacific (ACP) neighbouring countries.

Additionally, the Communication identifies a series of cross-cutting priorities and principles for strengthening partnership with ORs, including firstly the need to better adapt EU policies to the geopolitical and economic context of ORs, especially when stipulating international agreements in geographical areas and on matters of primary interest for ORs (e.g., fisheries and trade); secondly, to set up dialogue platforms and task forces to better analyse and take stock of ORs specific needs and interests; and finally, to enhance the knowledge of local contexts through efforts for improving the availability and reliability of statistics and data on ORs' socio-economic situation.

The concrete implementation involves a variety of ***supporting measures*** briefly described below.

- **REGIONAL DEVELOPMENT INSTRUMENTS**

The *European Regional Development Fund* (ERDF) and the *European Social Fund* (ESF) are the main instruments supporting the EU Cohesion Policy (at regional and territorial levels). As compared to other EU regions, the ORs have access to additional support, i.e., ***specific additional allocation*** (SAA) because of the structural handicaps referred to in art. 349 of the TFEU. The SAA was introduced in the ERDF in 2007[206] and renewed in the 2014-20 multiannual financial framework. The Commission proposed to continue it in the next programming period (2021-27).[207]

In the five French ORs covered by the Study, the financial amount allocated to regional development (ERDF and ESF combined) is approximately EUR 6.0 billion in the period 2014-20, of which nearly 80% through ERDF. The SAA corresponds to around 21% of the total support from ERDF (see Table 2.8)[208]. The specific additional allocation has been used for the following categories of operations[209]: (a) investments, (b) operating aid, and (c) funding of Public Services Obligations and contracts. The topics covered by the SAA are specific for each OR, as there are great disparities between regions in terms of level of development, demographics, geographic characteristics, etc. The financial support to enterprises is allocated based on State Aid provisions.

[206] See article 11 Reg. 1080/2006 on the European Regional Development Fund and repealing Regulation (EC) No 1783/1999 and article 12 of Reg. 1301/2013 on specific provisions concerning the 'investment for growth and jobs' goal and repealing Regulation (EC) No 1080/2006.
[207] See article 11 of the Commission proposal for a new ERDF regulation - COM(2018) 372 final.
[208] The allocation is calculated based on the regional population, corresponding to EUR 35 per inhabitant per year in the period 2007-13 and EUR 30 per inhabitant and per year in the period 2014-20.
[209] With some differences between the two programming periods.

Table 2.8 – Total financial allocation to Operational Programmes for ORs (including national co-financing, in EUR million)

OR	Total OP - ERDF		Total OP – ESF			SAA		SAA – % ERDF	
	2007-13	2014-20	2007-13	2014-20	2014-20 (State)	2007-13	2014-20	2007-13	2014-20
GLP	1,049.90	978.17	220.50	104.40	17.76	240.70	122.23	*23%*	*12%*
REU	1,955.07	1,930.23	757.77	644.87		426.80	352.01	*22%*	*18%*
GUF	741.05	507.00	134.34	67.83	54.38	96.64	84.45	*13%*	*17%*
MTQ	994.78	1,003.40	146.59	112.35	164.23	221.34	218.54	*22%*	*22%*
MYT		325.62		77.51			4.58		*1%*
Total	4,740.80	4,744.42	1,259.20	1,006.96	236.37	985.48	781.81	*21%*	*16%*

Sources: *DG REGIO, programme documents.*
Legend: *OP=Operational Programme; ERDF= European Regional Development Fund; ESF=European Social Fund; SAA=specific additional allocation.*

Besides the mainstream programmes, the ORs also benefit from ***European Territorial Cooperation*** support, co-financed by ERDF, IPA funds or EDF[210]. In the 2014-20 programming period, five *Interreg* cross-border or transnational programmes, worth some EUR 218 million, have involved French ORs.

➢ **AGRICULTURE AND FISHERIES INSTRUMENTS**

Since its establishment in 1991[211], the ***POSEI programme*** represents the main instrument of EU support to ORs in the agricultural sector. In terms of allocations, the POSEI reaches an annual budget of EUR 278 million for French ORs[212], funded from the European agricultural guarantee fund (EAGF). The POSEI is articulated in two parts:

1) the ***Specific Supply Arrangements*** (SSA) – aimed at mitigating the supply costs for: (a) essential products for human consumption and (b) inputs necessary for agricultural and processing activities. The support may cover exemptions from duties on imports of selected agricultural products from third countries or aid for the supply of products from the EU. As shown in Table 2.9, SSA represents some 18% of the total EAGF allocations (EUR 26.9 million). The volume of products to be supplied under the SSA is set annually by national authorities based on need forecasts.
2) ***Support to Local Production*** (SLP), including (a) support to traditional activities (*'filières traditionelles'*), and (b) support to the diversification of production. SLP represents some 82% of the total EAGF allocations, of which around 75% is used to support traditional activities – i.e., sugar and bananas in French ORs - and the rest for diversification.

[210] Chapter 3 Reg. 1080/2006 dealing with the specific provisions for the European Territorial Objective and Reg. 1299/2013 on specific provisions for the support from the ERDF to the European territorial cooperation goal.
[211] Council Decision of 26 June 1991 (91/314/EEC).
[212] Additionally, France's national complementary allocations within the programme amount to EUR 40 million.

Table 2.9 – Financial data for the POSEI in French ORs (EUR million)

	Financial fiche	EU funding	Additional funding	Payments
SSA	26.9	22.2		22.2
Transversal measures	2.5	2.5		2.5
Measure for the banana sector	129.1	127.3		127.3
Measure for the cane-sugar-rum sector	74.9	74.5		74.5
Measure for crop diversification	14.3	14.2	12.1	26.4
Support for livestock production	30.8	30.0	18.5	48.4
TOTAL	**278.4**	**270.7**	**30.6**	**301.3**

Source: *Annual execution report (2019 – Campaign POSEIDOM 2018).*

The ***European Agricultural Fund for Rural Development Fund*** (EAFRD) – also mentioned as the CAP second pillar – contributes to the development of rural areas. It is also a strong support to boost a climate-friendly, innovative and competitive agricultural industry. The EAFRD is set for a period of 7 years, currently on the programming period 2014-2020, and implemented through Rural Development Programs (RDP) set at the regional level. With some EUR 1.5 billion of allocation, the EAFRD accounts for nearly 25% of EU funds for agriculture and rural development in the ORs. For the 2014-2020 period the total amount allocated to French ORs reaches EUR 1.1 billion, subdivided as indicated in Table 2.10 below.

Table 2.10 – EAFRD allocation to French ORs

	GLP	MTQ	GUF	REU	MYT
EAFRD allocations (total, EUR million)	207	166	174	536	82
Main priorities	Farm viability; Resource efficiency	Farm viability; social inclusion	Social inclusion; Farm viability	Farm viability; ecosystems	Farm viability; social inclusion
Primary measure	Investment in physical assets	Investment in physical assets	Basic services	Investment in physical assets	Investment in physical assets; basic services

Source: *DG AGRI, Rural Development 2014-2020 – Country files.*

The ***structural funds for fishery and aquaculture*** provided important support to the development of this sector in the ORs. Over the period covered by the Study, these include: (a) Financial Instrument for Fisheries Guidance (FIFG), 2000-2006, (b) European Fishery Fund (EFF), 2007-2013, and (c) European Maritime and Fisheries Fund (EMFF), 2014-2020. In the current EMFF (2014-2020), six main priorities were identified:

- Priority 1: promoting environmentally sustainable, resource–efficient, innovative, competitive and knowledge–based fisheries,
- Priority 2: fostering environmentally sustainable, resource-efficient, innovative, competitive and knowledge-based aquaculture,
- Priority 3: fostering the implementation of the Common Fisheries Policy (CFP),
- Priority 4: increasing employment and territorial cohesion (community-led local development (CLLD)),
- Priority 5: fostering marketing and processing,
- Priority 6: fostering the implementation of the integrated maritime policy (IMP).

Priority 5 includes, in particular, ***compensation plans*** for the outermost regions. This kind of support has been in place since the 1990s. Initially, it covered only Réunion, French Guiana, the Canary Islands, Madeira and Azores, but with the adoption of the

EMFF it was extended to all EU ORs.[213] Compensation plans are established separately by each OR on the basis of a detailed assessment of the additional costs faced by local activities as compared to mainland operators.

For the period 2014-2020, the EMFF budget for regional measures in French ORs is EUR 131 million, of which EUR 86 million for compensation plans and EUR 45 million for other measures (see Table 2.11). The main implementing regions are Réunion, Mayotte and F. Guiana. Based on the proposal from the Commission for the post-2020 EMFF Regulation, compensation plans are expected to be maintained in the next multiannual financial framework.

Table 2.11 - EMFF budget for French ORs, 2014-2020 (in EUR ,000)

Priority	OR budget (regional measures)	OR budget share on the total EMFF - France	GLP	MTQ	GUF	MYT	REU
P1	23 042	*15%*	5 493	7 274	2 362	1 195	6 358
P2	8 745	*10%*	1 500	1 500	1 800	854	2 892
P4	709	*3%*	500	0	0	0	0
P5 - without compensation plans	9 084	*12%*	1 400	1 000	3 000	1 000	2 684
P5- compensation plans	86 450	*100%*	86 450				
P7 (technical assistance)	3 205	*9%*	1 086	1 140	979	0	0
TOTAL	**131 235**	***22%***	**9 979**	**10 914**	**8 141**	**3 049**	**11 933**
% by OR			22%	24%	18%	7%	27%

Source: *Implementation of the EMFF in outermost regions, Coffey, AND-I for DG MARE, 2019 - based on data from national authorities on 09/11/2018.*
Notes: *EMFF priorities not displayed have no funds allocated.*

➢ OTHER REGIONAL STATE AID MEASURES

In addition to the OdM and the other schemes described in the previous paragraphs, French ORs receive support under a number of other regional State aid measures.[214] As detailed in Annex D, an overall 169 State aid cases were notified over the past three multiannual financial periods[215]. These included various types of fiscal advantages (allowances, rate and base reduction) as well as several direct grants supporting the specific sectors (e.g., the sugar/rum *filière*), infrastructures, transport, emergency relief, etc. As shown in Table 2.12 below, the number of measures had increased over time, becoming less and less specific (i.e., covering various ORs). The vast majority of measures (79%) regards regional development in the broad sense; some 18% concerns agriculture and rural development while just 3% focuses on fisheries and maritime affairs.

It should be noted that only part of these measures appears to be complementary/overlapping with the OdM, while the majority of them have a limited or no evident connection. A deeper analysis of the relevant schemes is carried out in Section 4.1.

[213] The relevant EU regulations for compensation plans in the period considered are as follows: (1) 1998-2002: Council Regulations (EC) No 1587/98 amended by Council Regulation (EC) No 579/2002; (2) 2003-2006: Council Regulation (EC) No 2328/2003; (3) 2007-2013: Council Regulation (EC) No 791/2007; (4) 2014-2020: EMFF Regulation (Regulation (EU) No 508/2014).

[214] As seen, the OdM and other schemes like the ERDF-SAA are actually delivered as State aid support.
[215] Based on DG COMP State aid case platform (accessed on 05 January 2020).

Table 2.12 – Mapping of regional State aid in French ORs (number of aid cases)

Period	Total	Regional dev.	Agriculture and rural dev.	Fisheries and maritime affairs	GLP	MTQ	GUF	REU	MAY	All ORs / unspecified
2000-06	**37**	35	2		3	10	4	16		7
2007-13	**53**	35	16	2	8	5	2	5		38
2014-20	**79**	64	12	3	5	3	5	12	3	54
Total	**169**	134	30	5	16	18	11	33	3	99

Source: *Own processing of data collected on the DG COMP database of State aid cases.*

➢ TRADE POLICY AND PARTNERSHIP AGREEMENTS

Regarding the external dimension, the EU general policy for ORs pursue two main objectives: (a) strengthening the regional integration of ORs in their regional neighbourhood, and (b) taking into account the individual OR's interest in the trade agreement negotiated by the EU to avoid adverse effects on the local economy. These objectives may give rise to different and apparently conflicting policies, which, on the one hand aim at deepening cooperation and promoting trade and investment between ORs and their neighbouring countries, while on the other hand, they can establish special protections for certain sensitive ORs productions that could be disrupted by free trade with third countries.

The first group includes, among other things, the ***Economic Partnership Agreements*** (EPA) stipulated by the EU with various ACP countries[216], including the Caribbean's CARIFORUM countries and the Eastern and Southern Africa (ESA) countries (see Box 2.3). Conversely, the second group includes special safeguards embedded in trade agreements such as the banana stabilisation mechanism, which can be activated in case of market disturbances, duty-free quotas on sugar, and the safeguard clauses laid down in the EPA aimed at preventing that imports from ACP countries damage the economy of ORs. This second type of policy notably includes the OdM.

Box 2.3 – Economic Partnership Agreement[217]

The Economic Partnership Agreements between the EU and ACP countries are ***free-trade agreements*** aimed at fostering the integration of ACP partners into the world economy and ultimately contribute, through trade and investment, to sustainable development and poverty reduction. To this end, EPAs envisage specific ***asymmetries in favour of ACP***, such as the exclusion of sensitive products from liberalisation, long liberalisation periods, flexible rules of origin, and other special safeguards and measures for agriculture, food security and infant industry protection. Various EPAs have been established with groups of regional countries, thus helping ***market integration*** in the geographic areas and trade both between ACP countries and with the EU.[218] EPAs generally include provisions to protect certain key ACP ***agricultural production*** and to foster the development of ACP ***industrial capacity***, e.g., by lowering the cost of imported inputs and intermediates, and by specific 'triggers' to protect emerging local industry from EU export.

[216] African (sub-Saharan), Caribbean and Pacific countries, which have established a comprehensive development cooperation partnership with the EU. In particular, 79 ACP nations have undersigned the ACP-EU Cotonou Agreement (2000-20) for poverty eradication and sustainable development. The main features of this partnership involve the promotion of economic links, trade exchanges and political cooperation.
[217] The information in this text box is drawn from DG TRADE documentation on EPA: https://ec.europa.eu/trade/policy/countries-and-regions/development/economic-partnerships/
[218] Regional preference clauses in EPAs set out that countries in the same region provide at least the same advantages to each other as they do to the EU.

The following paragraphs describe the current status of the two EPA that are relevant for the geographical regions of French ORs:

Caribbean. The CARIFORUM–EU EPA was signed in October 2008 and approved by the European Parliament in March 2009. The countries involved are: Antigua and Barbuda, The Bahamas, Barbados, Belize, Dominica, Grenada, Guyana, Jamaica, Saint Lucia, Saint Vincent and the Grenadines, Saint Kitts and Nevis, Suriname, Trinidad and Tobago, and the Dominican Republic. Haiti signed the agreement in December 2009, but is not applying it yet, pending its ratification. The EPA joint institutions include the Joint CARIFORUM-EU Council (ministers); Trade and Development Committee (senior officials); and Consultative Committee (civil society). Since the agreement's stipulation, the EU has been working with its Caribbean partners in three ways to put it into practice:[219]

- Supporting Caribbean governments and organisations, and namely funding EPA implementation structures (national trade ministries, the CARIFORUM Directorate of the Caribbean Community (CARICOM) Secretariat); funding EPA programmes for governments and businesses; investing to help governments integrate across CARICOM (e.g., for creating a Single Market and Economy).
- Holding both regions to account, i.e., setting up several new, joint Caribbean-European institutions intended for implementation and to ensure the EPA delivers positive results.
- Helping Caribbean businesses, mainly through partnership with Caribbean Export, a Caribbean-wide agency promoting trade and investment across the region.

Eastern and Southern Africa (ESA). An interim EPA was concluded with six ESA countries in 2007: Mauritius, Seychelles, Zimbabwe, Madagascar, Zambia and Comoros. The EPA was signed in 2009 by Mauritius, Seychelles, Zimbabwe, and Madagascar and entered in force in 2012. Comoros signed the agreement in 2017 and started applying it in February 2019. The deal is open to other countries who want to join later (e.g., countries from the Horn of Africa or from Southern Africa region. The main features of the interim EPA include:

- a market-access deal with the signatory countries; and
- other agreed chapters such as rules of origin, development cooperation, fisheries, trade defence and dispute settlement mechanisms.

EU and ESA Parties are discussing a package of reforms for 'deepening' the current agreement. Negotiations were officially launched in Mauritius in October 2019 and the first round of negotiations took place in Seychelles in January 2020. The second round is scheduled for July 2020, in Brussels.[220]

[219] Source: 'Factsheet: How the EU is putting the EPA into practice', February 2018.
[220] DG TRADE, Overview of Economic Partnership Agreements, updated March 2020.

3. METHODOLOGY

This section describes the methodology and tools that have been used to retrieve and process data and other information relevant for the Study. The methodology was developed in the initial phase of the Study on the basis of a detailed evaluation matrix, and has been refined in the course of implementation in accordance with the data that were made available by the competent authorities. There are no significant differences in the approach and methods used for analysis of AIEM and *Octroi de mer*, so the information provided in this section covers both regimes.

The evidence sources used in this Study are of three main types:

- ***desk research*** and review of documentary sources (Section 3.1);
- ***stakeholder consultation***, consisting of in-depth qualitative interviews and questionnaire surveys (Section 3.2);
- ***quantitative data analysis*** based on existing raw datasets and statistics (Section 3.3).

3.1 Desk research

The variety of analytical objectives set for the Study and the multiple geographical region covered by the policies, required a comprehensive mapping and review of documentary sources, which was conducted primarily in the structuring phase of the Assignment. A total of +300 documents[221] in English, French and Spanish were retrieved in the course of the Study, including to a large extent non-published administrative and implementation documents provided by the competent authorities, as well as market analyses and other reports and papers provided by private sector stakeholders. Annex F (Part 3) contains a full list of the published literature consulted for the exercise.

For classification purposes, the various types of documentary sources can be put in four main groups, as described below.

1. The first category of documents includes the ***EU policy for special tax regimes*** and related documents. In specific:

    - EU tax policy for the AIEM and the OdM, i.e., Council Decisions and amendments, including legacy versions;
    - State aid policy for the AIEM and the OdM, i.e., relevant decisions, legislation (e.g., the GBER) and implementation guidelines;
    - Commission periodic reports on the AIEM and the OdM;
    - relevant Treaty provisions and salient jurisprudence (CJEU rulings).

2. The second group regards the ***broader EU policy framework for ORs***, including the overall EU approach to the ORs as enshrined in a 2017 Commission Communication on a stronger and renewed strategic partnership with the EU outermost regions and sectoral/thematic policies, including:

    - regional development policy and programmes, and sectoral programmes in the field of agriculture and fisheries policy, including ERDF/ESF programmes (especially SAA allocations), POSEI and rural development programmes, EMFF and Compensation Plans, etc. and related implementation, monitoring and evaluation reports;

[221] Conservative estimate not inclusive of the several EU policy documents, Operational Programmes, implementation reports, State aid decisions etc. regarding other supports for ORs, and not including OR-level administrative and informative documents on the tax rates applied.

- other State aid measures extended in the above fields and on specific issues;
- the Economic Partnership Agreement (EPA) stipulated by the EU with ORs' neighbouring countries and related documentation on existing disputes;
- memoranda and papers produced by the Conference of Presidents of the ORs and the periodic OR Forum;
- various studies mainly commissioned by DG REGIO addressing specific policy aspects of OR, e.g., green and circular economy, climate change adaptation, energy, transport accessibility, digital accessibility, 'smart' skills development, etc.

3. The third group concerns specific ***national and regional documents on the special tax regime*** that, in the case of *Octroi de mer*, include:

   - the national legal and administrative framework (since 2004), including the French OR available *déliberations* on the implementation of the OdM regime;
   - mid-term reports and evaluations submitted to the Commission, covering both individual ORs and the OdM on the whole, and including transmission notes;
   - underlying methodological studies on the estimation of additional costs in French ORs, as well as the detailed *fiche argumentaire* supporting the application of tax differentials to individual products;
   - administrative *circulaires* and other guidance documents on specific aspects of OdM implementation;
   - other relevant documents produced by French authorities and institutions, such as French Parliament's *Rapports*, court cases, opinions of the *Autorité de la Concurrence,* etc.;
   - several reviews and analyses on the economic structure and development in the ORs, issued by competent French authorities and institutions (*Min. Outre-mer*; INSEE, IEDOM, CEROM, etc.).

4. The fourth group includes a variety of relevant ***academic and 'grey literature'*** published by several scholars, 'think-tanks' or private sector bodies. This last group encompasses:

   - methodological literature useful for designing the approach to the quantitative analysis of impacts;
   - scholars' publications and 'grey literature' analysing legal or economic aspects of special tax regimes, and/or their impact on specific policy issues (such as on price levels, trade flows, etc.), and/or their contribution to the overall economy of the ORs;
   - scholars' publications and 'grey literature' analysing the socio-economic structure and constraints of the ORs and/or of specific sectors;
   - position papers, reports and other information provided by the private sector.

3.2 Stakeholder consultation

➢ **TARGETED INTERVIEW PROGRAMME**

Overall, some 120 stakeholders were interviewed in the framework of the Assignment, largely exceeding the initial minimum target of 70. The interview programme was partly conducted in the initial structuring phase of the Study – involving the relevant Commission services and the representatives of the two Member States concerned (Spain and France) - and partly through ***on-site visits*** in selected outermost regions, namely: (1) the Canary Islands; (2) Réunion; (3) Guadeloupe; and (4) Martinique.

In building up the interview programme, attention was paid to ensure an appropriate coverage of and balance between the relevant stakeholders, and in particular[222]:

- to involve all relevant public authorities in terms of administration levels (both central and local levels) and areas of competence (policy-making authorities, tax and customs administrations, statistical institutes, etc.);
- to include both the representatives of the local productive sectors - i.e., the beneficiaries of the special regimes - and the trade and service sectors that are directly or indirectly affected by it;
- to cover, as much as possible, the most important branches of the local productive sectors, i.e., foods, beverage, tobacco, paper, fisheries and agricultural products.

A break-down of interviews by geographical region and by type of stakeholder is provided in Table 3.1 below.[223]

Table 3.1 – Overview of stakeholders interviewed

Stakeholder category	Geographic region
EU institutions: **18** MS authorities: **36** Enterprise associations: **21** Firms: **44** Others (academic expert)[224]: **1**	EU level: **18** Spain: • Central level: **2** • Canary Islands: **38** France: • Central level: **7** • Réunion: **22** • Guadeloupe: **26** • Martinique: **7**
Total: 120	**Total: 120**

➢ **ENTERPRISE SURVEYS**

The second pillar of the stakeholder consultation strategy consisted of a targeted online survey of economic operators in the ORs. The survey responded to the need for structured and homogeneous information on firms' conduct and performance, allowing to connect the outcomes of qualitative stories collected via interview, with the quantitative statistical data gathered. The exercise actually consisted of two separate surveys, of which one covering the Canary Islands and the AIEM regime, and the other covering French ORs and the *Octroi de mer* regime. The two surveys have been developed and implemented in parallel, albeit with partially different questionnaires, adapted to the specificities of the regime.

- ***The questionnaire***. The survey questionnaire consists of four main sections:

  a) an introductory section regarding the respondent's profile;
  b) a section collecting the respondent's views on the key features of the special tax regime, i.e., positive impacts, side effects, changes needed, etc.
  c) a section gathering more specific, factual information on the respondent's experience with the special tax regime - this section involved different, customised paths per type of business;

[222] The consumer's perspective was also taken into account by investigating the impact of special tax regimes on household expenditure and on the cost of living in the outermost regions.
[223] Regarding the geographical coverage, it should be added that the competent authorities of Mayotte and of French Guiana were invited to take part in the consultation through a written questionnaire. The invitation was acknowledged by the authorities but by the time of completing the present Report, no feedback was received.
[224] Limited focus was placed on academic stakeholders, because prominent experts with such profile were already part of the Study team.

d) a final section for additional remarks and respondent's affiliation and contact information.

Each survey questionnaire was translated in two languages: Spanish and English for the AIEM; French and English for the OdM.

- ***Implementation***. The questionnaire was accessible through a proprietary, secured online platform. Respondents could complete the questionnaire online or download an offline version and submit it via email. To facilitate collaborative and/or multi-session completion of the questionnaire, the online platform offered the option to suspend and resume completion at a later time, without any loss of data.

  The survey was distributed primarily through the relevant business associations active in the different territories, including industry associations, trade/services associations, primary sector inter-professional organisations, employers' organisations and the like. This approach seemed appropriate considering the small size of OR market, the ensuing limited number of intermediate organisations and their generally high representativeness and, secondly, the effective support in promoting the survey among enterprises that such organisations could guarantee.

  For French ORs this approach was complemented by direct invitations sent to some 15,000 firms included in the business lists of the French Chamber of Commerce (*Annuaire des Entreprises de France*)[225].

  The roll-out period of the two surveys was six weeks for the AIEM (between 11 November 2019 and 20 December 2019), and five weeks for the OdM (between November 26 and December 23 2019).[226]

  A total of ***378 valid responses*** were collected, in line with the initial target of 300. In particular:

  - AIEM survey: a total of 366 responses were received, of which 182 have been validated (i.e., after removal of duplicates, severely incomplete or incoherent, etc.). Respondents covered five islands, with the majority based in Gran Canaria (116) and in Tenerife (55). Most of the firms (112) involved in the survey are active in productive sectors (including 90 beneficiaries of the AIEM regime) and the remainder (70) falls under the trade and service sectors. In terms of business size, the sample includes 28 micro-firms (with between 1 and 9 employees), 81 small-size firms (10 to 49 employees), 50 medium-sized enterprises (50 to 249 employees) and 20 large firms (with more than 250 employees)[227].
  - OdM survey: a total of 544 responses were received, of which 196 have been validated (i.e., after removal of duplicates, severely incomplete or incoherent, etc.).[228] Valid questionnaires were received from all French ORs. In particular, the larger numbers of respondents are based in Martinique (71) and Réunion (70); 34 are from Guadeloupe, 19 from French Guiana and 2 from Mayotte. The majority of respondents (119) are active in the trade and service sectors; 77 firms are local producers, and 71 are liable to the OdM. The bulk of the survey sample consists of firms of micro (74) and small (70) size. The rest of

[225] The business directory of the French Chamber of Commerce does not include relevant records (i.e. firms with an email address) for Martinique and Mayotte, so in these regions the distribution of the questionnaire was made only through local business organisations.
[226] A couple of questionnaires received in early January 2020 have been included in the survey sample.
[227] The remaining three respondents did not disclose information on their work force.
[228] It is assumed that the majority of responses were collected through active promotion done by business organisations among their members, and only a minor share from the large-scale invitations sent to the businesses listed in the Chamber of Commerce directory. This is empirically demonstrated by the high response recorded in Martinique, which was not included in the Chamber of Commerce's lists.

respondents are individual firms (28), with no employees, and firms of medium-large size, with at least 50 employees (21)[229].

3.3 Quantitative data analysis

➢ DATASETS

The Study required a robust foundation of quantitative data and statistics, and several datasets have been gathered to this end from a variety of sources. Publicly-available data regarding specifically the ORs and the sectors benefitting from special regimes were limited, so to a large extent the raw data used in the Study have been provided directly by the competent authorities (i.e., customs and tax administrations, statistical institutes, local governments, etc.) and by the Commission.

Despite efforts, several data gaps and inconsistencies remained, inevitably affecting the significance of the quantitative analysis. Such limitations regarded, in specific:

- the limited availability of local production data (at the required level of disaggregation);
- the data gaps on actual OdM rates (internal rates before 2015, in particular);
- the difficult matching between product data based on customs classification and on NACE classification;
- the limited availability of monitoring data on the other aid measures implemented in the ORs; and
- the lack of availability of cost price data.

The data gaps regarded primarily the early period of special regime implementation (in specific for Mayotte), while in recent years the amount and the quality of the data collected at the local level have largely improved, with the notable exception of the data on the relevant local production value in French ORs which remain deficient for two reasons: (a) the lack of data on the value of production of small firms that fall outside of the scope of the tax; and (b) the lack of data for products with a zero rate (internal OdM rate) – an issue that concerns primarily Réunion and F. Guiana[230].

The type of data collected for the Study are summarised in Table 3.2 below. A full review of the data gathering activities carried out, as well as the details on the comprehensiveness and depth of the data collected is provided in Annex C.

Table 3.2 – Datasets collected for the Study

Analytical areas	Datasets
Policy implementation	• Data on permitted AIEM/OdM differentials • Data on actual AIEM/OdM differentials • Data on fiscal revenues
Additional costs	• Input-output data at ORs and mainland level • Micro-data from regional level estimates/product '*fiches*'
Trade and market impacts	• Data on imports, by product/origin • Data on local production, by product/sector • Other 'control' data for gravity modelling (distance etc.)
Macroeconomic impacts	• Macroeconomic data on employment • Macroeconomic data on industrial added-value • Data on price levels

[229] The remaining three respondents did not disclose information on their work force.
[230] The adoption by French Customs of the new DOMINO-NG platform in 2017 improved the reliability of data on internal production subject to OdM. However, since the communication of data is not mandatory for products with an internal OdM rate of 0%, the figures collected after this date in regions with many products with a 0% rate applied – especially Réunion and F. Guiana – are largely deficient.

- **QUANTITATIVE DATA METHODS**

The collected raw data have been gathered in a comprehensive database and assessed through quantitative methodologies in order to determine the impacts of special tax regimes on competitiveness, markets, trade flows and tax revenues (including foregone revenues). As discussed above, the datasets presented issues of completeness and/or consistency that affected the results' robustness. In such circumstances, the Study findings were integrated with and complemented by the qualitative evidence collected through the stakeholder consultation.

A summary of the approach adopted for the quantitative analysis is provided here below, while a detailed technical description of the methods and models used, as well as the full results are provided in Annex C.

***Review of policy implementation*.** The analysis focused on collected tax revenues, broken down by external (on imports) and internal (on local production) tax receipts, as well as on the estimates of the 'foregone' revenue (i.e., the tax not collected due to exemptions/reductions).

- The collected revenue data were provided for most products/years by customs authorities or other competent authorities. When not available, revenues have been estimated applying the relevant tax rate to the tax base, i.e., the value of imports or local production.
- For the foregone revenue, the official estimates have been triangulated by calculating the amount of exemptions at product level (multiplying the value of local production by the corresponding tax differential) and aggregating the results. It should be highlighted that the value of foregone revenues is theoretical. In fact, were tax exemptions not applied, the demand for local products would likely decline and the same would happen with the tax levied on them.

Analysis of additional costs and competitiveness. Additional costs provided at the micro-level (i.e., in product *fiches* or reports) have been at first triangulated using input/output tables available for the ORs.[231] The matching allowed showing disparities both in the total additional costs for a given sector but also on the distribution of the cost factors (i.e., transports, labour, energy, etc.). Secondly, the compiled and systematised micro-data have been used to assess how much of these costs are compensated for by the tax differentials applied under the special tax regimes. This analysis was done at the product level as well as the aggregate level.

Analysis of trade and market impact. The third step consisted of the modelling of imports and local production as a function of (a) the tax differentials applied under the special regimes and (b) the internal tax rates applied. The main difficulty was the comparability/normalisation of the value of local production and imports for different products. To overcome this difficulty, three measures were adopted: (i) using the logarithm of variables so that the impact of the tax differential is expressed in percentage terms, (ii) aggregating the products (dependent variable) at the CN 4-digit level, (iii) applying individual fixed effects for each product (also defined at the CN 4-digit level). Two separate models were used:

- The impact on trade was estimated based on gravity modelling of imports (CN4 level) between ORs and other countries (including the mainland). In addition to the tax rates, other variables including economic weight and distance of the trading partners were used as explanatory variables to predict trade flows.

[231] In input-output tables, payments made by a sector to other sectors (for example: agricultural products, energy, water, transportation) and to production factors (for example: labour, capital, land) are valued for a given year, in effect providing its costs structure. The resulting estimates of additional costs for each sector can therefore be compared with estimated additional costs based on micro-level data used in French ORs and direct micro-level estimates used for the Canary Islands.

- The impact on local production was estimated based on data panel modelling. To overcome the data gaps, only products (CN4 level) for which comprehensive data on local production were considered.

Analysis of macroeconomic impacts. The impact of special regimes on added-value and employment was estimated by extrapolation of the impact on local production described above. For each economic sector, we calculated the ratios of added-value and employment over local production using data from ORs' economic statistics. The impact on added value and employment were then derived from the impact on local production, with the assumption that these ratios were constant. Finally, to estimate the impact of special regimes on retail prices, it was assumed that the tax paid is fully passed onto consumers. Then, the tax receipts - increased by retailer margins[232] - were related to household expenditure to derive an index of the maximum additional price borne by final consumers. The results were triangulated with the official statistics on price index in the ORs elaborated by national statistical institutes as well as with other literature sources.

[232] A fixed margin was assumed, based on the average sales margin estimated by INSEE for retail activities in the ORs (vehicles not included).

4. RETROSPECTIVE EVALUATION

4.1 Coherence

Evaluation Question #1: *To what extent does the current system address EU, regional and employment policy, State aid aspects and trade issues? Which other measures (European, national or regional) do the products benefit from, including measures related to agricultural policy?*

➢ OVERALL COHERENCE WITH EU POLICY

The OdM special regime is part of the overall ***EU approach for Outermost Regions*** (see Section 2.3)[233], and its coherence is ensured *prima facie* by the substantial alignment of its objectives with the objectives of the EU broad policy framework for the ORs. In particular, the OdM special regime addresses two interrelated objectives of the Commission Communication on the strategic partnership with the ORs, as follows:

- ***'Building on the ORs' assets'*** is the first objective. The emphasis on the unique assets of ORs for EU policy was introduced in 2008,[234] shifting the strategic approach from a pure 'cohesion' perspective centred on development aid for regions lagging-behind, to a 'partnership for growth' perspective centred on leveraging the specific features of ORs, i.e., the exceptional geographical and geological characteristics, the biodiversity of terrestrial and marine ecosystems, etc. The OdM concurs with this objective by promoting and sustaining local production activities, which, in turn, contributes to attracting investments, building capacity and skills, and reducing dependence on the mainland.
- ***'Enabling growth and job creation'*** remains a central objective, considering the high unemployment and lower income levels characterising most of ORs. In this sense, the approach aims at promoting the diversification of local economies and, in particular, fostering activities with high value-added and job creation potential, which are in many cases the industrial activities supported by the OdM in French ORs.

The third objective of the Communication consists of scaling up ORs' cooperation with their neighbourhood, through policy dialogue, territorial cooperation programmes, trade agreements, etc. The OdM special regime is not contributing to this goal, conversely – regarding regional trade – it may even constitute an obstacle to greater integration. This is an inevitable effect due to the nature of the scheme and to its underlying rationale, which is explicitly and clearly laid down in Article 349 TFEU: the ORs' economy suffers from vulnerabilities and constraints that severely affect their competitiveness, and a complete free opening to external trade may seriously damage their productive activities. This point was reiterated, inter alia, in the latest *Memorandum* of the ORs' Conference of Presidents that stressed the need for the EU to take greater account of the effects of trade agreements with third countries on the economies of the ORs.[235] In the case of OdM, the claimed obstacles to regional trade are at the basis of formal complaints formulated by EU's trade partners, which are analysed in greater detail at the end of this section.

So, the OdM special regime constitutes an evident derogation from the EU general policy on internal market and competition but its legal basis is firmly anchored to ***Art. 349 TFEU,*** which explicitly recognises the need to adopt special measures in support of outermost regions to address their structural constraints and contribute to their

[233] COM(2017) 623 final and SWD(2017) 349.
[234] See: COM(2008) 642 final.
[235] "Mémorandum Conjoint Des Régions Ultrapériphériques. Pour un nouvel élan dans la mise en oeuvre de l'article 349 TFUE", Mars 2017.

development. In a recent judgement, the CJEU clarified that Art. 349 can be retained per se as a sufficient legal basis for establishing specific conditions of application of the EU law in the ORs.[236]

As discussed in Section 2.2, the differentiated rates regime constitutes ***regional State aid*** and is, therefore, subject to relevant EU legislation and controls. The objective elements determining the State-aid nature of the measure can be summarised as follows:

- it provides selectively an economic advantage to certain operators (i.e., local producers of certain goods), improving their financial capacity against their competitors (i.e., importers of the same goods);
- as a consequence, the measure is capable of distorting competition and affecting trade within the Single market, for the categories of products subject to a differential tax treatment;
- the economic advantage is financed with the public budget that, in this case, corresponds to the foregone tax revenues due to tax exemptions and reductions (*dépenses fiscales)*, which according to the prevailing jurisprudence should be considered equivalent to State transfers.

The legal justification for the compatibility of the OdM as a State aid measure is laid down in Art. 107(3) of the Treaty, which mentions among the admissible circumstances: *"(a) aid to promote the economic development of areas where the standard of living is abnormally low or where there is serious underemployment, and of the regions referred to in Article 349, in view of their structural, economic and social situation"*.[237] Within the scope of regional aid, the OdM is categorised, more specifically, as an 'Operating aid scheme', whose aim is to reduce a firm's current expenditure that is not related to an initial investment, such as personnel costs, materials, contracted services, communications, energy, maintenance, rent, administration, etc. This type of aid is deemed compatible only in certain very limited and well-identified cases, where "*the obstacles that these particular areas may encounter in attracting or maintaining economic activity may be so severe or permanent that investment aid alone may not be sufficient to allow the development of that area"*.[238]

Accordingly, the State aid policy on the OdM is justified on the grounds of the persisting and severe structural handicaps faced by French ORs, which constitute a permanent condition of disadvantage. In line with the fiscal policy, the stated purpose of the State aid is the compensation of the additional costs of production faced by local operators, which are therefore identified as the benchmark for the proportionality of the aid.[239] In this sense, the OdM State aid policy[240] contains the explicit request to ensure continuous and accurate monitoring and quantification of such costs to avoid the risk of overcompensation.

The empirical approach proposed by France and included in the State aid authorisation to ensure the proportionality of the tax differentials applied, involves the product-by-product comparison of the lowest cost price of a unit produced in the OR with the average import price of a unit of product of equivalent quality. The rate of internal OdM applied to the former and the rate of external OdM applied to the latter should lead to

[236] Judgment of the Court (Grand Chamber) of 15 December 2015, European Parliament and European Commission v Council of the European Union. Actions for annulment — Regulation (EU) No 1385/2013 — Directive 2013/62/EU — Directive 2013/64/EU — Legal basis — Article 349 TFEU — Outermost regions of the European Union — Amendment of the status of Mayotte with regard to the European Union. Joined Cases C-132/14 to C-136/14.
[237] Art. 107(3) TFEU (ex art. 87 TEC).
[238] Guidelines on National Regional Aid for 2014-2020, 2013/C 209/01.
[239] This refers to the equilibrium point where the inevitable market distortion induced by the aid remains smaller than the 'general interest' benefits accrued.
[240] The State Aid decision in force is SA.46899 (2016/N) – 'France, Taxe octroi de mer'.

a substantial equivalence of the resulting cost price. In principle, the approach is correct, but, in practice, such equivalence cannot be currently verified by the competent authorities for lack of reliable estimates of 'lowest internal cost price' and of 'average import price' for the products subject to the OdM differentials. So, the compatibility of the OdM from a State aid perspective has been verified until now based only on ***product fiches*** – i.e., ad hoc and detailed assessments of the additional production costs associated with the products included in the OdM Decision, which justify the application of a tax differential.

➢ **COHERENCE WITH OTHER COMPLEMENTARY EU SCHEMES**

As shown in Section 2.3, the EU policy includes a number of other measures for ORs – including French ORs - financed under the European structural and investment funds (ESIF) and/or through a series of specific regional State aid measures. Depending on their targets and delivery mechanisms, these schemes can be considered more or less directly complementary to the OdM regime. In this context, we consider fully 'complementary' the schemes that have in common with the OdM:

- the targeted scope - i.e., the products/sectors addressed (primary sector, manufacturing sector);
- the justification - i.e., the compensation for additional operating costs (as opposed to, for instance, support to investments); and
- the beneficiaries - i.e., enterprises eventually benefiting from tax exemptions (as opposed to, for instance, public sector, households and other beneficiary groups other than firms).

It is important to underline that being 'complementary' does not necessarily entail duplication of efforts or 'overcompensation', for two main reasons: (1) individual schemes may cover only part of the need, so a cumulation of measures might be required to fully address the problem; and (2) the OdM does not consist of monetary aid extended directly to the beneficiary (like subsidies, direct tax breaks etc.) but of 'indirect' support – i.e. through the taxation of external competitors, so the cumulation is only figurative.[241]

Table 4.1 below reviews the main EU funding instruments in support of French ORs. In this section the analysis is limited to the coherence in the scope and the objectives of the schemes, while possible issues of overlapping and overcompensation are addressed in greater detail under EQ#2 below. The results of the analysis can be summarised as follows:

- various other measures ***address the same targets of the OdM regime***, with the same underlying justification of helping local enterprises to cope with the additional costs due the outermost status of the region;
- at a general level, these measures are in line with the OdM objective of ***strengthening the competitiveness*** of local producers in the manufacturing sector as well as agriculture and fisheries; at a more granular level, the possible synergies or overlapping are difficult to assess for lack of detailed implementation data (e.g., on specific products);
- the operating costs of enterprises are addressed primarily through ***fiscal advantages*** or through compensation schemes, such as the fisheries ***compensation plans*** or the various aids addressing ***freight costs*** (including under the ERDF specific additional allocations). Various measures also aim at reducing the ***labour-related costs*** of firms based in French ORs.

[241] This comment refers to policy coherence in general terms. However, it is useful to remark that from a State aid perspective all types of support are taken into account in the assessment of compliance with State aid ceilings.

Table 4.1 – Review of the main complementary aid measures for French ORs

Measure	Summary of the coherence analysis
European Regional Development Fund (ERDF) – specific additional allocation	• Target sector: the ERDF SAA in French ORs addresses some ten different types/sectors of intervention in different areas (see Annex D for details). The productive sectors (manufacturing, primary sector) are included, in particular through the support to freight costs for both the import of inputs and export, and the transport of dangerous waste. • Type of support: the SAA could support operating aid, but also investments and expenditures for the provision of Public Services Obligations (PSOs) and contracts. It is delivered as State aid (for freight aid see SA 39297 below). • Beneficiaries: as regards the allocations for freight costs compensation, the beneficiaries of the SAA scheme might also coincide with those benefitting from the OdM.
POSEI – special supply arrangements	• Target sector: the POSEI SSA supports the supply of agricultural products in the ORs, which is also a sector addressed by the OdM. The SSA products include primarily raw materials for animal feed; then for human consumption and third for agri-food. The SSA products cannot be subject to the OdM differential regime. • Type of support: the aid concerns external procurement, so it does not relate to the compensation for additional costs. The logic of the scheme explicitly indicates the need to prevent any harm to internal local production activities. • Beneficiaries: the SSA addresses private enterprises engaged in the delivery of the supported products. As discussed, those products cannot be subject to the OdM, but the beneficiary-firms of SSA might benefit from the OdM regime for other products or in the framework of manufacturing activities.
POSEI – support to local production	• Target sector: the POSEI SLP supports agricultural production activities in the ORs. The scope of SLP support is large and also includes products which fall within the scope of the OdM (e.g., sugar, meat, edible vegetables and fruits). • Type of support: the aid concerns primarily compensation for structural handicaps; unlike the OdM, SLP support addresses farmers income directly. • Beneficiaries: the SLP addresses local farmers and producers, who might also benefit from OdM differentials in the case of specific products.
European Agricultural Fund for Rural Development (EAFRD)	• Target sector: the EAFRD supports agricultural activities, which is a sector also addressed by the OdM, albeit on a smaller scale as compared to industrial activities. The aid has no specific product orientation. • Type of support: policy objectives partly vary across ORs; EAFRD has marginal focus on additional costs compensation, the main priorities being investment in infrastructure and physical assets, preservation and use of the natural resources, improvement of land use. • Beneficiaries: the EAFRD addresses farmers, producers' organisations, producers' associations, small and medium companies, cooperatives, territorial organisations, research organisations.
European Maritime and Fisheries Fund (EMFF)	• Target sector: the EMFF supports fisheries and aquaculture sectors, which are also addressed by the OdM, albeit on a limited scale as compared to the bulk of OdM support. • Type of support: one of the EMFF measures is the 'compensation plans' for fisheries activities, whose objective largely coincides with the OdM objective of increasing the competitiveness of local activities. The other EMFF funds regard essentially investment aids.[242] • Beneficiaries: compensation plans target private stakeholders: vessel owners, processors and wholesalers (who might also benefit from the OdM tax differentials). Other EMFF measures may target also professional organisations, research institutes and public authorities.

[242] The implementation of EMFF in French ORs has been examined recently in the study, "Implementation of the EMFF in outermost regions", AND-I, Coffey, CETMAR for DG MARE, 2019, whose results have been used in the present Study.

Measure	Summary of the coherence analysis
Reduced excise on traditional rum (SA 38641)	• Target sector: the measure addresses specifically the production of traditional rum in all ORs (except Mayotte), which is also subject to a tax differential under the OdM (CN 2208 40). • Type of support: the measure consists of a reduced excise tax (as compared to the national tax level) for a certain quota of production (144,000 hl of pure alcohol/year). The justification relates to the need to support competitiveness and sustain development in the production areas. • Beneficiaries: rum distilleries, which are also benefitting from OdM differentials on rum.
National support to the agricultural sector (SA 37585)	• Target sector: the aid addresses the agriculture sector on the whole, with particular focus on breeding animals, and perennial or semi-perennial fruits trees and plants. Occasionally, it may coincide with OdM products, e.g., poultry, and seeds in Martinique and/or Réunion. • Type of support: technical assistance (expertise, advice or training) and co-financing for the purchase of seeds and breeding animals. • Beneficiaries: small and medium farms, collective agricultural structures (producer organisations, cooperatives). Exceptionally, Agricultural Chambers.
Guarantee fund for agriculture, forestry and fisheries (SA.50299)	• Target sector: agricultural sector, fishery and forestry activities. These activities are also covered, in part, by OdM support. • Type of support: this State aid is a guarantee fund; its objective is to support access to credit for farmers and forest owners in the ORs. • Beneficiaries: farmers, fishermen, fish farmers, forest owners.
National support to the sugar industry (SA 45032)	• Target sector: the aid addresses specifically the production of sugar (CN 1701). • Type of support: it aims at compensating the additional production costs of overseas sugar industries vis-à-vis mainland industries, for the production of sugar intended for refining. • Beneficiaries: sugar industries in Martinique, Guadeloupe and Réunion.
Aid for afforestation and creation of wooded areas in Mayotte (SA 49725)	• Target sector: the scheme addresses the forestry sector of Mayotte, which is also addressed by the OdM although it does not focus on similar products: the scheme focuses on the creation of new wooded areas, while the OdM supports manufactured wooden products. • Type of support: falling under the Mayotte Rural Development Programme (EAFRD), it provides aid to owners and managers of public forests to reforest degraded lands for environmental preservation purposes and to develop forestry economic activities. • Beneficiaries: private landowners and tenants; territorial organisations; public institutions (Mayotte).
Aid for costs compensation of the forestry value chain in F. Guiana (SA 49219)	• Target sector: the scheme covers specifically the forestry industry of F. Guiana, which is also supported by the OdM (but implementation details are not available). • Type of support: the measure aims at compensating additional costs related to forestry resource exploitation and is allocated through grants and an interest rate-based subsidy. • Beneficiaries: the SMEs engaged in the forestry sector in F. Guiana.
Aid for freight and for the transport of dangerous waste (SA 49772)	• Target sector: the scheme may cover manufacturing as well as primary sector activities so, in principle, it may overlap with the OdM (but implementation details are not available). • Type of support: both lines of support compensate for the transport costs of OR enterprises: the additional costs for the transport of locally produced goods towards the mainland, the costs for the transport of raw materials towards the processing place, the costs related to the transport of dangerous waste that cannot be treated locally. • Beneficiaries: aid for freight: firms engaged in production activities; aid for the transport of dangerous waste: firms that are producers or holders of dangerous waste and operators engaged in the collection or transport of dangerous waste.

Measure	Summary of the coherence analysis
Tax reduction to support productive investments in French ORs (SA 50299)	• Target sector: the scheme covers a vast range of economic activities in the ORs. In the previous financial period, the distribution across sector was: marketing services (61.3% of budget), industry (25.6%), agriculture and fishery (6.3%, of which fishery some 0.1%). • Type of support: the scheme aims at fostering investment in ORs through two mechanisms: (i) tax exemption (*défiscalisation*) and (ii) tax credit. It does not directly address additional costs compensation.[243] • Beneficiaries: individuals and firms located in French ORs.
Free-trade zones (SA 53952)	• Target sector: the aid is accessible to all SMEs located in French ORs active in agriculture, trade, manufacturing and artisanal activities. • Type of support: the current scheme, in force since 2019, has merged prior existing measures in one 'new generation' free-trade zone mechanism. The aid is intended to mitigate operating costs of enterprises with a view to enhance their competitiveness, and consists of reduction/exemptions on taxable profits (corporate tax or tax on industrial and commercial profits), professional tax and property tax on built properties.[244] • Beneficiaries: all SMEs located in French ORs.
Exemptions on employers' social security contributions (SA 41040)	• Target sector: the aid is accessible to all firms in French ORs which are active in any economic sector, including the OdM supported sectors (which represent a minority of the total in terms of employment). • Type of support: the scheme consists on a series of reductions/exemptions on the mandatory social security contributions of employers, which are inversely proportional to the size of the firm. The aid intends to reduce businesses' staff-related operating costs. • Beneficiaries: all businesses with employees located in French ORs.
Recovering of the fictitious VAT on intermediate goods (SA 41019)	• Target sector: the aid is accessible to all firms in French ORs (except F Guiana and Mayotte) which are active in any economic sector, including the OdM supported sectors (which represent a minority of the total). • Type of support: the scheme consists of VAT deductions on the sales of final goods and services for which VAT-exempted imported inputs have been employed. The measure enhances the competitiveness of local operators. • Beneficiaries: all businesses with operations involving VAT-exempted products.
Increased tax credit rate for labour competitiveness (SA 53951)	• Target sector: the aid is accessible to all firms with employees in French ORs (any economic sectors). • Type of support: the scheme consists of the application of a higher tax credit rate to enterprises with employees in French ORs compared to the rate applied on the mainland. The objective is to both improve competitiveness and foster investments in the ORs. • Beneficiaries: all businesses with employees located in French ORs.

Most of these schemes are part of the EU's general approach towards the ORs – enshrined in a series of Commission Communications, the most recent in 2017. Progress towards implementing this approach is monitored regularly through reports – an implementation report was adopted on 23 March 2020[245] – and regular meetings between the different departments of the European Commission. This process allows coordination at the general level. A further contribution to strategic coherence is provided by regular interactions with the target regions, through the ORs' Conference of Presidents and dedicated fora, such as the Commission-led working group with the outermost regions, their Member States, and dedicated workshops. This process has apparently improved over time, and the current Commission Communication on a strategic partnership with the ORs appears to be more integrated than earlier versions. This seems to be connected also with the reported shift from a paradigm of ad hoc

[243] As the focus of this scheme is investment promotion, it is deemed not complementary with the OdM in a strict sense, although it is probable that the beneficiaries of the OdM also benefit from this scheme. The scheme was evaluated by a study commissioned by French authorities and delivered to the Commission in 2017, however, the methodology was not considered robust enough and a new evaluation will be provided by the end of 2020.
See: https://ec.europa.eu/competition/state_aid/cases1/201924/275480_2075270_94_2.pdf
[244] For details see: https://www.europe-en-france.gouv.fr/sites/default/files/descriptif_regime_zfa.pdf
[245] COM(2020) 104 final.

instruments for ORs to an approach aimed at enabling and enhancing the participation of ORs in the general EU instruments.

Conversely, ***operational-level coordination*** among the various schemes is limited. No structured mechanisms seem to be in place to maximise synergies among interventions in the same sector and to prevent duplication of efforts. In this sense, while the overall coherence of the OdM with the EU policy and overall strategic approach for ORs is broadly satisfactory, some specific, operational-level incongruences may be detected in some of the areas targeted by the OdM, as examined in the next section.

Evaluation Question #2: *Are there any obstacles arising from the current levels of taxation in other policy areas? If so, in which policy areas and what are those obstacles? In particular, do they distort competition with firms situated in the mainland or in other EU Member States?*

➢ **THE ISSUE OF COMPETITION DISTORTION**

The OdM regime explicitly derogates the rules of functioning of the EU internal market and is therefore, by design, potentially distortive for the competition, as it supports a specific economic target group (economic operators engaged in local production activities) by means of a differentiated tax treatment that penalises another target group (economic operators engaged in the importation of goods). In this respect, the OdM is influencing market development and the behaviour of economic operators and consumers, just like most other similar State aid measures that target specific activities. On the other hand, the OdM has been judged to be compatible with EU rules because it actually aims at redressing pre-existing competition issues that are caused by structural handicaps affecting the French OR economy. In this sense, the OdM aims at restoring a 'level playing field' for all economic operators competing in the market, producers and traders alike. Furthermore, the OdM is justified by its more general objective of contributing to the social and economic development of French ORs, through the diversification of the economy, the promotion of productive investments, and the support for new job creation.

For this reason, the coherence of OdM with EU competition rules needs to be assessed within the big picture of the benefits it delivers. In other words, the question is not whether the OdM is intrinsically a distortive mechanism for the market (which it probably is, by definition), but ***whether such distortion is acceptable*** in the light of effects it has on the local economy.

These considerations are important for understanding the ongoing debate in France and in French ORs, as well as the ***highly polarised views of economic operators*** on this subject. These are collected in a number of field interviews: while local producers place a lot of emphasis on their contribution to jobs and added value, traders focus on the discriminatory aspects of the regime and the drawbacks of its implementation arrangements. To properly frame the debate, it is useful to summarise here the main arguments raised by supporters and opponents of the OdM in relation to its supposed market effects. A fully-fledged analysis of the different arguments and underpinning evidence is developed throughout the following sections of the Study (relevance, effectiveness and efficiency):

- ***Local producers.*** For local producers, the OdM is an essential pillar of the local development strategy: maintaining and promoting industrial activities allows for diversifying the economy and reducing dependence on the service sector. Furthermore, the importance of the secondary sector for the creation of direct and indirect jobs is often emphasised. Competitive pressure is reportedly growing over time, making it even more necessary to support the competitiveness of local products against ever-cheaper imported products. The main cause of the competitiveness 'gap' is linked to economies of scale: while on the continent industries grow in size and specialisation, with falling production costs, in French ORs, growth is constrained by the small size of the market, the distance from the EU and, in some cases (e.g., Réunion and Mayotte), any relevant regional markets. Additionally, the competitiveness of local production is reportedly jeopardised by the practice of importing stocks and production surpluses (including products subject to seasonality) from the mainland at cost price. The isolation and small size of French ORs markets make these practices feasible, whereas on the mainland they would cause brand-value deterioration and/or disturbances in the distribution chain.

- ***Importers / traders***. Conversely, these players emphasise the distortive effects of OdM for local markets and trade, backing their views with a series of arguments regarding both the justification of the policy and the way it is implemented. In particular:
    - the tax base of OdM, i.e., the CIF value at customs, is inflated by a series of elements that has nothing to do with the product, i.e., freight, insurance and additional charges applied at the production site, such as the *éco-participation* (i.e., the extra charge applied on electronic appliances and furniture);
    - some products should not be in the OdM list because there is no or minimal production in the ORs, or the local production is not of comparable quality/variety;
    - the direct purchases online of imported products are reportedly on the rise. Various importers complain that such purchases often circumvent payment of the OdM, creating competition distortions;
    - the tax is also applied on products re-imported after being sent abroad for maintenance;
    - the tax is also applied on activities that have arguably little to do with manufacturing (such as the assembly of eyeglasses by opticians in Guadeloupe);
    - the tax is also applied on waste imported for waste treatment (e.g., from Mayotte to Réunion), de facto representing an obstacle to circular economy.

The arguments outlined above vary across regions, and, in many cases, regard the OdM regime on the whole and not (only) the tax differentials authorised by the EU policy. Evidently, they call into question several different perspectives, from global market dynamics to specific product implementation issues. Besides the strong contrast that exists on certain points, it is interesting to note the elements of possible convergence that emerged from field interviews with stakeholders, in particular, there is widespread agreement on the importance of the general objectives the OdM pursues, namely a stronger, diversified local economy, and a contribution to the creation and maintenance of jobs. In other words, the ***controversial aspects regard primarily the concrete implementation rather than the general principles*** or aims of the policy.

➢ THE POSSIBLE RISK OF 'OVERCOMPENSATION'

One of the main policy questions emerging from the picture described under EQ#1 above is the extent to which the different lines of support cumulate at the level of individual enterprises, and whether there is a risk that the aggregated support received exceed the extent of the targeted constraints, leading to a risk of 'overcompensation'.

Overall, the private sector representatives interviewed tended to minimise this issue. Still, the point of view of trade and service businesses differs significantly from that of local producers. According to the results of the business survey, over two-thirds (68%) of trade (including importers) and service businesses deem that the addition of OdM fiscal advantages and other aids to local production cause a 'moderate' to 'major' distortion of competition. In contrast, the large majority of local producers (82%) expectedly considers this impact to be 'minor' at most (for two-thirds of local producers the risk is non-existent).

As shown in Table 4.2 below (and, in detail, in Annex D), the number of aid measures potentially accessible to French OR firms is vast and articulated. The available information is insufficient to assess firmly the extent of the cumulation of aid from complementary schemes because implementation data are scarce (especially for certain State aids) and provided only in aggregate format and, secondly, for the uncertain correspondence between the sectors addressed by these schemes and the scope of the OdM support (which is defined based on the CN classification).

Having considered the above caveats, the review of the other EU schemes for ORs carried out under the framework of this Study (see Table 4.1 above) made possible estimating the ***total operational costs compensation*** for enterprises engaged in production activities (manufacturing and primary sector) in French ORs at nearly ***EUR 417 million/year*** (see Table 4.2 below).

Table 4.2 – Estimated value of other measures addressing operational costs

Measure	Value (annual, in EUR)	Sector	Notes
POSEI – specific supply arrangements	EUR 26.5 million (payments, 2018)	Agriculture / food industries	Occasional direct overlapping, and possible indirect overlapping i.e., the use of SSA-products for the production of OdM product (flours beer etc.). In the absence of detailed data, it is hypothetically assumed that 50% of the budget refers to products that are further processed for the manufacturing of OdM goods.
POSEI – support to local production	EUR 279 million (payments, 2017)	Agriculture	Supported production is also covered by the OdM, although not in all regions. It is hypothetically assumed that 50% of the budget refers to products that are also supported by the OdM.
EMFF – compensation plans	EUR 86 million / year (budget)	Fisheries	The EMFF also includes other measures worth EUR 45 million / year, but it is assumed they primarily regard investment aid. With only a few exceptions (in Réunion and Mayotte), the products addressed by the OdM and compensation plan tend to coincide.
Reduced excise on traditional rum	EUR 103.6 million (average 2014-2017)	Manufacturing activities	The reduced excise duty applies to the rum commercialised in mainland France, so the measure fosters export but (theoretically) has no effects on the internal market.
National support to the agricultural sector	EUR 2.3 million (budget)	Agriculture	Only a minor share of the support seems attributable to operating costs.
National support to the sugar industry	EUR 38 million (budget)	Manufacturing activities	The budget is the established cap to prevent exceeding the estimated additional costs. Some 75% of the aid targets Réunion.
Aid for freight and for the transport of dangerous waste	EUR 23.4 million (budget)	All sectors	The aid for freight is capped at 25% of the total eligible costs. In 2018, the expenditure was only EUR 3.55 million.
Free-trade zones	EUR 125 million (budget)	Manufacturing, trade, agriculture, crafts.	Not all sectors overlap with OdM. It is hypothetically assumed that 20% of the budget refers to products that are also supported by the OdM.

Measure	Value (annual, in EUR)	Sector	Notes
Exemptions on employers' social security contributions	EUR 1,023 million (average 2015-18)	All sectors	The aid is extended to all kinds of enterprises in the ORs, with an intensity that varies according to firm size. The extent of the aid attributable to the OdM sectors roughly accounts to 10% of the total.
Recovering of the fictitious VAT on intermediate goods	EUR 100 million (budget)	All sectors	The aid is extended to all kinds of enterprises in the ORs (except F. Guiana and Mayotte), and constitutes further compensation for the costs of imported inputs. The extent of the aid attributable to the OdM sectors roughly accounts for 10% of the total.
Increased tax credit rate for labour competitiveness	EUR 15 million (budget)	All sectors	The aid covers all sectors and is partly aimed at fostering investment, so the share potentially overlapping with the OdM support is marginal.
TOTAL	**EUR 417 million (approximately)**		Based on the assumptions formulated above

Source: *Own estimates based on a variety of sources, i.e., State aid fiches and programme implementation reports.*
Notes: *The estimates are subject to strong assumptions, in some cases, and should be taken with caution (see the explanatory notes). The monetary value refers to the actual expenditure where available; otherwise, the provisional budget is indicated. This might partly inflate the total estimate, since the budget is generally higher than the actual expenditure.*

For the analysis of the ***proportionality of the aid and its consistency with the needs*** of the target groups, three levels should be considered: (a) the cumulation of aid at enterprise level; (b) the cumulation of aid which corresponds to the same objectives and scope of the OdM (in terms of products/sectors); and (c) the overall compensation of the total additional costs faced by French OR economies.

The cumulation of aid at the ***enterprise level*** is subject to State aid and competition rules. The aid's compatibility is assessed ex ante, when the aid is notified and approved, and *in itinere* through the monitoring of aid implementation. According to information provided by regional authorities, every year the beneficiary firms should complete two formularies reporting the financial support received from the different sources, that is:

- A declaration on the State aid amounts received and requested falling under the threshold of the *'de minimis'* regulation, i.e., less than EUR 200,000 for each company over a 3-year period (below this thresholds it is assumed the State aid has no impact which distorts competition and trade in the EU internal market).[246]
- A declaration on the support received from EU cohesion funds.

The compliance with enterprise-level aid ceilings ensures proportionality from a State aid perspective, but not necessarily with the principle of 'proportionate support' affirmed by the CJEU with reference to the fiscal dimension of the OdM policy.[247] According to the CJEU, the exemptions extended under the OdM special regime must be 'necessary, proportionate and precisely determined', which means that the justification for tax advantages should be provided at the ***specific product level***. As discussed under *EQ#1,* proper verification of the effects of the OdM differentials on product competitiveness has never been implemented because of difficulties in gathering the cost price data required, but compliance with the additional costs estimates (laid down in the product *fiches*) has been considered sufficient to assume the proportionality of aid at product level. However, as discussed in this section, the OdM is not the only measure compensating the additional costs of the concerned products, and there are

[246] Commission Regulation (EU) No 1407/2013 of 18 December 2013 on the application of Articles 107 and 108 of the Treaty on the Functioning of the European Union to *de minimis* aid.
[247] We refer here to the CJEU Order OF 7. 7. 1998 — JOINED CASES C-405/96, C-406/96, C-407/96 AND C-408/96.

several other operating aid schemes that - although seldom referred to specific products - may de facto cumulate at that level, possibly leading to product-level overcompensation. In principle, the product *fiches* should take these other forms of support into account and deduct them from the additional costs estimates, but the analysis of such *fiches* has shown that this is not systematically nor comprehensively done (in most of cases, only freight costs compensation is considered). Moreover, a comprehensive system connecting implementation information among the different aid sources is missing, so a full-fledged analysis of aid cumulation at the level of specific product is currently unfeasible and, for this reason the existence of overcompensation cases cannot be entirely ruled out.

Having in mind the abovementioned limitations caused by the lack of detailed implementation data, the review of the other schemes and aid measures allows for some considerations on the overlapping and cumulation of effects with the OdM, as follows:

- ***POSEI Specific Supply Arrangements (SSA).*** According to the administrative rules in force, products benefitting from SSA support cannot be subject to OdM taxation. Evidently, the rationale is to avoid that the aid extended to make certain imported agricultural products more affordable be offset by the tax. Compliance with this provision was assessed in a report of the French Ministry of Agriculture published in 2018[248]. This report highlighted that, in rare cases, products supported by the OdM special regime figured also in the supply balances of the SSA. For instance:

    - Potential overlapping for the product 0405 (butter dairy spread etc.) in Martinique and Réunion: by 'potential' overlapping, we mean that overlapping between the OdM and SSA is possible but only aggregate data are available regarding SSA implementation, so overlapping cannot be confirmed. Furthermore, it should be considered that the amounts involved are insignificant compared with total SSA support (i.e., some 0.8% of SSA payments).
    - Potential overlapping for the product 0703 20 (garlic) in Réunion for a negligible amount of SSA (some 0.02% of SSA payments).
    - The CN categories 2007, 2008 and 2009 'preparations from fruits and vegetables' are subject to SSA and to the OdM differentials, but specific sub-products are excluded from the OdM in the Decision, so overlapping is unlikely (although the SSA implementation data do not allow for verification).[249] These categories account for 2.2% of total SSA payments.
    - Potential overlapping of the OdM support and SSA for organic foodstuffs for animal feed (all ORs except Martinique). However, also in this case, the Decision contains a list of sub-product exclusions, so overlapping is likely avoided (and SSA payments account for 0.5% of the total).

    Notably, there is no overlapping with 'cereals', which is the main product category covered by SSA. On the other hand, the implementation mechanisms of these schemes do not impede indirect forms of cumulation. More specifically, it is permitted to use raw materials imported with the aid of SSA to produce goods that benefit from the differentiated OdM regime, so the cereals imported under the SSA scheme may be used for the manufacturing of flours/starches and the preparation of food products subject to the OdM. Similarly, the malt imported with the support of SSA in Guadeloupe and French Guiana can be used by local breweries, which also benefit from the OdM differential for beer.

    Finally, it is worth highlighting that there is no legal obstacle to applying the OdM on SSA products if there is no tax differential. Therefore, it is possible to apply the external OdM to certain products that are imported under the SSA. These products

[248] François Champanhet, Claire Servant, 'Mise en oeuvre du régime spécifique d'approvisionnement' (RSA), Rapport n. 16053, December 2017.
[249] A cross-check was possible in the case of Guadeloupe, and it was verified that indeed the fruit juices sub-product either benefit from an OdM differential rate or from the SSA regime

are outside of the scope of this Study; however, this seems in contradiction with the overall rationale of avoiding offsetting the benefits of SSA through an additional taxation.

- ***POSEI Support to Local Production (SLP).*** Based on analysis of the available documents, it becomes clear that, to a large extent, POSEI-SLP measures target some economic activities also targeted by the OdM. The CN categories concerned include, for example: meat and edible meat offal; live trees and other plants; bulbs, roots and the like, cut flowers and ornamental foliage; edible vegetables and certain roots and tubers; edible fruits and nuts, citrus fruit peels or melon rinds; and sugar and sugar confectionery. Both schemes (POSEI and OdM) are designed for costs compensation because of insularity and remoteness but the support to local POSEI production covers a larger range of objectives than OdM. Moreover, they do not address the same aspect, as SLP is a support to farmers' income while OdM is – as we have seen – an indirect aid to competitiveness. Thus, the two schemes can be considered to be more complementary than overlapping.

- ***Reduced excise on traditional rum.*** Since French ORs fall outside of the scope of the EU excise harmonised system (Directive 2008/118[250]), the mandatory rates for ethyl alcohol laid down in Directive 92/84/EC[251] do not apply. Furthermore, Council Decision (189/2014/EU) authorises France to apply a reduced excise duty rate on 'traditional' rum produced in the outermost regions and shipped to the mainland, within the limit of 144,000 hectolitres of pure alcohol annually. More specifically, the excise levied on local production is EUR 880 per hl of pure alcohol instead of EUR 1,758 applicable on the mainland (2019 data). In both cases, an additional EUR 564 per hl of pure alcohol is levied for the *cotisation de sécurité sociale.* The measure cumulates with OdM rates among the highest (the tax levied on imported alcohol ranges from 30% in F. Guiana to 43% in Réunion), confirming the strategic importance attributed to this sector in the ORs.

  In the scheme's policy documents, there is no evidence of the concurrent implementation of OdM and, consequently, no mention of mechanism preventing the risk of overcompensation. However, as the scheme applies only to sales on the mainland, no overlapping in a strict sense is detected.[252]

- ***National support to the sugar industry in French ORs.*** The sugar sector of French ORs suffers from natural handicaps that affect the competitiveness of sugar industries. The end of sugar quotas may increase the competitive gap of French ORs so this scheme is aimed at helping these industries in the transition period. The beneficiaries are sugar industries of Guadeloupe, Martinique and Reunion, which benefit also from the OdM. The risk of overcompensation has been considered in the State aid decision, which stated "*as the other supports allocated to the sugar sector have been considered in the calculation of additional costs to be compensated, a cumulation of this aid with any other support scheme may not occur*".[253] The document also detailed the calculation of the additional production costs in each eligible OR, after the deduction of POSEI and EAFRD supports, and concluded that total additional costs amounted to EUR 41.5 million per year but "to avoid any overcompensation" the budget of the measure is capped at EUR 38 million per year. However, the document does not contain any mention of the OdM differentials, which are applied in Guadeloupe and Martinique (but not in Réunion).

[250] Article 5.2 of the COUNCIL DIRECTIVE 2008/118/EC of 16 December 2008 concerning the general arrangements for excise duty and repealing Directive 92/12/EEC.
[251] COUNCIL DIRECTIVE 92/84/EEC of 19 October 1992 on the approximation of the rates of excise duty on alcohol and alcoholic beverages.
[252] The scheme's policy document indicates the requirement of a mid-term review to be delivered to the European Commission by the end of 2017. France submitted the mid-term report on 18 January 2018, asking to continue the application of the reduced rates post-2020. This regime is being evaluated by another DG TAXUD external study which is still ongoing at the time of writing.
[253] Source: https://www.europe-en-france.gouv.fr

- ***EMFF.*** Most commitments for EMFF in French ORs were related to compensation plans. In particular, compensation plans accounted for 65% of French OR allocations. The scope for both OdM and compensation plans is generally broad in all ORs, with the near totality of products covered by OdM also being covered by compensation plans (see Annex D for the full review). Similarly, most activities covered by compensation plans are also addressed by OdM, with the exclusion of some processed products. The turnover of companies involved in coastal fishery is typically below EUR 300,000, so outside of the scope of the policy. However, this does not mean that they are excluded from its benefit: on the contrary, they benefit de facto from a total exemption from all charges and obligations of the OdM. But their formal exclusion means there will be limited information on the structure of costs, so a punctual assessment of the overcompensation risk cannot be done. The operators of other sectors, such as deep sea fishing, shrimp fishery, aquaculture and processing activities are more often above the EUR 300,000 turnover threshold, but the overall size of these sectors is often limited (e.g., processing sector in Guadeloupe, Martinique and Mayotte) and implementation of Compensation Plans is constrained in certain ORs (e.g., Guadeloupe, Martinique).

  According to interviews with the representatives of the fisheries sector in Réunion and Guadeloupe, the support received under the compensation plans is crucial for the survival of local economic operators.[254] The approach adopted to assess the additional costs compensated for by this scheme differs from the one applied in the case of the OdM regime. Rather than measuring additional costs product by product, the approach distinguishes among additional costs incurred at various stages of the value chain, and namely: (i) fishery catch (further divided into coastal fishing, longline fishing and aquaculture), (ii) collection, (iii) processing, and (iv) commercialization.

  An evaluation study has been conducted in 2012 on compensation plans implemented in ORs since 2007.[255] The main conclusion was that compensation plans are in line and complementary with the other existing EU support. More recently, the scheme was examined under the comprehensive study on the implementation of the EMFF in outermost regions.[256] The results show that the support from compensation plans is important for beneficiaries' income, albeit it varies across ORs depending on how the supply chain is organised: so there is a greater number of beneficiaries in Réunion and French Guiana compared to other ORs, due to the presence of large processors and/or professional organisations and more fishermen involved in the scheme.[257]

- ***ERDF SAA – freight costs.*** A significant part of the support extended under the ERDF Specific Additional Allocations (through State aid measures) concerned freight costs. As transport costs are the main item among the additional costs borne by local producers, and therefore one of the major justifications for the OdM tax differentials, there is an evident cumulation of compensation in the area of freight costs. The potential beneficiaries of the two measures also overlap in parts although the information on the implementation of SAA is insufficient to identify product-level overlapping, and whether this eventually will lead to overcompensation. In fact, according to stakeholders' feedbacks collected on the field, in certain regions the delay experienced to get the funds coupled with the complexity of the application

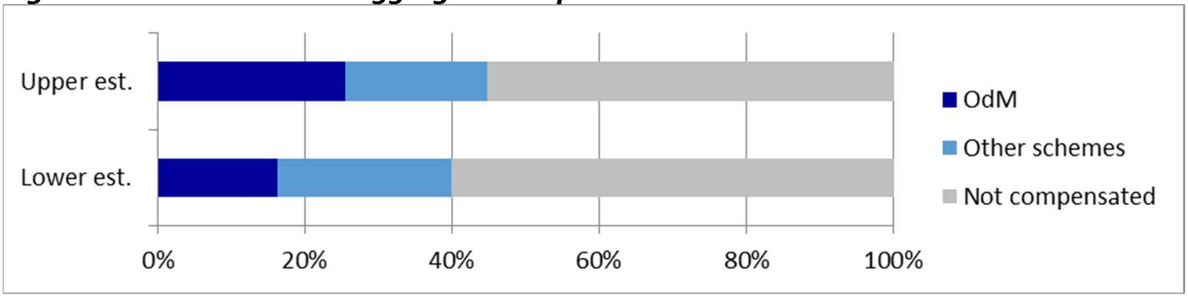
[254] However, in Guadeloupe, severe implementation issues and delays were reported by local operators (some businesses are still waiting for funds due since 2014), which affect the overall effectiveness of the instrument.
[255] 'Évaluation Des Mesures. Prévues Dans Les Régions Ultrapériphériques Sous Le Reg', Megapesca, 2012.
[256] See: the study commissioned by DG MARE, 'Implementation of the EMFF in each of the EU's outermost regions', 2019.
[257] The support from compensation plans requires compliance with rules on catch reporting and payment of taxes.

process significantly discourage firms to apply for this measure (reportedly, only 20% of potential recipients actually apply for it).

Finally, for a ***global proportionality*** assessment, the estimated total compensation (including the OdM and other schemes) can be compared to the estimated total additional costs addressed. Overall, the estimated additional costs borne by the private sector in French ORs was estimated by *LL&A* (2016) at EUR 4,507 million, of which EUR 1,761 million for the OdM-relevant sectors (manufacturing industries and primary sector).[258] According to the same study, the OdM budget – measured in terms of foregone revenues – was EUR 450 million and the other relevant aids amounted to approximately EUR 338 million. This leads to an estimated overall compensation of 45% of total estimated additional costs ('upper estimate' scenario in Figure 4.1 below). Similar results – i.e., a total compensation of 40% - are obtained using different figures, namely: the OdM amount reported for State aid purposes in 2017, i.e., EUR 287 million, and the total compensation from other schemes estimated in this Study, i.e., EUR 417 million (the 'lower estimate' scenario in Figure 4.1 below). In both cases, the aggregate aid extended to the primary sector and industries remains altogether well below the overall estimated additional costs.

Summing up, there are administrative procedures in place to prevent the risk of overcompensation at the enterprise level and the cumulative aid received by ORs seems not to exceed the additional costs caused by structural handicaps. Still, at the level of specific products supported by the OdM, there is insufficient information to quantify the extent of aid cumulation, so occasional cases of overcompensation cannot be ruled out a priori.

Figure 4.1 – Extent of the aggregate compensation for additional costs



Source: *Own processing based on the estimates of Table 4.2 above, and of LL&A 2016 (upper estimate) and French authorities State aid reporting.*

Evaluation Question #3: *To what extent does the current system affect trade with third countries, in particular with those in neighbouring regions?*

As discussed in Section 2.3, the EU approach towards the ORs comprises two main objectives: (a) strengthening integration of ORs in their regional neighbourhood, and (b) taking into account the OR's interest in the trade agreement negotiated by the EU to avoid adverse effects on the local economy. In the case of the OdM, these two objectives are difficult to reconcile, as the OdM special regime is explicitly aimed at mitigating the dependency of ORs on external imports and the risk that OR productions could be disrupted by free-trade with third countries, including from regional neighbouring countries. For this reason, the OdM regime has repeatedly been criticised by CARIFORUM countries and by certain ESA countries, in particular Mauritius, which consider the OdM as being an obstacle to exporting to French ORs, in contradiction with the free-trade principles which underpin the Economic Partnership Agreement stipulated with the EU.

[258] Source: Louis Lengrand & Associés, "Étude Des Surcoûts Supportés Par Les Entreprises Dans Les Régions Ultrapériphériques Francaises", Rapport Final, October 2016.

The following sections describe the policy issues which have emerged in the two regions, the legal basis of the complaints raised and the relevant trends in the trade exchange between French ORs and their regional counterparts, with a view to assessing the magnitude of the potential impact of the OdM on intra-regional trade. The text is structured in three sub-sections, as follows:

(i) analysis of trade in the Caribbean region, including OdM impact on exports from CARIFORUM countries to French ORs;
(ii) analysis of trade in the Indian Ocean region, including OdM impact on exports from ESA countries to French ORs;
(iii) intra-regional trade issues from the perspective of French OR players.

In particular, to respond to EQ#3, we have investigated, using quantitative data, how French ORs' import of merchandises evolved in recent years, with special focus on:

- the ***value of imports*** from CARIFORUM/ESA regions compared with imports from the mainland and other regions, and compared with the intra-regional trade registered among the CARIFORUM/ESA countries concerned;
- within the CARIFORUM/ESA regions, the distribution of ***imports by country and by type of products***, highlighting which the main imported products from each country are;
- the trends in the import of ***specific products of particular interest*** which were included in two lists submitted to the Commission by CARIFORUM and Mauritius, respectively;
- the ***OdM tax differentials applied*** to the main imported products from CARIFORUM/ESA regions, as well as to products included in the two lists of interest, including the estimated monetary impact;
- possible ***impact on imports of removing OdM*** tax differentials from products included in the two lists of interest, and the potential benefits for CARIFORUM and ESA countries, based on the results of the gravity model described in Annex C;
- a review of the ***market access offer*** made by CARIFORUM, and the potential benefits for the French ORs concerned;
- the above was complemented by ***qualitative analysis of the accessibility of CARIFORUM/ESA markets*** by French OR players, based on the results of stakeholder consultation.

This section presents only the key findings, while the full datasets and estimates are provided in Annex E (Part 3 of the Report). The specifications of the gravity model used for the policy assessment scenario are provided in Annex C.

➢ REGIONAL TRADE IN THE CARIBBEAN REGION

Application of the OdM in the French Outermost Regions is a major cause of complaints from CARIFORUM representatives within the Joint CARIFORUM-EU Council and its Trade and Development Committee. According to CARIFORUM, the OdM is discriminatory and is applied in violation of the EPA, as the reduced rates applicable to ORs' internal production may limit the growth of trade despite the close geographic proximity and similar cultural features. The EU invited CARIFORUM to transmit relevant information and analysis on the possible impact of the OdM in the form of a detailed market study, but CARIFORUM objected to this approach, as the discriminatory nature of the tax lies in its underlying principle (the tax differentials) and in this sense it is not a matter which requires the submission of evidence of anti-competitive practices.

As the debate within the Joint CARIFORUM-EU Council shows, the issue comprises a formal perspective – i.e. whether the OdM is indeed discriminatory for CARIFORUM countries and in contradiction with the EPA – and a substantial perspective – i.e. the extent to which OdM differentials are hampering intra-regional trade and whether its benefits justify the obstacles that it creates.

Regarding the ***formal perspective***, it should be clarified at the outset that the OdM is explicitly allowed in the EPA signed with CARIFORUM (Article 239), so there is no policy coherence issue at the formal level. In addition, in 2014, a legal opinion on the OdM commissioned by the Caribbean Export Development Agency concluded that "*there appears to be no discrimination in the application of the OdM*".[259] At the same time, the opinion added that "*consideration should be given to establishing a proper basis for assessing the relative competitiveness of like products between CARIFORUM and [French ORs] and the results used to guide appropriate modifications to the differential tax rate as applied to CARIFORUM goods or to address any other appropriate remedy*".[260] In other words, the OdM does not discriminate against CARIFORUM countries, since the same regime is applied to imports from all countries (including the mainland) and is formally coherent with the EPA.

Beyond legal considerations and policy rationale behind the application of OdM in the ORs, there remains a largely unexplored ***substantial perspective***, which is the nature and the extent of the OdM 's impact on trade, especially with neighbouring countries. As noted by the Commission within the Joint Council, an ad hoc market study would be necessary, including data concerning not only the list of goods affected, but also the nature of the market, the share of sales and their development, the impact on final price and any additional element needed to support the idea of a distortion introduced by the OdM regime.[261] Such a market study would require extensive primary data from CARIFORUM countries, complex economic modelling, and an overall effort that goes beyond the scope of this evaluation Study. Nonetheless, to respond to EQ#3, we carried out a detailed analysis of French ORs' import data, and developed prospective scenarios which are useful for policy review. A summary of results is provided in the rest of this section, while complete datasets are provided in Annex E of this Report. Given data gaps and limitations in the economic models used, the results should be considered as being indicative.[262]

The general framework of the analysis is the ***EU-CARIFORUM EPA***, which has been in force since 2009 and whose main figures are worth summarising here. Between 2009 and 2018, Caribbean countries' imports from the EU have increased by almost 34%. On the contrary, Caribbean countries' exports to EU partners have remained rather stable (+1.4%), resulting in a growing negative trade balance, as shown in Box 4.1 below.

[259] A-Z Information Jamaica Limited, 'Legal Opinion on the Imposition of the *Octroi* de Mer by the French Caribbean Outermost Regions on Products Originating from CARIFORUM States', for Caribbean Export, 14.02.2014

[260] *Ibidem*

[261] Own review of the minutes of the Fourth Meeting of the Joint CARIFORUM-EU Council, held on 17 November 2017 in Brussels, Belgium (unpublished).

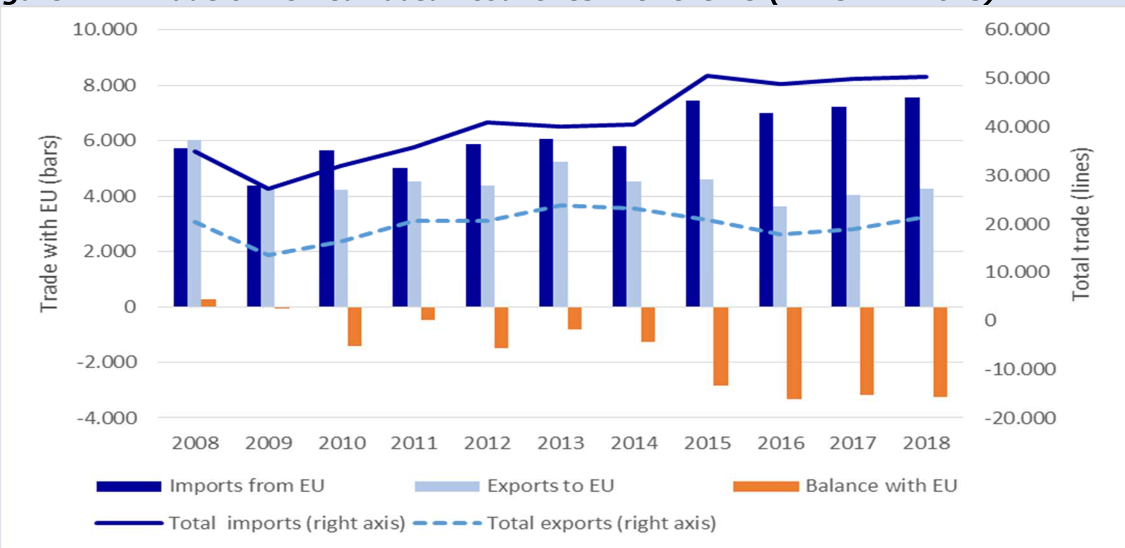
[262] Estimating the impact of the OdM on the volume of French OR imports from specific countries and for specific goods is a demanding task, which would require both complex modelling of regional economies (such as through General Computable Equilibrium models), as well as comprehensive, reliable data with a sufficient degree of granularity. However, as discussed in the general methodology of the Study, we have encountered several issues with the quality and the comprehensiveness of data, in particular: (a) gaps in the import data series (missing years, lack of disaggregated data by CANA code, when required); (b) gaps in the internal OdM rates deliberated by ORs in the past years; (c) lack of data on the OdM exemptions on inputs (*exonérations des intrants*); (d) gaps in the data on the ORs' internal production for the goods subject to the OdM. As a result, precise and reliable assessment of the effects of the OdM as a barrier to trade of specific products in the regions concerned, turned out to be unfeasible within the scope of the Study. So, the figures presented in this Study and in Annex E should be seen as indicative and not statistically-robust.

***Box 4.1** - Overall trade of ACP Caribbean countries with the EU*

As Figure 4.2 shows, in the 2008-2018 period, the ACP-Caribbean countries' imports from the EU steadily increased while the Caribbean exports to the EU remained stable, so the trade balance moved from substantial equilibrium in 2008-2009, to a EUR 3.0-billion deficit in 2016-2018. In relative terms, the share of total Caribbean exports to the EU decreased from 30% to 20% of their total exports in the same period and, similarly, the share of EU exports to ACP-Caribbean in total EU exports fell from 3% to 2%. These figures suggest that the implementation of the EPA between CARIFORUM countries and the EU did not translate into an intensification of trade flows between the two regions. On the contrary, the evolution of bilateral trade declined in relative terms.

This simple evolution graph must be seen as indicative. In fact, we cannot infer what Caribbean exports to the EU would have been without the EPA – a difficulty that is magnified by the volatility in trade flows depicted in Figure 4.2 (annual growth rates typically range between 10 and 30%). An ad hoc study on the impact of the EPA is currently underway; it is expected to shed light on the actual contribution of the EPA to the bilateral trade trends.[263]

Figure 4.2 - Trade of ACP Caribbean countries with the EU (in EUR millions)



***Source**: Eurostat Comext.*
***Notes**: ACP Caribbean countries include both CARIFORUM countries and Cuba*

In the Caribbean region, the ***trade flows from CARIFORUM countries to the relevant French ORs*** (Martinique, Guadeloupe, and French Guiana) did not substantially differ from the export trends from CARIFORUM to the EU described in Box 4.1. In the 2011-2018 period, French OR imports from CARIFORUM followed a reverse-U-shaped curve, from EUR 39.9 million in 2011 to EUR 45.5 million in 2018, but exceeded EUR 70 million in the 2012-2014 period.[264] The bulk of French OR's imports[265] originate in the mainland (approximately two-thirds of the total), followed by the other EU Member States which account for some 15%-17% of the total (Table 4.3.A).

[263] The ex-post evaluation study concerning the first 10 years of implementation of the EPA will be finalised in the course of Spring 2020. Source: https://trade.ec.europa.eu/doclib/docs/2009/september/tradoc_144912.pdf

[264] Figures are based on French customs data and do not include data from 2015 and 2017, which are unavailable or incomplete. In 2017 the collection method has changed, so 2018 figures may not be fully comparable with previous years. For the analysis, we have not included temporary imports, suspension regime, customs warehouse stocking regime, and other particular import regimes for which tariff and taxes are not applied. For the significance of the analysis, outlier operations, such as the exceptional import of liquefied butane worth EUR 685 million from Trinidad and Tobago to F. Guiana in 2013, were not included in the analysis.

[265] On the peculiar use of the term 'import' in this Study, see the terminological note in the Glossary.

The import share from CARIFORUM is approximately 1% of the total, with some fluctuations over time (from an average 1.1% in 2011-2014, to 1.0% in 2016-2018).[266] For a rough indication of whether such a share is abnormally low, the intra-CARIFORUM trade can be taken as a benchmark. We have analysed the intra-regional import value for the eight main CARIFORUM economies[267], based on *UN Comtrade* data, and compared it with the total imports in these countries. The results indicate that the share of CARIFORUM imports originating in the CARIFORUM region amounts to 2.7% of the total – a figure that is higher, but not out of scale with the above figure registered for French ORs (see Annex E for country-by-country details). So, this indicator suggests that the share of French OR imports originating in CARIFORUM countries ***is comparable to the overall intra-regional pattern***.

Looking more closely at the ***trade flows with specific CARIFORUM countries*** (Table 4.3.B) the following considerations emerge:

- The import distribution is very skewed, with Trinidad and Tobago accounting for nearly 41% of the total, followed by Suriname and Dominican Rep. (some 20% each), and the other 12 countries jointly accounting for less than 20%. So, the importance of trade flows with French ORs may vary significantly across CARIFORUM countries.
- The trend in the value of imports from French ORs is not uniform across CARIFORUM countries: some registered an increase in the 2016-2018 period, compared to 2011-2014, e.g. Suriname, Belize, and Guyana; others registered a decrease: Bahamas, Dominican Rep., and Trinidad and Tobago; while Jamaica did not register any significant change. This suggests that the trade-growth trend may be unrelated to structural features affecting the CARIFORUM region on the whole.

The next table (Table 4.3.C) examines the ***composition of imports by goods***, showing the 11 product categories (by CN4 codes) for which the total imports from CARIFORUM exceeded EUR 10 million in the 2011-2018 period. Altogether, the displayed sample accounts for 68% of the total imports of French ORs from CARIFORUM in the period considered. It emerges that petroleum products (oils and gas) are the most relevant imports from CARIFORUM. If the exceptional import of butane from Trinidad and Tobago in 2013 is added, the total imports for this product category would exceed EUR 800 million (EUR 110 million, if the exceptional import is not included). Iron/steel articles, primarily, bars and rods of the type used for concrete reinforcement, are also major imports, with some EUR 39 million in the period considered. Other main imports from CARIFORUM include fertilisers (EUR 20 million), certain parts for boring or sinking machinery (EUR 22 million), beer (EUR 15 million) and builders' ware of plastics (EUR 10 million). Fisheries products are also important (molluscs and crustaceans), amounting to EUR 28 million, while among agricultural products only rice has a major relevance (EUR 13 million).

Besides the almost ubiquitous petroleum products, some specificities can be seen across countries. So, for instance:

- fish products are particularly important for Guyana, Suriname, Jamaica, and Grenada,
- paper products are main exports for Barbados (and partly for Saint Lucia),
- Dominica's exports consist essentially of certain building materials,
- edible vegetables are mainly imported from Dominican Republic,
- fertilizers, iron and steel products, as well as beer come almost exclusively from Trinidad and Tobago.

[266] Not including the above-mentioned exceptional import from Trinidad and Tobago registered in 2013.
[267] The sample includes, Bahamas, Belize, Barbados, Dominican Rep., Guyana, Jamaica, Suriname, and Trinidad and Tobago. The data for Haiti were unavailable. The import data examined refer to 2016, except for Bahamas and Trinidad and Tobago for which the most recent data refer to 2015.

We examined the OdM regime applied to the top products exported to French ORs by each CARIFORUM country separately (see Annex E) and found that about one-third of the CN8 product in the list is exempt from the OdM tax differential regime in at least one of the ORs considered, and in some cases, in the three of them. Overall, the ***incidence of OdM differentials*** on the aggregated import value for these top products ***amounted to 3.6%.***[268]

Table 4.3.A – Aggregate imports of Martinique, Guadeloupe and French Guiana by origin (EUR million)

	2011	2012	2013	2014	2016	2018
Total	**6328.59**	**7698.27**	**7479.86**	**5673.23**	**5631.53**	**6330.39**
FR	4066.51	3948.29	4345.35	3578.34	3656.48	4210.51
EU	982.60	1099.43	1150.33	954.88	956.80	1007.97
CARIFORUM	39.91	103.98	764.91*	79.91	67.72	45.48
Other CAR	0.99	27.99	0.90	1.59	21.08	2.29
Other LAC	121.58	156.59	142.46	126.09	115.65	185.96
USA & Canada	161.32	713.87	441.06	298.84	135.95	217.29
ORs	29.94	45.48	42.92	45.98	46.25	40.14
RoW	925.74	1602.64	591.91	587.61	631.60	620.74
In % by origin						
FR	64.3%	51.3%	58.1%	63.1%	64.9%	66.5%
EU	15.5%	14.3%	15.4%	16.8%	17.0%	15.9%
CARIFORUM	0.6%	1.4%	10.2%*	1.4%	1.2%	0.7%
Other CAR	0.0%	0.4%	0.0%	0.0%	0.4%	0.0%
Other LAC	1.9%	2.0%	1.9%	2.2%	2.1%	2.9%
USA & Canada	2.5%	9.3%	5.9%	5.3%	2.4%	3.4%
ORs	0.5%	0.6%	0.6%	0.8%	0.8%	0.6%
RoW	14.6%	20.8%	7.9%	10.4%	11.2%	9.8%

Source: *Own processing of data provided by French authorities*
Notes: *Data for 2015 and 2017 are unavailable. (*) An exceptionally large import of liquefied butane from Trinidad and Tobago to F. Guiana explains the peak of imports from CARIFORUM in 2013.*
Legend: *FR=France; EU (except FR)= EU28 excluding France; Other CAR=Caribbean countries other than CARIFORUM members and French ORs; Other LAC=Central and South America countries other than Caribbean countries; Other ORs=other French ORs; RoW=rest of the world.*

Table 4.3.B – Imports from individual CARIFORUM countries (EUR ,000)

	TOTAL 2011-2018**	In %	Trend 2016-18 v. 2011-14
Antigua and Barbuda	1,183	0.3%	286%
Bahamas	13,688	3.4%	-52%
Barbados	5,365	1.3%	-48%
Belize	744	0.2%	1322%
Dominica	11,347	2.8%	-72%
Grenada	2,162	0.5%	15%
Guyana	10,681	2.6%	75%
Haiti	1,002	0.2%	1%
Jamaica	27,182	6.7%	29%
Dominican Rep.	79,415	19.6%	-28%
Saint Kitts and Nevis	8	0.0%	-43%
Saint Lucia	5,707	1.4%	-51%
Saint Vincent and the Grenadines	35	0.0%	72%
Suriname	80,806	20.0%	93%
Trinidad and Tobago*	165,207 (854,208)	40.8% (77.5%)	-64% (-94%)

Source: *Own processing of data provided by French authorities*
Notes: *(*) In 2013, an exceptionally large import (EUR 689 million) of liquefied butane from Trinidad and Tobago to F. Guiana was registered. For a normalised assessment of trends, this operation was excluded from the analysis (figures including this operation are displayed in red). (**) Data for 2015 and 2017 were not included, as they are unavailable.*

[268] This figure represents the ratio between the nominal OdM receipts corresponding to the applicable tax differentials and the value of imports. The figure is an approximation, since (a) the differentials applicable in 2018 have been used for the entire period; and (b) the actual tax paid, net of exemptions such as the exemption of production inputs, is unknown.

Table 4.3.C – Main products imported from CARIFORUM (2011-2018, aggregated value)

CN4	Definition	Import value (EUR ,000)	In % of the sample
§ 2711	Petroleum gas and other gaseous hydrocarbons	28,819 (717,819)	7%
§ 2710	Petroleum oils and oils obtained from bituminous minerals (excl. crude); preparations containing >= 70% by weight of petroleum oils or of oils obtained from bituminous minerals, these oils being the basic constituents of the preparations, n.e.s.; waste oils containing mainly petroleum or bituminous minerals	83,289	21%
§ 7213	Bars and rods of iron or non-alloy steel, hot-rolled, in irregularly wound coils	38,777	10%
§ 8431	Parts suitable for use solely or principally with the machinery of heading 8425 to 8430, n.e.s.	22,631	6%
§ 3102	Mineral or chemical nitrogenous fertilisers (excl. those in pellet or similar forms, or in packages with a gross weight of <= 10 kg)	19,988	5%
§ 2203	Beer made from malt	15,475	4%
§ 0307	Molluscs, fit for human consumption, even smoked, whether in shell or not, live, fresh, chilled, frozen, dried, salted or in brine; flours, meals and pellets of molluscs, fit for human consumption	14,929	4%
§ 1006	Rice	13,526	3%
§ 3406	Candles, tapers and the like	13,371	3%
§ 0306	Crustaceans, whether in shell or not, live, fresh, chilled, frozen, dried, salted or in brine, even smoked, incl. crustaceans in shell cooked by steaming or by boiling in water; flours, meals and pellets of crustaceans, fit for human consumption	13,179	3%
§ 3925	Builders' ware of plastics, n.e.s.	10,160	3%
	Total imports (2011-18)	**404,533**	**100%**

Source: *Own processing of data provided by French authorities*
Notes: *The total imports represent the sum of imports registered for all CARIFORUM countries in the 2011-2018 period, except 2015 and 2017, for which no data are available. (*) In 2013, an exceptionally large import (EUR 689 million) of liquefied butane from Trinidad and Tobago to F. Guiana was registered. For a normalised assessment of trends, this operation was excluded from the analysis (figures including this operation are displayed in red).*

The goods for which CARIFORUM demands a removal of OdM tax differentials do not necessarily coincide with those actually traded (listed in Table 4.3.C and in greater detail in Annex E). In a note submitted to the Commission, ***CARIFORUM laid down a list of 48 products*** that its member countries would be interested in exporting to French ORs and for which the OdM is considered an obstacle ('CARIFORUM list'). The products in the CARIFORUM list are designated either at the CN8 digit level (25 items) or at the CN6 digit level (23 items), which means that in CN8 terms, the number of products concerned is significantly greater (some 82 CN8 products actually imported by French ORs). The full list, inclusive of applied OdM tax differentials, is reproduced in Annex E.

Table 4.4.A below provides the aggregate import value for the 2011-2018 region (not including 2015 and 2017) for all the CN8 level products corresponding to the CARIFORUM list, as well as the share of CARIFORUM on total imports. Figures are also aggregated at the CN2 level. Data show that for several products in the list ***CARIFORUM is currently a major origin for French OR imports*** and in particular for: tomatoes, watermelons, some types of rice, natural sands, petroleum jelly and paraffin wax, candles, and to a lesser extent, for fertilizers, building elements, tropical wood, paper and paperboard products, as well as some tropical fruits, e.g. pineapples, guavas and mangoes (full details in Annex E). Conversely, there are ***areas where imports from CARIFORUM are negligible***, such as certain fish products (different from those of Table 4.3.C), flour, fruit jams, insecticides, and articles of jewellery. In the period considered, the aggregate imports of the listed products increased from some EUR 8 million in 2011 to more than EUR 10 million in 2018, but the peak year was 2014 (some EUR 14.5 million recorded).

The products in the CARIFORUM list are ***taxed more*** than the average import from CARIFORUM but, at the same time, they are also comparatively ***imported more*** from CARIFORUM than from other regions:

- The incidence of OdM differentials on the import value of these products is roughly 10%, i.e. some EUR 7.8 million for the overall 2011-2018 period (based on 2018 rates). In this sense, the incidence is greater than the 3.6% registered for the top products imported from CARIFORUM. This estimate may be inflated as it does not consider the exemptions for production inputs that can be deliberated by each ORs (*exonérations des intrants*). Data on the actual amount of exemptions are unavailable, but for instance in Guadeloupe up to one-third of the estimated incidence of OdM differentials refer to products for which exemptions for production inputs are admitted. So, the true impact of OdM differentials is likely smaller than the estimated 10%.[269]
- As Table 4.4.A shows, CARIFORUM accounts for 11% of the total import of these products in French ORs, which is ten times greater than the share of CARIFORUM in French OR total imports (1.1% on average, for the 2011-2018 period).

So, on the one hand the application of the OdM differential seems not to penalise CARIFORUM's exports for many of the listed products, but on the other hand specific causal effects cannot be inferred, as it is possible that the import value be even higher in the absence of the OdM.

The correlation between OdM differentials and trade flows from CARIFORUM countries have been tested but the outcomes of our model proved not to be statistically significant, so no precise measurement of the specific effects of the special regime on imports from CARIFORUM can be reported. However, the results of the gravity model used to assess the general impact of the OdM on imports can be used for a simulation of the ***effects of removing OdM differentials from the listed products***, as demanded by CARIFORUM. Given the data and methodological constraints mentioned previously, the estimates provided should be seen as indicative (see Annex C for model specifications and limitations, and Annex E for the full analysis).

As Table 4.4.B shows, the removal of OdM differentials by decreasing external rates to the level of internal rates may lead to a 9.9% increase in the imports of listed products. In monetary terms, ***imports from CARIFORUM would increase by approximately EUR 1.0 million / year***, while imports from other countries (including the mainland) would increase by an estimated EUR 11.3 million. In other words, in the absence of evidence of differentiated effects across regions, CARIFORUM would benefit from less than one-tenth of the export opportunities created by the removal of OdM differentials from the listed products. Compared to the current levels[270], the growth in CARIFORUM total exports to French ORs would amount to a mere +1.7%.

[269] Based on the 'Dispositif d'exonération octroi de mer à l'importation', Guadeloupe, 2019. See Annex E for details on the products concerned.
[270] Some EUR 56.6 million/year in the 2016-2018 period.

Table 4.4.A – Imports of products in the CARIFORUM list to French ORs (total 2011-2018, in EUR million, and in % of all origins)

CN	CARIF	Total	% of CARIF	CN	CARIF	Total	% of CARIF
§ 03	**0.00**	**5.61**	**0%**	**§ 25**	**3.39**	**8.54**	**40%**
§ 03023190		0.00		§ 25059000	2.69	4.74	57%
§ 03061910		0.29		§ 25232900	0.70	3.80	19%
§ 03061990		5.32		**§ 27**	**2.22**	**3.69**	**60%**
§ 03079110		0.00		§ 27122010		0.11	
§ 03079910		0.00		§ 27122090	2.22	3.58	62%
§ 07	**9.10**	**19.85**	**46%**	**§ 31**	**19.44**	**46.31**	**42%**
§ 07020000	8.66	13.75	63%	§ 31021010	19.44	46.09	42%
§ 07096010	0.45	6.10	7%	§ 31056000		0.22	
§ 08	**2.12**	**14.18**	**15%**	**§ 34**	**13.38**	**38.68**	**35%**
§ 08011100	0.01	1.89	1%	§ 34029010	0.01	7.73	
§ 08011900	0.03	0.47	5%	§ 34060000	13.37	30.95	43%
§ 08043000	1.73	6.66	26%	**§ 38**	**0.01**	**12.37**	**0%**
§ 08045000	0.20	0.87	23%	§ 38089110	0.01	12.37	
§ 08052010		4.07		**§ 39**	**10.41**	**96.05**	**11%**
§ 08071100	0.15	0.20	74%	§ 39232100	0.46	26.57	2%
§ 08134030		0.01		§ 39259010	4.57	15.90	29%
§ 10	**6.57**	**56.34**	**12%**	§ 39259020	2.18	15.66	14%
§ 10063021		0.00		§ 39259080	3.20	37.92	8%
§ 10063023		0.12		**§ 44**	**0.62**	**8.16**	**8%**
§ 10063025		0.22		§ 44072915		0.27	
§ 10063027		1.26		§ 44072920		0.00	
§ 10063042		0.04		§ 44072925		0.10	
§ 10063044		0.28		§ 44072960		0.75	
§ 10063046		0.09		§ 44072983	0.01	0.48	1%
§ 10063048		2.78		§ 44072995	0.60	5.45	11%
§ 10063061		1.11		§ 44072996		0.01	
§ 10063063		0.04		§ 44072998	0.01	1.10	1%
§ 10063065	0.58	2.42	24%	**§ 48**	**2.84**	**108.43**	**3%**
§ 10063067	1.21	13.34	9%	§ 48181010	0.01	23.08	
§ 10063092		0.24		§ 48181090		9.13	
§ 10063094		2.41		§ 48183000	0.01	12.31	
§ 10063096	0.70	1.95	36%	§ 48191000	0.21	21.69	1%
§ 10063098	3.83	28.48	13%	§ 48201010		3.13	
§ 10064000	0.24	1.53	16%	§ 48201030		2.88	
§ 11	**0.01**	**25.52**	**0%**	§ 48201050		7.54	
§ 11010011		2.40		§ 48201090		3.49	
§ 11010015	0.01	23.09		§ 48203000		12.47	
§ 11010090		0.02		§ 48211010	1.59	6.97	23%
§ 19	**0.01**	**6.64**	**0%**	§ 48211090	1.02	5.75	18%
§ 19041010	0.01	6.64		**§ 71**	**0.00**	**19.30**	**0%**
§ 20	**0.03**	**3.09**	**1%**	§ 71131100		5.17	
§ 20081110	0.03	3.09	1%	§ 71131900		14.13	
§ 22	**4.84**	**190.81**	**3%**	**§ 72**	**0.00**	**37.74**	**0%**
§ 22021000	4.09	153.82	3%	§ 72139910		0.22	
§ 22029011	0.06	9.80	1%	§ 72142000		37.52	
§ 22030010	0.28	4.47	6%	**Total**	**74.99**	**701.31**	**11%**
§ 22084011	0.05	14.44					
§ 22084031	0.03	0.55	5%				
§ 22084039	0.01	0.46	2%				
§ 22084051		1.48					
§ 22084091		0.00					
§ 22084099		0.01					
§ 22087010	0.33	5.77	6%				

Source: *Own processing of data provided by French authorities*
Notes: *The total imports represent the sum of imports registered for the indicated products in the 2011-2018 period, except 2015 and 2017, for which no data are available.*
Legend: *CARIF=CARIFORUM.*

Table 4.4.B – Simulation of the effects of removing OdM differentials from the panel of products in CARIFORUM's list

	Imports from CARIFORUM (2018)	Imports from all other origins (2018)	Average OdM differential applied to the product panel	Coefficient of variation of imports associated with OdM differentials	Theoretical increase in imports from removal of OdM differentials
Baseline	€ 10.2 million	€ 113.7 million	10.3%	-0.917	+9.9%
Removal of OdM differentials	+ € 1.0 million	+ € 11.3 million	0%		

Source: *Own processing, based on the estimates reported in Annex E and the results of the own gravity model (see Annex C for specifications)*

The results of the model presented in Table 4.4.B do not cover the ***effects on local production*** in the ORs, but considering that it currently amounts to EUR 6.7 million[271] - primarily cement, rum, waters and, to a lesser extent, flour – an increase in imports worth EUR 12.3 million may re-size internal production activities significantly.

Whether these losses could be compensated for by new opportunities offered by reduction of trade barriers on the CARIFORUM side, as part of EPA implementation, is difficult to predict. But some considerations based on the analysis of CARIFORUM's ***Market Access Offer*** can be put forward. As shown in Table 4.5, there are some 339 goods internally produced in at least one French OR for which an analysis of trade conditions is worthwhile. Of them, nearly half (149 or, 44% of the total) is actually excluded from the market access offer, so no benefits for the ORs can be expected. For another quarter (24%, or 80 products) no change of rate is envisaged as compared to the current situation so, again, no concrete benefits can be expected. A progressive reduction/removal of tariffs is envisaged for the remaining 110 products (one-third of the total), but for the majority of them, the current production in the ORs is limited, so there are no significant export opportunities. In conclusion, potential benefits would regard only 15% of the products considered (some 50). For these products, the average tariff reduction envisaged is 6.6%. In other words, ***no change of the current situation*** is envisaged under the Market Access Offer for the majority of the products of potential interest to French ORs.

Table 4.5– Review of CARIFORUM's Market Access Offer

A) Status of goods produced in French ORs in the Market Access Offer

	No. of CN8 products	In %
Prospective tariff reduction on products relevant for ORs	50	15%
Prospective tariff reduction on products not relevant for ORs (negligible production)	60	18%
Products excluded from market access offer	149	44%
Products for which no change of tariff is envisaged	80	24%
Total	**339**	

B) Prospective tariff reduction for the products relevant for French ORs

Tariff reduction	No. of products relevant for ORs concerned
-3,0%	6
-5,0%	8
-6,0%	18
-8,0%	11
-10,0%	5
-12,0%	1
-17,0%	1
-6.6%	Average

Source: *Own processing of CARIFORUM Market Access Offer and of French OR data on internal production.*
Notes: *Internal production data used here refers to 2018, which in the case of F. Guiana are incomplete. The datasets consulted refer to internally produced goods subject to OdM differentials, so the total products considered may be underestimated (but not significantly, since relevant internal productions are generally covered by OdM differentials).*

[271] The figure is quite reliable for Martinique and Guadeloupe. It is instead underestimated for F. Guiana, as the production value of goods with a zero internal rate is not reported in this region. Furthermore, the figure does not include the production value of small firms, which fall outside of the scope of the OdM.

➢ REGIONAL TRADE IN THE ESA REGION

Some of the considerations made on bilateral trade and the EPA in the CARIFORUM region also apply to trade with the five signatories of the interim EPA with the EU in the ESA region, namely Comoros, Madagascar, Mauritius, the Seychelles, and Zimbabwe. In particular, also in this case, the ***legitimacy of the OdM*** is explicitly recognised under Art. 60.4 of the interim EPA, which states that the agreement does not prevent the EU from applying the pre-existing special measures envisaged for ORs under the TFEU (such as the OdM). So, no policy coherence issue, in a strict sense, is apparent. Still, complaints were submitted by ESA countries, with respect to the adverse effects of the OdM on regional trade.[272] Specifically, in 2017, Mauritius submitted a *Note Verbale* to the Commission demanding the withdrawal of the OdM or alternatively, the elimination of the scheme regarding those products which are of export interest for ESA IEPA signatories. The main underlying argument behind the request refers to Article 60.1 of the IEPA, which stipulates that the agreement should help build and improve on existing trade as well as promote investment and encourage links between outermost regions and ESA countries.

As for CARIFORUM, in this section we examine the substantial aspects of the issue from the perspective of trade with ESA countries, and based on a detailed analysis of trade data available with the two French ORs in the Indian Ocean geographical region, i.e. Réunion and Mayotte[273]. The data and methodological limitations and caveats described in the previous section (and extensively, in Annex E and Annex C) apply here.

The ***total imports in the French ORs considered*** amounted to more than EUR 5.6 billion in 2016-2018, of which EUR 5.2 billion for Réunion and some half billion for Mayotte. In the 2011-2014 period the total average was EUR 4.6 billion but the figure is underestimated due to the lack of data for Mayotte for 2011-2013. At any rate, considering Réunion only, an average increase in imports of approximately 13% is registered between the two periods. As Table 4.6.A shows, the overwhelming majority of French OR imports originate in the mainland or other EU Member States (some 80% of the total). In the 2011-18 period, imports from the ESA countries concerned[274] amounted to EUR 60 million / year on average, with an increase of approximately EUR 20 million between in 2016-2018 as compared with 2011-2014. In relative terms, this corresponds to a marginal increase of 0.2 percentage points in the share of imports from ESA, from 1.1% to 1.3%.

For a benchmarking of this figure, we have examined the intra-regional import value for the four main trade partners of French ORs: Mauritius, Comoros, Madagascar and Seychelles, based on *UN Comtrade* data, and compared it with total imports in these countries. The data show that, overall, the internal trade within the four ESA countries amounts to some 3.0% of their total imports. In the same year (2016), French OR imports from these countries represented some 1.2% of their total imports – a value that is lower but in scale with the intra-ESA trade level (see Annex E for country-by-country details). So, as in the case of CARIFORUM, this indicator suggests that the share of French OR imports originating in ESA countries ***is not abnormally low, as compared to the overall intra-regional pattern***.

Looking more closely at ***trade flows with specific CARIFORUM countries*** (Table 4.6.B) the following considerations can be made:

[272] See, for instance: Summary record, 72nd meeting of the ACP-EU Subcommittee on Trade Cooperation of 27.03.2015

[273] As discussed, Mayotte acquired the status of Outermost Region in 2014, so all figures in this section referring to 2011-2013 actually regard only Réunion.

[274] The figure includes the countries that have initially stipulated the EPA in 2007, i.e. Madagascar, Mauritius, Comoros, Zimbabwe, Seychelles and Zambia (but the latter has not signed it yet).

- The import distribution is very skewed, with Mauritius accounting for nearly 70% of the total, followed by Madagascar (29%). The other countries jointly account for only 1% of the total. So, the importance of trade flows with French ORs may vary significantly across ESA countries.
- The trend in the value of imports from French ORs is on the rise for all the ESA countries considered. In the 2016-2018 period, imports from Mauritius increased by 14%, compared to 2011-2014, while imports from Madagascar increased by 29%.

Imports from the ESA region are quite heterogeneous by ***type of products***. Some 24 products (defined as CN8) account for nearly half of total imports, while the other half is made up of more than 2,800 products. The main product categories by import value are: (a) fertilisers, (b) vegetables, (c) fish products, (d) beverages (beer and sugared waters), (e) aluminium articles (bars, rods windows and door frames etc.), and (f) plastic bottles, flasks etc. For these categories of products, the total imports from ESA in the period 2011-18 exceeded EUR 10 million (see Annex E for details). A more detailed analysis of the most exported products from each individual ESA country to French ORs is provided in Table 4.6.C. Some specificities emerge, for instance:

- fish products are particularly important for Madagascar and Seychelles,
- Madagascar is also a major exporter of coffee and beans,
- imports from Mauritius are heterogeneous, but consists primarily of manufactured goods, including food and beverage products, articles of plastics and of aluminium, and fertilisers,
- the limited imports from Zimbabwe include primarily flavourings and mixtures of odoriferous substances (used for instance in the beverage industry) as well as other mixtures of natural and chemical substances,
- the main item imported from Comoros is dumpers.

Of the products listed in Table 4.6.C below, only two are subject to the OdM differential in Réunion, and five in Mayotte. For all other products, no differential is in place. Overall, the nominal tax receipts associated with these differentials amounted to some EUR 1.1 million for the entire period 2011-18, i.e. ***approximately 1% of the import value of the products considered***.

Table 4.6.A – Aggregate imports of Réunion and Mayotte by origin (EUR million)

	2011	2012	2013	2014	2016	2018
Total	**4777.6**	**4803.8**	**4766.3**	**4603.9**	**5677.2**	**5635.3**
FR	3087.2	3213.3	3345.1	2913.5	3130.7	3710.3
EU	572.2	587.7	584.4	667.1	712.8	766.8
OR	3.0	4.1	3.1	10.4	8.5	7.6
ESA	42.5	55.8	49.8	64.5	68.3	79.0
Other AFR	125.4	133.8	109.3	107.9	92.0	115.1
RoW	947.3	809.1	674.8	840.4	1664.9	956.6
In %, by origin						
FR	64.6%	66.9%	70.2%	63.3%	55.1%	65.8%
EU	12.0%	12.2%	12.3%	14.5%	12.6%	13.6%
OR	0.1%	0.1%	0.1%	0.2%	0.2%	0.1%
ESA	0.9%	1.2%	1.0%	1.4%	1.2%	1.4%
Other AFR	2.6%	2.8%	2.3%	2.3%	1.6%	2.0%
RoW	19.8%	16.8%	14.2%	18.3%	29.3%	17.0%

Source: *Own processing of data provided by French authorities*
Notes: *Import data for Mayotte are unavailable for the 2011-2014 period. Data for 2015 and 2017 are unavailable for any OR.*
Legend: *FR=France**;** EU (except FR)= EU28 excluding France; OR=other French ORs; ESA=Eastern and Southern Africa countries that have signed an EPA with the EU; Other AFR=other African countries in the eastern and southern geographical region; RoW=rest of the world.*

Table 4.6.B – Imports of Indian Ocean French ORs from ESA countries (EUR ,000)

	2011	2012	2013	2014	2016	2018	Total	In %	Trend 2016-18 v. 2011-14
Madagascar	10.7	14.6	15.1	19.6	21.2	17.4	98.7	29.0%	*29%*
Mauritius	31.8	40.8	34.2	44.3	46.8	39.6	237.6	69.9%	*14%*
Comoros	0.0	0.0	0.0	0.2	0.1	0.1*	0.4	0.1%	*19%*
Zimbabwe	0.0	0.0	0.0	0.0	0.0	0.1	0.2	0.1%	*631%*
Seychelles	0.0	0.4	0.4	0.4	0.1	1.5	2.8	0.8%	*182%*
Zambia						0.2	0.2	0.1%	
Total	**42.5**	**55.8**	**49.8**	**64.5**	**68.3**	**59.0***	**339.9**		

Source: *Own processing of data provided by French authorities*
Notes: *Import data for Mayotte are unavailable for the 2011-2014 period. Data for 2015 and 2017 are unavailable for any OR. (*) Raw data included a EUR 20-million worth import of 'banknotes' from Comoros in 2018, which was deemed implausible and was therefore excluded.*

Table 4.6.C – Main products imported from specific CARIFORUM countries by French ORs and OdM tax differential applied

CN8	Import, in EUR ,000	Product	OdM Tax Differential (in %)*	
	Total 2011-18		REU	MYT
	Madagascar			
§ 03028990	7763.9	Certain fresh or chilled fish	0	17.5
§ 07133900	5596.0	Dried, shelled beans	0	0
§ 03061110	4950.7	Frozen crawfish tails	0	0
§ 09011100	4740.7	Coffee	0	0
§ 07133390	4653.4	Dried, shelled kidney beans	0	0
	Mauritius			
§ 39233010	14884.3	Carboys, bottles, flasks of plastics	0	0
§ 76101000	12716.4	Doors, windows and their frames of aluminium	0	17.5
§ 31052090	10866.0	Fertilisers with a nitrogen content <= 10 %	0	0
§ 22021000	10449.9	Waters, with added sugar, sweetener or flavour	0	17.5
§ 11010015	9651.4	Flour of common wheat and spelt	0	0
§ 89019010	9248.5	Sea-going vessels	6.5	0
§ 31052010	8550.6	Fertilisers with a nitrogen content >10 %	0	0
	Comoros			
§ 87041010	83.2	Dumpers for off-highway use	14.75	0
	Zimbabwe			
§ 33021029	83.3	Preparations based on odoriferous substances	0	0
§ 38249996	36.6	Other chemical products and preparations including those consisting of mixtures of natural products	0	(-)
	Seychelles			
§ 03044990	1021.7	Certain fresh or chilled fillets of fish	0	17.5
§ 16041418	614.2	Prepared or preserved tunas	(-)	..
§ 03028990	480.0	Certain fish, fresh or chilled (other than 0304)	0	17.5

Source: *Own processing of data provided by French authorities*
Notes: *Import data for Mayotte are unavailable for the 2011-2014 period. Data for 2015 and 2017 are unavailable for any OR. (*) In some cases, the relevant OdM rates differ by sub-product (i.e. CN8, for products defined at CN6 level, or by CANA code for products defined at CN8 level), so the average nominal rate is reported. In two cases, marked by (-), this leads to negative differentials, which means that the ordinary differential is zero, but on certain sub-products (designated by CANA code) a lower external rate is applied, which is not envisaged internally, because there is no local production of such goods. (**) Raw data included a EUR 20-million worth import of 'banknotes' from Comoros in 2018, which was deemed and was therefore excluded.*

In a note submitted to the Commission, ***Mauritius laid down a list of 46 products*** for which a request for removal of the OdM was made ('Mauritius list'). The request focussed on the bilateral trade between Mauritius and Réunion, but the list can be used for a closer examination of OdM impact on trade between ESA countries and both Réunion and Mayotte, respectively. It should be noted that:

- The request for removal apparently regards the OdM as a whole and not only the differential tax regime, but in this Study we consider only impacts due to tax differentials.

- Apparently, the list makes reference to an outdated version of the CN classification, as certain codes seem no longer in use.
- Certain products are written as CN8 but actually refer to CN6 categories. In these cases, we have considered all the corresponding CN8 sub-headings in the analysis, indicating the average OdM differential applied. The same approach has been used for CN8 products that are further split through CANA codes.

The full list, with the value of imports registered for each product from each ESA country, as well as the OdM differential applied, is provided in Annex E.

Table 4.7.A below provides the aggregate import value for the 2011-2018 period (not including 2015 and 2017) for all the CN8 level products corresponding to the list submitted by Mauritius, as well as the share of ESA on total imports. Figures are also aggregated at the CN2 level. Data show that for several products in the list ***ESA countries are currently a major origin for French OR imports*** and in particular for certain fish products, plastic bottles, cut flowers, door and window frames of aluminium, flour, printed paper, postcards, women's or girls' dresses and t-shirts (full details in Annex E). Conversely, there are ***areas where imports from ESA are negligible***, such as metal and wood furniture, flour mixes and doughs, preparation for animal feeds, iron/steel tubes, pipes/hollow profiles, among others. In the period considered, the aggregate imports of the listed products increased from some EUR 9.5 million in 2011 to nearly EUR 13 million in 2018, but the peak year was 2014 (some EUR 14.5 million recorded).

The products in the list are ***taxed more*** than the average import from ESA but, at the same time, they are also comparatively ***imported more*** from ESA countries than from other regions:

- The incidence of OdM differentials on the import value of these products is roughly 9.3%, i.e. some EUR 6.9 million for the overall 2011-2018 period (based on 2018 rates). In this sense, the impact is greater than the 1% registered for the top products imported from ESA (see Table 4.6.C). This estimate may be inflated as it does not consider exemptions for production inputs that can be deliberated by each ORs (*exonérations des intrants*). Data on the actual amount of exemptions are unavailable, but in Réunion, for instance, some 88% of the estimated impact of OdM differentials refers to products for which exemptions for production inputs are admitted. So, the true impact of OdM differentials is likely smaller than the estimated 9.3%.[275]
- As Table 4.7.A shows, ESA accounts for 9.9% of the total imports of these products in French ORs, which is eight times greater than the share of ESA in French OR total imports (1.2% on average, for the 2011-2018 period).

So, on the one hand the application of OdM differentials seems not to penalise the ESA's exports for many of the listed products, but on the other hand specific causal effects cannot be inferred, as it is possible that the import value be even higher in the absence of the OdM.

The correlation between OdM differentials and trade flows from ESA countries has been tested, but outcomes proved not to be statistically significant, so no precise measurement of the specific effects of the special regime on imports from ESA can be reported. However, the results of the gravity model used to assess the general impact of the OdM on imports can be used for a simulation of the ***effects of removing OdM differentials from the listed products***, as demanded by Mauritius. Given the data and methodological constraints mentioned previously, the estimates provided should be

[275] Based on the 'Dispositif d'exonération octroi de mer à l'importation', Guadeloupe, 2019. See Annex E for details on the products concerned.

seen as indicative (see Annex C for model specifications and limitations and Annex E for the full analysis).

As Table 4.7.B shows, the removal of OdM differentials by decreasing external rates to the level of internal rates may lead to an 8.9% increase in the imports of listed products. In monetary terms, ***imports from ESA would increase by approximately EUR 1.1 million / year***, while imports from other countries (including the mainland) would increase by an estimated EUR 11.4 million. In other words, in the absence of evidence of differentiated effects across regions, ESA countries would benefit by one-tenth of the export opportunities created by the removal of the OdM differential from the listed products. Compared to the current levels[276], the growth in ESA total exports to French ORs would amount to a small +1.5%.

The results of the model presented in Table 4.7.B do not cover the ***effects on local production*** in the ORs, but considering that it could have amounted to EUR 58.9 million in 2016[277] - of which 94% referring to Réunion – an increase in imports worth EUR 12.5 million may have a tangible impact on internal production activities (some 20% of internal production might be substituted).

Table 4.7.A – Imports of products in the Mauritius list to French ORs (total 2011-2018, in EUR million, and in % of all origins)

CN	ESA	Total	% of ESA	CN	ESA	Total	% of ESA
§ 03	**9,133.5**	**12,191.9**	**75%**	**§ 49**	**238.6**	**1,317.6**	**18%**
§ 03028939		4.1	0%	§ 49090000	238.6	1,317.6	18%
§ 03028940	0.2	0.2	100%	**§ 61**	**10,582.5**	**137,880.2**	**8%**
§ 03028990	9,133.4	12,187.7	75%	§ 61044200	246.8	1,388.7	18%
§ 06	**639.1**	**6,197.1**	**10%**	§ 61044900	160.1	942.2	17%
§ 06031970	144.0	934.9	15%	§ 61051000	762.2	12,378.5	6%
§ 06031980	495.2	5,262.3	9%	§ 61061000	81.0	1,520.6	5%
§ 11	**9,763.1**	**47,396.2**	**21%**	§ 61091000	7,570.9	79,924.1	9%
§ 11010011	111.5	2242.6	5%	§ 61099020	368.1	11924.3	3%
§ 11010015	9,651.6	45,149.4	21%	§ 61099090	1,013.1	7,071.0	14%
§ 11010090		4.1	0%	§ 61112010		20.5	0%
§ 19	**217.5**	**23,164.1**	**1%**	§ 61112090	380.3	22,710.3	2%
§ 19012000	217.5	23,164.1	1%	**§ 62**	**580.0**	**14,502.7**	**4%**
§ 20	**1.1**	**1,495.4**	**0%**	§ 62044200	461.1	12,748.7	4%
§ 20055900	1.1	1,495.4	0%	§ 62059010	7.8	130.1	6%
§ 23	**4.4**	**3,117.5**	**0%**	§ 62059080	111.1	1624.0	7%
§ 23099010	4.4	3,117.5	0%	**§ 73**	**72.9**	**22,441.1**	**0%**
§ 32	**1,359.8**	**53,045.7**	**3%**	§ 73083000	72.9	22,441.1	0%
§ 32149000	1,359.8	53,045.7	3%	**§ 76**	**13,282.5**	**35,981.8**	**37%**
§ 34	**6,327.5**	**147,043.1**	**4%**	§ 76101000	13,282.5	35981.8	37%
§ 34022090	6,327.5	147,043.1	4%	**§ 94**	**1,326.5**	**126,136.9**	**1%**
§ 39	**17,234.2**	**72,157.4**	**24%**	§ 94017900	320.5	13,085.2	2%
§ 39232990	833.7	29,997.2	3%	§ 94036090	1,005.9	113,051.7	1%
§ 39233010	14,884.9	33,850.2	44%	**§ 96**		**1,034.5**	**0%**
§ 39233090	1,092.1	4,359.9	25%	§ 96190019		1,034.5	0%
§ 39252000	423.6	3,950.1	11%	**Total**	**74,491.3**	**756,155.7**	**9.9%**
§ 48	**3,728.0**	**51,052.5**	**7%**				
§ 48181090	100.6	6,738.8	1%				
§ 48194000	877.9	21,791.5	4%				
§ 48201010	23.4	682.2	3%				
§ 48201030	38.6	2,679.1	1%				
§ 48201050	1,076.5	8,280.2	13%				
§ 48201090	35.7	2,139.3	2%				
§ 48211010	991.4	4,328.7	23%				
§ 48211090	583.9	4,412.7	13%				

Source: *Own processing of data provided by French authorities*

[276] Some EUR 73.6 million/year in the 2016-2018 period.

[277] The figure is quite reliable for Martinique and Guadeloupe. It is instead underestimated for F. Guiana, as the production value of goods with an internal rate of zero is not reported in this region. Furthermore, the figure does not include the production value of small firms, which fall outside of the scope of the OdM.

Notes: *Import data for Mayotte are unavailable for the 2011-2014 period. Data for 2015 and 2017 are unavailable for any OR. Products that were indicated at CN6 level in the list – e.g., CN 030289 – is split into the corresponding CN8 – e.g. § 03028940, and § 03028940. Products for which no import is registered are not displayed*

Table 4.7.B – Simulation of the effects of removing OdM differentials from the panel of products in the list submitted by Mauritius

	Imports from ESA (2018)	Imports from all other origins (2018)	Average OdM differential applied to the product panel	Coefficient of variation of imports associated with OdM differentials	Theoretical increase in imports from removal of OdM differentials
Baseline	€ 12.7 million	€ 128.6 million	9.3%	-0.917	+8.9%
Removal of OdM differentials	+ € 1.1 million	+ € 11.4 million	0%		

Source: *Own processing, based on the estimates reported in the previous tables and the results of the own gravity model (see Annex C for specifications)*

➢ REGIONAL TRADE ISSUES FOR FRENCH OR PRODUCERS

The previous sections investigated trade issues from the perspective of French OR trading partners that raised complaints against the OdM special regime. In this section we examine for completeness ***the perspective of French OR operators*** and the accessibility of neighbouring countries' markets. In fact, structural handicaps suffered by ORs include not only the small size of their internal markets, but also the lack of access to external markets for their products.

As discussed under EQ#9 (Section 4.4), based on INSEE regional economy statistics the ***foreign trade coverage ratio*** (i.e. the ratio between the value of exports and that of imports) between French ORs and their regional neighbours is small or very small, due to significant imbalances in trade flows. In particular:

- the export/import ratio of Martinique with ACP Caribbean partners[278] in 2018 amounted to 0.23, with an imbalance of EUR 33 million;
- Guadeloupe and F. Guiana have the same export/import ratio, i.e. 0.11. A significant worsening is registered in F. Guiana, in connection to the fall in the exports of oil products to Caribbean countries;
- the export/import ratio of Réunion with Indian Ocean regional partner[279] is also negative but comparatively better than other ORs, i.e. 0.69, corresponding to an imbalance of EUR 14 million;
- Mayotte has the worse regional export/import ratio of all French ORs, i.e. 0.05.

The results of the ***stakeholder consultation*** largely confirmed the limited orientation to regional export of local producers. None of the firms which were interviewed during fieldwork reported relevant exports to neighbouring countries; in a couple of cases, some attempts were reportedly made, but with little success. The main obstacles to regional export reported by French OR producers are as follows:

- Despite the EPA, customs tariffs and import restrictions have remained on a number of products imported in the Caribbean region (see the analysis of Market Access Offer in previous section). This seems particularly the case for full members of the Organisation of Eastern Caribbean States (OECS)[280]. For instance, in Antigua, the

[278] The INSEE category of ACP Caribbean partners includes CARIFORUM countries plus Cuba.
[279] The INSEE category includes Comoros, Madagascar, Mauritius, and Seychelles, as well as ORs themselves, but in the figures reported here we have excluded the trade exchange between Réunion and Mayotte.
[280] These include Antigua, Dominica, Grenada, Montserrat, Saint Kitts and Nevis, Santa Lucia and Saint Vincent and the Grenadines. Anguilla, the British Virgin Islands, Guadeloupe and Martinique are only associate members of OECS.

importation of certain goods requires individual licenses, unless imported from CARICOM countries. Non-automatic licensing is applied to products subject to quantitative restrictions, such as carbonated beverages, beer, and agricultural products (if there is domestic supply). Likewise, in Grenada, there are quantitative restrictions on certain items imported from non-CARICOM countries, including carbonated beverages, flour, industrial gas, miscellaneous items associated with furniture and construction industries. Imports from non-CARICOM are subject to the following rates: 40% for most agricultural products and 5-20% for most other imports. Local producers based in Guadeloupe strongly lamented the fact that these barriers de facto make it impossible or very expensive to export there.[281] Similar non-tariff restrictions are reported by enterprises based in Réunion regarding export to Mauritius.

- According to local players, production costs in French ORs are significantly higher than in their neighbouring countries. First of all, because of salaries and wages: according to INSEE, in 2015, the average annual net salary income of a worker in the OR ranged between EUR 15,200 and 16,600 (Mayotte excluded), which is a multiple of the amount paid in the non-EU neighbouring countries. Secondly, the compliance with the European social, safety and environment protection standards makes production activities in the ORs more expensive than in other countries of the region. For instance, this point was explicitly made by producers of aluminium doors and windows in Guadeloupe and Martinique, with reference to high compliance costs linked to EU Construction Products Regulation.[282]
- Based on survey results, the other relevant issues reportedly discouraging producers based in French ORs to export in the geographical region include: (i) language barriers, (ii) cultural differences and, hence, different consumer preferences; (iii) inadequate maritime logistics and high shipping costs due to the limited volume of trade, which translate into relatively high costs for regional exports; and (iv) fluctuations of the exchange rate.

With regards to stakeholders' views on obstacles to regional trade caused by the OdM, about 49% of survey respondents considered them to be very significant, but entrepreneurs' opinions vary significantly across regions and sectors. In general, negative impact are perceived as more severe in Guadeloupe and Réunion as compared to Martinique and French Guiana. Local producers are, unsurprisingly, the least concerned, with less than one-fifth (18%) of respondents attributing a major importance to this impact. In contrast, the share of firms that consider the OdM as a major obstacle increases among traders (77%) and firms active in other sectors (64%). In line with this, the majority of respondents in all French ORs (ranging between 45% in Martinique to 65% in French Guiana) agrees that measures should be introduced to mitigate OdM-related obstacles to regional trade but, again, views differ across sectors, with traders and service businesses (71%) more interested in it than local producers (35%).

4.2 Relevance

Evaluation Question #4: *Are the criteria used to select the products to which the tax exemptions or reductions may apply still valid? (i.e., the existence of local production; the existence of significant 'imports' and the existence of additional costs of local production compared to the cost of 'imports')?*

[281] These firms claimed that their exports are taxed between 20% and 40%, while a producer of bottled water only managed to export for a temporary period in the region in the aftermath of hurricane Maria (in 2017), when import tariffs were lowered to face critical shortages on the local market.

[282] These claims cannot be systematically verified and quantified in this Study, as this would require conducting additional costs assessments in CARIFORUM and ESA countries, similar to those implemented in French ORs. However, as discussed further below in this Report, such additional costs assessments are complex exercises which require comprehensive enterprise surveys, in-depth cost factor analyses, and a detailed mapping of development aids received by the relevant economic sectors. To conduct these assessments in up to 20 countries would clearly require a huge effort.

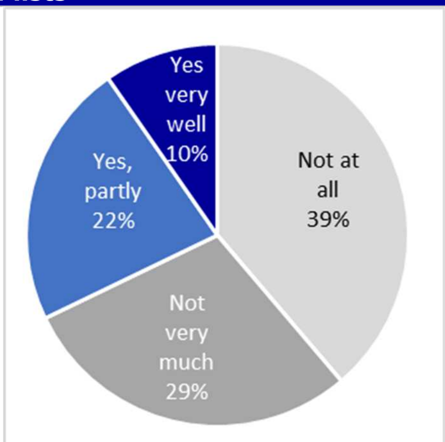
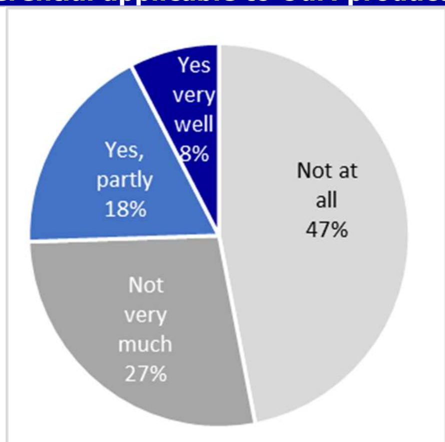
➢ CLARITY AND TRANSPARENCY OF ELIGIBILITY CRITERIA

By 'eligibility' criteria we refer here to the criteria used to determine the list of products subject to differentiated taxation. In the OdM Decision these criteria are explicitly mentioned and consist of the existence of substantial local production that is threatened by imports because of the additional operating costs faced by local producers.

The ***market share of local production*** is therefore a major indicator for implementation of the regime, however no specific threshold for the triggering of the exemption has been established. In this respect, two different, and somehow contradictory, issues were raised by various stakeholders which were met during fieldwork. On the one hand, representatives of the private sector (mainly importers) highlighted that the lack of minimum threshold affects the credibility of the underlying policy process and may result in providing support to residual and/or poorly efficient production activities. An example is the high differential rate applied to semi- or wholly-milled rice in Guadeloupe, despite the negligible market share of local production. On the other hand, the pre-requisite of the existence of a significant local production level may limit the possibility of including in the OdM list new local productions, and may eventually discourage investments in novel manufacturing activities (although there remain various other lines of support to investments). As illustrated below, this issue is exacerbated by the burdensome and lengthy process for revising and updating the OdM product list.

In some ORs, the process for establishing the list of products which benefit from fiscal advantages is participatory. In Guadeloupe, representatives of the relevant private sector associations sit on the OdM Regional Commission, and consultations with a representative panel of local producers are run every year by the Regional Council to review their performance and the additional costs. Likewise, in Martinique, the list is prepared jointly by the Territorial Collectivity and the regional industry association (*Association Martiniquaise pour la Promotion de l'Industrie*). Coherently, as indicated by the results of the business survey, a majority of local producers (56%) reported familiarity with the criteria for the inclusion of certain products in the OdM lists. In contrast, the degree of knowledge of these criteria is much more limited among firms in the other sectors, and, hence, in the business community as whole (as illustrated by Figure 4.3 below). As for the methods used to establish the tax differential applicable to OdM products, a similar, albeit less positive, picture emerges: 74% of all firms and 57% of local producers declared to have little/no information about these methods.

Figure 4.3 – Stakeholder knowledge of the criteria underlying OdM implementation

A) Respondents' knowledge of the criteria for inclusion of certain products in the OdM lists	B) Respondents' knowledge of the methods used to establish the tax differential applicable to OdM products
	

Source: *Business survey.*

The ***'additional cost' criterion*** is discussed in detail under evaluation question #6 below. With respect to its clarity and transparency, a few considerations apply:

(i) the preparation of product *fiches* – and more generally the estimation of additional costs – is a participatory process, which involves the concerned industries as the main providers of data and estimates for the calculation of additional costs;
(ii) the overall method for the preparation of product fiches has been established and validated at the central level;
(iii) however, neither product *fiches* nor a summary of additional costs estimated are publicly available and, secondly, specific assumptions and calculations underpinning individual product *fiches* are not always clearly reported.

➢ **VALIDITY OF CRITERIA**

To assess the 'validity' of current eligibility criteria, we consider three aspects: (a) their measurability in objective terms, (b) whether they are consistently applied; and (c) stakeholders' opinions in this respect.

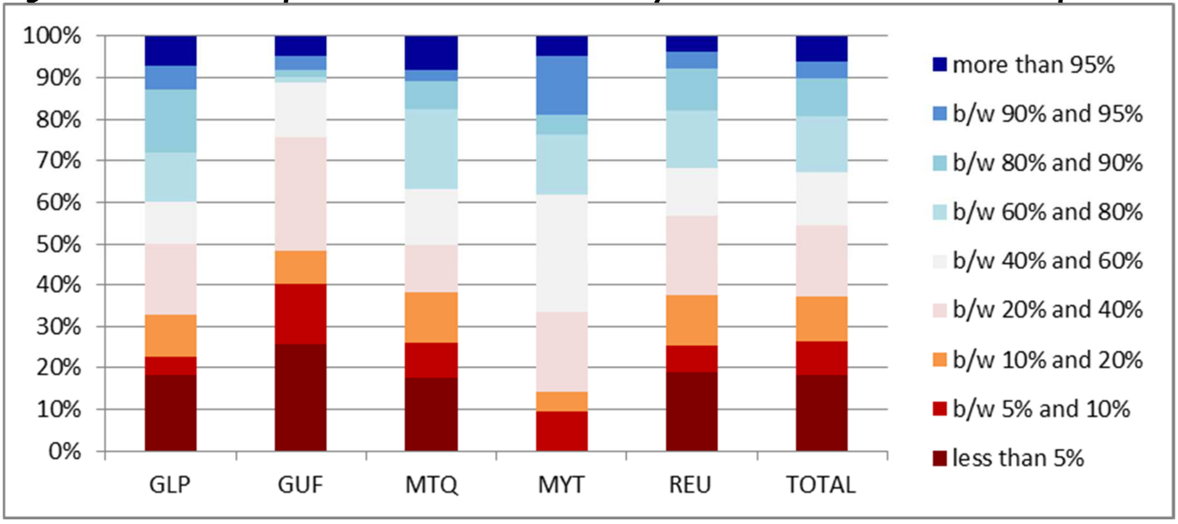
The ***objective measurement*** of the eligibility criteria has become more problematic since the 2014 renewal of the regime due to two changes. First, a larger number of products included in the lists annexed to the OdM Decision have been identified at the CN8 level instead of CN4, requiring a greater granularity of assessments, which is not always feasible. Second, the exclusion of local firms with an annual turnover of production below EUR 300,000 from the field of application of the OdM, including the declarative obligations, inevitably reduced the amount of information available on the value of local production. The existence of inconsistencies and reliability issues with the measurement of market share of OdM-supported products is also recognised by competent local authorities. For instance, in Guadeloupe, the Regional Council reported inconsistencies between the data collected directly from enterprises as part of the annual monitoring activities and those provided by customs[283].

Regarding the consistent application of the eligibility criteria, the analysis of the available data allows a review of how the 'market share' criteria are being applied (having in mind the above limitations). The distribution of OdM products by market share of local production in the various French ORs is displayed in Figure 4.4 below. The results show that:

- for the majority of OdM products, local production accounts for a minority share of the market; in Guadeloupe and Martinique the median value of the market share distribution is approximately 40%, in Réunion 30%, in F. Guiana 22%.
- local products with less than 20% of market share account for some 37% of the OdM lists, on average, while local products with less than 5% of the market account for some 18% (higher in F. Guiana and lower in Mayotte, but market share data for these regions are incomplete); these figures are possibly inflated by the fact that the output of local enterprises with a turnover below EUR 300,000 is not included in market share statistics;
- less than 20% of products in the OdM lists holds more than 80% of the respective markets; for some 6.0% of them, the market share exceeds 95%;
- for nearly half of products examined (44%) market share is comprised between 20% and 80%.

[283] To cope with this challenge, six months ago the Regional Council decided to create the *Direction de l'Observatoire du développement économique et de la fiscalité*, which is expected to provide, among other things, reliable data to prepare annual and mid-term reports on the OdM.

Figure 4.4 – Composition of OdM lists by market share of local products



Source: *Own processing of data provided by French authorities.*
Notes: *The 'total' is based on the market share of 499 OdM products for which sufficient data are available. Market share data for F. Guiana and Mayotte are largely incomplete. For all ORs, figures refer to 2018 except Réunion whose figures refer to 2016.*

The above data indicate that there are indeed cases where the market share criteria may not be sufficient to justify the inclusion of certain products in the OdM list, because the local production level is marginal, or, conversely, local producers are in a largely dominant position. In this respect, there are also ***other aspects which are considered by local authorities***, such as the impact on jobs, the strategic value for the local economy of the production at stake, and other ad hoc situations.

The inclusion in the list of goods with marginal local production is occasionally lamented by importers as hardly justifiable. Concrete examples collected during fieldwork include rice in Guadeloupe[284], or certain specific fish and meat products for which there is negligible local production. The results of the business survey confirm such issues but suggest that they do not represent a major concern (as it is instead the case of the AIEM regime in the Canary Islands). Less than one-quarter of the survey sample (22%) reported the existence of products with negligible production in French ORs that should be removed from the OdM list, and 12% of respondents believed that there are goods that need to be removed from the list because the level of imports is negligible. However, it is worth mentioning that only a minority of respondents was able to answer to these questions (49% and 41%, respectively).

These criticisms clearly reflect specific and commercial interests of the stakeholders involved that should be taken into account; but, at the same time, they highlight the ***limitations of the market share criterion*** and the need to avoid pure quantitative approaches to the selection of eligible products. In this respect, a few considerations apply:

- Regarding products with a low market share, the main drawback of OdM support is that the capacity of local industries is possibly insufficient to meet demand and – since imports account for the bulk of it – application of the OdM may lead to a significant fiscal charge for a fairly limited benefit. On the other hand, it can be argued that industries with limited market share are those who most need the support of the OdM to grow.
- Regarding products with a high market share, the support of the OdM may seem less necessary as they seem less threatened by the competition of imported products. However, there are special cases, for instance, commodities and various consumer

[284] A high differential rate applied to semi- or wholly-milled rice in Guadeloupe, despite the negligible market share of local production.

goods for which the competitive edge is very narrow. Overall, the risk of 'overcompensation' for these products is higher but cannot be taken for granted.

A full-fledged analysis of the ***additional costs criterion*** is carried out under evaluation question#6. At any rate, its validity as a criterion is not disputed, as it can be directly inferred from the CJEU 1998 Order which established that exemptions must be necessary and proportionate[285] - requirements that are consistently interpreted as the need to demonstrate the existence of addition costs associated with the supported products. Additional costs are also the main benchmark for assessing the proportionality of special regimes under the State aid policy.

Evaluation Question #5: *To what extent does the scope of the Decisions address the current needs of the Outermost Regions and of the economic operators concerned?*

➢ **SUITABILITY OF THE ODM'S SCOPE**

The suitability of OdM coverage can be evaluated, in the first place, with respect to the existence of relevant ***products omitted from the list***. The results of the stakeholder consultation suggest that, for some half of the local producers surveyed, there are some gaps in the scope of the OdM regarding primary agricultural, fisheries, and agri-food products. The main problem lamented by stakeholders, in this respect, is a lack of flexibility in the process of revision of the lists, which makes it difficult to respond in a timely manner to emerging needs of the local economy and – where relevant – to correct errors or omissions. For instance, in Guadeloupe, representatives of the fisheries sector lamented the undue inclusion of frozen Norway lobsters in the OdM list (under category B), while other relevant local products were not included (as no information on local production was available at the 8-digit level[286]). Likewise, according to respondents, some locally-produced goods that used to benefits from OdM tax differentials, were unduly left out from the 2014 renewal of the Council Decision (examples include meat and edible meat offal, paper and carton boxes).[287]

The complexity of list management, including the issue of continuous revision of CN classification, may have led to the application of tax differentials to sub-products for which no explicit authorisation was provided in the Decision. The analysis of ORs deliberations led to the identification of 13 such cases in Guadeloupe, namely:

- Some 11 CN8 sub-products belonging to the CN4 category 0307 'molluscs'. Before 2014 the entire CN4 category was supported. After the 2014 renewal, only three CN8 sub-products of this category were included in the list but, apparently, the differential remained applicable also to the other CN8 sub-products.
- Two CN6 products belonging to the CN4 category 4407 'wood sawn, chipped, sliced etc.'. Also in this case, the entire CN4 category was split into several CN6 sub-products after 2014 of which ten were included in the Decision list, but the differential remained also for these two products not explicitly mentioned.

The main issue, however, regards the application of tax differentials to products for which it is claimed that ***there is no 'equivalent' local production***. The issue is generally connected to certain CN categories that include heterogeneous products of which only some of which are produced locally. Leaving aside the complex matter of substitutability

[285] CJEU, ORDER OF 7. 7. 1998 — JOINED CASES C-405/96, C-406/96, C-407/96 AND C-408/96.
[286] This is, for instance, the case of crustaceans. Before 2014, the full heading (0306) was included in the OdM list. After the OdM Decision, only selected products (0306 15, 0306 16, 0306 19) were included, while others, such as rock lobster and other sea crawfish (code: 0306 11) were not, due to the lack of detailed information on local production. In this case, the internal OdM was increased to the same level of the external one (i.e. 15%).
[287] Before their re-integration by the 2019 decision, a zero OdM rate was applied on both imported and locally produced goods, to avoid penalizing local productions.

across products, the issue is often connected to the intrinsic, though inevitable, limitation of using the CN classification to identify OdM products. For instance, this is the case for the plastic products falling under CN 3920 (i.e., other plates, sheets, film, foil and strip, of plastics) that are all subject to tax differentials although only some of the 40 corresponding CN8 sub-products are actually produced in Guadeloupe. Similar cases were registered in other regions with pet foods in Réunion, washing and cleaning preparations, ham sold in slices etc.[288]

➢ SME ARRANGEMENTS

The OdM policy establishes that local producers with an annual turnover from relevant productive activities not exceeding EUR 300,000 fall outside of the scope of the tax's applicability. Before 2014, the exemption triggered at EUR 550,000, but there was also an administrative obligation for exempted firms to fill in and submit tax declarations nonetheless. So, the 2014 revision of the OdM at the same time reduced the threshold (enlarging the population of taxable firms) and eliminated the tax reporting obligation for exempted entities.

The representatives of the manufacturing sector encountered during fieldwork largely criticised this reform, mainly affecting small firms and artisans poorly equipped to deal with the ensuing increase in administrative charges. The case of bakers was repeatedly made to illustrate the negative effects produced by this reform. To verify if a firm exceeds the turnover threshold, as well as to compute the amount of the internal OdM due, only sales linked to the production activities are to be considered, and not the turnover of the company as a whole. In the case of bakery activities, firms generally sell also finished products (such as soft drinks) besides their bread-making activity. This requires distinction between the sales of self-made production and that of finished products – a particularly complex task for small businesses, which (i) may erroneously over-declare the amount of production sales, and (ii) have to face a substantial increase in time and effort devoted to comply with declaration obligations.[289]

Finally, more recently the combined effect of lowering the threshold and interpreting extensively the notion of 'processing' activities led to an increase in the number of local firms which are potentially subject to the OdM. Coherently, as indicated by the results of the business survey, 60% of respondents are in favour of raising the current OdM exemption threshold for local producers, while only 14% would be against such reform.

➢ PRODUCTION INPUTS

The OdM regime envisages ***exemptions for imported inputs*** used for other production activities, i.e., raw materials, packaging and/or other supplies (see Section 2.2). This exemption aims at preventing the intended benefits for local players being undermined by taxing imported production inputs. It is worth remarking that one of the main

[288] Additionally, an issue lamented by several private sector representatives (not strictly linked to the tax differential regime) regards the extensive interpretation of the 'local production' notion adopted by customs. Since the end of 2016, the change in tariff heading (CN4 code) is retained as the objective criterion to assess the concept of processing, and, then, to include operators among taxpayers subject to internal OdM. However, in the past years, the application of this criterion was subject to extensive interpretation, so opticians were asked to pay the internal OdM for the assembling of eyeglasses, and reportedly a large supermarket was reportedly required to pay the internal OdM for the warming up and finishing of frozen *pains au chocolat*.

[289] The above-mentioned emerging issues for small bakeries are compounded by the highly competitive price of imported products. Despite the 20% tax differential applied on imported bakery products, the cost of a locally produced fresh baguette is reportedly much higher than the cost of a frozen imported one. As a result, some interlocutors reported that an increasing number of entrepreneurs has voluntarily reduced their production activities in order not to exceed the EUR 300,000 threshold and increased imports of frozen products ('bakery is investing more in cold rooms and ovens, rather than production equipment'). Clearly, the effect produced is totally opposite to supporting local production, which is the aim of the OdM regime.

differences between the OdM and the similar AIEM regime applied in the Canary Islands concerns the approach to this issue. In particular:

- The OdM policy allows explicitly local competent authority to apply tax exemptions on production inputs. Such exemptions are available only to economic operators and are subject to certain conditions e.g. (a) they can apply only to direct imports (also when through a delegated agent), and (b) exempted capital goods have to be retained for at least three years. Products that can be exempted are precisely identified through lists periodically adopted by ORs' competent authorities.
- Exemptions for production inputs are not envisaged in the AIEM policy, on the other hand. The approach adopted in the Canary Islands is to add ad hoc specifications to CN definitions (similar to French CANA codes) so as to distinguish products for retail from products for wholesale and exempt the latter. For instance, fruit juice is subject to the AIEM only when delivered in packs exceeding 150kg.

The Canarian approach is, in certain respects, simpler and more straightforward for businesses, as it does not require any additional administrative activity to request and obtain the exemption. On the other hand, product identification is less precise than in the French approach – local ORs' deliberations include hundreds of products – and, as the results of the survey show, it may be less effective: the reported incidence of the tax paid on imported inputs is 2.8% on average for Canarian producers, while it amounts to 1.9% in the case of French ORs.

A precise ***quantitative estimation*** of the exemptions for imported inputs is unfeasible due to the lack of detailed data, but back-of-the-envelope calculations suggest that the measure is effective in significantly reducing the impact for producers. Aggregate figures collected from competent authorities indicate that the foregone revenues linked to this type of exemption amount to roughly EUR 34 million in Guadeloupe and EUR 24 million in Martinique. According to Input-Output tables, the intermediate consumption in the relevant sectors (primary sector, manufacturing and mining) amount to approximately 60% of the value of production,[290] while survey data indicate that some 40% of production inputs are of imported origin. Combining these two figures and assuming an average external OdM rate of 12%[291], the hypothetical OdM levied on imported inputs would amount to EUR 25 million. So, the extent of the reported exemption (EUR 24 million) would nearly cover the entire hypothetical amount. Figures are subject to a large degree of approximation – e.g., according to the survey local producers in Martinique would actually pay approximately EUR 16 million of OdM tax on imported inputs – but overall suggest that the taxation of production inputs remains limited and does not jeopardise the benefits of the special regime for local producers.

4.3 Effectiveness

Evaluation Question #6: *What is the "additional cost" of local production by products to which differentiated taxation may apply?*

➢ Estimation of additional costs

The structure and methodological approach to the identification and estimation of the effects of the structural handicaps of ORs was systematised by a study prepared by LL&A in 2006 for the European Commission.[292] The methodology elaborated in the 2006 study has remained the main reference for other studies which over the years have tried to

[290] The latest I/O table available for Martinique dates back to 2014, but it can be reasonably assumed that the incidence of intermediate consumption has not changed significantly in recent years.
[291] Simple average external OdM rate applied to all products in Martinique in 2018.
[292] "Etude sur l'identification et l'estimation des effets quantifiables des handicaps spécifiques propres aux regions ultrapériphériques ainsi que des mesures applicables pour réduire ces handicaps", Louis Lengrand & Associés and Université Libre de Bruxelles, January 2006.

assess the extent of additional costs faced by local enterprises in relation to the structural handicaps of the ORs. These include the more recent LL&A study (2016) that provided a comprehensive and updated assessment of the additional costs affecting the private sector in French ORs. The *LL&A 2016* study encompassed all types of endogenous and exogenous costs and took into account the differences across sectors, involving all the sectors of OR economies and not only those supported by the OdM regime.

The results of the *LL&A 2016* study are briefly summarised in Table 4.9 below, in particular:

- Overall, the bulk of the additional costs stems from two main items that altogether account for some 60% of the total, namely: (a) the freight costs for shipment of raw materials and supply to the ORs; (b) the reduced productivity of labour caused by diseconomies of scale.
- The only exception is represented by the primary sector, where the higher cost of land is the primary additional costs factor (some 55% of total additional costs).
- As compared to other sectors, the industrial sector presents a specific distribution of additional costs. The largest factor is the 'idle production capacity' (30% of the total), including the oversizing of equipment (and the related higher incidence of depreciation) and the maintenance costs (spare parts and technicians, at some times, are not locally available), as well as the effects – for various local players – of a high differentiation of production, fragmented in small lots. Secondly, the manufacturing sector registers a relatively higher incidence of the cost of inputs (higher prices due to weak bargaining power, unfavourable payment conditions, overstocking to prevent shortage, the need to purchase semi-processed materials etc.).

Table 4.9 - Estimated additional costs in French ORs, by sector and cost factor (EUR million, 2016)

	Freight costs	Cost of Inputs	Land	Idle production capacity	HR costs	Financial costs	Total
Primary sector	46.7	30.2	336.6	48.7	9.6	135.2	607.1
Manufacturing and mining industries	132.7	163.6	0.0	348.7	200.1	309.6	1,154.7
Construction	127.6	0.0	0.0	0.0	61.6	20.9	210.1
Trade, accommodation and catering	305.8	0.0	0.0	0.0	475.3	83.4	864.5
Services	209.8	0.0	0.0	0.0	155.4	266.0	631.3
Scientific and technical activities; admin. and support services	26.7	0.0	0.0	0.0	292.7	83.3	402.7
Public administration, education, health and social service	304.7	0.0	0.0	0.0	373.0	-40.9	636.8
Total	**1,154.0**	**193.9**	**336.6**	**397.4**	**1,567.8**	**857.5**	**4,507.1**

Source: *LL&A, 2016.*

In addition to the abovementioned overall studies, a standard approach was developed specifically for the OdM regime, with the aim of ensuring the proportionality of the applied tax differentials with the actual needs of specific production activities. The approach was centred on the preparation of ***product fiches*** (*'fiches surcoût'*), detailing the estimated additional costs incurred by local firms compared to their competitors based on the mainland. This detailed product-by-product analysis has been done since 2012 to support the request for amendment of the product lists annexed to the Decision, as well as for monitoring purposes. In the framework of the Study, an overall 1,233 point estimates for additional costs[293] have been gathered in a detailed database covering all French ORs in the period 2010-18[294]. The review of these product *fiches* allows some analytical considerations of product-level additional costs estimated for the purpose of the OdM implementation (see Table 4.10.A):

- The structure of the product *fiche* largely follows the structure of the LL&A studies, but the catalogue of cost factors considered differs among regions, ranging from 5 in French Guiana to 7 in Réunion, and 14 in Guadeloupe and Martinique. The higher granularity of analysis for Guadeloupe and Martinique allows for capturing some specificities of the production processes for different goods but hinders cross-region comparison.
- The bulk of the additional costs – approximately 83% on average - is generated by four cost factors, registered in all French ORs: additional costs of input (including freight costs and higher prices due to limited bargaining power); diseconomies of scale affecting both depreciation and idle production capacity of equipment and reduced productivity of labour; and the need for larger stocks, requiring extra storage capacity and increasing financial costs.
- There are some significant differences in the average estimation of cost factors across regions that seem not to be attributable to the specificity of the local economy or to diverse structural features but, more likely, to disparities in the assessment method, including a different understanding of the cost factors across ORs and a different capacity for making accurate estimates across the firms involved in the assessment exercise. For instance, the additional costs of building up larger stocks is estimated on average around 3% of the turnover, except in F. Guiana, where it amounts to 12.3%; similarly, staff costs are estimated 5% on average, but in Mayotte they amount to 23.2%.
- Some variability connected to the assessment methodology (and its practical implementation) emerges also by comparative analysis of additional costs attributed to the same product in different regions or in the same region over time. In the first case, a disparity of assessments is registered for the same product between regions of nearly 13%, on average (based on some 240 observations). In the second case, the re-assessment of the same product in different period led to an average variation of estimates of 5.5 percentage points (based on 300 observations), with variations exceeding 12 percentage points in 10% of cases.
- Overall, despite the variability described, the average estimate of additional costs is fairly consistent across regions, amounting on average to 27% of the enterprise turnover. The only exception is represented by Mayotte, where the average additional costs amount to 44%, but this seems plausible with the comparatively more severe handicaps and economic conditions of this region compared to the other ORs.
- In monetary terms, and based on the local production estimates produced for the latest OdM report, the total additional costs amount to EUR 1.45 billion annually. This figure is in the same order of magnitude of the LL&A estimate (see EQ#2), but this might be due to the fact that the value of production of firms falling below the EUR 300,000 turnover threshold has no longer been computed after the 2014 reform of the OdM policy.

[293] The point estimates refer to specific products at the level of detail indicated in the product fiche, which may range from CN4 to TARIC10. The number of point estimates is greater than the number of products because in some cases the same product has been re-assessed in different time periods.

[294] Various sources have been used to set up the database, including product fiches transmitted to the Commission for the 2014 renewal of the scheme and the 2019 amendment of the Decision, and fiches included in the mid-term reports produced by ORs in 2018, namely: Action Publique Conseil and Région Guadeloupe, 'Guadeloupe - Rapport à Mi-Parcours Relatif au Dispositif d'octroi de Mer', January 2018; Action Publique Conseil and Collectivité Territoriale de Martinique, 'Martinique - Rapport à Mi-Parcours Relatif Au Dispositif d'octroi de Mer', February 2018; Collectivité Territoriale de Guyane, 'Contribution de La Collectivité Territoriale de Guyane Au Rapport d'étape Sur l'octroi de Mer', 2018; Ile de La Réunion, 'Octroi de mer – Etude relative à l'évaluation du dispositif de soutien à la production locale a la Réunion. Le dispositif de différentiel d'octroi de mer depuis 2015'.

For illustrative purposes, the ***additional costs structure related to some exemplary products*** is reported in Table 4.10.B below. The sample includes products relevant for intra-regional trade[295] for which a detailed breakdown of additional costs is available.[296] Data analysis largely confirms the previous remarks, but some product-related specificities emerge:

- Additional costs due to production inputs are much lower for agricultural products than for manufactured ones, e.g. only 2% for flour and 5-6% for rice.
- Conversely, the incidence of additional costs related to stock-keeping is higher for agricultural products (and forestry products) than for manufactured goods (only 0.5% for plastic bottles, and 2% for toilet paper).
- The incidence of other cost factors does not display clear patterns and seems to be influenced by the heterogeneity of measurement approaches across ORs. For instance, additional staff-related costs are higher in Martinique, irrespective of the product (pineapples, waters and rum), while maintenance costs are higher in F. Guiana (rum, cement and rice).
- In the sample reported in Table 4.10.B, similar products have similar cost structure. This is the case with rum in Guadeloupe, Martinique and F. Guiana – which report also similar total costs – and with rice in Guadeloupe and F. Guiana – where the total estimated costs are different but their distribution by factor is almost equivalent.

Table 4.10.A – Estimated additional costs as % of turnover, by cost factor and OR

	Cost of Inputs	Stocks	Equip-ment	Maint.	Staff costs	Fin. costs	Energy	Others	Partial total	General total	EUR mio.
MTQ	11.2%	0.0%	2.6%	0.8%	9.0%	1.0%	0.6%	1.9%	27.1%	27.9%	360.2
GLP	9.5%	3.0%	3.7%	2.0%	4.9%	1.1%	0.7%	1.3%	26.2%	23.8%	261.5
GUF	7.6%	12.3%	5.3%	4.4%	0.0%	0.5%	0.0%	6.9%	37.0%	28.7%	155.5
MYT	9.7%	3.7%	8.8%	1.4%	23.2%	0.0%	1.7%	2.5%	50.9%	44.0%	59.2
REU	9.6%	2.5%	6.3%	1.4%	3.7%	0.6%	1.3%	2.1%	27.5%	24.1%	613.4
Overall	**9.5%**	**5.7%**	**4.7%**	**2.1%**	**6.5%**	**0.8%**	**0.7%**	**1.9%**	**31.8%**	**27.0%**	**1449.8**

Source: *Own processing based on a sample of 1,233 additional costs estimates. For the monetary estimates, we have used the value of local production as reported in the latest OdM evaluation (Technopolis, 2018).*
Notes*: The figures for cost factors represent the simple average for the products in the sample. The 'partial total' is the sum of the individual cost factors estimate, but it is not indicative of total costs because for various products in the sample, no break-down-by-cost factor is available. The 'general total' includes also products for which only an aggregate estimate was available and for this reason it does not coincide with the 'total partial' but provides a more accurate indication of OR-level total costs.*

[295] This refers to products in the list of interest submitted to the Commission by CARIFORUM and Mauritius (see EQ#3).
[296] As seen, product fiches cover many more products, but in various cases products are either defined at a different level (CN4), or the breakdown by cost factor is missing.

Table 4.10.B – Estimated additional costs for an illustrative sample of products (in % of sales value, net of relevant aids)

	OR	Cost of Inputs	Stocks	Equip-ment	Maint.	Staff costs	Fin. costs	En.	Oth.	TOT
§ 07096010 - Fresh or chilled sweet peppers	GLP	5.0				7.5				**12.5**
§ 080430 - Fresh or dried pineapples	MTQ	3.4		10.8	1.3	13.4	0.0	1.3	0.9	**28.3**
§ 100630 - Semi-milled or wholly milled rice	GLP	5.0	18.5	2.5	0.5	5.3	0.1		1.4	**33.3**
	GUF	6.7	25.9	3.2	3.9		4.3			**44.0**
§ 100640 - Broken rice	GLP	5.0	18.5	2.5	0.5	5.3	0.1		1.4	**33.3**
§ 110100 - Wheat or meslin flour	GLP	2.0	2.9	10.4	3.5	4.2	1.9		1.0	**25.8**
§ 200559 - Unshelled beans "Vigna spp., Phaseolus spp.", prepared or preserved otherwise than by vinegar or acetic acid (excl. frozen)	REU	17.0	1.0	3.0	1.0	3.0	1.0			**25.0**
§ 220210 - Waters, incl. mineral and aerated, with added sugar, sweetener or flavour	MTQ	7.2		5.3	2.6	15.9	1.3	0.9	2.8	**36.1**
§ 220840 - Rum and other spirits obtained by distilling fermented sugar-cane products	GLP	10.0	1.5	5.5	4.0	5.5	1.5		1.5	**29.5**
	GUF	9.5	8.9	2.4	7.4		1.2			**29.4**
	MTQ	12.1		3.4	0.7	9.1	1.1	0.3	1.7	**28.5**
§ 252329 - Portland cement (excl. white, whether or not artificially coloured)	GUF	19.9	9.0	3.3	7.8				0.3	**40.3**
§ 340600 - Candles, tapers and the like	GLP	10.0		2.0	1.0	5.5	1.0		1.5	**21.0**
§ 392330 - Carboys, bottles, flasks and similar articles for the conveyance or packaging of goods, of plastics	REU	8.4	0.5	1.7	1.6	8.0	0.0	1.3	6.9	**28.4**
§ 392520 - Doors, windows and their frames and thresholds for doors, of plastics	REU	5.0	4.0	6.0	3.0	4.0	1.0			**23.0**
§ 440729 - Tropical wood, sawn or chipped lengthwise, sliced or peeled, whether or not planed, sanded or end-jointed, of a thickness of > 6 mm *[excl. other codes]*	GUF	11.2	10.9	16.8	2.8		0.2			**41.8**
§ 48181090 - Toilet paper in rolls of a width of <= 36 cm, weighing per ply > 25 g/m²	REU	16.0	2.0	5.0	1.0	2.0	0.0			**26.0**
§ 721420 - Bars and rods, of iron or non-alloy steel, with indentations, ribs, groves or other deformations produced during the rolling process	GUF	4.0	9.2	3.2	1.7		1.4			**19.5**
§ 730830 - Doors, windows and their frames and thresholds for doors, of iron or steel	MYT	16.0		4.0	2.0				2.0	**24.0**

Source: *Own processing based on product fiches review.*
Legend*: Maint.= maintenance costs; En.=costs of energy; Fin.=other financial costs; Oth.=all other costs.*

Both the average value (around 27%) of the additional costs borne by local producers and the importance of the top-three cost factors were confirmed by the entrepreneurs encountered during fieldwork. Box 4.2 below provides some illustrative examples related to specific products, based on interviews with OR players.

Box 4.2 – Additional costs for specific products, evidence from fieldwork

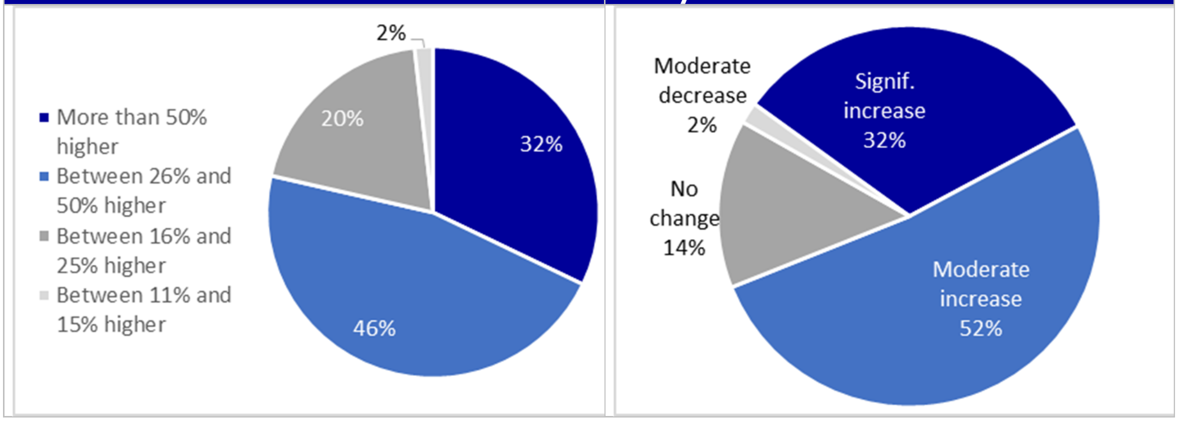
The mechanisms behind the additional costs faced by local producers have been discussed with stakeholders during field work in Réunion, Guadeloupe and Martinique. For illustrative purposes, some examples related to specific production activities, are reported below:

- A juice producer indicated equipment oversizing as the most significant additional cost. The production equipment only works 5-7 hours/day, in spite of an installed working capacity of 20 hours/day. The installed production capacity, comprising three production lines, is 17,800 litres/hour. Hence, if production lines were working at full capacity, the annual production would exceed 100 million litres/year. The actual annual production, however, only amounts to 14 million litres (i.e., less than 15% of the installed one). The producer also faces high supply costs, as raw materials (fruit pulp) are imported mainly from South America (Brazil and Ecuador) and packaging from the mainland. Cardboard and sugar are the only production inputs supplied locally.
- A bottled water producer reported that, even though the raw material is local, high additional costs are incurred to supply other production inputs, such as bottle caps and plastic bottle preforms. These intermediate goods need to be imported from the mainland and determine additional costs equal to 15% of turnover, whereas mainland competitors typically produce these inputs in-house. The equipment oversizing compared to the local market ranked second in terms of additional costs factors, with a local production limited to 80 hours/week against some 144 hours/week in the mainland (translating into additional costs equal to 6.5% of turnover). The third main type of additional costs concerns 'salaries', mainly due to the amortisation of payroll expenditures over a lower production. Overall, additional production costs as a share of turnover are estimated at about 30%.
- A couple of yoghurt makers estimated additional production costs compared to mainland competitors at above 30% as a share of turnover, mainly due to salaries. Even though these firms work well below (about one-quarter) their production capacity (one reported 4 days/week), their staff structure is very similar to competitors based in the mainland, including, among others, a director of procurement, a safety and environmental manager, a director of quality, and a director of supply management. As a result, significantly higher staff and investment costs are faced as a share of turnover. The higher costs of 'input supply' also represent a major additional costs factor. In particular, the cost of input supply is increased by the higher unit price paid (competitors who purchase 10 times more packaging reportedly pay a halved unit price), the difficulties encountered in complying with the minimum order quantity (the production of a product in glass bottles had to be stopped because it would have taken 10 years to fill all bottles), and the transportation costs for production inputs that are largely imported (less than 10% are sourced locally).
- Two local manufacturers of aluminium structures, such as doors and windows, assessed the higher cost of 'input supply' as, by far, the main factor reducing the competitiveness vis-à-vis mainland producers. These firms import almost 100% of their production inputs (glass, aluminium profiles, etc.), which account for about 50% of their cost price. The lower productivity of both equipment and staff, due to the small scale of activity, is the other main cost factor. Overall, these firms assessed their production costs as a share of turnover at about 25% higher compared to mainland competitors.

The survey results are also largely in line with these findings. Almost 80% of local producers assessed their total production costs at more than 25% higher than the production costs for a similar product made in the mainland, and 36% of respondents estimated this differential at above 50%. The respondent's self-assessment of ***additional production costs*** varies across regions and firm size classes. With regard to regions, firms based in Réunion provided higher estimates, with half of respondents reporting additional production costs which were more than 50% higher compared to businesses operating in the Antillean ORs, where more than half the firms reported additional costs in the 26%-50% higher range. As for size classes, only one medium-sized firm reported additional production costs which were more than 50% higher, compared to almost half of the micro-firms. According to survey responses, the size of additional costs has grown moderately over the past five years. Opinions in this respect did not significantly differ by firm size and across regions, even though firms located in Réunion displayed more variegated opinions compared to businesses in the Antillean ORs, where 90% of respondents reported an increase in additional costs.

Figure 4.5 – Stakeholders' assessment of additional production costs and their evolution

A) Share of respondents by size of additional production costs	B) Share of respondents by assessment of additional costs evolution in the past five years

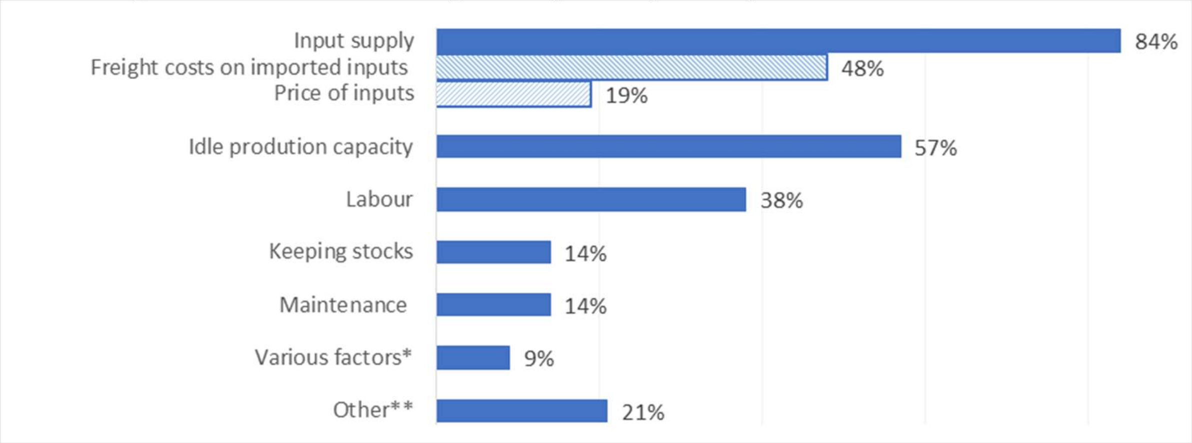


Source: *Business survey.*

The assessment of the top three ***factors increasing local production costs*** provided by the manufacturing firms surveyed is in line with the product *fiches*, confirming the above-mentioned ranking. The higher input costs are, by far, the most cited cost factor as compared to competitors based in the mainland, which are mentioned by 81% of respondents. This high share includes 28 firms mentioning freight charges on imported inputs ('*Cout de transport des matières premières*'), 11 firms that specifically indicated the higher price paid for production inputs ('*Achat en petite quantité chez les fournisseurs en Europe induisant des prix d'achat élevés*'), and 18 firms either referring to both aspects ('*Achat et logistique*') or generically referring to '*approvisionnement*'.[297] The 'idle production capacity' due to the limited size of the market and related inefficiencies in terms of equipment underutilisation ('*dotations aux amortissement*') is the second most frequently cited cost factor, indicated by 57% of the local producers. 'Salaries' rank third, being cited by 38% of respondents. Finally, the additional maintenance costs and expenses incurred due to larger stocks were each indicated by about 15% of respondents. However, the share of firms actually considering larger stocks as a major cost factor is higher, as some firms considered this factor as a component of the overall higher input cost.

[297] In some cases, the same firm mentioned more than one of these three factors, and, thus, the total number of businesses that indicated 'input supply' as one of the three major additional costs is smaller than the sum of these three groups.

Figure 4.6 – Stakeholders' assessment of the top-three cost factors (% of respondents mentioning the cost factor as being among the top three)



Source: *Business Survey.*
Notes*: * General replies, encompassing several different cost factors (e.g., 'L'insularité et l'éloignement : coût du foncier, coût du frêt, coût de la maintenance, coût de l'assurance décennale'); ** It includes other cost factors mentioned by only few firms (such as insurances, marketing and distribution, and waste treatment).*

➢ VALIDITY AND LIMITATIONS OF ADDITIONAL COSTS ESTIMATES

Additional costs borne by local producers - expressed as a ratio of production costs of a similar competitor from the mainland - represent at the same time one of the eligible criteria for the application of tax differentials (see EQ#4) and the benchmark for setting the maximum permitted tax differential. The underlying assumption is that, if the tax differential does not exceed the estimated additional costs of production, there is no risk of overcompensation or of a disproportionate distortion of the market. The estimation of additional costs is, therefore, a pillar of the justification and quantification of the OdM tax differential regime.

The methodology applied to assess the additional costs in French ORs has been refined over the past years. Local producers and their business associations have become familiar with the product *fiches* (*fiches surcoûts*), and the involvement of an external contractor, supporting the data collection and verification process, is reportedly increasing the accuracy and robustness of the estimates. Nonetheless, the exercise has some intrinsic, unavoidable limitations that require taking the results with caution. In particular:

- Several 'cost factors' that concur to the total additional costs are estimated based on the consultation of the concerned enterprises. However, in some areas, there are ***only few players*** so there is a notable risk of bias. Where, instead, players are numerous, the consultations do not necessarily guarantee statistical representativeness.
- The aim of the exercises was to compare the production costs of 'like products' in the outermost regions and on the mainland. Leaving aside the complexity of the notion of 'like products', it should be considered that the ***structure of the market and competition*** in French ORs and in the mainland is radically different, as it is the production structure. A large player in the ORs would be considered small on the mainland, and while in the ORs industries are required to adopt multi-product strategies to serve their market, mainland enterprises increasingly move toward extreme specialisation. In this sense, it is not clear which comparators should be selected and under which conditions, to ensure the validity of the comparison exercise.
- Additional costs are defined in relative terms, i.e., with respect to the production costs on the mainland but, as results from fieldwork interviews, some product *fiche* estimates are based primarily on the ***information self-reported*** by OR firms, so there is an inevitable bias and uncertainty in how a local producer considers their disadvantage compared to a mainland competitor. While for some cost factors, such as freight costs and unitary costs of production inputs, robust estimates can be

reasonably made, the assessment of the additional costs linked to economies of scale and production levels is liable to the risk of having insufficient information available to local players being supplied.
- In certain circumstances, when the additional costs estimates are used to justify tax differentials, it would be important to distinguish between the additional costs affecting target production activities from ***costs affecting also non-target activities***, to prevent the risk of distortions.
- The product *fiches* should indicate deducted additional costs because they are ***already compensated for under the other EU support schemes***, but the review of a sample of *fiches* revealed that this is not always nor consistently done.

Evaluation Question #7: *To what extent has the fiscal advantage contributed to: realising the objectives of Article 349 TFEU, and in particular has it achieved the objectives of compensating for higher production cost of goods in the different Outermost Regions?*

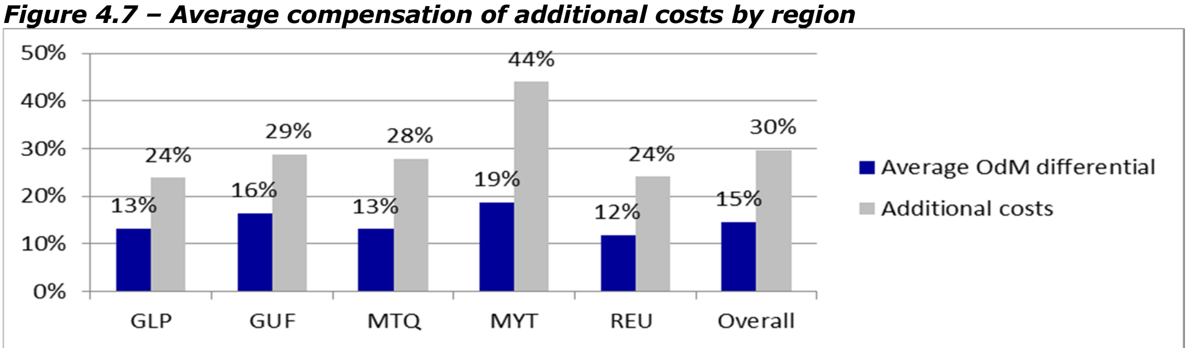
➢ **THE EXTENT OF ADDITIONAL COSTS COMPENSATION**

The first part of the answer to this evaluation question examines the extent to which the additional costs faced by local producers are compensated for by the OdM special regime. Before proceeding with an analysis, it is useful to remark that the notion of 'compensation' in this context is figurative, because the policy does not directly subsidise beneficiaries (like other aid measures do) but it mitigates the production costs 'gap' with their competitors, thus having effects similar to a direct compensation.

The most straightforward indicator for the extent of the compensation is the ***ratio between the tax differentials applied and the additional costs estimated***. The tax differential typically compensates only part of the additional costs estimated, i.e., some half of them with limited differences across ORs. The figure 4.7 below illustrates disparities in the extent of the compensation between regions:

- The highest degree of compensation is found in F. Guiana (i.e., some 57%) and Guadeloupe (55%).
- Conversely, the lowest incidence of compensation (approximately 42%) is registered in Mayotte, although, in absolute terms, it is the region where the average tax differential is the highest.

Figure 4.7 – Average compensation of additional costs by region



Source: *Own processing of data from product fiches and deliberations of French authorities.*
Notes: *The year of the additional costs estimate and of the OdM differential applied do not always coincide.*

It is important to underline that the estimates provided in Figure 4.7 are based on the simple average of the rates and additional costs related to the list of products supported by the OdM, irrespective of their importance for the local economy and market share. For this reason, the extent of the compensation appears to be different from what is presented under EQ#2, but both the methods and the purpose of that analysis were different: the method simply compared the value of the OdM special regime (in terms of foregone revenues) with the aggregated monetary value of the ORs' additional costs, while the purpose was to assess the cumulation of aid and its overall proportionality.

For a meaningful estimation of the weight of the compensation extended under the OdM special regime, reference should be made to the amount of the tax charged on imports. This approach accounts for the particular features of the regime, which does not compensate local producers directly - i.e., through subsidies or financial aid – but supports local production by taxing the competing imported products. In this sense, the extent of the compensation roughly corresponds to the amount of tax revenue collected on the OdM supported products. So, we calculated the ratio between the tax receipts corresponding to the tax differential (i.e., virtual 'additional' amount of tax collected on imports compared to local products) and the estimated monetary value of the additional costs product by product and in relation to the total production value. The analysis covers a sample of products because of data gaps (especially for local production) but largely confirms the above estimates, showing that the ***overall extent of the compensation for additional costs amounts to approximately 49%*** on average.

Finally, we have examined the correlation that might exist between tax differentials and estimated additional costs to verify whether the extent of the support is proportional to the need. As Table 4.11 shows, such correlation is moderate in all French ORs (around 0.45-0.55), except Martinique where no correlation can be found. The coefficient proves to be stronger when the correlation is made with the maximum permitted differentials.

Table 4.11 - Correlation between additional costs and tax differentials applied to OdM products in French ORs

	GUF	GLP	MTQ	MYT	REU
Correlation coefficient - actual OdM differential	0.41	0.47	0.02	0.51	0.53
Correlation coefficient - permitted OdM differential	0.58	0.55	0.11	0.75	0.58

Source: *Own processing of quantitative data.*
Notes: *Based on a sample of 544 products for which sufficient data were available.*

➢ IMPACT OF THE ODM ON PRICE-COMPETITIVENESS

In evaluating the effectiveness of the OdM regime, it is important to consider the underlying logic behind the measure. As described previously, the particular logic of the OdM regime consists of sustaining the competitiveness of local production by taxing the competing products of external origin. In this sense, in theory, if the tax rate is well-calibrated, local producers and importers compete on equal terms and price differences reflect only individual operators' competitiveness but not the effects of structural handicaps. In practice, this fairly straightforward logic faces numerous obstacles in its practical implementation. First and foremost, there is the abovementioned impossibility to univocally determine the additional costs caused by structural handicaps at product level (see EQ#6). Secondly, an obstacle arises due to the fact that costs differentials ***do not automatically translate into equivalent price differentials.*** Various reasons for this fact are worth summarising:

- Due to their remoteness and small size, French ORs are clearly far from being a 'perfect competition' market. On the contrary, both imports and local production activities feature oligopolistic traits. For this reason, as documented in the economic literature, the price dynamics and the operating margins established by economic players are subject to a number of influential factors that go beyond the production costs and the characteristics of the demand. In particular, a recent academic paper examining the OdM impact in Martinique showed that the effectiveness of tax differentials in redressing price-competitiveness goes down, the higher the trade margins on imported products go up.[298]

- The OdM is calculated on the CIF value of imported goods (i.e., the value declared at customs, inclusive of freight and insurance) and not only on the cost price of the product. Moreover, the CIF value includes also other production taxes (e.g., the *éco-contribution* payable on certain productions) paid by the producer. The application of the tax on the CIF value responds to evident practical and procedural needs, still this distortive effect, although minor, should be factored into the calibration of the OdM rates. On the other hand, the impact of freight costs is generally minimised through the practice of mixed containers (*container melangé*) i.e., filled up with low-value and high-value goods to spread out shipping costs.
- Being a fully *ad valorem* tax, the amount of the OdM levied on imported goods is proportional to the customs valuation. In this respect, various local industry stakeholders complain that large suppliers adopt transfer pricing and fiscal optimisation strategies to minimise the impact of the OdM. The issue is largely anecdotal, and no hard evidence was collected in this respect, but it was ascertained that these practices are technically possible and there are no tools available to competent administrations to systematically verify and/or prevent them.
- Finally, French ORs are isolated markets and are therefore prone to commercial practices which are unfeasible on the mainland, such as importing and selling at cost price or with low margins, stocks of products that come from production surpluses or that cannot be sold on the mainland for seasonality reasons.

Despite (or even reinforced by) the above issues, all local producers encountered during the fieldwork stressed the ***importance of the OdM for their competitiveness***, even though the price gap between their products and imported ones is not fully closed. The results of the business survey point in the same direction. To measure the impact of the OdM on price-competitiveness, producers self-reported additional costs estimates can be compared with the market price differentials registered for like products of imported origin. As illustrated in Table 4.12 below, the estimated gap in production costs is higher than the retail price difference between local and imported products for only a few respondents (red cells). In contrast, for the large majority of surveyed firms, the additional production costs appear to be compensated somehow. As a result, a 'positive' (light green cells) or 'very positive' (dark green cells) impact of the OdM can be assumed for over two-thirds (68%) of respondents. Still, in most cases (55%), the price-competitiveness is restored only partially, as the retail price of imported products remains lower than that of local ones.

Table 4.12 – Distribution of local producers based on additional costs and market price differences

Average retail price differential	**Size of additional local production costs**			**Total**
	Medium-high (b/w 16%-25%)	**High (b/w 26%-50%)**	**Very high (in excess of 50%)**	
Price of local goods extremely higher than imported ones (in excess of 50%)		2%	9%	**11%**
Price of local goods much higher than imported ones (b/w 21%-50%)	4%	11%	6%	**21%**
Price of local goods moderately higher than imported ones (b/w 6%-20%)	8%	8%	8%	**23%**
Price of local goods in line with imported ones	8%	19%	8%	**34%**
Price of local goods lower than imported ones	4%	6%	2%	**11%**
Total	**23%**	**45%**	**32%**	**100%**

Source: *Business survey. Respondent base: 53.*

[298] Marques, Bruno. 'Contribution à une compréhension économique de l'octroi de mer – le cas de la Martinique', 10 October 2018.

***Legend**: red cell = no impact; yellow cell = none/limited impact; light green cell = positive impact; dark green cell = very positive impact.*

As illustrated in Table 4.13, the OdM ***impact on price-competitiveness*** looks comparatively more marked for (i) products with a higher tax differential (even though the number of observations, especially for products falling in OdM categories 'A' and 'C', is limited); (ii) food & beverage and chemical products, also due to higher unit transportation costs paid for products of low added value and/or requiring expensive refrigerated cargo (e.g., cream and yoghurts, fresh or chilled lettuce, fresh or chilled fish, and ice-cream); and (iii) firms of a medium size, in line with the comparatively lower additional production costs. As these explanatory variables are correlated - for instance, all surveyed medium-sized firms but one are active in the food industry and the chemicals segment - assessing their relative importance is difficult. In addition, the average values reported in the table below feature high variance. The replies provided by local producers are fairly differentiated and affected by the difficulty in identifying a 'similar' product, thus raising questions as to the real substitution potential for local production for certain goods, and the appropriateness of applying the OdM special regimes in such cases. The importers' responses further confirm the importance of this issue: over 60% of surveyed importers regard their imported product with OdM differentiated rate as not comparable with any local product, even in the case of food products, such as water, wine, and bakery products.

Table 4.13 – The OdM impact on price-competitiveness, by tax differential, sector and firm size

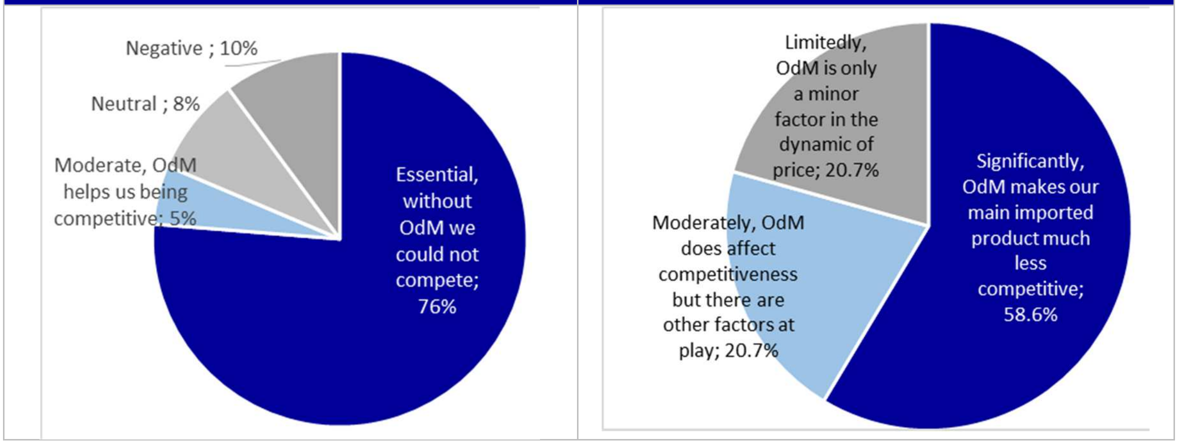
OdM impact	OdM Differential			Sector			Firm size class		
	A	B	C	Chemicals & Plastic	Food & Beverage	Other	Micro	Small	Medium
Very positive	25%	58%	80%	62%	70%	31%	50%	53%	67%
Positive	25%	15%	0%	31%	0%	25%	20%	17%	11%
None/ limited	50%	27%	20%	8%	30%	44%	30%	30%	22%
Total	**100%**	**100%**	**100%**	**100%**	**100%**	**100%**	**100%**	**100%**	**100%**

Source: *Business survey. Respondent base: 42 (OdM differential), 49 (sector), 53 (firm size).*

The importance that local producers attribute to the OdM in shaping the conditions for competition seems to exceed its actual magnitude and scope. More than three-quarters of local producers (and 82% excluding small firms with a turnover below the OdM exemption threshold) qualify the OdM as 'essential', adding that without it they could not compete. This very positive assessment is evenly spread across regions (73% in Indian Ocean islands and 77% in the Antilles and F. Guiana). The few respondents that assessed the tax impact negatively are individual firms not liable to the tax, or micro-firms that recently became liable to the OdM (following the reduction of the threshold). Analogously, the majority of the importers (59%) claim that the OdM affects 'significantly' the competitiveness of their imported products with the OdM differential rate, and another 20% assessed this impact as 'moderate'.

Figure 4.8 – Self-reported assessment of OdM impact on price-competitiveness

A) Share of local producers	**B) Share of importers of products with the OdM differential rate**



***Source:** Business survey. Respondent base: 59 (local producers) and 29 (importers).*

The firms' self-reported assessment is inversely related to the price gap between their products and imported ones and, thus, in line with the above categorisation of the OdM impact on price-competitiveness (none/limited, positive, or very positive). Over 80% of the firms that deemed the tax impact as essential, consistently experienced an, at least, 'positive' impact of the OdM on price-competitiveness. Still, a non-negligible number of firms reporting a retail price of their OdM product as being much higher than imported ones, also expressed a high appreciation of the tax impact. This potential contradiction is explained by the existence of a self-reporting bias as well as by the origin of imported goods: while additional costs are measured with reference to a competitor based in mainland France, the retail price competitiveness gap is measured against 'similar' imported goods, irrespective of their origin. In this respect, some surveyed firms (e.g., producers of aluminium structures, as illustrated below), indicated that Asian products are regarded as the most competitive ones.

Additional insights on the effectiveness of the OdM in redressing the price-competitiveness of local products as well as on other factors affecting its working can be drawn from a closer review of selected products with differentiated OdM rates, namely:

- Waters, incl. natural or artificial mineral waters and aerated waters, not containing added sugar, other sweetening matter or flavoured (CN code: 2201 90 00);
- Buttermilk, curdled milk and cream, yoghurt, kephir and other fermented or acidified milk and cream, etc. (CN code: 0403);
- Aluminium structures and parts of structures (for example, bridges, towers, roofs, doors and windows) (CN code: 7610).

The responses gathered from producers and traders of the above product categories, summarised in Table 4.14 overleaf, largely confirm the effectiveness of the tax in redressing price-competitiveness, as well as the importance of other factors, such as the increasing impact of the tax in the case of imported goods with low value-added and/or large volume, leading to high unit transportation costs, and the rising competition of low-quality products from non-EU countries.

Table 4.14 – OdM impact on the price-competitiveness of selected product categories

Product (CN Code)	OR, List, actual tax differential	Retail price Differential	Tax impact for producer	Tax impact for traders	Summary findings
Waters, incl. natural or artificial mineral waters and aerated waters, not containing added sugar, other sweetening matter or flavoured (CN code: 2201 90 00)	• GLP (B; 20%) • MTQ (B; 20%) • REU (A; 6.5%)	• The price of imported goods is assessed as being in line or slightly lower than locally-produced ones	• Additional production costs estimated as medium to high (30%) • Tax impact assessed as 'Essential'	• Traders stressed the role of the tax to double / triple the cost price of imported goods, due to the high incidence of both transportation costs and the OdM paid on the cost price of imported goods (see Box 4.3) • Tax impact assessed as 'Significant'	• The tax impact is significant for local producers in the Antillean ORs. • The tax has a multiplier effect on unit transportation costs, which are very high given the low value-added of the product. • The tax produces positive effects in terms of reducing market prices, as the lower price of local products sets the benchmark for imported ones.
Buttermilk, curdled milk and cream, yoghurt, kephir and other fermented or acidified milk and cream, etc. (CN code: 0403)	• GLP (B; 20%) • MTQ (B; 16%) • GUF (B; 20%) • REU (A; 6.5%)	• Overall, the price gap is regarded as limited and affected by the selection of the imported similar product (for 2 of the respondents, imported and local products cost the same; for 3 of the respondents, imported products are cheaper; and for 2 others, locally-produced good are cheaper)	• Additional production costs assessed as varying from 20/25% to more than 50% • Tax impact assessed as 'Essential'	• All traders sell both imported and locally-produced goods • Distributors lament the fact that local producers are not able to satisfy local demand, but imported goods are charged a high and increasing OdM[299].	• The tax impact is significant. • The OdM intensifies the high unit transportation costs, even though the reduction of transport time made import of a perishable food product with a limited shelf life more attractive. • According to some producers, the OdM may also reduce the attractiveness of the local market to potential competitors, acting as a barrier to market entry. • Traders stressed the increase in the price of imported goods and the ensuing negative consequences in terms of higher retail prices paid by consumers.
Aluminium structures and parts of structures (for example, bridges, towers, roofs, doors and windows) (CN code: 7610)	• GLP (B; 20%) • MTQ (B; 16%) • GUF (B; 19%) • REU (B; 18%)	• Imported products are typically regarded as cheaper, even very much, compared to locally-produced ones. Thus, the price gap is redressed	• Additional production costs assessed as varying from 20/25% to more than 50% • Tax impact assessed from 'Neutral' to 'Essential'	• No replies	• Overall, the tax impact is moderately significant, limited by the growing competition from non-EU countries (in particular, standardised aluminium carpentry products sold by large French retail chains)[300].

[299] In GLP, this product category shifted from A (in 2004 Decision) to B (in 2014 Decision) and the effective tax differential increased from 7% (in 2016) to 20%.
[300] These low-quality goods, often produced in China, without complying with EU legislation, are sold at a price which is 2 to 3 times lower. For instance, the cost-price of a two-leaf aluminium window with movable ventilating blades (dimension 1.20 x 1.20) is about EUR 1,700 (production input cost above EUR 400), while the retail price of a similar product is about EUR 600 in the catalogue of these retail chains.

Box 4.3 – OdM impact on price-competitiveness: the case of bottled natural water in Guadeloupe

Based on the information gathered from different stakeholders in Guadeloupe (local producers, importers, and retail traders) through direct interviews and the business survey, the impact of the tax on the cost price of imported bottles of natural water could be measured, with reference to dedicated- or mixed- transportation cargo. As illustrated in Table 4.15 below, both the OdM and transportation costs significantly increase the producer's selling price, by 1.6 up to 3 times, according to the scenario.

Using a retail price of locally-produced bottled water of about EUR 0.4 per litre as a reference, the comparison of the retail price differential with imported goods clearly highlights the role played by the tax in redressing competitiveness.

Table 4.15 – Simulation of cost price formation of imported bottled water and comparison with retail price of local production in GLP

Costs and price (in € per litre)	Container dedicated, with OdM		Container melange, with OdM		Container melange, w/out OdM		Explanatory notes
	Unit cost	% of cost price	Unit cost	% of cost price	Unit cost	% of cost price	
Unit producer selling price	0.11	*36%*	0.11	*50%*	0.11	*60%*	Price measured with reference to a 1.5-litre bottle
Freight and insurance costs	0.15	*48%*	0.07	*33%*	0.07	*40%*	Freight charges for a 20-foott container, which carries some 10,000 bottles of 1.5 litre, are about EUR 2,200. In the case of a container melange, a 50% reduction of unit transportation costs is assumed
OdM	0.05	*17%*	0.04	*17%*	-	-	Based on the 20% effective tax differential applied in GLP
Total unit cost-price	***0.31***		***0.22***		***0.18***		
Retail unit price of imported good	0.41		0.29		0.24		A margin of 25% is assumed, including (i) a 12.5% trade margin, and (ii) a 12.5% back-end rebate
Retail unit price of local good	0.40		0.40		0.40		
Retail price differential	Price of local good in line with imported (-3%)		Price of local good much higher (+27%)		Price of local good much higher (+39%)		

***Evaluation Question #8:** To what extent has the fiscal advantage contributed to: maintaining, promoting and developing local economic activities and employment in the different Outermost Regions?*

Following the logic model underpinning this Study, evaluation question #8 concerns the outcomes of the policy, and specifically how restored competitiveness (see EQ#7) have translated into tangible improvements with regard to various factors, e.g., growth and diversification of local production activities, job creation, improved trade balance, etc. The answer to this question is based on the triangulation of the primary evidence gathered through stakeholder consultation with the available statistical and quantitative data.

Regarding business survey findings, it is worth stressing that the sample is mainly composed of SMEs. This sample composition has two main consequences with regard to the interpretation of results. On the one hand, as it includes a significantly smaller proportion of micro-firms than the universe of manufacturing businesses includes, respondents' opinions and data on the individual business performance cannot be generalised to the whole, relevant business population. On the other hand, it is estimated that the sample includes about 20% of all medium-sized firms which are active in OdM industries[301] and liable to the tax, and almost 10% of small firms. Given that small and medium businesses account for a major share of both the number of firms liable to the OdM and the total production at sectoral level, the results of the survey can be regarded as moderately representative of the overall performance of the industries supported by the OdM.

- **LOCAL PRODUCTION ACTIVITIES**

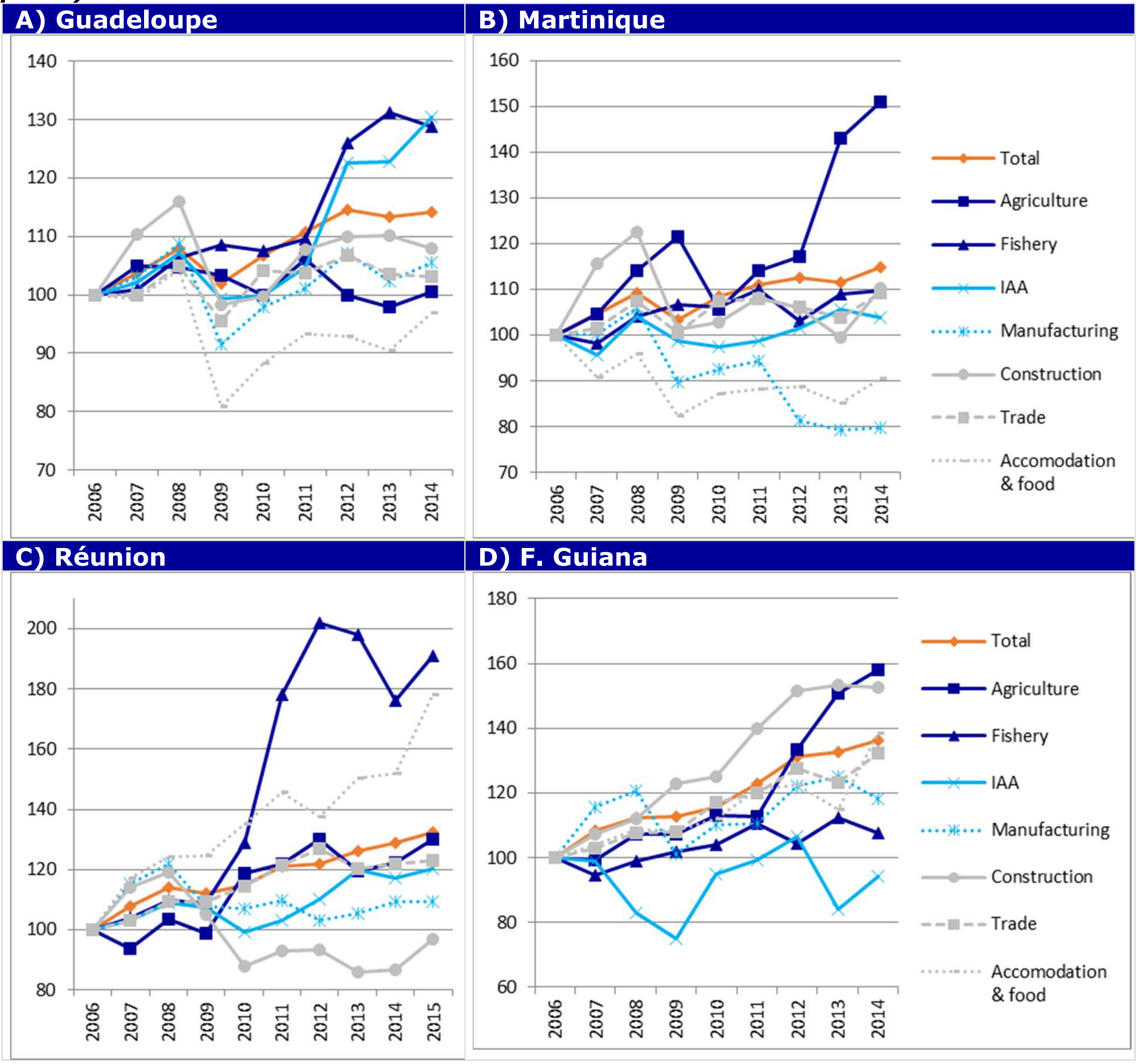
The aggregate ***value of local production*** in French ORs grew at a moderate pace in the period examined in this Study. Between 2006 and 2014, the value of production (at current price) registered an annual average growth ranging from 1.7% in the Antillean ORs up to 3.9% in F. Guiana.[302] Detailed data series for OdM-supported products are not available but branch-level data allow some general considerations on the performance of local producers. In particular:

- The aggregated turnover of the ***manufacturing sector*** – the one supported the most by the OdM regime – generally registered lower growth rates than the overall economy of ORs (see Figure 4.9). The global financial crisis caused a drop in the value of local production and, with few exceptions, by 2014 it had not yet returned to pre-crisis levels. This is especially the case with agri-food industries, while other industrial branches registered a faster recovery, particularly in Guadeloupe.
- The ***primary sector*** was hit lightly by the effects of the global crisis, but its performance varies significantly across ORs. Agricultural activities performed better than average in Martinique and F. Guiana in connection with, respectively the growth of banana and forestry branches. Fisheries and aquaculture registered notable growth rates in Réunion and Guadeloupe. All these activities are supported by the OdM, but also by other aid schemes, so only part of this impact can be attributed to the OdM.
- The ***other sectors*** examined, i.e., trade, construction and accommodation, and food activities generally performed worse than the overall OR economy, with the notable exception of construction in F. Guiana and accommodation and food in Réunion. These sectors are not supported by the OdM. On the contrary they can be affected by it, but analysis of trends shows that, after the drop in 2009 due to the global crisis, their growth index evolved similarly or more positively than the OdM-supported manufacturing activities.

[301] Shares refer to the stock of the business population in all French ORs (Mayotte excluded), as of end 2018, active in the manufacturing and mining sectors – defined by means of NACE classification - that fall within the scope of the OdM tax differentials, based on CN to NACE correspondence tables. Needless to say, not all the activities of 'OdM industries' actually regard 'OdM products'.

[302] Based on INSEE regional accounts. More recent years' data and data for Mayotte are not available.

Figure 4.9 – Gross value of local production in French ORs (index, base year 2006, current prices)



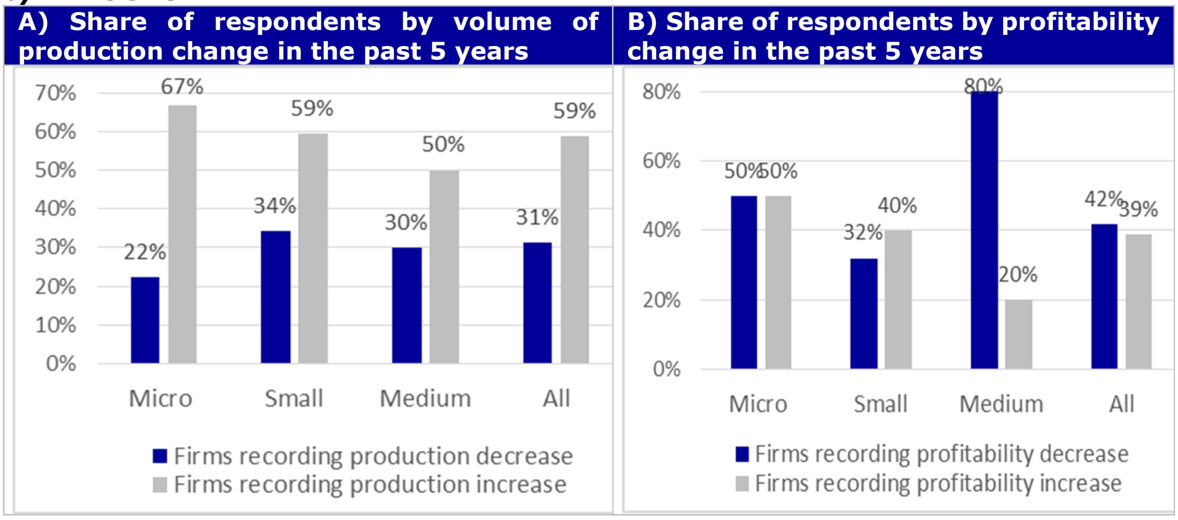
Source: *Own processing based on INSEE data (2019).*
Notes: *IAA=agri-food industry; fishery incudes aquaculture activities.*

The results of the business survey seem to suggest ***moderate expansion of local production activities.*** The number of surveyed businesses producing OdM-supported goods and reporting an increase in the volume of production is almost twice as high as that of enterprises reporting a decrease. In all regions, the majority of firms registered positive performance (from 57% in Martinique to 67% in Guadeloupe), across all firm-size classes (from 50% of medium-size businesses to 63% of micro-firms). In the majority of cases, the reported expansion of production runs between 5% and 30% (in five years), corresponding to a moderate annual growth rate (between 1% and 6%).

Increases in production volumes do not necessarily translate into an improvement of firms' ***profitability***: such a positive relationship holds true in about 60% of the cases. Still, about one-fifth of these firms registered a worsening in profit margins. In any case, the overall performance of local producers in terms of profitability looks modest. The shares of firms recording, respectively, a positive (39%) and a negative (42%) evolution of their profit margins are almost equivalent. The contraction of profit margins is driven by the increased competitive pressure registered in the last years, a dynamic which seems to have affected larger firms more severely. More than three-quarters (78%) of local producers, including all medium-size firms, deemed that business margins in their sector of activity decreased moderately or significantly during the reference period, and the remainder assessed them as stable (only 3% of respondents considered them to be on a growth trajectory).

Almost half the respondents, including a small but non-negligible share of OdM beneficiaries (about one-quarter), also found that the tax may exert a negative efficiency effect on local producers, discouraging them to make efforts to boost ***productivity***.

Figure 4.10 – Past performance of OdM beneficiaries: local production and profitability, by firm's size



Source: *Business survey. Respondent base: 51 (production) and 36 (profitability).*
Notes: *'Don't know' answers are excluded; the share of micro-firms should be seen as purely indicative of a general trend, given the very limited number of valid observations.*

Over two-thirds (68%) of local producers involved in the survey purchased some fixed assets, such as machinery or equipment, in the past five years, and about one-quarter also set up new establishments. The average size of ***investment*** made almost reaches EUR 3 million (median value: EUR 1.1 million), broadly in line with the typical amount reported by firms of small size. The average investment made by firm's size classes amounts to EUR 200,000 for micro-firms and exceeds EUR 6 million for medium firms.

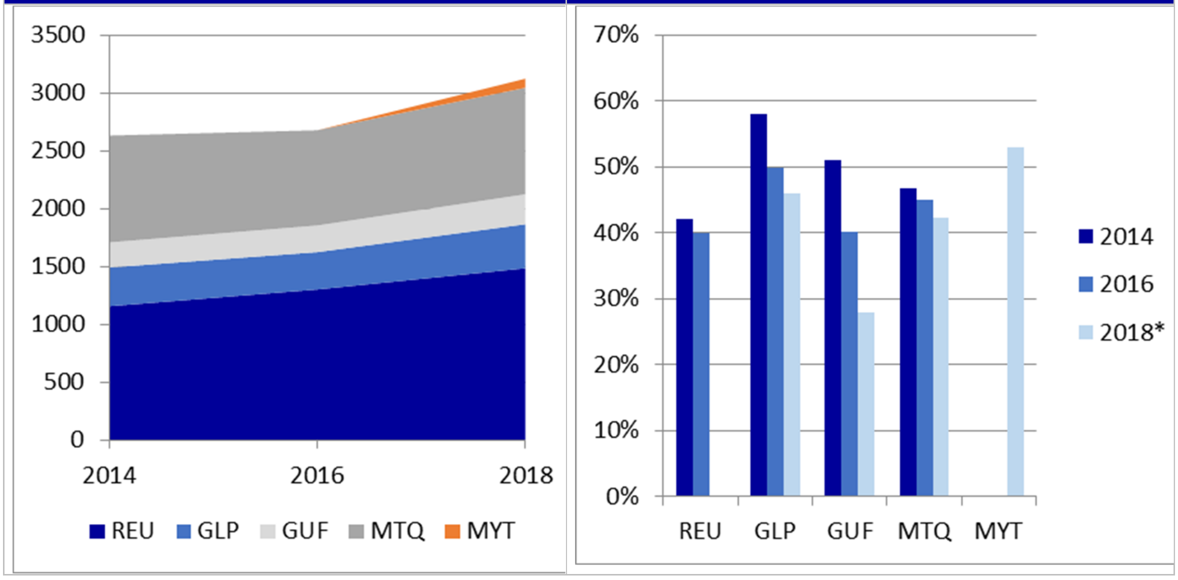
➢ MARKET SHARE OF IMPORTS AND LOCAL PRODUCTS

As discussed, the local production has been exposed to increasing competition from imports in the past years: the ***value of imports*** of products subject to the OdM differential regime increased by approximately 16% between 2014 and 2018 while in the same period the local production has grown by less than 8%[303]. As shown in Figure 4.11 below, the ***market share of local products*** has declined over time. The same trend is registered in all ORs but less markedly in Martinique because of comparatively more stagnant import levels. Based on the available data, the average market share of OdM-supported local products has declined from 49% to 42% in 2018, but figures should be taken with some caution because of discontinuities in the available data series.

[303] Based on the trends registered in GUF, MTQ and GLP, on a sample of products for which time series were available.

Figure 4.11 – Overall trend in local production and market share

A) OdM-supported products, import value	**B) Market share of local production**



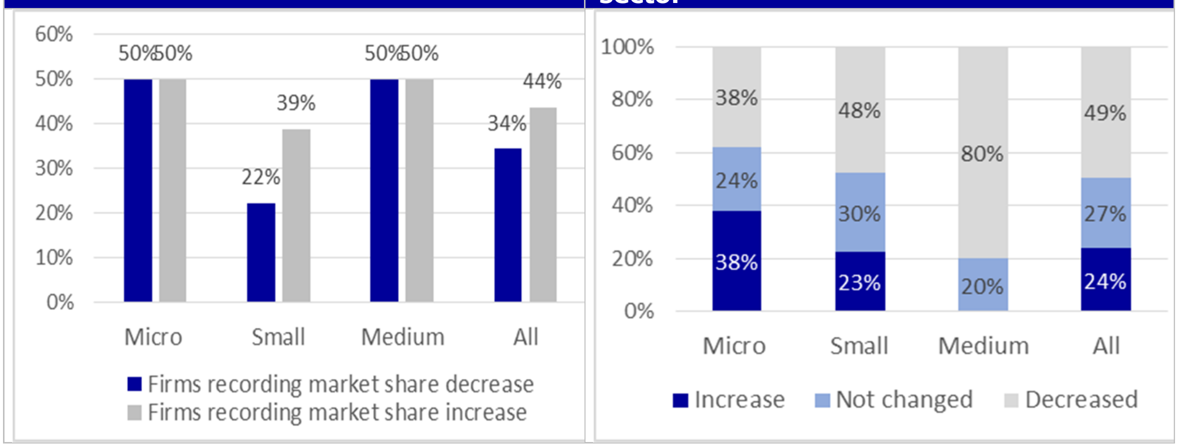
Source: *Own processing of data provided by French authorities.*
Notes: *(*) the local production data for 2018 are based on smaller samples and might not be fully comparable with previous years. For Réunion available data cover only eight products, so valid estimates cannot be calculated.*

The results of the survey are substantially in line with the above trends. Almost 50% of local producers surveyed assessed the market share of local production in its sector of operation to be on a declining path, while less than one-quarter (24%) of respondents reported a growth trend. In line with the considerations made previously, the opinions held by medium-size businesses are much less positive because of the higher competitive pressure they face (see Figure 4.12.B).

Over three-quarters of the firms recording a production increase also reported an expansion of their market shares (Figure 4.12.A). While, considering the whole sample, local producers who record an increase in their market share are only slightly more numerous than those who record a decline (44% vs. 34%). However, this finding should be regarded with caution as it is based on a limited number of observations: 43% of the relevant firms was not able/willing to assess the evolution of their market share.

Figure 4.12 – OdM beneficiaries' feedback on market share trends

A) Share of respondents by market share change in the past 5 years	**B) Share of respondents by assessment of the local market share trend in their sector**



Source: *Business survey. Respondent base: 32 (performance) and 71 (assessment).*
Notes: *'Don't know' answers are excluded; the share of micro-firms should be seen as purely indicative of a general trend, given the very limited number of valid observations.*

➢ Number of active firms and employment trends

Based on the analysis of the official enterprise statistics, the OdM industries have been estimated to account for the majority of businesses in the manufacturing and mining sectors. After the Decision 940/2014 entered into force, this share increased from 77% of the registered enterprises (as of the end of 2014) to 80%-81%, during the 2015-2018 period[304]. Since 2015, the ***number of active firms*** has marginally declined (-2%) in the manufacturing and mining sectors in general, and remained stable in the OdM industries (-0.1%) in particular. OdM industries' performance between 2015 and 2018 is characterized by a peak in 2016, followed by a decline in the following years. Compared to 2015, the number of active firms as of end 2018 is almost identical in French Guiana and Réunion, while a decline has been recorded in Martinique (-6.3%), offset by the increase registered in Guadeloupe (+7.6%).

Overall, as of end 2018, the total number of firms in the OdM industries with at least one employee was estimated at 1,945 firms in French ORs (with the exclusion of Mayotte), of which about 72% are micro-firms. The share of the micro-firm segment on the total number of active increased during the 2016 peak, and then declined in all regions in the following years, suggesting the existence of a consolidation process and/or a comparatively better performance of SMEs. From a sectoral point of view, the food and beverage industry accounts, by far, for the larger share of firms in the OdM industries, ranging between 34% in French Guyana and 57% in Guadeloupe, as of end 2018. The manufacture of fabricated metal products ranks second, with an incidence on the total number of firms falling in the 13%-20% range, according to the region.

Table 4.16 – Number of active firms in the manufacturing and mining sectors in French ORs (Mayotte excluded)

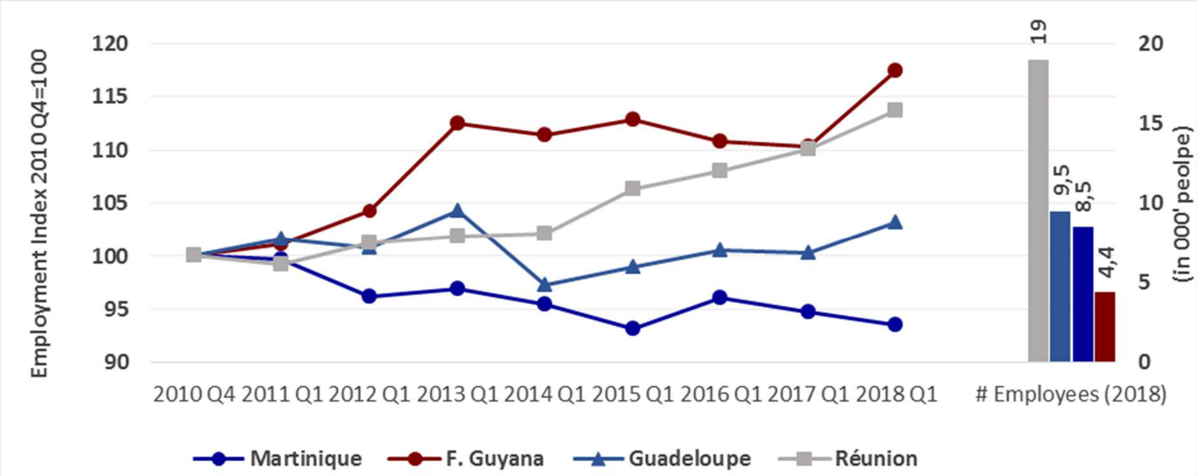
	2014	2015	2016	2017	2018*
Number of active firms (with at least one employee)					
Total manufacturing and mining	2,471	2,448	2,844	2,455	2,401
OdM industries	1,912	1,947	2,265	1,987	1,945
OdM industries (in %)	*77%*	*80%*	*80%*	*81%*	*81%*
Firm size and employment in OdM industries					
% of micro firms	*74.7%*	*74.6%*	*77.3%*	*73.7%*	*71.6%*
% of small firms	*23.0%*	*23.0%*	*20.8%*	*23.8%*	*25.8%*
% of medium firms	*2.1%*	*2.3%*	*1.8%*	*2.3%*	*2.3%*
% of large firms	*0.2%*	*0.2%*	*0.1%*	*0.3%*	*0.3%*

Source: *Own processing based on INSEE data.*
Notes: ** 2018 data are provisional.*

Based on the data on ***employment levels*** provided by secondary sources, the industry sector in French ORs has recorded a modest performance since 2010 (figure 4.13). A more positive dynamic is recorded in Réunion and French Guiana, while in the Antillean ORs the number of employees in the industrial sector in 2018 was just above (in Guadeloupe) or below (in Martinique) the 2010 value. Overall, in 2018 about 41,400 people were employed in the OR industries.[305] (Mayotte excluded).

[304] The analysis is based on business demography data from INSEE for all French ORs, with the exclusion of Mayotte. Data refer to the number of firms in activity at the end of the year with at least one employee. The analysis covers firms whose main economic activity falls in: (a) the mining and quarrying sector (NACE section B) and (b) the manufacturing sector (NACE section C, with the exclusion of division 33, 'Repair and installation of machinery and equipment').
[305] Data includes employees of firms active in (a) electricity, gas, steam and air conditioning supply, and (b) water supply, sewerage, waste management and remediation activities.

Figure 4.13 – Employment trend in the industry sector in French ORs

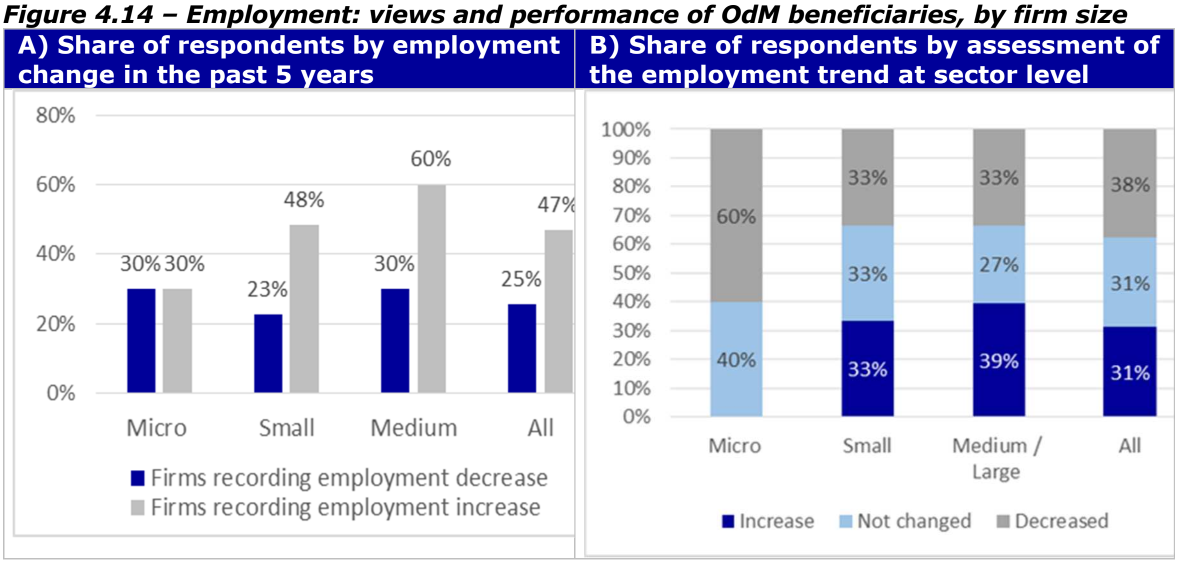


Source: *Own processing based on INSEE data.*

The detailed categorisation of the active firms provided by INSEE allowed a tentative estimation of the performance of OdM-supported industries regarding total employment. This exercise seems to confirm the better performance of French Guiana and Réunion, where the number of employees grew by about 8%-9% between 2015 and 2018. In the Antillean ORs, a more moderate, but still positive trend has been estimated, i.e., about +4% in Guadeloupe and +3% in Martinique. Interestingly, during the same period, the performance of the non-OdM industries was negative in all ORs, recording a decline in the number of employees from -2% in Réunion to -18% in Martinique.

The results of the survey broadly confirm the above analysis, showing an only-slightly growing employment trend among OdM beneficiaries of a larger size. The performance of local producers involved in the survey is moderately positive in terms of jobs creation, thanks to the growing trend recorded by small, and especially medium-size firms with about half and 60% of them respectively reporting an increase in the number of employees in the past five years. This more positive performance of the SME segment is also confirmed by the opinions of firms on the general employment trend in their sector. About four-fifths of micro firms consider the general level of employment in their sector as being substantially stable or on a decreasing trend, while this share stands at about one-third for small-size firms.

Figure 4.14 – Employment: views and performance of OdM beneficiaries, by firm size



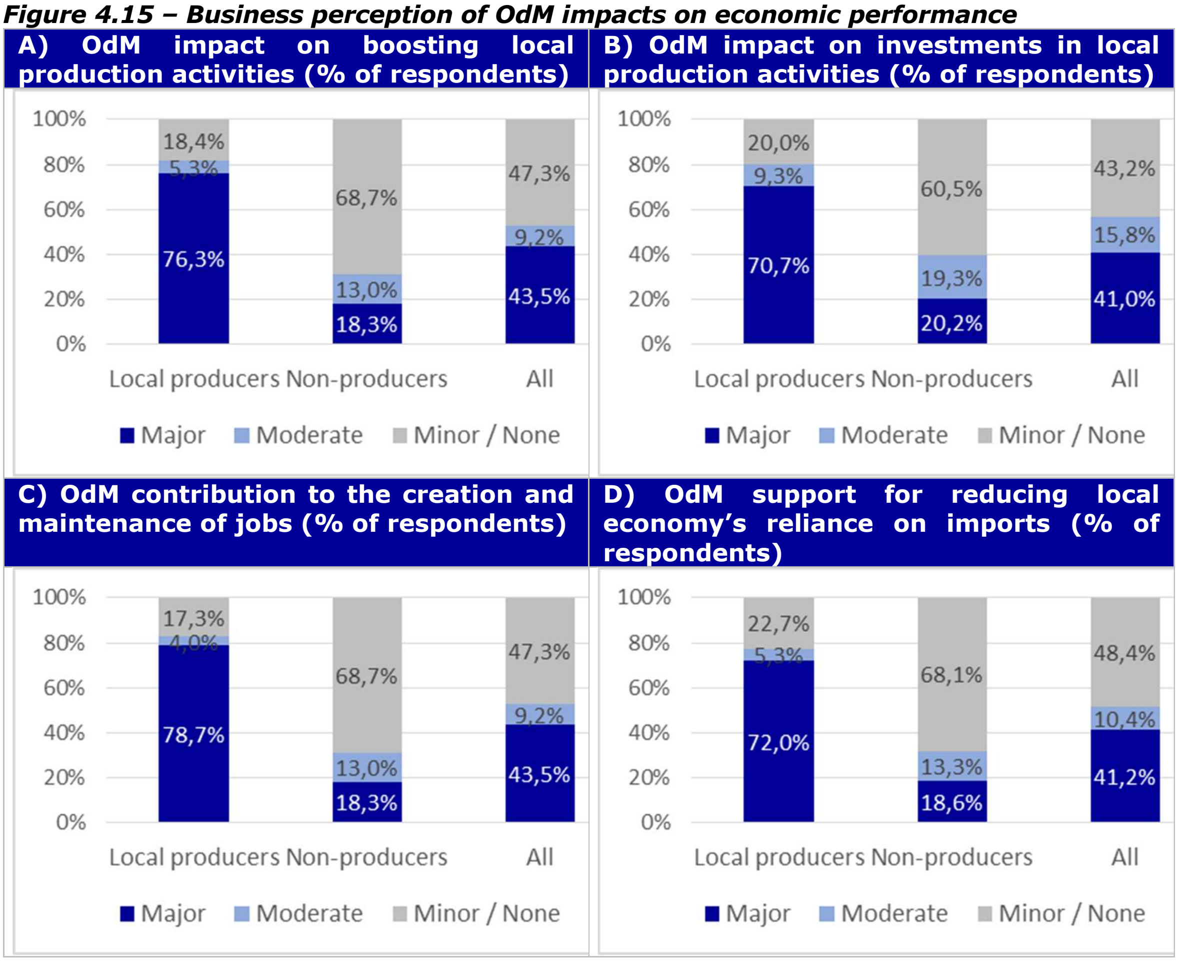
Source: *Business survey. Respondent base: 51 (performance) and 64 (assessment).*
Notes: *'Don't know' answers are excluded; the share of micro firms should be considered purely indicative of a general trend, given the very limited number of valid observations.*

➢ OdM IMPACT ON BUSINESS PERFORMANCE

Views on the role played by the tax in the moderately positive performance recorded by the OdM industries illustrated above largely differ between local producers and the other respondents. The former segment is as expected much keener to assess the importance of the OdM as critical, while the latter is much more sceptical. In particular, as summarised in Figure 4.15:

- over three-quarters of local producers maintained that the OdM had a major impact in ***boosting local production*** activities and supporting the creation and maintenance of ***employment*** in the French OR. This share significantly declines among respondents active in sectors other than manufacturing, still almost one-third of non-producers assessed these impacts as 'moderate' or 'major';
- respondents' feedback on the OdM's contribution to reducing the local economy's ***reliance on imports*** and to increasing ***investments*** in local production activities are only marginally less positive. About 71-72% of local producers assessed these impacts as 'major', while less than 40% of non-producers' acknowledged such impacts.

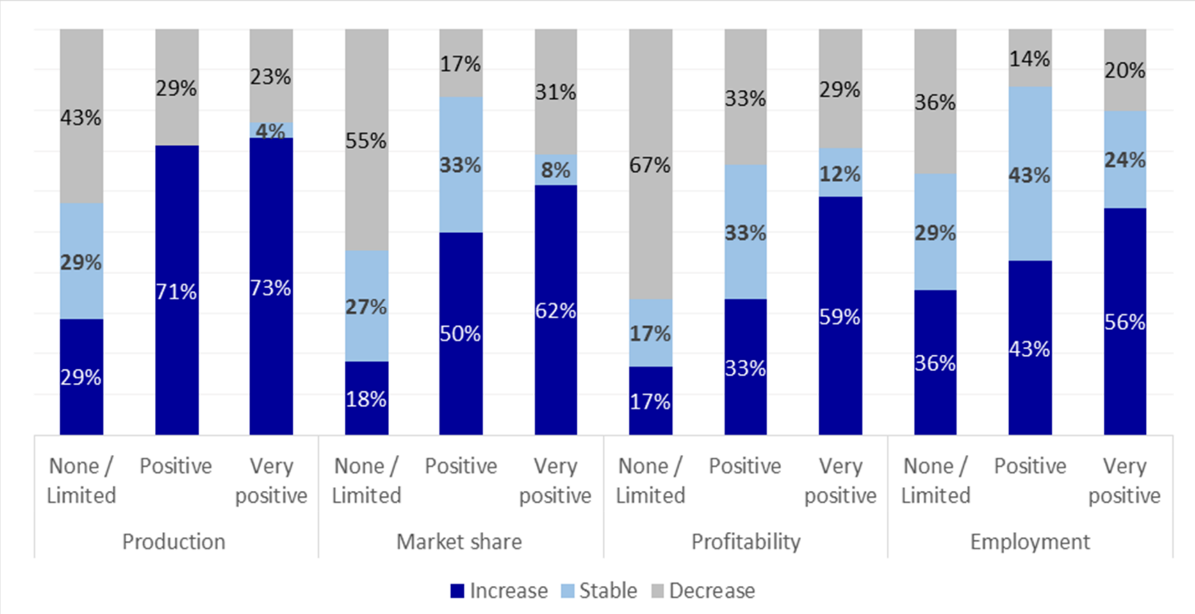
Figure 4.15 – Business perception of OdM impacts on economic performance



Source: *Business survey.*

Additional indications on the extent to which the OdM contributed to promoting local economic activities were drawn by comparing the tax impact on price-competitiveness (see previous section) with firms' recent economic performance. As shown by Figure 4.16 below, the strength of the OdM price-competitiveness impact features a positive linkage with other dimensions of firms' performance. This seems to be especially true in the case of production: a 'very positive' tax impact in terms of price competitiveness is associated with over two-thirds of firms reporting a positive past trend (and, in the few cases where this positive relationship is not found, the decrease in the volume of production inevitably occurred in markets recording a decline in demand). On the contrary, over 70% of the firms indicating a lacking/small price-competitiveness impact recorded a steady or negative past performance. In the case of employment and market share, a positive, albeit less strong, relationship is detected. As for profitability, such a link is only detected in the case of firms experiencing a 'very positive' price-competitiveness impact, while the majority of firms mentioning a positive impact actually recorded negative performance.

Figure 4.16 – OdM price-competitiveness impact and business performance



Source: *Business survey.*

➢ Production diversification

The possible influence of the OdM regime on the diversification of productive activities is controversial. By its nature, the scheme is fairly conservative: the existence of non-negligible local production level is a pre-condition for the application of tax differentials, and amending the list to insert new products requires a lengthy and burdensome process. This suggests that the OdM had ***limited influence on the diversification of production activities***. On the other hand, certain categories of products are defined in terms that are sufficiently ample to include new product lines within the same branch of activity.

Tax beneficiaries are not concerned by the 'rigidity' of the mechanism: almost three-quarters (73%) of local producers of OdM goods do not consider this tax as an obstacle to the emergence of new activities, and an even larger share (79%) attributes to the OdM a moderate-to-major positive effect in terms of production diversification. These positive opinions are substantiated by hard facts: about two-thirds of the manufacturers surveyed (and 80% of medium-size firms) introduced new products in the past five years. In fact, for most local manufacturers, diversifying and deepening the product portfolio (especially in terms of stock keeping units) has lately become imperative to maintaining market shares and remaining competitive. On the contrary, as expected, the majority (64%) of non-producer firms denies the existence of a positive effect of the tax on product diversification or assesses it as being minimal, while most of them (76%) believe that the OdM draws resources towards existing 'supported' sectors, thus ***hampering the development of new ones***.

4.4 EU Added-value

***Evaluation Question #9:** To what extent did the Decisions generate benefits for local and regional markets (including the labour market) and the EU Internal Market?*

➢ **BENEFITS FOR THE LOCAL ECONOMY**

According to the vast majority of local producers consulted, without the OdM local products could hardly compete with imported products. Half of manufacturers surveyed characterised the OdM contribution as 'essential' while the rest characterised it as 'moderate', recognising that other factors are at play. The OdM is largely considered to be a pre-condition to preserving industrial activities in the ORs but local producers seldom attribute development effects to it: in most cases, it is primarily viewed as a tool for mitigating the decline and disappearance of local industry rather than for expanding it.

To test this assumption, we have set up a quantitative model which ***estimates the marginal effects*** of tax differentials and the extent of compensation on the value of local production disaggregated at CN4 level (see Annex C for the model specifications and full results). The results indicate that the performance of local production can be partly explained[306] by the effects of the special regime in place. In particular, the model suggests that an increase of one percentage point of tax differential is correlated with an ***increase of 3.28% of production value.***[307]

The impact estimated by the model ***should be seen as indicative***, due to the limitations in the quality and availability of data described in Section 3 and to the various underlying assumptions that have been made (see Annex C for details). Furthermore, it is important to consider that (a) the effects of the OdM cannot be easily disentangled from those of other parallel policies and measures, (b) there is no strict correspondence between product-level impact (defined in CN terms) and sectoral-level effects (defined in NACE terms), as the enterprises which benefit from the OdM exemptions are often engaged in a variety of other activities unrelated to the OdM regime. Still, the results of the analysis can provide a useful reference for the overall magnitude of the OdM effects, and a benchmark for future assessments.

In practice, based on the model's estimates, the current tax differentials can be associated with some 37% of the value of local production of OdM goods, i.e., ***approximately EUR 850 million*** (based on 2016 production data). The monetary magnitude of impacts varies with the intensity of aid (i.e., the tax differential). So, for instance, impact on the primary sector is much higher in F. Guiana, where the average differential for this sector is 26%, as compared to Réunion, where it is only 5% (Figure 4.17).

Figure 4.17 – Estimated production value associated with OdM effects (2016 data, EUR million)

	GLP		GUF		MTQ		MYT		REU	
	In EUR	In %	In EUR	In %	In EUR	In %	In EUR	In %	In EUR	In %
Primary sector	3.4	45%	2.0	55%	7.4	42%	-	-	6.8	15%
Mining	1.3	23%	54.4	28%	11.7	37%	-	-	-	-
Manufacturing	149.5	44%	65.6	41%	237.5	44%	28.5	525	323.7	31%
Total	154.2	44%	72.1	40%	265.1	44%	28.5	52%	330.4	30%

***Source:** Own processing based on quantitative analysis of OdM rates and production value data.*
***Notes:** The estimates are theoretical and represent the possible share of production enabled by the special regime, based on a general coefficient estimated through the quantitative model described in Annex C. The impact within specific sectors at the level of individual products may actually depend on other variables not included in the model. Estimates refer to 2016 as 2018 data are largely incomplete for Réunion and F. Guiana.*

[306] The model has an explanatory power of 70%, i.e., the variations of the local production are explained at 70% by the model.
[307] The impact is not linear, however, because the model computed variations in logarithmic terms.

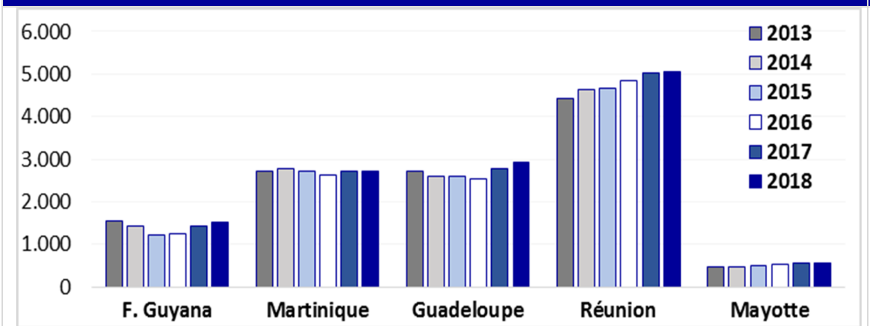
➢ **IMPACT ON IMPORT SUBSTITUTION**

The acceptability of the 'distortions' caused by the special regime lies, inter alia, in its proportionality, i.e., the lack of disruptive effects on the local markets and the structure of demand. In accordance with the State aid policy, one of the relevant criteria to verify such proportionality regards the extent of import substitution with locally manufactured products. It is important to underline that there are no explicit benchmarks for this, but trends in the import of OdM products and their market share remain central aspects of the monitoring of the proportionality of the regime.

The ***total import value*** in French ORs registered mild growth in recent years (Figure 4.18.A), more marked in Réunion and Guadeloupe while slightly lower in Martinique. Despite the differential tax regime, the import of OdM-supported products has been growing at a faster pace than the total imports (Figure 4.18.B), i.e., some 3.7% year-to-year against 1.6% (2014-2018). This effect is registered in all ORs except Guadeloupe where the growth rate has been the same. This suggests that, at the aggregate level, the OdM differentials are unlikely to disrupt the import flows of concerned products.

***Figure 4.18 – Import trends in French** ORs*

A) Overall import value 2013-2018 (in EUR million)



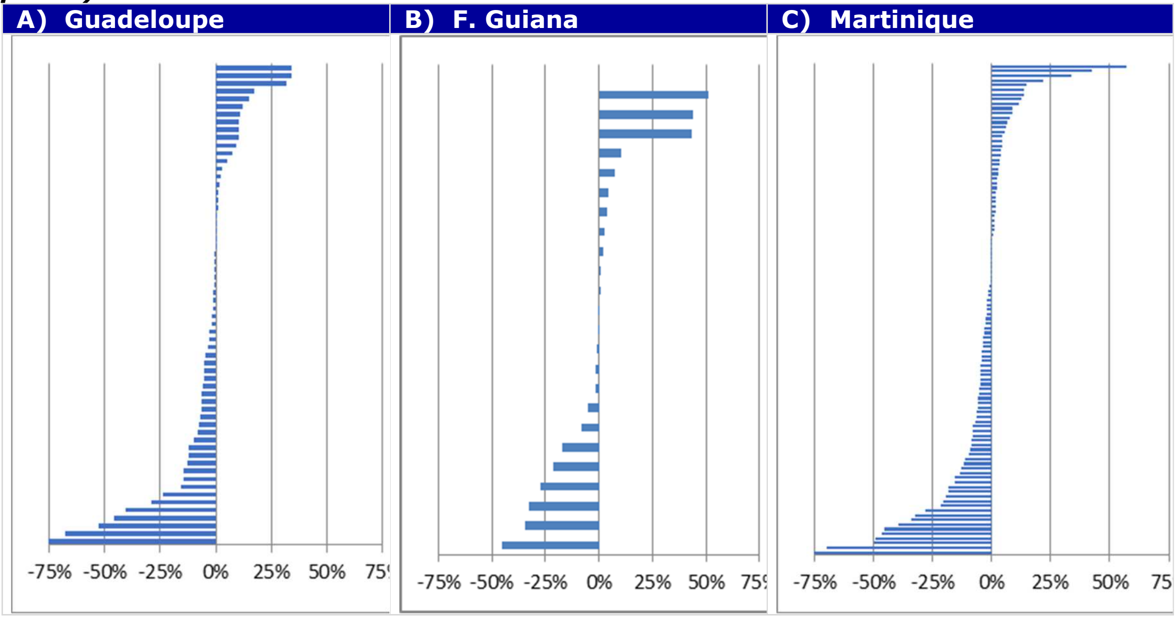
B) Compounded annual growth rate 2014-18

	OdM product	All import
REU	6.5%	2.1%
GLP	3.2%	3.2%
GUF	4.6%	1.0%
MTQ	-0.1%	-0.5%
Tot	3.7%	1.6%

Source: *Own processing of data from INSEE (and IEDOM annual reports for Mayotte).*

At product level, the impact may differ but – as shown in Figure 4.19 below – the market share of OdM-supported local products vis-à-vis imports has shrunk over time for the majority of products considered (i.e., 62% based on three ORs). So, in this sense, the ***substitution of local products with imported ones*** has been more frequent than the opposite. In only a few cases was the import market share reduction significant (i.e., greater than 25%), but it mostly regarded products with limited market value.

Figure 4.19 – Estimated market share variation for OdM products (2014-18, in percentage points)



Source: *Own processing of data provided by French authorities.*
Notes: *Based on value of sales of 192 OdM products (62 for GLP, 24 for GUF and 105 for MTQ), displayed on the vertical axis. The data available were insufficient to perform the same analysis for Réunion and Mayotte.*

For a quantitative estimation of the effects of special regimes on imports, we have developed a ***'gravity model'*** (see Annex C for technical specifications), which examined the variation in the level of imports in relation to the tax differentials and a series of geographical and structural features of the regions. Overall, the results indicate that tax differentials do affect imports and, specifically, ***one percentage point increase in the tax differential is associated with a 0.92% decrease of import.*** However, the explanatory power of the model is fairly low, so other factors are at play. Based on this estimate, in the hypothetical scenario of removal of the OdM differentials, the value of imports of OdM-supported products could be some EUR 275 million greater than today (see Annex C).

➢ INTEGRATION IN THE EU AND IN THE REGIONAL MARKET

The trade balance of all French ORs has slightly worsened over the past 5-6 years, mainly due to a higher increase in imports compared to exports. All regions are heavily dependent on trade with the mainland, whose share of total imports and exports increased in all regions, and especially in French Guiana (see Table 4.17)[308]. In 2018, imports from the mainland accounted for between 52% and 58% of total imports and between 32% and 49% of total exports of French ORs. Hence, *prima facie*, it seems that the OdM regime has not represented an obstacle to ***trade growth between the French ORs and the mainland***.

[308] Note: import figures reported in Table 4.17 slightly differ from those used under EQ#3 for analysis of bilateral trade with CARIFORUM and ESA countries, due to difference in the source and processing methods. For EQ#3 we used extensive raw datasets from French customs filtering out temporary imports and other special import regimes not relevant for the analysis, while the figures in Table 4.17 are those processed and published by INSEE in its regional economy reports. In spite of the small discrepancies, we opted to use INSEE data in Table 4.17 – as well as in the following Table 4.18 - for comparability with export data which also come from INSEE statistics.

Table 4.17 – External trade of French ORs, total and with mainland France (in EUR million)

	Guadeloupe		Martinique		F. Guiana		Réunion		Mayotte	
	2013	2018	2013	2018	2013	2018	2013	2018	2014*	2018
Total exports	263	280	402	365	245	213	296	324	12	11
Exports to France	114	122	157	156	85	105	95	110	6	4
as % of total	*43%*	*44%*	*39%*	*43%*	*35%*	*49%*	*32%*	*34%*	*47%*	*33%*
Total imports	2,731	2,939	2,730	2,718	1,545	1,530	4,426	5,051	479	572
Imports from France	1,476	1,710	1,432	1,551	497	792	2,544	2,950	235	306
as % of total	*54%*	*58%*	*52%*	*57%*	*32%*	*52%*	*57%*	*58%*	*49%*	*53%*
Trade Balance	-2,468	-2,659	-2,328	-2,353	-1,300	-1,317	-4,130	-4,727	-467	-561

Source: *Own processing of INSEE data (and IEDOM annual reports for Mayotte)*
Notes: *(*) data for 2013 not available. Import figures differ slightly from data reported under EQ#3 due to differences in the source and the processing methods used.*

As seen in Section 4.1, trade between French ORs and regional partners is rather limited as compared with trade with the EU, but some significant differences characterise the various regional areas:

- In absolute terms, the inward and outward trade flows of Guadeloupe within the Caribbean region increased in the 2013-18 period. Conversely, in the same period Martinique registered a decline of both imports from and exports to the Caribbean region. In relative terms, intra-regional trade has remained limited for both ORs and the trade deficit has remained substantial: in 2018 the export/import ratio amounted to 0.23 for Martinique and to 0.11 for Guadeloupe.
- French Guiana's regional exports massively declined in the past years (down to 1% in 2018). This is essentially due to the fall of exports to Trinidad and Tobago following the slowdown in oil exploration activities off the coast of F. Guiana.
- Exports of Réunion and Mayotte with partners in the Indian Ocean region represent a relevant share of the total, but this figure should be taken with caution as it is inflated by intra-OR trade: some EUR 5.7 million of the EUR 37 million-worth exports of Réunion in 2018 actually refer to exports to Mayotte[309]; similarly two-thirds of Mayotte exports is destined to Réunion. The imports from regional partners accounts for a small share of the total, given the prominence of imports from the mainland, but in absolute terms they largely exceed exports: in 2018 the export/import ratio – excluding intra-ORs trade - amounted to 0.69 for Réunion and to 0.05 for Mayotte.

Table 4.18 – External trade of French ORs, total and regional (in EUR million)

	Guadeloupe		Martinique		F. Guiana		Réunion		Mayotte	
	2013	2018	2013	2018	2013	2018	2013	2018	2013	2018
Total export	263	280	402	365	245	213	296	324	12	11
ACP Caribbean partners* / Indian Ocean region***	2	9	6	10	68	2	47	37	3.4	3.1
% of total exports	*0.8%*	*3.2%*	*1.5%*	*2.7%*	*27.8%*	*0.9%*	*15.9%*	*11.4%*	*28.6%*	*29.2%*
Non-ACP Caribbean partners**	1	8	4	5	0	0				
% of total exports	*0.4%*	*2.9%*	*1.0%*	*1.4%*	*0.0%*	*0.0%*				
Total import	2,731	2,939	2,730	2,718	1,545	1,530	4,426	5,051	479	572
ACP Caribbean partners / Indian Ocean region	78	80	55	43	37	18	52	47	26.2	32.5
% of total imports	*2.9%*	*2.7%*	*2.0%*	*1.6%*	*2.4%*	*1.2%*	*1.2%*	*0.9%*	*5.5%*	*5.7%*
Non-ACP Caribbean partners / Africa	138	62	47	44	15	19	168	133		
	5.1%	*2.1%*	*1.7%*	*1.6%*	*1.0%*	*1.2%*	*3.8%*	*2.6%*		

Source: *Own processing of INSEE data (and IEDOM annual reports for Mayotte).*
Notes: *(*) ACP Caribbean partners include Antigua and Barbuda, Bahamas, Barbados, Belize, Cuba, Dominica, Dominican Republic, Grenada, Guyana, Haiti, Jamaica, Saint Lucia, St. Christopher and Nevis, St. Vincent and the Grenadines, Suriname, Trinidad and Tobago; (**) Non-ACP Caribbean partners include the British and Dutch Overseas Territories and Countries of Anguilla, Aruba, British Virgin Islands, Cayman Islands, Montserrat, Turks and Caicos Islands, Netherlands Antilles; (***) Indian Ocean region includes Comoros, Madagascar, Mauritius, and Seychelles, as well as French ORs (Réunion and Mayotte). Import figures slightly differ from data reported under EQ#3 due to difference in the source and the processing methods used.*

[309] Based on raw import data processed under EQ#3.

The results of the gravity model (Annex C) indicate that the OdM special regime may ***constrain the import of certain products*** in French ORs and therefore can have an impact in reducing overall external trade. However, the magnitude of such effects seems limited, in specific:

- in the absence of the OdM, total imports from the mainland would increase by approximately 2% (EUR 189 million, overall) - ranging from 1.7% in Guadeloupe to 3.8% in Martinique;
- imports from the rest of the EU would increase by a minimum of 0.2% in Mayotte, up to 0.5% in Martinique (some EUR 47 million, excluding France);
- regarding total imports from the CARIFORUM region by the three ORs in the region (Guadeloupe, Martinique and F. Guiana) an overall increase of EUR 3.0 million can be expected;
- finally, the total imports from ESA countries by Réunion and Mayotte would increase by some EUR 2.6 million.

Finally, the results of the survey of importers broadly confirm the above figures: for 70% of respondents, the majority of goods are imported from the mainland, while only a handful of respondents reportedly purchase a minor share of their products in neighbouring countries.

The vast majority (85%) of local firms operating in the manufacturing industry as well as in other sectors, such as construction and tourism, also import part of the raw materials and supplies used in their business activity. For 86% of these respondents the origin of such imports is, again, the mainland. A significant share (57%) also declared importing goods from other EU countries, while only about 10% of respondents (almost invariably food and beverage enterprises) purchase some inputs in the regional area.

The lack or inadequate availability of the required inputs on the domestic market is, by far, the main reason for importing inputs, indicated by 90% of respondents. About one-quarter of respondents also indicated the limited quality of locally produced goods and the price competitiveness of imported goods as main reasons for sourcing some raw materials and supplies abroad.

4.5 Efficiency

Evaluation Question #10: *What are the costs for the administration of maintaining these tax advantages and the typical compliance costs for business?*

➢ ADMINISTRATION AND ENFORCEMENT BURDEN

The ***implementation arrangements*** for the OdM regime are not particularly complex, mainly consisting of a few administrative activities on the private sector side, i.e., filling in quarterly and customs declarations and requesting a tax exemption for imported inputs. Likewise, competent authorities - customs and regional authorities - did not report that procedures are particularly complex or burdensome. Nonetheless, some implementation challenges were identified by the stakeholders encountered during fieldwork, namely:

- As already mentioned, following the downward revision of the tax threshold, on the one hand, and the extensive interpretation by customs of the 'processing' concept, on the other, disputes have arisen in certain ORs between local firms and the competent authorities over the internal OdM liability for different types of business activities.
- The CN classification – and more generally the HS classification – is periodically revised. As OdM rates are mandatorily set at CN8, local authorities need to routinely amend the relevant deliberations to introduce the required changes with reference to

the product labelling and code. In turn, the private sector needs to periodically gather updated information on the tax regime (changes in customs codes, tariffs applied, and tax differentials), and introduce the necessary adjustments.

- Similar considerations apply to the exemptions for imported production inputs (*exonérations des intrants*), which are also based on a positive list of eligible products identified through CN codes, which might change with the periodic revision of the CN classification.

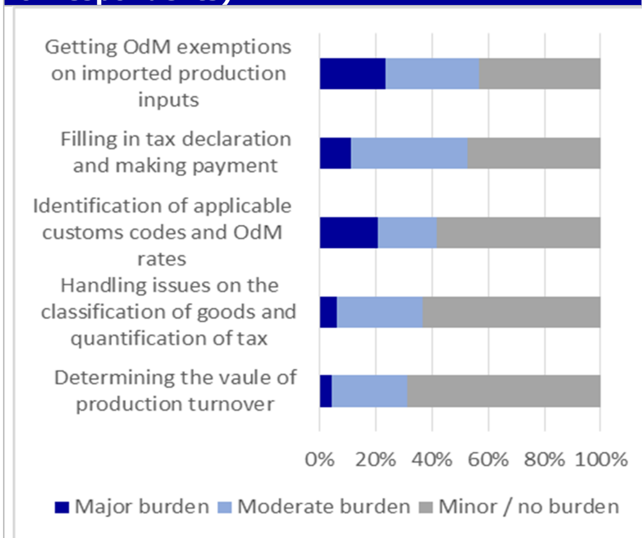
Consonantly, the majority of surveyed ***local producers*** that have to comply with OdM-related declaration and accounting obligations assessed them as not particularly burdensome. The more common tasks – i.e., filling in periodic OdM declarations and getting OdM exemptions on imported production inputs – represent a moderate burden for a significant share of respondents, while a smaller share consider the identification of the applicable customs codes and the corresponding OdM rates a more burdensome task. As expected, SMEs tend to consider the administrative burden posed by the OdM as less heavy than micro firms. Across ORs, producers located in French Guiana regarded the administration of the OdM as more complex than firms based in other regions.

Direct importers, handling a high and diversified number of products subject to the OdM, considered the burden posed by management of the tax as more significant. In particular, most of them assessed the burden associated with filling in customs declarations as 'moderate', while the identification of the customs codes and the corresponding OdM rates was regarded as a major burden by about one-quarter of the relevant respondents. The feedbacks provided by direct importers also confirmed the pervasiveness of the issues concerning the customs classification of imported raw materials/supplies subject to the OdM. More specifically, with reference to the past year:

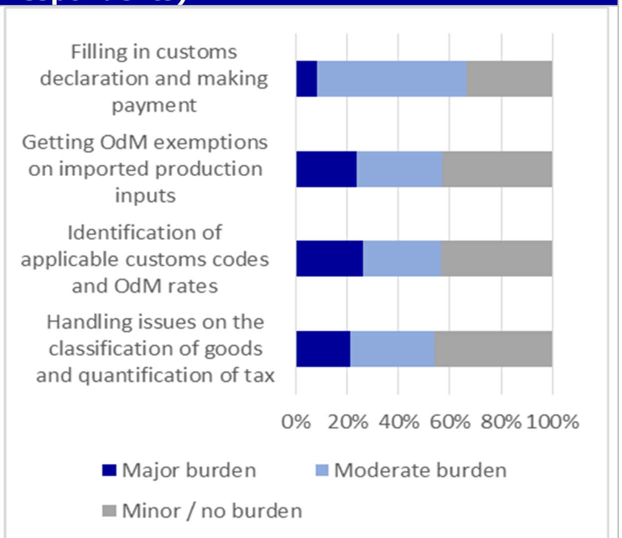
- over 60% of the importing firms reported at least one change in the customs code and/or definition of the raw materials/supplies usually imported;
- almost 70% of the relevant respondents reported difficulties, in most cases recurring, in appropriately identifying the applicable customs code and corresponding OdM rate;
- a large share of respondents also reported at least one dispute with the customs or tax authorities over the proper classification of an imported good (60%) and/or the OdM exemption claimed for imported inputs (50%).

Figure 4.20 – Stakeholders' perception of the burdensomeness of OdM management

A) Local producers' assessment of the burden of different administrative tasks (% of respondents)



B) Importers' assessment of the burden of different administrative tasks (% of respondents)



Source: *Business survey. Respondent base: (i) for local producers, between 45 and 53, according to the administrative task; (ii) for importers, between 21 and 24.*
Notes: *'Do not know' is excluded.*

Regarding the ***quantification of the administrative burden*** for the local producers liable to the tax, estimates include all OdM-related administrative activities, such as classification of the products and identification of the applicable rates, interacting with customs and tax authorities, and preparing quarterly declarations. Based on the survey replies, the staff time spent by these firms to deal with the management of the OdM, typically ranges from a few hours per year (i.e., about 1 working day per year) to one half- or full-time working day per month (i.e., between 6 and 10 working days per year). As a result, an average value of 4 working days per year can be estimated for a normally efficient firm.[310] The internal staff time needed does not significantly vary across firms of different size; thus, no segmentation of the relevant business population by firm-size class has been performed. The working time required to comply with the OdM-related declaration and accounting obligations has been converted in monetary values based on the average gross salary paid to administrative staff by businesses based in French ORs (Mayotte excluded).[311] Total administrative costs have then been estimated by multiplying the cost-per-firm by the number of local firms producing at least one good charged with an OdM differential rate and subject to OdM declaration obligations estimated slightly above 80% of the total number of the OdM taxable subjects (*assujettis*), based on the analysis carried out in Section 4.3 above. In 2018, the ***estimated annual costs amounted to about EUR 600,000***.

The above estimate does not include the OdM-related administrative burden for trading firms, which is deemed marginal for two reasons. First, the OdM declaration is part of the overall customs declaration that importers have to fill in anyway. In this sense, the additional burden which is specifically attributable to the OdM administrative requirements is limited to the identification of the applicable external OdM rate and the quite straightforward calculation of the tax due. Second, the administrative obligations for importers are not related to product status with respect to the tax differential regime so they cannot be ascribed to the burden caused by the EU policy.

Finally, regarding external costs, i.e., fees paid to external service providers assisting enterprises in the management of administrative obligations, the survey data do not allow a consistent estimation, for the following reasons:

- In the case of local producers, data are highly volatile. Only a few respondents incurred such costs, and variance in the amounts reported is high (i.e., between EUR 15,000 and EUR 200,000), suggesting this is not a typical cost for this category of players.
- In the case of importers, the recourse to external agents – typically, to *transitaires* - is more widespread (about 30% of respondents). Various importers delegate to these agents the entire administration of import operations to these agents, including customs clearance and – where applicable - the payment of the OdM. The average fee amounts indicatively to EUR 100-150 per customs declaration and, according to survey results, may account for some 2-3% of traders’ turnover but the costs specifically attributable to the OdM obligations are just a minor share of it.

The ***tax enforcement burden*** for local authorities that arises from activities related to OdM special regime is also regarded as relatively small. For instance, in the case of Guadeloupe, supervision and administration of the OdM is entrusted to the Directorate of Indirect Taxation, which comprises six staff (one director, one head of department, two instructors, and two assistants). About 85% of the total staff working time in this

[310] Importantly, this figure is largely coherent with the estimates used by the French authorities to assess the administrative burden arising from the reduction of the OdM threshold to businesses becoming subject to declaration obligations, ranging between 28 and 36 working hours - i.e. 3.5 – 4.5 working days - per firm on an annual basis (see, République française, ‘Project de loi modifiant la loi n° 2004-639 du 2 juillet 2004 relative à l’octroi de mer’, Étude d’Impact, 23 mars 2015).

[311] Data on the gross hourly salary paid to a full-time employee in year 2016 are provided by the INSEE (see, INSEE, ‘déclarations annuelles de données sociales’ *(DADS) 2016.*) Values are largely similar across French ORs, ranging between EUR 16.3 for Réunion and EUR 18.0 for Martinique. An average value of EUR 17.4 has been retained, and incremented to include 25% overheads, in line with the SCM methodology.

Directorate concerns the OdM. Still, the majority of working time is dedicated to handling daily requests for tax exemption on production inputs, while the share of time specifically devoted to deal with products with tax differentials is roughly estimated at about 15% of the total, primarily by the director and the head of department.

➢ **AMENDMENT OF ODM PRODUCT LISTS**

In the past years the product lists in the Annex to the Council Decision had to be revised and updated to respond to the evolving conditions of the local markets and competition and/or to address incongruences and other issues. The product lists are typically revised either when the Council Decision is renewed or following the mid-term evaluation (see below). The ***process for updating the lists***, however, is far from straightforward, as any revision requires a legal amendment of the Council Decision. This applies to both including/removing certain product categories in/from the lists and moving certain product categories from one list to another. The process has to follow the ordinary procedure, with a significant investment of time and resources by national and EU administrations.

At national level, different local and central authorities are involved. In particular:

- Regional authorities have primary responsibility for the identification of product categories to be included in/removed from the different lists and elaborate the necessary quantitative evidence, including the product *fiches*. To this end, regional authorities perform several activities, such as consulting the stakeholders, preparing reports, and convening Council meetings. These tasks concern the whole revision process, from the launch to the finalisation of the requests, and then to the reply to comments and requests for additional evidence by the Commission.
- The *Direction Générale des Outre-Mer* (DGOM) is responsible for collecting requests from the regional authorities and checking their merits. In particular, it instructs and pre-validates the requests for revision, including the product *fiches*. This exercise can give rise to several exchanges with the local authorities, during which proposals for revision may be postponed or even refused if the evidence provided demonstrates that the request is not justified (lack of real competition from imports, negligible local market share, etc.). After validation, the DGOM transmits the requests for revision to the General Secretariat for European Affairs in order for the other ministerial departments concerned to be consulted. The DGOM also ensures that the regional authorities are informed about the revision process, subject to confidentiality.
- The General Secretariat for European Affairs (SGAE) ensures the link between the ministerial departments concerned (the DGOM and the *Direction Générale des Douanes et Droits Indirects* - DGDDI) and the Permanent Representation to the European Union (RPUE), which is finally responsible for sending a note from the French authorities to the Commission.

For its part, in the first place the Commission reviews the requests received from the French authorities and formulates observations and requests of additional information, when these are missing. If necessary, one or more meetings can be organised between the French authorities and the Commission, in particular at the end of the process, for a final analysis of the requests and final additions. The Commission then draws up a proposal for a Council Decision, submitted for the opinion of the Council (RUP Group) and the European Parliament (special procedure under Article 349 TFEU). The proposal is then examined by the Permanent Representatives Committee (*Coreper*) before final approval by the Council.

Overall, the revision process can last up to three years, as clearly illustrated by the interim revision undergone by the OdM in Guadeloupe (see Box 4.4 below), and requires the involvement of several stakeholders, as summarised in Table 4.19 below.

Table 4.19 – Overview of the OdM list revision process

Steps	Key tasks	Overall duration	Relevant stakeholder (staff / time)
Step #1: Revision launch and preparatory work	• Identification of local productions to be included in/removed from OdM lists by regional authorities • Collection of the required evidence and preparation of the *fiches surcoûts* by regional authorities	6-12 months	• Regional authorities: involved in all steps (unquantified staff time, but very significant) • DGOM: involved in all steps (2 staff, 30% of working time) • SGAE: involved in steps #2 and #3 (1 staff, 10% of working time) • RPUE: involved in steps #2 and #3 (2 staff, unquantified share of working time)
Step #2: Preparation and finalisation of requests submitted to the Commission	• Examination and pre-validation of proposals by the DGOM • Preparation of the note from the French authorities and the official request	6-12 months	
Step #3: Exchanges with the Commission	• Dialogue with the Commission and provision of additional information from local authorities	6-12 months	

Source: *Own processing of information provided by French authorities.*

Box 4.4 – The interim revision of the OdM list in Guadeloupe

The Regional Council of Guadeloupe took advantage of the mid-term review to send the EC a request to update the product list (and reintegrate some products mistakenly removed in 2014). Preparatory work started in the first quarter of 2016 and stakeholder consultations were held in April-May 2016, consisting of participatory meetings attended by public and private stakeholders, and written consultations. The process was managed by an external consultant. The results were summarised in a document submitted to the Technical Commission for review. The changes to the product lists were adopted in plenary session by the Regional Council at the end of 2017. The document was then forwarded to the prefecture to be transmitted to the Ministry of the Outre-mer, and then to the EC (at the beginning of 2018). Exchanges took one year before the relevant EC Council Decision (2019/664) was adopted on April 15, 2019. Overall, the revision process lasted about three years.

On September 23, 2019, the Regional Council adopted a deliberation (n° CR/19-1067) to take into account the changes introduced by the Council Decision of 2019, which entered into force on October 1, 2019. Then, a new deliberation (n° CR/19-1319) was adopted on December 23, 2019 and entered into force in January 2020 to (i) integrate the changes introduced by this recent deliberation into the whole tariff system, covering all products, and (ii) introduce the changes required by the evolution of the customs code (namely, the deletion of 47 nomenclature codes and 97 changes of descriptions).

➢ MONITORING ARRANGEMENTS

The EU policy requires that the benefits of the tax exemptions not exceed what is indeed necessary to compensate for the additional costs faced by local production activities, and that the impact on price levels and the effects on the local socio-economic development be monitored. A reporting obligation was introduced in the OdM Decision precisely to this effect. Accordingly, in 2017, the French authorities entrusted the preparation of an ***evaluation report*** on the implementation and impact of the OdM to an external consultant, under the supervision of a steering committee, chaired by the DGOM and bringing together other administrations concerned (in particular, the DGDDI and the SGAE). The process lasted about one year, during which the committee met approximately 4-5 times and about 10 additional technical meetings were held in parallel. The French authorities submitted the evaluation report[312] to the Commission in February 2018.

[312] Technopolis, *Evaluation de l'octroi de mer, Rapport Final*, 31.01.2018 (for the Ministère des Outre-mer).

This report was followed by ***specific evaluation reports for each French OR***,[313] accompanied by requests to adapt the lists of products to which differentiated OdM rates may apply. As illustrated by Table 4.20 below, these reports broadly follow a common structure. However, the quantity and quality of information provided vary across regions. From a geographical point of view, the most significant information gaps are detected in the case of Mayotte, due to the fact that the arrangements came into effect only recently on the one hand, and on the other that the availability of statistical data is in general more limited. In terms of content, the lack of information on price levels for products that are subject to differentiated taxation represents the largest gap in information.

Table 4.20 – Themes covered by regional evaluation reports

Theme	Guadeloupe	Martinique	F. Guiana	Réunion	Mayotte
Overview of socio-economic developments	√	√	√ (sectoral overview included)	√	√ (sectoral overview included)
Review of the evolution of local sales and imports for OdM products, by sector and tax differential	√	√	√	√	√ (the analysis only covers local sales and, for most products, only one year - 2016)
Sectoral analysis of OdM rates and differentials	√	√	√	√	√
Analysis of foregone revenue	√	√		√	
Breakdown of the additional costs sustained by local businesses	√	√			
Analysis of economic trends in light of the tax differential, by sector	√	√		√	
Justification of requests to update the OdM lists	√	√	√	√	

Source: *Own processing based on the analysis of the mid-term reports submitted by French ORs.*

The regional reports are essentially monitoring documents, providing a more or less detailed analysis of the evolution of local production and imports for the sectors, sub-sectors and/or product categories benefiting from a tax differential over the 2014-2016 period. While the informative content of these reports is hardly disputable, evaluations are extremely limited, not including any assessment of the extent to which the OdM contributed to maintain or promote local production as well as of the impact of the tax on price levels.

Overall, as clearly stated in the Report to the Council prepared by the Commission there have been improvements but the utility of the monitoring system is still far from optimal:[314] "*The information provided by the French authorities does not give a complete picture of the economic and social impact on local production in the French outermost regions of the application of differentiated dock-dues taxation to local products as compared with products from elsewhere. What can, however, be emphasised are the very clear improvements to the quality of the information provided and to the way in which implementation of the arrangements is followed up*."

According to French authorities, there is indeed room to deepen the analysis of OdM impact at both the macro (regional economy) and the micro levels (individual firm).

[313] (1) Action Publique Conseil, 'Rapport d'Evaluation à Mi-Parcours du Dispositif d'Octroi de Mer. Région Guadeloupe', Janvier 2018; (2) 'Contribution de la Collectivité Territoriale de Guyane au Rapport à mi-parcours relatif au dispositif d'octroi de mer', 2018; (3) 'Octroi De Mer – Etude Relative à l'Evaluation du Dispositif de Soutien à la Production Locale à La Réunion. Le dispositif de différentiel d'octroi de mer depuis 2015' (Ile de La Réunion) (no date); (4) Action Publique Conseil, 'Rapport d'Evaluation à Mi-Parcours du Dispositif d'Octroi de Mer. Collectivité Territoriale de Martinique', February 2018; (5) 'Etude Relative à l'Evaluation du Dispositif d'Octroi de Mer à Mayotte depuis 2015', August 2018.

[314] COM(2018) 824 final.

However, they also stressed the severe challenges posed to this aim by the limited availability/reliability of statistical data as well as by tax confidentiality provisions, which restrict access to some relevant information.

Evaluation Question #11: *To what extent are the benefits of the fiscal measures compensating for the loss of fiscal revenue in Spain and France, in particular in the Outermost Regions?*

➢ **BUDGETARY IMPACTS OF THE ODM**

To respond to this evaluation question, it is useful to examine, in the first place, what is the actual loss of fiscal revenue caused by the OdM regime. In formal terms, the OdM exemptions/reductions constitute a fiscal loss equal to the amount of tax not collected. However, one of the main rationales of the OdM lies in its differentiated rates regime. So, arguably, were tax differentials not permitted, the OdM regime would have no reason to remain in place, as its budgetary effect could also be obtained by a regional VAT. In this sense, it is important to underline that the foregone revenues linked to OdM exemptions constitute in fact a ***virtual loss of revenue*** for the regional authorities.

The second important consideration is that there is an evident trade-off between the tax collected on imported goods and the tax reductions on local production. In simple terms, assuming the demand is stable, the balance between tax collected and not collected is ***determined by the respective market shares*** of imports and local products: where imports prevail, the tax revenue balance will be positive and vice versa. The intensity of this effect is correlated to the extent of the differential applied, so an increase in the differential would at the same time increase the revenues collected, and deepen the virtual losses[315]. At the same time a primary objective of the OdM policy is to sustain local production, so the more successful the policy is in boosting the market share of local production, the higher the amount of foregone revenues. Table 4.21 below illustrates empirically these concepts with concrete product examples:

- The first case regards the product category CN 7314 in F. Guiana (iron and steel cloth etc.). Local production increased notably between 2014 and 2018, while OdM rates did not change and the imports increased moderately. The result is a significant increase in the 'foregone revenue', which moved from less than 1% of the total virtual tax (i.e., the sum of external and internal receipts if there were no OdM differential) to some 48%. The change was entirely driven by the increased market share of local production, as the tax rates did not change.
- The second case regards fresh melons, papayas etc. in Martinique (CN 0807) and it is similar to the first case, but with opposite effects. The value of local production collapsed in the period considered, while imports declined mildly thus acquiring greater shares of the market. The tax rates did not change, and the tax receipts went down moderately, in line with import trends. However, the estimated foregone revenues fell significantly, from nearly 85% of the total virtual tax to some 43%.
- Conversely, the third case (CN 3923 in Guadeloupe) shows the budgetary effects of a change in tax rates associated with a negligible change of market structure (respective shares of local products and imports). Both tax receipts and the estimated tax revenue increased significantly due to the effect of the change of rates but since the market remained stable, also the incidence of foregone revenues on the total remained stable.
- Finally, the case of CN 3208 in Guadeloupe (prepared pigments etc.) involves both a significant change of market structure (collapse of local production) and an increase in the tax differential. In this case, there are two simultaneous impact drivers in place: the tax change, which boosts both receipts and foregone revenues, and the fall of local production, which reduces the foregone revenues.

[315] The actual extent of the effect is also related to the demand elasticity of the product concerned, but this aspect is not at stake here.

Table 4.21- The impact on tax revenues and losses, specific cases

		GUF		MTQ		GLP		GLP	
		§ 7314 - Iron and steel cloth etc.		§ 0807 - Fresh melons and papayas		§ 3923 - Plastic articles for the conveyance or packing of goods etc.		§ 3208 - Prepared pigments etc.	
		2014	2018	2014*	2018	2016	2018	2014	2018
A	**Local production (EUR)**	6,521	2,054,072	791,968	40,933	1,163,952	1,141,608	125,980	2,611
B	**Imports (EUR)**	1,476,792	1,933,802	62,481	45,559	2,781,784	2,854,025	174,171	214,566
C	**OdM - External**	*17.5%*	*17.5%*	*17.5%*	*17.5%*	*12.5%*	*22.5%*	*12.5%*	*17.5%*
D	**OdM - Internal**	*1.0%*	*1.0%*	*1.5%*	*1.5%*	*2.5%*	*2.5%*	*2.5%*	*2.5%*
E	**OdM differential**	*16.5%*	*16.5%*	*16.0%*	*16.0%*	*10.0%*	*20.0%*	*10.0%*	*15.0%*
F	**Tax receipt – internal (EUR) *[A*D]***	65	20,541	11,880	614	29,099	28,540	3,150	65
G	**Tax receipt – external (EUR) *[B*C]***	258,439	338,415	10,934	7,973	347,723	642,156	21,771	37,549
H	**Tax receipt – total (EUR) *[F+G]***	258,504	358,956	22,814	8,587	376,822	670,696	24,921	37,614
I	**Variation in tax receipts (EUR) *[ΔH (2018 – 2014)]***		100,452		- 14,227		293,874		12,693
J	**Foregone revenue (EUR) *[A*E]***	1,076	338,922	126,715	6,549	116,395	228,322	12,598	392
K	**Variation in foregone revenue *[ΔJ (2018 – 2014)]***		337,846		- 120,166		111,926		- 12,206
L	**Foregone revenue / total virtual tax ratio *[J/(J+H)]***	*0.4%*	*48.6%*	*84.7%*	*43.3%*	*23.6%*	*25.4%*	*33.6%*	*1.0%*
M	**Variation in the foregone revenue / total virtual tax ratio (percentage points) *[ΔL (2018 – 2014)]***		*48.2*		*-41.5*		*1.8*		*-32.5*

Source: *Own processing of data provided by French authorities.*
Notes: *(*) In the case of Martinique the tax differentials reported actually refer to 2015.*

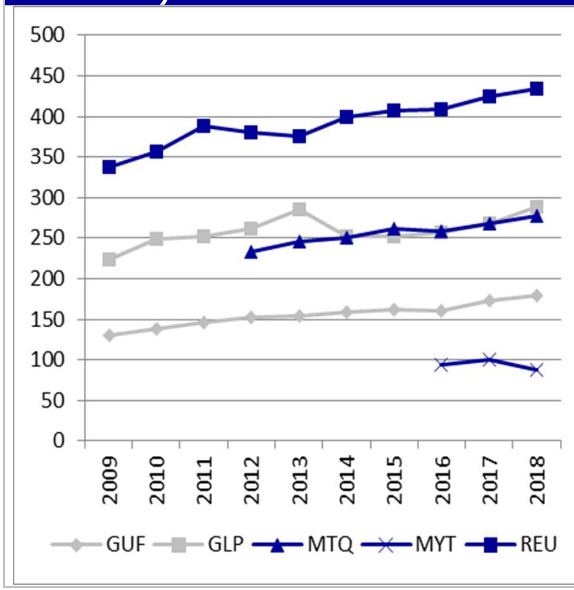
As anticipated in Section 2.2, the ***OdM tax receipts*** have been steadily rising over time in all ORs (except Mayotte in 2018) at a pace that in the period 2014-18 ranged from 2.2% year-to-year (Réunion) to 3.7% (Guadeloupe). In all ORs the overwhelming majority of receipts are collected on imports, with the internal OdM accounting for only between 2.5% of the total in Réunion and 5.5% in F. Guiana. The regional component is comparatively higher in the Antillean ORs (between 26% and 29%) than in Mayotte or F. Guiana (19%-20%).

Overall, the OdM tax receipts have a non-negligible ***impact on ORs' public budget***. In particular, in Mayotte and F. Guiana, the total receipts account for approximately 4% of the regional GDP, in Guadeloupe and Martinique around 3%, and in Réunion around 2.3%.

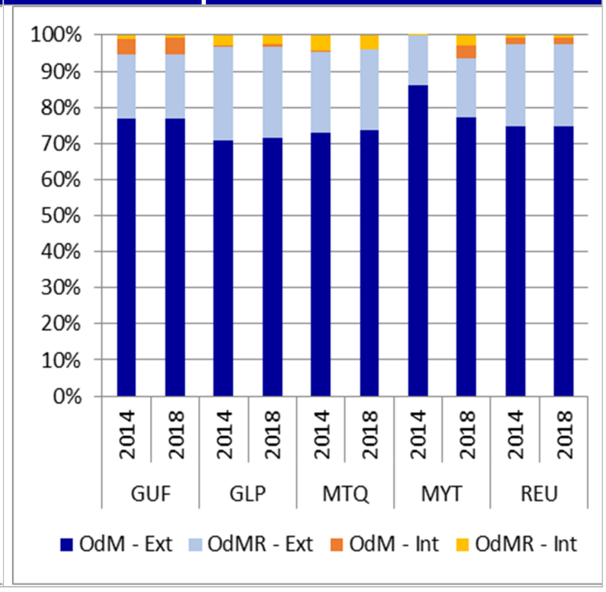
The tax receipt data reported in Figure 4.21 refer to the entire OdM regime and not only the products subject to the differentiated rate regime. Official figures for this group of products are not available, but they can be estimated based on the disaggregated product level data on imports and local production. The tax receipts collected on the ***products benefitting from tax differentials*** account overall for 42% of total OdM revenues, ranging from 48% in Réunion to 19% in Mayotte (Figure 4.22, further below). Receipts from the internal OdM are generally limited, amounting to 6% of the total receipts from supported products. In Réunion, where for most of the supported products the internal rate is zero, this component amounts to 1%, conversely in Martinique it represents a non-negligible share of 12%.

Figure 4.21 – The trends and composition of OdM tax receipts in French ORs

A) Trends in overall OdM receipts (EUR million)

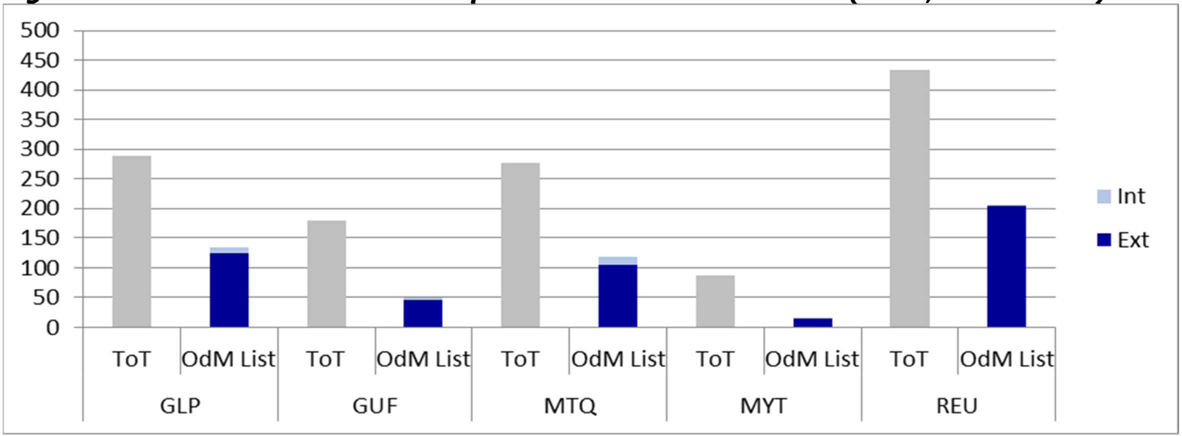


B) Share of the different components of OdM receipts



Source: *Own processing of data provided by French authorities.*
Legend: *OdMR = regional component of OdM; Ext=external (tax on imports); Int=internal (tax on local production).*

Figure 4.22 – OdM tax collected on products in the Decision list (2018, EUR million)



Source: *Own processing of data provided by French authorities.*
Legend: *OdM list = products listed in the Council Decision; Tot= receipts from all products; Ext=external OdM; Int=internal OdM.*

Regarding the '***foregone tax revenue'*** (*dépense fiscal*) – i.e., the tax not collected because of the exemptions – some quantitative estimates have been produced in the framework of the latest OdM evaluation and monitoring reports (Technopolis 2018, and ORs mid-term reports) as well as by French authorities in response to State aid monitoring requirements. These estimates were further triangulated in this Study by calculating at the level of each OdM-supported product, the amount of tax that would be levied in the absence of exemptions/reductions. In practice, we have estimated the foregone revenue by multiplying the value of production by the tax differential applied. This method proved useful for triangulation but has two main data-related limitations:

- Complete, detailed production data are available for only a few years and, where provided, present various gaps. This is especially the case with OdM-supported products for which the internal rate is zero, for which the production value is not reported. This severely affects the utility of the most recent data from Réunion and F. Guiana. Secondly, for certain products data are available in aggregate terms although the tax regime is different.
- The legacy data on the internal OdM rate OdM are seldom available so the analysis can be done only for recent years.
- The value of production from enterprises with a turnover below EUR 300,000/year is no longer computed in the statistics. This leads to underestimating the foregone revenue, as these enterprises de facto benefit from the special regime to an even greater extent.

The different foregone revenue estimates that have been gathered are reported in Table 4.22 below. As comparing figures clearly shows, estimate variability is significant, and depending on the source, a soaring or a declining trend can be identified. However, in terms of scale, the various estimates appear compatible.

Table 4.22 – The available estimates on OdM foregone revenue in French ORs

Indicator	Year	GLP	MTQ	GUF	REU	MYT	TOT
OdM Evaluation 2018	2016	53.1	90.3	25.3	120.4	12.3	301.4
Regional monitoring reports	2016	62.7	109.6				
	2014	53.8	102.1				
State aid monitoring	2017						287.4
	2014						375.8
Study's own estimate	2018	64.1	111.6	12.5*	16.5*	6.4*	211.1
	2016	63.0	109.4	29.2	129.3	12.8	343.7

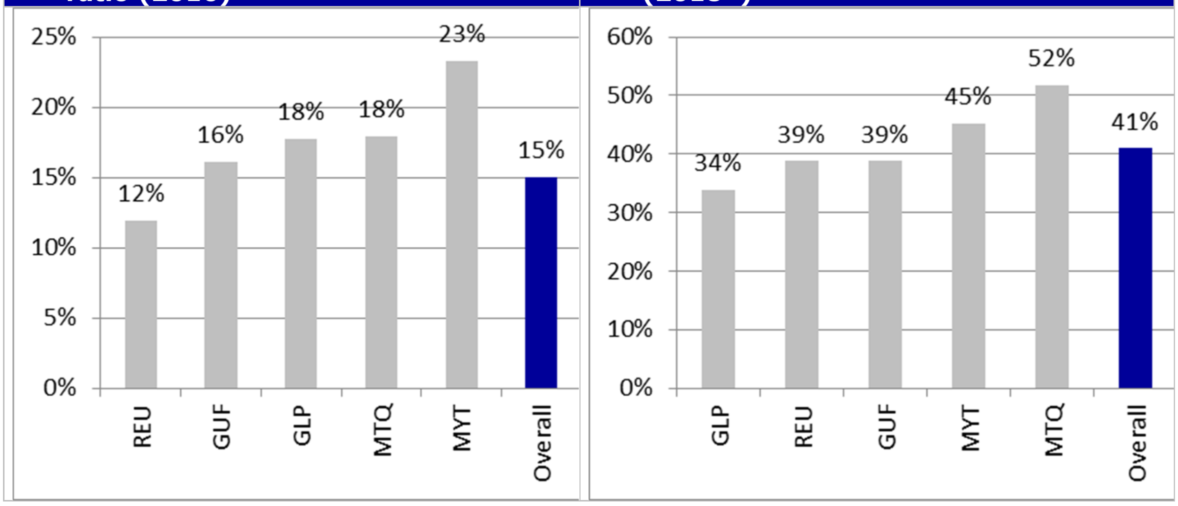
Source: *Own estimates, Technopolis 2018, OdM regional monitoring reports (2018), DG COMP State aid register.*
Notes: *(*) Underestimated figures due to missing information on the value of local production where the internal OdM rate is zero.*

Two metrics have been developed to assess the budgetary impact of foregone revenue and to allow cross-region and over-time comparison, as follows (see Figure 4.23):

- The first metric is the ***ratio between foregone revenues and the value of local production***, which provides an indicator of the intensity of the measure. As discussed previously, such intensity may increase with the extent of tax differentials applied, but also with the loss of market share by local producers. In 2016, the overall ratio for the five French ORs accounted for approximately 15%, ranging from as low as 12% in Réunion (lowest intensity) up to 23% in Mayotte (highest intensity).
- Another way to consider the budgetary efficiency of the OdM regime consists in assessing what share of the overall tax that is 'virtually' applicable to the concerned products is actually not collected. In practice, the indicator reflects the ratio between the foregone revenue and the overall amount due if tax differentials were not in place or, in other words, the ***balance between tax collected and not collected***. The results show that some 41% of the total 'virtual' tax is not collected, ranging from 34% in Guadeloupe to 52% in Martinique. The metric reflects indirectly the characteristics of the supported products and their market position: the extent of the not collected tax on the total will be higher in markets where local producers hold comparatively greater shares and vice versa.

Figure 4.23 – The level of foregone revenue compared to local production value and total tax

A) Foregone revenue / local production ratio (2016)	B) Foregone revenue / total virtual tax (2018*)



Source: *Own processing of data provided by French authorities.*
Notes: *(*) In Figure B the data for REU, GUF, MYT actually refer to 2016.*

➢ Efficiency of the OdM

How well the budgetary effects of the OdM regime have converted into benefits remains very complex to quantify, due to the reported data validity limitations, and the absence of a clear baseline for a counterfactual analysis. Still, results of the analysis conducted in the previous section allow for the elaboration of a ***general conversion index*** for the OdM special regime. The index is calculated as the ratio between the additional production virtually enabled by tax differentials and the cost of the special regime in terms of foregone tax revenues. As shown in Table 4.24 below, this ratio is 1:2.5, that is, one Euro of foregone revenue can be roughly associated with 2.5 Euro of local production.

Similarly, it is possible to estimate the efficiency in terms of ***employment***, by estimating the amount of foregone revenue associated with the number of jobs hypothetically enabled by OdM differentials (i.e., based on the additional value-added generated), As table 4.24 shows, this metric can be roughly estimated at less than EUR 80,000 per job.[316]

In comparative terms, it emerges that overall OdM cost-efficiency indexes are lower than those registered for the similar AIEM scheme applied in the Canary Islands, whose conversion index is 1:2.9 and the virtual cost per job is less than EUR 30,000. The difference can be explained by the greater impact of structural constraints in French ORs compared to the Canary Islands (higher distance, smaller markets etc.) and, therefore, the need for more intense support to achieve the same results.

It is important to underline that these figures are derived from the estimated impact of special regimes on the value of local production (see EQ#8) and does not stem from an ad hoc, separate quantitative assessment. In this sense, they are subject to the limitations of the model used for estimating impacts on production value (see Annex C) and therefore ***should be seen as indicative*** and not comparable with the similar indicators elaborated through more robust and dedicated models for the analysis of EU policies' cost-efficiency.

Table 4.24 – Efficiency indexes of the OdM regime

OdM foregone revenues	Production value associated with the OdM	Associated jobs	Monetary Ratio (conversion index)	EUR per job
EUR 344 million	EUR 850 million	4,304	1 : 2.5	79,925

Evaluation Question #12: *To what extent does the current system of tax advantages affect retail prices in the Outermost Regions?*

One of the possible 'externalities' of the OdM regime concerns its repercussion on retail price of consumer goods and, therefore, on the ***cost of living in French ORs*** and the purchasing power of residents. The underlying logic is that since a large share of OdM products remains of imported origin, and assuming that the tax is not absorbed by the trader but passed onto the retail price, consumer expenditure is inflated by the application of the tax.

This argument is at the core of the debate between opponents and supporters of the OdM regime, with the former highlighting the inflationary character of any protectionist tax like the OdM, while the latter claim the absence of tangible evidence of such effects in price level statistics. According to ***survey results***, the perception of a moderate or major impact prevails (72%) among respondents. As expected, this share further increases among traders and service businesses, reaching 94% of relevant respondents. In contrast, the majority of local producers denied the existence of a similar inflationary effect or assessed it as minimal. Still, a non-negligible share of them (36%) believes that the OdM translates into higher consumer prices.

Notably, stakeholders' perceptions seldom distinguish between the impact of the tax differential regime – which is the main subject of the EU policy – and of the OdM on the whole – i.e., including the several products not subject to tax differentials. Such a distinction is particularly relevant in the regions – especially the Antillean ORs - where a positive tax is also applied on a vast range of locally manufactured goods.

[316] There are no standard benchmarks for this metric, but for purely indicative purposes it is worth citing: (a) the CSES, 'Study on measuring employment effects', June 2006, which examined the impact of EU Structural Funds on employment, estimating the cost per job at EUR 36,000 on average; (b) the more recent evaluation of the ERDF and Cohesion Fund (2014), concluded that an overall investment of EUR 269.9 billion led to the creation of about 1 million jobs, i.e. a ratio of EUR 270,000 per job (see: SWD(2016) 318 final).

The French statistical institute INSEE carries out periodic analysis of ***price levels in the ORs as compared with the mainland***. The assessment is based on the price of similar baskets of goods, adjusted to reflect the different consumption patterns across ORs and vis-à-vis the mainland. The results of the INSEE price gap assessment are reported in Table 4.25 and Figure 4.24 below. In particular:

- The comparative review of price levels conducted by INSEE confirms the existence of notable price differences between French ORs and the mainland.[317] For OR's typical product basket, local prices are higher by approximately 3%-7% (with the exception of Mayotte, where price level is lower). However, if related to mainland's product basket the gap soars to 10% in Réunion and 17% in the Antillean ORs. The gap has apparently widened over time, especially in the Antillean ORs (but data are not fully comparable due to methodological changes occurred).
- The gap is primarily caused by food products, which are some 30% more expensive in the ORs than in the mainland. Notable differences are registered also with communications services (+28%) and with alcoholic beverages and tobacco products, but with different patterns across ORs (very large gap in Mayotte, nearly no gap in F. Guiana).
- The comparison with previous estimates processed by INSEE, although based on a methodology which is not fully comparable, suggests that the price gap has not shrunk over time. On the contrary, it may have grown, especially in the Antillean ORs.
- The only area where ORs' prices are lower than on the mainland is transports (less 2.4% on average).

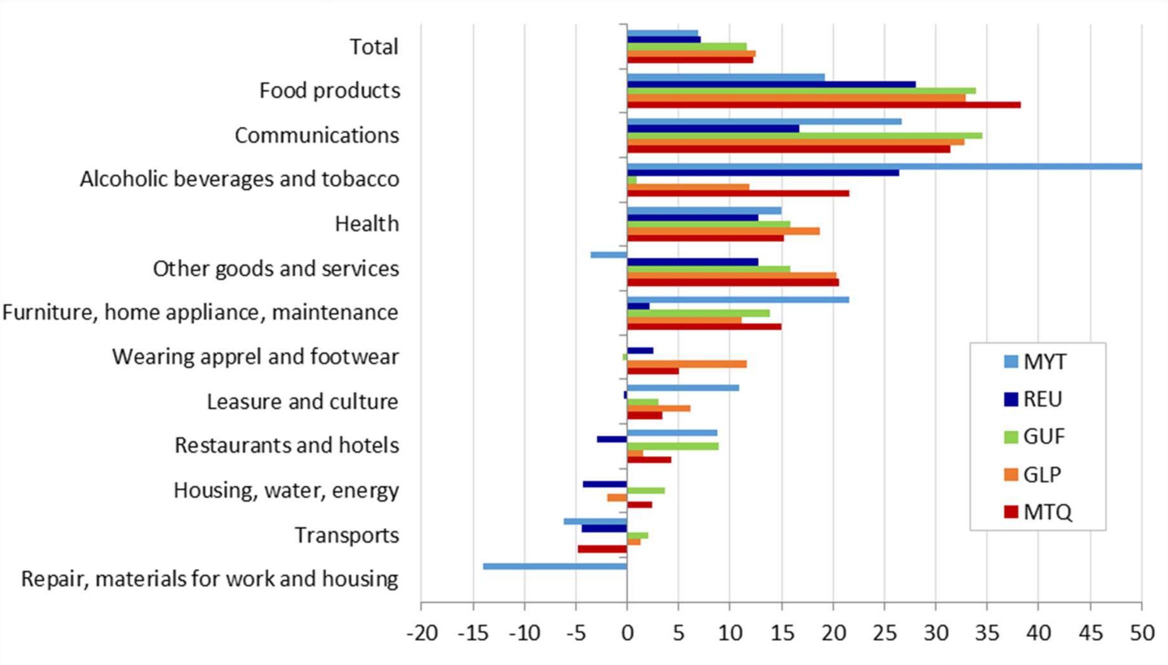
Table 4.25 – Estimated price-level difference between ORs and the mainland (INSEE, data in %)

	Estimated gap based on mainland's product basket*			Estimated gap based on OR's product basket**		Average gap***
	1992	2010	2015	2010	2015	2015
Martinique	8.4	16.9	17.1	-2.9	-7.1	12.3
Guadeloupe	10.0	14.8	17.0	-2.2	-7.5	12.5
F. Guiana	20.5	19.6	16.2	-6.4	-6.8	11.6
Réunion	15.6	12.4	10.6	-0.4	-3.6	7.1
Mayotte	-	-	16.7	-	2.0	6.9

Source: *INSEE spatial comparison survey on consumer price levels*[318]
Notes: *(*) variation in the consumption budget of a hypothetical household from the mainland which relocates in the OR but maintain its mainland consumption habits. (**) variation in the cost of the consumption basket of an OR household if it bought its products at prices charged in mainland France. (***) geometric average (based on Fisher Price Index). The methodology was refined over time, so estimates from different years are not duly comparable. For certain items, data for Mayotte are unavailable, so the comparison should be taken with greater caution.*

[317] INSEE Première N°1589, Avril 2016.
[318] Full data available at: https://www.insee.fr/fr/statistiques/1908163

Figure 4.24 – Price-level difference between ORs and the mainland, by main items (INSEE, data in %, 2015)



Source: *INSEE spatial comparison survey on consumer price levels*
Notes: *The figures displayed are the geometric average (Fisher Price Index) of the two estimation methods shown in Table 4.25. The item classification for Mayotte differs partly from the classification used for the other ORs.*

There is an intense debate in France about the ***underlying causes of high consumer price levels*** in the ORs.[319] In his speech at a recent conference on the cost of living in the ORs organised by the French *Ministère des Outre-mer*[320], the director of CEMOI[321] highlighted the structural features of the problem and, in specific[322]:

- local enterprises' lack of competitiveness of, due not only to the additional costs of operating in the ORs, but also to the limited room for productivity gain created by the regulatory framework, which impose the same salaries and conditions as on the mainland;
- the oligopolistic structure of OR markets, which inevitably bring higher prices with it.

In this context, the OdM - besides its direct effect on price - may still worsen the situation as it encourages rent-seeking practice among local players in a dominant position, and the possible alignment of the price of imported products to the level of more expensive local products.

These aspects have been investigated in a report published in July 2019 by the French ***Autorité de la Concurrence***, which identified, among others, the following drivers[323]:

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[319] For an overview of the debate see: Christian Montet, Florent Venayre. 'La loi REOM contre la vie chère en outre-mer: Une construction difficile entre concurrence et administration des prix.' Revue Lamy de la Concurrence, Editions Lamy/Wolters Kluwer, 2013, 35 (Avril-Juin), pp.131-140.
[320] *Rencontre - Lutter contre la vie chère en outre-mer : Enjeux et perspectives*, 12 December 2019. The conference involved, among others, the *Observatoire des prix, des marges et des revenus* (OPMR) of Réunion, as well as representatives from INSEE, IEDOM, AfD and Autorité de la Concurrence, and other relevant institutions.
[321] Centre d'Économie et de Management de l'Océan Indien (CEMOI, Université de La Réunion)
[322] Source: Jean-François Hoarau, 'La vie chère en Outre-Mer, un phénomène structurel?', appeared on Outremer360, 6 January 2020.
[323] Autorité de la concurrence, 'Avis n° 19-A-12 du 4 juillet 2019 concernant le fonctionnement de la concurrence en Outre-Mer'.

- Distributors' trade margins in the ORs are generally higher than on the mainland, but the difference explains only part of the price gap. More significant impact is due to the cumulation of margins along the value chain, and the role played by importers and wholesalers in this respect.
- On average, retail trade distribution is more concentrated than in the mainland, and there are also greater barriers to entry for new players.
- The '*bouclier qualité prix*' – i.e. the scheme in place to make available certain basic products at a moderate price (through agreements with value-chain players) – is not effectively implemented.
- There is often vertical integration in the distribution chain, with large distributors also acting as importers/wholesalers, which may raise competition issues.
- Freight costs are limited (less than 5% on average) but on the rise, and they may have a non-negligible impact on products with limited added value.
- Local production faces competitiveness issues due to the structural constraints of OR markets. Additionally, the small size of market encourages concentration (except for fresh products).

In this framework, the OdM contributes to increase in the price levels as an additional driver. In this respect the report of the ***Autorité de la Concurrence*** states:

"*Finally, it can be considered that to the extent that the objective of OdM differentials is to encourage the consumption of local products compared to that of imported products, its participation in the cost of living is strengthened. As the cost of local production is potentially higher than that of substitutable imported products, including approach costs, the OdM system has the effect of increasing the cost of a consumption basket by bringing the prices of imported products and local products closer together, rather than exempting the latter from competitive pressure.*

Overall, the OdM is likely to increase the prices to the consumer. It weighs on productivity gains in historic sectors, and on investment and employment in new sectors. More generally, it slows, by its weight and its complexity, the adaptation of the OR productive system. Finally, for its importance for the financial resources of local authorities, it encourages them to seek increases in taxable imports rather than promote the development of local activity".[324]

The lack of detailed price data hampers precise assessment of the extent of OdM impact on price levels,[325] nonetheless analysis of tax revenues and consumption expenditure allowed a rough estimation of the ***magnitude of OdM contribution to the cost of living*** in French ORs. The analysis compares OdM revenues to household consumption expenditure (see Annex C for the full analysis).[326] Assuming, for analytical purposes, that the tax borne by producers and importers is fully passed on to retail prices in full, the incidence of the OdM on consumer expenditure would be roughly equal to the amount of tax revenues, increased by a retail mark-up that, along with INSEE estimates, can be set conventionally at 30%.[327] The main results are shown in Table 4.26:

- The overall incidence of the OdM accounts for 4.6% of final consumption in French Guiana, 3.6%-3.7% in Guadeloupe and Martinique, and 2.5% in Réunion.[328]

[324] Ibid., p. 24 (our translation).
[325] The issue was noted also by the Autorité de la Concurrence which recommended to strengthen the capacity of the local Observatories of prices and margins with the means necessary to fully accomplish their missions. Ibid. p. 3.
[326] Data on tax collected at product level provided by customs refer to year 2018, while data on household final consumption by economic accounts refer to year 2014. Data were adjusted using the ratio of revenues collected in 2014 divided by revenues collected in 2018, to ensure consistency.
[327] The figure rounds up the INSEE estimated average sales margin (29.1%) for retail activities (vehicles not included).
[328] Figures are coherent with the different OdM base rate applied in French ORs, as illustrated in Section 2.2 above.

- The impact is mainly due to the external OdM, while the tax collected on products with an OdM-differentiated rate represents one-third of the total impact and does not exceeds 1.5% of final consumption in any OR.
- As expected, the impact of the OdM is higher for manufactured goods, with the tax levied on OdM-supported products amounting to between 2.7% (in Guadeloupe) and 5.3% (in Martinique) of the value of household consumption.
- When these figures are compared with the INSEE estimates of price differentials with the mainland (Table 4.24) it appears that the OdM special regime (i.e. considering only products subject to differentiated tax rates) explains less than one-tenth of the registered price gap.

Table 4.25 – Incidence of the OdM on final consumption, by tax component and OR

	F. Guiana	Guadeloupe	Martinique	Réunion
Total OdM as % of final consumption	4.6%	3.7%	3.6%	2.5%
manufactured goods	*17.0%*	*12.9%*	*13.7%*	*9.8%*
External OdM as % of final consumption	4.3%	3.6%	3.4%	2.5%
manufactured goods	*16.8%*	*12.7%*	*13.3%*	*9.5%*
Revenues from products subject to OdM differentials, as % of final consumption	1.3%	0.7%	1.4%	0.8%
manufactured goods	*5.0%*	*2.7%*	*5.3%*	*3.2%*

Source: *Own processing of data provided by French authorities and INSEE data on regional economic accounts*

The estimates laid down in Table 4.25 are corroborated by the results of other studies. In particular, a recent study conducted in Martinique (Marques, 2018)[329] estimated the incidence of the tax at some 4.8% of the total value of final consumption, but for supported products the incidence increases to 12% (tax differentials are typically set by increasing external OdM rates). The Martinique study also estimates that only 65% of the tax is passed on to the consumer, while 35% is absorbed by the trader, and that the final impact on the retail price of the OdM-supported products is 6.5%.

To sum up, the OdM contributes to the cost of living in the ORs, along with other structural features of local markets and competition. However, ***only a small share of this impact relates to the tax differential regime permitted by the EU policy***, while the bulk is due to the rates applied on the import of products for which no differential treatment is envisaged.

[329] Bruno Marques, 'Contribution à une Comprehension Economique de l'Octroi De Mer - Le Cas de la Martinique', Université des Antilles, 2018.

5. POLICY SCENARIOS FOR THE WAY FORWARD

This section of the Report marks the transition from the retrospective to the prospective component of the Assignment. More specifically, it first discusses in narrative form the 'policy problems' emerging from the evaluation (Section 5.1) and, secondly, it describes policy scenarios for the way forward (Section 5.2), including a set of possible policy options for change that will be examined in Section 6 of the Report.

The policy scenarios and specific options laid out below have been selected by the Consultant after the presentation of a preliminary draft and subsequent discussion with the Commission and the competent national authorities.

5.1 Problem analysis

The current section is structured in two parts. The first part examines in detail and based on the results of the retrospective evaluation, the specific ***drivers*** representing the root cause of implementation or performance issues of the special regime. Each driver may have distinct effects in different areas of the policy. The second part aggregates the detected issues into a set of ***policy problems*** (corresponding to specific areas of the policy) for which possible solutions are being proposed.

➢ **POLICY PROBLEM DRIVERS**

1) The policy lacks a clear, strategic identification of the targeted activities, and the sole use of customs classification to identify beneficiaries is at the basis of various implementation issues.

The use of customs classification codes (CN or TARIC codes) to identify local productions in need of support has a practical rationale which is to facilitate the application of the tax on imported goods and, where relevant, to the equivalent locally produced goods. However, the customs classification is not fit (and therefore not used) for the design and analysis of sectoral development policies, which are instead typically defined on the basis of the economic activities classification (i.e., the NACE statistical classification, and the CPA for products). The issue is not merely technical and reveals a sort of overturning in the logic of the policy, which seems driven by CN product lists, whereas it should ideally be anchored to a clear, strategic identification of the production activities and sectors to be supported in the different ORs (and the related value-chains and clusters).

The use of the customs classification as the sole instrument to define the scope of the policy presents numerous shortcomings, including:

- it allows a questionable use of the concept of 'transformation', linking it to a change of CN code, even when this does not correspond to an operation adding real value (should minor transformation/packaging activities be entitled to receiving the same support as manufacturing activities?);
- it may lead to disparities and fragmentation in the tax treatment of the outputs of similar production processes carried out by the same entities - hence arguably subject to similar additional costs – but classified differently for customs purposes. In some cases, such disparities might prevent operators from engaging in the production of new products that fall in the same segment of the existing productions but have a different and not-supported CN code;
- it might not allow distinguishing appropriately between sub-products falling under the same CN heading. In fact, certain CN categories encompass heterogeneous products of which only one or few are locally produced, while the tax remains

applicable to the totality of the category (except when ad hoc specifications/exceptions are added by local competent authorities);
- it also affects the quality of monitoring, as production output and other relevant statistics are measured at sectoral/industry level, using the NACE classification (or the national equivalent classification). Correlation tables with customs classification do exist but are inevitably imprecise.

Evidently, the use of customs classification remains necessary for the practical implementation of these measures, but there is the need to limit its use to technical enforcement, subordinating the objective of the policy to a clearer identification of the sectors/industries that the local development strategy intends to support.

2) The criteria for the identification of local productions threatened by external competition and in need of support, and for their placement in one of the lists of the Council Decision, are formulated in generic terms, fuelling the perception of poor transparency and possible subjectivity in the decision-making process.

One of the recurrent criticisms raised by enterprises (both importers and local producers) against special tax regimes concerns the lack of transparency in the policy process leading to the application of tax differentials to certain categories of products and not others, and to the quantification of such differentials. The OdM Decision does mention three eligibility criteria: (1) the existence of local production, (2) the existence of significant imports that could jeopardise local production; and (3) the existence of additional costs affecting the competitiveness of local products. The three criteria are clear but expressed in a fairly generic manner and lack objective elements for their verification, in specific:

- The 'existence of local production' leaves ample room for interpretation regarding:
    a) What is the minimum market share of local production triggering the need for special tax regime support? Specifically, can niche and/or artisanal productions justify the application of the tax to a vast range of imported industrial products falling under the same CN category?
    b) Is there a minimum number of local producers necessary to justify the introduction of tax differentials, or is it acceptable to support industries with only one local player, for example?

- The 'existence of significant imports that could jeopardise local production' also poses interpretation uncertainties:
    a) What is precisely the market share that corresponds to 'significant import'? Does it differ product by product? How can this be translated in an objective parameter?
    b) Is the risk of jeopardising local production an essential element of the criterion, and if so, how can it be operationalised? For instance, are shrinking market shares a proper indicator of such risk? Should industries that have, for many reasons, limited future perspectives be nonetheless supported 'at all costs'?
    c) In connection with point 1) above, is the fact of belonging to the same CN category sufficient to assume the equivalence and potential substitution between imported and locally produced goods?

- The 'existence of additional costs' criterion and the way to measure it present numerous uncertainties that deserve dedicated analysis (see the next point).

The lack of clarity with the criteria applied for the selection of products and the underlying policy process may fuel the perception of an excess of subjectivity and possible disparities of treatment. In this sense there seems to be room for a change of paradigm, namely from a situation where the EU authorities are supposed to review, and eventually approve or reject, individual product dossiers 'one-by-one' (currently amounting to some 1,169 dossiers) and largely on the basis of petitioners' data, to a paradigm where the EU authorities establish clear and verifiable 'eligibility' rules for the local authorities to extend support to certain productions, and closely monitor their correct implementation, intervening where necessary - e.g., in the case of market 'shocks' or other circumstances signalling a major distortion of competition or in the case of particular products whose support conflicts with other EU policies. Of course, given the variety of the products involved, the specificities of the regions and of the markets concerned it is important to maintain a certain room for manoeuvre for the local authorities and, to this end, the EU rules should envisage some degree of flexibility, reinforcing at the same time monitoring requirements, to enhance the transparency and accountability of competent authorities (regarding monitoring, see 'policy problem' #6).

3) Despite the significant efforts deployed, the estimation of additional costs and its use as reference for setting tax differentials present numerous theoretical and practical constraints, some of which appear largely inevitable. This may require reconsidering the scope and the role of additional costs assessments in the policy process.

Since its establishment, the justification of the special treatment's being extended to certain local products relies on a periodic assessment of their additional costs of production when compared to the production of the same goods in the mainland. Such additional costs – expressed in percentages - represent at the same time one of the required eligibility criteria (see point 3 above) and the benchmark for setting the tax differential, on the assumption that below this level there is no risk of overcompensation, hence no risk of excessive distortion of the market.

Various studies have been conducted to measure such additional costs and an ad hoc methodology has been developed for the preparation of standardised product *fiches* (i.e., specific analyses estimating additional costs at product level). The approach and methodology developed for the preparation of product *fiches* is, overall, sound and adequate, but the results are not always robust, due to a series of difficulties and limitations described below. Considering the significant efforts implied by this system (due to the several products to be assessed and the level of details required) the cost-efficiency of the exercise seems far from optimal. In specific:

- The first difficulty regards the very subject of the estimation: as discussed under problem driver #1 above, the customs classification is not always suitable for a precise identification of products, as certain CN categories may encompass a range of heterogeneous products, with arguably different production processes and costs. A significant degree of approximation is therefore needed to come to 'average' estimated production costs (and to 'additional costs').

- Then, to a large extent, the additional costs estimates laid down in product *fiches* derive from empirical information provided by the concerned local operators, through methodologies that are not statistically representative and that embed a certain degree of subjectivity and, possibly, of bias (e.g., certain additional costs are estimated directly by surveyed operators).

- The exercise aims at comparing the production costs of 'like products' in the outermost regions and in the mainland. Leaving aside the complexity of the notion of 'like products' in international trade[330], the logic and the practice behind such comparison appear weak:

[330] The literature on the controversial use of this notion within WTO/GATT is extensive and non-conclusive.

a) The structure of markets and competition in outermost regions and in the mainland is radically different, and the same can be said of the characteristics of local and of mainland enterprises. A few factors marking the substantial heterogeneity of the two contexts include: (i) firm size - the largest players in the ORs would be considered small on the mainland; (ii) market structure, which is tendentiously oligopolistic in ORs; (iii) development strategy, with local firms pursuing diversification to better serve all segments of their markets, whereas on the mainland enterprises move increasingly toward specialisation; (iv) market size – which is limited and essentially 'locked' for all ORs. Against this framework, it is not clear which 'comparators' could be selected in ORs and on the mainland for a valid comparison.
b) Secondly, it is not clear – from an economic perspective - why the comparator should be just the mainland and not the entire EU, since outermost regions are de facto part of the internal market and a relevant share of their imports originate in the EU. The choice to use the mainland as comparator has practical utility and is in line with the fact that special regimes are ultimately national policies, so it is not disputed here. Additionally, the disparities of price and wage levels across EU Member States would trigger other methodological problems and comparability issues. Still, it is important to highlight that this approach does not necessarily reflect the 'real' competitiveness gap faced by local production vis-à-vis imports.[331]

- The logic of the policy assumes that there is a direct connection between additional costs and competitiveness of local production vis-à-vis imports,[332] but in fact this cannot be taken for granted. The difference in production costs (having in mind the above caveats) does not necessarily correspond to the difference in the cost price level of locally produced and imported goods, since various other factors influence it, for example:
  a) The comparison is generally made (according to the product *fiches*) with the cost price on the mainland, not considering the freight costs of finished products to the outermost regions.
  b) Such freight costs are not necessarily always reflected in the price of imported goods. Especially in the case of large-scale distribution such costs can be absorbed or re-distributed over different products and different geographical markets.
  c) Trade margins are not fixed and depend on operators' strategies. The remote and isolated status of these regions may enable the roll-out of aggressive pricing strategies that would not be feasible on the mainland.
  d) As mentioned previously, the costs difference is measured with respect to the mainland's operators, but actual competition in the local market concerns products coming from several other countries also.

In this respect, it is useful to note that the 'proportionality control' envisaged in the State aid Decision for the OdM (in accordance with the methodology developed by French authorities) is based on the equivalence, after the application of the tax, between the cost price of a locally made unit of products (taking the lowest price as reference) and the average CIF unit price of the same product imported from the mainland. This control requires two additional data that are not reported in the product *fiches* and are actually seldom available, i.e., the lowest cost price of a given category of products (inclusive of producers' selling margin) and the 'average' customs price of the same imported goods, inclusive of freight costs, but not including the importer's selling margin (which makes the two measures not fully comparable). These indicators would allow an

[331] In this respect, it is interesting to note the product selection criteria concerning the existence of significant imports (see point 3 above) actually makes reference to all imports, i.e. including from EU and non-EU countries (Recital 5 of Decision 940/2014), so it is not clear why the same reference is not used also for the estimation of additional costs. Evidently, the adoption of EU internal market as benchmark would add technical complexity to the assessment of additional costs, given the disparities of price and wages across EU countries.
[332] See, for instance, recital 5 of Council Decision 940/2014.

empirical verification of the appropriateness of the differentials and of their impact, but there is no efficient way to collect them consistently, so the validity of the additional costs estimates cannot also be verified.

Overall, a picture emerges where approximations, uncertainties and theoretical assumptions are abundant. In most cases, these either cannot be removed, or huge efforts would be required just to obtain marginal improvements in the reliability of the assessment. Against this framework, an additional two questions should drive a general reconsideration of the exercise (and of the policy):

- What is the level of accuracy behind the establishment of 3 distinct 'lists' with diverse maximum permitted differentials, and what is their actual contribution to an equitable system?
- Against all these caveats and uncertainties, what is the efficiency of estimating additional costs at the detailed CN8 level instead of estimating it at a more aggregate level (e.g. CN4), as is already the case with a variety of OdM products? Would there be any significant loss of precision?

4) The rigidity of the current legal framework hampers smooth adaptation of the regimes to the evolving market and sectoral needs in the outermost regions, reducing their effectiveness and imposing an administrative burden on the authorities and the stakeholders involved.

There might be various reasons for modifying *in itinere* the lists of products in annex to the Council Decision, before its expiration and subsequent renewal, for instance:

- to support new emerging local productions that were not in place when the Decision was adopted,
- to adjust the level of compensation extended to certain industries to cope with transformed conditions for competition (e.g., to cope with aggressive importation),
- to align with changes in the CN codes (or explanatory notes), occurring for product categories in the scope of the Council Decision,
- to remove from the list products which are no longer relevant (e.g., no longer produced locally).[333]

So, updating the lists *in intinere* (switching to 'living lists') allows for better response to evolving conditions of international competition and the needs of local producers, and for promptly addressing incongruences. However, at present the process for updating the lists is far from straightforward, as any revision of the lists requires a legal amendment of the Council Decision. This applies to both the inclusion/removal of certain product categories to the lists, and to the moving of certain product categories from one list to another. The process must follow the ordinary procedure rules with a significant investment of time and resources on the part of national and EU administrations. Evidently, undertaking such a process is worthwhile only in the presence of a critical mass of revisions to be made, and in this respect, there is anecdotal evidence of useful amendments that were not requested because of the complexity and the burden of the legal process.

Revising the current policy to make list updating more flexible, straightforward and rapid is by far the primary demand of public authorities and businesses alike.

[333] In the latter case, local authorities have the option of setting the actual differential at 0% to obtain the same results, so this kind of revision is generally made when the Decision is renewed.

5) In policy design and implementation, limited consideration is given to the permanent nature of the structural constraints addressed, as well as to the amount of additional costs caused by these constraints, which the policy intends to compensate.

Various studies on the additional costs faced by ORs have been conducted since the establishment of special tax regimes. In some cases, they contained thorough analysis of the specific nature of the structural constraints affecting economic activities in the ORs and attempted to estimate in aggregate and monetary terms such handicaps. These analyses arguably form part of the background of the EU policy, but some basic aspects are apparently not given sufficient emphasis, possibly because of an excessive importance attributed to the micro-economic dimension (see problem driver #3). At least two considerations should be made.

The first consideration is that the structural constraints affecting outermost regions – i.e., small size, isolation, remoteness, climate etc. - are perennial and not transitory. Unlike other development policies, that may phase out after a certain period of time as the development objectives are achieved, the policies aimed at compensating such handicaps might in principle never reach their goal, because the root problems cannot be solved or removed. On the contrary, with global trade growing increasingly competitive, the 'gap' of outermost regions might become even more difficult to bridge over time. Various cases were reported of imported goods sold retail at a lower price (tax included) than the production costs of the same good made locally. So, the OdM is generally viewed by enterprises as a tool to help mitigate/slow down local production's inevitable loss of competitiveness rather than as a development tool. The possible policy consequences are:

- Clear recognition that these regimes are not development policies in the strict sense, which can be phased out once the target is achieved, because the underlying problems are largely permanent. Abandoning these regimes would entail either replacing them with similar schemes of equivalent effects or accepting even greater OR dependence on external aid.
- It follows that these schemes cannot and should not be seen only from the perspective of the micro-economic rationale, but in the big picture of the local economic and social strategy: i.e., whether they help diversify activities, making the economy more resilient to sectoral shocks; whether they create qualified jobs; whether they foster a circular economy; whether they contribute to healthy competition; whether they contribute to fiscal autonomy of the outermost regions etc.
- In practical terms, the perennial nature of the structural handicaps would, in principle, allow for a longer legal duration of special regimes. An extension would be particularly useful and efficient if coupled with the abovementioned greater flexibility in updating lists.[334]

The second consideration is that the structural conditions of ORs necessarily generate handicaps that affect all kinds of production activity. Evidently, the extent of the impact varies across sectors and depends on individual operators (size, equipment, production efficiency, etc.), but it can be roughly assumed that most activities in these regions will generally be, by default, burdened with a competitive handicap compared to similar activities on the mainland. In this sense, it would be reasonable to design the policy starting from an overall estimation and quantification of such a handicap, fixing also the global value of the support (in absolute terms or as a % of the gross added value) with reference to it. This would not necessarily entail abandoning the product-level focus, but to place it in a coherent framework, to overcome the possibility that the same cost factor subjectively estimated by different operators from different industries leads to

[334] Otherwise an extended duration of the scheme may result in 'locking-in' product lists for even longer period.

inconsistent levels of support. In addition, a system anchored to an aggregate estimation of the handicap and to a distribution of the aggregate compensatory benefits among sectors and branches based on the respective needs, would also encourage a more harmonised and integrated development policy, ensuring at the same time the proportionality of the overall support – a dimension that is at present largely neglected.

6) The monitoring and evaluation arrangements of special tax regimes are robust overall but not always in line with the information needs, regarding timeliness, quantification and scope.

The Council Decision contains specific provisions requiring France to submit periodic reports to the Commission on the implementation of the OdM regime and the impacts it has on local economic activities. These 'mid-term' reports are the basis of Commission's own reports to the Council.

In the past, the submitted mid-term reports were not always up to expectations. One of the main weaknesses of the current arrangements was that 'monitoring' and 'evaluation' needs were not properly distinguished and addressed. The mid-term reports prepared in the past often mixed these dimensions, resulting more burdensome to produce and less timely than ordinary monitoring documents, but not deep enough to make a proper impact evaluation possible. Secondly, the reports followed heterogeneous approaches making it more difficult for the Commission to carry out consistent comparative assessments.

Furthermore, some information gaps have been detected with respect to specific evaluative aspects, namely:

- The impact of special tax regimes on retail prices for residents in the outermost regions. The matter goes beyond the scope of the EU policy in a strict sense, but it is nonetheless important for the evaluation of the scheme because the OdM is frequently blamed for its presumed contribution to the 'cost of living'. However, there is no conclusive evidence on the extent of such effects, partly because of insufficient facilities for price monitoring and analysis.

- The interplay between special tax regimes and the other EU policies for outermost regions has been poorly investigated so far. Of particular relevance in this respect is the issue of cumulative effects and the risk of overcompensation. A few concrete problems can be highlighted:

  (a) Products that benefits from the POSEI special supply arrangement (SSA) aid cannot be subject to the special tax regimes, otherwise the effect of the aid would be offset by the charging of the tax. However, the ban regards only products subject to the tax differential regime, while the OdM is charged also on several other products, with the same 'external' and 'internal' rates, including on SSA products, for which the possible contradiction of taxing subsidised products remains.
  (b) There is an apparent overlap between costs compensation measures extended to fisheries under the EMFF and the OdM costs compensation. The practical explanation is that additional costs are estimated using the mainland as the comparator, but the fisheries of outermost regions actually compete with bordering countries, whose operating costs are much lower than on the mainland. In practice, the cumulation of EMFF and the OdM is reportedly necessary to guarantee the competitiveness of local fisheries, but at policy level there seems to be no recognition of such cumulation.

7) The development of trade exchanges in the geographical areas of ORs is constrained by various factors, including the OdM, raising complaints among countries that have signed an Economic Partnership Agreement (EPA) with the EU.

While the AIEM has apparently never given rise to significant trade policy issues, the OdM has been repeatedly criticised by CARIFORUM trade partners and by some ESA countries (notably Mauritius). In spite of it being explicitly included in the text of the EPA, CARIFORUM representatives claim the OdM represents a trade barrier for exports of a discriminatory nature, and is therefore incompatible with the free-trade principles of EPA. An additional argument of critics is that the concerned ACP countries suffer from the same structural handicaps of French outermost regions and therefore of analogous competitiveness constraints (but an assessment of the impact of such handicaps in these countries was never conducted).

Both CARIFORUM countries and Mauritius have also submitted to the Commission lists of domestic productions whose exports is reportedly hampered by the OdM, and for which a removal/reduction of the tax is demanded.

It is important to mention that the OdM is not the only barrier to trade in the areas: customs tariffs have remained on a number of products imported in Caribbean and ESA countries, and OR operators have often lamented the existence of non-tariff barriers that de facto make it impossible or very expensive to export there. The Market Access Offer submitted by CARIFORUM envisages scheduled tariff reductions for a number of products but, as seen under EQ#3, in only few cases these reductions concern goods with relevant production in French ORs.

- **THE POLICY PROBLEMS**

The issues described so far can be assigned to three main problem areas that, for analytical purposes, can be summarised as shown in Table 5.1 overleaf.

Table 5.1 – Summary of the policy problems

Policy problem	Problem drivers	Main consequences
Dysfunctions in the identification of supported productions	• Eligibility criteria defined in generic and non-verifiable manner, causing the perception of subjectivity • Inadequacy of CN classification to define the policy scope, leading to implementation issues • Rigidity of the current legal framework regarding revisions and updates of product lists • The general and sectoral strategic dimension of the policy is not developed	• Mismatches between needs and support provided, due to the lack of flexibility • Issues with the scope and justification of the supported products • Implementation uncertainties
Dysfunctions in the establishment of the appropriate tax regime	• Burdensome and largely approximate estimation of product-level additional costs • Rigidity of the current legal framework regarding revisions and updates of differentials • Global and sectoral assessment of handicaps and of compensation needs missing in the policy design	• Mismatches between needs and support provided, due to the lack of flexibility • Incongruences in the costs compensation extended to supported production • Risk of overcompensation from cumulating different lines of aid
Inefficiencies of the monitoring and impact evaluation system	• Mid-term reports which are not harmonised and not sufficiently informative • Global and sectoral assessment of handicaps and of compensation needs missing in the policy monitoring	• Little evidence of impact of the OdM (e.g., on local production, retail price etc.) • Risk of overcompensation not detected
Constraints to the development of regional trade	• Tariff and non-tariff barriers hindering trade in the geographical regions, including the OdM among other things	• Disputes with neighbouring countries (CARIFORUM, ESA countries) over the EU trade policy

5.2 Policy scenarios

➢ OVERVIEW

With expiration of the terms of the current Council Decision set at the end of 2020, three main policy scenarios emerge for the way forward:

A. the ***'no change' scenario,*** which in this case does not correspond to 'do nothing', but rather to the continuation of the current special regime after 2020 without (significant) modification, as this is the closest scenario to the 'baseline' situation;
B. ***prolongation of the current system with revisions***, which may regard specific provisions of the policy as well as implementation arrangements;
C. the ***discontinuation*** of the current special regime, which coincides with the 'no-EU-Action scenario', since the regime is already set to expire. This scenario can be broken down into two main sub-options, namely: (i) replacing the discontinued regime with other EU support measures (of fiscal or non-fiscal nature); or (ii) 'do nothing' (no replacement).

Table 5.2 – Overview of the policy scenarios for the way forward

Overall Policy Scenarios		
A) 'No change' scenario	**B) Revision of current system**	**C) Discontinuation scenario**
Special regimes prolonged without changes (or minor amendments of lists)	Special regimes prolonged <u>with modifications</u> regarding, in particular: 1. Criteria for the identification of eligible products and updates 2. Revised mechanisms for the establishment of the maximum permitted differential 3. Revised duration and monitoring arrangements	Special regimes <u>not</u> prolonged. Sub-scenarios: • No replacement • Replacement with other EU support measures

5.2.1 The 'no change' scenario

In this context, the ***'no change' scenario*** consists of the renewal of the special regime without any significant modification. In this sense, this scenario corresponds with the baseline situation. For a general understanding of this scenario, it is useful to briefly recap the features of the current system that have been identified as possible sources of policy problems, and which would remain unchanged. These include, specifically:

- the identification of supported categories of products will continue to be based on positive lists included in Annex to the Council Decision, and defined with reference to CN/TARIC codes with granularity levels varying between 4-digit and 10-digit codes;
- the criteria for product eligibility will continue to be formulated in generic terms;
- the supported products will continue to be subdivided in 3 different lists (in Annex to the Decision), with varying maximum permitted tax differentials;
- the justification and appropriateness of the special tax regime extended to individual products will continue to be based on product *fiches,* processed individually for each product, maintaining the abovementioned methodological limitations and caveats;
- the updating of product lists will continue to require a legal amendment of the Decision;
- the duration of the measure will continue to be 7 years, with one mid-term report envisaged for monitoring;
- no explicit monetary ceiling for the measure will be established in the fiscal policy (but the budget of the measure will continue to be indicated in the corresponding State aid Decision);
- the interplay between different schemes addressing ORs will not be the subject of systematic analysis, examining synergies as well as overlaps and potential risks of overcompensation;
- no specific approach will be adopted to improve coherence between the special regime and the regional integration objectives of the EU trade policy, with reference to the Economic Partnership Agreements stipulated with some ORs' neighbouring countries in particular.

These aspects represent the baseline against which the impacts of the possible policy options are assessed in Section 6.

5.2.2 Revision of the current system

The second scenario considered involves prolonging the current regime introducing a series of revisions to the policy and its implementation arrangements. Based on the problem analysis developed in the previous section, the proposed changes regard four main aspects, described in the following paragraphs. The proposed changes are not mutually exclusive and are technically independent of each other, although in some duly highlighted cases there are evident interconnections.

- **#1 - REVISION OF CRITERIA FOR THE IDENTIFICATION OF ELIGIBLE PRODUCTS AND UPDATES**

Rationale and objectives. The possible policy change presented here regards the mechanism for setting up and updating the lists of products supported through the OdM tax differentials in the various regions, and the related underlying principles and criteria. The policy problems addressed are the rigidity and the burden of the current mechanism for revising and updating such lists (problem driver 4 in Section 5.1) and the insufficient clarity in the principles and criteria used in the building up of the lists (problem driver 2). Less directly, the proposed revision would help overcome the possible uncertainties which come from defining the scope of the policy based on narrowly defined customs codes (CN8 or lower levels), without a broader strategic umbrella (problem driver 1).

The concrete objectives of this proposed revision are:

- to clarify at a higher level, and in line with the relevant development strategy, the sectors/branches of activity that should benefit from the measure, removing the risk of disruptions due to changes in the CN classification/definition;[335]
- to simplify and reduce the burden for amending the list of products by the competent authorities;
- to enhance the transparency and the accountability of the beneficiary product selection process, clarifying its underlying principles and improving *modus operandi*.

Description of specific provisions. In practical terms, the proposed options consist of two distinct although related provisions:

a. Identification of beneficiary product at a higher classification level. This consists of identifying only the 'broad' categories of product (i.e., CN4 levels) in the Council Decision - which correspond to a large extent to specific production 'branches' - leaving to national competent authorities the tasks and the responsibility of selecting, within these broad categories, the specific products (CN8 or lower levels) which will actually be supported. This approach means that any change in the list of specific supported products could be made by the national authorities without a legal amendment of the Decision (or any other EU-level authorisation), if the specific product added to the list belongs to one of the approved broad categories. As most of the CN classification changes occur at a level lower than CN4, this provision would also facilitate adjusting lists as required by changes in classification.

   This option may involve also – as an additional, though not essential provision – explicit identification in the Decision of the sector/branches which are strategically addressed by the policy.

b. Adoption of verifiable eligibility criteria. To counterbalance the greater flexibility introduced in the system and prevent the risk of its improper use, the current principles for the selection of products should become operationally-verifiable

[335] Including possible changes in the interpretation of the CN classification following a modification of the CN Explanatory Notes (CNEN).

eligibility criteria. In particular, the criterion of 'existence of a significant production' could be operationalised by setting a minimum market share threshold and/or a minimum of active players; while the criterion of 'existence of a significant imports possibly jeopardising local production' could be operationalised by setting, again, a trigger market-share level. The adoption of objectively-verifiable thresholds would respond to the need for transparency and accountability which emerged from field work interviews and which is required by EU rules.

At the same time, it is important to maintain some room for flexibility to avoid that excessively strict application of these criteria causes undue disruption to certain productions that do not meet the criteria, but still legitimately require the support of the special regime. The following situations may constitute useful cases in point: (a) labour-intensive productions (or otherwise relevant for the quality/quantity of jobs); (b) productions which are strategic for the local development in other ways (such as those in the field of circular economy, leveraging biodiversity and environmental protection, or other innovative/high added-value productions); (c) productions subject to fluctuations (that might temporarily fall above or below the prescribed thresholds); (d) productions related to residual categories (i.e., the 'other' category present in any CN heading);[336] (e) productions located in particularly disadvantaged areas, and other emerging needs (e.g. in relation to products required to address health crises). To extend such flexibility, there are two possible approaches:

(i) Indicate market share thresholds in the Decision, envisaging at the same time derogations for special and duly justified cases.
(ii) Not indicate market share thresholds in the Decision, but require competent authorities adopt them in their administrative acts, along with the criteria and conditions for derogations, in a transparent and verifiable manner.

Finally, the criteria for eligibility should also include (as it does today) the evidence of additional costs impacting on local products' competitiveness, and caused by ORs' structural handicaps. The proposed implementation method for this criterion is described in the following section.

Table 5.3 – Summary of proposed changes concerning the identification of beneficiary products

Current situation		Proposed changes
Individual products specifically identified in the Decision (from CN4 to TARIC 10-digit codes)	→	Only 'broad' categories identified in the Decision (CN4 or the like). The individual products (CN8 or below) selected by MS within these categories. ***Optional***: Identification of the target sectors/branches in the policy
General criteria for product eligibility laid down in the policy	→	Operationally-verifiable criteria laid down in the policy, along with flexibility safeguards for special cases. Alternatives: • Market share lower/upper thresholds laid down in the policy, with possible derogations • Market share lower/upper thresholds laid down in the rules of procedures of competent authorities, as well as the conditions for derogations

[336] MS sometimes include residual CN categories in the list of taxed products even when there is no significant local production (or clearly identifiable production), as a tool to prevent the risk they are used to import products circumventing the tax.

Other options dropped at the interim stage. During the process of identification/selection of the policy options to retain for the impact analysis, the possibility of delegating the identification of the product list to a separate act of the Commission was also considered. This approach would have granted more flexibility and rapidity in the case of requests for policy amendment. At the same time, however, it would have placed on the Commission the responsibility for product assessment and selection – a responsibility that should instead belong to national competent authorities, for the very nature of the measure and of the underlying legal framework.

- **#2 - REVISION OF MECHANISMS FOR ESTABLISHING THE MAXIMUM PERMITTED DIFFERENTIAL**

Rationale and objectives. This proposed option has a similar rationale and objectives as the previous one, but it is technically separate, and the two options can be adopted or dismissed independently from one another. This option responds again to the need for greater flexibility in establishing and modifying the extent of support provided to specific products (see problem driver 4 under Section 5.1); it addresses pragmatically the issues and inconsistencies concerning product *fiches* and additional costs assessment (problem driver 3); and contributes to filling a policy gap concerning the estimation of the total impact of structural constraints and of the appropriate 'compensation' due (problem driver 5).

The concrete objectives of this proposed revision are:

- to simplify and reduce the burden for modifying the tax treatment which is extended to the supported products;
- to simplify and refocus the approach to additional costs estimation and its use for policy design and implementation;
- to clarify the extent of the compensation needs addressed by the policy, thus also facilitating the coordination and complementarity with the other EU schemes which address the same constraints.

Description of specific provisions. The proposed revision consists of three interrelated measures (described below) that derive from a more fundamental change of approach in the policy design: from a paradigm where needs and compensation are assessed and established for individual products without a comprehensive framework of reference, to a paradigm where the policy is driven by an assessment of the constraints and needs of the ORs' economies, in the first place, and then of the relevant economic sectors and branches in the second, and where the estimated 'total compensation' (i.e., the value of the scheme) is determined while taking into account the other existing schemes.

a. <u>Establish one single maximum permitted differential.</u> At present, the products supported through the OdM special regime are grouped in three distinct 'lists', each having a different 'maximum permitted differential'[337] specified in the Council Decision (art. 2). In particular, the 'maximum permitted differential' currently ranges from 10% (list A) to 20% (list B) to 30% (list C). It is useful to recall that the 'maximum permitted differential' represents the upper ceiling and not the differential actually applied, which must remain below the maximum level prescribed. Segmentation into three lists and the ceilings applied to each of them are implementation arrangements established conventionally, i.e., there is no empirical reason to have three lists instead of two or four, for example, and the differentiate ceilings serve the only purpose of roughly segmenting products based on the extent of 'compensation needs'. However, as discussed in Section 5.1, such 'compensation

[337] The 'maximum permitted differential' is expressed as the difference, in percentage points, between the rate applied to products of external origin and the rate applied to local products.

needs' refer to additional costs estimates which are subject to a significant degree of approximation. The uncertainties affecting additional costs estimates combined with the freedom for authorities to set the 'actual differential' at any point below the 'permitted differential', makes the segmentation in separate lists of little use for the determination of the appropriate regime, and a potential factor of rigidity and distortion in its implementation.[338] In other words, the system of segmentation between lists does not tangibly contribute to the matching of needs and support received, but only acts as a constraint limiting the upward revision of the actual differential applied.

Therefore, the resulting suggestions are to abandon the current system and to introduce a simplified mechanism based on one single 'maximum permitted differential', applicable to all CN8 products that competent authorities aim at supporting. As in the current system, the maximum permitted differential would represent the upper threshold to be respected when setting the actual applied rate. This option would allow a more flexible revision of the differential when the need for it arises. At the same time, it would not add uncertainties to a system that is already characterised by a certain degree of approximation.

The single 'maximum permitted differential' may be established in two alternative ways:

(i) based, conventionally, on the current highest ceiling (30%),
(ii) based on the current intermediate ceiling (20%), but envisaging derogations for special and duly justified cases.

The maximum permitted ceiling could be the same for all French ORs – in line with the current approach - or different across ORs. The second approach appears to be more complex, as it would require setting up an equitable mechanism to differentiate among ORs, but this decision would eventually belong to national competent authorities, so it is not examined here.

b. <u>Introduction of a global reference value for the policy</u>. The proposed enhanced flexibility in the implementation of the regime does not intend to lead to a change in the scope and intensity of its use. At present, the global value of the measure is not indicated in the fiscal policy, but is laid down in the corresponding State aid policy in terms of estimated annual budget planned (and verified ex post). The budget of the measure is calculated in terms of the 'foregone tax revenues' (*dépense fiscale*), i.e., the tax not collected because of exemptions/reductions. Such an estimate – properly recalculated and adjusted – could be introduced in the fiscal policy as the global monetary value of reference to be respected in the implementation of the policy, to prevent a scale-up of compensation. In practice, the existence of such a ceiling would encourage competent authorities to allocate the (virtual) budget of the scheme across sectors/industries based on a thorough assessment of the respective need and, ideally, in the framework of a general strategic framework.

   The second utility of this provision is that of enabling of better matching between the total needs of the ORs (expressed as the OR's aggregate additional costs) and the aid extended, taking into account also other EU programmes and schemes. In practice, it would become feasible to determine what share of the total additional costs caused by structural handicaps are compensated for by the OdM special regime

[338] A few examples can be made: (1) if two products, of which one has estimated additional costs of 28% and the second of 20%, are both placed under List B of the OdM and supported with the maximum differential permitted (20%), the second product will result compensated in full, while the first only in part; (2) similarly, assuming the second product had additional costs of 30% and was placed under List C, it results that a difference of just two percentage points in additional costs may lead to a compensation which is greater by 10 percentage points; (3) finally, if a product with additional costs of 15% is placed in list B and is supported with the maximum permitted differential (20%) there would be potentially an 'overcompensation' of 5%.

and what share by the other schemes and, as a consequence: (a) to improve coordination and synergies; (b) to prevent 'overcompensation' (at the 'macro' level); (c) to make more robust impact analyses possible. Depending on the breakdown of data collected under the various schemes, this type of analysis could be performed also at sectoral/branch level.

As it is difficult to predict how local production and the market would evolve, the expected 'foregone tax revenues' cannot be estimated with a high degree of precision, therefore in setting the global reference value it will be important to maintain sufficient flexibility.

c. Estimate additional costs at a more aggregate level. Based on the above considerations on the approximation intrinsic to product-level additional costs assessment, and having in mind the proposed switch to a CN4-based identification of the categories of product that can be supported by the special regime, it might be consistent to move from the current CN8 'product *fiches*' system to a more aggregated CN4-level estimation of additional costs. The revision would reduce the burden of the exercise and may level out many of the possible incongruences which have been identified.

   The CN4 level estimates can be further aggregated to derive sectoral level additional costs, as well as the additional costs for the entire local economy.

Other possible changes requested by stakeholders. While implementing the interview programme, the consultant has also registered the request voiced by various stakeholders to revise the OdM provision which excludes small firms from the regime's field of application. Currently, the provision extends this opportunity to firms whose relevant turnover is below EUR 300,000 annually.[339] This provision was introduced in 2014 and replaced the previous regime for small firms, which allowed for incrementing by 5% the tax differentials applied to products made by companies with a turnover not exceeding EUR 550,000/year.[340] The 2014 revision established instead the non-applicability of the OdM to small firms, with the consequence of (a) allowing a de facto total exemption to small firms and (b) eliminating any tax declaration obligation for these firms, thus reducing their burden. To counterbalance the increased advantages, the turnover ceiling was lowered to EUR 300,000, thus reducing the number of businesses benefitting from this facility.

The requested revision is to restore the threshold in force before 2014, i.e., EUR 550,000, while maintaining exclusion from the tax for beneficiaries, which implies also the absence of any declaration obligation. This measure does not respond specifically to any of the policy problems identified, but it will be nonetheless examined in Section 6 in order to provide arguments on its possible impacts.

[339] The 'relevant' turnover is the turnover which derives from the production of goods subject to the OdM regime, including products not benefitting from tax differentials and excluding other types of activities (e.g. the supply of services). This specification is currently not laid down in the Council Decision but it is included in national legislation.
[340] Article 1.4 of Decision 2004 also permitted to apply a tax differential of maximum 5% to products not listed in the Decision for local producers with a turnover not exceeding EUR 550,000.

Table 5.4 – Summary of the proposed changes concerning the establishment of differentials

Current situation		Proposed changes
Some 3 lists of products with different maximum permitted tax differentials		One single list with one maximum permitted differential applicable to all products ('one list'). Alternatives: • Adopt the ceiling of the current highest list • Adopt the ceiling of the current intermediate list, allowing derogations for duly justified cases
No global ceiling established in the fiscal policy		Introduce a global reference value ceiling (in terms of 'foregone revenues', as in the State aid policy), with due flexibility to cope with unexpected market evolution.
Justification based on product-level (CN8) *fiches*		Carry out additional costs estimation at CN4 level and for the overall economy.
Firms with relevant turnover lower than EUR 300,000 are excluded from the OdM		Firms with relevant turnover lower than EUR 550,000 are excluded from the OdM

Other options dropped at the interim stage. Another option which was considered initially aimed at reducing the current burden of elaborating CN8-level product *fiches*. This option consisted of differentiating the approach between products: (a) those benefitting from significant compensation (high tax differential) would remain under the current system; while (b) those benefitting from low small compensation (low tax differential) would be exempted from the submission of product *fiches,* on the assumption that the risk of competitive distortion for such products is limited. The option was dropped, however, for two main reasons: (a) in French ORs (unlike e.g., the Canary Islands) the differentials applied are typically above 5% and often above 15%, so the real impact of this provision would have been marginal; (b) EU rules would in any case require justifying the special tax treatment with reference to demonstrated needs. The total absence of a product *fiche* – irrespective of the level of product coding granularity – would make verifying the proportionality condition required for State aid authorisation impossible.

➢ #3 - Revised duration and monitoring arrangements

Rationale and objectives. This proposed option primarily concerns revisions of the monitoring and evaluation (M&E) arrangements in force for the OdM special regime, with a view to addressing the gaps and weaknesses highlighted under problem driver 6 (Section 5.1). The proposal is also connected to the lack of clear appreciation of the perennial and structural nature of the issues addressed by the special regime in the policy (problem driver 5). In practice, the objectives of the proposed revision are:

- to enhance the utility and effectiveness of monitoring and evaluation activities,
- to reduce the burden of unnecessarily frequent re-assessment and renewal of the policy.

Description of specific provisions. The proposed option is composed of three interconnected measures, described below.

a. Extended duration of the policy. The constraints addressed by the special regime - as well as by the other aid measures for ORs adopted with reference to Art. 349 TFEU – are of permanent and structural nature. Their characteristics and severity for local private sector do certainly evolve, but they cannot be eradicated, so unlike the typical 'development' instruments that can be phased out once their objective is reached, the need for support of local production activities is going to be perpetual. In this sense, there is room to extend the duration of the policy from the current 7 years (which may go down to 5-6 years taking into account the delays for entry into force) to a longer period of 10 years, for example, thus reducing the frequency and the burden of re-assessment and renewal of the policy.

This option would be beneficial, though, only in the event the abovementioned options for introducing greater flexibility in the system are implemented. In fact, allowing the competent authorities to adapt the scheme more flexibly to the evolving local needs and markets would limit the need for periodic revisions of the overall EU legal framework to update product lists.

b. Revision of monitoring and evaluation system - periodicity. The extension of the policy duration described under point (a) and the greater flexibility discussed earlier may invite a fine-tuning of the current periodicity of the monitoring system. Two sub-options can be envisaged in this respect:

   (i) The introduction of a 'two-tiered system' to address, at the same time, the need for more frequent updates of the basic monitoring data and the need to avoid unnecessary additional burdens for the competent authorities. Such a system would envisage:

   - a frequent – yearly or biennial - 'light' notification of basic monitoring data, dealing essentially with the list of supported products and the tax differentials applied and – in the case of new products – the evidence related to the eligibility criteria, in order to make their verification possible;
   - a periodic – e.g., every 5 years - in-depth impact analysis concerning the effects of the regime on production activities, market structure, trade flows, price levels, and employment, as well as on public budget. The impact analysis should provide, inter alia, the evidence required to revise the CN4 categories eligible for support in the Decision, the 'single' maximum permitted differential, and the global reference value of the policy.

   (ii) In the event the duration of the policy remains 7 years, the 'two-tiered system' might not be necessary, but the need to better align the monitoring and evaluation activities to the timeframe of the policy cycle would remain. In this sense the timing of the mid-term report - already envisaged in the current system – could be moved to Y+5 (where 'Y' stands for the start year of the policy), to enhance its utility for the next policy renewal. This would also ensure that the evidence needed to carry out a thorough impact analysis of the policy is available, as data and statistics are generally collected and made available with a 2-4 years of *decalage.*

c. Revision of monitoring and evaluation system – harmonised indicators. To enhance their information value, the outputs of monitoring and impact evaluation activities should be harmonised across ORs with respect to structure and contents. This can be obtained through the adoption of a common list of agreed indicators. In practice, the proposal is to add a harmonised list of indicators/information requirements to the current reporting obligation as established by the Council Decision. As there are disparities in the statistical systems and data collection arrangements across the ORs, it is important to allow some room for manoeuvre in the specifications of the indicators, to permit national authorities to exploit as much as possible the information that is already part of their statistical exercises and avoid unnecessary duplications. Moreover, it should be acknowledged that certain data cannot be estimated with a high degree of precision.

The monitoring indicators that may be part of the harmonised inventory can be grouped in five headings as shown in Box 5.1 below (more details in Annex B).

Box 5.1 – Standard indicators for the revised monitoring system

1. Specifications of the regime:

(i) List of products subject to differentiated tax regime (CN8, and *caveats*[341])
(ii) Tax rates applied on imports ('external rate')
(iii) Tax rates applied on local production ('internal rate')
(iv) Tax differential applied

2. Compliance with eligibility criteria:

(i) Value and volume of local production
(ii) Value and volume of imports
(iii) Market share of local products
(iv) Estimated additional production costs by input factor

3. Impact on public budget:

(i) Foregone tax revenues
(ii) Tax receipts (imports)
(iii) Tax receipts (local production)
(iv) Repartition of tax revenues

4. Aid intensity:

(i) Regional aggregate additional costs
(ii) Share of additional costs compensated by tax regimes
(iii) Share of additional costs compensated by other measures

5) Impact on economic performance:

(i) Regional GDP growth
(ii) Employment data
(iii) Enterprise demography
(iv) Price level indices
(v) External trade in the geographic regions (import/export)

[341] In line with current practices, the possible *caveats* are: (1) selecting supported products with higher detail, i.e., 10-digit TARIC codes or national additional codes (*codes additionnels nationaux - CANA*); (2) excluding certain products from the special regime (via, again, TARIC or CANA codes).

Table 5.5 – Summary of the proposed changes concerning duration and the monitoring and evaluation system

Current situation		Proposed changes
Current duration of 7 years (5-6 considering the time for entry in force)	➡	Duration extended to 10 years (taking into account the permanent nature of the handicaps addressed)
M&E based on mid-term reports	➡	Revised periodicity of the reporting. Alternatives: • A two-tiered system involving: (1) more frequent 'light' notification of basic monitoring data (in tabular form), and (2) less frequent in-depth impact analysis • Current system, with the timing of mid-term report moved to Y+5
Monitoring reports carried out with heterogeneous approaches	➡	Revised M&E system, based on standardised indicators laid down in annex to the Decision

➢ **THE PROPOSED APPROACH TO THE TRADE POLICY ISSUE**

The trade policy issues raised by the French OR neighbouring countries (problem driver 7 of Section 5.1) regarding the alleged barriers caused by the OdM regime have been examined in the framework of the Study, but no 'hard policy' approach has been elaborated to address them, for the reasons described below.

- First of all, it is important to reiterate that there is no legal contradiction between the Economic Partnership Agreement (EPA) stipulated by the EU with CARIFORUM or with Eastern and Southern Africa (ESA) countries, because the text of the EPA explicitly includes a provision safeguarding the maintenance of the OdM in French ORs. This means that there is no obligation stemming from the EPA to revise the current OdM policy.
- The second consideration is that from the perspective of international trade rules it would be at any rate extremely problematic to justify the application of differentiated OdM treatment (including quota systems) for selected countries, and it would possibly spark WTO disputes[342].
- At the same time, as shown under EQ#3, the negative effects of the OdM on intra-regional trade poorly justify a complete removal of the OdM regime: the expected increase in imports from CARIFORUM and ESA countries would be small (some EUR 2.2 million / year overall; see Section 6.3.4) compared to the benefits for other exporting countries and the possible damage for local production activities (up to nearly EUR 300 million; see Section 6.3.4). So other softer and more tailored approaches should be sought.
- It should be added that the current EU approach for ORs clearly expresses the need to better adapt EU policies to the geopolitical and economic context of ORs, especially when stipulating international agreements in geographical areas and on matters of primary interest for ORs (e.g., fisheries and trade). The same policy request was expressed in the joint *Memorandum* of the OR Conference of Presidents, with clear reference to the risk of disruptive effects on ORs' economies posed by external trade. In this sense, the trade policy pursued at the EU level should in any case remain in line with the EU general policy for ORs.
- It follows that any possible modification of the OdM regime in the direction desired by EPA countries cannot regard the OdM policy per se (or the EPA) but – if anything – the tax treatment of individual products. It also follows that any decision in this

[342] The long WTO dispute on the banana trade regime constitutes a precedent, in this respect. See, for instance: https://www.emerald.com/insight/content/doi/10.1108/jes-05-2014-0070/full/html

respect falls in the remit of competent French authorities (and is therefore not in the scope of this Study).

Regarding this scenario, the EU may still play a facilitating role in overcoming the current contentious situation by, namely:

1. Supporting the amelioration of the export capacity of EPA countries through the available development cooperation instruments.
2. Fostering and contributing to the implementation of analyses and research to fill the knowledge gap that currently exists with respect to the competitiveness of EPA countries' production, the review of effects of reciprocal barriers to trade (including non-tariff barriers), and the assessment of possible benefits and threats of greater trade integration in specific areas.

Both recommendations fall outside of the EU fiscal policy and should therefore be examined and eventually validated by the Commission services which are competent for external trade and development cooperation policies.

5.2.3 The 'discontinuation' scenario

Among the 'change scenarios' the most radical is ***discontinuation of the current special regime***, which de facto corresponds to 'No EU Action', since the EU policy is already set to expire in 2020 and lack of intervention would automatically lead to its termination. It is important to mention at the outset that this scenario is being considered primarily for the sake of the analysis' comprehensiveness. In fact, none of the policy problems examined in Section 5.1 is so severe as to require complete abandonment of the system. At the same time, France has already expressed the intention to renew the regime, therefore, the scenario of discontinuation requested by the Member State can be safely ruled out.

This scenario would not necessarily entail the complete withdrawal of the OdM by French authorities, but the current tax advantages for local productions would no longer be permitted (including full exemption for small companies). In other words, the regime could be maintained in the national legislation for budgetary or other policy purposes, but it would no longer support the competitiveness of local production. In this respect, two further theoretical sub-options may emerge: (i) replacing the discontinued regime with other support measures for local producers (of fiscal or non-fiscal nature); or (ii) 'do nothing', i.e., tax differentials would no longer be permitted, and no alternative measure would be adopted.

1) ***Replacement with other EU measures***. The first sub-option consists of replacing support to local production competitiveness extended through the OdM regime with another EU measure to the same effect. This approach can be further specified considering two main aspects: (a) the fiscal or non-fiscal nature of the replacement measure; and (b) the type of funding envisaged. In fact, the current OdM regime is a fiscal measure entailing no expenditure of EU funds, and replacing it with a different kind of measure is not a suitable option for two main reasons:

- Replacing the current regime with a non-fiscal equivalent measure would entail de facto extending support through one of the existing EU schemes for the ORs (i.e., the regional development policies and/or the other schemes mapped out in Section 4.1 and Annex D), increasing the allocations and creating ad hoc lines for additional costs compensation (to ensure the equivalence of the effects with the current regimes). This would have implications for both EU-level policy design and for specific programming and aid implementation. Responsibility for it would fall outside the remit of the Commission's fiscal services and would involve the other line services responsible for the regional development and cohesion policy.

Early discussion held with the Commission on this scenario clarified its excessive complexity and poor feasibility, it is therefore dropped from this analysis.

- Currently, the estimated budget for the OdM special regime (measured in terms of non-collected taxes) according to the corresponding State aid decision amounts to EUR 475 million/year.[343] At present, the measure is implemented at no cost for the EU budget as it consists of 'non-collected' taxes. Replacing it with an expenditure scheme of equivalent impact, would therefore require additional monetary transfers of up to EUR 3.3 billion for the next EU programming period (2021-27). This is unrealistic in the current context and this option is therefore discarded.

Based on the above considerations, the only practicable approach would be to replace the current regime with another fiscal measure implying no direct expenditure for the EU budget. However, this approach also faces a major difficulty, that is the fact that – as shown in the aid map provided in Annex D – enterprises from French ORs already benefit from several other fiscal advantages (in the form of regional State aid), which leave practically no room for other schemes.

2) ***No replacement*.** The 'do nothing' scenario entails that the current EU Decision for the OdM not be renewed after its expiration in 2020, and not be replaced by other EU support mechanisms. This would lead to the removal of the tax differential system based on the origin of products, although – as seen - not necessarily to the withdrawal of the OdM as a 'budgetary' measure.

From an analytical perspective, this scenario coincides with the 'counterfactual' scenario for the EU policy, i.e., the estimated hypothetical situation in French ORs without the support of the special regime. As was shown in Section 4.4 and 4.5 of this Report – i.e., the evaluation of EU added-value and efficiency of the policy – the estimated impact of the measure is globally positive, so its plain withdrawal would predictably not lead to an improvement but rather to a worsening of the current situation. On this basis, the discontinuation scenario does not qualify as a valid option to address the policy problems identified and, more generally, as a realistic scenario for the way forward. An analysis of its possible impact is nonetheless conducted in Section 6.3.4 below, for the main purpose of establishing a comparative benchmark to assess the other options under consideration.

5.2.4 The underlying logic of proposed options

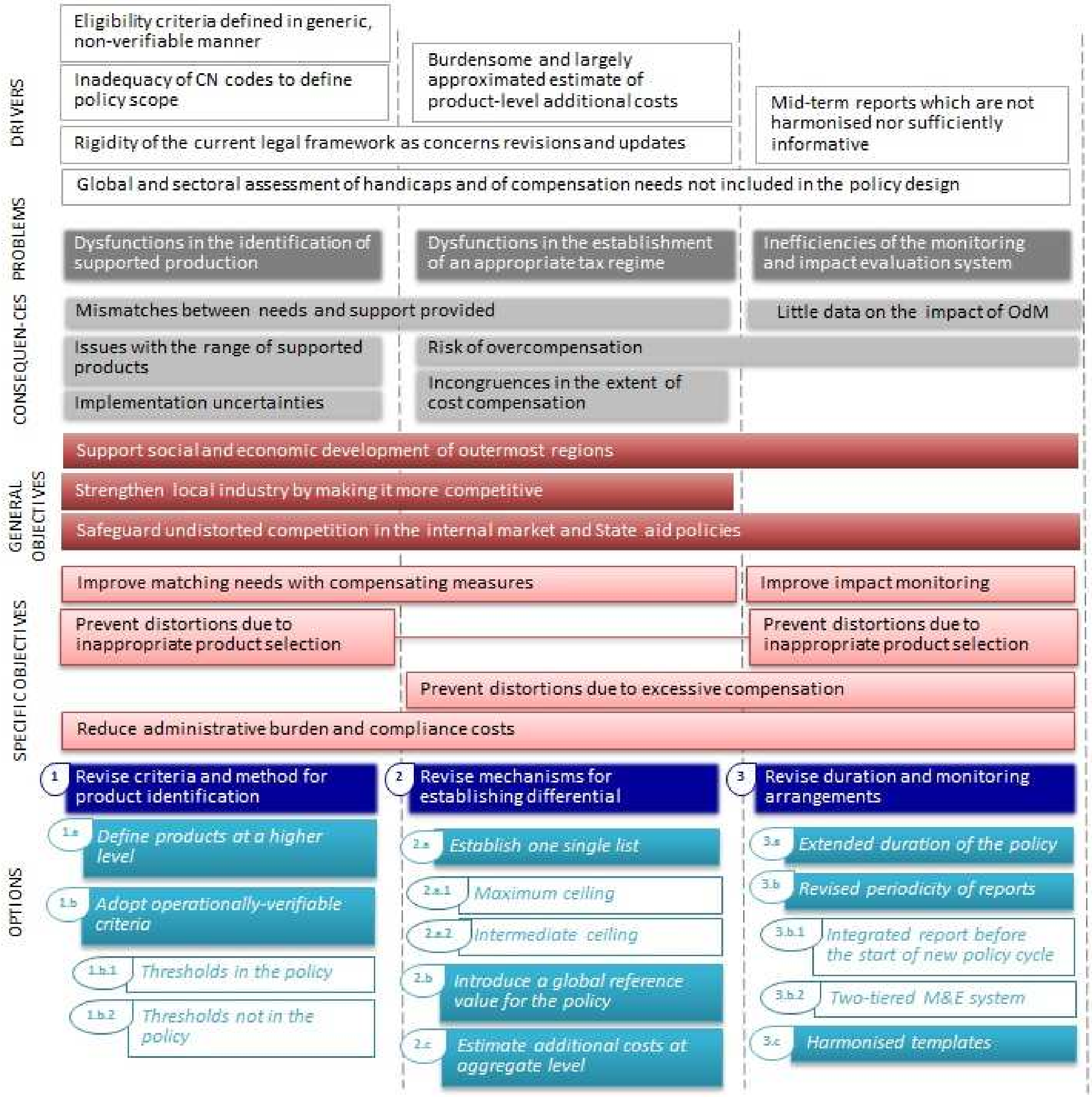
To conclude this section, it can be useful to recapitulate and illustrate, with the help of a logic diagram, how the proposed options for change connect to the identified policy problems and drivers, and what the general and specific objectives they pursue are. Figure 5.1 below is structured around the correspondence between the three main ***policy problems*** and ***proposed options*** identified here, which concern specifically:

- identification and selection of products which benefit from the special regime;
- methods for estimating additional costs and the extent of the differentials; and
- monitoring and evaluation arrangements.

For each policy problem, the underlying ***drivers*** described in Section 5.1 are mentioned. An indication of the negative ***consequences*** expected from the problem is also provided. The policy options are broken down into specific measures and – where relevant – alternative approaches, as detailed in this section (5.2). The ***specific and the general policy objectives*** pursued are also made explicit.

[343] State Aid decision SA 46899 (2016/N).

Figure 5.1 – The underlying logic of proposed options



6. IMPACT ANALYSIS

6.1 The impact analysis framework

The policy scenarios described in Section 5 can have different types of impact which are examined in this section, making reference to the classification of impact areas put forward in the *Better Regulation.*[344] Before proceeding with the detailed analysis, a few general considerations can be made on the types of impact that are relevant for the Study. In particular, and with reference to the four main headings of *Better Regulation*, these are*:*

- ***Economic impacts***. This is, by definition, the macro-area where the most relevant impacts are expected. More specifically, the impact of special tax regimes can be detected at the micro-economic (enterprise) level as well as at market level. In the first case, analysis of the policy's intervention logic suggests direct effects on operating costs and enterprise competitiveness (in particular MSME). In the second case, it can be assumed that the policy influences the structure of competition and trade in OR markets. At the same time, the special tax regime has an impact on public budgets through the tax receipts collected and not collected because of exemptions. Of particular relevance for the type of options proposed are also the possible administrative and enforcement costs of the policy. Ultimately, the special tax regime can contribute to the macro-economic situation of the region, i.e., the regional GDP and value-added, trade flows, price levels etc. However, the specific contribution of the special tax regime in this respect can hardly be disentangled from the impact of the several other EU polices and measures in support of the ORs' economy.
- ***Social impacts***. By revising the attribution of responsibilities in the implementation of the policy, and enhancing monitoring and transparency, the proposed options would touch upon 'governance' impact areas, which in the *Better Regulation* scheme falls under the 'social impacts'. Furthermore, one of the main underlying justifications of the policy is the generalised need of ORs to create and sustain employment opportunities, reducing dependence on imports and incentivising more labour-intensive production activities. Apart from this, there are no other relevant social impacts connected to the special regime, although some of the 'economic impacts' described above can clearly have social repercussions (e.g., the effects on the inflation rate on the purchasing power of residents).
- ***Environmental impacts.*** The environmental impacts which could be associated with the policy are indirect and non-specific. 'Indirect' because they do not derive from the policy as such, but from the economic activities that are eventually supported by the policy – whose environmental impact depends on the production processes, the embedded technology, and the value-chain integration at the local level (i.e., 'circular economy' development). In second place, it is 'non-specific' because the policy may, in principle, support almost any type of relevant local production activity. The selection of beneficiary products is made by local competent authorities based on needs (the additional costs) and importance for the local economy (value added, job creation etc.), while there is no sectoral focus in the policy. In this sense, whether the OR authorities decide to support waste recycling activities or fisheries or activities that require a certain type of land use, etc. does have consequences for the local environment, but as this decision is not influenced by the underlying objectives and targets of the EU policy, this category of impacts remains outside the scope of the analysis carried out in this section.
- ***Fundamental rights***. This category of impacts listed in *Better Regulation* did not seem relevant for the subject matter and has been discarded at an early stage.

[344] See *Better Regulation Toolbox*. Chapter III; see also Cf. Commission Staff Working Document, "Better Regulation Guidelines", SWD(2015)111, 19.5.2015.

A more detailed map of the identified nine relevant ***impact areas*** is provided in Table 6.1 below. The analytical importance of individual impact areas depends on the policy option considered, so - as shown in Table 6.1 - certain impacts can be, in principle, relevant for one option and irrelevant for another. The options are numbered in accordance with the structure provided in Table 5.2, that is:

- B1) – revision of criteria for the identification of eligible products and updates
- B2) – revision of mechanisms for setting the permitted differential
- B3) – revised policy duration and monitoring arrangements
- C) – policy discontinuation.

Table 6.1 – Overview of the impact areas which are relevant for the different policy change scenarios proposed

Impact Areas	**Brief overview**	**Relevance for options**			
		B1	B2	B3	C
Impact on public budget	*The special tax regime is at the same time a source of tax receipts for local authorities and a cause of 'foregone' revenues, due to the exemptions extended to certain products. Any revision should consider the impact in this area.*	*	*	-	*
Governance and good administration	*The introduction of greater flexibility and simplification implies a change in policy governance. Similarly, the adoption of clearer and more transparent rules in policy design and implementation and an enhanced monitoring system may improve its administration.*	*	*	*	-
Regulatory costs and savings for public authorities	*The proposed changes regard first and foremost policy design and implementation, with a view to making it more flexible and, at the same time more effective. The expected impacts regard both MS and EU levels. The options do not regard everyday administration.*	*	*	*	-
Regulatory costs and savings for enterprises	*Namely the administrative costs for firms due to dealing with obligations imposed by the tax, including classification issues, as well as the additional costs estimation exercises.*	*	*	-	-
Operating costs and business competitiveness	*The policy addresses, by design, local producers' operating costs which mitigate their negative effects on competitiveness by raising the costs of competing imports. This may have consequences on the development of local businesses and their market share.*	*	*	-	*
Position of SMEs	*The vast majority of OR enterprises are SMEs, so policy impact is primarily on this segment. In the case of the OdM there is also special treatment for small firms. Their exclusion from application of the tax affects the quality of monitoring data.*	-	*	-	-
Functioning of the market and competition	*By design, the policy has an impact on competition, which has to be proportionate and not distortive. The aspects to be considered regard the appropriateness of the 'compensation', the conditions for competition, and consumer welfare.*	*	*	*	*
Macroeconomic impacts on growth and employment	*Ultimately, the policy may contribute to economic growth and job creation/maintenance in the target sectors.*	*	-	-	*
Trade flows, and international relations	*By fostering local production and applying higher tax rates on certain imports, the policy may eventually influence trade flows, including with neighbouring countries, and may fuel trade policy disputes in certain geographic areas.*	-	-	-	*

Legend*: (*) relevant area; (-) limited/no relevance.*
Notes: *Policy scenario A "no change" is not displayed as it implies (by definition) no modification of the status quo. The "no change" scenario is the baseline of reference for the assessment of impacts of the various 'change' scenarios.*

6.2 Stakeholders' attitude towards policy scenarios

This section summarises the stakeholders' views and positions regarding the future of the special regime, as collected through the enterprise surveys and field interviews. The analysis regards two main aspects: (a) the general attitude toward the renewal of the regime; and (b) possible revisions of the policy that are required. The stakeholders' opinion is not a formal element of impact analysis, however, it is a useful predictor of how the proposed policy changes may be received by the impacted groups (beneficiaries and 'taxpayers'), and of the unintended effects that might emerge.

- **GENERAL ATTITUDE TOWARDS REGIME RENEWAL**

The stakeholders' general attitude towards the renewal of the OdM regime is characterised by a strong polarisation of views based on the type of business and on the different effects of the OdM on its activities. As expected, respondents engaged in production activities (i.e. the typical beneficiaries of the special regime) are generally in favour of the renewal of the policy (86%) and for the majority of them (59%) there is no need to change of the current arrangements. Similar patterns can be found across the different regions, with enterprises based in the Antillean regions being more in favour of maintaining the *status quo*, whereas in F. Guiana and Réunion the results of the survey indicate a greater appetite for policy change.

Conversely, the majority (58%) of businesses from other sectors (i.e., not engaged in production activities), would be in favour of a discontinuation of the current policy, with most of respondents supporting its replacement with other forms of support for local production activities. For some respondents the OdM should be replaced with more equitable taxation, such as a 'regional VAT' with differentiated rates.[345] This outcome is not surprising considering that all other types of business are directly or indirectly affected by the OdM. However, it is interesting to note that a non-negligible share of affected business is nonetheless supportive of policy renewal, reaching 51% of respondents in the case of the trade sector. This result confirms an argument frequently raised during field interviews, i.e., the OdM is not problematic per se – actually it can be beneficial for local economies in many respects – but there is a series of design/implementation issues that should be fixed. Micro-enterprises from non-productive sectors have a more negative outlook on the OdM than SME or large firms. A possible explanation is that they generally cannot deduct the OdM charged on their production inputs because they fall outside of the scope of the regime.

[345] French ORs already apply a reduced VAT rate as compared to the mainland. The request to transform the OdM into a 'regional VAT' refers to different technical solutions, for instance: (a) elimination of the OdM and application of a full VAT rate to imported goods/services, and of a reduced VAT rate for goods/services produced locally; (b) transformation of the OdM in a VAT-like multi-stage tax that can be compensated at each stage of the value chain and recovered in case of destruction of goods and the like.

Table 6.2 – Stakeholders' attitude towards the renewal of the OdM regime

Scenarios	Total	Non producers	*Trade*	*Micro*	Producers	MTQ	GLP	GUF	REU
Renew the Decision without major changes	**34%**	17%	*21%*	*11%*	59%	*76%*	*70%*	*40%*	*40%*
Renew the Decision, introducing some revisions	**27%**	26%	*30%*	*30%*	27%	*15%*	*10%*	*60%*	*53%*
Not renew the Decision, and introduce alternative support mechanisms	**30%**	44%	*33%*	*47%*	10%	*3%*	*20%*	*0%*	*7%*
Not renew the Decision	**10%**	14%	*16%*	*11%*	4%	*6%*	*0%*	*0%*	*0%*

Source: *Business survey.*
Notes: *Based on 196 replies (excluding 'don't know' answer). Mayotte is not displayed for insufficient replies. 'Micro' enterprises include also self-employed.*

➢ STAKEHOLDERS' VIEWS ON WHICH POLICY REVISIONS ARE NECESSARY

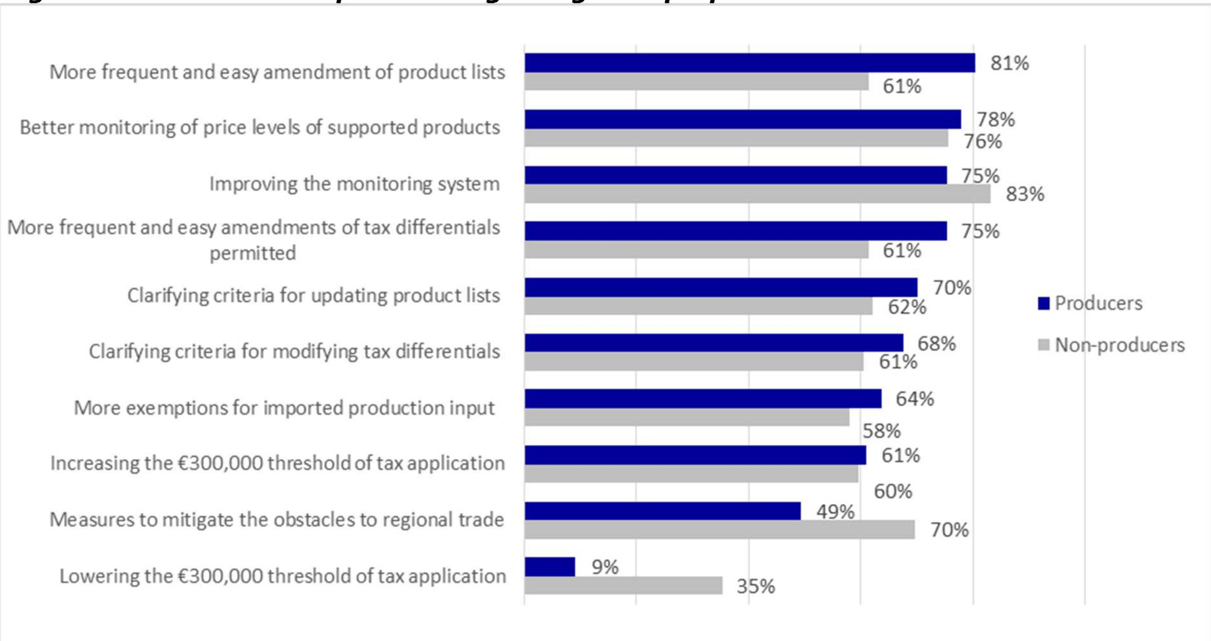
The enterprise survey also investigated the respondents' positions on the possible areas for change deemed to be necessary. As the survey was launched well before finalisation of the policy options, the questions posed in it do not coincide fully with them, but can still provide useful indications on the stakeholders' orientations regarding the main issues at stake. Figure 6.1 below illustrates the percentage of respondents fully or partly agreeing with a set of proposed areas for revision of the policy, distinguishing between enterprises engaged in production activities and all other sectors. The salient results can be summarised as follows:

- With only a couple of exceptions, most of the proposed revisions were ***reviewed positively*** by the majority of respondents, irrespective of the nature of the business. Also the ranking order registered by the two groups of respondents appears very similar.
- Producers are more markedly interested in improving the ***flexibility*** of the system, permitting more frequent and easier modifications to the supported products list and to tax differentials. The demand for greater flexibility is comparatively higher in Martinique and F. Guiana. Regarding this option, various enterprises specified that this flexibility should indeed enable better alignment with evolving needs, but it should not translate into excessively frequent rate changes, which would undermine market stability and predictability.
- Conversely, non-producers expressed a more favourable outlook than producers on the possibility of adopting measures which mitigate obstacles caused by the OdM to ***trade with regional neighbours.*** The importance of regional trade is inversely correlated to firm size, with micro enterprises more frequently in favour of adopting facilitating measures, while the majority of medium/large-size firms are largely against it. On this point, various stakeholders highlighted the need to consider also the trade obstacles raised by neighbouring countries and not only by the OdM.
- Partly divergent views are registered with the ***turnover threshold*** of OdM applicability, currently set at EUR 300,000 annually. A majority of respondents in both groups would be in favour of increasing it, while a non-negligible share of non-producers would also be in favour of reducing it.
- Among the options that encountered the highest degree of consensus from both groups proved to be the improvement of the ***monitoring system*** on the whole and of ***price levels*** specifically. The highest consensus is registered in Réunion, where the problem of the OdM impact on the 'cost of living' is felt especially.
- There is substantial and cross-cutting agreement on the need for more transparent and clear ***criteria*** for both selecting the supported products and establishing the

applicable rates. From the perspective of non-producers, improved and transparent criteria should ensure that products for which there is no local production are excluded from the special regime.

- Finally, respondents also agreed on the need to improve the exemptions for the ***imported production inputs*** (especially in F. Guiana, and among medium/large enterprises). However, this measure does not concern the EU policy dimension directly but rather the national implementation arrangements.
- Additional suggestions were occasionally raised by stakeholders: (a) to enhance the allocation of tax revenues to the development of local production activities; (b) to harmonise the tax base between external and internal OdM, as the former currently also include freight costs and other production taxes paid on the mainland (e.g., the *éco-contribution* payable on certain productions); and (c) to address the tax circumvention problem caused by e-commerce.

Figure 6.1 – Share of respondents agreeing with proposed revisions



Source: *Business survey.*
Notes: *Based on 196 replies. For the full text of the questions see Annex A.*

6.3 Expected impacts of the proposed options

This Section examines the expected impacts of the proposed policy options listed in Section 5.2.2 above. For consistency, the nature of impacts taken into consideration refers to the 'impact area' preliminarily identified in Table 6.1 above. Impacts are analysed in comparative terms, i.e., against the baseline scenario (Option A – 'no change'), clarifying if and how the expected change would depart from the current situation.

The proposed options for change concerns primarily procedural and governance aspects of the policy, so most of the impacts examined are of a qualitative nature. Nonetheless, in some cases, a quantification of the effects has been attempted – especially for the expected regulatory burden and savings - taking the current or the past situation as benchmarks. With the exception of the 'discontinuation' scenario, ***the examined options do not intend to alter the current scope or intensity of the special regime***, as these decisions fall in remit of national competent authorities. Rather, they aim at improving the mechanisms for implementation and monitoring of the policy so as to make them more flexible, fair, robust and consistent. Any possible impact which concerns specific products or sectors should be intended as the result of national authorities' decisions and not as a direct consequence of the proposed options.

6.3.1 Option B1 – On the identification of eligible products

The policy options discussed in this section are those described in detail under point #1 of Section 5.2.2 above; for easier reference they have been coded as follows:

- **B1a** – Identification of beneficiary product at a higher classification level
- **B1b** – Adoption of verifiable eligibility criteria

- **B1a - IDENTIFICATION OF BENEFICIARY PRODUCTS AT A HIGHER CLASSIFICATION LEVEL**

As described in Section 5.2.2, the proposed option envisages a shift in the method used for the identification of the products supported through the special tax regime, namely from the current approach where each specific product is explicitly identified in the Decision (based on a coding ranging from CN4 to TARIC10) to a system where the Decision indicates only the eligible product categories (CN4) while specific products (CN8 or higher) are detailed by national authorities in their legal and administrative frameworks.

The proposed option would respond to one of the main requests for change expressed by competent authorities and private sector stakeholders, which is to allow ***more flexible modification and updating of product lists*** since, at present, any change would require a legal amendment of the Council Decision. It is important to underline that, in spite of being formally sanctioned in the EU policy, the product lists are already composed through a bottom-up approach, where the local productions deserving support are first identified at the regional level, then validated at the MS central level, presented to the Commission, and eventually included in Annex to the Decision. In this process, the evidence justifying support for a specific product remains based on a dossier ('*fiche argumentaire*') that is prepared by regional authorities with data provided by sectoral stakeholders. Scrutiny conducted at the EU level regards the completeness of the information provided and compliance with formal requirements, but no cross-check or verification of the data estimates on, e.g., additional costs, market shares, etc. can be carried out at this level. In other words, the correctness of the justification provided remains, implicitly, under the applicant authority's responsibility. The proposed option would make such a division of responsibility more explicit, maintaining overall supervision of the policy and its underlying principles and conditions at the EU level, and delegating the policy decision on product lists to the competent national levels.

This reform of policy governance would be in line with the subsidiarity principle, but in order to produce benefits and prevent distortions at the local level it is important to establish ***clear, verifiable rules and implementing procedures*** for the revision of lists. Regarding the EU policy, the proposed revision of product eligibility criteria is discussed under *option B1b* below. In addition, the competent authorities may adopt specific rules of procedure to cope with pressures from economic operators which might follow the introduction of greater flexibility in the management of lists. Such measures may include, for instance, stakeholder discussion platforms, specific time windows for list revision, additional criteria for the eligibility of products, clear and transparent principles for derogations and special cases. It is not in the scope of this Study to suggest local-level administrative procedures, still it seems useful to remark that, in various ORs, efficient mechanisms for managing the private sector's demands are already in place and could be effectively leveraged for the proposed revised approach.

The implementation flexibility introduced by the proposed option would ***not affect legal certainty*** because the permitted product categories would continue to be identified in the Decision. In this respect, it should be noted that the identification of target products by means of CN4 codes has been practiced since the adoption of the special regime in 2004 and can therefore be deemed compliant with CJEU jurisprudence, which required exempted products to be 'precisely determined'.[346] Actually, the proposed revision may even allow a more precise identification of supported products since – as opposed to the current system[347] - it envisages that MS authorities clearly indicate which of the CN8 products - within an approved CN4 category - would actually benefit from the tax differential and which not. However, as discussed under Option B1b below, the combination of this option with a hypothetical justification based on product's market share may in some cases be difficult in French ORs, as market share data are not always precise and reliable.

To further underline the proposed paradigm shift, it could be appropriate to present the eligible CN4 categories in the Decision as structured ***in accordance with the relevant economic sector*** (in accordance with NACE nomenclature[348]). This optional feature would have no practical effect,[349] but could help clarify the sectoral strategy underpinning the policy. A concrete example of the possible modified lay-out of product lists in the Decision is provided in Table 6.3 below.

Table 6.3 – Example of revised product list lay out in the Decision

A) Current lay out	B) Proposed revision
List B - French Guiana: […] 0303 59, 0303 89, 0304, 0305 31, 0305 39 90, 0305 44 90, 0305 49 80, 0305 52 00, 0305 53 90, 0305 54 90, 0305 59 85, 0305 64 00, 0305 69 80, 0306 17, 1604 11, 1604 12, 1604 13, 1604 14, 1604 15, 1604 16, 1604 17, 1604 18, 1604 19, 1604 20, 1605 10, 1605 21, 1605 29, 1605 52, 1605 53, 1605 54 […]	French Guiana: Processed and preserved fish, crustaceans and molluscs (NACE 10.20) CN codes: 0303, 0304, 0305, 0306, 1604, 1605

Notes: *The list of codes in panel A integrates amendments made by Decision 664/2019.*

One of the most tangible impacts of the proposed option consists of the ***removal of the regulatory burden*** caused by amendments to product lists. To the extent the amendments regard CN8 products belonging to the CN4 approved categories, the MS competent authorities might modify the list without engaging in the revision of the Council Decision. To appreciate the magnitude of the impact, reference can be made to previous product list revisions. Since 2004, the lists have been modified four times, of which one time was in the framework of the 2014 policy renewal, and three times upon France's request for policy amendments (2008, 2011, 2019). The results of the analysis of the last round of revision (2019) can be summarised as follows (see Table 6.4 below).

- The majority of amendments regarded CN6 or CN8 codes (86%), only 14% of revisions consisted of new CN4 codes.
- Of the CN6 and CN8 new products introduced, nearly half belonged to CN4 categories already present in the lists, either as CN4 as such[350] or as CN6/CN8 products belonging to the same category of the new product.

[346] CJEU, ORDER OF 7. 7. 1998 — JOINED CASES C-405/96, C-406/96, C-407/96 AND C-408/96.
[347] In the current system, all CN8 products belonging to an authorised CN4 category are deemed to be authorised for support. In fact, some OR authorities (especially in the Antilles) do differentiate the tax treatment of these CN8, applying tax advantages to only part of them. In this sense, the actual list of supported products does not correspond to the list in Annex to the Decision. At present, there is no obligation to notify such instances.
[348] Or national variants, e.g. NAF in France.
[349] Actually, proper identification of the targeted economic activities may allow clarifying 'borderline' situations that are source of concerns among certain operators, as is the case of artisanal bakeries which are taxed as production activities in Martinique.
[350] The purpose of introducing a new CN6/CN8 code that belong to an already approved CN4 category is typically to assign it to a different list and therefore to allow a different level of support.

- In a few cases, the revision was required by changes which occurred in the CN classification (4 cases in F. Guiana).[351]
- Of the products belonging to entirely new CN4 categories, some were actually products previously approved in Guadeloupe that were later excluded in 2014 for procedural delays in supply of the information required for the renewal. These were re-introduced in 2019 based on the new evidence collected.
- Some 69% of the products in entirely new CN4 categories actually belong to economic sector (in NACE terms) already benefitting from the special regime.

In summary, were the proposed option already in place, for ***61% of the products*** added in 2019 a policy amendment would have been unnecessary, as they would have been already included in approved CN4 categories. This figure provides a rough proxy of the burden potentially saved with the proposed revision. In practice, the savings could be even greater considering that:

- a minimum number of changes is required to justify a legal amendment of the policy; in the absence of a 'critical mass' of entirely new products, the competent authorities might consider postponing revisions to the next policy renewal;
- the proposed option does not imply that tax differentials be punctually and specifically applied to all products belonging to the CN4 categories listed in the EU policy. In fact, the tax differential should be applied with reference to CN8 level and only for products which are compliant with the criteria specified in the next section. So, competent authorities may lawfully require including in the EU Decision certain CN4 categories for which a future development of local production is foreseen. There is no risk of undesirable side-effects: if such development does not happen, no specific CN8 products can be supported, and pre-approval of the corresponding CN4 category will have no tangible effect.

Some ***reduction of the private sector's regulatory burden*** is also envisaged, but on a smaller scale. These benefits would not regard the justification required of new products - which will remain due in accordance with the arrangements and procedures set by competent authorities – but it would concern more timely resolution of any issue deriving from the periodic revision of the HS/CN customs classification. For a rough understanding of the magnitude of benefits, it should be considered that half of the enterprises surveyed reported a change of CN code for at least one of the OdM products in their portfolio, and for nearly 20% of respondents the time spent on identifying the correct coding is a source of 'major burden'.

Table 6.4 – Amendments to the product lists introduced under Decision 2019/664

	REU	GUF	MTQ	GLP	TOT	In %
Total new products (based on CN codes)	**19**	**21**	**8**	**24**	**72**	***100%***
- CN4			1	9	10	*14%*
- CN6	3	5	2	3	13	*18%*
- CN8	16	16	5	12	49	*68%*
Belonging to an already approved CN4 category	**10**	**12**	**4**	**7**	**33**	***46%***
Approved in legacy Decisions*		**1**		**10**	**11**	***15%***
Belonging to an entirely new CN4 category	**9**	**8**	**4**	**7**	**28**	***39%***

Source: *Own analysis of Decision 2019/664, and previous EU policies (2004, 2014).*
Notes: *(*) Re-introduced after a temporary removal.*

The ***budgetary effects*** of the proposed option are ambivalent. As discussed, the tax differential is the percentage point difference between the OdM external rate and the OdM internal rate (both inclusive of the regional OdM component), so a differential can be obtained both by increasing the external rate and by decreasing the internal rate

[351] The figure is conservative since the information is not reported by all French ORs.

(when different from zero), or a combination of them. The approach chosen – along with the respective value of imports of locally produced goods – determines the type and the extent of budgetary impacts, namely:

(i) an increase in external rates would produce an increase in tax receipts;
(ii) a decrease in internal rates would produce a loss of tax revenue, but since prior to the introduction of a tax differential there is often no local production the revenue loss is mostly theoretical.

There is no systematic evidence available in this respect but past trends suggest that the first case is more common,[352] therefore the introduction of new products in the lists is more likely to result in an ***increase in tax receipts***, whose entity depends on the number of new products and the external rates established.

The enhanced flexibility described above would extend to the removal of products from the list. As products are typically removed when local production levels are no longer relevant, the prevailing effect on revenue would be negative, and determined by the reduction of external rates applied to imports.

For the concerned products, the advantage of greater flexibility is clear and direct: timelier adoption of the special regime, and therefore an ***enhanced impact on competitiveness*** and, possibly, growth. More specifically, compared to the current situation, new products might have access to special treatment a few years before the next policy renewal (up to 7 years) or before a policy amendment (up to 4-5 years in past cases). Assuming local enterprises would schedule the launch of new production activities taking into consideration the entry in force of the special regime, the proposed option might reduce the time-to-market of new products by 2-3 years, on average. Similarly, competent authorities would also be able to ***remove from the list products which are no longer relevant*** sooner, but no tangible impact is expected in this respect as currently authorities may, at any moment, set the OdM rate and/or the differential at 0% for products that no longer require support.

The general ***functioning of the market*** would also benefit, in principle, from more timely and flexible updates of product lists. In particular:

- facilitating the development of new productions would contribute to the diversification of the local economy,
- where this translates into greater market competition, an improvement of consumer welfare is assumed.

These impacts should not be overemphasised, though, for various reasons. Firstly, this option regards only products that fall within approved CN4 categories. Secondly, OR markets are far from being competitive and the conditions for competition continue to be heavily influenced by their structural features, i.e., primarily small size and distance from the mainland. Furthermore, it should be kept in mind that any increase in external rates to support new local production can have repercussions on price levels. Finally, and in line with the concern expressed by various economic operators, it is important for the proper functioning of the market that the greater flexibility not be accompanied by an excessive frequency of change, as the stability and predictability of the regime is essential for firm's mid-term strategy and investment plans.

Whether the abovementioned benefits would lead to tangible ***macro-impacts***, such as on the growth of industrial value-added or employment is difficult to say, but based on the results of the retrospective evaluation it seems unlikely. The proposed option would

[352] To mention a concrete example, a start-up for dry dogfood production in Réunion led to an increase in the external rate applied to the corresponding CN sub-heading (2309 10 51, with CANA specifications) from 6.5% to 18%.

regard only a small fraction of the supported products and with low-magnitude effects, still it can occasionally lead to non-negligible sectoral impact, especially in emerging economic sectors for which there are currently no activities in the ORs.

Table 6.5 – Summary and rating of expected impacts of option B1a

Impact area	Impact	Subject	Rating and magnitude	Notes
Governance and good administration	*Improved alignment with needs*, through enhanced subsidiarity in the policy update process	EU / MS authorities	+2	assuming MS authorities put in place appropriate arrangements
Regulatory costs and savings for public authorities	*Reduced burden* for the legal amendment of the Decision regarding product lists (nearly by two-thirds)	EU / MS authorities	+1	assuming MS authorities put in place appropriate arrangements to deal with operators' requests
Budgetary effects	*Ambivalent*, depending on the internal and external rates established by ORs	MS authorities	+1/-1	
Functioning of the market and competition	*Improved functioning* of the market thanks to the possibility of quicker reaction to evolving conditions	All economic operators	+1	assuming the frequency of changes remains low
Operating costs/ competitiveness of business	*Enhanced support* for emerging production activities, reducing time-to-market by 2-3 years	Beneficiary firms	+1/+2	greater magnitude (+2) for the specific products concerned
Regulatory costs and savings for enterprises	*Reduced burden* linked to classification uncertainties/code changes	All economic operators	+1	
Macroeconomic impacts	*Enhanced impact*, connected to the support in emerging sectors	All economic operators	0/+1	possible benefits (+1) only in emerging sectors

Legend: *Rating scale: +2 major positive impact; +1 minor positive impact; 0 neutral impact; -1 minor negative impact; -2 major negative impact.*

➢ B1b – Adoption of verifiable eligibility criteria

The proposed option envisages a refinement of the principles underpinning the justification for the special treatment extended to certain products and their transformation into mandatory eligibility criteria. At present, such principles are recalled under Recital #5 of the Decision and consist of (a) the existence of local production, (b) the existence of significant imports which could jeopardise local production; and (c) the existence of additional costs affecting the competitiveness of local products. The proposed option would not modify these principles but aim at making them binding and verifiable. In particular, it is comprised of three actions.

1. Moving the criteria from the preamble to the ***enacting terms of the Decision***, to provide them with full legal authority.

2. Mandating the adoption of lower and upper ***market share thresholds*** for local products, as references for verifying the conditions for the support. These thresholds might be, either:
    c. laid down in the EU policy; or
    d. delegated to an administrative act of the competent national authority.

3. There might be situations where specific productions require support even if they do not comply with the thresholds, so the policy should allow the possibility of ***derogating from thresholds in well-justified cases*** based on a set of agreed criteria. The responsibility for providing such justifications should fall on competent authorities and should be based on robust, transparent and verifiable arguments (see Section 5.2.2 for illustrative examples). To prevent any misuse of such flexibility, the recommendation is to make the provision of such justifications legally binding in the Decision, also indicating the possible criteria that can justify derogating from the market-share thresholds.

This option is strictly connected with the previous one and should ideally be implemented in parallel, since it enhances legal certainty of the system against the risks of the proposed openness and flexibility in the selection of supported products. In other words, greater flexibility should facilitate updating and fine-tuning the regime but, in principle, it should not alter significantly the scope of support. The establishment of binding eligibility criteria for the selection of products would precisely ***prevent unwarranted extension of policy scope*** beyond demonstrated needs.

The adoption of well-calibrated, verifiable criteria would be beneficial for all public and private sector stakeholders, as follows:

- ***EU authorities***. The establishment of binding criteria provides a safeguard against possible distortive uses of the policy, at the same time facilitating supervision tasks. The application of the same criteria in all contexts would also enhance treatment parity across ORs.
- ***Competent authorities.*** The proposed criteria are in line with the existing policy, so they would not cause any friction at the administrative level. In fact, they would help competent authorities cope with potential increased pressure from private sectors which might accompany the proposed greater implementation flexibility. The option may also lead to removing the special treatment on products for which there is no or negligible local production, thus addressing the concerns frequently raised by importers and eventually reducing/eliminating one of the major causes of complaints and disputes.
- ***Economic operators.*** The adoption of objectively-verifiable criteria would respond to the need for transparency and accountability which emerged from field work interviews with private sector stakeholders from both productive sectors (i.e., the beneficiaries of the regime) and trade sectors (i.e., the 'taxpayers'). In this sense, this option would improve the implementation of the policy, preventing/removing the application of the special regime to products that do not arguably meet the required conditions and ultimately contributing to eliminating competition distortions and to the proper functioning of the market.

The two alternative approaches described under point (2) above would have the same effects but there are ***differences in terms of governance*** that are worth briefly underlining:

- the establishment of thresholds at the local level would allow aligning them better to the reality of the region at stake but at the same time may lead to inconsistency in approach across regions;
- fixing the thresholds in the Decision would conversely prevent any incoherence across ORs but would mitigate the benefits of the greater subsidiarity which inspires the whole proposed reform;

- at any rate, the provision would be placed in the enacting terms of the Decision (see point 1 above) and would therefore be legally binding for the competent authority, so no difference in the efficacy of the two alternative approaches is expected.

Compared to the arrangements currently in place, the proposed option could imply some ***additional efforts for competent authorities***, as follows:

- The adoption of the necessary administrative framework and/or rules of procedure to enact the reform, i.e., the fixing of market share thresholds, the procedure for market share assessment, the modality and criteria for special cases. This effort would be made only once, upon the adoption of the revised approach, except for periodic revisions.
- The verification of compliance with criteria any time a request for support for a new product emerges – although this can be considered negligible in terms of additional burden, since the handling of new requests is already subject to administrative work in the current system.
- The elaboration of proper dossiers to justify 'special cases', i.e., productions that do not meet the market-share prescribed thresholds but are nonetheless deserving of special tax treatment for other reasons which competent authorities should duly clarify and document. Also in this case, the additional effort is presumably limited as competent authorities are already requested to justify the introduction of new products in the lists and, at any rate, this effort would be largely offset by the reduction of the administrative burden made possible by the greater flexibility. For a quantification of the possible number of 'special cases', reference can be made to two theoretical scenarios, as described in Table 6.6 below. The scenarios are conservative because they are based on the review of a sample of 41% of products, so the actual number of special cases could be twice as large as the estimates in the table.

Table 6.6 – Number of 'special cases' which fall outside market share thresholds

	GLP	GUF	MTQ	MYT	REU	Total
Lower threshold						
At least 5%:	20	16	26	0	30	92
At least 10%	25	25	39	2	40	131
Upper threshold						
At most 95%:	8	3	12	1	6	30
At most 90%	14	5	16	4	12	51

Source: Own processing of market share indicators based on data provided by competent authorities.
Notes: *For all ORs estimates refer to 2018 market share data, expect for Réunion whose data refer to 2016. Conservative estimates, as market share could be estimated only for 41% of OdM products. For certain products the market share could be underestimated, as it does not include the output of firms falling outside of the scope of the OdM (enterprises with a turnover of less than EUR 300,000 annually).*

As regards the impact on the ***competitiveness of local firms***, the proposed option is in principle neutral, in the sense that it does not intend to modify the current scope of the special regime and the tax treatment of any particular products. If some currently supported product loses the requisites for the support, the option implies its removal from the list, but this is already envisaged by the current provisions, so the option would not have different or additional effects. Still, making the justification of support more transparent and verifiable could lead to an improved assessment of the real needs of producers and a timelier detection and resolution of possible incongruences in the product lists. The ensuing benefits of removing products which do not meet the eligibility criteria from the list would regard, again, the general proper functioning of the market, but the impact on the competitiveness of local enterprises would be negligible, since the market share of the excluded products would be either not significant or so large that arguably no support for competitiveness is required.[353]

[353] It is important to remember that, according to the proposed option, compliance with the prescribed market share window can still be derogated, if duly justified, so products falling above or below the established thresholds would not be automatically excluded.

Table 6.7 – Summary and rating of expected impacts of option B1b

Impact area	Impact	Subject	Rating and magnitude	Notes
Governance and good administration	*Enhanced transparency and accountability* in the selection of supported products	EU / MS authorities	+1	Delegating the establishment of thresholds to MS authorities enhances subsidiarity but potentially fuels disparities
Regulatory costs and savings for public authorities	*Increased burden*, related to the required ad hoc justification for special cases	MS authorities	-1	
Operating costs/ competitiveness of business	*Neutrality of effects* on the current state of play should be ensured	Beneficiary firms	0	Except for non-eligible products, which have to be removed anyway
Functioning of the market and competition	*Reduced complaints* and disputes over unjustified disparities of treatment and undue distortion	All economic operators	+1	

Legend: *Rating scale: +2 major positive impact; +1 minor positive impact; 0 neutral impact; -1 minor negative impact; -2 major negative impact.*

6.3.2 Option B2 – On setting the permitted differential

The policy options discussed in this section are those described in detail under point #2 of Section 5.2.2 above; for easier reference they have been coded as follows:

- **B2a** – Establishment of one single maximum permitted differential
- **B2b** – Introduction of a global reference value for the policy
- **B2c** – Estimation of additional costs at product aggregates level
- **B2d** – Increased turnover threshold for exclusion from the scope of the tax.

➢ **B2a – ESTABLISHMENT OF ONE SINGLE MAXIMUM PERMITTED DIFFERENTIAL**

As with *option B1a* above, this proposed option is also aimed at simplification and greater flexibility in policy implementation. Notably, it does not intend to modify the intensity of the support extended to products benefitting from tax differentials but only to facilitate those revisions which currently imply moving a product from one list to another with a higher permitted differential. In fact, the proposed option regards essentially procedural aspects and therefore its fundamental impacts fall in the category of ***governance and good administration***.

As described in Section 5, the underlying argument is that the current subdivision into three distinct lists does not add value to the efficacy or the relevance of the policy, and constitutes unnecessary complexity. For this reason, the proposal is to replace this mechanism with a more straightforward single list which has a single maximum permitted differential. Two alternative sub-options can be envisaged, each with partly different impact in this area, namely:

(i) Align the single list to the current ***highest maximum rate*** (i.e., List C, with maximum permitted differential at 30%). The main advantage of this solution is to facilitate transition to the new approach, as all products which are currently supported would automatically comply with the single maximum threshold. The main disadvantage would be making room for increased pressure from potential beneficiaries to augment the differential applied to certain products.

(ii) Align the single list to the current ***intermediate maximum rate*** (i.e., List B, with maximum permitted differential at 20%). This approach would make it easier to maintain the current tax differentials for the majority of products, but would require a special measure for products with a differential currently exceeding 20%, such as a derogation for 'special cases'. The downside of this approach is therefore the need to produce ad hoc justifications for the products currently included in List C, which amounts to some 12.5% of the total.

Regarding the ***regulatory burden*** for competent authorities, the first sub-option can prove to be advantageous only if there are effective administrative rules and procedures in place to cope with the possible increased pressures from the private sector. The second sub-option would, in principle, imply greater effort for authorities in the management of special cases, but in marginal terms it would not add a significant burden to the current system, which would in any case require a justification for moving products across lists. At any rate, both approaches would eliminate the need for the administrative actions required to move products across lists that, for instance, in the latest revision round (2019) involved 20 products and accounted for some 20% of the total number of changes (Table 6.8).

Table 6.8 – Number of movements of products across lists in the 2019 amendment

	GLP	MTQ	REU	Total
From List A to List B		9		9
From List A to list C			2	2
From list B to list C	2	2	5	9

Source: *Own analysis of Decision 2019/664.*

The ***budgetary impact*** of the proposed option would be neutral 'by design': the option does not include the objective of increasing tax differentials and, in general, of modifying the intensity of aid, but rather to allow revisions – where needed - without a legal amendment procedure. In this sense, the amount of tax levied would not be affected by the option. In practice, to prevent the risk of a generalised increase in tax differentials, this option should be accompanied by the establishment of a global ceiling for costs compensation, as detailed in the following *option B2b*.

For the ***competitiveness of individual local production***, the proposed option could be beneficial as it would enable timelier modification of the differential applied, i.e., without the restriction of periodic renewal or interim legal amendments. However, as Table 6.8 above shows, this regards a limited number of products (i.e., some 2% of the total products benefitting from the special regime in French ORs) and an improved timeliness of 2-3 years compared to the present situation. So, from a general market perspective and in aggregate terms (including macro-economic aspects), the expected impacts would hardly be noticeable.

Table 6.9 – Summary and rating of expected impacts of option B2a

Impact area	Impact	Subject	Rating and magnitude	Notes
(i) Alignment to the current highest maximum rate (list C)				
Governance and good administration	*Improved alignment with needs*, but enhanced risk of increased pressures	EU / MS authorities	+1/-1	depending on OR's rules of procedure
Regulatory costs and savings for public authorities	*Reduced burden*, for revising the differentials applied in a straightforward way	MS authorities	+1	
(ii) Alignment to the current intermediate maximum rate (list B)				
Governance and good administration	*Improved alignment with needs*, facilitating the revision of applied differentials	EU / MS authorities	+1	
Regulatory costs and savings for public authorities	*Reduced burden*, but need for ad hoc measures for special cases	MS authorities	+1/-1	limited extra burden as compared to the current situation
Impacts concerning both (i) and (ii)				
Budgetary effects	*Neutral,* by design (it does not enable changes which are already possible under the current system)	MS authorities	0	provided no distortive use is made and safeguard tools are adopted
Operating costs/ competitiveness of business	*More timely revision of support* for specific products requiring higher differentials	Beneficiary firms	0/+1	greater magnitude (+1) for the few specific products concerned

Legend: *Rating scale: +2 major positive impact; +1 minor positive impact; 0 neutral impact; -1 minor negative impact; -2 major negative impact.*

- **B2b – INTRODUCTION OF A GLOBAL REFERENCE VALUE FOR THE POLICY**

The proposed option concerns the introduction in the EU policy of a global reference value for support, expressed in monetary terms and measured in relation to the estimated 'foregone tax revenue' (*dépense fiscale*), i.e., the tax not collected because of exemptions/reductions. The reference value will constitute a ceiling that competent authorities must respect to avoid having the greater flexibility permitted by *options B1a* and *B2a* translate into an undue expansion of policy scope and aid intensity. In this sense, this option would ***contribute to good administration of the policy*** and the prevention of distortions. The global reference value laid down in the fiscal policy should be in line with the budget indicated in the State aid decision to ensure full coherence.

The global reference value provides a general measure of compensation extended by the policy to cope with structural handicaps affecting production activities in ORs. In this sense, it should be set in relation with the estimated total additional costs - hence competitiveness gap – faced by local producers, net the aid received under other schemes for the same purpose (i.e., other schemes which compensate for producers' operational costs). In other words, the approved value of the policy should not exceed the difference between total additional costs and total costs compensation delivered under other EU instruments or State aid schemes described in Section 4.1. This would facilitate ***coordination between the various schemes*** and would contribute to ***preventing the risk of overcompensation*** at the aggregate regional level (for the product level see *option B2c*).

It is important to consider the global reference value as being indicative, because none of the relevant variables can be measured with a high degree of precision, as we have seen in both of the preceding exercises – in particular the LL&A study of 2006 on additional costs in French ORs[354] – and the analytical findings of this Study discussed in Section 4. Furthermore, the foregone tax revenue depends on market evolution and cannot be controlled by the competent authority. So, for a proper functioning of the provision, setting a ***ceiling which allows some room for manoeuvre*** is advisable, more specifically:

- The State aid budget indicated for the current policy period is EUR 475 million/year (all ORs included), but the actual foregone revenues is between EUR 290 and EUR 340 million, depending on the adopted estimate. In 2016, the estimated additional costs for French ORs amounted to EUR 4,507 million of which EUR 1,762 million for the sectors targeted by the OdM special regime.[355] The additional costs already compensated for by other aid measures in these sectors amounted to nearly EUR 300 million for manufacturing industries and less than EUR 39 million for agriculture and the primary sector, so the estimated OdM budget accounted for respectively 56% and 4% of the compensation 'gap', i.e., the outstanding additional costs.
- According to these estimates, the current reference value is far from hitting the 'overcompensation' ceiling and there is ample room for revision. However, to ensure stability in the market, avoiding major changes and proceeding incrementally is advisable. In this respect, the recommendation is to adopt a reference value that reflects the current situation – i.e. the current budget of EUR 475 million – with a 'buffer' of, for example, 20% to cope with unforeseeable fluctuations over time.

The option is ***not expected to have tangible impacts on tax revenues.*** On the contrary, it would contribute to their stability, preventing unwarranted expansion of the scope and/or the intensity of the aid, and encouraging competent authorities to adopt an integrated approach to the special regime, calibrating each modification in light of the overall ceiling. This can have positive repercussions also on the ***functioning of the market***: all players (beneficiaries and taxpayers) would benefit from more stable, predictable regimes and – if adopted – the integrated approach may result in fine-tuning the support extended to individual products in accordance with their needs. As discussed, the ceiling should not be excessively stringent, to avoid it resulting in tax exemptions being granted to politically influential sectors rather than to sectors that can generate broader benefits for the local economy.

Despite being pegged to the foregone revenue and, therefore, linked to both internal production levels and rates, it is ***unlikely that the proposed ceiling will eventually constrain local production growth*** for the following reasons:

- The current foregone revenue is, based on this Study's estimates, some 72% of the budget allowed in the State aid decision (EUR 475 million), so assuming OdM rates are stable, local production of OdM goods may grow by 39% of the current levels, before hitting the ceiling. If the proposed 20% 'buffer' is also adopted, the room for growth would be 60%. A compounded annual growth rate of, respectively, 4.8% and 6.9% would be necessary to surpass the ceiling in the next programming period (2021-2027), but considering the trends registered in the previous period (see Figure 4.9 in Section 4) and the expected economic downturn due to the COVID-19 pandemic, such growth rates appear very unlikely.
- So, the ceiling can be surpassed only through a major increase in the intensity of aid and, more specifically by an increase in tax differentials, since all main internal productions are already covered by the OdM, and any new local production that might be added to the regime in the future would likely consist of small volumes. Assuming a nominal annual growth rate of 2% for local production, foregone revenues would increase in 7 years by approximately EUR 50 million, remaining

[354] LL&A, ' Etude des surcoûts supportés par les entreprises dans les Régions ultrapériphériques françaises', Rapport final, Octobre 2016.

[355] Based on the estimates of LL&A 2016. More specifically, the estimated additional costs amounted to EUR 607 million for agriculture and the primary sector and EUR 1,155 million for manufacturing industries.

some EUR 80 million below the ceiling (or EUR 175 million considering the 20% buffer). So, a hypothetical increase in the current OdM differentials by 3 percentage points (or 6 considering the buffer), i.e. from the current average 15% to 18%, would still be technically possible before hitting the ceiling. This is clearly a speculative scenario, since sustained, positive growth of local production would not justify an increase in OdM differentials.

The main downside of the proposed option concerns the ***additional actions required to ensure compliance*** with the established ceiling. Measurement of the relevant variables, i.e., aggregated additional costs and foregone tax revenues, is part of the activities that are already carried out to a large extent, so limited additional burden is expected in this area. The major burden would instead emerge from: (a) assessing the effects on foregone revenues of possible changes prior to their introduction, and (b) estimating the amount of the relevant compensation already extended under the other aid schemes, as discussed under *option B3b* below.

Table 6.10 – Summary and rating of expected impacts of option B2b

Impact area	Impact	Subject	Rating and magnitude	Notes
Governance and good administration	*Enhance policy coherence* and prevent excessive compensation at aggregate level	EU / MS authorities	+1	Some flexibility in setting the ceiling should be envisaged
Regulatory costs and savings for public authorities	*Increased burden*, for estimating the relevant variables and ensuring compliance	MS authorities	-1	
Functioning of the market and competition	*Ensure stability* and improve the consistency of treatment across products	All economic operators	+1	Assuming an integrated approach to the policy is adopted
Budgetary impact	*Neutral,* enhancing stability and predictability	MS authorities	0	

Legend: *Rating scale: +2 major positive impact; +1 minor positive impact; 0 neutral impact; -1 minor negative impact; -2 major negative impact.*

- **B2c - Estimation of additional costs at CN4 product level**

The proposed option envisages refinement of a mechanism that is already in place, namely the assessment of additional costs borne by local players because of remoteness and ORs' structural constraints. The current system is articulated into: (a) periodic, comprehensive studies which aim to establish a methodology for the estimation of additional costs and provide overall assessments; and (b) ad hoc product-level estimates (product *fiches*) carried out to justify the introduction or modification of tax differentials on specific products. The proposed reform would maintain these activities while ***harmonising the focus of the analysis on CN4-level product categories***, instead of a mix of CN4, CN6, CN8 or TARIC10 codes as in the current system. This would align the exercise with the revised CN4-based approach of the policy (in accordance with *option B1a*) and, more generally, enhance matching with production activity classification (NACE, or the like).

The existence of proven additional costs is currently among the conditions for extending the tax differential regime and the proportionality of the scheme from a State aid perspective is verified on this basis. The proposed option does not intend to modify this set-up: demonstrated additional costs – by means of product *fiches* - would remain among the eligibility criteria for introducing new products, and the extent of the applied tax differential may not exceed the estimated additional costs. To ***enhance policy coherence,*** the latter principle should be explicitly mentioned in the Decision, as it is now in the State aid policy. To avoid overcompensation, and in line with the current practice, the additional costs reported should be net of the aids extended through other State aid measures. In practice, the only difference envisaged is that all *fiches* (and not only part of them) would refer to CN4 product categories instead of CN8.

The shift to CN4-level estimates may appear to be a reduction in the ***degree of precision*** as compared to CN6 or CN8. In reality, its impact would be limited when compared to the current situation for the following reasons:

- The estimation of additional costs is already carried out at CN4 level for a number of products (45%, based on a sample of 1200+ items considered, covering the period 2010-2018). Actually, in various instances (11% of items reviewed), the product *fiches* submitted already cover several codes at the same time.
- Considering that CN4 categories are closer to the sector/branch structure of manufacturing and production activity, it is reasonable to assume that the difference within an individual category typically be of small magnitude and, at any rate, that the current degree of approximation with CN8-level estimates would not actually ensure higher precision.
- This can be demonstrated empirically by comparing the standard deviation in the point estimates of additional costs submitted in the period 2010-2018. As shown in Table 6.11 below, the variability of estimates among products belonging to the same CN4 categories is systematically lower than the overall sample variability for all the most relevant costs estimates.

Table 6.11 – Variability in the additional costs estimates processed in French ORs (2010-18)

	Total additional costs	Cost of inputs	Stocks	Equipment (including idle capacity)	HR-related costs
Full sample – standard deviation	10.4	5.0	6.4	4.5	7.0
Products belonging to the same CN4 category – standard deviation*	6.3	3.0	3.4	2.8	1.3

Source: *Own processing of additional costs data.*
Notes*: (*) The indicator represents the average standard deviation of costs estimates within clusters of products belonging to the same CN category (all ORs included).*

The major benefit of the proposed revision consists in the reduction of the number of separated additional costs assessments to be conducted, and the ensuing ***burden saved by competent authorities and private sector alike*** (i.e., beneficiaries of the special regime who are supposed to provide the necessary evidence for costs assessment). Based on the current situation (Table 6.12), the number of items subject to an assessment of additional costs would shrink by 35% (up to 44% in F. Guiana), so the current burden would roughly go down accordingly. In fact, this estimate is quite conservative because most newly introduced products typically belong to pre-existing CN4 categories (61% under the 2019 policy amendment so, in the event of adoption of *option B1a,* they would not need a new costs assessment).

Table 6.12 – Estimated reduction in the number of product fiches

	GLP	GUF	MTQ	REU	MYT	TOT
Total products (any coding)	166	209	273	275	84	1007
CN4 categories	105	117	196	170	70	658
Reduction (in %)	*37%*	*44%*	*28%*	*38%*	*17%*	*35%*

Source: *Own processing of data from the lists of products subject to tax differential.*

As a side effect, the proposed option may eventually contribute to reducing variability in the assessment of additional costs due to methodological factors and, therefore, to ***more consistent tax treatment of like products*** across ORs or within the same OR over time, with indirect benefit for market functioning. As Table 6.13 shows, in nearly half of the cases examined (45%) cross-OR disparities in the assessment of additional costs for the same product exceeded 10 percentage point, and in one-tenth of the cases the difference was greater than 30 percentage points. For some 15% of the items examined, relevant differences were registered also in the assessments conducted in the same OR in different time periods (reportedly ascribed to methodological reasons). Implementing additional costs assessments at a more aggregate level may help mitigate such variability because each measurement could be made on a higher number of observations (more enterprises involved).

A further contribution to the consistency of data would be provided by the proposed harmonisation of the monitoring system discussed under *option B3c* below.

Table 6.13 – Variability in the additional costs estimates across ORs and over time

	In the same OR, over time	Across ORs
Differences smaller than 10 p.p.	85%	55%
Differences comprised between 10 and 30 p.p.	14%	36%
Differences exceeding 30%	<1%	9%

Source: *Own processing of additional costs data.*
Notes: *p.p.=percentage points.*

Table 6.14 – Summary and rating of expected impacts of option B2c

Impact area	Impact	Subject	Rating and magnitude	Notes
Governance and good administration	*Neutral,* as it would not significantly modify the current situation	EU/ MS authorities	0	
Regulatory costs and savings for public authorities	*Reduced burden* of processing product *fiches*	MS authorities	+2	
Regulatory costs and savings for businesses	*Reduced burden* related to the provision of data for product *fiches*	Beneficiaries	+1	
Functioning of the market and competition	*Improved consistency* and reduction of disparities due to measurement methods	All economic operators	+1	Assuming harmonisation efforts are made

Legend: *Rating scale: +2 major positive impact; +1 minor positive impact; 0 neutral impact; -1 minor negative impact; -2 major negative impact.*

➢ B2d – INCREASED TURNOVER THRESHOLD FOR EXCLUSION FROM THE SCOPE OF THE TAX

This option has been included in the analysis as it concerns a request for change expressed by local stakeholders, especially in Guadeloupe and Martinique. As described in Section 5.2.2, it essentially consists of increasing the turnover threshold for the exclusion of small firms from the field of application of the OdM, from the current EUR 300,000 to EUR 550,000.[356] which was the threshold in force until 2014 (although under a partially different mechanism). The main rationale behind the request is to ***extend the benefits of the exclusion to a greater number of small firms***. Such benefits are of two main kinds: (a) reduction of the regulatory burden connected to the tax; and (b) reduction of the tax charges for SMEs. More specifically:

- ***Burden reduction***. Enterprises falling outside of the scope of the OdM are not required to submit quarterly tax declarations, and undergo all the administrative activities connected to them (identification of appropriate CN codes, calculation of the tax, management of deductions on inputs, preparation of declarations etc.). The annual cost of these activities was estimated being about EUR 1,081 per firm, and

[356] The threshold refers to the turnover from relevant production activities (i.e. excluding services etc.).

the number of firms concerned by the reform amounted to 653,[357] so by those estimates the potential aggregate savings would amount to approximately EUR 700,000. However, according to most recent estimates provided by French authorities the number of potentially concerned firms would be much smaller - i.e., 222 – so the total administrative burden savings would amount to EUR 240,000. The reduction in the number of firms in the scope of the policy would also decrease the workload of the competent fiscal administrations. Based on the parameters estimated in the French impact assessment of 2015, total savings of the proposed option would be EUR 300 per firm/year so approximately EUR 66,600 (all ORs included).

- ***Tax charge reduction***. Tax savings for concerned enterprises would amount to the internal OdM rate currently applied on the delivery of local products, so the amount of savings would be greater in regions that apply a relatively high internal rate (such as F. Guiana) and negligible where the internal OdM rate is generally nil (e.g., Réunion). Based on the most recent estimates provided by French authorities, the reduction of tax charges would amount to approximately EUR 1.22 million – i.e. some EUR 5,500 per beneficiary enterprise. This figure also represents the estimated increase in foregone tax revenues that can be expected. Actually, the amount of tax savings for firms would be decreased by the fact that firms excluded from the application of the OdM could not take advantage of the envisaged tax deductions for imported inputs (*exonérations des intrants*).

In addition to the monetary savings described above, the increase in the turnover threshold might also encourage firms currently outside of the OdM regime to grow. As anecdotally reported by stakeholders during field interviews, certain operators currently restrain their activities in order to remain under the EUR 300,000 ceiling and take advantage of the simplified regime. How widespread and strong this constraint is cannot be verified precisely. However, it is worth noting that it would be sufficient that 6% of the firms currently under the EUR 300,000 threshold[358] move to the upper category, to double the current amount of the foregone revenue estimated above (i.e. from EUR 1.22 million to EUR 2.44 million).

From a ***State aid perspective***, the proposed option may present some difficulties. The reduction of the turnover threshold adopted in 2014 was presented as a measure to mitigate market effects of the complete exclusion of small firms from the OdM field of application. It was thought that the type and size of activities of enterprises with a turnover below EUR 300,000 would have limited impact on competition and the argument was taken up in the State aid decision of 2016.[359] Going back to the pre-2014 threshold, while maintaining a full exclusion for the concerned enterprises would therefore require justifications that in some respect would contradict the considerations underpinning the decision currently in force.

Finally, it is worth emphasizing that the exclusion of firms from the OdM field of application meant a significant ***loss of monitoring data***, specifically on the value and volume of production, on the number of firms engaged in the production of OdM goods and – ultimately – on the extent of the foregone revenue and the budget of the measure. There are 1,042 enterprises currently submitting OdM tax declarations (2018), while for some 3,500 firms engaged in the production of OdM goods no data are collected since 2014. Raising the current threshold to EUR 550,000 would reduce the number of monitored firms by 7%.

[357] Source: 'Projet De Loi modifiant la loi n° 2004-639 du 2 juillet 2004 relative à l'octroi de mer, ÉTUDE D'IMPACT', 23 mars 2015. The number of firms does not include Mayotte for which the information is unavailable.
[358] According to the French impact assessment of 2015 there were 3,456 firms under the EUR 300,000 threshold.
[359] Point (72) of SA 46899.

Table 6.15 – Summary and rating of expected impacts of option B2d

Impact area	Impact	Subject	Rating and magnitude	Notes
Governance and good administration	*Expanded data gaps*, for the monitoring of implementation and impact and more complex justification from a State aid perspective	EU/ MS authorities	-2	
Regulatory costs and savings for businesses	*Reduced burden* for tax declarations for the concerned firms	Beneficiary firms	+1	The estimated number of beneficiaries is limited
Position of SME	*Increased differential* – de facto – for the concerned firms	Beneficiary firms	+1	More relevant in ORs with non-zero internal rates
Budgetary impact	*Increase in the foregone revenues*, but of limited magnitude	MS authorities	-1	Mitigated by restricted access to deductions and reimbursements

Legend: *Rating scale: +2 major positive impact; +1 minor positive impact; 0 neutral impact; -1 minor negative impact; -2 major negative impact.*

6.3.3 Option B3 – On policy duration and monitoring

The policy options discussed in this section are those described in detail under point #3 of Section 5.2.2 above. For easier reference they have been coded as follows:

- **B3a** – Extended duration of the policy to 10 years
- **B3b** – Revision of the periodicity of the monitoring system, through either
  - (i) a two-tiered system (basic data each year; impact analysis every 5 years), or
  - (ii) maintaining a mid-term report but improving its time alignment with the policy cycle
- **B3c** – Harmonisation of the mid-term report's structure and indicators.

➢ B3a – EXTENDED DURATION OF THE POLICY

The main benefits of extending the duration of the policy from the current 7 years to 10 years would consist primarily of ***reducing the frequency*** of re-assessment and renewal of the policy and of related ***regulatory burden*** for both the EU and the MS authorities involved (at central and OR levels). As described in Section 2.2 of the report, the renewal of the policy follows the ordinary legislative procedure for Council Decisions, which involves, in the case of the OdM, the preparation of a Commission proposal and the active contribution of the French central and regional authorities. Such policy-making costs cannot be precisely estimated, but diluting the process over a longer period would de facto reduce the regulatory burden by roughly 40%.

Indirectly, the proposed option may also benefit economic operators by enhancing the ***stability and predictability*** of the regulatory environment – although implementation aspects of the regime may still see some changes under the responsibility of national competent authorities.

The policy option presents also two main downsides, namely:

- Possible ***misalignment with the corresponding State aid decision***, which would arguably remain pegged to the 7-year duration of the EU multiannual financial framework. This misalignment may require the adoption of bridging solutions to cover the 3-year difference. The Study has not examined in depth which solution would be recommended and its expected burden for the competent Commission service, but, at any rate, this might partly neutralise the benefits described above. Furthermore, considering the close interconnection between the two policy frameworks, introduction of friction in their implementation timeframes is not advisable.
- Secondly, this option would be beneficial for private sector stakeholders only in the event the abovementioned 'flexibility' options (i.e., *options B1a* and *B2a*) are implemented. If this is not the case, an extension of duration might result in ***further delays in updating*** the policy to the evolving needs of ORs' markets and enterprises.

Table 6.16 – Summary and rating of option B3a's expected impacts

Impact area	Impact	Subject	Rating and magnitude	Notes
Regulatory costs and savings for public authorities	*Mixed impact*, reduced burden for the renewal of the regime but also increased for maintaining State aid policy aligned	EU / MS authorities	+1/-1	
Functioning of the market and competition	*Improved functioning* of the market thanks to better stability and predictability	All economic operators	+1	
Operating costs/ competitiveness of business	*Delays* in updating policy to evolving needs	Beneficiary firms	(-1)	only if not accompanied by greater implementation flexibility

Legend: *Rating scale: +2 major positive impact; +1 minor positive impact; 0 neutral impact; -1 minor negative impact; -2 major negative impact.*

➢ B3b – Revision of monitoring periodicity

The policy duration extension suggested under *option B3a* above, combined with greater implementation flexibility proposed under *options B1a* and *B2a*, can modify the monitoring needs of the policy, including its periodicity and timing. As discussed, two sub-options are being considered; their efficacy depends on the adoption or lack thereof of the proposed extended policy duration to 10 years.

(i) **Introduction of a 'two-tiered' system.** The first sub-option involves introducing a two-tiered system, with a yearly 'light' notification from MS to the Commission of basic implementation data, and a periodic (every 5-years) in-depth impact analysis. With reference to the indicators listed in Box 5.1, the yearly notification would cover the specifications of the regime while the periodic report would address all the other mandatory indicators. This sub-option would be beneficial only in the event of an extension of policy duration to 10 years, since it would allow early detection of emerging competition issues and contribute to general good governance of the regime.

The main downside of this option regards the additional burden that it would impose on local authorities for the collection and annual notification of basic monitoring data – which is probably modest, because this information would be collected anyway by competent authorities – as well as on the Commission services responsible for the review of the submitted information.

(ii) **Alignment of the mid-term report timeframe to the policy cycle.** In the event the duration of the policy continues to be 7 years, the 'two-tiered system' described above might not be necessary. However, the current monitoring system can be made more effective and informative by moving the timing of the mid-term report to Y+5 (where 'Y' stands for the policy's start year). In practice, for the policy period 2021-27, the report will have to be submitted by the end of 2025 and span, ideally, the period 2019-24. The concrete benefits of this revised timing are qualitative and include: (a) more evidence available to assess the impact of the new policy, also in comparison with the previous one (the data are typically available with 2-4 years' delay); and (b) enhanced utility and timeliness of information for the subsequent policy cycle (which would start right after the submission of the monitoring report). As the proposed option regards only the timing of the report, no other positive or negative effects seem relevant.

Table 6.17 – Summary and rating of option B3b's expected impacts

Impact area	Impact	Subject	Rating and magnitude	Notes
(i) Introduction of a 'two-tiered' system				
Governance and good administration	*More punctual monitoring*, and earlier detection of emerging issues	EU authorities	+1	relevant only in the case of extended policy duration
Regulatory costs and savings for public authorities	*Increased burden*, for submitting/reviewing annual notification data	EU/MS authorities	-1	
(ii) Alignment of mid-term report timeframe to the policy cycle				
Governance and good administration	*More informative* mid-term reports, providing more punctual and useful evidence for policy-making	All economic operators	+1	

Legend: *Rating scale: +2 major positive impact; +1 minor positive impact; 0 neutral impact; -1 minor negative impact; -2 major negative impact.*

➢ B3c – Harmonisation of the mid-term report structure and indicators

One of the main shortcomings of the current monitoring system regards, as discussed, the heterogeneous quality and contents of the mid-term implementation reports submitted by the national competent authorities to the Commission. For this reason, *option B3c* proposes harmonising the structure and the indicators provided in those reports in order to: (a) enhance their ***consistency over time***; (b) make ***comparisons across regions*** possible and reliable; and (c) prevent and ***address the information 'gaps'*** characterising some of the past reports. All these outcomes would contribute to a better design and administration of the policy, providing the competent EU and French authorities with more robust evidence of the effects of the special regime on the local socio-economic structure (including in the medium/long-run). This would include dimensions poorly investigated so far due to insufficient data, such as the impact on market structure, on trade flows, on price levels and other macroeconomic indicators. To ensure compliance, the harmonised structure and the indicators for the mid-term report should be annexed to the Council Decision.

The benefits of the improved arrangements would go beyond institutional oversight. The mainstreaming of more robust and comprehensive impact evidence into the policy design, can eventually improve its efficiency and help competent authorities ***correct possible distortions in the market***, thus responding to concerns raised by various stakeholders and preventing the emergence of disputes. The 'knowledge' areas that might particularly benefit from the proposed overhaul of the system include: (a) the specific impact of the OdM special regime on sectoral value-added (and employment); (b) the impact of the tax differentials on price levels (i.e., net of the OdM applied on other goods); and (c) the assessment of the intensity of the aid, taking into account the other support measures.

The costs of this proposed option are those imposed on the competent authorities for the collection and processing of data and the preparation and transmission of the revised mid-term report. However, as monitoring obligations already exist in the current framework, the actual burden would be limited to the ***additional information requirements*** introduced with the revision. More specifically, the additional burden would consist of two activities:

- one-time familiarisation with the harmonised structure and the indicators requested;
- recurrent collection and processing of data which are not currently included in the periodic monitoring reports.

To ***minimise the additional burden***, the proposed indicators have been selected considering the information that is already collected and reported by French authorities - or easily available, such as customs data - and introducing modifications only where deemed important. An overview of the situation and of additional required actions is shown in Table 6.18 below (see Annex B for a full list and indicator specifications). Of the 18 indicators proposed, some 8 are readily available, and 9 are partly collected, although some processing is required to enhance their quality and/or comparability. Only one indicator is totally new, but it can be worked out based on information that is assumed to be available to competent authorities. Evidently, the initial situation varies across regions, as became clear from the review of implementation reports, with Antillean ORs and Réunion already collecting fairly robust monitoring data, less comprehensive data available in F. Guiana, and very limited data being collected in Mayotte. So, the efforts required to meet the revised monitoring obligations would vary accordingly.

No additional burden for enterprises is expected. All the indicators listed derive from information collected by public authorities or statistical data. Some data do require the consultation of enterprises (e.g., the estimation of additional production costs) but this is information that is being collected anyway and not an obligation introduced by the policy option.

Table 6.18 – Availability of monitoring indicators in French ORs, and required actions

Indicators	Availability	Required action
Specifications of the regime		
List of products subject to differentiated tax regime	YES – official documents	-
Tax rates applied on imports (‘external rate’)	YES – official documents	-
Tax rates applied on local production (‘internal rate’)	YES – official documents	-
Tax differential applied	YES – official documents	-
Reference to product criteria		
Value and volume of local production	PARTLY – reliable data for OdM products available since 2018. Small firms not included	• formulate estimates on the production of small firms outside the scope of the OdM
Value and volume of import	YES – customs data	-
Market share of local products	PARTLY – small firms not included	• see above
Estimated additional production costs by input factor	PARTLY – currently done, to be standardised and focused on CN4	• familiarisation with the revised approach
Impact on public budget		
Foregone tax revenues	YES – current reports	-
Tax receipts (imports)	YES – current reports	-
Tax receipts (local production)	YES – current reports	-
Aid intensity		
Regional aggregate additional costs	PARTLY – it can be estimated from current product fiches	• a consistent methodological

Indicators	Availability	Required action
		approach across ORs is needed
Share of additional costs compensated by tax regimes	PARTLY – it can be estimated from the aggregate costs and the foregone revenues	• see above
Additional costs compensated by other measures	NO – the information is not readily available but can be obtained from other measures' implementing authorities	• it requires mapping the other relevant measures and the estimated compensation
Impact on economic performance		
Regional gross value added	PARTLY – reported without disaggregation b/w OdM-supported and non-supported sectors	• it requires correspondence with sectoral data (NACE nomenclature) • it requires attribution analysis
Employment data	PARTLY – same as above	• same as above
Number of active enterprises	PARTLY – same as above	• same as above
Price level indices	PARTLY – same as above	• same as above

Source: *Own review of the latest implementation reports prepared by French ORs and of datasets made available by French authorities.*

Table 6.18 – Summary and rating of option B3c's expected impacts

Impact area	Impact	Subject	Rating and magnitude	Notes
Governance and good administration	*More informative monitoring* and better stock-taking of impacts, also in comparative terms	EU/MS authorities	+2	
Functioning of the market and competition	*Improved policy design and implementation*, preventing market distortions, and the risk of overcompensation	All economic operators	+1	assuming the results of the analysis are fed back into policy design
Macroeconomic impacts on growth and employment	*Increased burden*, for filling information gaps and elaborating a small number of new indicators	EU authorities	-1	the burden varies across ORs

Legend: *Rating scale: +2 major positive impact; +1 minor positive impact; 0 neutral impact; -1 minor negative impact; -2 major negative impact.*

6.3.4 Option C – The 'discontinuation' scenario

The discontinuation scenario examined in this section entails the current special regime not being renewed after its expiration at end 2020 and not being replaced by other EU measures, in line with the considerations made in Section 5.2.3. In practice, the scenario would constitute the counterfactual situation of the current system, i.e., how local economies and markets would evolve in the absence of support from the OdM special regime. Before venturing into analysis of the possible impacts, it is important to reiterate a few considerations:

- The scenario is purely theoretical, the outcomes of the retrospective evaluation ***do not suggest it as a viable option*** for the way forward. At the same time, there is no demand for it from public and private stakeholders, except from certain taxpayer firms whose complaints could nonetheless be addressed through a reform of the implementation mechanisms of the policy.
- The counterfactual scenario is ***inevitably speculative*** and uncertain, because the special regime has been in place, in different forms, for a few decades, and with no major changes. There is no pre-existing situation that can be used as a benchmark for building a counterfactual scenario.

- The ***reaction of competent authorities*** as well as of private sector stakeholders to the discontinuation of the current regime is difficult to predict. For the sake of comparison, it has been assumed that all other variables except OdM tax differentials would not change but, in reality, this is very unlikely, and all players would presumably adopt measures to mitigate the effects of the discontinuation.
- For the above reasons, the analysis provided in this section is ***limited to the major impacts*** expected and measured in terms of order of magnitude, as more detailed predictions would be poorly feasible and somehow unwarranted.

First and foremost, the removal of OdM tax differentials would ***affect the competitiveness*** of local firms engaged in production activities – manufacturing activities in the first place, then enterprises in the agriculture and fisheries sectors. The overwhelming majority of the affected firms would be SMEs and the most severe impact would be borne by firms with a turnover lower than EUR 300,000 (some 3,500),[360] which are those who benefit the most from the current regime. It has been estimated that the OdM special regime compensates for some 49% of the additional costs of local producers (EUR 1.45 billion or 27% of the value of local production), which corresponds to 13% of the sales value of OdM products. In other words, to remain competitive, local producers should roughly absorb roughly EUR 1.45 billion of additional costs or increase their prices by 13% on average.

Some local producers might be able to reduce their trade margins, but others – some 76% according to survey results – would no longer be able to compete and might eventually discontinue activities[361]. On the other hand, an increase in the prices of local products would have repercussions on ***sales and market share*** of local products, the extent of which would depend on the characteristics of the demand for each specific product affected. Assuming – for the purposes of analysis - that the demand for local products would shrink by an equivalent 13%, the average market share of local OdM products would decline by 5.5 percentage points,[362] corresponding to some EUR 297 million. Summing up - and having in mind the caveats of this simulation – the impacts on local production activities of removing OdM support would involve:

- a decline in sales for the majority of local firms and a decline in profitability for those able to absorb the additional costs which would no longer be compensated for by the OdM;
- a reduced contribution of the industrial sector to the local economy, and enhanced dependence on the tertiary sector;
- a parallel decrease in the number of industrial enterprises, in the level of mobilised investment, and in employment in productive sectors;
- an increased dependence on external supply, as local production will be substituted by imported goods.

The above estimates are summarised in Table 6.19.

Table 6.19 – Hypothetical impacts of the discontinuation scenario in French ORs

	TOT
Additional costs (EUR)	1,450 million
Additional costs (as a % of turnover)	27%
OdM total compensation (EUR)	710 million
OdM relative compensation (as a % of additional costs)	49%
Impact of removal of OdM compensation (in % of turnover)	13%
Market share theoretically lost if additional costs are not absorbed (in percentage points)	5.5
Corresponding impact on local production sales (in EUR)	297 million

Source: *Own estimates (estimation methods and details described in Section 4 and Annex C).*

[360] Based on the estimates laid down in the French impact assessment of 2015.
[361] Based on firm's self-reported assessment, to be taken with caution.
[362] Note: the market share in value terms would actually not change, but it would change in volumetric terms.

The **budgetary effects** of this policy change are rather unpredictable as they depend on the actual policies deployed by competent authorities in response to the discontinuation of the special regime. In essence, if the removal of differentiated rates translates into an increase in internal rates to the same level of external OdM rates, the collected tax revenues would clearly increase – and precisely by the current amount of the tax not collected because of exemptions (assuming demand is stable). If, conversely, the external rates are lowered to the level of the internal OdM rate, a significant loss of tax revenue is expected, in the order of EUR 446 million (i.e., 90% of the tax currently levied on the import of OdM supported products, approximately one-third of the total OdM receipts). The first approach is unrealistic, as it would lead to a price levels increase which consumers would not be likely to accept. On the other hand, the second approach would deprive regional administrations of a relevant share of their budget. So, a halfway solution seems the most efficient in this scenario, i.e., at the same time decreasing external rates and increasing internal rates until reaching the point of equilibrium that would offset any budgetary impact – or the replacement of the OdM with another tax measure to the same effect.

For the same reasons, the impact on ***price levels*** of the discontinuation scenario is difficult to predict, as it depends on the approach chosen by competent authorities to level internal and external OdM rates. In the extreme case of bringing internal rates to the level of external rates, the 'bill' for consumers would be equal *ceteris paribus* to the extra tax receipts levied (EUR 344 million) and would increase household expenditure accordingly. In the more realistic scenario where tax rates would be adjusted to equal the current burden, no aggregate effects, in principle, would be registered. However, considering the oligopolistic features of the ORs markets, the actual change in price levels, would largely depend on the evolution of competition: in the event local producers remain able to compete on the market, a generalised reduction of price levels can be expected; but if local production disappears due to the removal of OdM, it can be expected that, after an initial decrease, prices would go up in the medium term, due to reduced competition.

Finally, it is worth highlighting that this option would have the benefit of removing the root cause of ***trade disputes*** with neighbouring EPA countries in the CARIFORUM region and in the ESA region. As discussed, EPA countries have repeatedly called for the removal of the OdM to facilitate their exports to French ORs. The extent of the actual effects of OdM removal on trade flows is difficult to assess precisely, but considering the current distribution of French OR imports and according to estimates from the gravity model (Annex C), the following scenarios can be expected:

- ***CARIFORUM*** – the removal of the OdM differential from the imports of merchandise from CARIFORUM (currently 3.7% on average), may boost imports by 3.3%, i.e. some EUR 1.5 million / year (based on current import value of EUR 45.5 million).
- ***ESA countries*** - the removal of the OdM differential from the imports of merchandise from ESA countries (currently 1.0% on average), may boost imports by 0.9%, i.e. some EUR 0.7 million / year (based on current import value of EUR 79 million).

Table 6.20 – Summary and rating of option C's expected impacts

Impact area	Impact	Subject	Rating and magnitude	Notes
Operating costs/ competitiveness of business	*Severe reduction of competitiveness* of local products vis-à-vis import	Beneficiary firms	-2	
Budgetary effects	*Unpredictable,* but potentially significant depending on OR decisions	MS authorities	-2/+2	From (+2) if harmonised on internal rates to (-2) if on external rates
Functioning of the market and competition	*Major changes in the market structure* (increased import) and reduced competition	All economic operators	-2	
Macroeconomic impacts	*Worsening of trade balance,* and possible negative effects on *employment, investments*.	MS authorities	-1	Effects on consumer prices would depend on the policy adopted
Trade flows and international relation	*Removal of trade disputes* with EPA neighbouring countries	EU authorities	+1	

Legend: *Rating scale: +2 major positive impact; +1 minor positive impact; 0 neutral impact; -1 minor negative impact; -2 major negative impact.*

6.4 Comparative assessment

This concluding section summarises the results of the above analysis in comparative terms. In line with the salient comparison criteria laid down in *Better Regulation*, the three dimensions examined regard:

- ***effectiveness*** of the options – i.e., the extent to which different options would achieve the objectives;
- ***efficiency*** of the options – i.e., the benefits versus the costs;
- ***coherence*** of each option with the overarching objectives of EU policies.

The comparison is made between the ***baseline scenario*** (Option A – 'No change'), the proposed ***revisions scenario*** (Option B - articulated in three non-mutually exclusive sub-options: B1, B2, and B3), and the ***discontinuation scenario*** (Option C – 'No EU Action'). For clarity and consistency, reference is made to the impact areas and ratings used in Section 6.3.

For a correct understanding of the multicriteria approach to comparison used below, it is important to consider that the qualitative ratings provided to different aspects / criteria ***cannot simply be added up***, as the importance of the various aspects from a policy perspective may vary significantly. In other words, a +2 score given to a 'minor' aspect may be offset by a -1 score given to a 'major' aspect and vice versa. The judgment on whether certain aspects are 'minor' or 'major' is primarily a policy decision, and different stakeholders may have different views in this respect. So, in this Study we purposely refrain from attributing a specific weight to individual criteria and/or providing synthetic general scores for the three macro-options considered.

➢ Effectiveness

For a comparative analysis of the effectiveness of the different options, reference can be made to the stated objectives of the EU policy (see Figure 5.1), and how the expected impacts described in Section 6.3 would contribute to or hamper their achievement.

Overall, the policy aims at enhancing the ***competitiveness of local industries and production activities*** mitigating the handicaps caused by the outermost status of the regions concerned. The proposed options B1 and B2, and especially the measures aimed at facilitating updating the special regime to evolving needs, could prove beneficial in this respect, in particular regarding support to emerging activities. The majority of beneficiaries of special regimes are SMEs, so the benefits would be apparent especially in that segment. Conversely, discontinuation of the policy would have, by definition, severe adverse effects on local producers' competitiveness.

The proposed policy revisions (options B1, B2 and B3) are also expected to ***improve the functioning of the market***, mitigating the risk of undue distortions of competition, which is the second overall objective of the policy. This result would be achieved by a series of specific measures concerning the selection of eligible products, the application of tax differentials in line with needs, the prevention of overcompensation risks, and regime effective monitoring. Individually, all proposed measures would have moderate effects, but altogether they might respond effectively to various concerns raised by trade and service sectors over the fairness and proportionality of the special regime. Also in this case, the effects of a discontinuation of the regime (option C) would be markedly negative: various local producers would no longer be able to compete, and the market would become even more oligopolistic, with adverse effects also for consumers.

Ultimately, the policy aims at contributing to the ***social and economic development*** of ORs. The proposed revisions of the current system would have limited effect in this area, first and foremost because they do not intend to modify the current scope and intensity of the support made available through the special regime. The improvements described above might have beneficial effects in a few specific product areas – e.g., improving alignment with needs or redressing existing distortions – but at the macro-economic level these effects would hardly be noticeable. Instead, the negative impacts of discontinuation would probably be visible on the industrial value-added indicators and, eventually, on investments and employment.

Table 6.21 – Summary of the comparative impact of options on the effectiveness of the policy

Criteria	Option A	Option B1	Option B2	Option B3	Option C
General objective - Strengthening local industry, making it more competitive					
Impacts on operating costs/ business competitiveness	A: 0	B1a: +1/+2 B1b: 0	B2a: 0/+1	B3a: (-1)*	C: -2
Position of SMEs			B2d: +1		
General objective - Safeguarding undistorted competition in the internal market					
Impact on the functioning of the market and competition	A: 0	B1a: +1 B1b: +1	B2b: +1 B2c: +1	B3a: +1 B3c: +1	C: -2
General objective - Supporting the social and economic development of outermost regions					
Macroeconomic impacts on growth and employment	A: 0	B1a: 0/+1			C: -1

Legend: *Rating scale: +2 major positive impact; +1 minor positive impact; 0 neutral impact; -1 minor negative impact; -2 major negative impact.*
Notes*: The impacts of Option A are set at '0' by default, as no relevant change of the baseline scenario is expected. (*) This effect applies only if option B1a and B2a are not adopted.*

➢ EFFICIENCY

The policy options examined here do not envisage modifications that might affect the amount of ***tax revenues collected*** and, therefore, the budget of the regional administrations concerned. The only exception is represented by the possible increase in the turnover threshold for exclusion of small firms from the application of the tax (*option B2d*), but – as discussed previously – the magnitude of the revenue loss would be very limited. Otherwise, the budgetary effects of the proposed options would be either neutral, by design, or ambivalent and unpredictable since they would depend on policy decisions made at the country level.

In terms of the ***regulatory burden for EU and MS authorities***, the specific measures proposed for policy revision are expected to have differentiated effects. Compared to the baseline situation, the impact of *options B1* and *B2* would contribute to the reduction of the current burden - especially because of the simplification and the greater flexibility introduced in the system – but certain aspects, such as the enacting of eligibility criteria for products or the establishment of a global reference value for the policy, could imply an increase in the efforts required. Additionally, certain aspects of *option B3* (on the improvement of the monitoring system) require additional efforts especially in the initial phase. At any rate, the anticipated additional burden would remain limited and largely offset by the benefits of the proposed revisions.

The ***regulatory burden imposed on enterprises*** would likely decrease - although moderately - under *option B1* and *B2*. This is expected to happen in connection with a shift in the policy focus from specific products (CN8) to broader categories (CN4), which would make additional costs assessment less complex and would reduce the efforts required for justifying the application of tax differentials.

Table 6.22 – Summary of the comparative impact of options on the efficiency of the policy

Criteria	Option A	Option B1	Option B2	Option B3	Option C
Budgetary effects	A: 0	B1a: +1/-1	B2a: 0 B2b: 0 B2d: -1		C: -2/+2
Regulatory costs and savings for public authorities	A: 0	B1a: +1 B1b: -1	B2a: +1/-1 B2b: -1 B2c: +2	B3a: +1/-1 B3b: 0/-1 B3c: -1	
Regulatory costs and savings for enterprises	A: 0	B1a: +1	B2c: +1 B2d: +1		

Legend: *Rating scale: +2 major positive impact; +1 minor positive impact; 0 neutral impact; -1 minor negative impact; -2 major negative impact.*
Notes*: The impacts of Option A are set at '0' by default, as no relevant change of the baseline scenario is expected.*

➢ COHERENCE

For the coherence of the proposed options with the EU policy, the primary reference is the impact on ***governance and good administration***, which is analysed in Section 6.3. This also included – where relevant – consistency between the parallel State aid policy on the OdM and its possible evolution. As most of the proposed revisions explicitly address policy governance and implementation arrangements, generalised improvements can be expected under this scenario. This is especially true with *options B1* and *B3,* which would enhance subsidiarity in policy implementation, while reinforcing the monitoring and making rules and conditions clearer and easily verifiable. The impact of *option B2* would be more mixed. In specific, the expected downside to increasing the number of enterprises outside the policy's field of application (*option B2d*) is a worsening in the monitoring coverage.

The discontinuation scenario would eliminate the root cause of complaints expressed by CARIFORUM and ESA countries regarding the ***claimed incoherence of the OdM*** with the trade agreements stipulated with the EU. As discussed, there is no legal basis to these complaints and the removal of the OdM as a whole would not significantly modify intra-regional trade exchange, but a contentious point of the EU-CARIFORUM agenda would certainly be deleted.

Table 6.23 – Summary of the comparative impact of options on the coherence of the policy

Criteria	Option A	Option B1	Option B2	Option B3	Option C
Governance and good administration	A: 0	B1a: +2 B1b: +1	B2a: +1/-1 B2b: +1 B2c: 0 B2d: -2	B3b: +1 B3c: +2	
Trade flow and international relations	A: 0				C: +1

Legend: *Rating scale: +2 major positive impact; +1 minor positive impact; 0 neutral impact; -1 minor negative impact; -2 major negative impact.*
Notes*: The impacts of Option A are set at '0' by default, as no relevant change of the baseline scenario is expected.*

7. CONCLUSIONS

➢ BRIEF OVERVIEW OF THE *OCTROI DE MER* REGIME

The *Octroi de mer (OdM)*, is a special tax regime aimed at supporting the development and diversification of production activities in the French Outermost Regions (ORs). The OdM has existed in different forms since the XVII century, but the current format was adopted in 2004. The special regime consists of the application of an *ad valorem* tax on the delivery of certain goods in the ORs, but while products of external origin are subject to the full rate, tax exemptions/reductions are extended to locally-made products. Additionally, local enterprises with a turnover below EUR 300,000 / year are excluded from the application of the tax. The purpose of the special regime is to support local production activities' competitiveness and mitigate the effects of remoteness, small size, isolation, and other structural constraints affecting outermost regions.

Overall, the special regime is applied to ***976 products categories*** (designated by CN code). Supported products belong primarily to manufacturing industries – food and beverage, chemicals, paper and others – and to a lesser extent to agriculture, fishery, and mining sectors. Altogether, the aggregate ***value of supported productions*** amounts, conservatively, to EUR 2.28 billion. The allowed tax differentials range from 10% to 30%, with an average actual difference of approximately 15%. In 2018, the OdM ***tax receipts*** amounted to EUR 1,270 million, of which some EUR 526 million from products subject to the differentiated rates regime, while the estimates on the ***tax not collected*** due to exemptions (the 'foregone' tax revenue) are of EUR 344 million.

➢ SUMMARY OF THE EVALUATION FINDINGS

The OdM regime is one of several special legal measures for the French outermost regions and it is aligned with the EU's overall approach towards them, which is based on the objective of taking into account their structural social and economic constraints. In particular, it contributes to fostering growth and job creation in the ORs through diversification of the local economies and enabling high value-added activities, such as industrial manufacturing. The regime constitutes an evident derogation from the EU policy on internal market and competition, whose legal basis is firmly anchored in Article 349 TFEU, which explicitly recognises the need to adopt special measures in support of outermost regions, to address their structural constraints and contribute to their development. The OdM regime is subject to double-track authorisation at the EU level: (a) in EU fiscal policy, through periodic Council Decisions which authorise the application of differential treatment to a set of explicitly identified products, and (b) as a regional State aid measure. The latter ensures the regime's compliance with EU competition rules and its proportionality.

The EU approach towards the outermost regions encompasses a number of other measures financed by the European structural and investment funds (ESIF) and through other specific regional State aid measures. Some of these measures address the same sectors/beneficiaries of the OdM and have the same purpose of mitigating the effects of the ORs' structural constraints on the operating costs of local businesses. In this sense, there are evident synergies between the OdM and these other schemes and cumulative effects are frequent. At the enterprise level, there are administrative procedures in place to avoid the risk of aid cumulation leading to an excess of compensation, while at the macro-level it has been verified that the sum of the OdM and of the other compensation schemes does not exceed the estimated additional costs caused by structural constraints (some 40%-45% of the estimated additional costs are compensated overall). Still, at product level, there is insufficient information to verify the extent of cumulative effects, so occasional cases of overcompensation cannot be ruled out a priori.

As far as external trade is concerned, the EU's general approach for the ORs pursues two main objectives: (a) strengthening the integration of the ORs in their regional neighbourhood, and (b) taking into account the ORs' interest in trade agreements negotiated by the EU to avoid adverse effects on the local economy. In the case of the OdM, these two objectives are difficult to reconcile, and the regime has been criticised repeatedly by CARIFORUM countries and by certain Eastern and Southern Africa (ESA) countries, which have claimed the OdM is contrary to the spirit of the Economic Partnership Agreement (EPA) these countries have signed with the EU. Beyond legal considerations – the OdM is formally allowed by the EPA – and economic motives supporting the existence and maintenance of the OdM in the ORs, the results of regional trade data analysis highlight that OdM differentials have moderate impact on the value of French ORs' imports from CARIFORUM and ESA countries, and a hypothetical complete removal of the OdM would benefit primarily exporters from the EU and third countries other than CARIFORUM and ESA. In this sense, to improve intra-regional trade, other softer and more tailored approaches should be sought.

The scope of the OdM regime is fairly comprehensive, thus addressing satisfactorily the needs of the economic operators concerned. The system is, however, poorly responsive to the evolving market conditions because the list of supported products is laid down in the Council Decision. This means that any revision – e.g., to include a newly emerging production line or to modify the extent of support – would require a burdensome legal amendment process or its postponement to the next renewal of the policy. The other issue – frequently lamented by trade representatives – relates to the identification of supported products with reference to CN categories which sometimes also include items which are not locally produced or are produced in limited quantities. This calls into question the criteria adopted by competent authorities to select the products which are eligible for the support. The OdM policy requires that local production exist and, secondly, that there be a sufficient level of imports to jeopardise local production, but no further specification is provided on the minimum or maximum market share threshold relevant for the application of these criteria. Analysis of the OdM product portfolio showed that nearly 20% of supported products have a market share which is lower than 5%, while some 6.5% of them are in a clearly dominant position (95% or more of market share). The strategic value of certain productions may certainly justify waiving the 'market share' criterion, but the absence of explicit, transparent rules has seemingly fuelled distrust among certain economic operators regarding how the special regime is implemented.

The OdM special regime supports local production activities by reducing the competitiveness gap between local products and imports from mainland France or the EU, which is caused by additional production costs. Quantitative assessments of such additional costs are carried out periodically but, despite the efforts made, the exercise remains subject to intrinsic methodological limitations, so estimates have to be considered with due caution. The latest assessment was completed in 2016 and estimated total additional costs in French ORs to be EUR 4.51 billion, of which EUR 1.76 billion was attributable to OdM supported sectors (manufacturing and the primary sector). Furthermore, additional cost assessments have been carried out regularly at the product level, to justify the differential treatment and establish appropriate tax rates. From analysis of these 'product fiches', it emerged that the bulk of additional costs – approximately 83% on average - is generated by four cost factors, apparent in all French ORs: the additional costs of inputs (including freight costs); oversized equipment (idle production capacity); lower productivity of labour; and the need for larger stocks. However, there is variability in the assessments that seems unrelated to regional specificities, but rather are connected to methodological incongruences and the inevitable subjectivity of business' own estimates.

The OdM regime compensates for about half of additional costs. With some exceptions, the applied tax differentials proved to be fairly proportional to the additional costs declared for specific products. This contributes to perceptions of the importance of the

OdM for competitiveness among local economic operators, even though the price gap between their products and imported ones is not fully closed. The results of the quantitative data analysis suggest that, in the absence of OdM support, performance of local production activities would have been significantly worse. About 37% of the value of OdM-supported products (approximately EUR 850 million) was theoretically 'enabled' by the tax differential mechanism, with positive repercussions also on employment - which registered a positive increase in the OdM sectors since 2014 (against a decline in non-OdM industries) – and on the number of active enterprises, which has grown by approximately 1.7% in the same period (against an overall decline of 3%). On the other hand, there is no evidence of benefits for the total value of investments and for diversification of production. Finally, the OdM shows an overall positive balance between costs and benefits, with the estimated value of local production enabled by the special regime being approximately 2.5 times greater than its 'cost' in terms of foregone tax revenue.

Application of the OdM did not apparently cause excessive import substitution. Actually, the majority of local products supported by the OdM registered a loss of market share over time, confirming that the OdM is actually a measure which mitigates the loss of local production's competitiveness more than a development instrument, strictly speaking. A slight inverse correlation was found between OdM differentials and import flows, but this did not impede a general worsening of French ORs' trade balance over time.

The Study investigated the possible contribution of the OdM differentials to the consumer price index and the cost of living in French ORs. Overall, statistics confirm the existence of significant price differences between French ORs and the mainland, with gaps ranging between 7% and 12%, and concentrating on food products, communications, alcohol and tobacco products. According to the relevant literature, this gap is due to a combination of structural factors and fiscal policies, including the OdM. However, only a minor share of the estimated OdM impact on household expenditure in French ORs can be attributed to OdM-supported products. Rough estimates suggest that the additional tax levied on products subject to tax differentials does not exceed 1.5% of final consumption in the ORs (but approximately 4% if only manufactured goods are considered).

Regarding administrative and compliance costs related to the OdM regime, the implementation arrangements are straightforward and do not impose particularly complex or burdensome procedures on competent authorities or economic operators. The most critical implementation issue regards product classification, which is sometimes uncertain and a potential cause of dispute and disparity in treatment. The total administrative costs of OdM for economic operators (including dealing with exemptions on inputs and reimbursements) are estimated to be approximately EUR 600,000/year. At a broader level, some current policy arrangements appear to be overly complex or rigid, possibly causing unnecessary burdens for EU and national authorities. One such aspect is the impossibility of revising the list and the exemptions extended to specific products without a legal amendment of the Council Decision. In second place, the current monitoring requirements involve significant effort from competent authorities, and the lack of a proper, harmonised monitoring framework and the less-than optimal timing of the monitoring reports affect their informative value and utility for the policy process.

- **POLICY SCENARIOS FOR THE WAY FORWARD**

While the results of the evaluation confirm the overall utility and benefits of the OdM regime for the target group, some inefficiencies and dysfunctions have been detected which might limit the measure's effectiveness and/or cause unnecessary burden. With expiration of the terms of the current Council Decision set for the end of 2020, three main policy scenarios emerge for the way forward:

- the ***'no change' scenario,*** i.e., to renew the current special regime in the next programming period (2021-27) without any significant modification,
- prolongation of the current system with ***revisions of the current arrangements*** aimed at fixing the identified policy problems,
- ***discontinuation*** of the special regime.

Stakeholders' views regarding possible renewal of the OdM are highly polarised. As expected, enterprises engaged in production activities, which typically benefit from tax differentials, are generally in favour of the policy being renewed (86%), although for the majority of them (59%) some change of the current mechanisms is necessary. Conversely, the majority (58%) of businesses in other sectors would be in favour of discontinuing the current policy.

The Study has identified a set of possible modifications to the current policy and has examined their expected impact in various areas. The policy options considered by the Study regard three main aspects, namely:

1. Criteria for the ***identification of eligible products and updating of product lists***. The proposed revision consists of two distinct, although connected provisions. The first is the identification in the Council Decision of only the 'broad' categories of supported products (i.e., using CN4 level codes), leaving to competent national authorities the responsibility of selecting, within these categories, the specific products (CN8 or lower levels) which would actually be supported. This measure would allow more flexible management of the regime by competent authorities, removing the needs for EU-level legal amendments for ordinary revisions and updates of product lists. In second place, adoption of clearer, verifiable criteria for the selection of products set to benefit from OdM support is proposed. In line with current practice, such criteria should take into consideration the product's market share *inter alia*, and in the case of products in residual or largely dominant position on the local market, proper justification for support should be provided in a transparent way. Overall, this provision would prevent greater flexibility in list management leading to unwarranted extension of the policy's scope, and would respond to the demand for greater clarity and objectivity expressed by most of OdM opponents. The revised arrangements should ensure that productions of particular and strategic importance continue to be supported, and that coherence with other EU policies and programmes be enhanced.

2. Revision of mechanisms for ***establishing the maximum permitted tax differential***. This proposed option is made up of three specific measures. The first intends to simplify arrangements regarding the establishment of tax differentials, replacing the current three distinct product lists with only one list with a single maximum permitted threshold. The benefits of this measure would include more flexible management of the differential rates applied by the competent authorities, allowing for revisions without a formal amendment of the Council Decision. With its aim being to avoid enabling an unwarranted increase in support, the second proposed measure consists of introducing a global reference value in the policy, i.e., a monetary ceiling for the estimated 'foregone tax revenue' which competent authorities will have to respect. As measurement of foregone revenue is subject to uncertainties and fluctuations, a buffer provision should be envisaged. The third proposed measure aims at improving the utility, for policy purposes, of additional cost assessments, harmonising their focus on the CN4-level product categories identified in the Decision (according to the previous proposed option). To prevent the risk of overcompensation, the support extended under other EU schemes and State aid measures should be considered.

3. Revision of the ***policy duration*** and of ***monitoring arrangements***. The proposed revision has the parallel objectives of reducing the burden of unnecessarily frequent re-assessment and renewal of the policy, and enhancing the utility and effectiveness of monitoring and evaluation activities. In the first case, extending the current duration to 10 years was considered, but it was found that the benefits of diluting the policy renewal burden could be outweighed by the drawbacks of de-synchronisation of the Council Decision with the corresponding State aid policy. As regards monitoring, the proposed revision consists of the adoption of a standardised reporting structure, based on a harmonised set of indicators common to all EU outermost regions which benefit from a special tax regime, and deemed sufficient to assess the impact of the regime properly. Additionally, the timing of submission of monitoring reports could be moved back to the fifth year from the adoption of the policy, in order to ensure greater availability of monitoring data, and closer alignment with the needs of the policy renewal process.

None of the identified problems with implementation appeared to be so severe as to justify adopting more radical options such as ***discontinuing the special regime***. On the one hand, replacing it with other similar EU support measures does not look feasible/desirable for two reasons: the numerous fiscal and non-fiscal aid schemes that already exist, and the fact that the OdM is currently implemented with no cost for the EU budget. On the other hand, discontinuing the special regime without any replacement would significantly damage local production activities, hamper ORs' resilience to global economic shocks, and deprive local public budgets of a non-negligible component. Theoretically, discontinuing the special regime may be beneficial in reducing price levels, but the risk of increased market concentration and the possible introduction of a regional tax to compensate for budget losses would likely offset this benefit.

PART 3

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ANNEXES

List of Annexes

ANNEX A – SYNOPSIS OF STAKEHOLDER CONSULTATION

PART 1 – AIEM

A.1 Overview of consultation activities

The stakeholder consultation strategy has been developed to ensure a wide and balanced coverage of the different entities involved in, subject to, or concerned by the design and implementation of the special tax regime, by means of tailored tools and questionnaires. The perspectives and positions on the AIEM were expected to vary significantly (a) across the groups of stakeholders considered – i.e. policy-makers, tax and customs administrations, enterprises, professionals, etc.; (b) geographically – i.e. 'mainland' or Canary Islands residents; and (c) in the case of the private sector stakeholders, between the local producers benefitting from the regime, the enterprises that are instead subject to direct tax charges (e.g. importers), and the enterprises that are indirectly affected (e.g. local manufacturers using production inputs falling inside or outside the tax differential regime).

To address all different perspectives and positions comprehensively, the stakeholder consultation consisted of the following two main pillars:

- ***targeted interview programme, involving field visits*.** In-depth interviews were conducted with selected stakeholders, including EU institutions, Spanish government authorities at national and local level, and economic operators and trade organisations representing both the local productive sectors - i.e. the beneficiaries of the special regime - and the trade and service sectors, which are directly or indirectly affected. A total of 58 stakeholders were interviewed, of which 38 in the Canary Islands;
- ***focussed online survey of economic operators active in the Canary Islands.*** A web-based survey of the economic operators located in the Canary Islands was carried out between November 11 and December 20, 2019. The survey enabled to collect firms' views on the key features of the AIEM, i.e. positive impacts, side effects, changes needed, etc., and to gather structured information on the conduct and performance of local businesses which are affected by the special tax regime to different degrees. The survey questionnaire was available in English and Spanish, and customised to reflect the different effects of and views on the special tax regime based on the different groups of local businesses involved, namely: (i) local producers, and (ii) importers and distributors. A total of 182 valid replies were received from the Canary Islands. Table A.1 provides a summary of the responses to the survey by size of the firm and respondent economic activity.

Table A.1 – Response summary to the business survey

Firm size	Number of respondents
Between 1 and 9 employees -firms (micro enterprise)	28
Between 10 to 49 employees (small enterprise)	81
Between 50 to 249 employees (medium-sized enterprise)	50
More than 250 employees (large enterprise)	20
No answer	3
Total	**182**

Main economic activity	Number of respondents
Productive activities	112
Of which beneficiaries of the AIEM regime	*70*
Non-productive activities	70
Of which traders / importers	*40*
Total	**182**

Altogether, the consultation allowed gathering three main kinds of information:

(1) factual information on the legal and administrative arrangements for the special tax regime in the Canary Islands;
(2) evidence on the performance of the tax regime, including the benefits delivered, the contribution to the local development, and any possible issue or unintended effect registered;
(3) the stakeholders' expectations and views on possible policy scenarios for the future – including the revision of the current regime –, and their forecasts concerning the effects of different possible EU actions.

A.2 Overall evaluation of the AIEM regime

- **ON THE COHERENCE AND RELEVANCE OF THE REGIME**

The results of the study indicate that the scope of the AIEM regime is fairly comprehensive, satisfactorily addressing the needs of the economic operators concerned. This was confirmed by the majority of the key stakeholders consulted, even though private sector representatives reported some gaps. About half the local producers involved in the survey maintained that some products should be added to the AIEM list. In this regard, the main problem lamented by stakeholders was the system's slowness to respond to the emerging needs of the local economy and to correct errors and omissions, when relevant. The lack of flexibility is due to the fact that the list of products with a tax differentiated rate is laid down in the Council Decision, and, hence, any revision – e.g. the inclusion of a new emerging production or the modification of the extent of the tax support – requires a burdensome legal amendment process or its postponement to the next renewal of the policy.

Another main issue with reference to the AIEM scope was typically voiced by traders' representatives and concerns the application of tax differentials to products for which there is no 'equivalent' local production in strict terms. In some cases, CN categories included in the AIEM list cover heterogeneous products, some of which are not produced locally. The results of the business survey confirm the existence of this issue: the majority of the respondents (60%), including a relevant share of local producers (38%), reported the existence of products with negligible production in the Canary Islands that should be removed from the list.

The criteria adopted by competent authorities to establish the list of products benefitting from fiscal advantages and determine the level of support are not articulated in a clear and very detailed manner. Consistently, about one fifth of the local producers and some 40% of firms active in other sectors reported limited or no familiarity with the criteria for the inclusion of certain products in the AIEM lists. As for the methods used to establish the tax differential applicable to AIEM products, respondents are even less knowledgeable: over 60% of the non-producer firms and 44% of the local producers declared to have little/no information about these methods.

Table A.2 – Stakeholders knowledge of the criteria underlying AIEM implementation

	Total	Non producers	Producers
Share of respondents with no/limited knowledge of the criteria for inclusion of certain products in the AIEM lists	**28%**	40%	21%
Share of respondents with no/limited knowledge of the methods used to establish the tax differential applicable to AIEM products	**51%**	63%	44%

***Source**: Business Survey.*

➢ IMPACT OF THE AIEM ON PRICE-COMPETITIVENESS

The importance of the AIEM regime in redressing the price-competitiveness of local productions was widely acknowledged by representatives of the relevant private sector associations and manufacturing firms met during fieldwork, even though the price gap between locally-produced goods and imported ones is not fully closed.

The local producers involved in the survey attributed great importance to the AIEM in shaping the conditions for competition: the majority (54%) of the relevant respondents qualify the tax role as 'essential', adding that without the AIEM they could not compete, and another 42% assessed the impact of the AIEM as 'moderate'. Likewise, the majority (57%) of the importers maintained that the AIEM affects 'significantly' the competitiveness of their imported products with AIEM differential rate.

Table A.3 – Stakeholders assessment of AIEM impact on price-competitiveness

	% of local producers		% of importers
Essential, without AIEM we could not compete with imported goods	54%	Significantly, AIEM makes our main imported product much less competitive	57%
Moderate, AIEM helps us being competitive but there are other factors	42%	Moderately, AIEM does affect competitiveness but there are other factors at play	32%
Limited, AIEM is only a minor factor in the dynamic of price	4%	Limitedly, AIEM is only a minor factor in the dynamic of price	11%

***Source**: Business Survey (excluding 'don't know' answers).*

➢ PERCEIVED ADVANTAGES OF THE AIEM REGIME

The business survey investigated the respondents' views on the potential positive impacts of the AIEM regime on the local economy, in general, and on production activities, specifically. Views substantially differed between enterprises engaged in the production of goods with AIEM differential rate and businesses operating in non-productive sectors: the former are inevitably much keener to assess the importance of the AIEM as critical, while the latter are much more sceptical. More specifically:

- almost three quarters of the respondents maintained that the AIEM had a moderate / major impact in boosting local production activities in the Canary Islands. This share is includes almost all local producers of AIEM goods (96%), but also a relevant share (38%) of the firms active in other sectors;
- the opinions concerning the impact of the AIEM in terms of supporting employment, increasing investments in local production activities and reducing the local economy reliance on imports are more polarized. About 90% of the local producers attributed a positive role of the AIEM regime to these ends, while such an opinion is shared by a tiny minority of non-producers;
- the effects of the AIEM on the expansion of the range of products available locally and the promotion of R&D and innovation in the local industry were those assessed as least positively.

Table A.4 overleaf illustrates the share of respondents assessing the positive impacts of the AIEM regime as 'moderate' or 'major'.

Table A.4 – Stakeholders perception of the positive impacts of the AIEM

Positive Impact	% of respondents assessing impact as moderate or major		
	Total	Non producers	Producers of AIEM goods
Boosting local production activities	**73%**	38%	96%
Encouraging the diversification of local production activities	**66%**	24%	92%
Reducing the local economy's reliance on imports	**62%**	22%	89%
Contribution to the creation and maintenance of jobs	**64%**	18%	92%
Fostering investments in local production activities	**66%**	24%	93%
Expanding the range of products available in the local market	**58%**	13%	88%
Fostering research and development and innovation in the local industry	**56%**	11%	85%

***Source**: Business Survey (excluding 'don't know' answers).*

➢ Perceived adverse effects of the AIEM regime

The business survey also investigated the respondents' views on the potential negative effects of the AIEM regime on the local economy, market competition, regional trade, local consumption, and price level. As shown by Table A.5 below, also in this case views largely differed between enterprises engaged in the production of AIEM goods and businesses operating in all other sectors, but in a reverse order. In particular, the table illustrates the share of respondents within each group assessing negative impacts as 'moderate' or 'major'.

The salient results can be summarised as follows:

- the majority of non-producer firms, ranging between 51% and 83%, assessed all the negative impacts as significant. Oppositely, only a tiny minority of the local producers (barely exceeding 10%) provided a similar assessment of the different impacts of the AIEM regime. Overall, the inflationist effect exerted by the tax and its negative impact on trade between the Canary Islands and neighbouring countries attracted the highest degree of consensus;
- the polarisation of the stakeholder views on the AIEM distortive effects on competition is comparatively more marked: for over 80% of trade and service businesses the cumulation of the AIEM with other aids causes a 'moderate' to 'major' distortion of competition, whereas only 7% of local producers held a similar opinion. Similar shares of respondents within the two groups lamented the negative effects exerted by the tax on local economic activities importing raw materials and supplies on which the AIEM is levied;
- a smaller share of non-producer firms assessed as significant the potential negative effects of the tax concerning the efficiency of local producers, which may be discouraged to make efforts to boost productivity, and the fact that the AIEM tends to draw resources towards existing 'supported' sectors, hampering the development of new ones.

Table A.5 – Stakeholders perception of the negative impacts of the AIEM

Negative Impact	% of respondents assessing impact as moderate or major		
	Total	**Non producers**	**Producers of AIEM goods**
Because of AIEM support, local firms are not encouraged to boost efficiency and productivity	**34%**	69%	9%
The AIEM drives most of investments and human resources to the 'supported' sectors, thus hampering the emergence of new activities in 'non-supported' sectors	**29%**	58%	9%
The AIEM influences the demand, switching consumption from more taxed products to substitute products	**35%**	51%	22%
The addition of AIEM and other aids to local production produces an excessive distortion of competition	**37%**	82%	7%
By taxing certain raw materials and supplies, the AIEM indirectly affects local production activities and services (such as tourism etc.)	**36%**	76%	8%
The AIEM translates into higher prices for consumers	**39%**	79%	12%
The AIEM hampers trade with neighbouring countries (e.g. Portuguese islands and West Africa)	**40%**	83%	11%

***Source**: Business Survey (excluding 'don't know' answers).*

➢ EFFICIENCY OF THE AIEM REGIME

The AIEM regime does not create major problems in terms of implementation or major administrative burdens on competent authorities. Coherently, public authorities generally agree that the tax enforcement burden arising from activities concerning products with AIEM differentials can be considered as acceptable and justified by the benefits produced. On the other hand, at a broader level, the revision of the list and the exemptions extended to specific products through a legal amendment of the Council Decision is regarded as overly complex, thus causing unnecessary burdens to EU and national authorities. Likewise, national competent authorities reported that the current monitoring requirements require significant efforts, possibly disproportionate compared to their informative value and utility for the policy process.

The administrative and compliance costs of the AIEM regime are considered as rather limited by private sector representatives. The majority of the importers involved in the survey assessed compliance with AIEM-related obligations as not particularly burdensome. In this context, the most burdensome task is considered the identification of the applicable customs codes and the corresponding AIEM rates, sometimes uncertain and potentially a cause of disputes and disparity of treatment. In particular, this task was assessed as a major burden by about one about three quarters of the relevant respondents.

The negative assessment concerning the customs classification of imported raw materials/supplies subject to the AIEM was confirmed by the feedbacks provided by local firms operating in the manufacturing industry as well as in other sectors that import part of the raw materials and supplies used in their business activity. About half of these firms reported at least one change in the customs code and/or definition of the raw materials/supplies usually imported.

A.3 Stakeholder views on future policy scenarios

- **ATTITUDE TOWARDS THE RENEWAL OF THE AIEM REGIME**

The consultation of the public authorities gave a clear picture with regard to the future of the current tax regime. On the one hand, with the AIEM considered as important both for the public budget of the Canary Islands and to support local production activities, the renewal of the regime enjoys a widespread consensus. On the other hand, the local competent authorities consulted highlighted the need for greater flexibility and a less cumbersome procedure to update the supported products list and the tax differentials applied.

The views of the private sector with regard to the renewal of the AIEM regime are strongly polarized, depending on the business activity and the different effects of the AIEM on this activity. As expected, respondents engaged in production activities, typically benefitting from tax differentials, largely supported the renewal of the policy (95%). Still, the majority of them (75%) deemed that the current mechanism needs some change.

Conversely, the majority (70%) of the businesses operating in other sectors (i.e. different from production activities) would prefer the current policy to be discontinued. In particular, one third of the respondents would like the policy to be replaced with different forms of support for local production activities. Interestingly, opponents to the renewal of the AIEM regime are more common in the tourism sector than among traders. This substantiates a point frequently made during field interviews: the main problem with the AIEM regime concerns its impact on the ‘inputs’ for which there is no or insufficient (for quantity or quality) local production.

Table A.6 – Stakeholders attitude toward the renewal of the AIEM regime

Scenarios	% of respondents		
	Total	Non producers	Producers
Renew the Decision without major changes	**16%**	6%	22%
Renew the Decision, introducing some revisions	**55%**	24%	73%
Not renew the Decision, and introduce alternative support mechanisms	**14%**	33%	3%
Not renew the Decision	**15%**	37%	2%

***Source**: Business Survey (excluding 'don't know' answers).*

➢ **STAKEHOLDER VIEWS ON POSSIBLE POLICY REVISIONS**

Revisions to the current policy and its implementation arrangements were discussed with different stakeholders. The business survey also investigated the respondents' positions on the possible areas for improvement. The Table A.7 below shows the share of respondents fully or partly agreeing with a set of proposed areas for revision of the policy, distinguishing between enterprises engaged in production activities and all other sectors.

The salient results can be summarised as follows:

- all the proposed revisions were assessed positively by a majority of the respondents, irrespective of the sector of activity. The 'producers' group generally expressed more favourable feedbacks but, for most of the proposed options, differences between the two groups are limited;
- local producers are more interested in improving the flexibility of the system, making modifications of the tax-supported products lists and the tax differentials applied more frequent and easier. In this regard, several enterprises specified that this flexibility is needed to better align with evolving needs but should not translate into too frequent changes of the rates by local authorities, which would undermine the stability and the predictability of the markets;
- conversely, non-producers expressed a more favourable view compared to producers on the possibility to adopt measures aimed at mitigating the impact of the AIEM on imported production inputs (raw materials, supplies etc.);
- the improvement of the monitoring system on the whole and the price levels specifically encountered a large degree of support in both groups (and especially among local producers);
- likewise, both groups substantially agree on the need for more transparent and clear criteria for both selecting the supported products and establishing the applicable rates. From the perspective of non-producers, improved and transparent criteria should ensure that products for which no local production exists are excluded from the special regime.

Table A.7 – Stakeholders attitude toward proposed revisions of the AIEM regime

Purposed Revisions	% of respondents agreeing with		
	Total	Non producers	Producers
It should be possible to amend the list of supported products more frequently and easily	**80%**	69%	88%
It should be possible to modify the tax rates applied more frequently and easily	**76%**	70%	79%
The criteria for updating the list of supported products should be clearly and precisely laid down in the EU policy	**75%**	74%	76%
The criteria for modifying the differentiated tax rates applied to AIEM products should be clearly and precisely laid down in the EU policy	**75%**	71%	77%
The AIEM monitoring system should be improved, with the regular collection of market data on local production, import, employment etc.	**82%**	74%	88%
The price levels of AIEM products imported and locally-produced should be periodically monitored	**73%**	71%	74%
Mechanisms to reduce the impact of AIEM on the import of production inputs (e.g. raw materials and supplies) should be considered	**73%**	80%	68%

***Source**: Business Survey.*

Additional suggestions were occasionally made by stakeholders: (a) to improve the enforcement of product classification to avoid the practice of incorrect coding for tax circumvention; (b) to exclude freight costs from the tax base of imported products; and (c) to consider mechanism to ensure benefits are extended primarily to small companies.

APPENDIX - Questionnaire for the Business Survey on AIEM

A) RESPONDENT PROFILE

1. Please indicate your main sector of activity. If your firm is active in various sectors, the main sector is that which occupies most of the employees.

NACE code	
A. Agriculture, forestry and fishing	
B. Mining and quarrying	
C. Manufacturing	
D. Electricity, gas, steam and air conditioning supply	
E. Water supply; sewerage, waste management and remediation activities	
F. Construction	
G. Wholesale and retail trade	
H. Transportation and storage	
I. Accommodation and food service activities	
J. Information and communication	
Z. Other	

2. What are your main branches of activity?

A. Manufacture of food products	
B. Manufacture of beverages	
C. Manufacture of tobacco products	
D. Manufacture of textiles	
E. Manufacture of wearing apparel	
F. Manufacture of leather and related products	
G. Manufacture of paper and paper products	
H. Printing and reproduction of recorded media	
I. Manufacture of coke and refined petroleum products	
J. Manufacture of chemicals and chemical products	
K. Manufacture of rubber and plastic products	
L. Manufacture of other non-metallic mineral products	
M. Manufacture of basic metals	
N. Manufacture of fabricated metal products, except machinery and equipment	
O. Manufacture of furniture	
P. Other industries	

3. What are your main branches of activity?

A. Wholesale	
B. Retail Sale	
C. Import / export	
D. Other	

4. Where is your firm based in Canary Islands? If your firm have establishments in more than one islands, please indicate where the main establishment and the secondary ones are located

	Main establishment	Secondary establishments
Gran Canaria		
Tenerife		

Fuerteventura		
Lanzarote		
El Hierro		
La Gomera		
La Palma		

5. Please indicate whether your firm is a division or subsidiary of another company and, if so, where the parent company is based

Independent firm (no parent companies)	
Parent company based in mainland Spain	
Parent company based in another EU Member State	
Parent company based in a non-EU country	

6. Year of establishment

7. Current number of full-time equivalent employees

8. Approximate turnover in 2018

	EUR

B) RESPONDENT'S GENERAL VIEW ON AIEM

9. What are, in your opinion, the main beneficial impacts of AIEM for the economy of Canary Islands?

	Major impact	Moderate impact	Minor impact	No impact	Don't know
Boosting local production activities in Canary Islands					
Encouraging the diversification of local production activities					
Reducing the local economy's reliance on imports					
Contribution to the creation and maintenance of jobs					
Fostering investments in local production activities					
Expanding the range of products available in the local market					
Fostering research and development and innovation in the local industry					

Please provide further details and/or add other types of beneficial impacts of AIEM	

10. Conversely, what are, in your opinion, the possible negative impacts of AIEM for the local economy of Canary Islands?

	Major impact	Moderate impact	Minor impact	No impact	Don't know
Because of AIEM support, local firms are not encouraged to boost efficiency and productivity					
AIEM drives most of investments and human resources to the 'supported' sectors thus hampering the emergence of new activities in 'non-supported' sectors					
The AIEM influences the demand, switching consumption from taxed products to substitute products					
The addition of AIEM and other aids to local production produces an excessive distortion of competition					
By taxing certain raw materials and supplies, AIEM indirectly affects local production activities and services (such as tourism etc.)					
The AIEM translates into higher prices for consumers					
The AIEM hampers trade with neighbouring countries (e.g. Portuguese islands and West Africa)					

Please provide further details and/or add other types of negative impacts of AIEM	

11. The AIEM regime envisages differentiated tax rates for a list of products depending on their imported or locally-produced origin. Are you familiar with the underlying policy processes?

In particular:	Yes, very well	Yes, partly	Not very much	Not at all
Do you know the criteria for which certain products and not others are included in the AIEM list?				
Do you know the methods used to establish the differentiated tax rates for imported products and locally-produced ones?				
Do you know how the list of AIEM products and the tax rates are revised?				

12. In your opinion, are the current list of AIEM products and the level of support (i.e. the differentiated tax rates) appropriate and in line with the need of compensating the additional costs for Canary Islands economy, caused by its outermost status and double insularity?

In particular:	No	Yes	Don't know

Are there products not currently supported that should be added to the AIEM list?			
Does the AIEM list include products that should be removed because their local production is negligible?			
Does the AIEM list include products that should be removed because their imports are negligible?			
Are there products in the AIEM list that are not sufficiently supported (i.e. the tax differential is too low)?			
Are there products in the AIEM list that are excessively supported (i.e. the tax differential is too high)?			

13. What changes are needed, in your view, to improve the AIEM regime? Please express your agreement / disagreement with the following statements.

	Agree	Partly agree	Neither agree nor disagree	Partly disagree	Disagree	Don't know
It should be possible to amend the list of supported products more frequently and easily						
It should be possible to modify the tax rates applied more frequently and easily						
The criteria for updating the list of supported products should be clearly and precisely laid down in the EU policy						
The criteria for modifying the differentiated tax rates applied to AIEM products should be clearly and precisely laid down in the EU policy						
The AIEM monitoring system should be improved, with the regular collection of market data on local production, import, employment etc.						
The price levels of AIEM products imported and locally-produced should be periodically monitored						
Mechanisms to reduce the impact of AIEM on the import of production inputs (e.g. raw materials and supplies) should be considered						

14. The EU Council Decision permitting differentiated tax rates under the AIEM regime will expire in 2020. In your opinion, the European Union should:

Renew the Decision without major changes	
Renew the Decision, introducing some revisions	
Not renew the Decision, and introduce alternative support mechanisms	
Not renew the Decision	
Don't know	

C) RESPONDENT'S SPECIFIC EXPERIENCE WITH AIEM (LOCAL PRODUCERS)

15. Is your firm producing within the Canary Islands goods that fall in the scope of the AIEM regime?

Yes	
No	
Don't know	

16. In particular, does your firm produce any of the following AIEM products? If you produce more than one, please select the main one in terms of sales value

CN code	Short description	
2201	Waters, incl. natural or artificial mineral waters and aerated waters, not containing added sugar, other sweetening matter or flavoured etc.*	
2203	Beer made from malt	
2402	Cigars, cheroots, cigarillos and cigarettes of tobacco or of tobacco substitutes	
0305.41.00	Atlantic salmon "Salmo salar" etc.*	
0403	Buttermilk, curdled milk and cream, yogurt, kephir and other fermented or acidified milk and cream, etc.*	
1905	Bread, pastry, cakes, biscuits and other bakers' wares, etc.* Not including frozen bread.	
4819	Cartons, boxes, cases, bags and other packing containers, of paper, paperboard, cellulose wadding or webs of cellulose fibres, etc.*	
7610.10.00.00	Aluminium doors, windows and their frames*	

** for full definition see: https://www.boe.es/diario_boe/txt.php?id=BOE-A-2014-7327*

If you do not produce any of the above, please indicate your firm's main AIEM product in terms of sales value

Description	
Customs code (as indicated in the AIEM list), if known	

17. What share of your total sales did the above main AIEM product represent in 2018, approximately?

	%

18. What share of the production of the above main AIEM product was exported outside of Canary Islands in 2018 (including mainland Spain), approximately?

	%

19. How does the average retail price of your main AIEM product compare with the average retail price of a 'similar' imported product?

The average retail price of our product is, approximately:	
More than 50% higher	
Between 21% and 50% higher	

Between 6% and 20% higher	
Between 5% higher and 5% lower	
Between 6% and 20% lower	
Between 21% and 50% lower	
More than 50% lower	
There is no 'similar' product imported	
Don't know	

20. How do you consider the contribution of AIEM in making your main AIEM product competitive on the local market?

Essential, without AIEM we could not compete	
Moderate, AIEM helps us being competitive but there are other factors	
Limited, AIEM is only a minor factor in the dynamic of price	
Don't know	

21. How does your production costs for your main AIEM product compare with the production costs of a similar product made in mainland Spain?

More than 50% higher	
Between 26% and 50% higher	
Between 16% and 25% higher	
Between 11% and 15% higher	
Between 5% and 10% higher	
Less than 5% higher	
Don't know	

Note: Production costs refer to the total cost of manufacturing products and include the cost of raw materials, consumable manufacturing supplies, labour costs, and other costs incurred at the manufacturing site

22. Could you indicate the three major factors increasing your production costs as compared to a competitor based in mainland Spain?

Rank	Description of the additional cost factor	Estimation of the higher cost borne by your firm compared to a firm operating in mainland Spain, in %
1		_________%
2		_________%
3		_________%

23. Does your average selling price (the price extended to vendors) for the above main AIEM product vary between capital islands and more remote islands? If so, by how much (in %)?

More than 20%	
Between 10% and 20%	
Less than 10%	
No change	
Don't know	
N/A (we do not sell in different islands)	

24. Considering the past five years, how have your firm's production levels, market share and profitability evolved?

	Increased by	Decreased by	Stable	Don't know
Volume of production				
Number of employees				
Market share				
Profitability				

25. How has the range of products produced by your firm evolved in the past five years?

We have started producing various new products	
No significant change	
We have stopped producing various products	
Don't know	

26. In the past five years, did your firm purchase fixed assets, such as machinery, vehicles, equipment, or opened new establishments (for production, storage or commercialisation)? If so, please specify the value of these investments

	Investment value	Don't know
Machinery, vehicles, equipment		
New establishments		

27. In 2018, did your firm purchase raw materials, supplies and/or other production inputs charged with AIEM? If so, from which channel?

a) Yes, in full or in part through direct import	
b) Yes, but only from local wholesalers / distributors (no direct import)	
c) No	
d) Don't know	

28. What was the incidence of the costs of those purchased raw materials, supplies and/or other production inputs on your overall production costs, in 2018?

	%

29. What was the origin of the raw materials, supplies and/or other production inputs that you have purchased in 2018?

a) Internal (produced in the archipelago)	
b) Mainland Spain	
c) Other EU countries	
d) Neighbouring non-EU countries (i.e. in the geographical region)	
e) Other non-EU countries	

30. What are the main reasons for buying imported raw materials / supplies charged with AIEM instead of buying locally-produced ones?

There is no/not enough local production of these goods	

The type / quality of the locally produced goods is not suitable	
Despite AIEM, the price of imported goods is lower than local ones	
I diversify suppliers, to avoid interruption in the supply	
Other reasons	

If you ticked 'Other reasons', please specify	

31. Could you estimate the total AIEM tax paid on imported raw materials / supplies in 2018, as a percentage of your firm's turnover?

	%

32. Have you ever experienced any of the following issues concerning the customs classification of imported raw materials / supplies subject to AIEM?

	Yes, more than once	Yes, once	Never	Don't know
Change in the customs code and/or definition of the raw materials / supplies usually imported by our firm				
Difficulties with the appropriate identification of the applicable customs code and corresponding AIEM rates				
Disputes or other issues with competent authorities over the classification of imported goods subject to AIEM				
Other issues				

If you ticked 'Other issues', please specify	

33. In 2018, have your firm imported goods that benefit from the POSEI specific supply arrangement regime (SSA)? If yes, what was the share of SSA aid as a total of your firm's turnover?

	No	Yes	If Yes, please indicate the share of aid as a total of turnover	Don't know
POSEI specific supply arrangement regime			____%	

34. In 2018, what was the overall aid received by your firm under the Special Economic Regime and other state aid measures, as a percentage of your turnover? For the estimation, reference can be made to the total value indicated in Model 282.

	No	Yes	If Yes, please indicate the share of aid as a total of turnover	Don't know
State aid measures support			____%	

35. Considering the past five years, how have the conditions for competition evolved in your sector?

	Significantly increased	Moderately increased	Not changed	Moderately decreased	Significantly decreased	Don't know
Overall the size of the market has…						
The market share of local production vis-à-vis imports has…						
The number of local competitors has…						
The business trading margins have…						
The employment in the sector has…						

C) RESPONDENT'S SPECIFIC EXPERIENCE WITH AIEM (IMPORTERS AND TRADERS)

36. Is your firm importing within the Canary Islands goods that fall under the AIEM regime?

Yes	
No	
Don't know	

37. What is the geographical origin of the products that your firm import within the Canary Islands? Please, indicate the approximate share of the following geographical origins on your total import in 2018

	A major share	A minor share	Not at all	Don't know
From mainland Spain				
From other EU countries				
From neighbouring non-EU countries (i.e. in the geographical region)				
From other non-EU countries				

38. In particular, does your firm import any of the following AIEM products? If you import more than one, please select the main one in terms of sales value

CN code	Short description	
2201	Waters, incl. natural or artificial mineral waters and aerated waters, not containing added sugar, other sweetening matter or flavoured etc.*	
2203	Beer made from malt	
2402	Cigars, cheroots, cigarillos and cigarettes of tobacco or of tobacco substitutes	
0305.41.00	Atlantic salmon "Salmo salar" etc.*	
0403	Buttermilk, curdled milk and cream, yogurt, kephir and other fermented or acidified milk and cream, etc.*	
1905	Bread, pastry, cakes, biscuits and other bakers' wares, etc.* Not including frozen bread.	
4819	Cartons, boxes, cases, bags and other packing containers, of paper, paperboard, cellulose wadding or webs of cellulose fibres, etc.*	
7610.10.00.00	Aluminium doors, windows and their frames*	

If you do not import any of the above, please indicate your firm's main AIEM product in terms of sales value

Description	
Customs code (as indicated in the AIEM list), if known	

39. What share of your total sales did the above main AIEM product represent in 2018, approximately?

	%

40. What is the relative incidence of the following items on your average selling price (i.e. the price extended to vendors) for the above main AIEM product?

	In % of the wholesale selling price
Freight and insurance costs	____%
AIEM	____%

41. How does the average retail price of your main imported AIEM product compare with the average retail price of a 'similar' locally-produced product?

The average retail price of our product is, approximately:	
More than 50% higher	
Between 21% and 50% higher	
Between 6% and 20% higher	
Between 5% higher and 5% lower	
Between 6% and 20% lower	
Between 21% and 50% lower	
More than 50% lower	
There is no 'similar' product locally manufactured	
Don't know	

Please, add any comments or clarification as required	

42. To what extent AIEM affects the competitiveness of your main imported AIEM product on the local market?

Significantly, AIEM makes our main AIEM imported product much less competitive	
Moderately, AIEM does affect competitiveness but there are other factors at play	
Limitedly, AIEM is only a minor factor in the dynamic of price	
Don't know	

43. Considering the past five years, how have your sales and market share of the above main imported AIEM product evolved?

	Increased by	Decreased by	Stable	Don't know
Volume of sales				
Market share				

44. Does your average selling price (i.e. the price extended to vendors) for the above main imported AIEM product vary between capital islands and more remote islands? If so, by how much (in %)?

More than 20%	
Between 10% and 20%	
Less than 10%	
No change	
Don't know	
N/A (we do not sell in different islands)	

45. Could you estimate the total AIEM tax paid on imported goods in 2018, as a percentage of your firm's turnover?

	%

46. Could you estimate the total internal staff/time specifically dedicated to dealing with AIEM in 2018?

	Number of staff/days spent on AIEM

47. More specifically, could you specify how burdensome in terms of staff/time required are the following administrative activities related to AIEM management?

	Major burden	Moderate burden	Minor or no burden	Don't know
Time spent for the correct identification of the applicable customs code and corresponding AIEM rates, including formulating enquiries to the competent authorities				
Time spent in filling up the periodical AIEM declaration and payments				

Time spent for disputes or other issues involving the classification of imported goods subject to AIEM and/or the quantification of the tax				
Other issues				

If you ticked 'Other issues', please specify	

48. In 2018, did you incur in other expenses, e.g. external legal or professional services, specifically related to dealing with the AIEM? If yes, could you estimate their costs as a percentage of your turnover?

	% of turnover (if none, please type 0)

49. What share of the AIEM products that you import are under a Binding Tariff Information?

The majority of them	
Only some of them	
Very few/none of them	
Don't know	

50. How has the range of products imported by your firm evolved in the past five years?

We have started importing various new products	
No significant change	
We have stopped importing certain products	
Don't know	

51. In 2018, have your firm imported goods that benefit from the POSEI specific supply arrangement regime (SSA)? If yes, what was the share of SSA aid as a total of your firm's turnover?

	No	Yes	If Yes, please indicate the share of aid as a total of turnover	Don't know
POSEI specific supply arrangement regime			____%	

52. In 2018, what was the overall aid received by your firm under the Special Economic Regime and other state aid measures, as a percentage of your turnover? For the estimation, reference can be made to the total value indicated in Model 282.

	No	Yes	If Yes, please indicate the share of aid as a total of turnover	Don't know
State aid measures support			____%	

53. Do you sell at retail level any of the following categories of products that are under the AIEM regime? If yes, could you indicate if they are mostly imported, or locally-produced or both?

CN code	Summary description*	Yes, mostly imported	Yes, both imported and locally-produced	Yes, mostly locally-produced	No	Don't know
2201	Waters, incl. natural or artificial mineral waters and aerated waters, not containing added sugar, other sweetening matter or flavoured etc.*					
2203	Beer made from malt					
2402	Cigars, cheroots, cigarillos and cigarettes of tobacco or of tobacco substitutes					
0305.41.00	Atlantic salmon "Salmo salar" etc.*					
0403	Buttermilk, curdled milk and cream, yogurt, kephir and other fermented or acidified milk and cream, etc.*					
1905	Bread, pastry, cakes, biscuits and other bakers' wares, etc.* Not including frozen bread.					
4819	Cartons, boxes, cases, bags and other packing containers, of paper, paperboard, cellulose wadding or webs of cellulose fibres, etc.*					
7610.10.00.00	Aluminium doors, windows and their frames*					

54. With reference to the above AIEM products, how do the average prices of imported and locally-produced 'similar' goods compare, at retail level?

CN code	Summary description*	Imported products are generally much cheaper (prices over 50% lower)	Imported products are generally moderately cheaper (prices between 20% and 50% lower)	Imported products are generally slightly cheaper (prices between 5% and 20% lower)	There are no major differences (prices of imported products between 5% higher and 5% lower of local ones)	Local products are generally slightly cheaper (prices between 5% and 20% lower)	Local products are generally moderately cheaper (prices between 20% and 50% lower)	Local products are generally much cheaper (prices more than 50% lower)	Don't know / Difficult to say
2201	Waters, incl. natural or artificial mineral waters and aerated waters, not containing added sugar, other sweetening matter or flavoured etc.*								
2203	Beer made from malt								
2402	Cigars, cheroots, cigarillos and cigarettes of tobacco or of tobacco substitutes								
0305.41.00	Atlantic salmon "Salmo salar" etc.*								
0403	Buttermilk, curdled milk and cream, yogurt, kephir and other fermented or acidified milk and cream, etc.*								
1905	Bread, pastry, cakes, biscuits and other bakers' wares, etc.* Not including frozen bread.								
4819	Cartons, boxes, cases, bags and other packing containers, of paper, paperboard, cellulose wadding or webs of cellulose fibres, etc.*								
7610.10.00.00	Aluminium doors, windows and their frames*								

**For the full definition see https://www.boe.es/diario_boe/txt.php?id=BOE-A-2014-7327*

D) FINAL REMARKS AND CONTACTS

55. Do you have any additional comments or evidence concerning the impact of AIEM as well as on its perspectives for the future?

PART 2 – Octroi de mer

A.4 Overview of consultation activities

The stakeholder consultation strategy has been developed to ensure a wide and balanced coverage of the different entities involved in, subject to, or concerned by the design and implementation of the special tax regime, by means of tailored tools and questionnaires. The perspectives and positions on the OdM were expected to vary significantly (a) across the groups of stakeholders considered – i.e. policy-makers, tax and customs administrations, enterprises, professionals, etc.; (b) geographically – i.e. 'mainland' or outermost regions residents; and (c) in the case of the private sector stakeholders, between the local producers benefitting from the regime, the enterprises that are instead subject to direct tax charges (e.g. importers), and the enterprises that are indirectly affected (e.g. local manufacturers using production inputs falling inside or outside the tax differential regime).

To address all different perspectives and positions comprehensively, the stakeholder consultation consisted of the following two main pillars:

- ***targeted interview programme, involving field visits.*** In-depth interviews were conducted with selected stakeholders, including EU institutions, French government authorities at national and local level, and economic operators and trade organisations representing both the local productive sectors - i.e. the beneficiaries of the special regime - and the trade and service sectors, which are directly or indirectly affected. A total of 80 stakeholders were interviewed, of which 55 in three French ORs (i.e. Réunion, Guadeloupe and Martinique);
- ***focussed online survey of economic operators active in the French ORs.*** A web-based survey of the economic operators located in the five French ORs was carried out between November 26 and December 23, 2019. The survey enabled to collect firms' views on the key features of the OdM, i.e. positive impacts, side effects, changes needed, etc., and to gather structured information on the conduct and performance of local businesses which are affected by the special tax regime to different degrees. The survey questionnaire was available in English and French, and customised to reflect the different effects of and views on the special tax regime based on the different groups of local businesses involved, namely: (i) local producers, and (ii) importers and distributors. A total of 196 valid replies were received from all five regions. Table A.1 provides a summary of the responses to the survey by size of the firm, origin and respondent economic activity.

Table A.1 – Response summary to the business survey

Firm size	Number of respondents
Self-employed / individual firms with no employees	28
Between 1 and 9 employees - firms (micro enterprise)	74
Between 10 to 49 employees (small enterprise)	70
More than 50 employees (medium-large enterprise)	21
No answer	3
Total	**196**

Region	Number of respondents
Martinique	71
Réunion	70
Guadeloupe	34
French Guiana	19
Mayotte	2
Total	**196**

Main economic activity	Number of respondents
Productive activities	77
Of which liable to the OdM	*71*
Non-productive activities	119
Of which traders / importers	*59*
Total	**196**

Altogether, the consultation allowed gathering three main kinds of information:

(1) factual information on the legal and administrative arrangements for the special tax regime in the ORs concerned;
(2) evidence on the performance of the tax regime, including the benefits delivered, the contribution to the local development, and any possible issue or unintended effect registered;
(3) the stakeholders' expectations and views on possible policy scenarios for the future – including the revision of the current regime –, and their forecasts concerning the effects of different possible EU actions.

A.5 Overall evaluation of the OdM regime

- **ON THE COHERENCE AND RELEVANCE OF THE REGIME**

The results of the study indicate that the scope of the OdM regime is fairly comprehensive, satisfactorily addressing the needs of the economic operators concerned. This was confirmed by the majority of the key stakeholders consulted. Nonetheless, both local authorities and private sector representatives reported some gaps in the scope of the OdM, in particular as regards primary agriculture, fisheries, and agro-food products. In addition, about half the local producers involved in the survey maintained that some products should be added to the OdM list. In this regard, the main problem lamented by stakeholders was the system's slowness to respond to the emerging needs of the local economy and to correct errors and omissions, when relevant. The lack of flexibility is due to the fact that the list of products with a tax differentiated rate is laid down in the Council Decision, and, hence, any revision – e.g. the inclusion of a new emerging production or the modification of the extent of the tax support – requires a burdensome legal amendment process or its postponement to the next renewal of the policy.

Another, less severe, issue with reference to the OdM scope was typically voiced by traders' representatives and concerns the identification of supported products through reference to CN categories. In some cases, these include also items which are not produced locally, or which are produced in limited quantities. The results of the business survey confirm the existence of this issue, suggesting however that it does not represent a major concern: less than one fourth of the respondents (22%) able to reply reported the existence of products with negligible production in the French ORs that should be removed from the OdM list.

Overall, the process for establishing the list of products benefitting from fiscal advantages is described as participatory by both local authorities and representatives of the relevant private sector associations. Still, the criteria adopted by competent authorities to select the products eligible to the support and determine the level of support are not well known outside the manufacturing sector. While the majority of the local producers (56%) reported familiarity with the criteria for the inclusion of certain products in the OdM lists, only 17% of firms active in other sectors stated the same. As for the methods used to establish the tax differential applicable to OdM products, respondents are even less knowledgeable: 86% of the non-producer firms and 57% of the local producers declared to have little/no information about these methods.

Table A.2 – Stakeholders knowledge of the criteria underlying OdM implementation

	Total	Non producers	Producers
Share of respondents with an at least partial knowledge of the criteria for inclusion of certain products in the OdM lists	**32%**	17%	56%
Share of respondents with an at least partial knowledge of the methods used to establish the tax differential applicable to OdM products	**26%**	14%	43%

***Source**: Business Survey.*

➢ IMPACT OF THE ODM ON PRICE-COMPETITIVENESS

The importance of the OdM regime in redressing the price-competitiveness of local productions was widely acknowledged by representatives of the relevant private sector associations and manufacturing firms met during fieldwork, even though the price gap between locally-produced goods and imported ones is not fully closed.

Coherently, the local producers involved in the survey attributed great importance to the OdM in shaping the conditions for competition: over three-fourths of the relevant respondents qualify the tax role as 'essential', adding that without the OdM they could not compete. Almost 60% of the importers also maintained that the OdM affects 'significantly' the competitiveness of their imported products with OdM differential rate.

Table A.3 – Stakeholders assessment of OdM impact on price-competitiveness

	% of local producers
Essential, without OdM we could not compete with imported goods	77%
Moderate, OdM helps us being competitive but there are other factors	5%
Neutral, OdM does not influence our competitiveness	8%
Negative, OdM is actually damaging our competitiveness	10%

	% of importers
Significantly, OdM makes our main imported product much less competitive	59%
Moderately, OdM does affect competitiveness but there are other factors at play	21%
Limitedly, OdM is only a minor factor in the dynamic of price	21%

***Source**: Business Survey (excluding 'don't know' answers).*

➢ PERCEIVED ADVANTAGES OF THE ODM REGIME

The business survey investigated the respondents' views on the potential positive impacts of the OdM regime on the local economy, in general, and on production activities, specifically. Views largely differed between enterprises engaged in production activities and businesses operating in all other sectors: the former are inevitably much keener to assess the importance of the OdM as critical, while the latter are much more sceptical. More specifically:

- over 80% of the local producers maintained that the OdM had a moderate / major impact in boosting local production activities and supporting the creation and maintenance of employment in the French ORs. This share is significantly lower among respondents active in other sectors, but the percentage of firms assessing these impacts as moderate or major is still significant (almost one third);
- the opinions of the local producers concerning the impact of the OdM in terms of reducing the local economy's reliance on imports and increasing investments in local production activities are only marginally less positive. In addition, a relevant share of non-producers held similar views in this regard;
- the effects of the OdM on the expansion of the range of products available locally and the promotion of R&D and innovation in the local industry were those assessed as least positively, largely due to the lower share of local producers (still above 70%) that considered them as major or moderate.

Table A.4 below illustrates the share of respondents assessing the positive impacts of the OdM regime as 'moderate' or 'major'.

Table A.4 – Stakeholders perception of the positive impacts of the OdM

Positive Impact	% of respondents assessing impact as moderate or major		
	Total	Non producers	Producers
Boosting local production activities	**53%**	31%	82%
Encouraging the diversification of local production activities	**53%**	36%	79%
Reducing the local economy's reliance on imports	**52%**	32%	77%
Contribution to the creation and maintenance of jobs	**53%**	31%	83%
Fostering investments in local production activities	**57%**	39%	80%
Expanding the range of products available in the local market	**49%**	34%	73%
Fostering research and development and innovation in the local industry	**46%**	30%	71%

***Source**: Business Survey (excluding 'don't know' answers).*

➢ Perceived adverse effects of the OdM regime

The business survey also investigated the respondents' views on the potential negative effects of the OdM regime on the local economy, market competition, regional trade, local consumption, and price level. As shown by Table A.5 below, also in this case, views largely differed between enterprises engaged in production activities and businesses operating in all other sectors, but in a reverse order. In particular, the table illustrates the share of respondents within each group assessing negative impacts as 'moderate' or 'major'. The salient results can be summarised as follows:

- the majority of non-producer firms, ranging between 66% and 94%, assessed all the negative impacts as significant. Oppositely, only a minority of the local producers (typically between one fourth and one third) provided a similar assessment of the different impacts of the OdM;
- the ranking order of the two groups of respondents was very similar, with the inflation effects exerted by the tax directly (on imported consumer goods) and indirectly (by raising the overall costs of local production and services activities which import raw materials and supplies) enjoying the highest degree of consensus from both groups;

- oppositely, the potential negative effects of the tax concerning the efficiency of local producers, which may be discouraged to make efforts to boost productivity, and the fact that the fiscal advantages granted by the OdM, together with other aids to local production, may cause an excessive distortion of competition, were considered as the least important by both groups;
- finally, a broadly similar share of respondents (about 30% of the non-producers and 80% of the local producers) deemed that the OdM tends to draw resources towards existing 'supported' sectors, hampering the development of new ones, and negatively affect trade between the French ORs and neighbouring countries, including the members of CARIFORUM and the Eastern and Southern African community.

Table A.5 – Stakeholders perception of the negative impacts of the OdM

Negative Impact	% of respondents assessing as impact moderate or major		
	Total	Non producers	Producers
Because of OdM support, local firms are not encouraged to boost efficiency and productivity	**48%**	66%	23%
The OdM drives most of investments and human resources to the 'supported' sectors, thus hampering the emergence of new activities in 'non-supported' sectors	**56%**	76%	27%
The OdM influences the demand, switching consumption from more taxed products to less/no taxed substitute products	**53%**	69%	31%
The addition of OdM and other aids to local production produces an excessive distortion of competition	**47%**	68%	18%
Despite the foreseen exemptions, the OdM affects the costs of imported raw materials and supplies, thus raising the overall costs of local production and services activities (such as tourism, etc.)	**71%**	89%	43%
The OdM translates into higher prices for consumers	**72%**	94%	36%
The OdM hampers trade with neighbouring countries (e.g. members of CARIFORUM or the Eastern and Southern African community)	**62%**	84%	30%

***Source**: Business Survey (excluding 'don't know' answers).*

➢ PERCEIVED EFFICIENCY OF THE ODM REGIME

The OdM regime does not create major problems in terms of implementation or major administrative burdens on competent authorities. Coherently, public authorities generally agree that the tax enforcement burden arising from activities concerning products with OdM differentials can be considered as acceptable and fully justified by the benefits produced. On the other hand, at a broader level, the revision of the list and the exemptions extended to specific products through a legal amendment of the Council Decision is regarded as overly complex. The revision process requires the involvement of several stakeholders at national (central and local) and EU level, and can last up to three years, thus causing unnecessary burdens to EU and national authorities.

Likewise, the administrative and compliance costs of the OdM regime are considered as rather limited by private sector representatives. The majority of the local producers involved in the survey assessed compliance with OdM-related obligations as not particularly burdensome. In this context, the most burdensome task is considered the identification of the applicable customs codes and the corresponding OdM rates, sometimes uncertain and potentially a cause of disputes and disparity of treatment. In particular, this task was assessed as a major burden by about one fifth of the local producers and one fourth of the direct importers.

The negative assessment concerning the customs classification of imported raw materials/supplies subject to the OdM was confirmed by the feedbacks provided by direct importers, with over 60% of the importing firms reporting at least one change in the customs code and/or definition of the raw materials/supplies usually imported and almost 70% reporting difficulties, in most cases recurring, in appropriately identifying the applicable customs code and corresponding OdM rate.

A.6 Stakeholder views on future policy scenarios

➢ **ATTITUDE TOWARDS THE RENEWAL OF THE ODM REGIME**

The consultation of the local authorities gave a clear picture with regard to the future of the current tax regime. On the one hand, with the OdM considered as important both for the public budget of the French ORs and to support local production activities, the renewal of the regime enjoys a widespread consensus. On the other hand, the regional authorities consulted highlighted the need for greater flexibility and a less cumbersome procedure to update the supported products list and the tax differentials applied.

The views of the private sector with regard to the renewal of the OdM regime are strongly polarized, depending on the business activity and the different effects of the OdM on this activity. As expected, respondents engaged in production activities, typically benefitting from tax differentials, largely supported the renewal of the policy (86%). In addition, the majority of them (59%) deemed that the current mechanism needs not to be changed. Similar patterns can be found across the different regions.

Conversely, the majority (58%) of the businesses operating in other sectors (i.e. different from production activities) would prefer the current policy to be discontinued. In particular, most of the respondents would like the policy to be replaced with different forms of support for local production activities. For example, some respondents would prefer the OdM to be replaced with a more equitable taxation, such as a 'regional VAT' with differentiated rates. Interestingly, however, a non-negligible share of the businesses operating in sectors different than production activities would nonetheless favour a renewal of the policy.

The above-mentioned results substantiate a point frequently made during field interviews: the OdM is not problematic *per se* and can actually benefit local economies in many respects, but a series of design and implementation issues need to be solved to reduce the distortive effects of the regime.

Table A.6 – Stakeholders attitude toward the renewal of the OdM regime

Scenarios	% of respondents		
	Total	Non producers	Producers
Renew the Decision without major changes	**34%**	17%	59%
Renew the Decision, introducing some revisions	**27%**	26%	27%
Not renew the Decision, and introduce alternative support mechanisms	**30%**	44%	10%
Not renew the Decision	**10%**	14%	4%

***Source**: Business Survey.*

➢ **STAKEHOLDER VIEWS ON POSSIBLE POLICY REVISIONS**

Revisions to the current policy and its implementation arrangements were discussed with different stakeholders. The business survey also investigated the respondents' positions on the possible areas for improvement. The Table A.7 below shows the share of respondents fully or partly agreeing with a set of proposed areas for revision of the policy, distinguishing between enterprises engaged in production activities and all other sectors. The salient results can be summarised as follows:

- with only a couple of exceptions, most of the proposed revisions were assessed positively by a majority of the respondents, irrespective of the sector of activity. The ranking order of the shares in two groups of respondents is similar, with the improvement of the monitoring system on the whole and the price levels specifically encountering the highest degree of support in both groups;
- local producers are more interested in improving the flexibility of the system, making modifications of the tax-supported products lists and the tax differentials applied more frequent and easier. In this regard, several enterprises specified that this flexibility is needed to better align with evolving needs but should not translate into too frequent changes of the rates by local authorities, which would undermine the stability and the predictability of the markets;
- conversely, non-producers expressed a more favourable view compared to producers on the possibility to adopt measures mitigating the obstacles caused by the OdM to trade with regional neighbours. On this point, various stakeholders highlighted the need to also consider obstacles raised to trade by neighbouring countries, and not only those created by the OdM;
- views on the turnover threshold for the applicability of the OdM, currently set at EUR 300,000 annually, were partly divergent. A majority of the respondents in both groups would be in favour of increasing the threshold, but a non-negligible share of non-producers would support a reduction;
- both groups substantially agree on the need for more transparent and clear criteria for both selecting the supported products and establishing the applicable rates. From the perspective of non-producers, improved and transparent criteria should ensure that products for which no local production exists are excluded from the special regime.

Table A.7 – Stakeholders attitude toward proposed revisions of the OdM regime

Purposed Revisions	% of respondents agreeing with		
	Total	Non producers	Producers
It should be possible to amend the list of products with differentiated OdM rates more frequently and easily	**69%**	61%	81%
It should be possible to modify the permitted differential between external and internal OdM rates more frequently and easily	**67%**	61%	75%
The criteria for updating the list of products with differentiated OdM rates should be clearly and precisely laid down in the EU policy	**65%**	62%	70%
The criteria for modifying the differentiated OdM rates should be clearly and precisely laid down in the EU policy	**63%**	61%	68%
The OdM monitoring system should be improved, with the regular collection of market data on local production, import, employment, etc.	**80%**	83%	75%
The price levels of products imported and locally-produced subject to OdM should be periodically monitored	**77%**	76%	78%
The current OdM exemption threshold for local producers – i.e. EUR 300,000 of annual turnover - should be raised, to lower the number of enterprises subject to the OdM	**60%**	60%	61%
The current OdM exemption threshold for local producers – i.e. EUR 300,000 of annual turnover - should be lowered, to increase the number of enterprises subject to the OdM	**25%**	35%	9%
Measures to mitigate OdM-related obstacles to trade with neighbouring countries should be devised	**62%**	70%	49%
OdM exemptions on the import of production inputs should be extended	**60%**	58%	64%

***Source**: Business Survey.*

Additional suggestions were occasionally made by stakeholders: (a) to better invest the tax revenues collected in the development of local production activities; (b) to harmonise the tax base between external and internal OdM, as the former currently includes also freight costs and the other production taxes paid on mainland (e.g. the *éco-contribution* payable on certain productions); and (c) to address the tax circumvention problem caused by e-commerce.

APPENDIX - Questionnaire for the Business Survey on *Octroi de Mer*

A) RESPONDENT PROFILE

1. Please indicate your main sector of activity. If your firm is active in various sectors, the main sector is that which occupies most of the employees.

NACE code	
A. Agriculture, forestry and fishing	
B. Mining and quarrying	
C. Manufacturing	
D. Electricity, gas, steam and air conditioning supply	
E. Water supply; sewerage, waste management and remediation activities	
F. Construction	
G. Wholesale and retail trade	
H. Transportation and storage	
I. Accommodation and food service activities	
J. Information and communication	
AA. Other	

2. What are your main branches of activity?

A. Manufacture of food products	
B. Manufacture of beverages	
C. Manufacture of tobacco products	
D. Manufacture of textiles	
E. Manufacture of wearing apparel	
F. Manufacture of leather and related products	
G. Manufacture of paper and paper products	
H. Printing and reproduction of recorded media	
I. Manufacture of coke and refined petroleum products	
J. Manufacture of chemicals and chemical products	
K. Manufacture of rubber and plastic products	
L. Manufacture of other non-metallic mineral products	
M. Manufacture of basic metals	
N. Manufacture of fabricated metal products, except machinery and equipment	
O. Manufacture of furniture	
P. Other industries	

3. What are your main branches of activity?

A. Wholesale	
B. Retail Sale	
C. Import / Export	
D. Other	

4. Please indicate in which overseas department and region of France (*département-région d'outre-mer or DROM)* is located your firm. If your firm have establishments in more than one DROM, please indicate where the main establishment and the secondary ones are located

	Main establishment	Secondary establishments
French Guiana		
Guadalupe		
Réunion		

Martinique		
Mayotte		

5. Please indicate whether your firm is a division or subsidiary of another company and, if so, where the parent company is based

Independent firm (no parent companies)	
Parent company based in mainland France	
Parent company based in another EU Member State	
Parent company based in a non-EU country	

6. Year of establishment in the DROM

7. Current number of full-time equivalent employees in the DROM

8. Approximate turnover in the DROM in 2018

	EUR

B) RESPONDENT'S GENERAL VIEW ON OdM

9. **What are, in your opinion, the main beneficial impacts of OdM for the economy of the DROM?**

	Major impact	Moderate impact	Minor impact	No impact	Don't know
Boosting local production activities					
Encouraging the diversification of local production activities					
Reducing the local economy's reliance on imports					
Contribution to the creation and maintenance of jobs					
Fostering investments in local production activities					
Expanding the range of products available in the local market					
Fostering research and development and innovation in the local industry					

Please provide further details and/or add other types of beneficial impacts of OdM	

10. Conversely, what are, in your opinion, the possible negative impacts of OdM for the economy of the DROM?

	Major impact	Moderate impact	Minor impact	No impact	Don't know
Because of OdM support, local firms are not encouraged to boost efficiency and productivity					
The OdM drives most of investments and human resources to the 'supported' sectors, thus hampering the emergence of new activities in 'non-supported' sectors					
The OdM influences the demand, switching consumption from more taxed products to less/no taxed substitute products					
The addition of OdM and other aids to local production produces an excessive distortion of competition					
Despite the foreseen exemptions, OdM affects the costs of imported raw materials and supplies, thus raising the overall costs of local production and services activities (such as tourism etc.)					
The OdM translates into higher prices for consumers					
The OdM hampers trade with neighbouring countries (e.g. members of CARIFORUM or the Eastern and Southern Africa community)					

Please provide further details and/or add other types of negative impacts of OdM	

11. The OdM regime envisages differentiated tax rates for a list of products depending on their external or locally-produced origin. Are you familiar with the underlying policy processes?

In particular:	Yes, very well	Yes, partly	Not very much	Not at all
Do you know the criteria for which certain products and not others are included in the list of OdM products with differentiated tax rates?				
Do you know the methods used to establish the differentiated tax rates for imported products and locally-produced ones?				
Do you know how the list of OdM products with differentiated tax rates and the tax rates are revised?				

12. In your opinion, are the current list of products with differentiated OdM rates and the levels of tax differential appropriate and in line with the need of compensating the additional costs for the DROM caused by its outermost status?

In particular:	No	Yes	Don't know	If Yes, please, explain
Are there products that should be added to the list of products with differentiated OdM rates?				
Does the list of products with differentiated OdM rates include products that should be removed because their local production is negligible?				
Does the list of products with differentiated OdM rates include products that should be removed because their imports are negligible?				
Are there products in the list of products with differentiated OdM rates that are not sufficiently supported (i.e. the tax differential is too low)?				
Are there products in the list of products with differentiated OdM rates that are excessively supported (i.e. the tax differential is too high)?				

13. What changes are needed, in your view, to improve the OdM regime? Please express your agreement / disagreement with the following statements.

	Agree	Partly agree	Neither agree nor disagree	Partly disagree	Disagree	Don't know
It should be possible to amend the list of products with differentiated OdM rates more frequently and easily						
It should be possible to modify the permitted differential between external and internal OdM rates more frequently and easily						
The criteria for updating the list of products with differentiated OdM rates should be clearly and precisely laid down in the EU policy						
The criteria for modifying the differentiated OdM rates should be clearly and precisely laid down in the EU policy						
The OdM monitoring system should be improved, with the regular collection of market data on local production, import, employment etc.						
The price levels of products imported and locally-produced subject to OdM should be periodically monitored						
The current OdM exemption threshold for local producers – i.e. €300,000 of annual turnover - should be raised, to lower the number of enterprises subject to OdM						

The current OdM exemption threshold for local producers – i.e. €300,000 of annual turnover - should be lowered, to increase the number of enterprises subject to OdM						
Measures to mitigate the OdM-related obstacles to trade with neighbouring countries should be devised						
OdM exemptions on the import of production inputs should be extended						

14. The EU Council Decision permitting differentiated tax rates under the OdM regime will expire at the end of 2020. In your opinion, the European Union should:

Renew the Decision without major changes	
Renew the Decision, introducing some revisions	
Not renew the Decision and introduce alternative support mechanisms	
Not renew the Decision	
Don't know	

C) RESPONDENT'S SPECIFIC EXPERIENCE WITH ODM (LOCAL PRODUCERS)

15. Is your firm's annual turnover falling below the €300,000 threshold to be subject to the OdM?

Yes, our annual turnover is below €300,000	
No, our annual turnover is above €300,000	
Don't know	

16. Does your firm produce any of the following categories of products subject to OdM? If you produce more than one, please select the main one in terms of sales value

CN code	Short description	
0207	Meat and edible offal of fowls*	
0302	Fish, fresh or chilled, excluding fish fillets and other fish meat etc.*	
0403	Buttermilk, curdled milk and cream, yogurt, kephir and other fermented or acidified milk and cream, etc.*	
1905	Bread, pastry, cakes, biscuits and other bakers' wares, etc.*	
2201	Waters, incl. natural or artificial mineral waters and aerated waters, not containing added sugar, other sweetening matter or flavoured etc.*	
2203	Beer made from malt*	
2523 29	Portland cement, aluminous cement, slag cement, etc.*	
7610	Aluminium structures and parts of structures (for example, bridges, towers, roofs, doors and windows, etc.) *	
9403	Other furniture and parts thereof*	
	None of the above	

(*) for full definition see https://eur-lex.europa.eu/legal-content/FR/TXT/?uri=uriserv:OJ.L_.2018.273.01.0001.01.FRA&toc=OJ:L:2018:273:TOC

If you do not produce any of the above, please indicate your firm's main product, in terms of sales value

Description	
Customs code (8 digits), if known	

17. What share of your total sales did the above main product represent in 2018, approximately?

	%

18. If you export the above main product, what was approximately the share of export sales in 2018, by destination?

	A major share	A minor share	Not at all	Don't know
Exported to mainland France				
Exported to other EU countries				
Exported to neighbouring non-EU countries (i.e. in the geographical region)				
Exported to faraway non-EU countries				

19. How does the average retail price of your main product compare with the average retail price of a 'similar' imported product?

The average retail price of our main product is, approximately:	
More than 50% higher	
Between 21% and 50% higher	
Between 6% and 20% higher	
Between 5% higher and 5% lower	
Between 6% and 20% lower	
Between 21% and 50% lower	
More than 50% lower	
There is no 'similar' product imported	
Don't know	

20. How do you consider the impact of OdM on the competitiveness of your main product on the local market?

Essential, without OdM we could not compete with imported goods	
Moderate, OdM helps us being competitive but there are other factors	
Neutral, OdM does not influence our competitiveness	
Negative, OdM is actually damaging our competitiveness	
Don't know	

21. How does your production costs for the above main product compare with the production costs of a similar product made in mainland France?

More than 50% higher	
Between 26% and 50% higher	
Between 16% and 25% higher	
Between 11% and 15% higher	
Between 5% and 10% higher	
Less than 5% higher	
Don't know	

Note: Production costs refer to the total cost of manufacturing products and include the cost of raw materials, consumable manufacturing supplies, labour costs, and other costs incurred at the manufacturing site

22. Could you indicate the three major factors increasing your production costs as compared to a competitor based in mainland France?

Rank	Description of the additional cost factor	Estimation of the higher cost borne by your firm compared to a firm operating in mainland France, in %
1		________%
2		________%
3		________%

23. Considering the past five years, how have the additional costs borne by your firm compared to a competitor based in mainland France evolved?

	Significantly increased	Moderately increased	Not changed	Moderately decreased	Significantly decreased	Don't know
The additional costs incurred to produce our main product have…						

24. Could you estimate the total OdM tax paid in 2018, as a percentage of your firm's turnover?

	%

25. Could you estimate the total internal staff/time specifically dedicated to dealing with OdM administration and payment in 2018?

	Number of staff/days spent on OdM

26. More specifically, could you specify how burdensome in terms of staff/time required are the following administrative activities related to OdM management?

	Major burden	Moderate burden	Minor or no burden	Don't know	N/A
Time spent for the correct identification of the applicable customs codes and corresponding OdM rates, including formulating enquiries to the competent authorities					
Time spent in filling in periodical OdM declarations and making payments					
Time spent for disputes or other issues involving the classification of imported goods subject to OdM and/or the quantification of the tax					
Time spent to obtain exemption from OdM on the import of certain production inputs					
Time spent to determine the value of the turnover generated by production activities					
Other issues					

If you ticked 'Other issues', please specify	

27. In 2018, did you incur other expenses, e.g. external legal or professional services, specifically related to dealing with OdM? If yes, could you estimate these costs as a percentage of your turnover?

	% of turnover (if none, please type 0)

28. Considering the past five years, how have your firm's production levels, market share and profitability evolved?

	Increased by	Decreased by	Stable	Don't know
Volume of production				
Number of employees				
Market share				
Profitability				

29. How has the range of products produced by your firm evolved in the past five years?

We have started producing various new products	
No significant change	
We have stopped producing various products	
Don't Know	

30. In the past five years, did your firm purchase fixed assets, such as machinery, vehicles, equipment, land or buildings? If so, please specify the value of these investments

	Investment value	Don't know
Machinery, vehicles, equipment		
Land and buildings		

31. In 2018, did your firm purchase raw materials, supplies and/or other production inputs charged with OdM? If so, from which channel?

e) Yes, in full or in part through direct import	
f) Yes, but only on the local market (no direct import)	
g) No	
h) Don't know	

32. What was the incidence of the costs of those purchased raw materials, supplies and/or other production inputs on your overall production costs, in 2018?

	%

33. What was the origin of the raw materials, supplies and/or other production inputs that you have purchased in 2018?

f) Internal (produced in the DROM)	
g) Mainland France	
h) Other EU countries	
i) Neighbouring non-EU countries (i.e. in the geographical region)	
j) Other non-EU countries	

34. What are the main reasons for buying imported raw materials / supplies instead of buying locally-produced ones?

There is no/not enough local production of these goods	
The type / quality of the locally produced goods is not suitable	
The price of imported goods is lower than local ones	
We diversify suppliers, to avoid interruption in the supply	
Other reasons	
Not applicable (we only buy locally-produced raw materials / supplies)	

If you ticked 'Other reasons', please specify	

35. In 2018, did your firm get OdM exemptions on imported raw materials / supplies?

Yes, on all imports	
Yes, on most imports	
Yes, on some imports	
Yes, on few imports	
No	
Don't know	

36. Could you estimate the total OdM tax paid on imported raw materials / supplies in 2018, as a percentage of your firm's turnover?

	%

37. Have you ever experienced any of the following issues concerning the customs classification of imported raw materials / supplies subject to OdM?

	Yes, more than once	Yes, once	Never	Don't know
Change in the customs code and/or definition of the raw materials / supplies usually imported by our firm				
Difficulties with the appropriate identification of the applicable customs code and corresponding OdM rates				
Disputes or other issues with competent authorities over the classification of imported goods subject to OdM				
Disputes or other issues with competent authorities over claimed OdM exemption on the import of inputs				
Other issues				

If you ticked 'Other issues', please specify	

38. In 2018, have your firm imported goods that benefit from the POSEI specific supply arrangement regime (SSA)? If yes, what was the share of SSA aid as a total of your firm's turnover?

	No	Yes	If Yes, please indicate the share of aid as a total of turnover	Don't know
POSEI SSA			____%	

39. In 2018, what is the total aggregated amount of State aid measures received by your company, as a percentage of the turnover?

	% of turnover (if no aid was received, type 0; if the amount is not known please leave blank)

40. Considering the past five years, how have the conditions for competition evolved in your sector?

	Significantly increased	Moderately increased	Not changed	Moderately decreased	Significantly decreased	Don't know
Overall the size of the market has…						
The market share of local production vis-à-vis imports has…						
The number of local competitors has…						
The business trading margins have…						
The employment in the sector has…						

C) RESPONDENT'S SPECIFIC EXPERIENCE WITH ODM (IMPORTERS AND TRADERS)

41. Is your firm importing (including from mainland France) goods that fall under the OdM tax differential regime (i.e. for which the OdM external rate is higher than the internal one)?

Yes, we import goods subject to a higher OdM rate than locally-produced ones	
No	
Don't know	

42. What is the geographical origin of the products that your firm import into your DROM? Please, indicate the approximate share of the following geographical origins on your total import in 2018

	A major share	A minor share	Not at all	Don't Know
From mainland France				
From other EU countries				
From neighbouring non-EU countries (i.e. in the geographical region)				
From other non-EU countries				

43. Does your firm import products falling in any of the following categories? If you import more than one, please select the main one in terms of sales value

CN code	Short description	
0207	Meat and edible offal of fowls	
0302	Fish, fresh or chilled, excluding fish fillets and other fish meat etc.	
0403	Buttermilk, curdled milk and cream, yogurt, kephir and other fermented or acidified milk and cream, etc.	
1905	Bread, pastry, cakes, biscuits and other bakers' wares, etc.	
2201	Waters, incl. natural or artificial mineral waters and aerated waters, not containing added sugar, other sweetening matter or flavoured etc.	
2203	Beer made from malt	
2523 29	Portland cement, aluminous cement, slag cement, etc.	
7610	Aluminium structures and parts of structures (for example, bridges, towers, roofs, doors and windows, etc.)	
9403	Other furniture and parts thereof	
	None of the above	

If you do not import any of the above, please indicate your firm's main imported product (in terms of sales value) which falls under the OdM differentiated rates regime

Description	
Customs code (8 digits), if known	

44. What share of your total sales did the above main imported product represent in 2018, approximately?

	%

45. What is the relative incidence of the following items on your average selling price (i.e. the price extended to vendors) for the above main imported product?

	In % of the average wholesale selling price
Freight and insurance costs	____%
OdM	____%

46. How does the average retail price of your main imported product compare with the average retail price of a 'similar' locally-produced product?

The average retail price of my product is, approximately:	
More than 50% higher	
Between 21% and 50% higher	
Between 6% and 20% higher	
Between 5% higher and 5% lower	
Between 6% and 20% lower	
Between 21% and 50% lower	
More than 50% lower	
There is no 'similar' product locally manufactured	
Don't know	

Please, add any comments or clarification as required	

47. To what extent does OdM affect the competitiveness of your above main imported product on the local market?

Significantly, OdM makes our main imported product much less competitive	
Moderately, OdM does affect competitiveness but there are other factors at play	
Limitedly, OdM is only a minor factor in the dynamic of price	
Don't know	

48. Considering the past five years, how have your sales and market share of the above main imported product evolved?

	Increased by	Decreased by	Don't know
Volume of sales			
Market share			

49. Could you estimate the total OdM tax paid on all imported goods in 2018, as a percentage of your firm's turnover?

	%

50. Could you estimate the total internal staff/time specifically dedicated to dealing with OdM administration and payment in 2018?

	Number of staff/days spent on OdM

51. More specifically, could you specify how burdensome in terms of staff/time required are the following administrative activities related to OdM management?

	Major burden	Moderate burden	Minor or no burden	Don't Know
Time spent for the correct identification of the applicable customs codes and corresponding OdM rates, including formulating enquiries to the competent authorities				
Time spent in filling in custom declaration and payments				
Time spent for disputes or other issues involving the classification of imported goods subject to OdM and/or the quantification of the tax				
Time spent to get OdM exemptions on the import of production inputs				
Other issues				

If you ticked 'Other issues', please specify	

52. In 2018, did you incur other expenses, e.g. external legal or professional services, specifically related to dealing with OdM? If yes, could you estimate these costs as a percentage of your turnover?

	% of turnover (if none, please type 0)

53. What share of the products that you import is under a Binding Tariff Information?

The majority of them	
Only some of them	
Very few/none of them	
Don't know	

54. How has the range of products imported by your firm evolved in the past five years?

We have started importing various new products	
No significant change	
We have stopped importing certain products	
Don't Know	

55. In 2018, have your firm imported goods that benefit from the POSEI specific supply arrangement regime (SSA)? If yes, what was the share of SSA aid as a total of your firm's turnover?

	No	Yes	If Yes, please indicate the share of aid as a total of turnover	Don't know
POSEI SSA			____%	

56. In 2018, what is the total aggregated amount of State aid measures received by your company, as a percentage of the turnover?

	% of turnover (if no aid was received, type 0; if the amount is not known please leave blank)

57. Do you sell at retail level any of the following categories of products? If yes, could you indicate if they are mostly of external origin or locally-produced or both?

CN code	Summary description	Yes, mostly imported	Yes, both imported and locally-produced	Yes, mostly locally-produced	No	Don't know
0207	Meat and edible offal of fowls					
0302	Fish, fresh or chilled, excluding fish fillets and other fish meat etc.					
0403	Buttermilk, curdled milk and cream, yogurt, kephir and other fermented or acidified milk and cream, etc.					
1905	Bread, pastry, cakes, biscuits and other bakers' wares, etc.					
2201	Waters, incl. natural or artificial mineral waters and aerated waters, not containing added sugar, other sweetening matter or flavoured etc.					
2203	Beer made from malt					
2523 29	Portland cement, aluminous cement, slag cement, etc.					
7610	Aluminium structures and parts of structures (for example, bridges, towers, roofs, doors and windows, etc.)					
9403	Other furniture and parts thereof					

***58.* With reference to the above products, how do the average prices of 'similar' products of external or internal origin compare, at retail level?**

CN code	Summary description	Imported products are generally much cheaper (prices over 50% lower)	Imported products are generally moderately cheaper (prices between 20% and 50% lower)	Imported products are generally slightly cheaper (prices between 5% and 20% lower)	There are no major differences (prices of imported products between 5% higher and 5% lower of local ones)	Local products are generally slightly cheaper (prices between 5% and 20% lower)	Local products are generally moderately cheaper (prices between 20% and 50% lower)	Local products are generally much cheaper (prices more than 50% lower)	Don't know / difficult to say
0207	Meat and edible offal of fowls								
0302	Fish, fresh or chilled, excluding fish fillets and other fish meat etc.								
0403	Buttermilk, curdled milk and cream, yogurt, kephir and other fermented or acidified milk and cream, etc.								
1905	Bread, pastry, cakes, biscuits and other bakers' wares, etc.								
2201	Waters, incl. natural or artificial mineral waters and aerated waters, not containing added sugar, other sweetening matter or flavoured etc.								
2203	Beer made from malt								
2523 29	Portland cement, aluminous cement, slag cement, etc.								
7610	Aluminium structures and parts of structures (for example, bridges, towers, roofs, doors and windows, etc.)								
9403	Other furniture and parts thereof								

D) FINAL REMARKS AND CONTACTS

59. Do you have any additional comments or evidence concerning the impact of OdM as well as on its perspectives for the future?

ANNEX B – REVISED MONITORING SYSTEM

PART 1 - AIEM

B.1 Estimated additional costs

MS shall send a data sheet with at least the following content (where applicable). The table shall contain the summary results of detailed *ad hoc* studies on additional costs that MS shall continue conducting periodically.

CN code (4 digits)	**NET* ADDITIONAL COSTS, IN % OF THE PRODUCTION VALUE (average estimates for the 2019-2024 period)**							
	Costs of inputs	**Costs of over-stocks**	**Equipment costs**	**HR additional costs**	**Financial costs**	**Other costs**	**TOTAL**	***Notes***
[xxxx]								
Etc.								

Notes:
1) *'Production value': the sales value (turnover) for the producer*
2) *'costs of inputs': shipping and other related costs for the procurement of raw materials and supplies (inputs) and spare parts, inclusive of all related financial costs*
3) *'Costs of over-stocks': the costs for extra-stocking space, including the financial costs of procuring greater quantities of inputs/supplies*
4) *'Equipment costs': covering all estimated costs related to oversized equipment depreciation, idle production capacity, and diseconomies of scale of production activities - inclusive of all related financial costs*
5) *'HR additional costs': the costs due to reduced productivity of labour and other related diseconomies of scale, including the additional costs due to maintenance services, training etc., and all related financial costs*
6) *'Other costs': to be detailed in the table – for instance, water, energy and waste-related costs, multiple establishments, cost of financing etc.*
7) *The estimated additional costs should be net* of the aids and subsidies received by enterprises to compensate such operating costs, e.g. aids to travel/transports etc.*
8) *The column notes** should include all the specification and clarifications underpinning the calculation methods and the deductions for other aids and subsidies.*

B.2 Other subsidies

List of all other aid and support measures addressing the additional operating costs of enterprises linked to the outermost status of the region.

Aid / support measure	**Period**	**Target sector**	**Budget amount in EUR**	**Annual expenditure, in EUR (2019-2024)**	**Share of the budget attributable to additional costs compensation**	**Estimated number of beneficiary firms**	***Notes****
[list]							
Etc.							

Notes:
1) *'Aid support/ measure': details for the identification and the type of measure (programme, State aid number etc.)*
2) *'Period': years covered by the measure*
3) *'Target sector': only for sector-oriented measures – in case, the relevant NACE code (or corresponding) shall be possibly indicated*
4) *'Budget amount in EUR': the overall budget of the measure and the sources of funding (EU, national…)*
5) *'Annual expenditure': actual expenditure year by year in the monitoring period (2019-2024) – where available*

6) *'Share of the budget attributable to additional costs compensation': approximate estimation, in % of the overall budget (4)*
7) *'Estimated number of beneficiary firms': approximate estimation – where feasible*
8) *(*) comments and clarifications as deemed relevant*

B.3 Impact on public budget

With reference to the tax collected or not collected under the special regime.

Year*	**2019**	**2020**	**2021**	**2022**	**2023**	**2024**	***Notes*****
Foregone tax revenue							
Tax receipts – imports							
Tax receipts - local production							

Notes:
1) *'foregone tax revenue': the total amount (in EUR) of tax not collected because of the tax differentials applied to local production (reductions/exemptions). At product level it is calculated multiplying the value of production sold on the local market (i.e. deducting exports) by the tax differential applied. The indicator is then calculated by summing up product-level estimates.*
2) *'tax receipts - imports': the total amount (in EUR) of the tax levied on the imports of taxable products*
3) *'tax receipts – local production': the total amount (in EUR) of the tax levied on the taxable local products*
4) *(*) the information may not be available for all the years listed*
5) *(**) comments and clarifications as deemed relevant*

B.4 Impact on overall economic performance

The indicators provided shall allow appreciating the general effects of the tax on the socio-economic development of the region. The indicators required refer to the performance of the supported sectors – i.e. those benefitting from differentiated rates – compared to the general performance if the regional economy

Year*	**2019**	**2020**	**2021**	**2022**	**2023**	**2024**	***Notes*****
Regional gross value added							
- *In the supported sectors*							
Overall regional employment							
- *In the supported sectors*							
Number of active enterprises							
- *In the supported sectors*							
Price level index - mainland							
Price level index - region							

Notes:
1) *'supported sectors': intended as the economic sectors (NACE definition or the like) where the production is prevalently (by production volume) benefitting from tax reduction/exemptions.*
2) *(*) the information may not be available for all the years listed*
3) *(**) comments and clarifications as deemed relevant*

B.5 Specifications of the regime

Data shall be disaggregated by product (CN8) and by year (from 2019 to 2024). The list includes only the products benefitting from differentiated tax rates.

- **IDENTIFICATION OF PRODUCTS AND RATES APPLIED**

Supported products – CN code (8 digits)	Year	CN4 approved category	Code specifications	External tax rate	Internal tax rate	Tax differential applied	*Notes***
[xxxx.xxxx]	2019						
	2020						
	2021						
	2022						
	2023						
	2024						
Etc.	2019						
	2020						
	2021						
	2022						
	2023						
	2024						

Notes:
1) *'CN4 approved category': the CN4 category approved in the Decision*
2) *'code specification': in the event a different treatment is extended to different 10-digit codes or based on other ad hoc specifications of the CN/TARIC definitions ("only…", "except…")*
3) *'External tax rate': the tax rate applied to imports*
4) *'Internal tax rate': the tax rate applied to local production*
5) *'tax differential applied': the difference between External and Internal rate*
6) *(**) comments and clarifications as deemed relevant*

- **MARKET SHARE OF SUPPORTED PRODUCTS**

Supported products – CN code (8 digits)*	Year	Volume				Value (in EUR)			*Notes***
		local production	unit	imports	Market share**	local production	imports	Market share**	
[xxxx.xxxx]	2019								
	2020								
	2021								
	2022								
	2023								
	2024								
Etc.	2019								
	2020								
	2021								
	2022								
	2023								
	2024								

Notes:
1) *(*) the first column should be identical to the previous table to allow data matching*
2) *'volume': in the column 'unit' specify the unit of measurement (tons, hl, pieces etc.)*
3) *'value': for import, it coincides with the taxable amount*
4) *(**) 'market share': the market share shall be calculated deducting the exports of local products*
5) *(***) comments and clarifications as deemed relevant*

B.6 Others

1. Irregularities. Are they any investigations which have uncovered evidence of administrative irregularities, evasion of excises, smuggling, etc.? If so, please supply a few minimal details.

2. Complaints. Have the local, regional, or national authorities received any complaints concerning the operation of the regime, either by beneficiaries or by non-beneficiaries?

PART 2 - OCTROI DE MER

B.7 Estimated additional costs

MS shall send a data sheet with at least the following content (where applicable). The table shall contain the summary results of detailed *ad hoc* studies on additional costs that MS shall continue conducting periodically.

CN code (4 digits)	**NET* ADDITIONAL COSTS, IN % OF THE PRODUCTION VALUE (average estimates for the 2019-2024 period)**							
	Costs of inputs	**Costs of over-stocks**	**Equipment costs**	**HR additional costs**	**Financial costs**	**Other costs**	**TOTAL**	***Notes*****
[xxxx]								
Etc.								

Notes:
1) *'Production value': the sales value (turnover) for the producer*
2) *'costs of inputs': shipping and other related costs for the procurement of raw materials and supplies (inputs) and spare parts, inclusive of all related financial costs*
3) *'Costs of over-stocks': the costs for extra-stocking space, including the financial costs of procuring greater quantities of inputs/supplies*
4) *'Equipment costs': covering all estimated costs related to oversized equipment depreciation, idle production capacity, and diseconomies of scale of production activities - inclusive of all related financial costs*
5) *'HR additional costs': the costs due to reduced productivity of labour and other related diseconomies of scale, including the additional costs due to maintenance services, training etc., and all related financial costs*
6) *'Other costs': to be detailed in the table – for instance, water, energy and waste-related costs, multiple establishments, cost of financing etc.*
7) *The estimated additional costs should be net* of the aids and subsidies received by enterprises to compensate such operating costs, e.g. aids to travel/transports etc.*
8) *The column notes** should include all the specification and clarifications underpinning the calculation methods and the deductions for other aids and subsidies.*

B.8 Other subsidies

List of all other aid and support measures addressing the additional operating costs of enterprises linked to the outermost status of the region.

Aid / support measure	**Period**	**Target sector**	**Budget amount in EUR**	**Annual expenditure, in EUR (2019-2024)**	**Share of the budget attributable to additional costs compensation**	**Estimated number of beneficiary firms**	***Notes****
[list]							
Etc.							

Notes:
1) *'Aid support/ measure': details for the identification and the type of measure (programme, State aid number etc.)*
2) *'Period': years covered by the measure*
3) *'Target sector': only for sector-oriented measures – in case, the relevant NACE code (or corresponding) shall be possibly indicated*
4) *'Budget amount in EUR': the overall budget of the measure and the sources of funding (EU, national…)*
5) *'Annual expenditure': actual expenditure year by year in the monitoring period (2019-2024) – where available*

6) *'Share of the budget attributable to additional costs compensation': approximate estimation, in % of the overall budget (4)*
7) *'Estimated number of beneficiary firms': approximate estimation – where feasible*
8) *(*) comments and clarifications as deemed relevant*

B.9 Impact on public budget

With reference to the tax collected or not collected under the special regime.

Year*	2019	2020	2021	2022	2023	2024	Notes**
Foregone tax revenue							
Tax receipts – imports							
Tax receipts - local production							

Notes:
1) *'foregone tax revenue': the total amount (in EUR) of tax not collected because of the tax differentials applied to local production (reductions/exemptions). At product level it is calculated multiplying the value of production sold on the local market (i.e. deducting exports) by the tax differential applied. The indicator is then calculated by summing up product-level estimates. The indicator should ideally comprise the estimation forgone revenues due to the exclusion of small firms (below the € 300,000 turnover threshold) from the field of application of the tax*
2) *'tax receipts - imports': the total amount (in EUR) of the tax levied on the imports of taxable products*
3) *'tax receipts – local production': the total amount (in EUR) of the tax levied on the taxable local products*
4) *(*) the information may not be available for all the years listed*
5) *(**) comments and clarifications as deemed relevant*

B.10 Impact on overall economic performance

The indicators provided shall allow appreciating the general effects of the tax on the socio-economic development of the region. The indicators required refer to the performance of the supported sectors – i.e. those benefitting from differentiated rates – compared to the general performance if the regional economy

Year*	2019	2020	2021	2022	2023	2024	Notes**
Regional gross value added							
- *In the supported sectors*							
Overall regional employment							
- *In the supported sectors*							
Number of active enterprises							
- *In the supported sectors*							
Price level index - mainland							
Price level index - region							

Notes:
1) *'supported sectors' : intended as the economic sectors (NACE definition or the like) where the production is prevalently (by production volume) benefitting from tax reduction/exemptions.*
2) *(*) the information may not be available for all the years listed*
3) *(**) comments and clarifications as deemed relevant*

B.11 Specifications of the regime

Data shall be disaggregated by product (CN8) and by year (from 2019 to 2024). The list includes only the products benefitting from differentiated tax rates.

➢ **IDENTIFICATION OF PRODUCTS AND RATES APPLIED**

Supported products – CN code (8 digits)	Year	CN4 approved category	Code specifications	External tax rate	Internal tax rate	Tax differential applied	*Notes***
[xxxx.xxxx]	2019						
	2020						
	2021						
	2022						
	2023						
	2024						
Etc.	2019						
	2020						
	2021						
	2022						
	2023						
	2024						

Notes:
1) *'CN4 approved category': the CN4 category approved in the Decision*
2) *'code specification': in the event a different treatment is extended to different 10-digit codes or based on other ad hoc specifications of the CN/TARIC definitions ("only…", "except…")*
3) *'External tax rate': the tax rate applied to imports, including regional component*
4) *'Internal tax rate': the tax rate applied to local production, including regional component*
5) *'tax differential applied': the difference between External and Internal rate*
6) *(**) comments and clarifications as deemed relevant*

➢ **MARKET SHARE OF SUPPORTED PRODUCTS**

Supported products – CN code (8 digits)*	Year	Volume				Value (in EUR)			*Notes***
		local production	unit	imports	Market share**	local production	imports	Market share**	
[xxxx.xxxx]	2019								
	2020								
	2021								
	2022								
	2023								
	2024								
Etc.	2019								
	2020								
	2021								
	2022								
	2023								
	2024								

Notes:
1) *(*) the first column should be identical to the previous table to allow data matching*
2) *'volume': in the column 'unit' specify the unit of measurement (tons, hl, pieces etc.)*
3) *'value': for import, it coincides with the taxable amount*
4) *(**) 'market share': the market share shall be calculated deducting the exports of local products*
5) *(***) comments and clarifications as deemed relevant*

B.12 Others

1. Irregularities. Are they any investigations which have uncovered evidence of administrative irregularities, evasion of excises, smuggling, etc. If so, please supply a few minimal details.

2. Complaints. Have the local, regional, or national authorities received any complaints concerning the operation of the regime, either by beneficiaries or by non-beneficiaries?

ANNEX C – QUANTITATIVE DATA ANALYSIS

C.1 Overview

➢ DATASETS

The Study required a robust foundation of quantitative data and statistics, and several datasets have been gathered to this end from a variety of sources. Publicly-available data regarding specifically the ORs and the sectors benefitting from special regimes were limited, so to a large extent the raw data used in the Study have been provided directly by the competent authorities (i.e., customs and tax administrations, statistical institutes, local governments, etc.) and by the Commission.

Despite efforts, several data gaps and inconsistencies remained, inevitably affecting the significance of the quantitative analysis. Such limitations regarded, in particular:

- the limited availability of local production data (at the level of disaggregation required);
- the data gaps on actual *Octroi de mer* rates (particularly internal rates before 2015);
- the difficult matching between product data based on customs classification and on NACE classification;
- the limited availability of monitoring data on the other aid measures implemented in the ORs; and
- the unavailability of cost-price data.

The data gaps regarded primarily the early period of implementation of the special regimes (in particular for Mayotte), while in recent years the amount and the quality of the data collected at the local level have largely improved, with the notable exception of the data on the relevant local production value in French ORs which remain deficient for two reasons: (a) the lack of data on the value of production of small firms that fall outside of the scope of the tax; and (b) the lack of data for products with a zero rate (internal OdM rate) – an issue that concerns primarily Réunion and F. Guiana.

The type of data collected for the Study are summarised in the table below.

Analytical areas	Datasets
Policy implementation	• Data on permitted AIEM/OdM differentials • Data on actual AIEM/OdM differentials • Data on fiscal revenues
Additional costs	• Input-output data at ORs and mainland level • Micro-data from regional level estimates / product '*fiches*'
Trade and market impacts	• Data on imports, by product / origin • Data on local production, by product / sector • Other 'control' data for gravity modelling (distance etc.)
Macroeconomic impacts	• Macroeconomic data on employment • Macroeconomic data on industrial added-Value • Data on price levels

➢ QUANTITATIVE DATA METHODS

The collected raw data have been gathered in a comprehensive database and assessed through quantitative methodologies in order to determine the impacts of special tax regimes on competitiveness, market, trade flows and tax revenues (including forgone revenues). As discussed above, the datasets presented issues of completeness and/or consistency that affected the robustness of the results. In such circumstances, the Study findings were integrated and complemented with the qualitative evidence collected from the stakeholder consultation.

A summary of the approach adopted for the quantitative analysis is provided here below, while a detailed technical description of the methods and models used, as well as the full results are provided further below.

Review of policy implementation. The analysis focused on collected AIEM/OdM tax revenues, broken down by external (on imports) and internal (on local production) tax receipts, as well as on the estimates of the 'forgone' revenue (i.e., the tax not collected due to exemptions/reductions).

- The collected revenue data were provided for most products/years by customs authorities or other competent authorities. When not available, revenues have been estimated applying the relevant tax rate to the tax base, i.e., the value of imports or local production.
- For the forgone revenue the official estimates have been triangulated calculating the amount of exemptions at product level (multiplying the value of local production by the corresponding tax differential applied) and aggregating the results. It should be highlighted that forgone revenues estimates are theoretical, as if the tax was applied the demand of internal products would decline and the actual tax revenue would be lower than the nominal value.

Analysis of additional costs and competitiveness. Additional costs provided at the micro-level (i.e., in product *fiches* or reports) have been at first triangulated using input/output tables available for the ORs.[363] The matching allowed showing disparities both in the total additional costs for a given sector but also on the distribution of the cost factors (i.e., transports, labour, energy, etc.). Secondly, the compiled and systematised micro-data have been used to assess how much of these costs are compensated the tax differentials applied under the special tax regimes. This analysis was done at the product level as well as the aggregate level.

Analysis of trade and market impact. The third step consisted of the modelling of imports and local production as a function of (a) the tax differentials applied under the special regimes and (b) the internal tax rates applied. The main difficulty consisted in the comparability / normalisation of value of local production and imports for different products. To overcome this difficulty, three measures were adopted: (i) using the logarithm of variables so that impact of the tax differential is expressed in percentage terms, (ii) aggregating the products (dependent variable) at the CN 4-digit level, (iii) applying individual fixed effects for each product (also defined at CN 4-digit).
Two separate models were used:

- The impact on trade was estimated based on gravity modelling of imports of products (CN4 level) between ORs and other countries (including mainland). In addition to the tax rates, other variables including economic weight and distance of the trading partners were used as explanatory variables to predict trade flows.
- The impact on local production was estimated based on data panel modelling. To overcome the data gaps, only products (CN4 level) for which comprehensive data on local production were considered.

Given the few variability in AIEM/OdM differential rates across time, the estimation is primarily driven by cross-ORs comparison.

[363] In input-output tables, payments made by a sector to other sectors (for example: agricultural products, energy, water, transportation) and to production factors (for example: labour, capital, land) are valued for a given year, in effect providing its cost structure. The resulting estimates of additional costs for each sector can therefore be compared with estimated additional costs based on micro-level data used in the French OR and direct micro-level estimates used for the Canary Islands.

Analysis of macroeconomic impacts. The impact of special regimes on added-value and employment was estimated by extrapolation of the impact on local production described above. For each economic sector, we calculated the ratios of added-value and employment over local production using data from ORs' economic statistics. The impact on added value and employment were then derived from the impact on local production, assuming that these ratios were constant. Finally, to estimate the impact of special regimes on retail prices, it was assumed that the tax paid is fully passed onto consumers. Then, the tax receipts - increased by retailer margins[364] - were related to household expenditure to derive an index of the maximum additional price borne by final consumers. The results were triangulated with the official statistics on price index in the ORs elaborated by national statistical institutes as well as with other literature sources.

C.2 Review of policy implementation

- **COLLECTED REVENUES**

The collected revenues data were provided for most of products/years by customs authorities or other competent authorities. When not available, the revenues have been estimated applying the relevant tax rate to the tax base, i.e. the value of imports or local production.

Errore. L'origine riferimento non è stata trovata. summarises collected AIEM revenues in Canary Islands for the period 2009-2011 and 2015-2017 while **Errore. L'origine riferimento non è stata trovata.** summarises tax revenues collected from OdM in the five French ORs.

[364] A fixed margin was assumed. For comparability with Part 2 of the Study, and considering that no valid estimate for the Canary Islands is available, the average sales margin estimated by INSEE for retail activities in the French ORs (vehicles not included) was used.

Table 1. AIEM Collected Revenues by Actual AIEM Differentials (Euros)

	2009	2010	2011	2015	2016	2017
TOBACCO	2 145 757	5 816 699	7 936 878	2558 702	3 042 784	4 442 317
AIEM REVENUES (EXCL. TOBACCO	103 417 238	109 610 230	116 937 960	146 566 213	149 268 282	158 625 217
FROM UNSUPPORTED PRODUCTS	27 807 583	30 016 933	33 913 123	43 684 231	41 078 347	33 596 393
FROM SUPPORTED PRODUCTS	75 609 655	79 593 297	83 024 837	102 881 981	108 189 934	125 028 824
DIFFERENTIAL OF 5%	44 311 250	47 096 134	48 682 801	54 467 773	570 70 335	60 093 187
DIFFERENTIAL OF 10%				13 369 325	139 37 783	14 799 785
DIFFERENTIAL OF 15%	31 298 405	32 497 163	34 342 036	35 044 883	37 181 816	50 135 852

Table 2. OdM Revenues (Millions of Euros)

		2008	2009	2010	2011	2012	2013	2014	2015	2016	2017	2018
GUF	**Total OdM Revenues**		**129.76**	**137.63**	**146.92**	**152.39**	**154.00**	**158.64**	**161.46**	**160.90**	**173.78**	**178.90**
	External OdM Revenues		121.61	131.32	141.21	143.18	144.78	150.30	149.56	149.08	163.38	169.06
	Of which Regional Part	*25.65*	*23.02*	*25.12*	*27.80*	*27.37*	*28.00*	*28.38*	*27.50*	*27.73*	*30.05*	*31.76*
	Internal OdM Revenues		8.15	6.31	5.71	9.21	9.21	8.33	11.90	11.81	10.40	9.85
	Of which Regional Part	*1.29*	*1.00*	*0.35*	*0.58*	*1.05*	*1.61*	*1.51*	*1.42*	*1.28*	*1.27*	*1.48*
GLP	**Total OdM Revenues**	**263.97**	**224.37**	**248.68**	**252.05**	**262.09**	**285.25**	**252.65**	**252.28**	**257.19**	**268.75**	**288.48**
	External OdM Revenues	255.62	216.92	239.05	243.54	254.81	275.93	244.46	243.77	246.17	260.34	279.42
	Of which Regional Part	*66.97*	*57.54*	*63.86*	*66.55*	*73.62*	*77.79*	*65.31*	*63.74*	*63.79*	*67.68*	*72.71*
	Internal OdM Revenues	8.35	7.46	9.63	8.51	7.28	9.31	8.19	8.51	11.02	8.41	9.06
	Of which Regional Part	*6.60*	*6.68*	*7.42*	*6.22*	*5.67*	*7.91*	*7.00*	*7.30*	*9.83*	*7.28*	*7.70*
MTQ	**Total OdM Revenues**					**233.36**	**245.62**	**249.90**	**260.96**	**258.58**	**268.48**	**277.52**
	External OdM Revenues					223.97	233.98	238.56	249.44	246.35	256.63	266.12
	Of which Regional Part	*9.57*	*7.07*	*8.67*	*12.06*	*55.22*	*55.87*	*56.13*	*58.10*	*56.40*	*60.46*	*61.99*
	Internal OdM Revenues	10.41	9.07	9.76	9.56	9.39	11.65	11.34	11.51	12.23	11.84	11.40
	Of which Regional Part	*9.56*	*8.21*	*8.79*	*8.57*	*8.54*	*10.85*	*10.44*	*10.91*	*10.98*	*10.72*	*10.67*
MYT	**Total OdM Revenues**									**93.93**	**100.87**	**87.99**
	External OdM Revenues							83.09	89.30	91.07	96.75	82.47
	Of which Regional Part							*11.52*	*12.64*	*13.35*	*14.82*	*14.67*
	Internal OdM Revenues									2.86	4.12	5.52
	Of which Regional Part							*0.07*	*0.85*	*1.95*	*2.42*	*2.63*
REU	**Total OdM Revenues**	**374.85**	**337.71**	**356.57**	**388.63**	**380.62**	**375.24**	**398.65**	**406.64**	**409.31**	**424.21**	**434.21**
	External OdM Revenues	368.69	330.06	347.68	378.91	371.54	366.75	389.15	398.71	400.27	414.54	423.57
	Of which Regional Part	*68.96*	*71.68*	*78.36*	*86.02*	*86.02*	*85.75*	*91.11*	*92.58*	*92.39*	*95.31*	*98.83*
	Internal OdM Revenues	6.16	7.65	8.89	9.72	9.07	8.48	9.51	7.92	9.04	9.67	10.64
	Of which Regional Part	*1.72*	*2.15*	*2.58*	*2.77*	*2.58*	*2.38*	*2.71*	*2.18*	*2.67*	*2.69*	*2.78*

➢ FOREGONE REVENUES

The foregone revenues are estimated at the product level using data on local production and actual OdM differential rates. However data on local production are highly incomplete.

For French ORs, analysis focuses on 2016 and 2018:

- Data on local production as well as actual OdM rates for 2018 are provided by French Customs. However, data available do not include: local productions for products with a null internal OdM rate; value of production of enterprises with a turnover lower than 300 000 Euros. These limitations are significant for local production in Réunion and French Guiana. As shown in **Errore. L'origine riferimento non è stata trovata.**, around 44% of the products in Réunion have a null internal OdM rates, highly concentrated on supported products (between 80.5% for products on list C to 100% of product on list A) and between 15.6% and 36.8% in French Guiana. This share is however very low or null in Guadeloupe, Martinique and Mayotte.
- Therefore, the analysis is reinforced by the estimated data on local production provided by the client for 2016.

For Canary Islands, the local production value had to be estimated as only market shares and, in some cases, production data in volume were available. More specifically:

- Firstly, when the market share in value is available (as well as imports in value) the local production is estimated assuming that the market share in value is equal to the value of local production (in value) divided by the sum of local production (in value) and imports (in value):
- Secondly, when the market share in value is not available, it is assumed to be equal to the market share in volume. The local production in value is then derived using the above approach.

Table 3. Percentage of Products with a Null Internal OdM Rate

	UNSUPPORTED PRODUCTS	LIST A	LIST B	LIST C	TOTAL
FRENCH GUIANA	2.8%	36.8%	18.2%	15.6%	5.5%
GUADELOUPE	0.1%	0%	0%	0%	0.1%
MARTINIQUE	0%	0%	0%	0%	0%
MAYOTTE	0.2%	0%	5.1%	0%	0.4%
RÉUNION	0.27%	100%	98.4%	80.5%	43.7%

Errore. L'origine riferimento non è stata trovata. summarises estimates of foregone revenues in French ORs for 2016 and 2018. As anticipated due to the proportion of product with a null OdM rate, the estimated value of local production in Réunion is highly underestimated in 2018 and to a lesser extent in French Guiana. Therefore, only 2016 figures can be considered as reliable.

Table 4. Estimated Values of Foregone Revenues (€ million) and Average OdM Differential Rates on Supported Products

		2016			2018		
		Est. Foregone OdM Revenues	Local Production	Average Differential OdM Rate	Est. Foregone OdM Revenues	Local Production	Average Differential OdM Rate
GUF	Total	29.22	180.89	16%	12.51	97.67	13%
	Annex A	4.34	43.45	10%	0.07	0.75	9%
	Annex B	16.66	106.40	16%	10.97	89.61	12%
	Annex C	8.22	31.04	26%	1.47	7.31	20%
GLP	Total	63.01	354.47	18%	64.09	362.58	18%
	Annex A	1.34	21.45	6%	1.54	24.58	6%
	Annex B	53.62	298.78	18%	53.53	300.36	18%
	Annex C	8.05	34.23	24%	9.03	37.63	24%
MTQ	Total	109.44	608.97	18%	111.63	593.86	19%
	Annex A	3.98	48.51	8%	1.86	22.39	8%
	Annex B	86.63	484.09	18%	88.01	484.36	18%
	Annex C	18.83	76.36	25%	21.75	87.11	25%
MYT	Total	12.79	55.00	23%	6.39	54.59	12%
	Annex A	0.01	2.66	0%	0.01	3.39	0%
	Annex B	1.89	11.24	17%	1.93	11.55	17%
	Annex C	10.90	41.09	27%	4.45	39.66	11%
REU	Total	129.28	1085.60	12%	16.47	70.48	23%
	Annex A	31.92	481.79	7%	0.00	0.00	
	Annex B	63.37	422.22	15%	2.71	14.44	19%
	Annex C	33.99	181.59	19%	13.76	56.04	25%

Errore. L'origine riferimento non è stata trovata. displays the estimated values of local production of supported products and derived foregone revenues for 2009-2011 and 2015-2017 in Canary Islands. These estimates exclude foregone revenues associated to tobacco for which inconsistencies were detected. Local production and estimates of foregone AIEM revenues for tobacco are displayed separately in **Errore. L'origine riferimento non è stata trovata.**.

Table 5. Estimated Values of Local Production of Supported Products and Derived Foregone Revenues, excluding Tobacco (Millions of Euros)

	2009	2010	2011	2015	2016	2017
WITHOUT ESTIMATION OF MISSING MARKET SHARES IN VALUE						
LOCAL PRODUCTION				1 628.11	1 687.13	1 662.49
FOREGONE REVENUES				132.68	137.95	137.52
WITH ESTIMATION OF MISSING MARKET SHARES IN VALUE						
LOCAL PRODUCTION	2 419.3	2 283.75	2 211.58	1 782.47	1 837.74	1 805.43
FOREGONE REVENUES	172.27	165.55	160.97	145.55	149.85	148.58

Table 6. Estimated Value of Local Production of Tobacco and Derived Foregone Revenues (Millions of Euros)

	2009	2010	2011	2015	2016	2017
IN VALUE (* ESTIMATION OF MISSING VALUES OF MARKET SHARE)						
LOCAL PRODUCTION	179.95*	193.21*	158.15*	1 440.89	1 698.80	1 269.31
FOREGONE REVENUES	44.99*	48.30*	39.53*	216.13	254.82	190.40

C.3 Analysis of additional cost and competitiveness

- **TRIANGULATION BASED ON IO DATA**

Use of secondary data on additional costs produced by France and Spain authorities

French ORs. As detailed in the box below, France has produced yearly estimates of additional costs for the 5 French OR based on survey data. For the 5 French ORs**,** detailed data from micro-level surveys was keyed in, covering 845 products at the CN8 level, for years 2010, 2011, 2013, 2014, and 2018. This data includes additional costs in total and broken down by type of costs (transports, labour, energy, etc.)

Box - Methodology used by French Authorities for Computing Additional Costs in the 5 French ORs[365]

As clarified in the mid-term reports submitted by French ORs competent authorities, additional costs associated to products supported by the OdM special regime are estimated based, to a large extent, on business surveys. In particular:

- Costs assessments are generally conducted at the product level indicated in the Council Decision, i.e. ranging from CN4 to CN8.
- The quantification of the majority of additional costs considered is made by production factor (raw materials and related transportation costs, amortization of capital, labour, maintenance, energy, water, etc.) and in comparison to the average costs typically borne by a competitor based in the mainland.
- Additional costs estimates are, in principle, net of other aids received.
- Additional costs for each product are expressed as a percentage of the corresponding sales (*chiffre d'affaires*) .

As estimates are largely based on producer's self-assessment, the procedure is not exempt from risk of upward bias, as the respondent has a clear incentive to inflate the reported amount of additional costs suffered. On the other hand, this risk is mitigated by the granularity of the details laid down in the ***fiche surcoûts***, which allow verifying the robustness and credibility of the estimation.

***Canary Islands*.** Data on estimated additional costs are only available at a broad sectoral level, i.e. primary sector, manufacturing, energy and water, construction, telecoms, transports, tourism, other services (see **Errore. L'origine riferimento non è stata trovata.**). These estimates are based on micro-level data collected from business surveys broken down by main cost factor.[366] In the Study, these data were keyed in for all CN8 products falling under the sectors/branches concerned.

[365] Action Publique Conseil et Région Guadeloupe, « Guadeloupe - Rapport à mi-parcours relatif au dispositif d'octroi de mer », janvier 2018; Action Publique Conseil et Collectivité Territoriale de Martinique, « Martinique - Rapport à mi-parcours relatif au dispositif d'octroi de mer », février 2018.
[366] ECO ATENEA, S.L. - RELANCE CONSULTORES, S.L. - CONSULTA EUROPA, PROJECTS AND INNOVATION, S.L. Unión Temporal de Empresas, et UTE Eco-CoRe, « El coste privado de la ultraperiferia y la doble insularidad en Canarias », 2017.

Table 7. Branches for which Additional Costs estimates are available for the Canary Islands

Primary Sector
Industry
Energy and water
Construction
Trade
Transport
Tourism
Other services

Triangulation based on input-output data

An input-output table for a given OR provides information of the cost structure of producers by sector. Specifically, input-output table indicate payments made by a sector to other sectors (for example: agricultural products, energy, water, transportation) and to production factors (for example: labour, capital, land) for a given year.

The input-output table can therefore be used to infer additional costs by comparing the structure of costs in the ORs and the corresponding structure of costs on the mainland by sector. This exercise allows not only to triangulate the micro-data estimates described above (i.e. based on business surveys) but also to identify the source of possible disparities of assessment (i.e. transports, labour, energy, etc.).

Input-output data. In the case of French ORs, the main sources of IO data are Social Accounting Matrices (SAM) that has been retrieved from France's Ministère des Outre-Mer (MOM). **Errore. L'origine riferimento non è stata trovata.** shows the disaggregation available, confirming that the level of detail is sufficient for the purpose of our analysis. Figures refer to year 2008 and no data is available for Mayotte[367].

Table 8. Product disaggregation in IO data from MOM for 4 French ORs (excl. Mayotte)

Agriculture
Fisheries and aquaculture
Banana
Sugar cane
Extractive industries
Food processing industries
Sugar and rum
Manufacturing
Energy
Construction
Trade
Transport
Accommodation and food services
Information and communication
Financial and insurance activities
Real estate
Specialised scientific and technical activities
Administrative services
Public administration, compulsory social security
Education and health
Other services

[367] An alternative source of IO data considered is the Rhomolo model developed by the Joint Research Centre (JRC). IO and SAM data for the Canary Islands and 4 French ORs (Guadeloupe, Martinique, French Guiana, Réunion) were obtained from the Rhomolo (referring to 2013). However, with only 10 branches (not including a specific transport branch), the disaggregation of these data was not sufficient for our purposes. In addition, it is noted that Rhomolo data are inconsistent with the MOM estimates. See FPFIS Team, « RHOMOLO-v2 Model Description: A Spatial Computable General Equilibrium Model for EU Regions and Sectors », 2016.

For Canary Islands, good-quality IO data is available for year 2005 from the Instituto Canario de Estadisticas (ISTAC)[368]. The disaggregation level of data is adequate, with 64 branches, including a specific transport branch. This IO has been updated to year 2016 in a recent analysis of additional costs for the Canary Islands[369] using a RAS method[370]. However, as cost conditions are not likely to have changed significantly, in the analysis we make reference to the 2005 IO data published by ISTAC.

***IO data on France and Spain*.** Both France's INSEE and Spain's INE provide IO with the same disaggregation (respectively 21 and 64 branches) as in the regional IO data, or more.

Results

French ORs - Table 9 reports the comparison between total additional costs evaluated with IO data and the same evaluated on the basis of micro data. The main result is that IO data do not corroborate additional costs as evaluated from micro data.

The main reason seems however methodological, with the two data series not actually comparable for three main reasons. Firstly, the time periods for the two sources of data are not identical: IO data is for year 2008 whereas micro data is averaged over the years 2010, 2011, 2013, 2014 and 2018. Secondly, the 2008 IO data reflects a situation where the OdM differentials were already in place, which implies that domestic prices already reflected the supported granted by such differentials and were therefore presumably higher than in a hypothetical counterfactual situation without OdM differentials. As additional costs are measured as percentages of output (at current prices), they may be underestimated by IO data. Finally, micro data on additional costs is not exhaustive for each product. In this case additional costs are only estimated for products with positive OdM differential rates. Conversely, additional costs in IO data regard the whole local production, i.e., supported and not supported products.

Table 10 provides details for these discrepancies by breaking down total additional costs by categories of costs (labour, energy, water, transportation, finance and others). It emerges that the cost factors are not consistently structured in the two approaches, adding a further reason for non-comparability.

Canary Islands. The same incongruences are found with Canary Islands' IO data, albeit less marked (see Table 11 and 12). Also in this case, the time period is very different (2005 for IO data, 2016 for micro data), and the IO data reflects a situation where AIEM is already in place.

The conclusion is that the discrepancies in the two approaches impede a meaningful validation of micro-data by triangulation with IO data.

[368] http://www.gobiernodecanarias.org/istac/galerias/documentos/C00019A/P0002/index.html
[369] ECO ATENEA, S.L. - RELANCE CONSULTORES, S.L. - CONSULTA EUROPA, PROJECTS AND INNOVATION, S.L. Unión Temporal de Empresas, et UTE Eco-CoRe, « El coste privado de la ultraperiferia y la doble insularidad en Canarias ».
[370] The RAS has been criticized as providing biased results. The more recent cross-entropy method is generally preferred (Sherman Robinson et EL-Said Moataz, « Estimating a social accounting matrix using entropy difference methods » (IFPRI, 1997).

Table 9. Comparison of aggregated additional costs from IO data and micro data (French ORs, % of output)

		Agriculture	Extractive industries	Food processing industries	Information and communication	Manufacturing
FRENCH GUIANA	IO Data	- 50%	13%	0%	- 9%	- 2%
	Micro Data	36%	25%	32%	18%	32%
GUADELOUPE	IO Data	- 15%	- 1%	1%	- 5%	0%
	Micro Data	15%	12%	25%	22%	20%
MARTINIQUE	IO Data	4%	--	-1%	--	- 4%
	Micro Data	30%	--	32%	--	30%
REUNION	IO Data	- 7%	--	- 6%	- 7%	-8%
	Micro Data	31%	--	27%	23%	25%

Table 10. Comparison of detailed additional costs from IO data and micro data (French ORs, % of output)

		AGRICULTURE		EXTRACTIVE INDUSTRIES		FOOD PROCESSING INDUSTRIES		INFORMATION AND COMMUNICATION		MANUFACTURING	
		IO Data	**Micro Data**	**IO Data**	**Micro Data**	**IO Data**	**Micro Data**	**IO Data**	**Micro Data**	**IO Data**	**Micro Data**
FRENCH GUIANA	Inputs		6.67%		1.32%		1.25%		5.87%		8.31%
	Stocks		20.38%		4.83%		10.42%		6.58%		13.62%
	Equipment		6.93%		5.14%		9.00%		1.99%		7.18%
	Maintenance		1.94%		13.74%		1.54%		5.28%		4.37%
	Salaries	-4.81%		4.01%		5.94%		-14.64%		-5.36%	
	Financing	-1.21%	0.27%	1.40%	0.16%	-1.66%	0.00%	-0.48%	0.16%	-0.36%	0.40%
	Energy	2.51%		4.55%		-0.88%		2.66%		3.53%	
	Transport	-0.09%		2.10%		-0.63%		0.07%		-0.54%	
	Other	-46.68%		0.53%		-3.21%		3.51%		1.24%	
GUADELOUPE	Inputs		6.49%				9.31%		5.00%		8.01%
	Stocks		2.54%				4.10%		4.00%		2.43%
	Equipment				5.00%		4.62%		3.00%		2.29%
	Maintenance		3.13%		2.00%		2.76%		2.00%		1.67%
	Salaries	3.55%	7.42%	-5.15%		2.45%	4.67%	-14.06%	7.00%	-2.44%	3.90%
	Financing	-0.75%	5.22%	4.55%	2.00%	-1.62%	0.77%	0.20%		-0.12%	1.12%
	Energy	2.28%		0.39%		-1.10%	1.44%	2.61%		4.89%	0.61%
	Transport	-0.07%		2.94%		-0.78%		0.10%		-0.35%	
	Other	-19.81%	3.13%	-3.75%	3.00%	1.82%	2.01%	5.88%	1.00%	-2.41%	1.08%
MARTINIQUE	Inputs		5.92%				11.42%				10.79%
	Stocks										
	Equipment		3.93%				4.25%				1.49%
	Maintenance		0.47%				1.05%				1.01%
	Salaries	19.51%	10.70%			4.25%	12.13%			-2.46%	12.14%
	Financing	-0.73%	0.00%			-1.48%	1.20%			-0.14%	1.01%
	Energy	3.04%	1.07%			0.09%	0.53%			4.15%	0.28%
	Transport	-0.07%				-0.39%				-0.61%	
	Other	-17.96%	0.45%			-3.19%	1.50%			-4.64%	3.51%
REUNION	Inputs		12.78%				10.12%		6.98%		9.69%
	Stocks		0.26%				1.57%		2.99%		2.63%
	Equipment		3.68%				9.33%		6.98%		7.51%
	Maintenance		1.18%				0.72%		2.99%		1.44%
	Salaries	-0.07%	11.92%			-1.01%	4.43%	-15.95%	2.99%	-0.78%	3.53%
	Financing	0.63%	1.18%			-1.22%	1.92%	1.94%	0.24%	0.46%	0.60%
	Energy	-0.55%				-1.26%		0.24%		0.83%	
	Transport	-0.02%				0.98%		1.58%		0.21%	
	Other	-6.65%	0.67%			-3.39%	0.00%	5.68%	0.00%	-8.25%	1.58%

Table 11. Comparison of additional costs from IO data and micro data (Canary Islands, % of output): Aggregate

	IO DATA	MICRO DATA
Agriculture, forestry and fishing	-1.0%	17.9%
Arts, entertainment, recreation and other service activities	-0.3%	3.3%
Chemicals and pharmaceutical products	-11.2%	29.8%
Coke and refined petroleum products	-3.3%	29.8%
Electrical equipment	-7.9%	29.8%
Electricity, gas, water supply, sewerage, waste and remediation services	1.0%	7.5%
Fabricated metal products, except machinery and equipment	-11.4%	29.8%
Food products, beverages and tobacco	-1.5%	29.8%
Machinery and equipment n.e.c.	-16.9%	29.8%
Manufacture of basic metals	-8.4%	29.8%
Mining and extraction of energy producing products	13.4%	17.9%
Mining and quarrying of non-energy producing products	6.1%	17.9%
Motor vehicles, trailers and semi-trailers	-11.2%	29.8%
Other business sector services	-4.3%	3.3%
Other manufacturing; repair and installation of machinery and equipment	6.9%	29.8%
Other non-metallic mineral products	-6.7%	29.8%
Paper products and printing	0.8%	29.8%
Rubber and plastics products	-3.2%	29.8%
Textiles, wearing apparel, leather and related products	0.3%	29.8%
Wood and of products of wood and cork (except furniture)	-6.5%	29.8%

Table 12. Detailed additional costs, comparison micro and IO data, Canary Islands (% of output)

	LABOR		**FINANCING**		**ENERGY**		**TRANSPORT**		**STOCKS**		**EQUIPMENT**		**OTHERS**	
	IO	Micro	IO	Micro	IO	Micro	IO	Micro	IO	Micro	IO	Micro	IO	Micro
AGRICULTURE, FORESTRY AND FISHING	2.5%		-0.1%	0.5%	0.2%	1.8%	0.4%	12.2%		0.1%		3.0%	-4.0%	0.3%
ARTS, ENTERTAINMENT, RECREATION AND OTHER SERVICE ACTIVITIES	-4.0%		-0.6%	0.1%	0.0%	0.4%	2.0%	0.8%		0.2%		1.3%	2.3%	0.5%
CHEMICALS AND PHARMACEUTICAL PRODUCTS	-3.2%		-0.9%	0.4%	-2.7%	1.1%	3.9%	14.5%		2.0%		10.9%	-8.4%	0.9%
COKE AND REFINED PETROLEUM PRODUCTS	-4.2%		-1.0%	0.4%	-0.5%	1.1%	-0.7%	14.5%		2.0%		10.9%	3.1%	0.9%
ELECTRICAL EQUIPMENT	6.2%		-0.7%	0.4%	0.4%	1.1%	-0.3%	14.5%		2.0%		10.9%	-13.5%	0.9%
ELECTRICITY, GAS, WATER SUPPLY, SEWERAGE, WASTE AND REMEDIATION SERVICES	-0.9%		-1.1%	0.2%	3.1%	0.0%	-0.9%	3.2%		0.2%		3.6%	0.7%	0.2%
FABRICATED METAL PRODUCTS, EXCEPT MACHINERY AND EQUIPMENT	-9.1%		-1.2%	0.4%	-3.6%	1.1%	-1.8%	14.5%		2.0%		10.9%	4.3%	0.9%
FOOD PRODUCTS, BEVERAGES AND TOBACCO	9.8%		-0.4%	0.4%	-0.9%	1.1%	5.3%	14.5%		2.0%		10.9%	-15.3%	0.9%
MACHINERY AND EQUIPMENT N.E.C.	-2.2%		-0.4%	0.4%	-1.8%	1.1%	0.0%	14.5%		2.0%		10.9%	-12.6%	0.9%
MANUFACTURE OF BASIC METALS	12.6%		-2.5%	0.4%	-9.9%	1.1%	5.1%	14.5%		2.0%		10.9%	-13.8%	0.9%
MINING AND EXTRACTION OF ENERGY PRODUCING PRODUCTS	-3.9%		1.6%	0.5%	-3.8%	1.8%	18.0%	12.2%		0.1%		3.0%	1.5%	0.3%
MINING AND QUARRYING OF NON-ENERGY PRODUCING PRODUCTS	-4.2%		-0.8%	0.5%	-3.2%	1.8%	7.9%	12.2%		0.1%		3.0%	6.5%	0.3%
MOTOR VEHICLES, TRAILERS AND SEMI-TRAILERS	19.4%		-0.1%	0.4%	-1.3%	1.1%	0.4%	14.5%		2.0%		10.9%	-29.6%	0.9%
OTHER BUSINESS SECTOR SERVICES	4.6%		-1.9%	0.1%	-0.3%	0.4%	1.6%	0.8%		0.2%		1.3%	-8.4%	0.5%
OTHER MANUFACTURING; REPAIR AND INSTALLATION OF MACHINERY AND EQUIPMENT	7.7%		-0.9%	0.4%	-0.9%	1.1%	4.6%	14.5%		2.0%		10.9%	-3.6%	0.9%
OTHER NON-METALLIC MINERAL PRODUCTS	-6.9%		-0.6%	0.4%	-5.3%	1.1%	6.6%	14.5%		2.0%		10.9%	-0.4%	0.9%
PAPER PRODUCTS AND PRINTING	9.4%		-0.4%	0.4%	-3.6%	1.1%	1.6%	14.5%		2.0%		10.9%	-6.2%	0.9%
RUBBER AND PLASTICS PRODUCTS	2.4%		-0.8%	0.4%	-1.6%	1.1%	0.2%	14.5%		2.0%		10.9%	-3.4%	0.9%
TEXTILES, WEARING APPAREL, LEATHER AND RELATED PRODUCTS	8.5%		-0.9%	0.4%	-1.6%	1.1%	-2.1%	14.5%		2.0%		10.9%	-3.5%	0.9%
WOOD AND OF PRODUCTS OF WOOD AND CORK (EXCEPT FURNITURE)	7.4%		-0.5%	0.4%	-2.5%	1.1%	0.5%	14.5%		2.0%		10.9%	-11.3%	0.9%

- **Analysis of Additional Cost Compensation**

The compiled and systematised micro-data have been used to assess how much of these costs are compensated by AIEM/OdM differential rates (with reference to the value of 'foregone revenues'). This analysis was done at the product level as well as the aggregated level.

Firstly, we estimate the total additional costs at the aggregated level and by cost factor, based on the micro-level data discussed earlier and related to the estimated value of local production. Secondly, we estimate the 'compensation ratio', i.e. what share of the additional costs is covered by AIEM/OdM differentials. Compensation ratios are calculated dividing the estimated foregone revenue by the estimated additional costs. At the product level, this is equivalent to dividing the actual AIEM/OdM differential by the total additional cost (expressed in percentage of turnover).

Results for French ORs. **Errore. L'origine riferimento non è stata trovata.** and **Errore. L'origine riferimento non è stata trovata.** display estimates of additional cost by component in values and in percentages of supported local production. In **Errore. L'origine riferimento non è stata trovata.**, compensation ratios are also presented. Finally, Finally, we have examined the correlation that might exist between tax differentials and estimated additional costs to verify whether the extent of the support is proportional to the need. As Table 4.11 shows, such correlation is moderate in all French ORs (around 0.45-0.55), except Martinique where no correlation can be found. The coefficient proves to be stronger when the correlation is made with the maximum permitted differentials.

shows the correlation coefficients between product-level additional costs estimates, and the corresponding OdM tax differentials – both permitted and actual rates.

Results for Canary Islands. **Errore. L'origine riferimento non è stata trovata.** and **Errore. L'origine riferimento non è stata trovata.** display the same estimates as regards the AIEM and local production in Canary Islands. In **Errore. L'origine riferimento non è stata trovata.**, compensation ratio and additional cost are calculated by economic branches.

Table 13. Aggregated Additional Costs by Component (in % of Supported Local Production, 2016)

		Total additio-nal cost	*From inputs*	*From extra stocks*	*From equip-ment*	*From mainte-nance*	*From salaries*	*From financing costs*	*From energy*	*From others*	Compens-ation ratio	Av. Actual OdM diff.
FRENCH GUIANA	Total	27%	6%	9%	5%	6%	0%	1%	0%	0%	59%	16%
	Annex A	17%	1%	3%	3%	10%	0%	0%	0%	0%	59%	10%
	Annex B	29%	7%	11%	5%	5%	0%	1%	0%	1%	54%	16%
	Annex C	38%	9%	13%	10%	5%	0%	0%	0%	0%	70%	26%
GUADELOUPE	Total	25%	8%	3%	4%	2%	5%	1%	0%	1%	76%	19%
	Annex A	14%	5%	2%	1%	1%	3%	1%	0%	1%	63%	9%
	Annex B	24%	9%	3%	4%	2%	5%	1%	0%	1%	75%	18%
	Annex C	29%	7%	4%	8%	2%	5%	1%	0%	1%	80%	24%
MARTINIQUE	Total	31%	12%	0%	3%	1%	11%	1%	1%	3%	58%	18%
	Annex A	28%	11%	0%	4%	1%	9%	1%	1%	2%	33%	9%
	Annex B	32%	12%	0%	3%	1%	11%	1%	1%	3%	56%	18%
	Annex C	30%	14%	0%	3%	1%	10%	1%	0%	1%	84%	25%
MAYOTTE	Total	50%	10%	2%	8%	1%	27%	0%	1%	1%	52%	26%
	Annex A	24%	16%	0%	4%	2%	0%	0%	0%	2%	75%	18%
	Annex B	52%	10%	2%	8%	1%	29%	0%	1%	1%	51%	27%
	Annex C	26%	9%	2%	7%	2%	4%	0%	0%	2%	47%	12%
REUNION	Total	22%	6%	2%	6%	2%	4%	0%	0%	2%	29%	6%
	Annex A	28%	11%	2%	6%	2%	5%	1%	0%	1%	54%	15%
	Annex B	33%	11%	2%	13%	1%	4%	0%	0%	1%	76%	25%
	Annex C	27%	6%	9%	5%	6%	0%	1%	0%	0%	59%	16%

Table 14. Aggregated Additional Costs by Component (Millions of Euros, 2016)

		Total additional cost	***From inputs***	***From extra stocks***	***From equipment***	***From maintenance***	***From salaries***	***From financing costs***	***From energy***	***From others***	**Local production**
FRENCH GUIANA	Total	49.66	10.50	16.99	9.45	10.87	0	1.29	0	0.55	180.89
	Annex A	7.29	0.49	1.42	1.12	4.21	0	0.06	0	0	43.45
	Annex B	30.61	7.13	11.75	5.07	5.01	0	1.09	0	0.56	106.40
	Annex C	11.81	2.92	3.89	3.24	1.60	0	0.15	0	0	31.04
GUADELOUPE	Total	87.28	29.45	10.35	14.82	8.64	17.36	3.53	0.09	3.03	354.47
	Annex A	2.95	1.07	0.47	0.31	0.16	0.64	0.13	0	0.16	21.45
	Annex B	72.12	25.47	8.18	10.73	7.42	14.82	3.09	0.09	2.31	298.78
	Annex C	10.05	2.55	1.43	2.85	0.82	1.64	0.28	0	0.47	34.23
MARTINIQUE	Total	191.49	73.60	0	18.55	6.31	65.61	7.00	3.47	16.95	608.97
	Annex A	13.64	5.10	0	2.04	0.35	4.55	0.44	0.26	0.90	48.51
	Annex B	153.42	57.92	0	14.57	5.14	52.88	5.66	2.86	14.39	484.09
	Annex C	22.82	10.75	0	2.31	0.66	7.32	0.78	0.27	0.74	76.36
MAYOTTE	Total	27.56	5.69	0.98	4.29	0.57	14.85	0	0.40	0.79	55.00
	Annex A										2.66
	Annex B	2.70	1.80	0	0.45	0.22	0	0	0	0.22	11.24
	Annex C	21.32	4.09	0.78	3.31	0.40	11.85	0	0.32	0.57	41.09
REUNION	Total	278.76	97.60	21.21	72.58	17.09	48.45	3.64	1.76	16.44	1085.60
	Annex A	104.66	30.16	7.83	27.61	7.59	20.76	0.69	1.48	8.53	481.79
	Annex B	117.46	46.50	9.41	26.16	7.14	20.03	2.20	0.24	5.79	422.22
	Annex C	59.80	20.84	3.81	23.81	1.86	6.95	0.56	0.03	1.94	181.59

Table 15. Correlation Between Extra Cost (% of Production), Permitted OdM Differentials, and Actual OdM Differentials

	FRENCH GUIANA	GUADELOUPE	MARTINIQUE	MAYOTTE	RÉUNION
CORR. COEFF. ACTUAL ODM DIFF. / EXTRACOST	0.41	0.47	0.02	0.51	0.53
CORR. COEFF. PERMITTED ODM DIFF. / EXTRACOST	0.58	0.55	0.11	0.75	0.58
NO. OF OBSERVATIONS	75	85	146	13	225

Table 16. Aggregated Additional Costs by Component (in Euros, Tobacco excluded)

	Local produc-tion	**Forgone revenue**	**Total additional cost**	***From transport of goods***	***From extra stocks***	***From business travel***	***From extra idle capacity***	***From water***	***From energy***	***From multiple equip-ment***	***From finance***
2009	2419.30	172.27	654.87	337.96	37.85	13.61	175.05	4.84	30.48	44.85	10.23
2010	2283.75	165.55	618.65	319.11	35.81	12.87	165.55	4.57	28.74	42.34	9.65
2011	2211.59	160.97	598.41	308.84	34.58	12.44	159.92	4.42	27.86	40.99	9.35
2015	1782.47	144.56	513.73	252.33	33.65	11.93	151.95	3.53	19.91	33.33	7.11
2016	1837.36	149.85	529.35	260.07	34.65	12.29	156.48	3.64	20.53	34.35	7.33
2017	1805.43	148.58	520.58	255.34	34.20	12.13	154.34	3.57	20.08	33.74	7.18

Table 17. Aggregated Additional Costs by Component (in % of Supported Local Production, Tobacco)

	Local production	**Forgone revenue**	**Total additional cost**	***From transport of goods***	***From extra stocks***	***From business travel***	***From extra idle capacity***	***From water***	***From energy***	***From multiple equipment***	***From finance***
2009	2419.30	7.12%	27.07%	13.97%	1.56%	0.56%	7.24%	0.20%	1.26%	1.85%	0.42%
2010	2283.75	7.25%	27.09%	13.97%	1.57%	0.56%	7.25%	0.20%	1.26%	1.85%	0.42%
2011	2211.59	7.28%	27.06%	13.96%	1.56%	0.56%	7.23%	0.20%	1.26%	1.85%	0.42%
2015	1782.47	8.11%	28.82%	14.16%	1.89%	0.67%	8.52%	0.20%	1.12%	1.87%	0.40%
2016	1837.36	8.16%	28.81%	14.15%	1.89%	0.67%	8.52%	0.20%	1.12%	1.87%	0.40%
2017	1805.43	8.23%	28.83%	14.14%	1.89%	0.67%	8.55%	0.20%	1.11%	1.87%	0.40%

Table 18. Compensation of extra-cost by branches

CPA	BRANCHES	% OF EXTRA COST COMPENSATED BY AIEM DIFFERENTIAL	EXTRA COST
01	Agricultural and forestry products and related services	55.9%	17.9%
08	Other products of the extractive industries	27.9%	17.9%
10	Food industry products	23.9%	29.8%
11	Beverages	25.4%	29.8%
12	Tobacco products	50.3%	29.8%
13	Products of the textile industry	16.8%	29.8%
14	Clothing Items	16.8%	29.8%
17	Paper and cardboard	35.2%	29.8%
20	Chemical products	16.8%	29.8%
22	Rubber and plastic products	45.1%	29.8%
23	Other non-metallic mineral products	21.6%	29.8%
24	Metallurgical products	16.8%	29.8%
25	Metal products, excluding machinery and equipment	50.3%	29.8%
32	Other manufactured products	16.8%	29.8%

C.4 Analysis of trade and market impact

Using two separate models, imports and local production have been modelled as a function of the actual AIEM/OdM differentials rates and of the internal AIEM/OdM rates. The main difficulty consisted in the comparability of value of local production and imports for different products. To overcome this difficulty, three measures were adopted: (i) using the logarithm of variables so that impact of AIEM/OdM differential is expressed in percentage terms, (ii) aggregating the products (dependent variable) at the 4-digit CN level, (iii) applying individual fixed effects for each 4-Digit CN level products.

➢ IMPACT ESTIMATION ON LOCAL PRODUCTION

Impact on local production is based on data panel modelling. The characteristics of the model are the following:

- Dependent variable: **logarithm of local production at the 4-digit CN level**.
  - The choice of using value of local production at the 4-digit CN level is the result of a trade-off between the necessity of aggregation for comparability between values of production of different products and the necessity of having enough observations and variations for the impact estimation. The products listed in Council Decision are defined at heterogeneous levels – from CN4 to TARIC 10, so for comparability, all data have been aggregated at CN4 level.
  - the coverage was determined by the availability of data for (a) local production value, and (b) actual AIEM/OdM differential rates applied. In most cases, local production data were available only for products as indicated in the Council Decision (i.e. with heterogeneous CN code levels). This is the case for Canary Islands for the period 2014-2017 and for French ORs for 2016. Moreover, relevant production data for 2018 were provided by French authorities, but covering only products for which a non-zero OdM rate is applied (see **Errore. L'origine riferimento non è stata trovata.** for the proportion of products with a null internal rate by French OR).[371] Therefore,

[371] Local production from firms with a turnover lower than 300 000 Euros, is also excluded from these data.

  - When data on local production were available only at the code level indicated in the Decision, the corresponding 4-digit CN level is considered.
  - As regards 2018 local production data for French ORs, the CN4 corresponding level was retained only if this did not include any sub-product (CN8 level) with a zero internal OdM rate.

- Independent variables:
  - **Actual AIEM/OdM differential.** When actual AIEM/OdM differentials vary within the 4-digit CN level, the differential is estimated dividing the estimated foregone revenues by the value of local production for the corresponding CN4 category, i.e., the average of actual AIEM/OdM differentials weighted by local production value.
  - **Actual internal AIEM/OdM rate**. Not only differential rates but also the actual tax might affect local production. In the model used, the differential should be seen as the additional rate applied to imports on the top of the internal rate. In this sense, a variation of differential is treated in the analysis as a variation of the external rates (as it appears to be the case with actual changes of the differentials applied).
  - **Dummies for each 4-digit CN level.** This is to control for the unit price of products.
  - **Dummies for each territory.** This is to control for OR fixed effects, i.e. individual OR characteristics (size of the economy, insularity etc.).
  - **Dummies for each year**

Model Estimation. The results of three model configurations are presented:

- The first one aggregates AIEM and OdM regimes in a single analysis covering both French ORs and the Canary Islands. Control variables include CN4 fixed effects, OR fixed effects and year fixed effects.
- The second one focuses exclusively on French ORs. Control variables are the same as the first model.
- The third one focuses exclusively on the Canary Islands. Given the fewer observations available, control variables include only CN2 level fixed effects.

As displayed in **Errore. L'origine riferimento non è stata trovata.**, in the first two models tax differentials have seemingly a positive impact on local production (significantly different from 0 at less than 5% and 10%, respectively). These models have an explanatory power of respectively 73% and 70%, i.e., the variations of the local production are explained at 73/70% by the model. Instead, the third model is not statistically significant.

According to the results, an increase of one point of actual AIEM/OdM differential corresponds to an increase of local production by 3.96% in the first model and by 3.28% in the second model. The impact is not linear as it is estimated in logarithm variations of the local production. **Errore. L'origine riferimento non è stata trovata.** displays the impact in relation to different levels of AIEM/OdM support. For example, for a differential of 20%, 55% of the local production is possibly explained by the differential (for model 1 or 48% for model 2).

However, the ***model has limitations*** that should be carefully considered:

- First, if the AIEM/OdM differential is set so as to support products with a significant share of local production, this may lead to an endogeneity problem and therefore to an overestimation of the impact of the AIEM/OdM differential rates on local production.
- Given the few variations in AIEM/OdM differentials across time in each OR, the results are essentially determined by cross-ORs comparison.

Table 19. Estimates Coefficients of the Regression Models (Local Production)

VARIABLES	(1) LNLP	(2) LNLP	(3) LNLP
ACTUAL AIEM/ODM DIFFERENTIAL	3.961**	3.275*	-3.267
INTERNAL AIEM/ODM RATE	-4.953	-2.877	0
OBSERVATIONS	687	579	108
ADJ. R-SQUARED	0.73	0.70	0.58
FRENCH ORS	Yes	Yes	No
CANARY ISLANDS	Yes	No	Yes
CN2 LEVEL FE	No	No	Yes
CN4 LEVEL FE	Yes	Yes	No
OR FE	Yes	Yes	--
YEAR FE	Yes	Yes	No

*Notes: *** p<0.1, ** p<0.05, *p<0.01*

Table 20. Examples of Impact of AIEM/OdM Differential Rates on Local Production.

Actual AIEM/OdM differential rates	Share of supported local production explained by differential (model 1)	Share of supported local production explained by differential (model 2)
5%	18%	15%
10%	33%	28%
15%	45%	39%
20%	55%	48%
25%	63%	56%
30%	70%	63%

Estimated Impact on Local Production in French ORs. For a tentative quantification of the impact of OdM differentials on local production in French ORs, we make reference to model 2 (table 20). **Errore. L'origine riferimento non è stata trovata.** reports impact in both monetary terms and in relative terms for each French ORs and by economic branches that contain at least one supported product.

Estimated Impact on Local Production in Canary Islands. For Canary Islands, as the *ad hoc* model (model 3 in Table 20) led to inconclusive results because of limited observations, we may quantify impacts using Model 1 as a proxy. The results are displayed in **Errore. L'origine riferimento non è stata trovata.**, but for the reasons described they should be taken as purely indicative.

Table 21. Impact of OdM Differential Rates on Local Production of Supported Products in French ORs (Millions of Euros, 2016)

		Sections	Local production	Average OdM differential rate	Local production estimated without support	Impact of support on local production (value)	Impact on local production of supported products (%)
FRENCH GUIANA		**Total**	**180.89**	**16%**	**108.83**	**72.06**	**40%**
	A	Agricultural, forestry and fishery products	3.73	26%	1.68	2.05	55%
	B	Extractive industries	15.61	10%	11.25	4.36	28%
	C	Manufacturing	159.43	17%	94.69	64.74	41%
	J	Communication and information	2.12	17%	1.21	0.90	43%
GUADELOUPE		**Total**	**354.47**	**18%**	**200.25**	**154.22**	**44%**
	A	Agricultural, forestry and fishery products	7.60	18%	4.21	3.39	45%
	B	Extractive industries	5.65	8%	4.35	1.30	23%
	C	Manufacturing	328.75	18%	185.21	143.54	44%
	J	Communication and information	12.46	20%	6.47	5.99	48%
MARTINIQUE		**Total**	**608.97**	**18%**	**343.91**	**265.06**	**44%**
	A	Agricultural, forestry and fishery products	17.78	17%	10.39	7.39	42%
	B	Extractive industries	31.76	15%	20.11	11.65	37%
	C	Manufacturing	534.03	18%	296.58	237.45	44%
	E	Water production and distribution; sanitation, waste management and remediation	0.03	8%	0.02	0.01	23%
	J	Communication and information	25.37	14%	16.81	8.56	34%
MAYOTTE		**Total**	**55.00**	**23%**	**26.54**	**28.46**	**52%**
	C	Manufacturing	53.44	23%	25.62	27.82	52%
	J	Communication and information	1.55	17%	0.92	0.64	41%
RÉUNION		**Total**	**1 085.60**	**12%**	**755.16**	**330.44**	**30%**
	A	Agricultural, forestry and fishery products	46.16	5%	39.36	6.80	15%
	C	Manufacturing	1 006.95	12%	697.76	309.19	31%
	E	Water production and distribution; sanitation, waste management and remediation	0.13	11%	0.09	0.04	30%
	J	Communication and information	32.37	18%	17.95	14.42	45%

Table 22.Impact of AIEM Differential Rates on Local Production of Supported Products in Canary Islands (Millions of Euros, 2017)

	Branches	Local production	Average AIEM differential rate	Local production estimated without support	Impact of support on local production (value)	Impact on local production of supported products (%)
01	Agricultural and forestry products and related services	61.62	10%	41.47	20.16	33%
08	Other products of the extractive industries	5.05	5%	4.15	0.91	18%
10	Food industry products	553.42	7%	416.14	137.28	25%
11	Beverages	656.26	8%	486.12	170.13	26%
13	Products of the textile industry	0.49	5%	0.40	0.09	18%
14	Clothing Items	0.31	5%	0.26	0.06	18%
17	Paper and cardboard	140.73	10%	93.10	47.63	34%
20	Chemical products	15.38	5%	12.61	2.77	18%
22	Rubber and plastic products	85.94	13%	50.47	35.46	41%
23	Other non-metallic mineral products	159.25	6%	123.46	35.79	22%
24	Metallurgical products	34.80	5%	28.55	6.25	18%
25	Metal products, excluding machinery and equipment	53.20	15%	29.37	23.83	45%
32	Other manufactured products	2.16	15%	1.19	0.97	45%
58	Edition	0.94	5%	0.77	0.17	18%
TOTAL		**1805.43**	**8%**	**1308.11**	**497.32**	**28%**

➢ **GRAVITY MODEL/ IMPACT ON IMPORTS**

The impact on external trade is estimated based on gravity modelling of imports of products (at the 4-digit CN level) between ORs and other countries, including the mainland. In addition to AIEM/OdM rates, other variables including economic weight and distance of the trading partners are used as explanatory variables to predict trade flows. The characteristics of the model are as follows:

- Dependent variable: **logarithm of imports value at the 4-digit CN level**
- Independent variables:
    - **Actual AIEM/OdM differential.** When actual AIEM/OdM differentials vary across sub-products belonging to a given CN4 category, the average of lower-level AIEM/OdM differential (e.g. CN6 or below) is taken.[372]
    - **Actual internal AIEM/OdM rate**. Not only differential rates but also the actual tax might affect imports. In the same way of the analysis of local production, it is assumed that a change in differential is determined by a change of the external AIEM/OdM rate. Therefore, the resulting impact should

[372] When actual AIEM/OdM differentials vary within the 6-digit CN level, the average of actual AIEM/OdM differential of 8-digit CN level products included in the 6-digit CN level is taken. Finally, when actual AIEM/OdM differentials vary within the 8-digit CN level, the average of actual AIEM/OdM differential of 10-digit CN level products included in the 8-digit CN level is taken

be interpreted as associated to a variation of the external AIEM/OdM rate applied.
    - **Logarithm of the distance**
    - **Logarithm of GDP per capita** between ORs and country of origin of imports.
    - **Logarithm of OR population**
    - **Logarithm of OR GDP per capita**
    - **Dummies for mainland**. This dummy is equal to one when products come from Spain in the case of AIEM from France in the case of OdM.
    - **Dummies for European countries**. This dummy is equal to one when products come from EU Member States.
    - **Dummies for CARIFORUM and Interaction dummies with OR**: The dummy is equal to one when the country of origin of imports belongs to the CARIFORUM. Interaction dummies are also introduced to allow for different impact of the origin country belonging to CARIFORUM at the OR level.
    - **Dummies for ESA and Interaction dummies with OR**: The dummy is equal to one when country of origin of imports belongs to ESA countries that have stipulated an EPA with the EU. Interaction dummies are also introduced to allow for different impact of the origin country belonging to ESA at the OR level.
    - **Dummies for each 4-digit CN level.** This is to control for the unit price of products.
    - **Dummies for each territory.** This is to control for OR-related fixed effects.
    - **Dummies for year.** This is to control for year fixed effects (e.g., economic shocks).
- The coverage is determined by the availability of the data, both on imports and on actual AIEM/OdM differential rates.
    - For Canary Islands, data on imports covering 2009-2018 were retrieved. However, data on actual AIEM rates are missing for 2012 and 2013 so these years are excluded. Imports data refer only to AIEM supported products, so the analysis is limited to these products.
    - For French ORs, data on imports covering 2011 to 2018 (with the exclusion of 2015) were provided by competent authorities. However, actual OdM differentials are not available for the entire period, so analysis covers: 2014, and from 2016 to 2018 for French Guiana, Guadeloupe, Mayotte and Réunion; and from 2016 to 2018 for Martinique.

Model Estimation. The results of three model configurations are presented:

- The first one aggregates AIEM and OdM regimes in a single analysis covering both French ORs and the Canary Islands.
- The second one focuses exclusively on French ORs.
- The third one focuses exclusively on the Canary Islands.

As displayed in **Errore. L'origine riferimento non è stata trovata.**, in the first two models tax differentials have seemingly a negative impact on imports (significantly different from 0 at less than 1%). These models have an explanatory power of respectively 38%, and 39%. Instead, the third model is not statistically significant.

According to the results, an increase of one point of actual AIEM/OdM differential corresponds to a decrease of imports by 0.75% in the first model, and by 0.92% in the second model. The impact is not linear as it is estimated in logarithm variations of the local production.

Errore. L'origine riferimento non è stata trovata. displays the extent of forgone imports for differential levels of AIEM/OdM differentials (expressed in percentage of imports of supported products). For example, the removal of a differential of 20% is associated with a possible increase of imports by 12% (for model 1 or 13% for model 2).

Table 23. Gravity Model: Coefficient Estimates

VARIABLES	(1) LOG IMPORTS (VAL)	(2) LOG IMPORTS (VAL)	(3) LOG IMPORTS (VAL)
ACTUAL AIEM/ODM DIFFERENTIAL	-0.751***	-0.917***	-1.516
INTERNAL AIEM/ODM RATE	-0.643***	-0.646***	-1.759
LOG DISTANCE	-0.271***	-0.268***	-0.218**
LOG OF GDP P.C. GAP	-0.040***	-0.038***	-0.132**
LOG OF OR POPULATION	0.369***	0.369***	0.467***
LOG OF OR GDP P.C.	0.238***	0.241***	0.284***
MAINLAND	3.519***	3.522***	--
EU	0.478***	0.478***	0.967***
OBSERVATIONS	158 721	154 784	3 937
ADJ. R-SQUARED	0.38	0.39	0.23
FRENCH ORS	Yes	Yes	No
CANARY ISLANDS	Yes	No	Yes
YEAR FE	Yes	Yes	Yes
CN4 LEVEL FE	Yes	Yes	Yes
OR FE	Yes	Yes	--
CARIFORUM	Yes	Yes	Yes
ESA	Yes	Yes	Yes
CONST.	Yes	Yes	Yes

*Notes: *** p<0.1, ** p<0.05, *p<0.01*

Table 24. Examples of Impact of AIEM/OdM Differential Rates on Imports.

ACTUAL AIEM/ODM DIFFERENTIAL RATES	FORGONE IMPORTS DUE TO DIFFERENTIAL (MODEL 1)	FORGONE IMPORTS DUE TO DIFFERENTIAL (MODEL 2)
5%	3.8%	4.7%
10%	7.8%	9.6%
15%	11.9%	14.8%
20%	16.2%	20.1%
25%	20.7%	25.8%
30%	25.3%	31.7%

Estimated Impact on Imports in French ORs. For a tentative quantification of the impact of OdM differential rates on imports in French ORs, we selected model 2 of table 24. The corresponding estimates, including a breakdown by origin, are laid down in **Errore. L'origine riferimento non è stata trovata.**. The impact is estimated assuming that the differential is removed by bringing the external OdM rate in line with the internal OdM rate.

For 2018, it is estimated that the foregone imports due to OdM differential in French Guiana amounted to 2.7%, in Guadeloupe to 1.6%, in Martinique to 3.6%, in Mayotte to 1.8%, and in Réunion to 2%. The total impact depends on the structure of imports. So, for instance, the impact for CARIFORUM countries is slightly higher, in relative terms, because imports from these countries have comparatively higher OdM differential rates.

In the following Table 27, the same analysis is carried out but assuming that the OdM differential is removed by increasing internal rates to the level of external rates. Based on model 2 of Table 24, the removal of a 1% OdM differential is associated with an overall increase of imports by 0.27%. On this basis, the 2018 forgone imports were 0.8% in French Guiana, 0.5% in Guadeloupe, 1% in Martinique, 0.5% in Mayotte and of 0.6% in Réunion.

Table 25. Impact on Imports of OdM Differential Rates (Adjustment by External OdM Rate) in French ORs (Millions of Euros, 2018)

	FRENCH GUIANA	GUADELOUPE	MARTINIQUE	MAYOTTE	RÉUNION
TOTAL IMPORTS	1 262.72	2 757.18	2 310.49	509.33	5 125.94
IMPACT ON IMPORTS	-33.82	-44.04	-84.13	-9.88	-103.49
IMPACT ON IMPORTS (IN %)	-2.7%	-1.6%	-3.6%	-1.9%	-2.0%
TOTAL IMPORTS FROM FRANCE	742.58	1 879.61	1 588.32	313.20	3 397.05
IMPACT ON IMPORTS FROM FRANCE	-19.55	-32.50	-59.81	-5.89	-71.21
IMPACT ON IMPORTS FROM FRANCE (IN %)	-2.6%	-1.7%	-3.8%	-1.9%	-2.1%
TOTAL IMPORTS FROM EU	1 053.66	2 296.26	1 908.70	385.86	4 098.77
IMPACT ON IMPORTS FROM EU	-30.60	-40.21	-71.51	-7.06	-86.33
IMPACT ON IMPORTS FROM EU (IN %)	-2.9%	-1.8%	-3.7%	-1.8%	-2.1%
TOTAL IMPORTS FROM CARIFORUM COUNTRIES	12.01	16.17	15.82	0.00	0.11
IMPACT ON IMPORTS FROM CARIFORUM COUNTRIES	-0.35	-0.69	-1.95	0.00	0.00
IMPACT ON IMPORTS FROM CARIFORUM COUNTRIES (IN %)	-2.9%	-4.3%	-12.3%	0.0%	-3.6%

Table 267. Impact on Imports of OdM Differential Rates (Adjustment by Internal OdM Rate) in French ORs (Millions of Euros, 2018)

	FRENCH GUIANA	GUADELOUPE	MARTINIQUE	MAYOTTE	RÉUNION
TOTAL IMPORTS	1 262.72	2 757.18	2 310.49	509.33	5 125.94
IMPACT ON IMPORTS	-9.52	-12.44	-23.63	-2.77	-29.42
IMPACT ON IMPORTS (IN %)	-0.8%	-0.5%	-1.0%	-0.5%	-0.6%
TOTAL IMPORTS FROM FRANCE	742.58	1 879.61	1 588.32	313.20	3 397.05
IMPACT ON IMPORTS FROM FRANCE	-5.52	-9.17	-16.79	-1.65	-20.24
IMPACT ON IMPORTS FROM FRANCE (IN %)	-0.7%	-0.5%	-1.1%	-0.5%	-0.6%
TOTAL IMPORTS FROM EU	1 053.66	2 296.26	1 908.70	385.86	4 098.77
IMPACT ON IMPORTS FROM EU (IN VALUE)	-8.61	-11.35	-20.06	-1.98	-24.52
IMPACT ON IMPORTS FROM EU (IN %)	-0.8%	-0.5%	-1.1%	-0.5%	-0.6%
TOTAL IMPORTS FROM CARIFORUM COUNTRIES	12.01	16.17	15.82	0.00	0.11
IMPACT ON IMPORTS FROM CARIFORUM COUNTRIES	-0.10	-0.20	-0.55	0.00	0.00
IMPACT ON IMPORTS FROM CARIFORUM COUNTRIES (IN %)	-0.8%	-1.2%	-3.5%	0.0%	-1.0%

Estimated Impact on Imports in Canary Islands. For Canary Islands, as the *ad hoc* model (model 3 in Table 24) led to inconclusive results because of limited observations, we may quantify impacts using Model 1 as a proxy. The results are displayed in **Errore. L'origine riferimento non è stata trovata.**8, but for the reasons described they should be taken as purely indicative.

Table 278. Impact on Imports of AIEM Differential Rates (Millions of Euros)

	2009	2010	2011	2014	2015	2016	2017	2018
TOTAL IMPORTS	11 927	14 121	14 071	13 966	14 294	14 826	16 754	17 435
IMPACT ON IMPORTS (IN VALUE)	-58.10	-60.83	-65.50	-73.98	-79.79	-81.11	-87.03	-91.15
IMPACT ON IMPORTS (IN %)	-0.5%	-0.4%	-0.5%	-0.5%	-0.6%	-0.5%	-0.5%	-0.5%
IMPACT ON IMPORTS FROM SPAIN (IN VALUE)	-50.59	-52.37	-56.58	-64.49	-69.23	-69.48	-74.61	-79.00
IMPACT ON IMPORTS FROM EU (IN VALUE)	-56.86	-59.33	-63.99	-72.69	-78.36	-79.50	-85.26	-89.57

C.4 Macro-Economic Impact

➢ **IMPACT ON ADDED VALUE AND EMPLOYMENT**

Impacts on added-value and employment of AIEM/OdM differential rates have been estimated by extrapolation from impact on local production. For each economic branch, ratios of added-value over local production and employment over local production have been estimated using data from regional economic accounts. The impact on added value and employment are then derived from the impact on local production assuming these ratios as constant.

Ratios of added value on local production are estimated by branch using available data at the macro level. For Canary Islands all data, except for primary sector[373], are available through ISTAC. In the case of French ORs, no data is available for 2016 so the average ratios for previous years were used, as follows[374]:

- 2012-2014 for French Guiana, Guadeloupe and Martinique
- 2004-2015 for Réunion.

In the same way, average employment data from previous years were used as follows:

- 2012 for French Guiana and Martinique
- 2012-2014 for Guadeloupe
- 2010-2015 for Réunion

Estimated impacts of the OdM differentials rates on added value and employment in French ORs in 2016 are summarised in Table 29, while the same estimates for the Canary Islands (2017) are shown in **Errore. L'origine riferimento non è stata trovata.**30.

[373] For this sector, the ratio of added-value on local production was estimated using the average ratio for French ORs as a proxy.
[374] Data for Mayotte are unavailable.

Table 289. Impact of OdM Differential Rates on Added Value and Employment (2016, Millions of Euros/No of Employees)

		SECTIONS	Impact of support on local production (value)	Average ratio av/loc. Prod.	Impact in terms of added value	Average ratio empl./loc prod (no./millions of euros)	Impact in terms of employment
FRENCH GUIANA		**Total**	**72.06**		**20.22**		**391**
	A	Agricultural, forestry and fishery products	2.05	81%	1.65	9	19
	B	Extractive industries	4.36	35%	1.55	22	96
	C	Manufacturing	64.74	26%	16.63	4	273
	J	Communication and Information	0.90	43%	0.39	3	3
GUADELOUPE		**Total**	**154.22**		**41.56**		**1 078**
	A	Agricultural, forestry and fishery products	3.39	45%	1.51	15	50
	B	Extractive industries	1.30	51%	0.66	5	6
	C	Manufacturing	143.54	26%	36.64	7	1 011
	J	Communication and Information	5.99	46%	2.74	2	11
MARTINIQUE		**Total**	**265.06**		**76.10**		**1 341**
	A	Agricultural, forestry and fishery products	7.39	71%	5.28	18	135
	B	Extractive industries	11.65	32%	3.76	4	46
	C	Manufacturing	237.45	26%	62.85	5	1 130
	E	Water production and distribution; sanitation, waste management and remediation	0.01	39%	0.00	3	0
	J	Communication and Information	8.56	49%	4.20	3	30
RÉUNION		**Total**	**330.44**		**101.02**		**1 494**
	A	Agricultural, forestry and fishery products	6.80	42%	2.82	5	33
	C	Manufacturing	309.19	31%	95.62	5	1 411
	E	Water production and distribution; sanitation, waste management and remediation	0.04	38%	0.01	5	0
	J	Communication and Information	14.42	18%	2.56	3	50

Source: Author's elaboration, INSEE

Table 29. Impact of AIEM Differential Rates on Added Value and Employment (Millions of Euros, 2017)

	SECTIONS	Impact on loc. Prod.	Average ratio Av/loc. Prod	Impact in terms of added value	Average ratio empl./loc. Prod. (no./ millions of euros)	Impact in terms of employment
A	Agricultural, forestry and fishery products	20.16	48%*	9.62	15	300
B	Extractive industries	0.91	36%	0.33	14	12
C	Manufacturing	460.45	40%	184.38	9	4260
J	Communication and Information	15.81	66%	10.42	6	100
TOTAL		**497.32**		**204.76 (0.46% of total)**		**4 673 (0.57% of total)**

*Source: Author's elaboration, ISTAC. Notes: Values with * are estimated.*

- **ESTIMATION OF ODM DIFFERENTIALS IMPACT ON RETAIL PRICE AND FINAL CONSUMPTION**

As there is practically no information available on the cost-price of imported goods subject to OdM as well as on the average price of the same goods produced locally, the analysis of tax differentials on price level is purely descriptive and based on some operational assumptions. The first assumption is that the tax paid is fully passed onto consumers. This is only a working hypothesis, since very likely part of the tax is absorbed by the importers / producers to preserve the competitiveness. Then, the estimated tax receipts - increased by retailer margins[375] – have been compared to household expenditure to elaborate an indicator of the (maximum) additional price borne by final consumers.

A few notes on data coverage and use:

- Final consumption data are drawn from economic accounts. The last year of availability is 2014.[376]
- Data on revenues collected in 2018 on local production and imports have been retrieved from French authorities. The analysis considers three types of tax revenues: internal tax revenues (OdM revenues on local production), external tax revenues (OdM revenues on imports) and tax revenues from differential rates. The last one is equivalent to the OdM differential rate multiplied by the value of relevant imports, hence differential rates revenues are part of the external tax revenues.
- As regards internal OdM revenues, only product-level declared amounts and not actual net collected revenues are provided. Therefore, values have been corrected using the ratio between aggregated declared amounts and aggregated net collected internal revenues.
- All tax revenues are corrected by the ratio of collected revenues in 2014 divided by collected revenues in 2018. This is to improve consistency between data on final consumption - only available for 2014 - and data on declared amounts of internal OdM, which are only provided for 2018.

Errore. L'origine riferimento non è stata trovata.1 displays the maximum estimated impact of OdM on retail price and final consumption at the aggregated level and for relevant economic branches. **Errore. L'origine riferimento non è stata trovata.**2 provides, for benchmarking, INSEE estimates of price differential between French ORs and the mainland.

[375] Assumed of 30%, in line with INSEE estimates.
[376] Data on final consumption for 2015 is available for Réunion but for consistency, only 2014 is kept.

Table 301. Estimates of Maximum Impact on Retail Prices and Final Consumption

		SECTIONS	TOTAL ODM IMPACT	INTERNAL ODM IMPACT	EXTERNAL ODM IMPACT	*DIFFERENTIAL ODM IMPACT*
FRENCH GUIANA		**Total**	**4.6%**	**0.3%**	**4.3%**	***1.3%***
	A	Agricultural, forestry and fishery products	1.0%	0.0%	1.0%	*0.1%*
	C	Manufacturing	17.0%	0.1%	16.8%	*5.0%*
	E	Water production and distribution; sanitation, waste management and remediation	0.0%	0.0%	0.0%	*0.0%*
	J	Communication and information	0.4%	0.0%	0.4%	*0.5%*
GUADELOUPE		**Total**	**3.7%**	**0.1%**	**3.6%**	***0.7%***
	A	Agricultural, forestry and fishery products	3.2%	0.1%	3.2%	*0.6%*
	C	Manufacturing	12.9%	0.2%	12.7%	*2.7%*
	E	Water production and distribution; sanitation, waste management and remediation	0.0%	0.0%	0.0%	*0.0%*
	J	Communication and information	0.7%	0.1%	0.5%	*0.2%*
MARTINIQUE		**Total**	**3.6%**	**0.2%**	**3.4%**	***1.4%***
	A	Agricultural, forestry and fishery products	3.1%	0.2%	2.9%	*1.6%*
	C	Manufacturing	13.7%	0.4%	13.3%	*5.3%*
	E	Water production and distribution; sanitation, waste management and remediation	0.6%	0.0%	0.6%	*0.5%*
	J	Communication and information	0.6%	0.1%	0.4%	*0.2%*
RÉUNION		**Total**	**2.5%**	**0.1%**	**2.5%**	***0.8%***
	A	Agricultural, forestry and fishery products	1.1%	0.0%	1.1%	*1.0%*
	C	Manufacturing	9.8%	0.3%	9.5%	*3.2%*
	E	Water production and distribution; sanitation, waste management and remediation	0.0%	0.0%	0.0%	*0.0%*
	J	Communication and information	0.5%	0.0%	0.5%	*0.4%*

Table 312. Price Differential between overseas departments and metropolitan France from INSEE (March 2015)

	Price Differential
French Guiana	17.1%
Guadeloupe	17%
Martinique	16.2%
Réunion	10.6%

ANNEX D – COHERENCE WITH OTHER EU SCHEMES

PART 1 – AIEM

1. Agriculture

1.1 POSEI Programme – Excluding Specific Supply Arrangements (SSA)

a. Overview

In Spanish ORs, the POSEI represents the main instrument of EU support in the agricultural sector. In terms of EU allocations, the Spanish POSEI (also called "POSEICAN") reaches an annual budget of EUR 268 million in Spain[377], funded from the European agricultural guarantee fund (EAGF). The objectives of POSEI are[378]:

- guarantee the supply of essential agricultural products for human consumption, mitigating the costs incurred due to extreme remoteness – without harming local production,
- secure the development of the 'livestock' and 'crop-diversification' sectors, including the production, processing and sale of local products,
- maintain and strengthen the competitiveness of traditional agricultural activities, including the production, processing and marketing of local crops and products.

The POSEI is articulated in two measures:
1) the **Specific Supply Arrangements** (SSA): see following section.
2) **Support to Local Production** (SLP), including (a) support to traditional activities ("*filières traditionelles*"), and (b) support to the diversification of production. SSA represents some 82% of the total EAGF allocations, of which circa 75% are today used to support traditional activities – i.e. bananas and export of tomatoes in Canary Islands - and the rest for diversification.

Scheme	POSEI Programme – Excluding Specific Supply arrangements (SSA)	**Type**	EU instrument
Geographical coverage	Canary Islands	**Target beneficiaries**	Agriculture sector: Producers organisation, producers associations, companies, cooperatives, farmers
Time period	Annual	**Budget**	2018: EUR 268 million (EU contribution) and EUR 25 million (national contribution)

[377] Additionally, national complementary allocations amount to EUR 25 million for Spain.
[378] Source: Article 2 of Regulation (EU) No 228/2013

b. Implementation details

In Canary Islands, the support to local production is based on three types of measures[379]: a measure to support the crop production, a measure to support the banana growers and a measure to support the animal production.

In 2017, these 3 measures represented a global payment of EUR 203 million. More than half of this amount paid was devoted to the banana growers (EUR 140 million in 2017).

Table 32 – Implementation details of the POSEICAN (2017)

	Financial fiche	EU funding	Additional funding	Payments
SSA	63 749 690 €	63 749 690 €		60 644 497 €
Support measures to the agricultural production	226 651 880 €	204 669 584 €	21 982 296 €	203 043 582 €
Support crop production	51 524 000 €	36 670 500 €	14 853 500 €	36 384 479 €
Support banana growers	141 100 000 €	141 100 000 €		140 057 569 €
Support animal production	34 027 880 €	26 899 084 €	7 128 796 €	26 601 532 €
TOTAL	**290 401 570 €**	**268 419 274 €**	**21 982 296 €**	**263 688 079 €**

Source: Annual execution report (2018 – Campaign POSEICAN 2017)

Annual expenditure (average for the period)	Share attributable to relevant sectors	Share attributable to specific AIEM products	Share attributable to the compensation of operating costs	Share attributable to specific cost factors
Payments 2018 (excl. SSA): EUR 204 million	100%	100%	100%	n.a.

Theoretically, this programme may be prolonged annually over the next programming period 2021-2027; with – in average – the same budgets.

c. Estimated impact

The estimated impact of the POSEI programme in Canary Islands is based on the following documents:

- The annual report on the implementation of the programme for the previous year (Annual Implementation Report – AIR). This annual report is mainly highlighting the performance of the programme thanks to the follow-up of several financial and technical indicators for each measure related to the support of local production. According to the last AIR, the POSEI scheme is considered as essential to maintain the agricultural activity in Canary Islands. The execution rate for the year 2018 was 99.2%, which underscores the success of this scheme.
- The report from the commission to the European Parliament and the Council on the implementation of the scheme of specific measures for agriculture in favour of the outermost regions of the Union (POSEI)[380]: external evaluation of the 2006-2014 POSEI scheme that was carried out from June 2015 to August 2016. Based this report, "the overall assessment of the POSEI programme over the

[379] https://www.gobiernodecanarias.org/agricultura/doc/otros/posei/POSEI_Canarias-Programa_Agrario-Consolidado_enero_2015.pdf
[380] https://eur-lex.europa.eu/resource.html?uri=cellar:be393c61-c2c0-11e6-a6db-01aa75ed71a1.0004.02/DOC_1&format=PDF

2006-2014 period appears to be rather positive especially as regards their ability to address the particular agricultural challenges, linked to the specific geographical location of the OR, as defined on Article 349 of the TFEU". All the challenges of the ORs (remoteness and insularity, complex topography) are directly addressed by POSEI programmes though a substantial contribution to farmer's incomes. In terms of recommendation, the report pointed the lack of a clear strategy with the quantification of specific objectives by adequate indicators; the need to improve the reporting though performance indicators and a better assessment of the compliance with the objectives.

d. Analysis of coherence

The main objective of the POSEI is to support the agricultural sector that suffers from insularity and remoteness. This objective is similar and coherent with AIEM. But this objective is specifically covered by the SSA support. The operational objectives of the support to local production are much larger:

- Maintain traditional farming activities of rural areas and prevent damages to the traditional landscapes,
- Increase the supply of local fresh production
- Promote quality farming products,
- Maintain banana and sugar-cane-rum sectors.

The scheme aims at supporting local farmers and producers, also beneficiaries of AIEM. The POSEI support a large range of products that may be part of the Annex I of the EC Treaty. Regarding the potential cumulative effects of POSEI (excluding SSA) and AIEM, it can be highlighted that in the Canary Islands, the scope of AIEM is narrow but 'potatoes' (CN code: 0701) and 'onions' (CN code: 0703) are AIEM 'supported products' (list B), meaning that these products beneficiate from a differential rate of AIEM. These products may also beneficiate from the support of POSEI to local production.

Based on the analysis of these documents, it can be highlighted that in Canary Islands, POSEI covers all activities in the agricultural sector through a direct support to the production. In that sense, the economic activities targeted by the POSEI are the same the economic activities targeted AIEM. Both schemes (POSEI and AIEM) are designed for cost compensation because of insularity and remoteness but the support to local production of POSEI covers a larger scope of objectives than AIEM. POSEI covers a large scope of agricultural products that may also be supported through the AIEM supported products. For instance, that may be the case of the production of 'potatoes' and 'onions' in Canary Islands. Thus, we assess that there is a potential cumulative effect between the support to local production granted through the POSEI and AIEM.

Nevertheless, if both schemes have a similar objective to compensate 'natural handicaps' of ORs, they don't address the same aspect of this issue as POSEI support farmers income and AIEM supports local farms and companies through a reduction of taxes. Thus, it can be considered that both schemes are more complementary than overlapping.

1.2 POSEI Programme – Specific Supply Arrangements (SSA)

a. Overview

The Specific Supply Arrangements (SSA), aims at mitigating the supply costs for linked with insularity and remoteness for: (a) essential products for human consumption and (b) inputs necessary for agricultural and processing activities. The support may cover exemptions from duties on imports of selected agricultural products from third countries or aid for the supply of products from the EU mainland. SSA represents some 18% of the total EAGF allocations. The POSEI Regulation established a SSA maximum annual allocation of EUR 72.7 million for Canary Islands.

The volume of products to be supplied under the SSA is set annually by national authorities based on need forecasts.

Scheme	POSEI Programme – Specific Supply Arrangements (SSA)	**Type**	EU Instrument
Geographical coverage	Canary Islands	**Target beneficiaries**	Agriculture sector: Producers organisation, producers associations, companies, cooperatives, farmers
Time period	Annual	**Budget**	2018: EUR 72,7 million (EU contribution ; no national contribution)

b. Implementation details

Implementation details of SSA are gathered in the Annual Implementation Reports of POSEI.

Based on these documents, the analysis of SSA for the year 2017 shows that 54.2% of the payments are allocated to cereals for animal feed (36.2%) and human feed (18%). Dairy products accounted for 23.6% of the payments, followed by "alfalfa, straw, ryegrass" for 10.2%. The remaining 12% of the payments were allocated to meats (6%); processed fruits (2.5%); oils (1.5%); rice (1%); potatoes (0.7%); other products (0.3%).

According to the analysis of the AIR of the previous years, this general breakdown has been similar over the last 4 years period. The table below presents this breakdown of the SSA payments in 2017.

Table 33 – SSA payments in 2017

		Payment		Number of beneficiaries	
Products	**CN codes**	**EUR**	**%**	**N°**	**%**
Cereals for animal feed	0713, 1003, 1004, 1005, 1206, 1212, 12149090T442, 12141000T440, 12149090T441, 2303, 2304, 2306	21 974 641	36,24%	41	13,80%
Dairy products	0401, 0402, 0405, 0406	14 285 953	23,56%	91	30,64%
Cereals for human feed	1001, 1103, 1105, 1107, 170230, 170240	10 883 492	17,95%	33	11,11%
Alfalfa, straw, ryegrass	1213, 1214	6 178 556	10,19%	47	15,82%
Meats	0201, 0202, 0203, 0207	3 693 308	6,09%	73	24,58%
Processed fruits	2007, 2008	1 511 596	2,49%	73	24,58%
Oil	1507, 1508, 1509, 1510, 1511, 1512, 1513, 1514, 1515, 1516, 1517	911 381	1,50%	58	19,53%
Rice	1006	627 186	1,03%	29	9,76%
Potatoes	701	422 953	0,70%	17	5,72%
Sugar	1701, 1702	2 652	0,00%	6	2,02%
Other	0408, 1108, 1210, 1901	152 739	0,25%	12	4,04%
TOTAL		**60 644 497**	**100%**	**297**	**100%**

Source: Annual Implementation Report 2018

Over the last 10 years period, the average payments for SSA was EUR 63,5 million for a whole sales value of EUR 475 million, meaning that the SSA support covered, in average, 13,3% of the sales value of the products supported by SSA.

Annual expenditure (average for the period)	**Share attributable to relevant sectors**	**Share attributable to specific AIEM/OdM products**	**Share attributable to the compensation of operating costs**	**Share attributable to specific cost factors**
EUR 60,6 million (2017)	100%	0%	100%	100% transport costs

Theoretically, this programme may be prolonged annually over the next programming period 2021-2027; with – in average – the same budgets.

c. Estimated impact

The estimated impact of SSA is based on the Annual Implementation Reports of POSEICAN: this annual report is mainly highlighting the performance of the programme thanks to the follow-up of several financial and technical indicators for each measure, including SSA. Performance indicators for SSA mainly focus on the passing of the benefit granted until the consumer and the analysis of the additional costs of beneficiaries to ensure that the support received through SSA is not higher. According to the last available AIR, few discrepancies have been registered regarding this scheme (less than 1% in 2017). SSA is considered as essential to maintain the agricultural activity in Canary Islands, well-complying with its objectives. The execution rate is between 95% and 97% over the 5 years, which underscores the success of this scheme. This annual report also gives the effective breakdown of SSA per category of products.

d. Analysis of coherence

Coherence of schemes' objectives:
AIEM and SSA both aim at boosting the local economy of French ORs and Canary Islands. The SSA aims at reducing the extra costs of supplying the ORs with essential products for human consumption and processing industries.

In Canary Islands, the POSEICAN specifies that: "in order to guarantee the supply of essential agricultural goods to ORs and to reduce the additional costs linked to the insularity, a specific support is implemented to support the provision of some agricultural products. This support is calculated according to the additional costs of transport and other additional costs linked with insularity and remoteness"[381].

AIEM represent essential resources for local government. This scheme can also be used for social and economic development through the possibility of ORs to provide total or partial exemptions to promote local processing (exemption of AIEM for imports of raw materials for specific sectors) or to protect local production (tax differential between the tax of importation and tax of production).

To ensure the overall consistency between these 2 schemes (the SAA and the AIEM), a clear coordination is necessary.

Coherence of the schemes' implementation:
In 2004, a European decision[382] stated that the cumulation of SSA and exemption or tax differential of AIEM is not possible. It means that Canary Islands, the overlapping between AIEM-supported products and SSA-supported products is not possible. This decision was stated in 2004 for a period of 10 years and these provisions have been extended in 2014 until June 30th 2020[383].

To deepen the analysis of coherence, we need to refer to the detailed implementation of SSA in the Canary Islands[384] where we can find, for each product category, the designation products to be considered and their CN codes.

Two levels of analysis must be considered:
- Direct overlapping: cases of overlapping between SSA and AIEM for the same products,
- Indirect overlapping: raw products imported with the support of SSA and used in processing industries of Canary Islands for the manufacturing of product covered by AIEM.

1) Direct overlapping:

In the case of AIEM, the crossing of the list of 'supported products' from AIEM and the list of products benefiting from SAA[385] does not show any 'double' compensation

[381] http://www.gobiernodecanarias.org/promocioneconomica/rea_new/index.jsp
[382] https://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2004:052:0064:0069:FR:PDF
[383] https://eur-lex.europa.eu/legal-content/FR/TXT/PDF/?uri=CELEX:32014D0940&from=FR
[384] http://www.gobiernodecanarias.org/promocioneconomica/rea_new/balances_y_ayudas/historico/
[385] http://www.gobiernodecanarias.org/promocioneconomica/rea_new/balances_y_ayudas/datos_actuales/ (*Plan de previsiones de abastecimiento y estado de ejecuccion 2019*)

overtime (lists have been compared from 2010 until 2018): it means that the POSEI policy, to prevent any overlapping, is well implemented as products supported by SAA are not included in the four lists (A, B, C and D) of 'supported products' from AIEM.

2) Indirect overlapping:

The table below aims at the identification of the potential overlapping between raw materials supported by SSA and used in the process of products manufactured in the ORs and supported by AIEM scheme.

Indeed, prepared products like flours or beers may be supported by:

- a differential rate of AIEM,
- the SSA support for the import of cereals and malt used in the process.

Table 34 – Potential indirect overlapping between AIEM and SSA schemes

<table>
<tr><th>CN code</th><th>Product</th><th>List 'supported products' - AIEM Canary Islands</th><th>Potential indirect overlapping with raw materials supported by the SSA scheme</th></tr>
<tr><td>1101</td><td>Wheat or meslin flour</td><td>A</td><td rowspan="9">The share of SAA which is allocated to the import of cereals may be used for the manufacturing of flours/starches.</td></tr>
<tr><td>1102</td><td>Cereal flours other than of wheat or meslin</td><td>A</td></tr>
<tr><td>1901 20</td><td rowspan="3">Malt extract; food preparations of flour, groats, meal, starch or malt extract, not containing cocoa or containing less than 40 % by weight of cocoa calculated on a totally defatted basis, not elsewhere specified or included; food preparations of goods of headings 0401 to 0404, not containing cocoa or containing less than 5 % by weight of cocoa calculated on a totally defatted basis, not elsewhere specified or included</td><td>A</td></tr>
<tr><td>1901 90 91 00</td><td>A</td></tr>
<tr><td>1901 90 99</td><td>A</td></tr>
<tr><td>1902</td><td>Pasta, whether or not cooked or stuffed (with meat or other substances) or otherwise prepared, such as spaghetti, macaroni, noodles, lasagne, gnocchi, ravioli, cannelloni; couscous, whether or not prepared</td><td>C</td></tr>
<tr><td>1904 10 10</td><td>Prepared foods obtained by the swelling or roasting of cereals or cereal products (for example, corn flakes); cereals (other than maize (corn)) in grain form or in the form of flakes or other worked grains (except flour, groats and meal), pre-cooked or otherwise prepared, not elsewhere specified or included</td><td>A</td></tr>
<tr><td>1905</td><td>Bread, pastry, cakes, biscuits and other bakers' wares, whether or not containing cocoa; communion wafers, empty cachets of a kind suitable for pharmaceutical use, sealing wafers, rice paper and similar products</td><td>A</td></tr>
<tr><td>2203</td><td>Beer made from malt</td><td>C</td></tr>
</table>

			who beneficiate from AIEM.

According to the analysis done over the last 10 years, we assess that this potential indirect overlapping between AIEM and SSA has been possible over the last decade.

Finally, it has to be mentioned that in 2016, a more general external evaluation on POSEI was carried out[386], followed by a Commission Report[387], but the issue of potential overlapping with the special tax regimes was not mentioned.

We can conclude that there are provisions in the POSEI policy to prevent that products supplied under the SSA fall in the scope of 'supported products' of AIEM, to avoid a possible overlapping at 2 levels:

- Direct overlapping for the same products.
- Indirect overlapping in the case of raw materials imported by Canary Islands with the support of SSA and included in the processing of products supported by the AIEM scheme.

However, the articulation and complex management of product lists for both schemes make such overlapping in principle possible, but uncommon. In Canary Islands, it seems that, overtime, there is no direct overlapping between AIEM and SAA, meaning that the European demarcation line between SAA and AIEM is well-implemented.

1.3 Compensation regime for maritime and air transport of goods included in Annex I of the EC Treaty with origin or destination in the Canary Islands

a. Overview:

This scheme[388] is a compensation program implemented with the objective to reduce the cost of transport for products included in Annex I of the Treaty; for their transportation from or to Canary Islands (products from Canary Islands or processed in Canary Islands).

This support targets the transport of the following products:

- Agricultural products (except banana),
- Plants, flowers, cuttings,
- Cattle feed.

[386] ADE, Evaluation of measures for agriculture carried out for the outermost regions (POSEI) and the smaller Aegean islands, Final Report, August 2016.

[387] COM(2016) 797 final, on the implementation of the scheme of specific measures for agriculture in favour of the
outermost regions of the Union (POSEI).

[388] https://www.boe.es/buscar/pdf/2009/BOE-A-2009-3025-consolidado.pdf

Scheme	Compensation regime for maritime and air transport of goods included in Annex I of the EC Treaty with origin or destination in the Canary Islands.	**Type**	State Aid SA.38654[389]
Geographical coverage	Canary Islands	**Target beneficiaries**	Importers/exporters of products included in the Annex I of the EC Treaty.
Time period	2007-2013 2014-2019	**Budget**	Annual budget allocated: EUR 34,6 million for the period 2014-2019 (total EUR 233,1 million for the period)

b. Implementation details:

This support was implemented in 2009. The transportation of targeted products can benefit from compensation up to 100% of the eligible costs.
The compensation is limited to the following products:

- Pineapples (CN codes: 08043000);
- Avocados (CN codes: 08044010);
- Dried guavas, mangoes and mangosteens (CN codes: 08045000)
- Papayas (CN codes: 08072000)
- Peaches, including nectarines and plums (CN codes: 080930)
- Strawberries (CN codes: 081010)
- Thyme (CN code: 910993300)
- Basil (CN code: 1211908620)
- Cattle feed products, except pet food (CN codes 23)
- Lactoserum and products from natural milk components (CN codes: 040490)
- Milk and cream, concentrated or containing added sugar or other sweetening material (CN codes: 04021091/99)
- Cereals: Rye, barley, oat, maize, buck wheat, millet, sorghum, other cereals (CN codes: 100200, 100300, 100400, 1008)
- Vegetables (CN code: 071190)
- Cereals straw and husks, unprepared, whether or not chopped, ground, pressed or in the form of pellets (CN code: 121300)
- Swedes, mangolds, fodder roots, hay, lucerne (alfalfa), clover, sainfoin, forage kale, lupines, vetches and similar forage products, whether or not in the form of pellets (CN code: 1214).

The amount of the compensation is based on the size of the containers, the distance covered and the type of transportation.

No detailed information is available regarding the number of beneficiaries and the amount paid.

[389] https://ec.europa.eu/competition/state_aid/cases/252558/252558_1555297_43_2.pdf

Annual expenditure (average for the period)	Share attributable to relevant sectors	Share attributable to specific AIEM/OdM products	Share attributable to the compensation of operating costs	Share attributable to specific cost factors
Annual planned budget: EUR 34,6 million	100%	0%	100%	n.a.

c. Estimated impact

No document / source has been identified to estimate the impact of this scheme.

d. Analysis of coherence:

This support specifically targets Canary Islands with the same objective as AIEM: the compensation of handicaps linked to the remoteness and the insularity of ORs.
In terms of beneficiaries, this support targets importers or exporters of the products that fall in the scope of the scheme. Thus, the beneficiaries of this support may also be beneficiaries of AIEM.

The policy document of the State Aid explicitly excludes any risk of overlapping between both schemes: "the aid cannot be combined with any other aid for transport, in particular with SSA and POSEI support to local production".

Regarding the targeted products, all are included in the Annex I of the Treaty (which is coherent with AIEM); but these products are not part of the lists of 'supported products' covered by an exemption or reduced rate of AIEM.

We can conclude that the compensation regime for maritime and air transport of goods included in Annex I of the EC Treaty with origin or destination in the Canary Islands pursue the same objective as AIEM. This support may cover the same beneficiaries and the same products as the AIEM. Nevertheless, the targeted products are not included in the lists of 'supported products' of AIEM. We assess the support is coherent with AIEM and there is no overlapping.

1.4 European Agricultural Fund for Rural Development (EAFRD)

a. Overview

The European Agricultural Fund for Rural Development Fund (EAFRD) – also mentioned as the CAP second pillar – contributes to the development of rural areas. It is also a strong support to boost a climate-friendly, innovative and competitive agricultural industry. The EAFRD is set for a period of 7 years, currently on the programming period 2014-2020, and implemented through Rural Development Programs (RDP) set at regional level.

The EAFRD is designed on six priorities:

- fostering knowledge transfer and innovation in agriculture, forestry and rural areas
- enhancing the viability and competitiveness of all types of agriculture, and promoting innovative farm technologies and sustainable forest management
- promoting food chain organisation, animal welfare and risk management in agriculture
- promoting resource efficiency and supporting the shift toward a low-carbon and climate resilient economy in the agriculture, food and forestry sectors

- restoring, preserving and enhancing ecosystems related to agriculture and forestry
- promoting social inclusion, poverty reduction and economic development in rural areas

With some EUR 1.5 billion of allocation, the EAFRD accounts for nearly 25% of the EU funds for agriculture and rural development in the ORs and some 11% of the total ESIF support to ORs (2014-20 period).

In Canary Islands**,** the allocations to the regional programme of Canary Islands[390] amount to: EUR 185 million[391]. The biggest priorities in terms of budgetary allocation are: (a) farm viability, competitiveness and sustainable forest management; (b) resource efficiency and shift to low carbon economy, (c) restoring and preserving ecosystems; and (d) social inclusion. The bulk of expenditure is allocated to investment in physical assets accounting to nearly some half of the total.

Scheme	European Agricultural Fund for Rural Development	**Type**	EU instrument
Geographical coverage	Canary Islands	**Target beneficiaries**	Farmers, producers' organisations, producers associations, small and medium companies, cooperatives, territorial organisations, research organisations.
Time period	2007-2013 2014-2020	**Budget**	2014-2020: EUR 157.5 million EAFRD contribution + EUR 27.8 million of national contribution.

b. Implementation details:

In the Canary Islands - and in accordance and coherence with the Spanish rural development strategy and the 6 priorities of European Union– the use of the EAFRD is oriented toward the development of a better balanced agricultural sector, environmental and climate friendly, more adapted to the climate changes, competitive and innovative.

The RDP implemented in the Canary Islands supports specifically the viability of the farms and their competitiveness, promotes innovative agricultural technologies, and contributes to the development of a sustainable forestry management, in relation with the restoration, preservation and improvement of the environment.

In order to improve the competitiveness of the farm sector, the RDP of Canary Islands foresees that nearly 880 agricultural holdings will get support to restructure and modernise their farms and support for young farmers to launch their businesses will be provided for an estimated number of 271 beneficiaries. The region will support training for more than 1 100 participants through different knowledge transfer and information actions. Restoring, preserving and enhancing of ecosystems related to agriculture and forestry is also considered important, with up to 56% of farmland to come under management contract to improve biodiversity, water management and soil

390 http://www.pdrcanarias.es/2014/images/docprograma1420/2020/Programme_2014ES06RDRP005_6_2_es.pdf

391 Source: https://ec.europa.eu/agriculture/rural-development-2014-2020/country-files_en

management. Investments to promote energy efficiency will reach EUR 12 million and actions linked to renewable energies will amount to EUR 2.7 million. Almost 99% of the rural population in Canary Islands will be covered by a LEADER local development strategy and such strategies are expected to create 218 new jobs. More than 360 000 inhabitants of the Canary Islands will benefit from these local development initiatives.

The four biggest RDP measures in budgetary terms (total public funding) are:
- EUR 92.3 million allocated to Measure 4 (investments in physical assets);
- EUR 16 million allocated to Measure 7 (basic services for rural areas);
- EUR 16 million allocated to Measure 8 (forestry);
- EUR 15.7 million allocated to Measure 10 (agri-environment-climate).

Annual expenditure (average for the period)	Share attributable to relevant sectors	Share attributable to specific AIEM/OdM products	Share attributable to the compensation of operating costs	Share attributable to specific cost factors
Annual average expenditure of EUR 11,2 million over the 2014-2018 period) (EUR 55,8 million in total)	100%	0%	0%	59% of the planned budget allocated to investments in physical assets

c. Estimated impact

The estimated impact of the EAFRD scheme in Canary Islands is based on the Annual Implementation Reports (AIRs)[392].
The 31/12/2018, the financial expenditure rate was 30.14%, which represented EUR 55.8 million.

The last AIR (2018) highlights a good level of internal and external coherence of the programme. The financial execution targets few measures (mainly investments in physical assets and farm advisory services) and therefore, the implementation of other measures did not start yet.

For the meantime, according to this report, transversal principles and objectives of equal opportunities, non-discrimination, innovation, environment and climate are achieved.

d. Analysis of coherence:

As a general comment, it should be pointed that EAFRD is not a scheme that specifically focus Canary Islands as AIEM. This European Fund is implemented in mainland and ORs; whereas AIEM is a specific tool for the Canary Islands, as OR.

The objective of EAFRD measures is not to compensate overcosts or factors due to remoteness or insularity which differ from the main objective of AIEM. The EAFRD main objectives are related to the rural development, environment and climate, health and safety, generation renewal and competitiveness of the value chains.

Depending of the measures implemented and the type of projects (innovation, research project, technical assistance, support for productive investment, support in areas with specific natural handicaps, etc.) EAFRD beneficiaries may cover a large range of stakeholders.

392 http://www.pdrcanarias.es/2014/index.php/resumen-para-el-ciudadano-del-iaea-2018

Potential beneficiaries are:

- Farmers
- Producers' groups / producers' organisations
- Processing companies
- Public authorities
- Research organisations
- Professional organisations.

In the cases of the EAFRD measures that target farmers, producers' groups or processing organisations; it can be noticed that these beneficiaries are the same as for AIEM.

We can conclude that EAFRD is a European Fund implemented in mainland and in ORs. The scope of EAFRD measures is large: innovation, environment and climate, productive investments, health and security, competitiveness of the value chains, poverty reduction and economic development in rural areas. Likewise, EAFRD may target a large range of beneficiaries: farmers, producers' groups, processors, research institutes, public authorities, professional organisations.

In Canary Islands, large part of the budget implemented in the framework of the EAFRD schemes focus on investments in physical assets and farm services which are not in the scope of AIEM.

These measures do not pursue the same objective as AIEM but may target the same beneficiaries in the case of private stakeholders. We assess the support is coherent with AIEM scheme and there is no overlapping between EAFRD and AIEM.

1.5 Other schemes

In Spain, 14 schemes have been analysed and identified as scarcely relevant regarding their connections with the scope of AIEM. These eleven policy instruments, with the main descriptive details and a general assessment are presented in Annex.

Various reasons explain their low relevance regarding this study:

- In nine cases, these policies were punctual support, implemented more than 10 years ago, to compensate a natural disaster.
- Two schemes have been assessed with a low relevance with regards to the scope of AIEM, as they are not explicitly designed with the objective of cost compensation because of remoteness and insularity of Canary Islands.
- Three schemes have been assessed with a low relevance with regards to the scope of AIEM, as they are addressing the support to agricultural irrigation which is out of the AIEM scope.

We assess there is no overlapping between these schemes and AIEM.

2. Fishery and aquaculture

2.1 EMFF (including compensation plans)

a. Overview

Scheme	*EMFF*	**Type**	*EU Instrument*
Geographical coverage	*ORs and other regions* *Compensation plan only cover ORs*	**Target beneficiaries**	*Fisheries and aquaculture sector*
Time period	*2000-2006 – FIFG* *2007-2013 - EFF* *2014-2020 - EMFF*	**Budget**	***EMFF (2014-2020)***[393] Canary Islands: EU contribution: EUR 82,9 million National contribution : EUR 6,7 million National level : EU funds allocated: EUR 1 558 million **EFF (2007-2013)**[394] **:** National level: EU contribution: EUR 1 132 million **FIFG (2000-2006)**[395]**:** National level: EU contribution: EUR 1 788 million National public contribution: EUR 651 million

The structural funds for fishery and aquaculture provided important support to the development of this sector in the ORs. Over the period covered by the Study, these include: (a) Financial Instrument for Fisheries Guidance (FIFG), 2000-2006, (b) European Fishery Fund (EFF), 2007-2013 and (c) European Maritime and Fisheries Fund (EMFF), 2014-2020. Focusing on the current EMFF (2014-2020), six main priorities can be identified:

- Priority 1: promoting environmentally sustainable, resource–efficient, innovative, competitive and knowledge–based fisheries,
- Priority 2: fostering environmentally sustainable, resource-efficient, innovative, competitive and knowledge-based aquaculture,
- Priority 3: fostering the implementation of the Common Fisheries Policy (CFP),
- Priority 4: increasing employment and territorial cohesion (community-led local development (CLLD)),
- Priority 5: fostering marketing and processing,
- Priority 6: fostering the implementation of the integrated maritime policy (IMP).

[393] Source: Study "Implementation of the EMFF in outermost regions", AND-I, Coffey, CETMAR for DG MARE, 2019 - https://op.europa.eu/en/publication-detail/-/publication/4c4b7e2e-e32d-11e9-9c4e-01aa75ed71a1
[394] Source: ex-post evaluation of the EFF: https://ec.europa.eu/fisheries/sites/fisheries/files/docs/body/european_fisheries_fund_en.pdf https://op.europa.eu/en/publication-detail/-/publication/f0ab224d-f34c-11e6-8a35-01aa75ed71a1
[395] Source: ex-post evaluation of the FIFG, Ernst & Young, And International, COGEA and Eurofish for DG MARE, 2010: https://ec.europa.eu/fisheries/documentation/studies/fifg_evaluation_en

Priority 5 includes in particular compensation plans for the outermost regions. These are clearly relevant in the context of the study regarding the coherence with AIEM. As detailed in article 70 from EMFF Regulation, compensation plans " *may support the compensation of additional costs incurred by operators in the fishing, farming, processing and marketing of certain fishery and aquaculture products from the outermost regions referred to in Article 349 TFEU*". This kind of support is in place since the 1990s. Initially, it covered only La Réunion, French Guiana, Canary Islands, Madeira and Azores, it was extended to all EU ORs when it entered in the scope of EMFF.[396] Compensation regime is detailed in chapter V of EMFF regulation (articles 70 to 73). The EMFF may support the compensation of additional costs incurred by operators in the fishing, farming, processing and marketing of certain fishery and aquaculture products from the outermost regions. Each Member State concerned shall determine, for each OR, the list of fishery and aquaculture products and the quantity of those products eligible for compensation. A specific "compensation plan for additional costs" is established separately for each OR on the basis of a detailed assessment of the additional costs faced by local activities as compared to mainland operators.

b. Implementation details

Annual expenditure (average for the period)	Share attributable to relevant sectors	Share attributable to specific AIEM products	Share attributable to the compensation of operating costs	Share attributable to specific cost factors
EUR 12,8 million / year (2014-2020) EUR 89,6 million over 7 years	100%	68% allocated to compensation plan. Only a limited share of compensation plan is potentially allocated to products covered by AIEM (smoked salmon and trout), this was 0% in 2018.	68% (compensation plan), also covering products not covered by AIEM.	/

The details on the implementation of EMFF in Canary Islands is based on data from the study "Implementation of the EMFF in outermost regions, AND-I, Coffey, CETMAR for DG MARE, 2019" with data from late 2018 (November 2018).

The budget allocation for EMFF 2014-2020 in Spain is the largest among the EU MS with EUR 1 558 million. In Canary Islands, the budget for EMFF 2014-2020 is EUR 83 million (EUR 61 million for compensation plans and EUR 22 million for other measures). The main measures of the EMFF in Canary Islands are:

- Measure 70 concerning compensation plan with EUR 60,9 million which represents 73% of the EMFF budget allocation;
- Measure 48 for productive investments in aquaculture (EU R4,7 million);
- implementation of community led local development (CLLD) strategies (EUR4,1 million).

The table below presents the implementation of the EMFF in Canary Islands (October 2018).

Table 35: State of play of EMFF implementation in Canary Islands per measure in k€ (October 2018)

[396] The relevant EU regulations for compensation plans in the period considered are as follows:

- 1998-2002: Council Regulations (EC) No 1587/98[396] amended by Council Regulation (EC) No 579/2002;
- 2003-2006: Council Regulation (EC) No 2328/2003;
- 2007-2013: Council Regulation (EC) No 791/2007;
- 2014-2020: EMFF Regulation (Regulation (EU) No 508/2014).

Art. of Reg. EU n°508/2014	National contribution	EMFF Budget for CAN	Total eligible support	Number of operations committed	EMFF support committed	EMFF eligible paid	Commit rate	Payment rate
P1 - Total	1 618	4 454	6 072	3	**103**	92	2%	2%
P2 - Total	1 814	5 418	7 232	2	**6 400**	6 400	118%	118%
P3 - Total	58	369	427	0	**0**	0	0%	0%
P4 - Total	746	4 230	4 976	0	**0**	0	0%	0%
P5 - Total	1 533	65 500	67 033	290	**18 132**	18 132	28%	28%
P5 - Compensation plan	0	60 900	60 900	285	**17 400**	17 400	29%	29%
P7 - Total	967	2 900	3 867	20	**944**	283	33%	10%
TOTAL Canary Islands	**6 737**	**82 871**	**89 608**	**315**	**25 578**	**24 906**	**31%**	**30%**
TOTAL Regional Measures without CPAC	**6 737**	**21 971**	**28 708**	**30**	**8 178**	**7 506**	**37%**	**34%**

Source: Implementation of the EMFF in outermost regions, Coffey, AND-I for DG MARE, 2019 - based on Spanish authority data on 03/10/2018

315 projects had been committed in Canary Islands for a total amount of EUR 25,6 million. The most advanced and significant measures in terms of implementation were:

- Measure 70 concerning compensation plans represents most of the EMFF committed (70% of the commitments),
- Measure 48 concerning productive investments in aquaculture is the second measure with EUR 6,5 million committed and paid (payment rate of 136%, higher than its initial budget).

Over the 315 operations, 285 operations concerned compensation plans and 30 projects covered other measures.

c. Estimated impact

Evaluation of compensation plan from Regulation (EC) No 791/2007 (study conducted in 2012 by Oceanic Dévelopment and Megapesca)

An evaluation study has been conducted in 2012 on compensation scheme implemented in ORs since 2007 in the framework of "Regulation (EC) No 791/2007 of 21 May 2007 introducing a scheme to compensate for the additional costs incurred in the marketing of certain fishery products from the outermost regions the Azores, Madeira, the Canary Islands, French Guiana and Réunion"[397]. Main conclusions from the analysis were:

- The support was assessed to be effective for maintaining companies profitability, it accounted up to 20% of beneficiaries turnover. The scheme allowed an improvement of the structuring of the supply chain, allowing companies to manage peaks of production. However, the fishery sector did not meet a growth, its evolution being linked to the state of fish stocks.
- The support allowed stakeholders to market their product with competitive price and quality on mainland markets.
- Compensation plans were assessed to be coherent with other supports as they all aimed at improving products competitiveness. Overcompensation should be analysed at company level, such analysis could not be conducted in the context of the study.

Study: "Implementation of the EMFF in outermost regions" (conducted in 2019 by AND-I, Coffey, CETMAR for DG MARE)[398]

[397] https://ec.europa.eu/smart-regulation/evaluation/search/download.do;jsessionid=EwEq6FOM-jQW_OEeCpIcp1ljRtfmJ8EtErJXkl7gJIIylzjHpkSt!1168777535?documentId=7843965
[398] https://op.europa.eu/en/publication-detail/-/publication/4c4b7e2e-e32d-11e9-9c4e-01aa75ed71a1/language-en/format-PDF/source-105873994

In terms of impacts, 285 operations concerned compensation plans. Based on the study "Implementation of the EMFF in outermost regions", the budget paid to the different sectors (production + marketing) up to 2018 was as follows:

- Small-scale fishery (SSF): 43%,
- Aquaculture : 35%,
- Industrial fishery: 23%.

Marketing cost accounted for almost two thirds of the payments in 2017-2018 (64%). The share of budget allocated to small-scale coastal fishermen and aquaculture producers accounted for respectively 6% and 16% of the total financial payments for compensation paid and industrial fishing production for 14%.

In the aquaculture sector, the compensation regime for aquaculture annually covers 46% of the yearly production (average 7 700 tonnes between 2014 and 2017). It is assessed in the report that the incidence of the compensation plan is vital for the development of the aquaculture sector, since it helps to balance the disadvantage of the ORs compared with other territories.

The following table present the payments allocated by category of operator in CAN for the 2017-2018 period.

Table 36: Financial allocation of compensation plan per category of operator in the Canary Islands – 2017-2018

Type of operator	Payments 2017-2018	Distribution in %
A1 Aquaculture production	2 813	16%
A2 Aquaculture: marketing maritime transport	1 827	11%
A3 Aquaculture: marketing air transport	1 392	8%
Subtotal Aquaculture (production + marketing)	**6 032**	**35%**
B Seaweed farming	0	0%
C1 SSF production	1 086	6%
C2 SSF inter-island marketing	267	2%
C3 SSF marketing maritime transport fresh	367	2%
C4 SSF marketing maritime transport frozen	743	4%
C5 SSF marketing air transport	4 984	29%
Subtotal SSF (production and marketing)	**7 447**	**43%**
D1 Industrial Fishing: production	2 383	14%
D2 Industrial Fishing: marketing	1 538	9%
Subtotal Industrial Fishing (production and marketing)	**3 921**	**23%**
E1 Processing: production	0	0%
E2 Processing: marketing	0	0%
Subtotal processing (production + marketing)	**0**	**0%**
TOTAL	**17 400**	**100%**

Source: report "Implementation of the EMFF in outermost regions based on data from Spanish authorities on 03/10/2018.

d. Analysis of Coherence

EMFF beneficiaries may cover a large range of stakeholders depending of the types of projects:

- Compensation plans (measure 70), with similar objectives as the ones from AIEM and may cover similar beneficiaries as AIEM: vessel owners, fish farmers, processors, wholesalers;

- Support for productive investment which may target private stakeholders, also beneficiaries of AIEM. The objectives are coherent with AIEM (competitiveness and economic development) but it does not cover compensation of costs.
- Support to mitigate the impact on environment and climate, innovation, health and security, implementation of policies. This may cover private stakeholders and professional organisations, research institutes and public authorities.

Regarding the overlaps between compensation plans and AIEM, the scope of AIEM in Canary Islands is narrow and only covers smoked salmon and trout while compensation plans covers all the activities in the fishing sector.

In many ORs, local fishery sector supplies local market and is competing with imports. Canary Islands also export a significant share of its production, supplying mainland canning industry.

We propose an analysis of coherence for 1) measures other than compensation plans and for 2) compensation plans.

<u>Coherence between AIEM and EMFF measures other than compensation plans</u>
For measures other than compensation plans, we propose an identification of the types of beneficiaries for the measures with projects committed in ORs. The identification of the measure with some commitments is based on the study "Implementation of the EMFF in outermost regions, AND-I, Coffey, CETMAR for DG MARE, 2019".

Thus, we identify two types of EMFF measures with some commitments :

- EMFF measures for which the beneficiaries as the same as for AIEM

This almost exclusively covers Measure 48 – "Productive investment in aquaculture". This measure is both implemented in OR and mainland, it targets fish farmers (which may also be beneficiaries of AIEM) but there is no overlapping with AIEM as this does not cover compensation of costs.

- EMFF measures targeting stakeholders which are not beneficiaries of AIEM

These measures are both implemented in mainland and ORs. The objectives of these measures are to promote innovation, mitigate the impact of the activity on environment (marine biodiversity and resource), develop competitiveness of the sector, and support the implementation of Common Fisheries Policy and Integrated Maritime Policy. These measures are coherent with AIEM and there is no overlapping.
There are limited commitments for these measures in Canary Islands, mainly under measure 43 on the investment in Fishing ports, landing sites, auction halls and shelters.

Conclusion: There is no overlap between AIEM and EMFF measures other than compensation plan.

<u>Compensation plans</u>
Compensation plans (measure 70 of EMFF) is the measure with the highest level of commitment in ORs. The beneficiaries are private operators: vessel owners, fish farmers, wholesalers and processors. These beneficiaries are the same as the ones for AIEM.

A specific compensation plan has been developed in each OR. This covers a set of 107 activities in all EU ORs and 1.300 individual costs. Several method and tools have been used to elaborate these compensation plans: specific investigation on local sector, estimates, and calculation or reference values from statistics or existing data.
AIEM covers only two codes of products, both under "A" category. These are both processed products from aquaculture sector: smoked salmon and trout. In Canary Islands, farmed fish are only seabass and seabream (7.192 tonnes in 2018, source: the

Spanish Ministry of Agriculture, Fishery and Food [399]). Thus, this activity is based on imported salmon and trout. There is no detail available on the importance of the smoking industry in Canary Islands (EUR 257 million and 14.459 tonne at national level[400]).

Table 37: Products covered by AEIM and compensation plans – Canary Islands

CN code	Product	List	Overlap with compensation plan
0305 41 00	Smoked salmon	**A**	Yes
0305 43 00 90	Smoked trout	**A**	Yes

These products are also covered by compensation plans, as compensation plans include the general activity "processing". Compensation plan in Canary Islands covers a large range of activities: fishery, aquaculture, processing and marketing. Only one activity covered by compensation plan is also covered by AIEM: processing, with 270 EUR/t. However, AIEM covers only a limited share of this activity (trout and salmon smoking) while compensation plans covers all types of processing (filleting, canning,…). Compensation plan may also support smokers (and also other stakeholders involved in marketing) for their marketing activities, with 54 EUR/t (storage) to 95 EUR/t (marine transport, interisland).

Table 38: Compensation of costs in the context of compensation plan from EMFF – Canary Islands

	Activities	Additional costs retained (EUR/t)	Overlap with AIEM
1A : Fishery	Artisanal fishery	75	No
	Industrial fishery	210	No
1B : Aquaculture	Aquaculture Capitalina island	400	No
	Aquaculture other islands	400	No
	Algae production	3.100	No
2: Processing	Processing cost for all group of products	270	Smoked salmon and trout only
3 : Marketing	Storage cost	54	Collect / storage / marketing / transport Smoked salmon and trout only
	Marketing costs interisland - marine transport	95	Collect / storage / marketing / transport Smoked salmon and trout only
	Marketing costs for frozen fish - marine transport	92	Smoked products not covered
	Marketing costs for fresh fish - marine transport	187	Smoked products not covered
	Marketing costs for fresh fish - air transport	823	Smoked products not covered

Source: compensation plan

[399] https://www.mapa.gob.es/es/pesca/temas/acuicultura/produccion_engorde_2018_tcm30-514401.pdf
[400] https://www.mapa.gob.es/fr/estadistica/temas/estadisticas-pesqueras/industrias-procesado-pescado/productos-procesado-pescado/

Conclusion: AIEM and compensation are assessed to be coherent. The possible overlap between compensation plan and AIEM is limited in Canary Islands (no data available to precisely assess the potential overlap).

Details:

- The scope for both AIEM is narrow: it covers only two processed products (smoked salmon and smoked trout). No statistics are available on their volume of production in Canary Islands.
- The two products covered by AIEM are also covers by compensation plans.
- Compensation plans covers all activities in the fishery and aquaculture sector. Only the smoking industry for salmon and trout is also covered by AIEM. This includes the processing activity itself, as well as storage and marketing. No detailed data is available on this activity in Canary Islands.
- Other activities covered by compensation plans (fishery, aquaculture and canning) are not covered by AIEM.

Appendix: Other schemes in the agricultural sector for Canary Islands

The following Table summarises the basic features of other EU schemes for Canary Islands considered of limited relevance for the analysis of coherence with AIEM.

				Selecting the schemes				Analysis of coherence			General assessment
Scheme	**Region(s)**	**Time period And PLANNED BUDGET**	**Beneficiaries**	**Cost comp.**	**Economic activities**	**OdM and AIEM sectors**	**OdM and AIEM products**	**Objectives**	**Overlapping sector**	**Overlapping beneficiaries**	
Aid regime for damages in productions and infrastructure in the agricultural sector produced by the fire on the island of La Palma that began on August 1, 2009.	Canary Islands/ La Palma	01-11-2009-31/12/2010 BUDGET = EUR 1,8 million	Farmers	No	Yes	Yes	Yes	Temporary support following a natural disaster in 2009	Yes	Yes	Low relevance - punctual support 10 years ago.
Phytosanitary measures for potatoes (Canarias)	Canary Islands	2002 BUDGET = EUR 42 071		No	Yes	Yes	Yes	Eradication of a disease in the potato sector	Yes	Yes	Low relevance - punctual support 17 years ago.
Aid regime for damages in productions and infrastructure in the agricultural sector produced by the fire on the island of Gomera that began on April 26, 2008.	Canary Islands / Gomera	15/04/2009-31/12/2009 BUDGET : EUR 460 000	Farmers	No	Yes	Yes	No	Material damages and consequential financial loss of farms, due to a fire in 2008	Yes	Yes	Low relevance - punctual support 10 years ago.

				Selecting the schemes				Analysis of coherence			General assessment
Scheme	**Region(s)**	**Time period And PLANNED BUDGET**	**Beneficiaries**	**Cost comp.**	**Economic activities**	**OdM and AIEM sectors**	**OdM and AIEM products**	**Objectives**	**Overlapping sector**	**Overlapping beneficiaries**	
Aid regime for damages in productions and infrastructure in the agricultural sector produced by the flood that occurred from January 26th to January 28th of 2007 in the Island of Hierro	Canary Islands / Hierro	2007 BUDGET = EUR 394 995	Farmers	No	Yes	Yes	Yes	Compensate farmers for the losses suffered as a result of the floods in Hierro Island in January 2007	Yes	Yes	Low relevance - punctual support 12 years ago.
Aid to alleviate the damage caused by adverse weather conditions in the province of Ciudad Real and in the autonomous communities of Extremadura and the Canary Islands	Extremadura Canary Islands	2005 BUDGET = EUR 5,2 million	Farmers	No	Yes	Yes	Yes	Compensate damages in farms as a result of bad weather conditions.	Yes	Yes	Low relevance - punctual support 15 years ago.
Aid to alleviate the damages produced in the productions and infrastructures in the agricultural sector by the passage of the tropical storm Delta (Canary Islands)	Canary Islands	2005 BUDGET = EUR 1 million for agricultural losses	Farmers	No	Yes	Yes	Yes	Temporary support following a natural disaster in 2005	Yes	Yes	Low relevance - punctual support 15 years ago.

				Selecting the schemes				Analysis of coherence			General assessment
Scheme	**Region(s)**	**Time period And PLANNED BUDGET**	**Beneficiaries**	**Cost comp.**	**Economic activities**	**OdM and AIEM sectors**	**OdM and AIEM products**	**Objectives**	**Overlapping sector**	**Overlapping beneficiaries**	
Aid for mitigating damage to production and infrastructure in the agricultural sector following the 2007 fires (Canarias)	Canary Islands	2007 BUDGET = ND	Farmers	No	Yes	Yes	Yes	Temporary support following a natural disaster in 2007	Yes	Yes	Low relevance - punctual support 12 years ago.
First implementation of agroforestry systems on agricultural land (Measure 222 Rural Development)	ARAGON, ASTURIAS, CANARIAS, EXTREMADURA, GALICIA	29/12/2010-31/12/2013 PLANNED BUDGET FOR EAFRD = EUR 150 million	forest owner	No	Yes	Yes	Yes	Develop agroforestry systems	Yes	Yes	Low relevance - Not explicitly designed for cost compensation - Previous EAFRD programming period
Aid for mitigating damage to production and infrastructure in the agricultural sector following the 2006 fires (Canarias)	Canary Islands	20/11/2007-20/11/2011 BUDGET = ND	Farmers	No	Yes	Yes	Yes	Temporary support following a natural disaster in 2006	Yes	Yes	Low relevance - punctual support 13 years ago.
First afforestation of non-agricultural land (Measure 223 Rural Development)	Extremadura, Galicia, Madrid, Rioja, Aragon, Asturias	09/02/2011-31/12/2013 PLANNED BUDGET = EUR 5,6 million	forest owner	No	Yes	Yes	Yes	Develop agroforestry systems	Yes	Yes	Low relevance - Not explicitly designed for cost compensation - Previous EAFRD programming period

				Selecting the schemes				Analysis of coherence			General assessment
Scheme	**Region(s)**	**Time period And PLANNED BUDGET**	**Beneficiaries**	**Cost comp.**	**Economic activities**	**OdM and AIEM sectors**	**OdM and AIEM products**	**Objectives**	**Overlapping sector**	**Overlapping beneficiaries**	
Aid for the recovery of forestry potential and the implementation of preventive measures (Measure 226 Rural Development)	CANARIAS, CENTRO (E), ESTE, MADRID, NORESTE, NOROESTE, SUR	XX-31/12/2015 PLANNED BUDGET = EUR 933 million	forest owner	No	Yes	Yes	Yes	Develop agroforestry systems	Yes	Yes	Low relevance - Not explicitly designed for cost compensation
Support to employ technicians or provide technical services to livestock farms, in the framework of the implementation of quality programs for locally produced livestock products.	Canary Islands	2002-2005 PLANNED BUDGET = ND	Farmers	Yes	Yes	Yes	Yes	Compensate handicaps in Canary Islands	Yes	No	Low relevance – End of support in March 2005
Subsidies to reduce the cost of desalination and water extraction from wells and galleries, for agricultural irrigation in Canary Islands SA.55094	Canary Islands	25/07/2019 to 31/12/2019 PLANNED BUDGET = EUR 8 million	Farmers	Yes	Yes	Yes	Yes	Compensate handicaps in Canary Islands	Yes	Yes	Low relevance – Punctual support, targets irrigation which is not targeted by AIEM.

				Selecting the schemes				Analysis of coherence			General assessment
Scheme	**Region(s)**	**Time period And PLANNED BUDGET**	**Beneficiaries**	**Cost comp.**	**Economic activities**	**OdM and AIEM sectors**	**OdM and AIEM products**	**Objectives**	**Overlapping sector**	**Overlapping beneficiaries**	
Subsidies for the implementation of actions for an efficient water management in agricultural irrigation SA.55054	Canary Islands	24/09/2018 to 31/12/2018 PLANNED BUDGET = EUR 6 million	Farmers	Yes	Yes	Yes	Yes	Compensate handicaps in Canary Islands	Yes	Yes	Low relevance – Punctual support, targets irrigation which is not targeted by AIEM.

3 Regional Development Measures – Canary Islands

3.1 Introduction

Several EU policy instruments are being deployed for the regional development of the ORs. The instruments differ by scope, target groups, implementation mechanisms and amounts invested over time. A review of the main supporting schemes for regional development in ORs has been carried out as preliminary activity[401]. Their interplay with AIEM schemes may vary significantly both in nature and intensity.

To select the schemes relevant for the policy 'coherence' analysis the following criteria have been used:

1. schemes explicitly designed for cost compensation, excluding supports not directly targeted to compensate the additional costs;
2. schemes targeting private enterprises, excluding aids to public infrastructures that benefit the whole community (e.g. investments in ports or airports) and aids to individuals (e.g. fiscal incentives for housing);
3. schemes targeting relevant AIEM 'supported' products throughout the local supply chain (inputs and outputs), excluding specific aids in research and development, job creation or training to workers.

Based on these criteria, the relevant schemes for the analysis include: The Specific Additional Allocation (SAA) allocated through the ERDF regional programme Canary Islands and a series of State aids measures targeting both regional development and cost compensations (listed in Appendix to this Annex).

To establish the possible synergies / overlaps between these schemes and the special tax regimes at stake it was necessary to start from the essential characteristics of the latter, in order to identify common features with the former.

The main elements of the AIEM relevant for the analysis of coherence are reported in the table 1 below; they include: the general objective pursued, type of policy instrument, implementation mechanisms involved, time scale and amount invested, specific objectives and target groups as well as the sectoral coverage.

[401] Such as Interreg programmes, ESF programmes, Horizon 2020, COSME and Life+; however, they don't usually mention cost compensation as being a policy target and their impacts on enterprises and the productive process, compared to the other schemes, remain very marginal.

Table 1 – Key features of OdM / AIEM for the analysis of coherence with other EU regional development policies for the ORs

Element	AIEM
Objective	Promote regional development and the diversification of the economic structures of the Canary Islands, i.e.: "enabling the companies established in an area qualified as an outermost region to overcome their natural structural handicaps".
Policy instrument	Indirect State tax levied on the supply of goods in the Canary Islands territory and on the import of comparable or similar goods of the same type. The measure entails a loss of State resources through lower tax revenues. Regional State-aid – Operating aid.
Territorial scope	Canary Islands
Implementation body	Consejería de Economía y Hacienda del Gobierno de Canarias
Time scale	Permanent from 2004 to 2020.
Calculation	Taxable base: customs value and total produced volume for some local products; with different rates applied depending on a list of products (5%, 15%, 25%)
Sector coverage	All sectors with exemption. The measure allows exemption for a list of sensitive products that are produced locally in the Canary Islands.
Target group (beneficiaries)	All enterprises (any size); Potential number of beneficiaries: 1.000
Amount distributed to the local economies over the period	Period January 2017 to December 2011: 520 million €. December 2011-2013: + 80 million (+30%) December 2013-June 2014: + 40 million

***Sources**: European commission, State Aid NN 22/2008 – Spain – Arbitrio sobre las Importaciones y Entregas de Mercancías en las Islas Canaria, Brussels, C (2008) 1349 final.*

The following sections provide an analysis of the connections between the SAA and the selected regional State aid schemes with IEM in the respective regions. The bulk of efforts in the Data Gathering phase consisted in identifying and selecting the relevant policies based on the criteria set, and to compile the elements constituting possible synergies / overlaps with special tax regimes.

3.2 ERDF - Specific Additional Allocation (SAA)

a. Overview of SAA

Scheme	*ERDF - SAA*	**Type**	*EU Instrument*
Geographical coverage	*Canary Islands*	**Target beneficiaries**	*Enterprises, public entities and providers of public services*
Time period	*2007-2013* *2014-2020*	***Budget***	***ERDF OP (2014-2020)***[402] *Canary Islands:* *€ 1,173,774,461 (of which 48.5% in axis 15 related SAA)* ***ERDF OP (2007-2013) :*** *Canary Islands:* *€ 1,690,666,037 (of which 34% allocated to the SAA axis)*

Since 2007, the ORs have benefited from Specific Additional Allocations (SAA) in the framework of the ERDF (European Regional Development Fund). The objectives of the SAA are to offset additional costs linked to handicaps listed in Article 349 TFEU while contributing to ORs development strategies. The SAA was introduced in the 2007-13 programming period as an additional funding of EUR 35 per inhabitant / year. It continued during the current 2014-20 programming period with a funding of EUR 30 per

[402] Source: https://www.gobiernodecanarias.org/economia/fondos_europeos_eng/ERDF-program/

inhabitant / year. The measure is expected to be confirmed under the next programming period (2021-27) with the current amount. In both programming period (2007-2013 and 2014-20), the SAA could support not only operating aid, but also investments and expenditures for the provision of Public Services Obligations (PSOs) and contracts. In the Operational Programme (OP) 2014-20, the SAA is allocated through axis 15.

For the purpose of the analysis of coherence with AIEM, the following specific features of SAA should be considered:

- SAA is managed by regional authorities, which hold the responsibility for granting the support to beneficiaries.
- The aid targets beneficiaries who comply with the eligible conditions defined within the ERDF programmes, including public bodies, providers of public service, SMEs.
- Beneficiaries must apply for the aid (there is not an automatic granting of the aid). The intensity of aid is regulated by State aid provisions.
- Programme databases are structured by operation; a single beneficiary may be recipient of more than one operation.
- The operations' database does not register the activities, or the productions supported (i.e. NACE or CN codes); these need to be inferred (where feasible) from the identity of the beneficiary.

As shown in Table 2 below, some 17 different types / sectors of intervention in different areas have been targeted by SAA since its establishment in 2007 in the EU Outermost Regions. In the two programming periods 2007-13 and 2014-20, Canary Islands have used 12 of them to support the additional costs linked to handicaps.

The aid has been allocated to beneficiaries in the form of grants covering the eligible costs identified in each programme. Payments are made upon the submission of declarations of expenditures from the beneficiaries. The beneficiaries are selected through open procedure regulated by the public procurement rules in force in each country. Aids to private sector are calculated based on the maximum threshold defined in the related State aid rules.

Table 2: Type of interventions under the ERDF SAA programmes, 2007-13; 2014-2020

	Canary Islands
Freight, import of inputs and exports	X
Freight WASTE	No
Intra-regional shipping	X
Port (investments and operating aid)	X
Airport (investments)	X
Road (investments)	X
Waterways (investment)	No
Telecom (investment and operating aid)	X
PSO transport intra-regional	X
Adapt buildings to extreme events	No
Health and emergency	X
Wages civil servants	X
Wages health services	X
Economic activity zones	No
Soft investments for business	No
Sustainable tourism	X
Biodiversity national park	X

b. Implementation details

Over the last ten years, the Canary Islands have supported a large variety of activities with SAA funds.

The 2014-20 programme used a large part of its allocation for residence allowance to civil servants and managers in the health sector, as well as for contracts for emergency rescue and patient transport services (which correspond to more than 80% of the SAA budget over the period 2014-20). Some changes have been registered between the two programming periods, but priorities remain broadly stable.

In the framework of the SAA, the interventions relevant for this Study – i.e. targeting enterprises and potentially covering AIEM products - include primarily: freight aid for products transport (import of inputs and exports) and intra-regional shipping of products (cabotage between islands).

In 2007-13 the aid to enterprises amounted to some € 120 million (around 21% of the SAA), corresponding to 1,000 operations; while in 2014-20 the total amount allocated were ca. € 50 million beginning 2018 (see table below), which corresponds to a small part of the 2014-20 budget allocated to the SAA so far (i.e. less than 10%).

Scheme	Type	Geographical coverage	Target beneficiaries	Time period	Budget - €
SAA	EU instrument (grant)	Canary Islands	Enterprises (except agriculture)	2007-2013	120,000,000
				2014-2020	50,000,000*

* amount allocated over the period 2014-beginning 2018

The SAA to freight covers all the manufacturing sectors (with few exceptions), the exact share attributable to specific AIEM products is not known as the SAA cost compensation system is monitored at beneficiary level (not sector or product level). We infer that AIEM sectors and products are covered by less than 100% of the annual relevant SAA expenditure estimated on the period 2014-20, corresponding to around 12.5 million euros (see table below).

Region	Annual SAA expenditure - €	Share attributable to relevant sectors	Share attributable to specific AIEM/OdM products	Share attributable to the compensation of operating costs	Share attributable to specific cost factors
Canary Islands	12,500,000*	50% -100%	<100%	100%	100% (transport)

* estimation based on data available for the period 2014-18

c. Estimated impacts

Outputs and results indicators measuring the effect on the local economy of the interventions aiming at the compensation of freight costs are few in the Canary OP. They refer to the 'number of industrial enterprises whose cost of transportation of goods is granted', 'number of enterprises beneficiaries' and the 'volume of goods of industrial products in the national port of Canary Island'. However, the last two indicators are not specific and also cover other types of interventions (from other programme axis) related for instance to investments in transport infrastructures and support to innovation schemes in SMEs.

As it emerges from the evaluation report "Evaluacion-2019-de-los-objetivos-resultados-del-PO-FEDER-Canarias-2014-2020"[403]:

[403] IKEI, 'Evaluación 2019 de los objetivos/resultados del PROGRAMA OPERATIVO FEDER Canarias 2014-2020', Informe final, 28 Mayo 2019.

- The expenditures to compensate costs reached end-2018 around 33% of the 2023 target fixed by the OP;
- 254 enterprises are beneficiaries of freight aid (for products not in annex I of the Treaty).

The evaluation reports on data are from end-2018 and they do not mention any impact analysis providing insights in terms of employment, turn over, price trends or other macro-economic parameters relevant to estimate the potential socio-economic impacts of the scheme.

d. Elements for the analysis of coherence.

The objectives of SAA and AIEM are similar, as they both contribute to the compensation of the additional costs incurred by the regional economy. In addition, the beneficiaries are companies operating in the local economy, and addressing both products not in Annex I of the Treaty (for EIM the coverage is larger). Both schemes can be considered as being cumulative in a certain extent, though with different financial intensity and based on different implementation mechanisms (see table below).

Type of intervention	Alignment of objectives	Implementation mechanism	Sector/products	Beneficiaries
Freight, import of inputs and exports	Synergy	Different	Partially overlapping (cumulative)	Similar
Intra-regional shipping	Synergy	Different	Partially overlapping (cumulative)	Similar

Conclusion: There is a risk of overlap between the SAA aiming at compensating freight costs with AIEM.

3.3 Regional State Aid Schemes

a. Overview of the relevant State Aid schemes

Scheme	*Regional State Aid*	**Type**	*State Aid*
Geographical coverage	*Canary Islands*	**Target beneficiaries**	*All firms*
Time period	*2014-2020*	**Budget (million)**	EUR 3,007.85*

* 1,405.87 excepted SA 40258 covering AIEM

The regional State aid measures that are relevant for the coherence analysis have been selected using the DG Competition State aid database for reference [404]. The mapping has started in the Inception Phase and has been completed in the Data Gathering Phase. For the present review, complementary information has been retrieved from the notification / authorisation documents as well as from the official regional policy platforms of the ORs.

An overall 40 State aid measures designated as ***aids to regional development*** are present in the DG Competition database related to Canary Islands. These aids are very heterogeneous in nature, scope and duration. Only part of the State aid measures mapped are directly relevant for the coherence analysis of the Study, in the sense that: (a) they explicitly address additional cost compensation, (b) they target private companies, (c) they consist of operational aid; and (d) they potentially cover OdM / AIEM products. The selected measures most relevant for further analysis are studied in

[404] DG COMPETITION: https://ec.europa.eu/competition/elojade/isef/index.cfm?clear=1&policy_area_id=3

the section below, while a more comprehensive list of regional development aids is provided in Appendix.

The identification and selection of the most relevant State aid measures is subject to limitations and challenges that are worth briefly mentioning:

- Certain aids (*de minimis* or falling under GBER) might not be reported (in detail) in the DG Competition database.
- The required information is not systematically reported in the notification/authorisation documents.
- The cost compensation purpose is not always explicitly mentioned in the documents: most of the time only a general reference to the relevant TFEU article is included.
- The NACE codes of the addressed sectors are generally not reported in State aid documents, but sometimes the sectors or activities addressed (or excluded) are mentioned.
- The State aid documents seldom mention specific products or services addressed.
- The State Aid documents do not provide detailed information on the impacts on the local economy of the policy measures taken.

Table below shows the SA Schemes relevant for the scope of this study:

State aid code (average for the period)	Title	Time coverage	Type	Total amount (in millions €)	Sector / product
SA.40195	TRTEL - Régimen de compensación al transporte marítimo y aéreo de mercancías no incluidas en el anexo I del Tratado Constitutivo de la Comunidad Europea, con origen o destino en las Islas Canarias.	01/01/2014 - 31/12/2019	Tax advantage or tax exemption	938.00	All economic sectors
SA. 54214	TRTEL - Compensación al transporte marítimo y aéreo de mercancías no incluidas en el anexo I TCE, con origen o destino en las Islas Canarias.	01/01/2015 – 31/12/2020	Direct grant/interest rate subsidy	240.00	Sea and coastal freight water transport
SA.40258	HAC - Régimen Económico y Fiscal de Canarias (REF). Ayuda al funcionamiento	01/01/2015 – 31/12/2020	Tax advantage or tax exemption	1,428.00	All economic sectors
SA.40257	HAC - Zona Especial Canaria (ZEC)	01/01/2015 – 31/12/2020	Tax advantage or tax exemption	180.00	All economic sectors
SA.41932	HAC - INCENTIVOS REGIONALES	01/07/2014 – 31/12/2020	Direct grant/ Interest rate subsidy	516.75	All economic sectors
SA.49752	HAC - Zona Especial Canaria (ZEC)	01/01/2018 – 31/12/2020	Tax advantage or tax exemption	186.40	All economic sectors

b. Implementation details

Annual expenditure (average for the period)	Share attributable to relevant sectors	Share attributable to specific AIEM products	Share attributable to the compensation of operating costs	Share attributable to specific cost factors
EUR 465.25 million / year (2014-2020) EUR 3,256.75 million over 7 years	<100%	<100% allocated to compensation plan.	100% (all measures refer to art 107(3)(a) TFEU except one referring to 107(3)(c))	/

Depending on the Aid, the estimated annual expenditures range from 15 to 80 million euro per year (except the REF). However, not all the spending covers manufacturing or goods falling under the list of AEIM products, consequently the shares attributable to the relevant sectors and AIEM products are less than 100%.

Scheme	Type	Geographical coverage	Target beneficiaries	Time period	Total budget - €
TRTEL - Régimen de compensación al transporte marítimo y aéreo.	SA. 40195 and SA.54214	Canary Islands	SMEs, large enterprises	01/01/2014 - 31/12/2019; 01/01/2015 – 31/12/2020	939,000,000.00 and 240,000,000.00
Objectives, scopes and components: These measures aim to support SMEs and large enterprises located in Canary Islands, in the sector of sea and coastal freight (water transport) and freight air transport. According to the notification, 100% of the aid intensity is dedicated to transport of goods in eligible areas (Canary Islands) according to Art15(2)(a). SA.40195 is allocated through a direct grant (or interest rate subsidy), according to Spanish Royal Decree 362/2009 (March 20th, 2009) related to cost compensation of goods transported by maritime or air freight non included in Annex I of European Community Treaty. SA.54214 is based on the same framework, it enforces and extends SA.40195.					

Scheme	Type	Geographical coverage	Target beneficiaries	Time period	Total budget - €
HAC - Régimen Económico y Fiscal de Canarias (REF). Ayuda al funcionamiento	SA. 40258	Canary Islands	SMEs, large enterprises	01/01/2015 – 31/12/2020	1,428,000,000.00
Objectives, scopes and components: This measure targets SMEs and large enterprises in all economic sectors. According to its legal basis SA 40258 aims to provide tax advantages or exemption in Canary Islands. The REF covers also AIEM tax regime.					

Scheme	Type	Geographical coverage	Target beneficiaries	Time period	Total budget - €
HAC - Zona Especial Canaria (ZEC)	SA. 40257	Canary Islands	SMEs, large enterprises	01/01/2015 – 31/12/2020	180,000,000,00
Objectives, scopes and components: This measure provides tax advantage or tax exemption for SMEs and large enterprises, in order to compensate additional costs in outermost regions according to art 15(2)(b) SA.40257 is based on the law 19/1994 (July 6th, 2014) related to Economical and Fiscal regime in Canary Islands.					

Scheme	Type	Geographical coverage	Target beneficiaries	Time period	Total budget - €
HAC - INCENTIVOS REGIONALES	SA. 41932 And SA. 49752	Canary Islands (and Regions : Galicia, Andalucia, Asturias, Cantabria, Murcia, Comunidad Valenciana, Aragon, Castilla-la Mancha, Extremadura, Castilla-Leonm Ceuta, Melilla, Rioha, Baleares).	All firms	2014-20	34,450,000.00 And 12,427,280.00
Objectives, scopes and components: The measure is allocated through a direct grant and interest rate subsidy to all firms from all economic sectors eligible to receive aid. The legal base of the measure is the Spanish Law 50/1958 (December 27th, 1985) aiming at correcting the economic disequilibrium between Spanish regions. EUR 63.5 million per year are co-financed by ERDF.					

c. Estimated impact

Indicators measuring results and impacts of the schemes on the regional economies are not provided in the notification documentation available on the EU websites. No recent evaluation has been published, in the field of European studies, reporting on the impacts of the above State aids in Canary Islands in terms of employment, turn-over in manufacturing, economic growth and production flows.

d. Analysis of Coherence

The objectives of the State aids analysed in this section are similar to those pursued under AIEM, as they contribute to the compensation of the additional costs incurred by the regional economic operators in producing local goods and services. In some cases, i.e. tax advantages and exemption, we can infer interferences and overlapping in the schemes applied, i.e. targeting similar enterprises in sector producing goods (not in annex 1 of the Treaty). However, given the lack of details and recent updated data, it is not possible to quantify the cumulative effects on specific sectors or type of beneficiaries and there is no evidence of conflicting objectives or overcompensation in general.

Conclusion: The scope of the State aid analysed in this section is similar to the one pursued by AIEM, as it supports enterprises and products not in Annex I of the Treaty. For some of them, and considering the financial dimension of the supports, we could presume interferences and overlapping in the schemes applied.

Appendix - Full list of State Aids in Canary Islands

State aid code	Title	Time coverage	Type	Amount (€)
N333/2000	Régimes d'aides au développement industriel et à la modernisation technologique dans les Iles Canaries	2000-2006	Interest subsidy	59,500,000.00
N708/1998	Régime d'aides fiscales au fonctionnement : zone économique spéciale (ZEC)	2006-2008	Tax reduction	102,111,957.00
N84/2005	Extension of economic and fiscal regime of Canarias	2006	Tax reduction	135,230,000.00
N128/2004	ES (îles Canaries) - article 27 du régime économique et fiscal des Canaries	2005-2006	n.a	137,030,760.00
N773/2002	Projet d'aides publiques sur le régime économique et fiscal des îles Canaries	2003-2005	n.a	48,000,000.00
N94/2003	Modification Aide d'Etat N 708/98 ZEC - Activités audiovisuelles	2004-2006	Tax reduction	n.a
SA.54363	IND - Modernización y diversificación del sector industrial	2017-2020	Direct grant/ Interest rate subsidy	132,000,000.00
SA.41339	IND - Subvenciones para la modernización y diversificación del sector industrial	2015-2016	Direct grant/ Interest rate subsidy	n.a
SA.37837	Prolongation of the aid scheme "Régimen Económico-Fiscal de Canarias (REF)" (N 377/2006)	2014	Tax rate reduction	n.a
SA.40195	TRTEL - Régimen de compensación al transporte marítimo y aéreo de mercancías no incluidas en el anexo I del Tratado Constitutivo de la Comunidad Europea, con origen o destino en las Islas Canarias.	2014-2019	Direct grant/ Interest rate subsidy	939,000,000.00
SA.40258	HAC - Régimen Económico y Fiscal de Canarias (REF). Ayuda al funcionamiento	2015-2020	Tax advantage or tax exemption	1,428,000,000.00
SA.40256	HAC - Régimen Económico Fiscal de Canarias (REF). Ayudas a la inversión	2015-2020	Tax advantage or tax exemption	938,000,000.00
SA.40257	HAC - Zona Especial Canaria (ZEC)	2015-2020	Tax advantage or tax exemption	180,000,000.00
SA.45138	TRTEL - Bonificaciones al transporte marítimo interinsular e intrainsular de viajeros residentes en Canarias	2015-2020	Direct grant/ Interest rate subsidy	138,000,000.00
SA.40255	HAC - Arbitrio sobre importaciones y entregas de mercancias en las Islas Canarias	2015-2020	Tax advantage or tax exemption	420,000,000.00
SA.43558	TRTEL - Bonificaciones al transporte marítimo interinsular e intrainsular de viajeros residentes en Canarias	2014-2015	Direct grant/ Interest rate subsidy	n.a

State aid code	Title	Time coverage	Type	Amount (€)
N544/2010	Prolongation of aid scheme NN 22/08 AIEM	2012-2013	Other forms of tax advantage/Tax rate reduction	160,000,000.00
N741/2007	Amendment of Zona Especial Canaria (ZEC)	2009-2013	Tax rate reduction	104,000,000.00
N389/2008	Scheme for compensation of transport costs of non Annex I products in the Canary Islands	2007-2012	Direct grant	346,000,000.00
N563/2004	Iles Canaries - Modification du régime N708/98 - Aides fiscales au fonctionnement (Zona especial Canaria)	2005-2006	Tax rate reduction	n.a
SA.36223	Investment aid to the Port Authority of Santa Cruz de Tenerife	? - 2015	Direct grant	243,800,000.00
SA.41993	TRTEL - Subvenciones al transporte marítimo de pasajeros residentes en regiones no peninsulares	2015-2018	Direct grant/ Interest rate subsidy	239,300,000.00
SA.37835	Prolongation of the approved aid scheme "Régimen Económico y Fiscal de Canarias (AIEM)" (NN22/2008) until 30 June 2014	2014	Other forms of tax advantage	52,000,000.00
SA.39245	HAC - Arbitrio sobre Importaciones y Entregas de Mercancías en las Islas Canarias	2014	Tax advantage or tax exemption	40,000,000.00
N433/1999	REGIME D'AIDES AU TRANSPORT (ILES CANARIES)	1999-2001	n.a	59,500,000.00
SA.51878	TRTEL-Subvenciones al transporte aéreo de residentes en regiones alejadas	2018-2020	Direct grant/ Interest rate subsidy	616,020,000.00
SA.48757	TRTEL - Subvenciones al transporte aéreo de residentes en regiones no peninsulares	2017-2020	Direct grant/ Interest rate subsidy	1,197,000.00
SA.37836	Prolongation of the aid scheme "zona especial canaria (ZEC)" (aid N 376/2006)	2014	Tax rate reduction	n.a
NN22/2008	Arbitrio sobre Importaciones y Entregas de Mercancias en las Islas Canarias (AIEM)	2007-2011	Tax allowance	520,000,000.00
N376/2006	Prorroga del Régimen de ayudas de la zona especial canaria (ZEC); ayuda N 708/98, modificada por N94/2003 N 563/2006	2007-2013	Tax rate reduction	114,776,000.00
SA.21176	State aid N 377/2006 - Spain- Economic and Fiscal Regime of Canary Islands	2007-2013	Tax rate reduction	48,111,000.00
SA.37121	Programa de Desarrollo de Vuelos en el Ámbito Territorial de la Región Ultraperiférica de Canarias	2013-2017	Direct grant	10,000,000.00
SA.48389	IND - Modernización y diversificación del sector industrial	2017-2020	Direct grant/ Interest rate subsidy	92,000,000.00
N773/1999	Carte des aides à finalité régionale pour la période 2000-2006	1999-2001	n.a	n.a

State aid code	Title	Time coverage	Type	Amount (€)
SA.55054	AGRI - Subvenciones destinadas a la ejecución de actuaciones para garantizar una gestión eficiente del agua destinada al riego agrícola	2018	Direct grant/ Interest rate subsidy	3,000,000.00
SA.55094	AGRI - Subvenciones destinadas a a abaratar a los agricultores el sobrecoste de la desalación y de la extracción de agua de pozos y de galerías para el riego agrícola en Canarias	2019	Direct grant/ Interest rate subsidy	4,000,000.00
SA.54214	TRTEL - Compensación al transporte marítimo y aéreo de mercancías no incluidas en el anexo I TCE, con origen o destino en las Islas Canarias.	2019	Direct grant/ Interest rate subsidy	240,000,000.00
SA.51609	INV - Línea Directa de Expansión	2015-2020	Loan/ Repayable advances	133,330,000.00
SA.49752	HAC-INCENTIVOS REGIONALES SA.41932	2014-2020	Direct grant/ Interest rate subsidy	516.750.000,00
SA.41932	HAC - INCENTIVOS REGIONALES	2018-2020	Direct grant/ Interest rate subsidy	186,400,000.000

PART 2 – OCTROI DE MER

1. Agriculture

1.1 POSEI Programme – Excluding Specific Supply Arrangements (SSA)

a. Overview

In French ORs, the POSEI represents the main instrument of EU support in the agricultural sector. In terms of EU allocations, the French POSEI (also called "POSEIDOM") reaches an annual budget of EUR 278 million in France[405], funded from the European agricultural guarantee fund (EAGF). The objectives of POSEI are[406]:

- guarantee the supply of essential agricultural products for human consumption, mitigating the costs incurred due to extreme remoteness – without harming local production,
- secure the development of the 'livestock' and 'crop-diversification' sectors, including the production, processing and sale of local products
- maintain and strengthen the competitiveness of traditional agricultural activities, including the production, processing and marketing of local crops and products.

The POSEI is articulated in two measures:

1) the **Specific Supply Arrangements** (SSA): see following section.
2) **Support to Local Production** (SLP), including (a) support to traditional activities ("*filières traditionelles*"), and (b) support to the diversification of production. SSA represents some 82% of the total EAGF allocations, of which circa 75% are today used to support traditional activities – *i.e.* sugar and bananas in French ORs - and the rest for diversification.

Scheme	POSEI Programme – Excluding Specific Supply Arrangements (SSA)	**Type**	EU Instrument
Geographical coverage	Martinique Guadeloupe French Guiana La Réunion Mayotte	**Target beneficiaries**	Agriculture sector: Producers organisation, producers associations, companies, cooperatives, farmers
Time period	Annual	**Budget**	2018: EUR 278 million (EU contribution) and EUR 40 million (national contribution)

[405] Additionally, national complementary allocations amount to EUR 40 million.
[406] Article 2 of Regulation (EU) No 228/2013

b. Implementation details

The POSEI is reviewed and updated on an annual basis[407]. It includes: the general strategy, the state of play of the agriculture sector in each ORs and the detailed budget allocation for each measure.
In the French ORs, the POSEIDOM aims at supporting local production; it is based on 5 measures:

- Transversal measures: these measures target technical assistance, reference network, animation, etc. Thus, it does not fall in the scope of OdM,
- Measure for the banana sector,
- Measure for the 'cane-sugar-rum' sector,
- Measure for crop diversification,
- Measure for the animal production.

In 2018, the payments granted for these 5 measures represented EUR 279 million; including 45,5% for the banana sector.

Table 39 – Implementation details of the POSEIDOM (2017)

	Financial fiche	EU funding	Additional funding	Payments
SSA	26 610 000 €	26 568 104 €		26 568 104 €
Transversal measures	2 420 000 €	2 379 976 €		2 379 976 €
Measure for the banana sector	129 100 000 €	127 322 915 €		127 322 915 €
Measure for cane-sugar-rum sector	74 860 000 €	74 742 035 €		74 742 035 €
Measure for crop diversification	13 850 000 €	14 235 338 €	12 900 176 €	26 679 697 €
Support animal production	31 570 000 €	29 969 210 €	24 717 224 €	55 661 369 €
TOTAL	**278 410 000 €**	**275 736 695 €**	**39 800 000 €**	**313 354 095 €**

Source: Annual execution report (2018 – Campaign POSEIDOM 2017)

Annual expenditure (average for the period)	Share attributable to relevant sectors	Share attributable to specific OdM products	Share attributable to the compensation of operating costs	Share attributable to specific cost factors
EUR 279 million (excluding SSA)	100%	100%	99%	n.a.

Theoretically, this programme may be prolonged annually over the next programming period 2021-2027; with – in average – the same budgets.

c. Estimated impact

The estimated impact of the POSEI programme in the French ORs is based on the following documents:

[407] https://info.agriculture.gouv.fr/gedei/site/bo-agri/document_administratif-387296d7-8293-4119-b762-3e0b4b984f10

- The annual report on the implementation of the programme for the previous year (Annual Implementation Report – AIR)[408]. This annual report is mainly highlighting the performance of the programme thanks to the follow-up of several financial and technical indicators for each measure related to the support of local production. According to the last AIR, the POSEI scheme is considered as essential to maintain the agricultural activity in French ORs. The execution rate is between 98% and 100% over the last decade, which underscores the success of this scheme.
- The report from the commission to the European Parliament and the Council on the implementation of the scheme of specific measures for agriculture in favour of the outermost regions of the Union (POSEI)[409]: external evaluation of the 2006-2014 POSEI scheme that was carried out from June 2015 to August 2016. Based this report, "the overall assessment of the POSEI programme over the 2006-2014 period appears to be rather positive especially as regards their ability to address the particular agricultural challenges, linked to the specific geographical location of the OR, as defined on Article 349 of the TFEU". All the challenges of the ORs (remoteness and insularity, complex topography) are directly addressed by POSEI programmes though a substantial contribution to farmer's incomes. In terms of recommendation, the report pointed the lack of a clear strategy with the quantification of specific objectives by adequate indicators; the need to improve the reporting though performance indicators and a better assessment of the compliance with the objectives.

d. Analysis of coherence

The main objective of the POSEI is to support the agricultural sector that suffers from insularity and remoteness. This objective is similar and coherent with OdM. But this objective is specifically covered by the SSA support which will be examined in the next paragraph. The current analysis focus on the other measures of the POSEI for the support to local production. The operational objectives of these measures are much larger:

- Maintain traditional farming activities of rural areas and prevent damages to the traditional landscapes
- Increase the supply of local fresh production
- Promote quality farming products,
- Maintain banana and sugar-cane-rum sectors.

The scheme aims at supporting local farmers and producers, also beneficiaries of OdM. The POSEI support a large range of products that may be part of the Annex I of the EC Treaty.

Indeed, the OdM support covers notably the following products, to a various extent from one OR to another:

- Live animals (CN codes 0105)
- Meat and Edible meat offal (CN codes 0201, 0203, 0204, 0206, 0207, 0208, 0209, 0210)
- Live trees and other plants; bulbs, roots and the like, cut flowers and ornamental foliage (CN codes 0601, 0602, 0603, 0604)
- Edible vegetables and certain roots and tubers (CN codes 0701, 0702, 0703, 0704, 0705, 0706, 0707, 0708, 0709, 0710, 0711, 0714)

[408] http://www.odeadom.fr/posei/
[409] https://eur-lex.europa.eu/resource.html?uri=cellar:be393c61-c2c0-11e6-a6db-01aa75ed71a1.0004.02/DOC_1&format=PDF

- Edible fruits and nuts, peel of citrus fruits or melons (CN codes 0801, 0802, 0803, 0804, 0805, 0806, 0807, 0808, 0809, 0810, 0811, 08012, 0813).
- Sugar and sugar confectionery (CN code 1701)

All these products are also supported by the measures to support local production of the POSEI scheme.

Based on the analysis of the available documents, it can be highlighted that in French ORs, POSEI (excluding SSA measure) covers all activities in the agricultural sector through a direct support to the production. In that sense, the economic activities targeted by the POSEI are the same the economic activities targeted by OdM. Both schemes (POSEI and OdM) are designed for cost compensation because of insularity and remoteness but the support to local production of POSEI covers a larger scope of objectives than OdM. POSEI covers a large scope of agricultural products that may also be supported through the OdM 'supported products. Thus, we assess that there is a potential cumulative effect between the support to local production granted through the POSEI scheme and OdM.

Nevertheless, if both schemes have a similar objective to compensate 'natural handicaps' of ORs, they don't address the same aspect of this issue as measures to support local production of the POSEI targets farmers income and OdM supports local farms and companies through a reduction of taxes. Thus, it can be considered that both schemes are more complementary than overlapping.

1.2 POSEI Programme – Specific Supply Arrangements (SSA)

a. Overview

The Specific Supply Arrangements (SSA), aims at mitigating the additional supply costs linked with insularity and remoteness for: (a) essential products for human consumption and (b) inputs necessary for agricultural and processing activities. The support may cover exemptions from duties on imports of selected agricultural products from third countries or aid for the supply of products from the EU mainland. SSA represents some 18% of the total EAGF allocations. The POSEI Regulation established a SSA maximum annual allocation of EUR 26,9 million for French ORs.

The volume of products to be supplied under the SSA is set annually by national authorities based on need forecasts.

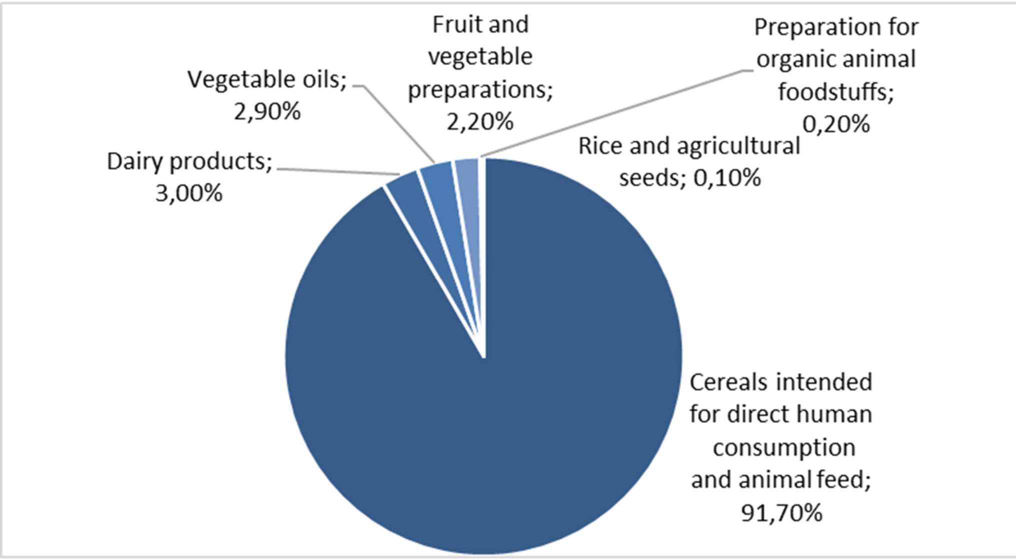
Scheme	POSEI Programme – Specific Supply Arrangements (SSA)	**Type**	EU Instrument
Geographical coverage	Martinique Guadeloupe French Guiana La Réunion Mayotte	**Target beneficiaries**	Agriculture sector: Producers organisation, producers associations, companies, cooperatives, farmers
Time period	Annual	**Budget**	2018: EUR 26,9 million (EU contribution) and EUR 40 million (national contribution)

b. Implementation details

Implementation details of SSA are gathered in the Annual Implementation Reports of POSEI[410]. Based on these documents, the analysis of the implementation of SSA in the last years shows that 92% of the payments are dedicated to "cereals intended for direct human consumption and animal feed". The remaining 8% are allocated to dairy products (3%), vegetable oils (2,9%), fruit and vegetable preparations (2,2%), preparation for organic animal foodstuffs (0,2%) and rice and agricultural seeds (0,1%). This general breakdown has been similar over the last 5 years period and in almost each OR; except for Mayotte where cereals account for 40% of the payments, dairy products for 45% and vegetable oils for 15%.

The figure 1 below shows this breakdown, based on the last public AIR of 2018 (with 2017 data).

Figure 1 - SSA payments in 2017



Source: Annual Implementation Report 2018

Considering the allocation of the payments, we can consider that the main risk of overlapping with OdM support is on cereals (92% of the payments for SSA).

Annual expenditure (average for the period)	Share attributable to relevant sectors	Share attributable to specific AIEM/OdM products	Share attributable to the compensation of operating costs	Share attributable to specific cost factors
EUR 26,5 million (2018)	100%	0 to 5%	100%	100% transport costs

Theoretically, this programme may be prolonged annually over the next programming period 2021-2027; with – in average – the same budgets.

[410] http://www.odeadom.fr/posei/

c. Estimated impact

The estimated impact of SSA is based on the following documents and reports:

- The French Ministry of Agriculture published a report in 2018[411] regarding the implementation of SAA in French ORs. This report concluded that SAA is an appropriate, relevant and useful tool to support the French ORs' economy. Thanks to the reduction of supply costs, a direct impact is observed on the price of animal feed which was the main objective of France, as well as on the price of inputs in the processing industries.
  The detailed analysis done regarding the risk of overlapping between SSA and OdM concluded on the necessity to ensure more consistency between the two schemes. This would imply a deeper communication between customs services, national and local governments.
- The Annual Implementation Reports of POSEI[412]: this annual report is mainly highlighting the performance of the programme thanks to the follow-up of several financial and technical indicators for each measure, including SSA. Performance indicators for SSA mainly focus on the passing of the benefit granted until the consumer and the analysis of the additional costs of beneficiaries to ensure that the support received through SSA is not higher. According to the last available AIR, few discrepancies have been registered regarding this scheme. SSA is considered as essential to maintain the agricultural activity in French ORs. The execution rate is between 98% and 100% over the last decade, which underscores the success of this scheme. This annual report also gives the effective breakdown of SSA per category of products (but the detailed allocation at the level of CN codes with 8 digits was unavailable).

d. Analysis of coherence

<u>Coherence of the schemes' objectives:</u>
OdM and SSA both aim at boosting the local economy of French ORs. The SSA aims at reducing the extra costs of supplying the ORs with essential products for human consumption and processing industries.

In French ORs, the POSEIDOM specifies that: "the management of the SSA should consider the priority of the importation of raw materials for animal feed first; then for human consumption and third for agri-food industries"[413]. The SSA to support the supply of raw materials for processing industries must "contribute to maintain the level of employment in the French ORs, to offer consumers affordable products, to develop new products corresponding to the demand and to maintain a balanced market at local level in a highly competitive economic environment".

OdM represent essential resources for local government. This scheme can also be used for social and economic development through the possibility of each region to provide total or partial exemptions to promote local processing (exemption of OdM for imports of raw materials for specific sectors) or to protect local production (tax differential between the tax of importation and tax of production). In addition, and as part of the same objective, companies with less than EUR 300 000 of turnover are totally exempted of OdM.

To ensure the overall consistency between these 2 schemes (the SSA and the OdM), a clear coordination of the lists of 'supported products' is necessary.

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[411] François Champanhet, Claire Servant, *Mise en oeuvre du régime spécifique d'approvisionnement (RSA)*, Rapport n. 16053, December 2017.
[412] http://www.odeadom.fr/posei/
[413] Source: POSEI France – Chap. 5 - SSA

Coherence of the schemes' implementation:

In 2004, a European decision[414] stated that the cumulation of SSA and exemption or tax differential of OdM is not possible. It means that for French ORs, the overlapping between 'supported products' and products supported by the SSA is not possible. This decision was stated in 2004 for a period of 10 years and these provisions have been extended in 2014 until June 30th 2020[415].

To deepen the analysis of coherence, we need to refer to the POSEI program where we can find, for each product category, the designation products to be considered and their CN codes.

Two levels of analysis must be considered:

- Direct overlapping: cases of overlapping between SSA and OdM for the same products,
- Indirect overlapping: raw products imported with the support of SSA and used in processing industries of ORs for the manufacturing of product covered by OdM.

Direct overlapping: The table below presents the crosscheck of the list of products covered by OdM support ('supported products') and the list of products eligible to SSA, based on the POSEI programme of the year 2019. It enables the identification of potential overlapping between OdM and SSA.

[414] https://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2004:052:0064:0069:FR:PDF
[415] https://eur-lex.europa.eu/legal-content/FR/TXT/PDF/?uri=CELEX:32014D0940&from=FR

Table 40 - Products covered by OdM and eligible to the SSA (2019)

CN code	Product	GUA	GUI	MAR	MAY	REU	Potential support by SSA scheme (POSEI 2019)
		List 'supported products' - OdM					
0201	Meat of bovine animals, fresh or chilled	A	B	A			No (SSA for Mayotte only)
0204	Meat of sheep or goats, fresh, chilled or frozen		B				No (SSA for Mayotte only)
0401	Milk and cream, not concentrated nor containing added sugar or other sweetening matter:				C		No (Mayotte not covered by SSA)
0405	Butter and other fats and oils derived from milk; dairy spreads:			A		A	Yes (Martinique (100€/t - 1 600 tonnes) and La Réunion (100€/t – 4 200 tonnes) covered by product 04059010)
0703 20 00	Onions, shallots, garlic, leeks and other alliaceous vegetables, fresh or chilled					B	Yes (SSA for La Réunion : 139,6 tonnes / 120 €/t)
0808	Apples, pears and quinces, fresh					A	No (SSA for Mayotte only)
0901	Coffee, whether or not roasted or decaffeinated; coffee husks and skins; coffee substitutes containing coffee in any proportion		B				No (SSA for Martinique only)
1006 20	Husked (brown) rice		A				No (SSA for Martinique only)
1006 40	Broken rice	C		C			No (SSA for Mayotte only)
1101	Wheat or meslin flour	C					No (SSA for Mayotte only)
1512 19	Sunflower-seed or safflower oil and fractions thereof Other					C	No (La Réunion is covered by SSA only for 151211)
1514 19 90	Sunflower-seed or safflower oil and fractions thereof Other					C	No (La Réunion is covered by SSA only for 151411)
1515 29	Maize (corn) oil and its fractions Other					C	No (Reunion not covered by SSA)
1701	Cane or beet sugar and chemically pure sucrose, in solid form	C		C			No (SSA for Mayotte only)
2007	Jams, fruit jellies, marmalades, fruit or nut purée and fruit or nut pastes, obtained by cooking, whether or not containing added sugar or other sweetening matter	C	C	C		A	Yes (Martinique and La Réunion covered by product CN codes 2007; detailed volumes not available)
2008	Fruit, nuts and other edible parts of plants, otherwise prepared or preserved, whether or not containing added sugar or other sweetening matter or spirit, not elsewhere specified or included			C		B	Yes (Martinique and La Réunion covered by product CN codes 2007; detailed volumes not available)
2009	Fruit juices (including grape must) and vegetable juices, unfermented and not containing added spirit, whether or not containing added sugar or other sweetening matter	C	C	C		C	Yes (all ORs are covered by SSA on CN codes 2009; detailed volumes not available)
2309 90	Other (organic foodstuffs for animal feed)	B	B		A	A	Yes (ORs covered by SSA: Guadeloupe (100 t - 150€/t); Guyane (4000 t - 160€/t); La Réunion (90 t - 120 €/t); Mayotte (312 t - 160€/t))

Based on this table, the following points can be highlighted:

- Potential overlapping for the product 0405 in Martinique and La Réunion: by "potential" overlapping, we mean that overlapping between OdM and SSA is possible but we only have aggregated data regarding the effective implementation; thus, we can only highlight the risk of a "potential" overlapping. Nevertheless, in case we would have been able to prove overlapping, it should be considered that the amounts involved are insignificant compared with the total SSA support (160 k€ for Martinique and 420 k€ in La Réunion, which accounted for 0,8% of SSA payments).
- Potential overlapping for the product 07032000 in Mayotte with a small amount involved (16,7 k€, which accounted for 0,02% of SSA payments).
- Potential overlapping on 'preparations from fruits and vegetables' (products 2007/2008/2009). The amounts engaged are unknown but based on the last Annual Implementation Report, the SSA payments on this product category reach 2,2% of the total SSA payments.
- Potential overlapping of OdM support and SSA for organic foodstuffs for animal feed; but payments are usually less than 0,5% of the total SSA payments (see fig.2).
- No overlapping on 'cereals', which is the main product category covered by SSA.

To have a view overtime of the assessment of the overlapping between POSEI products and OdM, we can refer to the report of the French Ministry of Agriculture that was published in 2018[416]; where this issue was deeply analysed.

This report highlights that, in some cases, products listed in the Annex 1 of the Reg 940/2014/EU (which means products eligible to a tax reduction of OdM) are also supported by the SSA. For instance, the report highlighted the following situations in 2016:

- In La Réunion: CN codes 0405 90 10 (butter and dairy spreads) and 2008 99 99 (prepared/preserved fruits and vegetables) are both part of the Annex 1 and the SSA balance. But no OdM differential rate is applied.
- In Martinique: the product 0405 90 10 appears both in the list of Annex 1 and in the balance of SSA with an OdM differential rate implemented.
- In Guadeloupe, the list of fruit juices CN codes was divided into two lists: one for products beneficiating from an OdM differential rate and another one for the SSA.

We can conclude that, overtime, the risk assessment of overlapping between SSA and OdM is similar between 2016 and 2019. For the larger part of the payments, allocated to cereals; there is no overlapping. To a minor degree in terms of amounts engaged, some overlapping may occur for other products (dairy products, preparation of fruits and vegetables, organic foodstuffs for animal feed) but we cannot prove if it occurs or not with the available information we have.

Indirect overlapping: The table below aims at the identification of the potential overlapping between raw materials supported by SSA and used in the process of products manufactured in the ORs and supported by OdM scheme.

Indeed, prepared products like flours or beers may be supported by:

- a differential rate of OdM
- the SSA support for the import of cereals and malt used in the process.

[416] François Champanhet, Claire Servant, *Mise en oeuvre du régime spécifique d'approvisionnement (RSA)*, Rapport n. 16053, December 2017.

Table 41 – Potential indirect overlapping between OdM and SSA schemes

CN code	Product	GUA	GUI	MAR	MAY	REU	Potential indirect overlapping with raw materials supported by SSA (POSEI 2019)
		List 'supported products' - OdM					
1101	Wheat or meslin flour	C					The main part of SSA is allocated to the import of cereals that may be used for the manufacturing of flours/starches. The import of malt is supported by SSA in Guadeloupe and French Guiana and may be used for the beer processors.
1101 00 11				C			
1101 00 15				C		A	
1102	Cereal flours other than of wheat or meslin			A			
1106	Flour, meal and powder of the dried leguminous vegetables of heading 0713, of sago or of roots or tubers of heading 0714 or of the products of Chapter 8	A					
1106 20				A		A	
1108 14	Starches; inulin					A	
1901	Malt extract; food preparations of flour, groats, meal, starch or malt extract, not containing cocoa or containing less than 40 % by weight of cocoa calculated on a totally defatted basis, not elsewhere specified or included; food preparations of goods of headings 0401 to 0404, not containing cocoa or containing less than 5 % by weight of cocoa calculated on a totally defatted basis, not elsewhere specified or included			C	C	B	
1901 20		B					
1901 90 91 00							
1901 90 99							
1903	Tapioca and substitutes therefor prepared from starch, in the form of flakes, grains, pearls, siftings or similar forms					A	
1904	Prepared foods obtained by the swelling or roasting of cereals or cereal products (for example, corn flakes); cereals (other than maize (corn)) in grain form or in the form of flakes or other worked grains (except flour, groats and meal), pre-cooked or otherwise prepared, not elsewhere specified or included					A	
1904 10				A			
1904 10 10							
1904 20				A			
1905		B	B	C	C	B	
2203	Beer made from malt	C	C	C	C	C	
2206 00 59	Other fermented beverages (for example, cider, perry, mead); mixtures of fermented beverages and mixtures of fermented beverages and non-alcoholic beverages, not elsewhere specified or included					C	
2206 00 89						C	

The report published in 2018 from the French Ministry[417], shows that the articulation of both schemes, with their common objectives, is complex in its implementation:

- Decision-makers are different, and calendars are not coordinated:

[417] https://agriculture.gouv.fr/mise-en-oeuvre-du-regime-specifique-dapprovisionnement-rsa

  - The list of SSA eligible products is included in the POSEI programme and can be updated every year;
  - OdM rates can be modified, at any moment, through a consultation of regional governments.
- Each French oversea department can decide the OdM rates for their own territory, according to their local economy, localisation and processing industries.
- CN nomenclature codes may be subject to changes and these possible changes are difficult to anticipate.

Even if such changes, for the SSA as for OdM rates, are rare and make potential situations of overlapping uncommon, the risk of failure to comply with the European decision (that make not possible the cumulation of SSA and exemption or tax differential of Od) is highlighted.

Finally, in 2016, a more general external evaluation on POSEI was carried out[418], followed by a Commission Report[419], but the issue of potential overlapping with the special tax regimes was not mentioned.

We can conclude that there are provisions in the POSEI policy to prevent that products supplied under the SSA fall in the scope of 'supported products' of OdM, to avoid a possible overlapping at 2 levels:

- Direct overlapping for the same products.
- Indirect overlapping in the case of raw materials imported by French ORs with the support of SSA and included in the processing of products supported by the OdM scheme.

However, the articulation and complex management of product lists for both schemes make such overlapping in principle possible, but uncommon. Finally, the potential direct overlapping covers a minor share of the total amount allocated to SSA[420].

Reduced excise tax on 'traditional' rum produced in French ORs[421]

a. Overview

Because of the natural constraints of French ORs, the French 'traditional' rum faces a lack of competitiveness compared to ACP countries and other third countries.
The objective of this scheme is to preserve the "cane-sugar-rum" sector of French ORs by the compensation of additional costs links to the natural handicaps of these territories.

[418] ADE, Evaluation of measures for agriculture carried out for the outermost regions (POSEI) and the smaller Aegean islands, Final Report, August 2016.
[419] COM(2016) 797 final, on the implementation of the scheme of specific measures for agriculture in favour of the outermost regions of the Union (POSEI).
[420] 92% of the SSA support is for "Cereals intended for direct human consumption and animal feed" and there with no overlaps with OdM on this category of products.
[421] https://ec.europa.eu/competition/state_aid/cases/253225/253225_1591133_86_2.pdf

Scheme	Reduced excises tax on 'traditional' rum produced in French ORs	**Type**	State Aid SA.38641
Geographical coverage	Guadeloupe French Guiana Martinique La Reunion	**Target beneficiaries**	Rum distilleries
Time period	01/07/2007 - 31/12/2013 renewed the 01/07/2014 until 31/12/2020	**Budget**	EUR 103.06 million per year

b. Implementation details

The French taxation on alcoholic beverage is based on 3 schemes:

- Value Added Tax
- Excise tax (based on the marketed volume of pure alcohol)
- Social security contribution

This State Aid was implemented in 2014 and is ongoing until 31/12/2020. It consists of an excise tax reduction compared with the excise tax applied to other alcoholic beverages.
This reduced rate is applied at the stage of the commercialisation on the French mainland market, for a fiscal contingent of 120 000 HPA (Hectolitre of Pure Alcohol) of 'traditional' rums produced in Guadeloupe, Martinique, Guyane and La Réunion[422].

For instance, the differential of taxation between rums produced in French ORs and other alcohols in 2015 is presented in the table below:

Table 42: Differential of taxation between French rums and other alcohols

	2015 - EUR / HPA	
	French ORs rum	**Other alcohols**
Excise tax	1 730.34	865.81
Social Security contribution	555.68	555.68
TOTAL	2 286.32	1 421.49
Differential	864.83 EUR / HPA	

Source: ODEADOM

Over one year, the whole support depends on the volume of rum sold (without exceeding a maximum of 120 000 HPA).

Beneficiaries are stakeholders involved in the value chain with product more competitive without taxes.

[422] The policy document of this State Aid does not give the data broken down by OR.

Annual expenditure (average for the period)	Share attributable to relevant sectors	Share attributable to specific OdM products	Share attributable to the compensation of operating costs	Share attributable to specific cost factors
Average of EUR 103.606 million per year on the period 20014-2017	100%	100%	100%	n.a.

c. Estimated impact

No document / source has been identified to estimate the impact of this scheme.

d. Analysis of coherence:

The rum produced on French ORs is covered by the CN Code 220840. This code is part of the list "B" in the four French ORs covered by the State Aid on the 'reduced excise tax on traditional rum'.
This means that 'traditional rums' produced in French ORs are covered by:

- a reduced OdM rate (list B);
- a reduced excise tax.

Table 43 - Products covered by OdM and the scheme regarding the reduced excise tax on 'traditional' rum

CN code	Product	Guadeloupe	French Guiana	Martinique	Réunion	Covered by the reduced excise tax on rums
		List 'supported products' - OdM				
2208 40	Undenatured ethyl alcohol of an alcoholic strength by volume of less than 80 % vol; spirits, liqueurs and other spirituous beverages	**B**	**B**	**B**	**B**	Yes

In the scheme's policy documents, there is no evidence of the concurrent implementation of OdM and, consequently, no mention of mechanism preventing the risk of overcompensation.
The scheme's policy document indicates that a mid-term review must be delivered to the European Commission on December 31st, 2017 at the latest; but this document is not publicly available. This document concludes on the compliance of this state aid with the interior market, according to the Art 107 of the Treaty.

The analysis highlights that 'traditional' rum produced in French ORs is supported by

- a state aid on a reduction of excise tax state[423]

[423] https://ec.europa.eu/competition/state_aid/cases/253225/253225_1591133_86_2.pdf

- by OdM through the list of 'supported' products (list B).

Both schemes pursue the same objective of compensation of handicaps of French ORs. It targets local rum producers.

Thus, we assess there is a potential overlapping between this scheme and OdM.

National support to the agricultural sector in French ORs

a. Overview

This State Aid was implemented in 2009 and covers three types of supports: aid for technical and managing support, aid for the purchase of breeding animals and aid for the purchase of seeds. According to the French government[424], this support is provided to compensate the structural handicaps of French ORs: remoteness, insularity, relief, lack of agricultural land, etc. hamper the development of the local agricultural sector.

Beneficiaries of this scheme are small and medium farms, collective agricultural structures (producer organisations, cooperatives), in the four French ORs: Guadeloupe, Guyana, Martinique and La Réunion. Exceptionally, Agricultural Chambers also can beneficiate from this support.

The budget allocated was EUR 2 340 000 per year over the period 2009-2013 (total: EUR 12 804 000) and EUR 2 340 000 per year over the period 2014-2020 (total: EUR 16 380 000). In total, the whole budget dedicated to this state aid over the last 12 years is EUR 29 184 000.

Scheme	National support to the agricultural sector in French ORs	**Type**	State Aid SA.37585
Geographical coverage	Martinique Guadeloupe French Guiana Reunion	**Target beneficiaries**	Small and medium farms, collective agricultural structures (producer organisations, cooperatives). Exceptionally, Agricultural Chambers
Time period	10/02/2009 – 31/12/2013 01/01/2014-31/12/2020	**Budget**	2009-2013: EUR 12 804 000 2014-2020: EUR 16 380 000

b. Implementation details

This scheme is based on three measures:

[424] https://ec.europa.eu/competition/state_aid/cases/224968/224968_921125_20_2.pdf
https://ec.europa.eu/competition/state_aid/cases/250398/250398_1509477_43_2.pdf

- Aid for technical and managing support:

Targeted actions include a personal advising support in order to meet as much as possible the specific issues of each farms and bring a technical support tailored to the needs of farmers. Eligible expenses are personal costs for the administrative and technical burden and functioning costs in relation with the actions considered. These supported actions can be expertise, advice or training.
The aid intensity can reach 35% of the eligible costs; and the payment is sent to producer's groups. All farmers may be eligible for this technical assistance (no need to be a member of the producer's group).

- Aid for the purchase of breeding animals

This support targets the purchase of breeding animals, born and selected in French ORs. The overall objective is the development of the local animal sector with breeding animals selected and adapted to the local conditions (temperature, humidity, tropical diseases, etc.). Insularity and remoteness of these territories, as well as the small size of the livestock from local breeds impact the competitiveness and generate additional costs.
The aid intensity can reach 50% of the purchase price with the following ceilings:

  - EUR 1 500 for male bovines
  - EUR 500 for female bovines
  - EUR 80 for male sheep
  - EUR 50 for female sheep

- Aid for the purchase of seeds

This aid targets the purchase of perennial (fruits trees) and semi-perennial (pineapple, banana, horticultural plants, etc.) seeds to enhance the competitiveness and support the fruit and vegetable sectors of French ORs. Beneficiates are farmers themselves and collective agricultural structures.
The aid intensity can reach 60% of eligible costs. This scheme does not target the seeds replacement neither the land purchase.

Annual expenditure (average for the period)	**Share attributable to relevant sectors**	**Share attributable to specific AIEM/OdM products**	**Share attributable to the compensation of operating costs**	**Share attributable to specific cost factors**
Planned budget: EUR 2 340 000 per year	100%	Only for the purchase of seeds in Martinique and La Reunion (detailed amounts not available)	100%	n.a.

c. Estimated impact

No document / source has been identified to estimate the impact of this scheme.

d. Analysis of coherence

Excluding the aid for technical and managing support which does not target the same scope as the OdM, the two measures allocated to support the purchase of breeding animals and seeds may overlap with the 'supported products' from OdM.
The analysis of the three lists (A, B and C) of products which benefit from an exemption or reduction rate of OdM highlighted the following points:

- In terms of 'live animals' (CN codes 0105), poultry is the only animal sector covered by an exemption or reduced rate of OdM. It does not overlap with the analysed national scheme which only covers bovine and sheep.
- Regarding the purchase of seeds (CN codes 0601/0602/0603/0604), overlaps may occur in Martinique and/or La Reunion as these products are included in the lists A and B in these two departments.

Table 44 – Supported products of OdM in the sectors of live animals and seeds

			List 'supported products' - OdM			
CN code	**CN Heading (4 digits)**	**Products**	**Guadeloupe**	**French Guiana**	**Martinique**	**Réunion**
0105 11	Live poultry, that is to say, fowls of the species Gallus domesticus, weighing not more than 185 g	Fowls of the species Gallus domesticus	**A**	**A**	**A**	**A**
0105 12	Live poultry, that is to say, fowls of the species Gallus domesticus, weighing not more than 185 g	Turkeys			**A**	**A**
0105 13	Live poultry, that is to say, fowls of the species Gallus domesticus, weighing not more than 185 g	Ducks				**A**
0105 15	Live poultry, that is to say, fowls of the species Gallus domesticus, weighing not more than 185 g	Guinea fowls			**A**	**A**
0601	Bulbs, tubers, tuberous roots, corms, crowns and rhizomes, dormant, in growth or in flower; chicory plants and roots other than roots of heading	Bulbs, tubers, tuberous roots, corms, crowns and rhizomes, dormant, in growth or in flower; chicory plants and roots other than roots of heading			**B**	**A**
0602	Other live plants (including their roots), cuttings and slips; mushroom spawn	Other live plants (including their roots), cuttings and slips; mushroom spawn			**B**	**A**
0603	Cut flowers and flower buds of a kind suitable for bouquets or for ornamental purposes, fresh,	Cut flowers and flower buds of a kind suitable for bouquets or for ornamental purposes, fresh,			**B**	**B**

	dried, dyed, bleached, impregnated or otherwise prepared	dried, dyed, bleached, impregnated or otherwise prepared				
0604	Foliage, branches and other parts of plants, without flowers or flower buds, and grasses, mosses and lichens, being goods of a kind suitable for bouquets or for ornamental purposes, fresh, dried, dyed, bleached, impregnated or otherwise prepared	Foliage, branches and other parts of plants, without flowers or flower buds, and grasses, mosses and lichens, being goods of a kind suitable for bouquets or for ornamental purposes, fresh, dried, dyed, bleached, impregnated or otherwise prepared			**B**	

In the scheme's policy documents, there is no evidence of the concurrent implementation of OdM regarding the share allocated for the purchase of seeds in Martinique and La Reunion. Consequently, there is no mention of mechanism preventing this risk of overcompensation. But this risk is estimated to be limited regarding the effective payments.

The analysis highlighted that French ORs receive a national support for the agricultural sector (support for technical and managing assistance, support for the purchase of breeding animals and support for the purchase of seeds) to compensate handicaps and natural constraints of these territories. In that sense, the overall objective and the beneficiaries are similar to the OdM ones.

Nevertheless, specific products targeted by this scheme (live bovines and live sheep; perennial and semi-perennial seeds) are not covered by the lists 'supported' products from OdM, except regarding the purchase of seeds in Martinique and La Reunion. Thus, we assess that overlap with OdM scheme is limited and may occur in the case of purchase of seeds in Martinique and La Réunion only.

National support to the sugar industry in French ORs

a. Overview

The sugar sector of French ORs suffers from natural handicaps that affect the competitiveness of sugar industries. The end of sugar quotas may increase the competitive gap between the sugar production of French ORs and the sugar production in EU.
This scheme is a state aid[425] implemented to support the adaptation of these sugar industries to the end of quotas.

It aims at compensating the additional production costs of oversea sugar industries in comparison with the mainland industries for the production of sugar intended for refining.

[425] https://ec.europa.eu/competition/state_aid/cases/266413/266413_1877387_42_2.pdf

Scheme	National support to the sugar industry in French ORs	**Type**	State Aid SA.45032
Geographical coverage	Guadeloupe Martinique La Reunion	**Target beneficiaries**	Sugar industries
Time period	01/10/2017 – 31/12/2020	**Budget**	EUR 114 million

b. Implementation details

The additional cost of sugar industries is estimated at EUR 271 / tonne. This amount is an average of the additional costs recorded in La Reunion (EUR 270 / tonne) and in Guadeloupe (EUR 272 / tonne) as these two departments produce respectively 75% and 20% of the total production of sugar in French ORs (in Martinique, the production of sugar is minor as rum sector is the main production from sugar cane).

With an annual production of sugar intended for refining estimated at 153 000 tonnes, the total additional costs are estimated at EUR 41.5 million per year.
To avoid any overcompensation, the budget has been capped at EUR 38 million per year (which represent an average compensation of EUR 250 / tonne).

Annual expenditure (average for the period)	Share attributable to relevant sectors	Share attributable to specific OdM products	Share attributable to the compensation of operating costs	Share attributable to specific cost factors
Planned budget: average of EUR 38 million per year	100%	Share corresponding to the budget allocated to 2 of the 3 measures covered by the scheme	100%	n.a.

c. Estimated impact

No document / source has been identified to estimate the impact of this scheme.

d. Analysis of coherence

As the OdM, this State aid for sugar industry pursues the general objective of compensating the structural handicaps of French ORs in comparison with the mainland.

In terms of beneficiaries, this national support targets sugar industries of Guadeloupe, Martinique and La Reunion; these industries are also beneficiaries of OdM.

The information provided in the State Aid document shows that the risk of overcompensation has been considered:

- According to the official directive of the state aid for sugar industries of French ORs[426], "as the other supports allocated to the sugar sector have been considered in the calculation of additional costs to be compensate, a cumulation of this aid with any other support scheme may not occur".
- The policy document also details the calculation of the additional production cost in each eligible OR, after the deduction of POSEI and EAFRD supports.
- Finally, the document stated that total additional costs were estimated to EUR 41.5 million per year but "to avoid any overcompensation", the budget allocated for this national support is capped at EUR 38 million per year.

Nevertheless, the document does not contain any mention to OdM scheme. We can highlight that the production of sugar is also covered by the lists of 'supported products' of OdM (meaning that a differential rate of OdM may be applied) in Guadeloupe and Martinique; but not for La Reunion (see the table below).

Table 45 – Supported products of OdM in the sectors of sugar

		List 'supported products' - OdM			
CN code	**CN Heading (4 digits)**	**Guadeloupe**	**French Guiana**	**Martinique**	**Réunion**
1701	Cane or beet sugar and chemically pure sucrose, in solid form	**C**		**C**	

We can conclude that this national support to sugar industries was implemented in 2017, until the end of 2020; with the objective to help the sector dealing with the end of sugar quotas. The budget provided is EUR 38 million / year). This national support covers 3 French ORs (Guadeloupe, Martinique and La Reunion) and targets companies that can also benefit from OdM scheme.

Products under the CN code 1701 (Cane or beet sugar and chemically pure sucrose, in solid form) are also part of the list of 'supported products' eligible to a differential rate of OdM (list C) in Guadeloupe and Martinique. Thus, we assess overlap with OdM scheme may occur in the case of Guadeloupe and Martinique.

1.3 European Agricultural Fund for Rural Development (EAFRD)

a. Overview

The European Agricultural Fund for Rural Development Fund (EAFRD) – also mentioned as the CAP second pillar – contributes to the development of rural areas. It is also a strong support to boost a climate-friendly, innovative and competitive agricultural industry. The EAFRD is set for a period of 7 years, currently on the programming period 2014-2020, and implemented through Rural Development Programs (RDP) set at regional level in France.

The EAFRD is designed on six priorities:

- fostering knowledge transfer and innovation in agriculture, forestry and rural areas

[426] https://www.europe-en-france.gouv.fr/fr/aides-d-etat/regimes-d-aide/aide-nationale-aux-industries-sucrieres-pour-ladaptation-la-fin-des

- enhancing the viability and competitiveness of all types of agriculture, and promoting innovative farm technologies and sustainable forest management
- promoting food chain organisation, animal welfare and risk management in agriculture
- promoting resource efficiency and supporting the shift toward a low-carbon and climate resilient economy in the agriculture, food and forestry sectors
- restoring, preserving and enhancing ecosystems related to agriculture and forestry
- promoting social inclusion, poverty reduction and economic development in rural areas

With some EUR 1.5 billion of allocation, the EAFRD accounts for nearly 25% of the EU funds for agriculture and rural development in the ORs and some 11% of the total ESIF support to ORs (2014-20 period).

In France, a national framework has oriented the regional policies toward to following topics:

- Support of young farmers to set up in business;
- Support of activities located in areas with specific natural constraints;
- Financing agri-environmental measures;
- Support of organic farming;
- Financing the Natura 2000 network and Water Framework Directive;
- Investments in the agricultural, agri-food, and forest sectors.

For the current 2014-2020 period, the total amount allocated to the EAFRD is EUR 11.4 billion at national level and reaches EUR 1,1 billion in the French ORs, divided as follows:

Table 46 – EAFRD allocation to French ORs (2014-2020, EUR million)

	Guadeloupe	Martinique	French Guiana	Reunion	Mayotte
EAFRD allocations (total)	207	166	174	536	82
Main priorities	Farm viability; Resource efficiency	Farm viability; social inclusion	Social inclusion; Farm viability	Farm viability; ecosystems	Farm viability; social inclusion
Primary measure	Investment in physical assets	Investment in physical assets	Basic services	Investment in physical assets	Investment in physical assets; basic services

Source: DG AGRI, Rural Development 2014-2020 – Country files

Scheme	European Agricultural Fund for Rural Development	**Type**	EU instrument
Geographical coverage	Guadeloupe Martinique La Reunion French Guiana Mayotte	**Target beneficiaries**	Farmers, producers' organisations, producers associations, small and medium companies, cooperatives, territorial organisations, research organisations.
Time period	2007-2013 2014-2020	**Budget**	2007-2013: EUR 631 million EAFRD contribution + EUR 23 million of national contribution 2014-2020: EUR 1.1 billion EAFRD contribution + EUR 40 million of national support.

b. Implementation details

<u>Guadeloupe</u>

The RDP in Guadeloupe covers the island of Saint-Martin. The allocated amount of EAFRD for both islands reaches EUR 207 million on the programming period 2014-2020 (20.2% of the French OR EAFRD). The RDP has set three policy orientations:

- Foster a more competitive and innovative environment and favourable for the innovation: the local agricultural and agri-food sector has important needs in terms of productive investments and infrastructures;
- Increasing employment rate by supporting the skill development and the farmers setting up;
- Support an economy respecting the environment, natural resources and with low carbon emissions.

<u>French Guiana</u>

The allocated amount of EAFRD in French Guyana is set at EUR 174 million for the current programming period. The strategy implemented in the territory is mainly focused on three priorities, accounting provisionally for 80% of the total allocation:

- Improvement of lifestyles in rural areas: support the development of the basic services and infrastructures in rural areas;
- Development of the local production, in order to increase the food supplies in the territory: farm modernization, support in young farmers setting up, technical training in the agricultural and forestry sectors;

- Improvement of the economic performance of the agricultural and forestry industry, in relation with a sustainable management: limitation of the impacts of human activities on biodiversity and water quality and increase in wood production as a sustainable resource.

Martinique

The allocated amount of EAFRD in Martinique reaches EUR 166 million over the programming period. According to the annual implementation report conducted by the regional authorities, the RDP has mainly focused on:

- Development of the production: investments in production and storage facilities, and agricultural equipment, development of permanent crops, modernization and creation of processing units, improvement of land use.
- Preservation and use of the natural resources and environment: by promoting touristic activities, by preserving and highlighting the natural and cultural heritage, and by leading communication campaigns on the local environmental issues.

La Réunion

The allocated amount of EAFRD in La Réunion reaches 385 500 000 EUR over the programming period (44.7% of the French OR EAFRD budget) and is the highest among the French ORs. The allocation of the fund is focused on 3 main priorities identified in the territory:

- Optimization of the agricultural and agri-food means of productions: this priority is translated by a modernization of the farms, maintain strong sectors such has sugar cane industry, development of the food processing, or diversification of agricultural production.
- Preserve and use of the natural resources and agricultural area : this priority is implemented by the modernization and improvement of the access to the farms and farm plots, by maintaining the environmental-friendly systems of production (vegetable farming, small farms), by the improvement of water quality and use efficiency, by the improvement of energy use at farm level, and by the reduction of nitrogenous fertilizing.
- Reinforcement of the attractiveness of the area of 'Les Hauts' and support of job creation: this priority is supported by the preservation of the water access in this area, by developing the local forestry industry (in order to create jobs and local handicraft), and by preserving cultural and natural heritage.

Mayotte

The allocated amount of EAFRD in Mayotte reaches 60 000 000 EUR over the programming period (6.9% of the French OR EAFRD budget). EAFRD funds have been oriented to improve the potential agricultural local outputs, with a sustainable management of the natural resources and a balanced development on the island. To fulfil those priorities, the RDP has focused on:

- Improving the food local supplies, through the modernization of the farms and supporting small farmers who are central in the inhabitant food.
- Improving of lifestyles in the rural population: it is the main priority concerning Mayotte's development. EAFRD is oriented towards improving job and basic needs access.

- Preservation and use of the natural resources: the RDP targets projects in favour of the environment and the preservation of ecosystems, in relation with touristic attractiveness and economy development.
- Reinforcing innovation and develop competences in the agricultural sector: the EAFRD supports the production and dissemination of technical and economic information.

For further information, each territory has the obligation to provide an annual implementation report (art. 37.3 of Regulation R.1303/2013). According to the assessment of the *Cour des Comptes*[427]*,* the implementation of EAFRD shows a global underuse of the fund in the French ORs.

Annual expenditure (average for the period)	**Share attributable to relevant sectors**	**Share attributable to specific AIEM/OdM products**	**Share attributable to the compensation of operating costs**	**Share attributable to specific cost factors**
Annual average of EUR 157 million (period 2014-2020)	100%	0%	0%	n.a.

c. Estimated impact

The estimated impact of the EAFRD scheme is based on the Annual Implementation Reports (AIRs) in each French OR[428].
These reports show the state of play of the implementation of the programme for each measure, in each department:

- **Guadeloupe**: the 31/12/2018, the financial programming rate was 44% which represent EUR 67 million of the EAFRD budget allocated to Guadeloupe; and around 4% were paid. This support was mainly implemented for the farm competitiveness, the sustainable management of resources and a balanced territorial development.
- **Martinique**: the 31/12/2018, the financial programming rate was 41% and EUR 17,5 million of EAFRD fund were paid; mainly for the farm competitiveness, innovation and agri-environmental measures.
- **La Réunion**: the 31/12/2018, the financial programming rate was 49,3%, which represent EUR 190 million from the EAFRD fund. As a general comment, the report stated that the implemented measures are progressing satisfactorily.
- **French Guiana**: the 31/12/2016, EUR 9 million are engaged, including EUR 7,6 EUR from EAFRD funds (6,8% of the programmed amounts). Most of the projects are related to the priority 2 (farm viability and competitiveness).
- **Mayotte**: between 2014 and 2016, EUR 16 million has been engaged, including EUR 12 million from the EAFRD fund. The AIR of 2017 pointed that this state of play was satisfying and in coherence with the commitments of programming.

The impact of EAFRD scheme is also analysed in:

[427] La gestion des fonds européens structurels et d'investissement (FESI) en outre-mer : des résultats inégaux, une démarche de performance à consolider, february 2019, p. 372
[428] https://www.europe-guadeloupe.fr/images/pdf/RAMO%20FEADER_VF.pdf
http://www.europe-martinique.com/wp-content/uploads/2016/05/RAMO-CITOYEN-FEADER-2018.pdf
http://www.reunioneurope.org/DOCS/2014-2020_Rapport_Annuel_RAMO_PDRR_2018_complement.pdf
https://www.reseaurural.fr/sites/default/files/documents/fichiers/2018-05/2016_feader_ramo_guyane.pdfhttp://daaf.mayotte.agriculture.gouv.fr/IMG/pdf/PDRMay_RAMO2017_VF_cle898bf5.pdf

- Ex-ante evaluations[429]in Guadeloupe, French Guiana and Martinique: these reports were published in 2015 (2013 for French Guiana) and refer to the previous programming period (2007-2013).
- Ex-post evaluation in La Réunion[430]: this report was published in 2016 and refers to the previous programming period (2007-2013).

As these reports are related to the previous programming period (2007-2013), we consider that their outputs are irrelevant for the current analysis.

d. Analysis of coherence

As a general comment, it should be pointed that EAFRD is not a scheme that specifically focus French ORs as OdM. This European Fund is implemented in mainland and ORs; whereas OdM is a specific tool for the French ORs.

The objective of EAFRD measures is not to compensate overcosts or factors due to remoteness or insularity which differ from the main objective of OdM. The EAFRD main objectives are related to the rural development, environment and climate, health and safety, generation renewal and competitiveness of the value chains.

Depending of the measures implemented and the type of projects (innovation, research project, technical assistance, support for productive investment, support in areas with specific natural handicaps, etc.) EAFRD beneficiaries may cover a large range of stakeholders.
Potential beneficiaries are:

- Farmers
- Producers' groups / producers' organisations
- Processing companies
- Public authorities
- Research organisations
- Professional organisations.

In the cases of the EAFRD measures that target farmers, producers' groups or processing organisations; it can be noticed that these beneficiaries are the same as for OdM.

We can conclude that EAFRD is a European Fund implemented in mainland and in ORs. The scope of EAFRD measures is large: innovation, environment and climate, productive investments, health and security, competitiveness of the value chains, poverty reduction and economic development in rural areas. Likewise, EAFRD may target a large range of beneficiaries: farmers, producers' groups, processors, research institutes, public authorities, professional organisations.

These measures do not pursue the same objective as OdM but may target the same beneficiaries in the case of private stakeholders. We assess the support is coherent with OdM scheme and there is no overlapping between EAFRD and OdM.

[429]https://www.europe-guadeloupe.fr/images/pdf/Evaluation_PDR_Guadeloupe.pdf
http://www.europe-martinique.com/wp-content/uploads/2016/05/Rapport-final-strat%C3%A9gique-Phase-2-IF-Martinique-Version-finale-301015.pdf
https://europe-guyane.fr/wp-content/uploads/2017/08/CR-Guyane_Evaluation-ex-ante-instruments-financiers_rapport-final.pdf
[430] http://www.reunioneurope.org/DOCS/EVALUATION_FEADER_2007-2013_Rapport_Final_Evaluation.pdf

1.4 Scheme exempted from notification SA.49725 (formerly SA.46803) relating to aid for afforestation and creation of wooded areas for the period 2017-2020 (Mayotte)

a. Overview

This scheme[431] aims at being considered as a legal basis, in accordance with the European Regulation (EU) No 1305/2013, for public support granted under the Mayotte Rural Development Programme. This state aid is a complementary national support to the EAFRD support for the implementation and monitoring of wooded areas (operation 8.1.1 of the RDP of Mayotte).

According to the EAFRD Annual Implementation Report of Mayotte (2017)[432], no application was received on the measure 8.1.1 until the beginning of 2017 because of the absence of State Aid scheme on this measure. This statement explains the implementation of this scheme on March 2017.

The policy document of this scheme states that due to the disappearance of large forest areas (illegal clearing, fires, etc.), the objective of this support is:

- To give to owners and managers of public forests the opportunity to reforest degraded lands in order to answer the following needs:
    - Preservation of natural spaces and, in particular, forests.
    - Preservation of water resources
    - Combating erosion and preserving soil fertility.
- Support private owners who wish to develop a forestry activity for economic purposes.

The State Aid reference is SA.49725; it is implemented on a short period (March 2017 to December 2020) and the planned budget is EUR 1 million.

Scheme	Scheme exempted from notification SA.49725 (formerly SA.46803) relating to aid for afforestation and creation of wooded areas	**Type**	State Aid SA.49725
Geographical coverage	Mayotte	**Target beneficiaries**	Private landowners and tenants; territorial organisations; public institutions.
Time period	16/03/2017 – 31/12/2020	**Budget**	EUR 1 million for the period

431 http://daaf.mayotte.agriculture.gouv.fr/IMG/doc/Re_gime_exempte_Boisements_PDR_Mayotte_SA46803_cle4afc6f.doc

432 http://daaf.mayotte.agriculture.gouv.fr/IMG/pdf/PDRMay_RAMO2017_VF_cle898bf5.pdf

b. Implementation details

No detailed information is available regarding the implementation of the scheme since March 2017 (number of beneficiaries, surfaces of wooded areas implemented, effective payments for instance).

Annual expenditure (average for the period)	Share attributable to relevant sectors	Share attributable to specific AIEM/OdM products	Share attributable to the compensation of operating costs	Share attributable to specific cost factors
Average annual planned budget: EUR 250 000 per year.	100%	0% (indirect potential overlapping only)	100%	n.a.

c. Estimated impact

No document / source has been identified to estimate the impact of this scheme. Nevertheless, considering that this scheme is related to the RDP of Mayotte, we can refer to the EAFRD Annual Implementation Report of Mayotte (see the previous chapter regarding the analysis of EAFRD).

d. Analysis of coherence

The table below presents the potential indirect overlapping between this scheme and OdM if this support has been mobilised since its implementation in March 2017.
Both schemes address the same sector (forestry) but not the same products:

- The present state aid focuses on the creation of new wooded areas.
- OdM protects some manufactured wooded products.

Therefore, beneficiaries of these schemes would be the same only if private forestry owners are also processing their wood.

Table 47 – Potential indirect overlapping regarding manufactured wooded products

<table>
<tr><th>CN code</th><th>Product</th><th>List 'supported products' - OdM Mayotte</th><th>Potential indirect overlapping with the development of wooded areas supported by the scheme</th></tr>
<tr><td>4409 10</td><td>Wood (including strips and friezes for parquet flooring, not assembled) continuously shaped (tongued, grooved, rebated, chamfered, V-jointed, beaded, moulded, rounded or the like) along any of its edges, ends or faces, whether or not planed, sanded or end-jointed</td><td>B</td><td rowspan="2">Yes</td></tr>
<tr><td>4415 20</td><td>Wooden frames for paintings, photographs, mirrors or similar objects</td><td>B</td></tr>
</table>

4418 10	Builders' joinery and carpentry of wood, including cellular wood panels, assembled flooring panels, shingles and shakes	**B**	
4420	Tableware and kitchenware, of wood	**B**	
4420 10	Wood marquetry and inlaid wood; caskets and cases for jewellery or cutlery, and similar articles, of wood; statuettes and other ornaments, of wood; wooden articles of furniture not falling in Chapter 94	**B**	
4421 90	Other articles of wood	**B**	

We can assess that this state aid addresses directly private sector beneficiaries who possibly benefits also from OdM but both schemes do not pursue the same objective. Considering the specific features of this scheme and the OdM 'supported products' of Mayotte, we assess that there is a potential complementarity (addressing the same sector but not the same products) but no overlapping between both schemes.

1.5 Support measures for transport (aid for freight and for the transport of dangerous waste)

a. Overview

This scheme[433] aims at supporting the regional economic development, providing a state aid to compensate:

- the additional costs for the transport of goods produced in the French ORs and Saint-Martin towards the national mainland and the additional costs for the transport of raw material towards the processing place;
- costs related to the transport of dangerous waste that cannot be treated or eliminated locally (French ORs and Saint-Martin).

Two types of supports are considered in this scheme:

- Aid for freight (compensation for additional transports costs)
- Aid for the transport of dangerous waste.

The annual planned budget is EUR 23,36 million for both aids included in this scheme. It covered Guadeloupe, French Guiana, Martinique, la Réunion, Mayotte and Saint-Martin.

The State aid reference is SA.39297. This was implemented from 01.07.2014 to 31.12.2020.

[433] http://www.reunioneurope.org/DOCUP/REGION/2014_RA_SA_39297.pdf

Scheme	Support measures for transport (aid for freight and for the transport of dangerous waste)	Type	State Aid SA.39297
Geographical coverage	Guadeloupe / Saint-Martin Martinique French Guiana La Reunion Mayotte	**Target beneficiaries**	Aid for freight: Companies with an activity of production Aid for the transport of dangerous waste: Companies who are producers or holders of dangerous waste; intermediaries' operators for the collect or transport of dangerous waste.
Time period	01/07/2014 – 31/12/2020	**Budget**	Annual planned budget: EUR 23,36 million

b. Implementation details

This support is awarded under the form of a direct grant.

The **aid for freight** covers transport expenses of local companies regarding:

- Raw materials and intermediate products imported from EU by the producing company,
- Final products from local production and sent to the EU.

The maximal rate of this state aid cannot exceed 25% of the total eligible cost.

The **aid for the transport of dangerous waste** is not considered in the scope of the analysis regarding the agricultural sector.

There is no detailed information on the implementation of this scheme except the average annual expenditure between 2014 and 2017 (EUR 20 million per year). Thus, we don't have any information on the sectors

Annual expenditure (average for the period)	Share attributable to relevant sectors	Share attributable to specific AIEM/OdM products	Share attributable to the compensation of operating costs	Share attributable to specific cost factors
Annual expenditure of EUR 20 million on the period 2014-2017	n.a.	n.a.	100%	100% for transport

c. Estimated impact

No document / source has been identified to estimate the impact of this scheme.

d. Analysis of coherence

The main objective of this scheme is to compensate the additional costs of French ORs because of insularity and remoteness. In that sense, the objective is the same as OdM one.
Furthermore, as a part of this scheme supports the transport of goods produced in the French ORs, it may address agricultural products that fall under the scope of OdM support; and both schemes may cover the same beneficiaries.

According to the available document and information, we can assess that one of the two supports covered by this scheme may address agricultural products that are also part of the OdM 'supported list' of products (i.e. the aid for freight, in case of agricultural products that are also supported by OdM). Thus, we can assess that, theoretically, overlapping may occur on a part of this scheme.

But there is no detailed information regarding the implementation of this scheme to go deeper in this assessment and the policy document does not make any mention of a potential risk of overlapping with OdM.

1.6 Overseas Program Act – Investment Tax Aid (Agriculture and fisheries)

a. Overview

This scheme aims at supporting productive investment in ORs through a tax reduction for investors (income tax or society tax). The investments must be identified in guidelines for regional aid. The rationale for this support is the compensation of additional costs due to difficult access to credit in ORs and the difference of loan interest compared to mainland. Public support is calculated on the eligible investment after deduction of other public subsidy.

The annual budget was EUR 360 million, it covered several sectors (among which fishery and agriculture). It covered Guadeloupe, French Guiana, Martinique and la Réunion.

The State aid reference is N 522/266. This was implemented from 01.01.2007 to 31.12.2017.

Scheme	Overseas Program Act – Investment Tax Aid (French ORs)	**Type**	State Aid N 522/266
Geographical coverage	Guadeloupe French Guiana Martinique La Réunion	**Target beneficiaries**	Individuals from mainland France companies located in French ORs
Time period	01/01/2007 to 21/12/2017	**Budget**	Planned budget: EUR 3,9 billion

b. Implementation details

No detailed information is available regarding the implementation of the scheme (number of beneficiaries in the agricultural and fishing sector for instance).

Annual expenditure (average for the period)	Share attributable to relevant sectors	Share attributable to specific AIEM/OdM products	Share attributable to the compensation of operating costs	Share attributable to specific cost factors
Planned budget: EUR 360 million per year	n.a.	0%	100%	100% for productive investments

c. Estimated impact

No document / source has been identified to estimate the impact of this scheme.

d. Analysis of coherence

This scheme aims at compensating additional costs in ORs related to bank credit and support investments. It may cover investments in the agricultural and/or fishing sector but no detailed information is available.

The beneficiaries of the scheme are the investors, which may be located in mainland. The indirect beneficiaries are private stakeholders located in OR and use the investment for its activity.
The support is coherent with OdM as the objective is similar: compensation of additional costs. This support focuses on the additional costs for bank credit.

We assess there is no overlapping with OdM.

1.7 Tax reduction to support productive investments in French ORs (agriculture and fisheries)

a. Overview

This scheme is implemented from 01.01.2018 to 31.12.2020 (SA.50299). Such schemes are in place since the 1980s in France. This scheme is the renewal of a previous state aid, the last one being implemented from 2014 to 2017 (SA.38536) and 2010-2013 (N463b/2008).

This scheme aims at fostering investment in ORs, it covers two mechanisms:

- Tax exemption ("défiscalisation"),
- Tax credit.

It covers a large range of sectors including agriculture, the agri-food sector, fishery and aquaculture.

Based on the study « Evaluation de l'impact de l'aide fiscale à l'investissement productif neuf en outre-mer », 2017, Louis Lengrand & Associés, the yearly expenditure ranged between EUR 600 million and EUR 1,3 billion between 2005 and 2016 (peak over EUR 1 billion between 2008 and 2014). It was EUR 892 million in 2015 and EUR 857 million in 2016.

Scheme	Tax reduction to support productive investments in French ORs (agriculture and fisheries)	**Type**	State Aid SA.50299
Geographical coverage	Guadeloupe Martinique French Guiana La Réunion Mayotte	**Target beneficiaries**	Individuals from mainland France companies located in French ORs
Time period	2018-2020 (SA.50299) 2014-2017 (SA.38536) 2010-2013 (N463b/2008) 2007-2017 (N 522/2006) 11.11.2003 (N 96B/2003) 28.11.2001 (N 672/2000)	**Budget**	Period 2018-2020: Estimated planned budget: EUR 800 million per year.

b. Implementation details

The scheme covers Guadeloupe, Martinique, French Guiana, la Réunion and Mayotte. This support aims at fostering investment in ORs. Stakeholders from the agricultural and fishing sector may be beneficiaries among other sectors.

Over the period 2011-2014, this scheme mainly targeted marketing services (61.3% of budget) and industry (25.6%). Agriculture and fishery sector accounted for 6.3% of the budget, among which agriculture accounted for 98.6% and fishery for 1.4%. More recent data are not available.

Annual expenditure (average for the period)	**Share attributable to relevant sectors**	**Share attributable to specific AIEM/OdM products**	**Share attributable to the compensation of operating costs**	**Share attributable to specific cost factors**
Period 2018-2020: Estimated planned budget: EUR 800 million per year.	6,3% for agriculture and fishery over the period 2011-2014[434]	6,3%	100%	/

c. Estimated impact

A study was conducted by French authorities and was provided to the EU commission in 2017 (Lengrand & Associés, 2017). However, the methodology was not considered robust enough by the Commission and a new evaluation shall be provided by the end of 2020.[435]

This report highlighted that “défiscalisation” supported diversification of farming activities with the support of small investments. Some of the investments in the agricultural sector also covered processing and tourism.

[434] Source : Evaluation de l’impact de l’aide fiscale à l’investissement productif neuf en outre-mer, 2017, Louis Lengrand & Associés

[435] https://ec.europa.eu/competition/state_aid/cases1/201924/275480_2075270_94_2.pdf

d. Analysis of coherence

This scheme supports the investment in ORs in different sector, including the fishery sector. This support targets the same beneficiaries as OdM. The objective is to support investments to increase competitiveness. The objectives are coherent with OdM. However, this does not cover compensation of additional costs, thus, we assess there is no overlapping between this scheme and OdM.

1.8 Guarantee Fund for Agriculture, forestry and Fisheries in French ORs (SA.50299)

a. Overview

This State aid is an expansion of the scope of a State aid for agricultural sector and forestry. The support aims at mitigating the handicaps of French ORs regarding to their use of EU funds. The scheme aims at fostering the access to credit to farmers, fishermen, fish farmers and forest owners. The reference of the State aid is SA.35437 (2012/N). The available budget is EUR 10 million.

The State aid covers Guadeloupe, Martinique, French Guiana, Mayotte and la Réunion, Saint-Martin and Saint-Pierre-et-Miquelon.

The State aid has been registered on the 20.09.2012 and will last until 31.12.2020.

Scheme	Guarantee Fund for Agriculture and Fisheries in French ORs (FOGAP)	**Type**	State Aid SA.35443
Geographical coverage	Guadeloupe Martinique French Guiana La Réunion Mayotte Saint Martin Saint Pierre-et-Miquelon	**Target beneficiaries**	Farmers Fishermen Fish farmers Forest owners
Time period	20/09/2012 to 31/12/2020	**Budget**	Planned budget: EUR 10 million

b. Implementation details

No details is available on the implementation of the scheme (number of project supported for instance).

Annual expenditure (average for the period)	Share attributable to relevant sectors	Share attributable to specific AIEM/OdM products	Share attributable to the compensation of operating costs	Share attributable to specific cost factors
Annual average of planned budget: EUR 1,25 million	100%	0%	100%	/

c. Estimated impact

No document / source has been identified to estimate the impact of this scheme.

d. Analysis of coherence

This support targets the same beneficiaries as OdM.

However, the type of aid is different from OdM, this State aid is a guarantee fund. Its objective is to support access to credit for farmers and forest owners in ORs. Thus, the type of aid (guarantee fund) and its objective (support access to credit) are different from OdM.

We assess the support is coherent with OdM and there is no overlapping.

1.9 Other schemes

Some eight additional schemes supporting agriculture sector in French ORs have been identified but considered as scarcely relevant regarding their connections with the OdM. These policy instruments, with the main descriptive details and a general assessment are presented in Annex.

Various reasons explain their low relevance for this study:

- Some of these schemes consisted of one-off support compensating for the damages of natural disaster.
- In other cases, even if the compensation of handicaps of French ORs is the main objective, the schemes do not target the same beneficiaries and/or the same products as for the OdM.

We assess there is no overlapping between these schemes and the OdM.

2. Fishery and aquaculture

2.1 EMFF (including compensation plans)

a. Overview

Scheme	*EMFF*	**Type**	*EU Instrument*
Geographical coverage	*All ORs : Saint-Martin, Guadeloupe, Martinique, French Guiana, Mayotte and La Réunion and other Regions.* *Compensation plan only covers ORs*	**Target beneficiaries**	*Fisheries and aquaculture sector*
Time period	*2000-2006: Financial Instrument for Fisheries Guidance (FIFG)* *2007-2013: European Fishery Fund (EFF)* *2014-2020: European Maritime and Fisheries Fund (EMFF)*	**Budget**	***EMFF (2014-2020)[436]*** *ORs:* *EU funds allocated: EUR 131 million* *National level :* *EU funds allocated: EUR 588 million* ***EFF (2007-2013)[437] :*** *National level:* *EU contribution: EUR 216 million* ***FIFG (2000-2006)[438]:*** *National level:* *EU contribution: EUR 278 million* *National public contribution: EUR 267 million*

The structural funds for fishery and aquaculture provided important support to the development of this sector in the ORs. Over the period covered by the Study, these include: (a) Financial Instrument for Fisheries Guidance (FIFG), 2000-2006, (b) European Fishery Fund (EFF), 2007-2013 and (c) European Maritime and Fisheries Fund (EMFF), 2014-2020. Focusing on the current EMFF (2014-2020), six main priorities can be identified:

- Priority 1: promoting environmentally sustainable, resource–efficient, innovative, competitive and knowledge–based fisheries,
- Priority 2: fostering environmentally sustainable, resource-efficient, innovative, competitive and knowledge-based aquaculture,
- Priority 3: fostering the implementation of the Common Fisheries Policy (CFP),
- Priority 4: increasing employment and territorial cohesion (community-led local development (CLLD)),

[436] Source: Study "Implementation of the EMFF in outermost regions", AND-I, Coffey, CETMAR for DG MARE, 2019 - https://op.europa.eu/en/publication-detail/-/publication/4c4b7e2e-e32d-11e9-9c4e-01aa75ed71a1
[437] Source: https://ec.europa.eu/fisheries/sites/fisheries/files/docs/body/european_fisheries_fund_en.pdf
[438] Source: ex-post evaluation of the FIFG, Ernst & Young, And International, COGEA and Eurofish for DG MARE, 2010: https://ec.europa.eu/fisheries/documentation/studies/fifg_evaluation_en

- Priority 5: fostering marketing and processing,
- Priority 6: fostering the implementation of the integrated maritime policy (IMP).

Priority 5 includes in particular compensation plans for the ORs. These are clearly relevant in the context of the study regarding the coherence with OdM. As detailed in article 70 from EMFF Regulation, compensation plans " *may support the compensation of additional costs incurred by operators in the fishing, farming, processing and marketing of certain fishery and aquaculture products from the outermost regions referred to in Article 349 TFEU*". This kind of support is in place since the 1990s. Initially, it covered only La Réunion, French Guiana, Canary Islands, Madeira and Azores, it was extended to all EU ORs when it entered in the scope of EMFF.[439] Compensation regime is detailed in chapter V of EMFF regulation (articles 70 to 73). The EMFF may support the compensation of additional costs incurred by operators in the fishing, farming, processing and marketing of certain fishery and aquaculture products from the outermost regions. Each Member State concerned shall determine, for each OR, the list of fishery and aquaculture products and the quantity of those products eligible for compensation. A specific "compensation plan for additional costs" is established separately for each OR on the basis of a detailed assessment of the additional costs faced by local activities as compared to mainland operators.

b. Implementation details

Annual expenditure (average for the period)	Share attributable to relevant sectors	Share attributable to specific OdM products	Share attributable to the compensation of operating costs	Share attributable to specific cost factors
EUR 18,7 million / year of EU funds *EUR 131 million for 2014-2020*	*100%*	*66% (EUR 86,5 million over the period 2014-2020)*	*100%*	*/*

The details on the implementation of EMFF in French ORs is based on data from the study "Implementation of the EMFF in outermost regions, AND-I, Coffey, CETMAR for DG MARE, 2019" with data from late 2018 (November 2018).

For the period 2014-2020, the EMFF allocation budget at French level is EUR 588 million. At OR level, the budget allocation for regional measure is EUR 131 million (EUR 86 million for compensation plan and EUR 45 million for other measures). For compensation plans, there is one allocation for all ORs (no detailed allocation by OR).

[439] The relevant EU regulations for compensation plans in the period considered are as follows:
- 1998-2002: Council Regulations (EC) No 1587/98[439] amended by Council Regulation (EC) No 579/2002;
- 2003-2006: Council Regulation (EC) No 2328/2003;
- 2007-2013: Council Regulation (EC) No 791/2007;
- 2014-2020: EMFF Regulation (Regulation (EU) No 508/2014).

Table 48: EMFF budget for regional measure in French ORs for 2014-2020 in k€

Priority	EMFF budget FR (national measures)	EMFF budget OR (regional measures)	%OR on EMFF for France	MAF	GLP	MTQ	GUF	MYT	RUN
P1	150 941	23 042	15%	360	5 493	7 274	2 362	1 195	6 358
P2	88 790	8 745	10%	200	1 500	1 500	1 800	854	2 892
P3	122 279	0	0%	0	0	0	0	0	0
P4	22 581	709	3%	209	500	0	0	0	0
P5 - without compensation plan	76 786	9 084	12%	0	1 400	1 000	3 000	1 000	2 684
P5 - compensation plan only	86 450	86 450	100%	86 450					
P6	5 335	0	0%	0	0	0	0	0	0
P7 (technical assistance)	34 818	3 205	9%	0	1 086	1 140	979	0	0
TOTAL	**587 980**	**131 235**	**22%**	**769**	**9 979**	**10 914**	**8 141**	**3 049**	**11 933**
TOTAL without compensation plan	**501 530**	**44 785**	**9%**	**769**	**9 979**	**10 914**	**8 141**	**3 049**	**11 933**
% by OR	/	100%	/	2%	22%	24%	18%	7%	27%

Source: Implementation of the EMFF in outermost regions, Coffey, AND-I for DG MARE, 2019[440] - based on data from national authorities on 09/11/2018.

[440] https://op.europa.eu/en/publication-detail/-/publication/4c4b7e2e-e32d-11e9-9c4e-01aa75ed71a1/language-en

Compensation plans accounted for 86% of the budget committed in ORs regarding EMFF. The commitment rate (EMFF commitment/EMFF budget allocation) is 25% in French ORs for regional measures:

- 36% for compensation plans,
- only 5% for measures other than compensation plans (only 49 operations committed).

Implementation of EMFF is mainly related to projects in La Réunion, French Guiana and Mayotte. The state of implementation in Martinique and Guadeloupe was very limited in 2018.

c. Estimated impacts

Evaluation of compensation plan from Regulation (EC) No 791/2007 (study conducted in 2012 by Oceanic Dévelopment and Megapesca)

An evaluation study has been conducted in 2012 on compensation scheme implemented in ORs since 2007 in the framework of "Regulation (EC) No 791/2007 of 21 May 2007 introducing a scheme to compensate for the additional costs incurred in the marketing of certain fishery products from the outermost regions the Azores, Madeira, the Canary Islands, French Guiana and Réunion"[441]. For this period, France only supported products sold out of the OR.

Main conclusions from the analysis were:

- The support was assessed to be effective for maintaining companies profitability, it accounted up to 20% of beneficiaries turnover. The scheme allowed an improvement of the structuring of the supply chain, allowing companies to manage peaks of production. However, the fishery sector did not meet a growth, its evolution being linked to the state of fish stocks.
- The support allowed stakeholders to market their product with competitive price and quality on mainland markets.
- Compensation plans were assessed to be coherent with other supports as they all aimed at improving products competitiveness. Overcompensation should be analysed at company level, such analysis could not be conducted in the context of the study.

Study: "Implementation of the EMFF in outermost regions" (conducted in 2019 by AND-I, Coffey, CETMAR for DG MARE)[442]

The impacts of compensation plans in each OR are based on the study "Implementation of the EMFF in outermost regions". The impact is assessed through the number of stakeholders supported and, when available, the share of the support in their income with 2018 data, except in La Réunion (2017 data). This shows that the support from compensation plans is significant in beneficiary's income. However, the share of stakeholders beneficiaries highly differs in the different ORs: it depends on the organization of the supply chain (higher number of beneficiaries in La Réunion and French Guiana with the presence of processor or professional organization compared to

[441] EVALUATION DES MESURES PREVUES DANS LES REGIONS ULTRAPERIPHERIQUES SOUS LE REG (CE) N°791/2007, Oceanic Déveleopement, Megapesca, 2012 - https://ec.europa.eu/smart-regulation/evaluation/search/download.do;jsessionid=EwEq6FOM-jQW_OEeCpIcp1ljRtfmJ8EtErJXkl7gJIIylzjHpkSt!1168777535?documentId=7843965

[442] https://op.europa.eu/en/publication-detail/-/publication/4c4b7e2e-e32d-11e9-9c4e-01aa75ed71a1/language-en/format-PDF/source-105873994

other ORs) and willingness from fishermen to be involved in the scheme (support from compensation plans requires the compliance with rules on catch reporting and payment of taxes). The overview in each OR:

- Guadeloupe: there were 3 beneficiaries only in 2018, the impact were assessed to be low.
- Martinique: there were 32 operations for a total amount of k€286 paid. The support from compensation plan is variable from one fisherman to another: from a few hundred euros to several thousand euros. On average, fishermen benefiting from the compensation plan receive EUR 2 000 to EUR 3 000 / year for a declared income of EUR 8 000 to EUR 10 000 / year (estimate by local authority).
- French Guiana:
    - compensation plan is assessed to have has driven the profession into a positive approach regarding the compliance regarding rules (reporting of catches and payment of taxes). About 30 fishermen initially applied to measure 70, 10 of them discontinued their application.
    - The average support per operation paid between 2014 and 2016 reaches the amount of k€211 and ranges between k€550 for marketing operations and k€29 for white and red fish operations. No CPAC operations have been committed for aquaculture and processing.
    - According to a sample of 9 operations registered in the national monitoring system, the support from compensation plan accounts on average for 28% of the turnover of fishing producers.
    - According to a sample of 5 operations registered in the national monitoring system, the support from compensation plan accounts on average for 14% for the turnover of marketing operators.
- La Réunion: The beneficiaries of CPAC in La Réunion are as follows (2017 data):
    - 33% of the budget for fishery activities for 65 beneficiaries. Vessels which don't get support from the compensation plan have a low level of activity, don't comply with eligibility criteria (compliance with administrative issues: declaration, payment of all taxes etc.) and a few vessel owners don't want to be members of the organization involved in compensation plan management (ARIPA),
    - the average support ranges between EUR 3 868 / beneficiary for coastal fishery to EUR 62 515 / beneficiary for deep sea fishery (frozen products). The support would account for 21% of sales value for coastal fishermen and for 34% for deep sea longline fishing (frozen), based on data from compensation plan.
    - Fish trade by air accounts for 33% of total budget, for one beneficiary in 2017.
    - Processing accounts for 26% of the budget, with 23 beneficiaries (large scale processors, economic interest group in each port and fishmongers).
    - Collection and storage accounted for 7% of the budget, in particular fish collected by factories.
    - Aquaculture accounted for 1% of the budget.

d. Analysis of coherence

We may identify several types of EMFF measures:

- Measures other than compensation plans:
    - Support for productive investment which may target private stakeholders, also beneficiaries of OdM. The objectives are coherent with OdM

  - (competitiveness and economic development) but it does not cover compensation of costs.
  - Support to mitigate the impact on environment and climate, innovation, health and security, implementation of policies. This may cover private stakeholders and professional organisations, research institutes and public authorities.

- Compensation plans (measure 70), with similar objectives as the ones from OdM and which target private stakeholders: vessels owners, processors and wholesalers.

Based on a report for DG MARE published in 2019, the budget allocation for EMFF in ORs is EUR 131 million in France. A large share of this budget covers compensation (EUR 86 million in French ORs).

We propose an analysis of coherence for 1) measures other than compensation plans and for 2) compensation plans.

Measure other than compensation plans

For measures other than compensation plans, we propose an identification of the types of beneficiaries for the measures with some projects committed in ORs (2018 data)[443].

Thus, we identify two types of EMFF measures:

- Some EMFF measures for which the beneficiaries as the same as for OdM:
  - Measure 31 - Start-up support for young fishermen (projects committed in La Réunion): vessel owners under 40 years old acquiring a fishing vessel for the first time,
  - Measure 32 - Health and safety (projects committed in Martinique, La Réunion): vessel owners,
  - Measure 41 - Energy efficiency and mitigation of climate change (projects committed in Martinique, Mayotte, La Réunion): vessels owners,
  - Measure 48 - Productive investment in aquaculture (projects committed in Martinique, La Réunion): fish farmers,
  - Measure 68 – Marketing measures (projects committed in Martinique, French Guiana, La Réunion and Mayotte): processors and wholesalers,
  - Measure 69 - Processing of fishery and aquaculture products (projects committed in Martinique, French Guiana): processors and wholesalers.

These measures are both implemented in mainland and ORs. The objectives of these measures are related to the mitigation impacts of the activity on the environment and climate, health and safety, generation renewal and development of the competitiveness of the value chain. The objectives are not related to the compensation of costs. These measures are coherent with OdM and there is no overlapping.

- Some other measures target stakeholders which are not beneficiaries of OdM:
  - Measure 39 - Innovation linked to the conservation of marine biological resources (projects committed in La Réunion): collective organisations or research institutions,
  - Measure 40 - Protection and restoration of marine biodiversity and ecosystems and compensation regimes in the framework of sustainable

[443] Based on the study "Implementation of the EMFF in outermost regions", AND-I, Coffey, CETMAR for DG MARE, 2019.

fishing activities (projects committed in French Guiana and Martinique): beneficiaries are environmental organisations,
  - Measure 43 – Fishing ports, landing sites, auction halls and shelter (projects committed in Martinique): port authorities
  - Measure 47 – Innovation in aquaculture (projects committed in Martinique, La Réunion): collective organisations or research institutions
  - Measure 76 - Control and enforcement (projects committed in Guadeloupe, Martinique): public authorities
  - Measure 80 – Integrated Maritime Policy (projects committed in Guadeloupe): public authorities

These measures are both implemented in mainland and ORs. The objectives of these measures are to promote innovation, mitigate the impact of the activity on environment (marine biodiversity and resource), develop competitiveness of the sector, and support the implementation of Common Fisheries Policy and Integrated Maritime Policy. These measures are coherent with OdM and there is no overlapping (different beneficiaries as OdM and measures not related to the compensation of costs).

Focus on compensation plans

Compensation plans (measure 70 of EMFF) is the measure with the highest level of commitment in ORs. The beneficiaries are private operators: vessel owners, fish farmers, wholesalers and processors. These beneficiaries are the same as the ones for OdM. The scopes of both OdM and compensation plans are quite large and many activities are covered by both schemes.

Two factors limit the overlaps between OdM and compensation plans:

- OdM is not applicable for companies with a turnover under EUR 300.000. This is the case for:
  - coastal fisheries which represent the highest number of vessels in OR fleet,
  - small-scale processing/marketing companies.
- Only a few companies have turnover over EUR 300 000 in the fishery sector: some vessel owners and processors in La Réunion and French Guiana.
- The implementation of compensation plans faced difficulties in several ORs and all potential beneficiaries don't get the support (difficulties mainly in Guadeloupe and Martinique).

A specific compensation plan has been developed in each OR. This covers a set of 107 activities in all EU ORs (example of one activity: processing in French Guiana) and 1.300 individual costs (example of one costs: vessel maintenance for small-scale fishery in La Réunion). Several method and tools have been used to elaborate these compensation plans: specific investigation on local sector, estimates, and calculation or reference values from statistics or existing data.

Based on study for DG MARE on EMFF implementation in ORs (2019), procedures to avoid overcompensation are based on the robustness of the methodologies implemented for the calculation of additional costs, the implementation of audits and the exclusion of potential other supports for compensation of additional costs.

The following section provides details for each French OR:

- Overview of the seafood supply chain,
- Details of the products covered by OdM and overlaps with compensation plans,
- Details of the products covered by compensation plans and analysis of the overlaps with OdM.

- **Guadeloupe**

Overview of the seafood supply chain

Based on the study "Implementation of the EMFF in outermost regions" for DG MARE, 2019[444]: "*there were 725 fishing vessels in Guadeloupe in 2017, all under 12 m. Circa 3 094 tonnes were landed in Guadeloupe in 2015 (between 3 048 and 3 966 over the period 2010-2015*[445]*). Seafood consumption ranges between 14 000 and 15 000 tonnes each year*[446] *and Guadeloupe relies largely on imports. However, 20% of local consumption is based on local fishery and aquaculture production*[447]*. About 70% of the local production is sold directly by fishermen*". In addition, the aquaculture sector is relatively small and faces difficulties. Overall, there are nine aquaculture farms[448] , each of them produces up to 20 t of product per year and employs 1 to 2 persons[449].

OdM

In Guadeloupe, OdM covers a wide range of activities, in particular fresh fish (most of the local production of fish is sold fresh in short supply channels), and also "other molluscs" and "other crustaceans" which may cover local species. OdM also covers some products for which raw material is not locally available: Norway lobster, cold water shrimps, surimi and salmon. These activities are based on imported raw material. The category "Other smoked fish" may cover a wide range of products, some based on local products, some based on imported raw material. There is no detailed data on processing activity for seafood products in Guadeloupe, based on qualitative information, there is no large-scale fish processor in Guadeloupe.

Each products covered by OdM in Guadeloupe is under B category except "other smoked" fish which is "A". All products covered by OdM may also be covered by compensation plans.

Table 49: Products covered by OdM and compensation plans – Guadeloupe

CN code	Product	List	Covered by compensation plan (yes/no)
0302	Fresh fish	**B**	Yes
0305 49 80	Other smoked fish	**A**	Yes
0306 15	Norway lobster	**B**	Yes
0306 16	Cold-water shrimps and prawns	**B**	Yes
0306 19	Other crustaceans	**B**	Yes
0307 91	Other molluscs	**B**	Yes
0307 99	Other molluscs	**B**	Yes
1604 20	Surimi	**B**	Yes

[444] https://op.europa.eu/en/publication-detail/-/publication/4c4b7e2e-e32d-11e9-9c4e-01aa75ed71a1/language-en
[445] SIH and IFREMER
[446] http://guadeloupe-peches.org/aquaculture/les-chiffres-cles/
[447] Région Guadeloupe
[448] http://www.sypagua.com/aquaculture/aquaculture-en-guadeloupe.html
[449] Plan de compensation des surcoûts de la pêche et de l'aquaculture - Guadeloupe

CN code	Product	List	Covered by compensation plan (yes/no)
1604 20 10	Preserved salmon	**B**	Yes

Most of the fishery in Guadeloupe is operated by small-scale fishery. As detailed in the section in Martinique, the average turnover for small-scale fishermen is below EUR 300 000 (see following section on Martinique), which means that OdM is not applicable for them. Thus, there may not be overlap between compensation plan and OdM in Guadeloupe for the fishery sector (or very limited overlap for fishermen with turnover over EUR 300 000).

Compensation plan

Compensation plan in Guadeloupe covers a large range of activities: fishery, aquaculture, processing and marketing. Fisheries and aquaculture are also covered by OdM under the code "Fresh fish", "other crustaceans" and "other molluscs" (for companies with turnover over EUR 300 000). Fisheries in Guadeloupe are mainly small-scale fisheries of finfish. There is also a small-scale fish farming sector producing finfish and freshwater crustaceans.

Aquaculture and fish processing is only operated by small-scale companies in Guadeloupe. Processing activities are covered by compensation plan and some of them are also covered by OdM. Detailed data for each type of production is not available to provide a more detailed analyses (data on the type of processing activities by group of species is not available). We shall also mention that all processed products are not covered by OdM, such as fish fillet.

Table 50: Compensation of costs in the context of compensation plan from EMFF – Guadeloupe

GLP	Activities	Additional costs	Covered by OdM (yes/no)
1A : Fishery	Pelagic fishery	1.343	Yes
	Coastal fishery	1.387	Yes
1B : Aquaculture	Tilapias	3.559	Yes
	Drum Fish	3.582	Yes
	Freshwater shrimp	5.829	Yes
2 : Processing	Level 1 : processing pelagic fishery	480	Yes However, all processing activities are not covered, in particular filleting
	Level 1 : processing coastal fishery	926	
	Level 1 : processing aquaculture products	1.244	
3 : Marketing	Marketing Pelagic Fishes	727	Yes
	Marketing Coastal Fishes	1.817	Yes
	Marketing aquaculture products	1.467	Yes

Source: compensation plan

Conclusion for Guadeloupe:

- The scope for both OdM and compensation plans is large:

- all products covered by OdM are also covers by compensation plans.
- most activities covered by compensation plans are covered by OdM, however, some processed products are not included by OdM.

- The turnover of companies involved in coastal fishery may be under EUR 300 000 in most cases, thus, OdM is not applicable for these companies. **This means that there is very limited overlap between compensation plan and OdM for these fishermen.**
- Processing activities and aquaculture are limited in Guadeloupe. No detailed data is available to assess the possible overlaps between compensation plan and OdM.
- The implementation of compensation plan faced difficulties in this OR and the number of beneficiaries is limited.
- **OdM and compensation plans are assessed to be coherent and potential overlaps are assessed to be very limited.**

➢ **Martinique**

Overview of the seafood supply chain

Based on the study "Implementation of the EMFF in outermost regions" for DG MARE, 2019[450]: "*According to the study on fleet renewal in the ORs of the EU (2018), there were 935 fishing vessels in Martinique in 2017. Out of this total number of fishing vessels, 930 were small-scale vessels (<12m) and five longer vessels (>12m) using fixed gear. Local production is exclusively marketed in the island, in particular through short supply chains (direct sale to consumers or to restaurants and hotels). Fish consumption was estimated at 8 183t in 2015. Local fish production only accounts for 12% of this consumption and local fish consumption largely relies on imports.*" Fish processing industry remains limited in Martinique and A large share of the consumption of seafood products is imported frozen[451]. Based on the same study, two fish farms are active. Local aquaculture sector produces freshwater shrimp and tilapia for local market.

OdM

In Martinique, OdM covers a large range of activities with 4 digits codes for fresh fish, frozen fish, fish fillet, crustaceans and molluscs. Processed products are also covered. These products are also covered by compensation plans.

Table 51: Products covered by OdM and compensation plans – Martinique

CN code	Product	List	Covered by compensation plan (yes/no)
0302	Fresh fish	B	Yes
0303	Frozen fish	B	Yes
0304	Fish fillets and fish meat	B	Yes
0305	Dried, salted, smoked fish, fish meal	A	Yes
0306	Crustaceans	B	Yes
0307	Molluscs	B	Yes
1604 20	Surimi	B	Yes
1605 10	Prepared / preserved crab	B	Yes
1605 21	Prepared / preserved shrimp	B	Yes
1605 62	Prepared / preserved urchin	B	Yes

[450] https://op.europa.eu/en/publication-detail/-/publication/4c4b7e2e-e32d-11e9-9c4e-01aa75ed71a1/language-en
[451] Etat des lieux et perspectives de développement, Direction de la Mer Martinique / IFREMER, 2016

Most of the fishery in Martinique is operated by small-scale fishery. As detailed in the following table, the average turnover for small-scale fishermen is below EUR 300 000, which means that OdM is not applicable for these companies. OdM may be applicable only for vessels from Martinique which operate in Guyanese area (this covers a limited number of vessels).

Processing activity is small-scale and the turnover of the companies may also be under EUR 300 000.

Compensation plan

Compensation plan in Martinique covers a large range of activities: fishery, aquaculture, processing and marketing. These activities are also covered by OdM.

Table 52: Compensation of costs in the context of compensation plan from EMFF – Martinique

MTQ	Activities	Average turnover (EUR, based on compensation plan)	Additional costs (EUR/t)	Covered by OdM (yes/no)
1A : Fishery	Yole coastal fishery <10m	27 885	856	Yes
	Yole deep sea vessel <10m - pelagic fishery	71 825	1.105	Yes
	Deep sea bridged vessel 10 to 12m - pelagic fishery	147 875	368	Yes
	Deep sea bridged vessel >12 m - Guyanese plateau	507 000	431	Yes
1B : Aquaculture	Freshwater shrimp -crawfish	/	4.072	Yes
	Red tilapia	/	3.511	Yes
	Drum fish	/	2.813	Yes
	Cobia	/	4 822	Yes
2 : Processing	Level 1 : processing fishes	196 560	652	Yes
	Level 2 : processing fishes	/	991	Yes
3 : Marketing	Marketing by wholesaler	/	83	Collect / storage / marketing / transport
	Marketing by Fishmonger	/	46	Collect / storage / marketing / transport
	Freshwater shrimp -crawfish	/	163	Collect / storage / marketing / transport
	Marketing Tilapia	/	490	Collect / storage / marketing / transport
	Marketing Drum fish	/	259	Collect / storage / marketing / transport
	Marketing Cobia	/	338	Collect / storage / marketing / transport

Source: compensation plan

Conclusion for Martinique:

- The scope for both OdM and compensation plans is large, the same activities are covered both by OdM and compensation plan.
- The turnover of companies involved in coastal fishery is under EUR 300 000 in most cases, thus, OdM is not applicable for these companies.

- There is a potential overlap for the few vessels operating in Guyanese area (5 vessels among 935 vessels in Martinique), for processing companies and for aquaculture production but this sector remains limited.
- The implementation of compensation plan faced difficulties in this OR and the number of beneficiaries is limited.
- **OdM and compensation plans are assessed to be coherent and potential overlaps are assessed to be very limited.**

- **French Guiana**

Overview of the seafood supply chain

Based on the study "Implementation of the EMFF in outermost regions" for DG MARE, 2019[452]: "*the fishing fleet in French Guiana was composed of 151 vessels in 2017, of which 132 vessels were small-scale vessels (<12m) and 19 vessels were shrimp vessels (between 20 and 24 m)[453]. In addition to the French fleet, 45 Venezuelan vessels (between 14 and 20m) also operate in the French Guiana area, based on an agreement between the EU and Venezuela. In 2015, 2 569 tonnes of fishes were landed by the small-scale vessels fishing in the coastal areas. These landings generated a value of €7,2M. The Venezuelan vessels targeting red snapper landed 1 829 t in 2016 in French Guiana. There are four processing companies in French Guiana*." There is no aquaculture production in French Guiana at present, the sector was historically based on shrimp farming.

OdM

A large number of products are covered by OdM in French Guiana: fresh and processed products. There are 31 codes, all in B category. All these products are also covered by compensation plans.

Table 53: Products covered by OdM and compensation plans – French Guiana

CN code	Product	List	Overlap with compensation plan
0302	Fresh fish	B	Yes
0303 59	Other frozen fish	B	Yes
0303 89	Other frozen fish	B	Yes
0304	Fish fillets and fish meat	B	Yes
0305 31	Processed fresh water fish	B	Yes
0305 39 90	Other processed fish	B	Yes
0305 44 90	Other processed fish (smoked)	B	Yes
0305 49 80	Other smoked fish	B	Yes
0305 52 00	Other smoked fish	B	Yes
0305 53 90	Other dried fish	B	Yes
0305 54 90	Other dried fish	B	Yes
0305 59 85	Other dried fish	B	Yes
0305 64 00	Freshwater salted	B	Yes
0305 69 80	Other salted fish	B	Yes
0306 17	Other shrimps and prawns	B	Yes
1604 11	Prepared / preserved salmon	B	Yes
1604 12	Prepared / preserved herring	B	Yes
1604 13	Prepared / preserved pilchard	B	Yes
1604 14	Prepared / preserved tuna	B	Yes
1604 15	Prepared / preserved mackerel	B	Yes
1604 16	Prepared / preserved anchovy	B	Yes
1604 17	Prepared / preserved eel	B	Yes

[452] https://op.europa.eu/en/publication-detail/-/publication/4c4b7e2e-e32d-11e9-9c4e-01aa75ed71a1/language-en
[453] European Fleet Register.

CN code	Product	List	Overlap with compensation plan
1604 18	Prepared / preserved shark	**B**	Yes
1604 19	Prepared / preserved Euthynnus	**B**	Yes
1604 20	Surimi	**B**	Yes
1605 10	Prepared / preserved crab	**B**	Yes
1605 21	Prepared / preserved shrimp	**B**	Yes
1605 29	Prepared / preserved shrimp	**B**	Yes
1605 52	Prepared / preserved scallop and other molluscs	**B**	Yes
1605 53	Prepared / preserved mussel	**B**	Yes
1605 54	Prepared / preserved cuttlefish, squid	**B**	Yes

As detailed in the following table, the turnover of the vessels from some fleet segment is under EUR 300 000 which means that OdM is not applicable. The turnover of some stakeholders is over EUR 300 000: fishermen involved in the shrimp fishery and processors; this means that their activity is covered by OdM.

Compensation plan

Compensation plan in French Guiana covers all activities related to the fishery sector. All these activities are also covered by OdM. Wholesalers and processors may also get support for collecting the products from the fishermen, for storage and for marketing.

Table 54: Compensation of costs in the context of compensation plan from EMFF – French Guiana

GUF	Activities	Average turnover (EUR, based on compensation plan)	Additional costs (EUR/t)	Overlap with OdM
1A : Fishery	White and red fishes	56.561	543	Yes
	Shrimp	370.745	1.709	Yes
	Collect from boat to 1st buyer	/	154	Collect / storage / marketing / transport
1B : Aquaculture	Aquaculture	/	1.860	Yes
	Organic Aquaculture	/	3.295	Yes
	Freshwater shrimps	/	5.702	Yes
	Organic freshwater shrimps	/	8.582	Yes
2 : Processing	Level 1 and 2 industrial factory processing	6 219 392 (COGUMER 2013)	422	Yes
	Storage	/	331	Collect / storage / marketing / transport
	Level 1 and 2 Artisanal processing	/	300	Yes
3 : Marketing	3A Local market - fish and crustacean	/	13	Collect / storage / marketing / transport
	3A Frozen fish and crustacean products by MARINE transport	/	267	Collect / storage / marketing / transport
	3A Fresh Fish trade by AIR transport	/	2.087	Collect / storage / marketing / transport
	3B Aquaculture fresh fish - 1st time marketing	/	384	Collect / storage / marketing / transport

	3B Aquaculture Fresh Crustacean – 1st time marketing	/ 218	Collect / storage / marketing / transport
	3B Aquaculture fresh products for Antillean market	/ 3.457	Collect / storage / marketing / transport
	3B Aquaculture products to continental France market	/ 3.536	Collect / storage / marketing / transport

Source: compensation plan

Conclusion for French Guiana:

- The turnover of companies involved in coastal fishery is under EUR 300 000, thus, OdM is not applicable for these companies. Shrimp fishery and processors, with turnover over EUR 300 000, are covered by OdM
- The scope for both OdM and compensation plans is large, the same activities are covered both by OdM and compensation plans.
- **Compensation plans and OdM are assessed to be coherent.**
- **Some stakeholders may be supported by both OdM and compensation plans. This would cover some vessels (shrimp fishery) and processing companies.**

- **Mayotte**

Overview of the seafood supply chain

Based on the study "Implementation of the EMFF in outermost regions" for DG MARE, 2019[454]: "*According to the study on fleet renewal in the ORs of the EU (2018), there were 150 fishing vessels in Mayotte in 2017, of which 145 vessels were vessels under 10 m targeting demersal and pelagic species and five seiners with LOA between 84 and 89m[455]. The coastal fleet in Mayotte was composed of 800 pirogues, 250 small-fishing boats and 5 mini long-liners in 2014. Pirogues are operated by fishermen for subsistence production, and some of the small-fishing boats are not registered in the fleet register. The annual landings in Mayotte are estimated to range from 2 000 to 2 500 t each year with a turnover of around €4M[456]. That local production is marketed locally, only 62 t being exported. Local consumption is estimated at 3 712 t. Local production is not sufficient to meet the local demand and about 1 500 t of fish are imported each year into Mayotte."* Based on the same source, there was no aquaculture production in 2018, even if it peaked at 100 t in 2013.

OdM

In Mayotte, OdM covers a large range of activities with 4 digits codes: live fish, fresh fish, frozen fish, fish fillet and fish meat, dried, salted and smoked fish. Except live fish, all these products are also covered by compensation plan. Each product cover by OdM is under B category. There is no detailed data on processing activity for seafood products in Mayotte.

Table 55: Products covered by OdM and compensation plans – Mayotte

CN code	Product	List	Overlap with compensation plan
0301	live fish	B	No
0302	Fresh fish	B	Yes
0303	Frozen fish	B	Yes
0304	Fish fillets and fish meat	B	Yes
0305	Dried, salted, smoked fish	B	Yes

As detailed in the following table, OdM is not applicable for small-scale fishermen as there turnover is under EUR 300 000 (based on compensation plan). Based on compensation plan, the turnover for fish farms is around EUR 300 000 in Mayotte; however, there was aquaculture no production in the island in 2018.

Compensation plan

Compensation plan in Mayotte covers a large range of activities: fishery, aquaculture, processing and marketing. These activities are also covered by OdM.

454 https://op.europa.eu/en/publication-detail/-/publication/4c4b7e2e-e32d-11e9-9c4e-01aa75ed71a1/language-en
455 European Fleet Register
456 Realising the potential of Outermost Regions for sustainable Blue Growth, Cogea and partners for European Commission, 2017 - http://ec.europa.eu/regional_policy/en/information/publications/reports/2017/realising-the-potential-of-the-outermost-regions-for-sustainable-blue-growth

Table 56: Compensation of costs in the context of compensation plan from EMFF – Mayotte

MYT	Activities	Average turnover (EUR, based on compensation plan)	Additional costs (EUR/t)	Overlap with OdM
1A : Fishery	Artisanal coastal fishery	40 150	1.900	Yes
	Longline fishery	115 000	2.700	Yes
1B : Aquaculture	Aquaculture farms < 100t/year	(juveniles) 292 364	3.381	Yes
	Aquaculture farms > 100t/year	(juveniles) 292 364	1.880	Yes
2: Processing	Fish collect of artisanal coastal fishery		45	Collect / storage / marketing / transport
	Fish collect of longline fishery		58	Collect / storage / marketing / transport
	Storage		265	Collect / storage / marketing / transport
	Processing	1 390 799	196	Yes
3 : Marketing	Export (air)		3.220	Collect / storage / marketing / transport

Source: compensation plan

Conclusion for Mayotte:

- The scope for both OdM and compensation plans is large.
- The turnover of companies involved in coastal fishery is under EUR 300 000, thus, OdM is not applicable for these companies.
- Almost the same activities are covered both by OdM and compensation plan.
- Processing activity is limited in Mayotte.
- **OdM and compensation plans are assessed to be coherent and no potential overlap has been identified.**

➢ **Réunion**

Overview of the seafood supply chain

Based on the study "Implementation of the EMFF in outermost regions" for DG MARE, 2019[457]: "*there were 228 fishing vessels registered in La Réunion in 2017, of which 181 vessels were small-scale vessels (<12m) targeting demersal and pelagic species and 47 vessels over 12m targeting pelagic species. Based on data from IFREMER (SIH), the landings of the fleet under 12m was 1 068 t in 2016. According to the CPAC, the landings in La Réunion by local fleet reach 3 700 t. In addition, a high sea fleet not registered in La Réunion lands its catches on the island, these landings reach 6 400 t. The local consumption was estimated at 14 975 t in 2013, a large share relying on imports (10 315 t). According to the CPAC, there is one company involved in first processing activity and three companies involved in second processing activity*." Based on the same source, The aquaculture production in La Réunion is almost exclusively based on freshwater production (tilapia and trout). The annual freshwater fish farm production

[457] https://op.europa.eu/en/publication-detail/-/publication/4c4b7e2e-e32d-11e9-9c4e-01aa75ed71a1/language-en

reaches an average of 60 to 80t per year (0.5% of the fish local market) and 2t of spirulina algae.

OdM

In La Réunion, OdM covers a large range of activities with 4 digits codes: live fish, fresh fish, frozen fish, fish fillet and fish meat, dried, salted and smoked fish. It also covers crustaceans, molluscs and processed products. Some products are not based on local raw material such as cold water shrimps. Except live fish, all these products are also covered by compensation plan.

Table 57: Products covered by OdM and compensation plans – La Réunion

CN code	Product	List	Overlap with compensation plan
0301	live fish	A	No
0302	Fresh fish	A	Yes
0303	Frozen fish	A	Yes
0304	Fish fillets and fish meat	A	Yes
0305	Dried, salted, smoked fish, fish meal	A	Yes
0306 11	Frozen spiny lobster	B	Yes
0306 16	Cold-water shrimps and prawns	B	Yes
0306 17	Other crustaceans	B	Yes
0306 21	Spiny lobster	B	Yes
0306 26	Cold-water shrimps and prawns	B	Yes
0306 27	Other shrimp and prawns	B	No
0307 11	Oyster	B	Yes
0307 19	Oyster	B	Yes
0307 59	Octopus (not live, fresh or frozen)	B	Yes
1604 14	Prepared / preserved tuna	A	Yes
1604 19	Prepared / preserved Euthynnus	A	Yes
1604 20	Surimi	A	Yes
1605	Prepared / preserved molluscs and crustaceans	B	Yes

The turnover by company for coastal fishery is under EUR 300 000 (see table below), thus, OdM is not applicable. The turnover of some deep sea vessels and processors may be above EUR 300 000.

Compensation plan

Compensation plan in La Réunion covers a large range of activities: fishery, aquaculture, processing and marketing. Most of these activities are also covered by OdM, except algae production.

Table 58: Compensation of costs in the context of compensation plan from EMFF – Réunion

RUN	Activities	Average turnover (EUR, based on compensation plan)	Additional costs (EUR/t)	Overlap with OdM
1A : Fishery	Artisanal coastal fishery	67 600	1.351	Yes
	Coastal longline fishery	193 600	888	Yes
	Deep sea longline fishing (fresh)	367 120	857	Yes
	Deep sea longline fishing (frozen)	292 500	772	Yes
	Fish collect by factories	/	153	Collect / storage / marketing / transport
	Fish collect by *GIE* and fish shop	/	455	Collect / storage / marketing / transport
1B : Aquaculture	Tilapia	/	2.212	Yes
	Trout	/	2.342	Yes
	Algae (spirulin)	/	1.635	No
2 : Processing	Level 1 Fishery and aquaculture products processed by industries	7 473 000	929	Yes
	Level 1 Fishery and aquaculture products processed by GIE and fishmonger	536 229	701	Yes
	Level 2 Fishery and aquaculture products processed by industries	1 047 115	793	Yes
	Level 2 Fishery and aquaculture products processed by GIE and fishmonger	/	474	Yes
3 : Marketing	Storage for structuring market	/	649	Yes
	Fish wholesaler for local market	2 122 250	442	Collect / storage / marketing / transport
	Fish trade for continental France - AIR	/	2.227	Collect / storage / marketing / transport
	Fish trade for continental France - MARINE	/	232	Collect / storage / marketing / transport
	Aquaculture fish for local market	/	1.400	Collect / storage / marketing / transport

Source: compensation plan

Conclusion for La Réunion:

- The turnover of companies involved in coastal fishery is under EUR 300 000, thus, OdM is not applicable for these companies.
- The scope for both OdM and compensation plans is large, the same activities may be covered by both by OdM and compensation plan.
- **Some stakeholders may be supported by both OdM and compensation plans. This would cover large deep sea fishery and processing companies.**

2.2 State aid for renewal of fishing fleet in ORs

a. Overview

Scheme	*State aid for renewal of fishing fleet in ORs*	**Type**	*State aid* N354/2007
Geographical coverage	*French ORs*	**Target beneficiaries**	*Vessel owners*
Time period	*July 2007-December 2008*	**Budget**	*EUR 40,5 million for national source*

EU public support for fishing fleet renewal has been phased out in ORs since 2006. The State aid allowed the France to grant the aid until the 31 December 2008 in outermost regions. The total budget available for this aid was EUR 40,5 million. The aid intensity was 50%.

Such support may be implemented again. In 2018, Communication C(2018) 7667 final, amended the Guidelines for the Examination of State Aid to the Fishery and Aquaculture Sector[458] and allowed State aid for fleet renewal in the fishing sector in ORs. The objective is to support fleet renewal in ORs were vessels are old and provide bad security, health and working conditions to fishermen. Access to credit and self-financing being identified as barriers for fleet renewal. The State aid aims at avoiding any negative impact on the sustainability of fish stocks. State aid can only be granted if there is a proper balance between fish resources and the fishing capacity of the fleet segment acquiring a new vessel. No State aid has been submitted so far in the context of the update of the guidelines in 2018. A study detailing the potential for fleet renewal in each OR has been conducted for DG MARE in 2018[459].

b. Implementation details

Annual expenditure (average for the period)	Share attributable to relevant sectors	Share attributable to specific OdM products	Share attributable to the compensation of operating costs	Share attributable to specific cost factors
EUR 27 Million	*100%*	*100%*	*0%*	*/*

No detail is available on the number of vessels supported in 2008. No State aid has been submitted so far in the context of the update of the guidelines in 2018.

c. Estimated impacts

No data is available on the number of vessels covered by this scheme.

[458] https://ec.europa.eu/fisheries/press/outermost-regions-commission-adopts-new-rules-develop-sustainable-fisheries_en
[459] https://op.europa.eu/en/publication-detail/-/publication/49b4282d-f38a-11e8-9982-01aa75ed71a1/language-en

d. Analysis of coherence

This support targets the same potential beneficiaries as OdM. However, OdM does not cover companies with turnover under EUR 300 000 which is the case of most vessel owners in ORs (main exceptions being some fleet segments in French Guiana and La Réunion). The objective of this support is to improve security and competitiveness, this is coherent with OdM.

2.3 State aid for aquaculture sector in Mayotte

a. Overview

Scheme	*Support for fishery and aquaculture sector*	**Type**	*State aid SA.53955*
Geographical coverage	*Mayotte*	**Target beneficiaries**	*Fish farmers (based on objectives indicated)*
Time period	*01.04.2019 - 31.12.2020*	**Budget**	*Not available*

The information provided comes from the EU database for State aid cases. The information for this State aid is limited. The objectives for this scheme are:

- Aid to productive investments in aquaculture,
- Aid to management, relief and advisory services for aquaculture farms,
- Aid to encourage new aquaculture farmers practising sustainable aquaculture.

Based on the study "Implementation of the EMFF in outermost regions", there was no aquaculture production in Mayotte in 2018 (100 t in 2013). The support may aim at establishing new aquaculture production in Mayotte. AND-I, Coffey, CETMAR for DG MARE, 2019.

b. Implementation details

Annual expenditure (average for the period)	Share attributable to relevant sectors	Share attributable to specific OdM products	Share attributable to the compensation of operating costs	Share attributable to specific cost factors
Not available	*100%*	*100%*	*0%*	*/*

c. Estimated impacts

Not available.

d. Analysis of coherence

This scheme aims at supporting aquaculture development in Mayotte. Products from aquaculture are potentially covered by OdM. However, companies under EUR 300 000 turnover are not covered by OdM. Due to the low level of development of aquaculture in Mayotte, the companies may be under this level of turnover.

The support is assessed to be coherent with OdM.

Appendix: Other schemes in the agricultural sector for French ORs

The following Table summarises the basic features of other EU schemes for French ORs considered of limited relevance for the analysis of coherence with OdM

				Selecting the schemes					Analysis of coherence		General assessment
Scheme	**Region(s) concerned**	**Time period Planned budget**	**Beneficiaries**	**Cost comp.**	**Economic activities**	**OdM and AIEM sectors**	**OdM and AIEM products**	**Objectives**	**Overlapping sector**	**Overlapping beneficiaries**	
Provisional aid for animal production in the French ORs	French ORs	2005 Budget = EUR 1,8 million	livestock farmer, farmers	No	Yes	Yes	Yes	Temporary support for livestock farmers	Yes	Yes	Low relevance - punctual support more than 10 years ago.
Aid to compensate for the losses of banana growers in Martinique and Guadeloupe following Hurricane Dean	Martinique Guadeloupe	18/08/2007-17/08/2011 Budget = EUR 70 million	3 producers organisations gathering all the bananas producers	No	Yes	Yes	Yes	Temporary support following a cyclone	Yes	Yes	Low relevance - punctual support more than 10 years ago following a natural disaster
Tax base reduction of one-third on results from holdings located in the Outermost regions	French ORs	1/1/2002-31/12/2006 Budget = EUR 44 million	agriculture Hotel industry industry tourism	Yes	Yes	Yes	Yes	Compensate handicaps in French ORs	Yes	Yes	Low relevance - End of the scheme in 2011
Reduction of social security contributions for farmers in French ORs	French ORs	since 17/08/2006 the current scheme is implemented since 04/08/2016 and extended until 31/12/2020 Budget = EUR 60 million	1000 farmers SMEs farms with less than 40 ha weighed	Yes	Yes	Yes	Yes	Compensate handicaps in French ORs	Yes	Yes	Low relevance - Beneficiaries (farms less than 40 ha) must be different from beneficiaries of OdM (targeting operators with a turnover of EUR 300 K)

				Selecting the schemes					Analysis of coherence		General assessment
Scheme	**Region(s) concerned**	**Time period Planned budget**	**Beneficiaries**	**Cost comp.**	**Economic activities**	**OdM and AIEM sectors**	**OdM and AIEM products**	**Objectives**	**Overlapping sector**	**Overlapping beneficiaries**	
Draft notified framework scheme relating to aid for administrative support in the overseas collective agricultural structures	French ORs	19/12/2017-31/12/2020 Budget = EUR 20 million	producers organisation, producers associations SMEs	Yes	Yes	Yes	No	Compensate handicaps in French ORs	No	No	Low relevance - Support job creation and maintaining in the administration of agricultural sector
Aid schemes for R & D by local and regional authorities with regard to the management of the Structural Funds and the agricultural and agri-food sector	French ORs	01/01/2008 - 31/12/2013 Budget = EUR 30 million / year	500 to 1000 beneficiaries Innovation clusters companies laboratories research organisms	No	Yes	No	No	State aid for Research, development and innovation. Scheme extended until 2014.R&D specific support for products of the Annex I of the Treaty are covered by a separate decision but this specific scheme has not been implemented by French government.	No	No	Not relevant - Targeted OdM/AIEM sectors are not covered
Transport support measures	French ORs	01/01/2007-31/12/2013 Budget = 23,36 million	NC	Yes	Yes	No	No	Compensate handicaps in French ORs	No	No	Not relevant - Targeted OdM/AIEM sectors are not covered (agricultural products from Annex I of the Treaty and fishery products are

				Selecting the schemes					Analysis of coherence		General assessment
Scheme	**Region(s) concerned**	**Time period Planned budget**	**Beneficiaries**	**Cost comp.**	**Economic activities**	**OdM and AIEM sectors**	**OdM and AIEM products**	**Objectives**	**Overlapping sector**	**Overlapping beneficiaries**	
											not in the scope of this scheme)
Aid to compensate the additional costs of the wood industry in French Guiana (SA.49219)	French Guiana	01/10/2017 – 31/12/2020 EUR 3,5 million per year (planned budget)	Operators of forest management / first and secondary wood processing industries	Yes	Yes	No	No	Compensate handicaps in French ORs	No	No	Not relevant (wood sector of French Guiana is not supported by OdM).

3 Regional Development Measures

3.1 Introduction

Several EU policy instruments are being deployed for the regional development of the ORs (Guadeloupe, Réunion, Martinique, Mayotte, and French Guiana). The instruments differ by scope, target groups, implementation mechanisms and amounts invested over time. A review of the main supporting schemes for regional development in ORs has been carried out in the Inception Report[460]. Their interplay with the OdM schemes may vary significantly both in nature and intensity. To select the schemes relevant for the policy 'coherence' analysis the following criteria (enunciated in the Inception Report) have been used:

1. schemes explicitly designed for cost compensation, excluding supports not directly targeted to compensate the additional costs;
2. schemes targeting private enterprises, excluding aids to public infrastructures that benefit the whole community (e.g. investments in ports or airports) and aids to individuals (e.g. fiscal incentives for housing);
3. schemes targeting relevant OdM 'supported' products throughout the local supply chain (inputs and outputs), excluding specific aids in research and development, job creation or training to workers.

Based on these criteria, the relevant schemes for the analysis include: The Specific Additional Allocation (SAA) allocated through the ERDF regional programmes and a series of State aids measures targeting both regional development and cost compensations (listed in Appendix to this Annex).

To establish the possible synergies / overlaps between these schemes and the special tax regimes at stake it was necessary to start from the essential characteristics of the latter, in order to identify common features with the former. The main elements of the OdM relevant for the analysis of coherence are reported in the table 1 below; they include: the general objective pursued, type of policy instrument, implementation mechanisms involved, time scale and amount invested, specific objectives and target groups as well as the sectoral coverage.

[460] Such as Interreg programmes, ESF programmes, Horizon 2020, COSME and life+; however, they not usually mentioned cost compensation as being a policy target and their impacts on enterprises and the productive process, compared to the other schemes, remain very marginal.

Table 1 – Key features of OdM for the analysis of coherence with other EU regional development policies for the ORs

Element	Octroi de mer
Objective	Promote regional development. Compensate the additional costs linked to the handicaps as mentioned in art. 349 TFEU, i.e. remoteness, insularity, small size, difficult topography and climate, economic dependence on few products.
Policy instrument	Tax levied based on imported and local products; rates are very different based on the origin of the product (local/imported) and the type of product. The differential of taxes applied to the products targeted can be considered as a financial transfer from the government revenue to the local producers (regional State aid – operating aid)
Territorial scope	Five French Outermost regions: Guadeloupe, Guyana, Martinique, Réunion and Mayotte.
Implementation body	General Directorate for Customs
Time scale	Permanent from 2004 to 2020.
Calculation	Taxable base: the volume of sales and of the importation declared on a selected number of products
Sector coverage	All sectors with some exemptions, i.e.: enterprises in the sectors of steel production, synthetic fibbers, transports and energy are excluded from the support, as well as financial and insurance activities and in general NACE rev. 2 classes 70.10 (headquarters) and 70.22 (Consulting).
Target group (beneficiaries)	Two categories of beneficiaries. Private (individual or companies) with a business purpose, declaring a turnover equal or more than 300.000€ per year. For small businesses – turn over less than 300.000€ per year - no taxation is applied.
Amount distributed to the local economies over the period	475 million € for local business (Turnover > 300.000€); and 25 million for small local business (turnover<300.000€). The latter corresponds to around 7.350 euro per year per enterprise.

***Sources**: European commission, State Aid number 46899 (2016/N) – France Taxe octroi de mer, Bruxelles C(2017)1661 final.*

The following sections provide an analysis of the connections between the SAA and the selected regional State aid schemes with OdM in the respective regions. The bulk of efforts in the Data Gathering phase consisted in identifying and selecting the relevant policies based on the criteria set, and to compile the elements constituting possible synergies / overlaps with special tax regimes. Elements on socio-economic impacts are also provided when the information is available.

3.2 ERDF - Specific Additional Allocation (SAA)

a. Overview

Scheme	*ERDF - SAA*	**Type**	*EU Instrument*
Geographical coverage	*Guadeloupe, Réunion, Martinique, Mayotte, French Guiana*	**Target beneficiaries**	*Enterprises, public entities and providers of public services*
Time period	*2007-2013; 2014-2020*	***Budget***	***ERDF OPs (2014-2020)***[461] *Guadeloupe:* *€ 978,168,479 (of which 23% are related to SAA)* *Réunion* *€ 1,930,231,762 (of which 18.2% are related to SAA)* *Martinique* *€ 1,003,401,522 (of which 21.7% related to SAA)* *Mayotte* *€ 325,615,370 (of which 1.4% are related to SAA)* *French Guiana* *€ 506,995,001 (of which 16.6% are related to SAA)* ***ERDF OPs (2007-2013):*** *Guadeloupe:* *€ 1,049,904,232 (of which 12.4% are related to SAA)* *Réunion* *€ 1,955,074,234 (of which 22% are related to SAA)* *Martinique* *€ 994,780,293 (of which 22% are related to SAA)* *Mayotte* *0.00* *French Guiana* *€ 741,052,093 (of which 13 are related to SAA)*

Since 2007, the French ORs have benefited from the Specific Additional Allocations (SAA) in the framework of the ERDF (European Regional Development Fund). The objectives of the SAA are to offset additional costs linked to handicaps listed in Article 349 TFEU while contributing to ORs development strategies. The SAA was introduced in the 2007-13 programming period as an additional funding of EUR 35 per inhabitant / year. It continued during the current 2014-20 programming period with a funding of EUR 30 per inhabitant / year. The measure is expected to be confirmed under the next programming period (2021-27) with the current amount. In both programming period (2007-2013 and 2014-20), the SAA could support not only operating aid, but also investments and expenditures for the provision of Public Services Obligations (PSOs) and contracts.

As shown in Table 2 below, some 20 different types / sectors of intervention in different areas have been targeted by SAA since its establishment. In the French ORs, SAA have

[461] Source: https://cohesiondata.ec.europa.eu/ and regional websites for the programmes covering the period 2007-13.

focused primarily on aids for freight costs as well as on various kinds of infrastructures investments. Some changes have been registered between the two programming periods, but priorities remain broadly stable. The aid is allocated to beneficiaries in the form of grants covering the eligible costs identified in each programme. Payments are made upon the submission of declarations of expenditures from the beneficiaries. The beneficiaries are selected through open procedure regulated by the public procurement rules in force in each country. Aids to private sector are calculated based on the maximum threshold defined in the related State aid rules.

Table 2: Type of interventions under the ERDF SAA programmes, 2007-13; 2014-2020

	Guadeloupe	French Guiana	Martinique	Réunion	Mayotte
Freight, import of inputs and exports	X	X	X	X	X
Freight Waste	X	No	X	X	X
Intra-regional shipping	X	No	No	X	No
Port (investments and operating aid)	X	X	No	X	No
Airport (investments)	X	X	No	X	No
Waterways (investments)	No	X	No	No	No
Road (investments)	No	No	No	No	No
Adapt buildings to extreme events	X	No	X	X	No
Telecom (investment and operating aid)	No	No	X	X	No
PSO transport intra-regional	X	No	X	No	No
Health and emergency	No	No	No	No	No
Economic activity zones	No	No	No	X	No
Soft investments for businesses	No	No	X	No	No
Wages civil servants	No	No	No	No	No
Wages health services	No	No	No	No	No
Sustainable tourism	No	No	No	No	No
Biodiversity national park	No	No	No	No	No

In the framework of the SAA, the interventions relevant for this Study – i.e. targeting enterprises and potentially covering OdM products - include primarily: freight aid for products transport (import of inputs and exports), freight aid for waste transport, intra-regional shipping, telecom operating aid, as well as aids to economic activity zones and soft investments for businesses.

For the purpose of the analysis of coherence with OdM, the following specific features of SAA should be considered:

- SAA is managed by regional authorities, which hold the responsibility for granting the support to beneficiaries.
- The aid is intended for beneficiaries who comply with the eligible conditions defined within the ERDF programmes.
- Beneficiaries must apply for the aid (there is not an automatic granting of the aid).
- Programme databases are structured by operation; a single beneficiary may be recipient of more than one operation.
- The operations’ database does not register the activities, or the productions supported (i.e. NACE or CN codes); these need to be inferred (where feasible) from the identity of the beneficiary.

b. Implementation details

➢ Guadeloupe

The areas of intervention relevant for the study addressed by the SAA in Guadeloupe in the period 2007-2013 and 2014-2020 are: freight of production inputs (imports) and export, freight of dangerous wastes and the inter-regional cabotage of freight (only in the period 2014-20). In the period 2007-13, 248 operations were supported (6 related to the transport of waste), for an amount of ca. € 67 million (2.3 million for the transport of wastes). For the programming period 2014-20 (still on-going), the operations financed through the SAA were 35 (only 1 related to waste management), i.e. approximately € 15 million (last update at end of 2018).

Scheme	Type	Geographical coverage	Target beneficiaries	Time period	Budget - €
SAA	EU instrument (grant)	Guadeloupe	Enterprises (except agriculture)	2007-13	67,000,000
				2014-20	15,000,000*

* covering the period 2014-2018

The SAA to freight covers all the manufacturing sectors (with few exceptions), the exact share attributable to specific OdM products is not known as the SAA cost compensation monitoring system records the interventions based on the enterprise identification number.

Region	Annual SAA expenditure - €	Share attributable to relevant sectors	Share attributable to specific OdM products	Share attributable to the compensation of operating costs	Share attributable to specific cost factors
Guadeloupe	11,000,000*	50% -100%	<100%	100%	100% (transport)

* estimation period 2014-20

➢ Réunion

Regarding the object of the present Study, the main significant fields of intervention in 2007-13 in Réunion were: freight of imported and exported goods (341 operations in total corresponding to 80 million euro), waste freight and the local shipping of wastes (6 operations for a cost of around 3 million euro), as well as the development of telecom infrastructures (operating costs). The operations supported differ between the two programming periods, the list has been narrowed in 2014-20 and now includes mainly freight aid (both imported and exported products) and economic activities zones.

Scheme	Type	Geographical coverage	Target beneficiaries	Time period	Budget - €
SAA	EU instrument (grant)	Réunion	Enterprises (except agriculture)	2007-13	85,000,000
				2014-20	72,000,000*

* covering the period 2014-2018

The SAA to freight covers all the manufacturing sectors (with few exceptions), the exact share attributable to specific OdM products is not known as the SAA cost compensation monitoring system records the interventions based on the enterprise identification number.

Region	Annual SAA expenditure - €	Share attributable to relevant sectors	Share attributable to specific OdM products	Share attributable to the compensation of operating costs	Share attributable to specific cost factors
Réunion	18,000,000*	50% -100%	<100%	100%	100% (transport, connection costs)

* estimation period 2014-20

➢ Martinique

In 2007-13, Martinique has used the SAA to compensate freight costs and costs related to the shipping of wastes (as regards to the compensation of company operational costs). Around 300 operations have been supported compensating costs for an amount slightly less than 100 million euro. For the period 2014-20, the SAA deals only with freight aid (75 operations supported up to 2018, corresponding to around 30 million euro).

Scheme	Type	Geographical coverage	Target beneficiaries	Time period	Budget - €
SAA	EU instrument (grant)	Martinique	Enterprises (except agriculture)	2007-13	100,000,000
				2014-20	30,000,000*

* covering the period 2014-2018

The SAA to freight covers all the manufacturing sectors (with few exceptions), the exact share attributable to specific OdM products is not known as the SAA cost compensation monitoring system records the interventions based on the enterprise identification number.

Region	Annual SAA expenditure - €	Share attributable to relevant sectors	Share attributable to specific OdM products	Share attributable to the compensation of operating costs	Share attributable to specific cost factors
Martinique	7,500,000*	50% -100%	<100%	100%	100% (transport, connection costs)

* estimation period 2014-20

➢ Mayotte

Mayotte became an outermost region in 2014. An operational programme has been launched for the 2014-20 period that includes support from a specific SAA. The interventions planned under the SAA 2014-20 are related to freight – production inputs and the freight of wastes. End-2018 no operation was supported.

➢ French Guiana

During the 2007-13 programming period, the specific additional allocation mainly covered additional cost for freight of products (addressing both exportation and importation), for an amount of 19 million euro concerning 72 operations. In the current programming period, the support has focused on the freight of imported products, end-2018 the operations financed were 42, for a budget of around 11 million euro.

Scheme	Type	Geographical coverage	Target beneficiaries	Time period	Budget - €
SAA	EU instrument (grant)	French Guiana	Enterprises (except agriculture)	2007-13	19,000,000
				2014-20	11,000,000*

* covering the period 2014-2018

The SAA to freight covers all the manufacturing sectors (with few exceptions), the exact share attributable to specific OdM products is not known as the SAA cost compensation monitoring system records the interventions based on the enterprise identification number.

Region	Annual SAA expenditure - €	Share attributable to relevant sectors	Share attributable to specific OdM products	Share attributable to the compensation of operating costs	Share attributable to specific cost factors
French Guiana	3,000,000*	50% -100%	<100%	100%	100% (transport, connection costs)

* estimation period 2014-20

c. Estimated impacts

The indicators used in the programme priority axis (devoted to the SAA and relevant for this study) to reflect the output, results and impacts of the SAA on the regional economy are:

<u>Guadeloupe</u>

- 2007-13: variation of added value by supported companies; volume of dangerous waste treated and transport per year;
- 2014-20: number of enterprises supported by freight support; amount of additional costs compensated by freight aid, number of enterprises supported by aid to maritime transport; volume of dangerous goods treated and transported, business survival rate at 5 years.

<u>Réunion</u>

- 2007-13: amount of additional costs compensated in freight; volume of freight; value added in industry;
- 2014-20: number of enterprises benefiting from freight support; business revenue in industrial sector.

<u>Martinique</u>

- 2007-13: value of goods exported through freight support operations;
- 2014-20: enterprises survival rates at 3 years.

<u>Mayotte</u>

- 2014-20: amount of additional costs compensated through freight aid; unit cost of supply of raw materials and intermediate products.

French Guiana

- 2007-13: number of enterprises supported with freight aid;
- 2014-20: number of enterprises receiving support; tons of freight transported to isolated areas per year; survival rates of enterprises at 3 years.

In general, the indicators reported in 2007-13 are not specific in measuring the effects of cost-compensation on the regional economy, while in 2014-20 the indicators used are more related to the theme of compensation. None of the indicators above can provide with estimation the socio-economic impacts in the regional economy, such as employment, turn-over, innovation or any other relevant macro-economic parameters.

In an evaluation report published in 2011 covering all the French ORs (except Mayotte), *Edater* illustrated the results from a survey to beneficiaries which estimated the impacts of the SAA on the local economies[462]:

- More than 82% of the respondents believe that their competitiveness has improved, especially due to freight aid (more in Réunion and Martinique than in French Guiana). These positive effects on competitiveness are linked mainly to the fall in production costs and an improvement in productivity. Consequently, many beneficiaries have mentioned the fact that this system has enabled them to remain competitive at national (by keeping prices close to those of mainland France) and European level, and thus to face competition from European companies or neighbouring countries with lower production costs;
- In addition, the SAA support contributed to maintain their level of investment, retain the company staff, as well as widen the offer of products. However, many beneficiaries pointed out that payments were received in late, several years after the grant application.

d. Elements for the analysis of coherence.

The objectives of the schemes are aligned, as they contribute both to the compensation of the additional costs incurred by the regional economy. In addition, the beneficiaries are companies operating in the local economy in similar sectors (manufacturing). However, except for the temporal coverage, implementation mechanisms and authorities responsible are quite different for both the schemes. In general, there is a risk of overlap between the two schemes, for those enterprises both profiting from SAA and OdM. The exact intensity of the cumulative effect is not well known.

Guadeloupe

Type of intervention	Alignment of objectives	Implementation mechanism	Sector/products	Beneficiaries
Freight, import of inputs and exports	Synergy	Different	Partially overlapping (cumulative)	Similar
Freight Waste	Synergy	Different	Different	Partially similar
Intra-regional shipping	Synergy	Different	Partially overlapping (cumulative)	Similar

Réunion

[462] Edater, 'Evaluation de l'allocation spécifique de compensation des surcouts liés aux handicaps des RUP (Feder), Rapport Final, 26 décembre 2011.

Type of intervention	Alignment of objectives	Implementation mechanism	Sector/products	Beneficiaries
Freight, import of inputs and exports	Synergy	Different	Partially overlapping (cumulative)	Similar
Freight Waste	Synergy	Different	Different	Partially similar
Telecom infrastructure	Synergy	Different	Different	Different

Martinique

Type of intervention	Alignment of objectives	Implementation mechanism	Sector/products	Beneficiaries
Freight, import of inputs and exports	Synergy	Different	Partially overlapping (cumulative)	Similar
Freight Waste	Synergy	Different	Different	Partially similar

Mayotte

Type of intervention	Alignment of objectives	Implementation mechanism	Sector/products	Beneficiaries
Freight, import of inputs and exports	Synergy	Different	Partially overlapping (cumulative)	Similar
Freight Waste	Synergy	Different	Different	Partially similar

French Guiana

Type of intervention	Alignment of objectives	Implementation mechanism	Sector/products	Beneficiaries
Freight, import of inputs and exports	Synergy	Different	Partially overlapping (cumulative)	Similar

Conclusion: There is a risk of overlap between the SAA aiming at compensating freight costs with OdM

3.3 Regional State Aid Schemes

a. Overview

Scheme	*Regional State Aid*	**Type**	*State Aid*
Geographical coverage	*Réunion* *Guyana* *Guadeloupe* *Martinique*	**Target beneficiaries**	*All firms*
Time period	*2014-2020*	**Budget (million)**	EUR 6,526.52

The regional State aid measures that are relevant for the coherence analysis have been selected using the DG Competition State aid database for reference. The mapping has started in the Inception Phase and has been completed in the Data Gathering Phase. For the present review, complementary information has been retrieved from the notification / authorisation documents as well as from the official regional policy platforms of the ORs.

An overall 94 State aid measures designated as ***aids to regional development*** are present in the DG Competition database related to French outermost regions. These aids are very heterogeneous in nature, scope and duration. Only part of the State aid measures mapped are directly relevant for the coherence analysis of the Study, in the sense that: (a) they explicitly address additional cost compensation, (b) they target private companies, (c) they consist of operational aid; and (d) they potentially cover OdM / AIEM products. The selected measures most relevant for further analysis are studied in the section below, while a more comprehensive list of regional development aids is provided in Appendix.

The identification and selection of the relevant State aid measures is subject to limitations and challenges that are worth briefly mentioning:

- Certain aids (*de minimis* or falling under GBER) might not be reported (in detail) in the DG Competition database.
- The required information is not systematically reported in the notification/authorisation documents.
- The cost compensation purpose is not always explicitly mentioned in the documents: most of the time only a general reference to the relevant TFEU article is included.
- The NACE codes of the addressed sectors are generally not reported in State aid documents, but sometimes the sectors or activities addressed (or excluded) are mentioned.
- The State aid documents seldom mention specific products or services addressed.
- The State Aid documents do not provide detailed information on the impacts on the local economy of the policy measures taken.

Six schemes have been considered as relevant for the study, including 10 measures for an amount of around 5.1 billion euro over the period 2014-2020. The estimated annual expenditures range from 23 to 250 million euro per year.

Most of the measures cover all the French ORs, with some exceptions (SA 39259 excludes French Guiana, while SA 49219 only refers to French Guiana). Beneficiaries are enterprises in a large range of economic sectors. A description of the schemes is given in the boxes below

State aid code	Title	Time coverage	Type	Total amounts (in millions €)	Sector / Product	Location
SA.39259	Taxe sur la valeur ajoutée non perçue récupérable	01/07/2014 – 31/12/2020	Tax advantage or tax exemption	650.00	All economic sectors	Guadeloupe, Réunion, Martinique
SA.41019		01/07/2014 – 31/12/2020		650.00		French Outermost departments
SA.26473	Zones Franches d'Activités : exonérations partielles des bénéfices, de la taxe professionnelle et de la taxe foncière sur les propriétés bâties	01/01/2009 – 31/12/2017	Other forms of tax advantage, Tax base reduction	2,500.00	All economic sectors, except those listed at §13	French Outermost departments
N559/2006	Abattement d'un tiers sur les résultats provenant d'exploitations situées dans les départements d'outre-mer	01/01/2014 – 31/12/2017	Tax base reduction	770.00	Agricultural, industrial, commercial or handcraft activities (cf art 34 French General Tax Code)	French outermost regions
SA.39258	Zones franches d'activité	01/07/2014 – 31/12/2018	Tax advantage or tax exemption	571.50	All economic sectors	French Outermost departments
SA.53952		01/01/2019 – 31/12/2020		270.00		
SA.41042		01/07/2014 – 31/12/2017		444.50		
SA.39297	Mesures de soutien au transport (Aide au fret et Aide au transport des déchets dangereux)	01/07/2014 – 31/12/2020	Direct grant/ Interest rate subsidy	128.48	All economic sectors	French Outermost departments
SA.49772		01/07/2014 – 31/12/2020		151.19		
SA.49219	Aide pour la compensation des surcoûts de la filière de valorisation du bois en Guyane :	01/10/2017 – 31/12/2020	Direct grant/ Interest rate subsidy	11.08	All economic sectors	Guiana

b. Implementation details

Annual expenditure (average for the period)	Share attributable to relevant sectors	Share attributable to specific AIEM products	Share attributable to the compensation of operating costs	Share attributable to specific cost factors
EUR 932.36 million / year (2014-2020)*	<100%	<100% allocated to compensation plan.	100% (measure refers to art 107(3)(a) and (c) TFEU)	/

* EUR 6,526.52 million over 7 years

All selected measures are analysed in the boxes below.

Scheme	Type	Geographical coverage	Target beneficiaries	Time period	Total budget -
Taxe sur la valeur ajoutée non perçue récupérable	SA.39259 And SA. 41019	French outermost regions (except Guyana for SA.39259)	All SME and large enterprises	01/07/2014 – 31/12/2020 (for both)	650,000,000.00 And 650, 000, 000.00
Objectives, scopes and components (SA 39259): This scheme aims to provide fiscal advantages or tax exoneration to all enterprises implemented in French ORs. Regarding the objective mentioned in the notification, the maximum aid intensity for transport costs of goods in eligible area will reach 100%. The list of products concerned by this measure as those covered by Articles 295 and 295A of French general Code of Taxes, and article 50(11) and 50(12) of Annexe IV of French General Code of Taxes					

Scheme	Type	Geographical coverage	Target beneficiaries	Time period	Total budget - €
Abattement d'un tiers sur les résultats provenant d'exploitations situées dans les départements d'outre-mer	N559/2006	French outermost regions	Enterprises working in an Agricole, industrial or commercial	01/07/2014 – 31/12/2020	770,000,000.00
Objectives, scopes and components: The objective of the measure is to compensate additional costs resulting from the location of the activities in the ORs. Covered sectors are agriculture, industry, commercial or craft activities falling under article 34 of the French General Taxes Code.					

Scheme	Type	Geographical coverage	Target beneficiaries	Time period	Total budget-€
Zones Franches d'Activités : exonérations partielles des bénéfices, de la taxe professionnelle et de la taxe foncière sur les propriétés bâties	SA.26473	Guyana, Martinique, Réunion, Guadeloupe	List of beneficiaries illustrated in the scheme notification	01/01/2009 – 31/12/2017	2,500,000,000.00
Objectives, scopes and components: This measure intends to cover additional costs of longer production cycles in French overseas departments and the longer return to investment which increases cash requirement. It's mainly aimed to enterprises of small dimension; however, the notification presents a list of majored tax reduction according to firm's typology. Similarly, the notification provides a list of sectors excluded of this scheme, including services and activities of the primary sector.					

Scheme	Type	Geographical coverage	Target beneficiaries	Time period	Total budget - €
Zones franches d'activité (ZFA)	SA.39258 And SA.53952 And SA.41042	Guyana, Martinique, Réunion, Guadeloupe	SME	01/07/2014 – 31/12/2018 and 01/01/2019 – 31/12/2020 and 01/07/2014 – 31/12/2017	571,500,000.00 And 270,000,000.00 And 444,500,000.00
Objectives, scopes and components (SA. 39258): The objective of ZFAs is to strengthen the competitiveness of SMEs located in the French overseas departments by allowing them to benefit from reductions in taxable profits (corporate tax or tax on industrial and commercial profits), professional tax and property tax on built properties. **Objectives, scopes and components (SA.53952):** The measure provides fiscal advantages and tax exonerations to SMEs implemented in the French outermost regions. This measure is based on article 44 (14), 1466F, 1586 (9), 1388 (5) and 1935H of French General Tax Code; articles 3 and 16 of ordonnance n°2013-837 (19/09/2013). **Objectives, scopes and components (SA.41042):** This measure provides fiscal advantages (or interest rate subsidies) for SMEs in all economic sectors eligible to receive the aid (as mentioned in articles 44(14)1466F, 1586 (9), 1388 (15) and 1395H of the French General Tax Code					

Scheme	Type	Geographical coverage	Target beneficiaries	Time period	Total budget - €
Mesures de soutien au transport (Aide au fret et Aide au transport des déchets dangereux)	SA.39297 And SA.49772 (which is an extension of SA 39297)	Guyana, Martinique, Réunion, Guadeloupe	SMEs	01/07/2014 – 31/12/2020 and 01/07/2014 – 31/12/2020	128,480,000.00 And 151,190,000.00
Objectives, scopes and components: The measure aims to support additional costs of transports in the French ORs, including the transport of dangerous wastes. This State aids covers the SAA.					

Scheme	Type	Geographical coverage	Target beneficiaries	Time period	Total budget - €
Aide pour la compensation des surcoûts de la filière de valorisation du bois en Guyane	SA. 49219	Guyana	SMEs	01/10/2017 – 31/12/2020	11,080,000.00
Objectives, scopes and components: The measure aims to compensate additional costs encountered by SMEs in the field of wood valorisation in Guyana, the aid is allocated through grants and an interest rate-based subsidy. Legal basis for the aid is the decree n°2014-758 (02/07/2014).					

c. Estimated impact

Indicators measuring results and impacts of the schemes on the regional economies are not provided in the notification documentation available on the EU websites. No recent evaluation has been published, in the field of European studies, reporting the impacts of the State aids (list above) in French Outermost regions in terms of employment, turn-over in manufacturing, economic growth and production flows.

At national level, it is worth mentioning the evaluation of Lengrand&Associés covering all the French ORs, which observes an increase between 2010 and 2015 of the added value in the enterprises located in the Zones Franches d'activité (ZFA), especially those operating in the sectors of transport and storage[463].

d. Analysis of Coherence

The objectives of the State aids analysed in this section are similar to those pursued under OdM, as they contribute to the compensation of the additional costs incurred by the regional economic operators in producing local goods and services. In some cases, i.e. tax advantages and exemption, we can infer interferences and overlapping in the schemes applied. However, given the lack of detailed and updated data, it is not possible to quantify the cumulative effects on specific sectors or type of beneficiaries and there

[463] Louis Lengrand & Associés, 'Etude des surcoûts supportés par les entreprises dans les régions ultrapériphériques françaises', en association avec un réseau de relais locaux et l'Université Libre de Bruxelles, Rapport final – Octobre 2016

is no evidence of conflicting objectives or overcompensation in general. Indeed, in the study published by Lengrand and Associés in 2016 which estimated the intensity of the public supports (all supports included) received by the local operators in the outermost regions for cost compensation compared to the real additional costs incurred, the ratio of total public support against additional costs is estimated at 45% (it means that less than 50% of the additional costs are covered by public aid)[464].

Conclusion: The scope of the State aid analysed in this section is similar to the one pursued by OdM, as it supports enterprises and products not in Annex I of the Treaty. For some of them, and considering the financial dimension of the State Aid, we could presume interferences and overlapping with OdM

[464] P-74 above cited.

Appendix 1 - Full list of State aids in French ORs

State aid code	Title	Time coverage	Type	Amount (€)	Sector/product	Location
SA.50299	Aide fiscale à l''investissement outre-mer (investissements productifs)	2014-2020	Tax advantage or tax exemption	2,400,000.000.00	n.a	All regions
N321/2006	Aide fiscale à l'investissement outre-mer	2007-2013	??	9,379,000.00	n.a	All regions
N317/2000	LA REUNION - 2000-2006 - PRODUITS LIES AUX LOISIRS TOURISTIQUES	2006-2007	Direct grant	3,100,000.00	n.a	Réunion
N325/2008	Fiscal aid for initial investment in Saint-Martin	2007-2013	Other forms of tax advantage	3,500,000.00	n.a	Saint Martin
N326/2008	Reduced corporate income tax rate in Saint-Martin	2007-2013	Tax rate reduction	n.a	n.a	Saint Martin
N464/2000	Guyane 2000-20006 - soutien au fret	2000-2006	Fiscal support	304,900,000.00	All, except excluded sectors	Guyana
N236/2002	Fonds régionaux de participation - DOM	2000-2006	Other forms of equity intervention	6,098,000.00	n.a	All regions
N179/2002	Taux d'accises réduit sur le rhum traditionnel	2000-06 and 2007-13	Tax rate reduction		n.a	
SA.21502	Loi de programme pour l'Outre-mer – Aides fiscales à l'investissement	2007-13 and 2014-20	Tax base reduction	3,600,000,000.00	n.a	All regions
N529/2006	OCTROI DE MER	2007-2013	Tax rate reduction	907,500,000.00	n.a	All regions
N325/2000	LA REUNION - 2000-2006 - Gestion des déchets respectueuse de l'environnement	2000-2006	n.a	9,700,000.00	n.a	Réunion
SA.50298	Aide fiscale à l''investissement outre-mer	2018-2020	Tax advantage or tax exemption	2,415,000,000.00	n.a	All regions
N311/2000	Réunion 2000-2006 Investissements industriels	2000-2006	n.a	26,000,000.00	n.a	Réunion
N438/2008	Déductibilité de la TVA sur certains produits exonérés, Guadeloupe Martinique et Réunion	2009-2013	Tax advantage	500,000,000.00	Specific products	Guadeloupe, Martinique, Réunion
N627/2006	Fonds de garantie « Fonds DOM »	2007-13	Guarantee	56,700,000.00	Specific sectors	All regions
N359/2004	France Martinique 2000-2006 - Bonification d'intérêts - Modification du régime N	2000-2006	Interest subsidy	3,260,000.00	All sectors	Martinique

State aid code	Title	Time coverage	Type	Amount (€)	Sector/product	Location
	378/2000 - aide DOCUP					
N66/2001	La Réunion - FISAC - FLACR	2000-2006	Direct grant	3,201,430.00	n.a	Réunion
N402/2000	Guyane 2000-2006 Fonds d'Implantation, création d'emploi	2000-2006	n.a	1,220,000.00	n.a	Guyane
N319/2001	Guadeloupe 2000-2006 - Aide au fret	2002-2006	Direct grant	16,000,000.00	Specific sectors	Guadeloupe
N697/2000	Aide à la réalisation d'appontements privés (Martinique)	2000-2006	Direct grant	800,000.00	n.a	Martinique
N517/2001	Exonération, sur agrément, des bénéfices en cas de création 'activité nouvelle dans les Départements d'Outre-Mer	2001-2006	Tax deferment	9,000,000.00	n.a	All regions
X219/2009	Aides aux études de faisabilité technique pour les départements d'Outre-mer	2008-2013	Direct grant	150,000.00	n.a	All regions
N202/2004	Souscription aux sociétés de capital investissement - Régime cadre de la Martinique	2006	n.a	610,000.00	n.a	Martinique
N542/2006	Dispositif d'exonération des cotisations patronales de sécurité sociale dans le secteur marchand	2007-13	Reduction of social security contributions	5,960,000.00	Specific sectors	All regions
SA.39259	Taxe sur la valeur ajoutée non perçue récupérable	2014-20	Tax advantage or tax exemption	650,000,000.00	Specific sectors	All regions
N654/2009	Aménagement de zones d'activités à la Réunion, aide à la réduction des couts de location	2010-13	Direct grant	63,000,000.00	Specific sectors	All regions
N519/2001	Abattement d'un tiers sur les résultats provenant d'exploitations situées dans les Départements d'Outre-Mer	2002-2006	Tax base reduction	44,000,000.00	Specific list of activities	All regions
N628/2000	Dix régimes d'aides aux petites et micro-entreprises dans la région Guyane	2000-2006	Reduction of social security contributions	8,630,000.00	Specific list of activities	French Guiana
N318/2000	La Réunion - 2000-2006 - Hôtels et restaurants classés	2000-2006	Direct grant	5,100,000.00	n.a	Réunion

State aid code	Title	Time coverage	Type	Amount (€)	Sector/product	Location
N309/2000	Notification des régimes d'aides prévus dans le DOCUP de la région Réunion	2000-2006	Interest subsidy	3,200,000.00	n.a	Réunion
N186/2002	Aide au transport des produits martiniquais	2000-2006	Direct grant	17,074,289.00	n.a	Martinique
N327/2000	Notification des régimes d'aides prévus dans le DOCUP de la région Réunion	2000-2006	n.a	23,000,000.00	n.a	Réunion
N526/2009	Aménagement de zones d'activités à la Réunion, aide à la réduction des couts de location	2010-13	Direct grant	63,000,000.00	Specific sectors	All regions
N107/2004	Régime d'octroi de mer dans les départements d'outre-mer	2004-2006	n.a	412,500,000.00		All regions
N450/2000	Modification du fonds de garantie DOM	2000-2006	Guarantee	15,250,000.00	All sectors	All regions
N377/2000	Martinique 2000-2006 plates-formes d'initiative locale	2000-2006	Direct grant			Martinique
N524/2006	Déductibilité de la TVA sur certains produits exonérés	2007-13	Tax rate reduction	1,200,000,000.00	Specific sectors	All regions
N310/2000	Réunion 2000-2006 Prises de participation	2000-2006	Debt write-off	3,100,000.00		
N559/2006	Abattement d’un tiers sur les résultats provenant d’exploitations situées dans les départements d’outre-mer	2014-17	Tax base reduction	n.a	Specific sectors	All regions
N560/2006	Non application des taux majorés de taxe sur les salaires dans les DOM et taxation réduite des rémunérations versées dans les DOM	2007-13	Tax rate reduction	105,000,000.00	Specific sectors	All regions
N440/2008	Aide à la modernisation de l'hôtellerie	2009-2013	Direct grant	n.a	n.a	All regions
N328/2000	La Réunion 2000-2006 prime régionale à l'emploi	2000-2006	Direct grant	5,000,000.00	n.a	Réunion
N316a/2000	Notification des régimes d'aides prévus dans le DOCUP de la région Réunion	2000-2006	Direct grant	44,380,000.00	n.a	Réunion
SA.26566	Aides fiscales à l'investissement outre-mer - logement social	2009-2017	Other forms of tax advantage,	878,000,000.00	n.a	All regions

State aid code	Title	Time coverage	Type	Amount (€)	Sector/product	Location
			Tax base reduction			
N324/2006	Air Caraïbes	2007-2011	Tax deferment		n.a	All regions
N326/2000	La Réunion - 2000-2006 - désenclavement économique	2000-2006	??	3,700,000.00	Specific sectors	Réunion
SA.33966	Aide à caractère social pour les dessertes maritimes exploitées entre la Guadeloupe et les îles	2011	H.50.10 - Sea and coastal passenger water transport	n.a	n.a	Guadeloupe
N758/2006	Régime de capital risque dans les DOM : Sociétés de capital-risque et fonds d'investissements	2007-2013	Provision of risk capital	n.a	n.a	All regions
N530/2006	Taux d'accise réduit sur le rhum « traditionnel » produit dans les départements d'outre-mer	2007-2013	Tax rate reduction	n.a	n.a	All regions
N147a/2000	Loi d'orientation pour l'outre-mer	2000-2006	Direct grant, social security contributions, Taxes	45,800,000.00	Specific sectors	All regions
SA.37788	Prolongation of aid scheme "Fonds de garantie des DOM" (N 627/2006) until 30 June 2014	2014	Guarantee	n.a	n.a	All regions
SA.37781	Prolongation of "Régime d'aides fiscales à l''investissement outre-mer" (...) until 30 June 2014	2014	Tax base reduction	n.a	n.a	All regions
SA.37775	Prolongation of aid scheme "Aménagement de zones d'activités à la Réunion" (...) until 30 June 2014	2014	Direct grant	n.a	n.a	Reunion
N199/2007	Départements d'outre-mer-compensation des surcoûts de transport	2007-2013	Direct grant	500,000,000.00	n.a	All regions
SA.37778	Prolongation of aid scheme "Compensation des surcoûts de transport/soutien au fret dans le DOM" (....) until 30 June 2014	2014	Direct grant	n.a	n.a	All regions

State aid code	Title	Time coverage	Type	Amount (€)	Sector/product	Location
SA.37783	Prolongation of aid scheme "Zones Franches d''Activités: exonérations partielles des bénéfices, de la taxe professionnelle et de la taxe foncière sur les propriétés bâties" (N441/2008) until 30 June 2014	2014	Other forms of tax advantage, Tax base reduction	n.a	n.a	All regions
SA.37770	Prolongation of aid scheme "Non-application des taux majorés de taxe sur les salaires dans les DOM et taxation réduite des rémunérations versées dans les DOM" (...) until 30 June 2014	2014	Tax rate reduction	n.a	n.a	All regions
SA.37773	Prolongation of aid scheme "Déductibilité de la TVA sur certains produits exonérés" (...) until 30 June 2014	2014	Other forms of tax advantage	n.a	n.a	All regions
SA.37784	Prolongation of fiscal aid scheme for initial investment in Saint-Martin (....) until 30 June 2014	2014	Other forms of tax advantage, Tax base reduction	n.a	n.a	Saint Martin
SA.37777	Prolongation of aid scheme "Aide au transport des déchets dangereux" (…) until 30 June 2014	2014	Direct grant, Subsidised services	n.a	n.a	All regions
SA.26473	Zones Franches d'Activités : exonérations partielles des bénéfices, de la taxe professionnelle et de la taxe foncière sur les propriétés bâties	2009-2017	Other forms of tax advantage, Tax base reduction	2,250,000,000.00	Specific activities and products	All regions
SA.41299	Aide fiscale à l''investissement productif outre-mer en faveur de certains secteurs d''activité économique (notamment le transport et l''énergie)	2015-2017	Tax advantage or tax exemption	2,415,000,000.00	n.a	All regions

State aid code	Title	Time coverage	Type	Amount (€)	Sector/product	Location
SA.39261	Aide à la modernisation de l'hôtellerie	2014	Direct grant/ Interest rate subsidy	n.a	n.a	All regions
SA.39258	Zones franches d'activité	2014-2018	Tax advantage or tax exemption	571,500,000.00	n.a	Mayotte
SA.39268	Taxe Octroi de mer	2014	Tax advantage or tax exemption	225,000,000.00	n.a	All regions
N363/1999	Fonds de garantie DOM	1999-2006	Guarantee	?	Specific sectors	All regions
SA.38641	Taux d''accise réduit sur le rhum "traditionnel" produit en Guadeloupe, en Guyane, en Martinique et à La Réunion	2014-2020	Tax rate reduction	151,190,000.00	n.a	All regions
SA.39297	Mesures de soutien au transport (Aide au fret et Aide au transport des déchets dangereux)	2014-20	Direct grant/ Interest rate subsidy	128,480,000.00	n.a	All regions
SA.37582	Projet de développement de l'aéroport de La Réunion - Roland Garros	2014	Direct grant, Guarantee	n.a	n.a	Réunion
C74/1999	Development aid for Saint-Pierre et Miquelon (Le Levant)	1996-1999	Tax rate reduction	n.a	n.a	Saint Pierre et Miquelon
C37/1998	DEVELOPMENT AID TO FRENCH POLYNESIA ACCORDING TO ART. 4(7) OF 7TH DIRECTIVE ON AID TO SHIPBUILDING	n.a	n.a	n.a	n.a	French Polynesia
SA.41041	Taxe octroi de mer	2014-2015	Tax advantage or tax exemption	450,000,000.00	n.a	All regions
SA.41016	Aide fiscale à l''investissement outre-mer	2015-2017	Tax advantage or tax exemption	2,415,000,000.00	n.a	All regions
SA.42692	Taxe Octroi de mer	2015-2020	Tax advantage or tax exemption	2,612,500,000.00	n.a	All regions
SA.55503	Régime d'aide à l'investissement dans les départements d'outre-mer et à Saint-Martin	2018-2020	Tax advantage or tax exemption	1,740,000,000.00	n.a	Saint Martin
SA.53952	Zones franches d'activitié	2019-2020	Tax advantage, tax exemption	270,000,000.00	n.a	All regions

State aid code	Title	Time coverage	Type	Amount (€)	Sector/product	Location
SA.41549	Evaluation plan for the DOM investment scheme "Aide fiscale à l'investissement outre-mer (investissements productifs)"	2015-2017	Tax rate reduction	2,280,830,000.00	n.a	All regions
SA.38536	Aide fiscale à l'investissement outre-mer (investissements productifs)	2015-2017	Tax allowance	2,280,830,000.00	n.a	All regions
SA.53951	Taux majoré de crédit d'impôt pour la compétitivité et l'emploi en faveur des entreprises exploitées dans les départements d'outre-mer	2019-2020	Tax advantage or tax exemption	30,000,000.00	Specific sectors	All regions
SA.49219	Aide pour la compensation des surcoûts de la filière de valorisation du bois en Guyane	2017-2020	Direct grant/ Interest rate subsidy	11,080,000.00	Specific sectors	Guyana
SA.41019	Taxe sur la valeur ajoutée non perçue récupérable	2014-2020	Tax advantage or tax exemption	650,000,000.00	Specific sectors	All regions
SA.39296	Aménagement de zones d''activités et de zones stratégiques à la Réunion	2014-2020	Direct grant/ Interest rate subsidy	44,200,000.00	Specific sectors	Réunion
SA.39295	Aide fiscale à l'investissement sur le territoire de la collectivité de Saint-Martin.	2014-2020	Tax advantage or tax exemption	n.a	n.a	Saint Martin
SA.41017	Taux majoré de crédit d'impôt pour la compétitivité et l'emploi en faveur des entreprises exploitées dans les départements d'outre-mer	2015-2020	Tax advantage or tax exemption	1,740,000,000.00	Specific sectors	All regions
SA.41042	Zones franches d'activité	2014-2020	Tax advantage or tax exemption	444,500,000.00	Specific sectors	All regions
SA.39262	Non application des taux majorés de taxe sur les salaires dans les DOM et taxation réduite des rémunérations versées dans les DOM	2014-2020	Tax advantage or tax exemption	217,750,000.00	Specific sectors	All regions
SA.49772	Mesures de soutien au transport	2017-2020	Direct grant/ Interest rate subsidy	151,190,000.00	Specific sectors	All regions

State aid code	Title	Time coverage	Type	Amount (€)	Sector/product	Location
SA.46899	Operating aid scheme for outermost regions providing reductions on the Octroi de Mer Tax	2017-2020	Tax rate reduction	1,820,830,000.00	n.a	All regions
SA.48412	Régime exempté de notification N° XXX d'aide à la continuité territoriale numérique en Outre-mer pour la période 2014-2020	2017-2020	Direct grant/ Interest rate subsidy	25,080,000.00	Specific sectors	All regions
SA.49676	Aide aux infrastructures du Grand Port Maritime de Guyane – CONSTRUCTION D'UNE NOUVELLE ENTRÉE/SORTIE DU TERMINAL CONTENEUR ET CRÉATION D'UN PARKING VL POUR L'IMPORT	2015-2020	Direct grant/ Interest rate subsidy	n.a	n.a	Guyana
N45/2000	Carte des aides à finalité régionale 2000-2006	2000-2006	n.a	n.a	n.a	All regions
N320/2000	La Réunion - 2000-2006 - enrichissement des compétences des entreprises	2000-2006	n.a	2,700,000.00	n.a	Réunion
N422/2003	FIRM - Martinique	2000-2006	Debt write-off	12,300,000.00	n.a	Martinique
SA.41018	Taux majoré de crédit d'impôt recherche en faveur des entreprises exposant des dépenses de recherche dans les départements d'outre-mer	2015-2020	Tax advantage or tax exemption	24,000,000.00	n.a	All regions
N422/2002	Aide à la mise en place de fonds de prêts à taux réduits	2000-2006	Soft loan	1,830,000.00	n.a	All regions

Source: European Commission State aid database

ANNEX E – ANALYSIS OF FRENCH OUTERMOST REGIONS TRADE DATA

E.1 – Overview, objectives and limitations

In this Annex, we examine in details the external trade of French ORs, with special focus on the import from countries that stipulated an Economic Partnership Agreement (EPA) with the European Commission, namely CARIFORUM and Eastern and Southern Africa (ESA) countries[465].

More specifically, the countries concerned are:

- ***CARIFORUM:*** Antigua and Barbuda, The Bahamas, Barbados, Belize, Dominica, Dominican Republic, Grenada, Guyana, Haiti, Jamaica, Suriname, Saint Lucia, St. Christopher and Nevis, St. Vincent and the Grenadines, Trinidad and Tobago (note: Haiti is not applying it yet , pending its ratification).
- ***ESA:*** Comoros, Madagascar, Mauritius, the Seychelles, Zambia and Zimbabwe (note: Zambia concluded the interim agreement in 2007 but have not signed it yet; Comoros signed it in 2017 and started applying it in 2019).

The Annex is structured in two sections, the first dealing with the trade between CARIFORUM and the French ORs of the Caribbean and Latin America region, i.e. Guadeloupe, Martinique, and French Guiana, while the second concerns ESA countries and the French ORs in the Indian Ocean region, i.e. Réunion and Mayotte.

Each section investigates, based on quantitative data, how French ORs' imports evolved in recent year, with particular focus on:

- the ***value of imports*** from CARIFORUM/ESA regions in comparison with imports from mainland and other regions, and in comparison with the intra-regional trade;
- within the CARIFORUM/ESA regions, the distribution of ***imports by country and by type of products***, highlighting which the main imported products from each country are,
- the trends in the import of ***specific products of particular interest*** which were included in two lists submitted to the Commission by CARIFORUM and Mauritius, respectively,
- the ***OdM tax differentials applied*** to the main imported products from CARIFORUM/ESA regions, as well as to products included in the two lists of interest, including the estimated monetary impacts,
- possible ***impact on imports of a removal of OdM*** tax differentials from products included in the two lists of interest, and the potential benefits for CARIFORUM and ESA countries, based on the results of the gravity model described in Annex C,
- a review of the ***market access offer*** made by CARIFORUM, and the potential benefits for the French ORs concerned.

The analysis intends to provide factual arguments that ***may contribute to the debate on the coherence of the OdM special regime with the EU trade policy*** in the regions concerned and the objectives of the EPA that were stipulated.

At the same time, it is important to clarify the ***caveats and limitations*** of the exercise. Estimating the impact of the OdM on the volume of French ORs imports from specific countries and for specific goods is a demanding task, which would require both complex modelling of regional economies (such as through General Computable Equilibrium models), as well as comprehensive, reliable data with sufficient degree of granularity.

[465] In the case of ESA countries, an *interim* EPA was stipulated.

However, as discussed in the general methodology of the Study, we have encountered several issues with the quality and the comprehensiveness of data, in particular: (a) gaps in the import data series (missing years, lack of disaggregated data by CANA code[466], when required); (b) gaps in the internal OdM rates deliberated by ORs in the past years; (c) lack of data on the OdM exemptions on inputs (*exonérations des intrants*); (d) gaps in the data on the ORs internal production for the goods subject to the OdM. As a consequence, precise and reliable assessment of the effects of OdM as a barrier to trade of specific products in the specific regions concerned turned out unfeasible within the scope of the Study. As discussed in Annex C, we tested a gravity model for measuring such effects in CARIFORUM/ESA but the outcome was not robust. So, the figures presented in this Annex should be considered as descriptive and ***results as indicative***, and not statistically-robust[467].

E.2 Trade with CARIFORUM countries

- **IMPORTS OF FRENCH ORS BY ORIGIN AND TRENDS**

Table 1 below shows the total imports of French ORs in the Caribbean and Latin America region, i.e. Martinique, Guadeloupe and F. Guiana registered in the period 2011-2018, based on French customs data[468], and broken down by region of origin. For the analysis we have not included temporary imports, suspension regime, customs warehouse stocking regime, and other particular import regimes for which tariff and taxes are not applied. The main results are as follows:

- In 2018, the aggregate value of imports of the three ORs considered was € 6.3 billion, which is similar to the total imports in 2011. However, fluctuations occurred: in 2012 imports reached nearly € 7.7 billion, while in 2016 they dropped to € 5.6 billion. Fluctuations were particularly significant in F. Guiana, while imports of Guadeloupe remained substantially stable, and in Martinique registered a moderate increase over time.
- Mainland France account for the bulk of imports, i.e. some 66% of the total in 2018 (ca. € 4.2 billion). Compared to the 2011-2014 average, its share on the total increased by ca. 7 percentage points. Imports from the rest of the EU did not change significantly in the period considered.
- In 2018, imports from CARIFORUM amounted to € 45 million, i.e. 0.7% of the total. Leaving aside year 2013, when an exceptional import worth € 685 million from Trinidad and Tobago to F. Guiana was registered, the average for the 2011-2014 period was € 74.6 million, which decreased to € 56.6 million in 2016-2018. However in relative terms, the share of imports from CARIFORUM on the total remained substantially stable, i.e. from 1.1% in 2011-2014, to 1.0% in 2016-2018.
- Imports from Caribbean countries other than CARIFORUM (and excluding French ORs) is negligible, i.e. 0.1% / year on average (less than € 10 million / year), while imports from other ORs stably account for ca. 0.6% / year.

[466] *Codes additionnels Nationaux* (CANA). Certain CN categories are further split into sub-categories with different OdM taxation, but import data cannot be disaggregated at this level.
[467] It should be clarified that the data weaknesses indicated would likely affect the robustness of the results of other techniques, including CGE. Additionally, it should be considered that CGE relies on the representation of a whole economy through the articulation of dozens of equations modelling as precisely as possible sectors and agents' behaviour. The calibration of CGE model and its adaptation to each territory is difficult to produce, and the credibility of outputs produced by this approach is critically dependent on the multiple assumptions that are made as regards of the functioning of the economy and the behaviour of economic agents. For this reason, this approach was discarded since the inception phase of this Study.
[468] The import data reported by French customs may nt coincide with the export data registered by the trading partner due to the well-known bilateral asymmetries in official trade statistics. According to UN COMTRADE, the three main reasons for asymmetries in bilateral merchandise trade are: "(i) the application of different criteria of partner attribution in import and export statistics; (ii) the use of CIF-type values in import statistics and FOB-type values in export statistics; (iii) application of different trade systems in data compilation."
Source: https://unstats.un.org/unsd/tradekb/Knowledgebase/50657/Bilateral-asymmetries

- Imports from other LAC countries (except Caribbean) amounted to some € 185 million in 2018, i.e. 2.9% of the total, and on a rising trend. Conversely, import from north America declined from € 400 million in 2011-2014 to some € 177 million in 2016-2018.
- Similarly, imports from the rest of the world (i.e. all countries not included above) registered a major decline, falling from € 926 million (2011-14) to € 626 million (2016-2018), and in 2018 it represented less than 10% of the total.
- The structure of import by origin is very similar in Guadeloupe and Martinique, while in comparison F. Guiana is less dependent from mainland (but more from other EU countries), and the share of imports from CARIFORUM is higher.

Table 1 – Imports of Antillean ORs and French Guiana by origin (€ million)

	2011	2012	2013	2014	2016	2018
GLP	**2764.09**	**2600.19**	**2757.01**	**2428.37**	**2418.75**	**2757.18**
FR	1997.77	1752.59	1836.57	1627.82	1644.03	1879.61
EU	306.92	334.85	435.10	316.69	358.52	406.59
CARIFORUM	19.01	22.40	24.36	23.20	40.17	16.73
Other CAR	0.16	0.26	0.35	0.92	20.15	1.29
Other LAC	67.44	83.82	75.01	63.12	61.01	94.28
USA & Canada	55.67	167.61	159.70	155.94	50.31	75.67
ORs	1.14	7.16	6.90	9.77	10.65	10.05
RoW	316.00	231.50	219.03	230.90	233.91	272.95
GUF	**1589.30**	**3030.00**	**2716.41**	**1222.07**	**1037.40**	**1262.72**
FR	693.15	802.91	1170.57	567.74	556.08	742.58
EU	370.90	484.93	431.04	364.16	260.11	287.71
CARIFORUM	7.22	60.01	717.98*	8.68	7.52	12.10
Other CAR	0.15	26.59	0.02	0.08	0.08	0.04
Other LAC	15.20	22.23	22.41	22.49	22.33	22.94
USA & Canada	59.27	414.89	148.43	82.97	21.68	39.23
ORs	24.87	31.12	28.75	28.82	25.87	23.37
RoW	418.53	1187.30	197.22	147.12	143.73	134.76
MTQ	**1975.19**	**2068.08**	**2006.44**	**2022.80**	**2175.38**	**2310.49**
FR	1375.59	1392.79	1338.21	1382.77	1456.37	1588.32
EU	304.78	279.65	284.20	274.03	338.17	313.66
CARIFORUM	13.68	21.56	22.58	48.03	20.03	16.66
Other CAR	0.69	1.14	0.54	0.59	0.84	0.96
Other LAC	38.93	50.53	45.04	40.47	32.31	68.75
USA & Canada	46.38	131.37	132.94	59.93	63.96	102.39
ORs	3.93	7.20	7.27	7.39	9.74	6.71
RoW	191.22	183.84	175.66	209.59	253.96	213.03
Total	**6328.59**	**7698.27**	**7479.86**	**5673.23**	**5631.53**	**6330.39**
FR	4066.51	3948.29	4345.35	3578.34	3656.48	4210.51
EU	982.60	1099.43	1150.33	954.88	956.80	1007.97
CARIFORUM	39.91	103.98	764.91*	79.91	67.72	45.48
Other CAR	0.99	27.99	0.90	1.59	21.08	2.29
Other LAC	121.58	156.59	142.46	126.09	115.65	185.96
USA & Canada	161.32	713.87	441.06	298.84	135.95	217.29
ORs	29.94	45.48	42.92	45.98	46.25	40.14
RoW	925.74	1602.64	591.91	587.61	631.60	620.74
In % by origin						
FR	64.3%	51.3%	58.1%	63.1%	64.9%	66.5%
EU	15.5%	14.3%	15.4%	16.8%	17.0%	15.9%
CARIFORUM	0.6%	1.4%	10.2%*	1.4%	1.2%	0.7%
Other CAR	0.0%	0.4%	0.0%	0.0%	0.4%	0.0%
Other LAC	1.9%	2.0%	1.9%	2.2%	2.1%	2.9%
USA & Canada	2.5%	9.3%	5.9%	5.3%	2.4%	3.4%
ORs	0.5%	0.6%	0.6%	0.8%	0.8%	0.6%
RoW	14.6%	20.8%	7.9%	10.4%	11.2%	9.8%

Source: *Own processing of data provided by French authorities*
Notes: *Data for 2015 and 2017 are unavailable. (*) An exceptionally large import of liquefied butane from Trinidad and Tobago to F. Guiana explains the peak of imports from CARIFORUM in 2013.*
Legend: *FR=France; EU (except FR)= EU28 excluding France; Other CAR=Caribbean countries other than CARIFORUM members and French ORs; Other LAC=Central and South America countries other than Caribbean countries; Other ORs=other French ORs; RoW=rest of the world.*

Looking more closely at the trade between the French ORs considered and the specific CARIFORUM countries mixed trends emerge, as follows:

- The major origin of French ORs imports is by far Trinidad and Tobago, which accounts for 40% of the aggregate CARIFORUM value for the period 2011-2018. This figure does not include the large export of liquefied butane to F. Guiana of 2013, otherwise the share of imports from Trinidad and Tobago would exceed 77% of the total.
- The distribution across countries partly reflects the different size and strength of CARIFORUM economies, and in various cases negligible levels of import are registered: for eight countries the average annual export to French ORs is smaller than € 1 million, i.e. Antigua and Barbuda, Barbados, Belize, Grenada, Haiti, Saint Kitts and Nevis, Saint Lucia, and Saint Vincent and the Grenadines. Beside Trinidad and Tobago, other CARIFORUM countries with a relevant trade flow to French ORs are Suriname and Dominican Republic (ca. € 13 million / year on average), followed by Jamaica, Bahamas, Dominica, Guyana, with average imports value in the € 1.0 – 5.0 million / year range.
- The export trend to French ORs is not uniform across CARIFORUM countries; some registered an increase in the 2016-2018 period, compared to 2011-2014, i.e. Suriname, Antigua and Barbuda, Belize, Guyana, Grenada and Saint Vincent and the Grenadines; while others registered a decrease: Bahamas, Barbados, Dominica, Dominican Rep., Saint Kitts and Nevis, Saint Lucia, and Trinidad and Tobago; finally Jamaica did not register any significant change.

Table 2 – Imports from individual CARIFORUM countries (€ ,000)

	2011	2012	2013	2014	2016	2018	TOTAL	In %	Trend 2016-18 v. 2011-14
Antigua and Barbuda	30	43	321	10	321	458	1183	0.3%	286%
Bahamas	6	26	175	10812	2655	14	13688	3.4%	-52%
Barbados	1019	1132	1285	830	634	465	5365	1.3%	-48%
Belize	36	24	11		145	528	744	0.2%	1322%
Dominica	2580	2739	2613	2006	935	474	11347	2.8%	-72%
Grenada	3	440	479	450	500	291	2162	0.5%	15%
Guyana	2015	1616	930	1141	813	4166	10681	2.6%	75%
Haiti	183	167	200	118	161	174	1002	0.2%	1%
Jamaica	2295	4199	4534	5519	7247	3387	27182	6.7%	29%
Dominican Rep.	7422	11489	29212	10203	10347	10743	79415	19.6%	-28%
Saint Kitts and Nevis	5					3	8	0.0%	-43%
Saint Lucia	258	3194	547	585	797	327	5707	1.4%	-51%
Saint Vincent and the Grenadines	1		0,1	16	12	7	35	0.0%	72%
Suriname	3074	6989	8133	22960	31106	8544	80806	20.0%	93%
Trinidad and Tobago*	19444	70595	25676 (714676)	24371	10531	14591	165207	40.8% (77.5%)	-64% (-94%)

Source: *Own processing of data provided by French authorities*

Notes: *(*) In 2013, an exceptionally large import (€ 689 million) of liquefied butane from Trinidad and Tobago to F. Guiana was registered. For a normalised assessment of trends, this operation was excluded from the analysis (figures including this operation are displayed in red). Data for 2015 and 2017 are unavailable.*

For benchmarking, the following table shows the extent of internal imports within the CARIFORUM in comparison with total imports. The data show that overall the internal trade within CARIFORUM amounts to some 2.7% of CARIFORUM total imports. In the same year (2016), French ORs imports from CARIFORUM represented some 1.2% of the total French ORs' imports – a value that is lower but in scale with the intra-CARIFORUM trade value.

The table shows also differences between countries: so the levels of intra-CARIFORUM imports of Guyana, and to a lesser extent Barbados, Suriname and Jamaica are greater than the average, while for Trinidad and Tobago, the Dominican Rep. and the Bahamas less than 1% of import originates in other CARIFORUM countries.

Table 2bis – Imports flow within the CARIFORUM as a percentage of total imports (2016)

		Importer									
		DOM	**BHS**	**BLZ**	**BRB**	**GUY**	**JAM**	**SUR**	**TTO**	**WLD**	**CARIFORUM**
Exporter	DOM		0.1%	0.0%	0.0%	0.0%	0.0%	0.0%	0.8%	99.0%	1.0%
	BHS	0.3%		0.0%	0.2%	0.0%	0.1%	0.0%	0.2%	99.2%	0.8%
	BLZ	0.1%	0.0%		0.1%	0.0%	0.4%	0.0%	0.6%	98.8%	1.2%
	BRB	0.3%	0.0%	0.1%		0.4%	0.4%	0.2%	6.2%	92.4%	7.6%
	GUY	0.3%	0.0%	0.0%	0.6%		0.4%	2.3%	12.2%	84.2%	15.8%
	JAM	0.7%	0.3%	0.1%	0.3%	0.4%		0.4%	3.4%	94.4%	5.6%
	SUR	0.3%	0.0%	0.0%	0.2%	0.4%	0.3%		5.2%	93.7%	6.3%
	TTO	0.2%	0.0%	0.1%	0.2%	0.2%	0.1%	0.1%		99.1%	0.9%
	Total USD million	**2192.4**								**80777.4**	**2.7%**

Source: *Own processing of UN Comtrade data.*
Notes: *All figures refer to 2016 except for Bahamas and Trinidad and Tobago whose figures refer to 2015. For some minor CARIFORUM economies and Haiti data are unavailable.*
Legend: *BHS Bahamas; BLZ Belize; BRB Barbados; DOM Dominican Rep.; GUY Guyana; JAM Jamaica; SUR Suriname; TTO Trinidad and Tobago; WLD World.*

➢ IMPORTS FROM CARIFORUM BY TYPE OF PRODUCT

The next table examines more closely the composition of imports from the CARIFORUM region to French ORs, showing the 22 top product categories by import value (aggregated figures for the 2011-2018 period) designated by CN4 codes. Altogether, and not including the exceptional import of butane of 2013, these product categories account for 80% of the total import of French ORs from CARIFORUM.

- Petroleum products (oils and gas) are the most relevant imports from CARIFORUM. Not including the exceptional import of 2013, the import of these products exceeded € 110 million in the 2011-2018 period.
- Iron / steel articles, primarily, bars and rods of the type used for concrete reinforcement, are also major imported items, with some € 38 million in the period considered.
- The total import of fish products (crustaceans, molluscs and frozen fish) from CARIFORUM amounted to some € 35.5 million.
- Other main imports from CARIFORUM include: (a) fertilisers (€ 20 million); (b) certain parts for boring or sinking machinery (€ 22 million); (c) beer (€ 15 million); (d) rice (€ 13 million); (e) candles, tapers and the like (€ 13 million), and (f) certain building materials like pebbles, gravel and natural sands (€ 9 million).

Table 3 – Main products imported from CARIFORUM (2011-2018, aggregated value)

CN4	Definition	Import value (€ ,000)	In % of the sample
§ 2711	Petroleum gas and other gaseous hydrocarbons	28819 (717819)	8.7% (70.4%)
§ 2710	Petroleum oils and oils obtained from bituminous minerals (excl. crude); preparations containing >= 70% by weight of petroleum oils or of oils obtained from bituminous minerals, these oils being the basic constituents of the preparations, n.e.s.; waste oils containing mainly petroleum or bituminous minerals	83289	25.1%
§ 7213	Bars and rods of iron or non-alloy steel, hot-rolled, in irregularly wound coils	38777	11.7%
§ 8431	Parts suitable for use solely or principally with the machinery of heading 8425 to 8430, n.e.s.	22631	6.8%
§ 3102	Mineral or chemical nitrogenous fertilisers (excl. those in pellet or similar forms, or in packages with a gross weight of <= 10 kg)	19988	6.0%
§ 2203	Beer made from malt	15475	4.7%
§ 0307	Molluscs, fit for human consumption, even smoked, whether in shell or not, live, fresh, chilled, frozen, dried, salted or in brine; flours, meals and pellets of molluscs, fit for human consumption	14929	4.5%
§ 1006	Rice	13526	4.1%

§ 3406	Candles, tapers and the like	13371	4.0%
§ 0306	Crustaceans, whether in shell or not, live, fresh, chilled, frozen, dried, salted or in brine, even smoked, incl. crustaceans in shell cooked by steaming or by boiling in water; flours, meals and pellets of crustaceans, fit for human consumption	13179	4.0%
§ 3925	Builders' ware of plastics, n.e.s.	10160	3.1%
§ 0702	Tomatoes, fresh or chilled	8656	2.6%
§ 0303	Frozen fish (excl. fish fillets and other fish meat of heading 0304)	7453	2.2%
§ 2202	Waters, incl. mineral waters and aerated waters, containing added sugar or other sweetening matter or flavoured, and other non-alcoholic beverages (excl. fruit or vegetable juices and milk)	6262	1.9%
§ 2505	Natural sands of all kinds, whether or not coloured (excl. gold- and platinum-bearing sands, zircon, rutile and ilmenite sands, monazite sands, and tar or asphalt sands)	6216	1.9%
§ 7326	Articles of iron or steel, n.e.s. (excl. cast articles)	5627	1.7%
§ 0805	Citrus fruit, fresh or dried	5444	1.6%
§ 0804	Dates, figs, pineapples, avocados, guavas, mangoes and mangosteens, fresh or dried	4353	1.3%
§ 1905	Bread, pastry, cakes, biscuits and other bakers' wares, whether or not containing cocoa; communion wafers, empty cachets of a kind suitable for pharmaceutical use, sealing wafers, rice paper and similar products	3610	1.1%
§ 2517	Pebbles, gravel, broken or crushed stone, for concrete aggregates, for road metalling or for railway ballast, shingle and flint, whether or not heat-treated; macadam of slag, dross or similar industrial waste, whether or not incorporating the materials cited in the first part of the heading; tarred macadam; granules, chippings and powder, of stones of heading 2515 and 2516, whether or not heat-treated	3195	1.0%
§ 3824	Prepared binders for foundry moulds or cores; chemical products and preparations for the chemical or allied industries, incl. mixtures of natural products, n.e.s.	3185	1.0%
§ 2836	Carbonates; peroxocarbonates "percarbonates"; commercial ammonium carbonate containing ammonium carbamate	3140	0.9%

Source: *Own processing of data provided by French authorities*
Notes: *The total import is the sum of imports registered for all CARIFORUM countries in the 2011-2018 period, except 2015 and 2017, for which no data are available. (*) In 2013, an exceptionally large import (€ 689 million) of liquefied butane from Trinidad and Tobago to F. Guiana was registered. For a normalised assessment of trends, this operation was excluded from the analysis (figures including this operation are displayed in red).*

The following table illustrates more specifically which are the most exported products from each individual CARIFORUM country to French ORs. The table indicates also the OdM differential applicable (if any) in the three ORs concerned.

A first consideration regards the composition of import. Besides the almost ubiquitous petroleum products, some specificities can be registered at country level. For instance:

- fish products are particularly important for Guyana, Suriname, Jamaica, and Grenada
- paper products are a main export of Barbados (and partly of Saint Lucia)
- Dominica's export consists essentially of certain building materials,
- edible vegetables are mainly imported from Dominican Republic,
- fertilizers, iron and steel products, as well as beer come almost exclusively from Trinidad and Tobago.

The second consideration is that more than one-third of the CN8 product in the list is exempt from the OdM tax differential regime in at least one of the ORs, and in some cases, in the three of them. Overall the estimated additional tax due to differentials amounted to some € 34.8 million for the entire period 2011-18, i.e. approximately 3.6% of the import value of the product considered.

Table 4 – Main products imported from specific CARIFORUM countries by French ORs and OdM tax differential applied

CN8	Import (€ ,000)	Product Category (CN2)	OdM Tax Differential (in %)		
	Total 2011-18		GLP	GUF	MTQ
Antigua and Barbuda					

CN8	Import (€ ,000)	Product Category (CN2)	OdM Tax Differential (in %)		
	Total 2011-18		GLP	GUF	MTQ
§ 03062190	377	Fish And Crustaceans, Molluscs And Other Aquatic Invertebrates	0	0	0
§ 23040000	292	Residues And Waste From The Food Industries; Prepared Animal Fodder	0	0	0
Bahamas					
§ 27101964	13148	Mineral Fuels, Mineral Oils And Products Of Their Distillation; Bituminous Substances; Mineral Waxes	0	10,7	0
Barbados					
§ 48211010	1538	Paper And Paperboard; Articles Of Paper Pulp, Of Paper Or Of Paperboard	15	16,5	16
§ 48211090	968	Paper And Paperboard; Articles Of Paper Pulp, Of Paper Or Of Paperboard	15	16,5	16
Belize					
§ 03061190	467	Fish And Crustaceans, Molluscs And Other Aquatic Invertebrates	0	0	16
§ 08051020	197	Edible Fruit And Nuts; Peel Of Citrus Fruit Or Melons	0	9	10
Dominica					
§ 25051000	3399	Salt; Sulphur; Earths And Stone; Plastering Materials, Lime And Cement	8	10	8
§ 25059000	2645	Salt; Sulphur; Earths And Stone; Plastering Materials, Lime And Cement	8	0	8
§ 25171010	2974	Salt; Sulphur; Earths And Stone; Plastering Materials, Lime And Cement	0	10	20
Grenada					
§ 03025990	2086	Fish And Crustaceans, Molluscs And Other Aquatic Invertebrates	15	10	16
Guyana					
§ 03038990	1303	Fish And Crustaceans, Molluscs And Other Aquatic Invertebrates	0	18,5	11
§ 03061792	1375	Fish And Crustaceans, Molluscs And Other Aquatic Invertebrates	0	17,5	16
§ 10062098	5320	Cereals	0	9	0
Haiti					
§ 65040000	89	Headgear And Parts Thereof	0	0	(-)
§ 83062900	126	Miscellaneous Articles Of Base Metal	0	0	0
Jamaica					
§ 03061190	6954	Fish And Crustaceans, Molluscs And Other Aquatic Invertebrates	0	0	16
§ 03079917	11941	Fish And Crustaceans, Molluscs And Other Aquatic Invertebrates	..	..	..
§ 22051010	1804	Beverages, Spirits And Vinegar	0	0	30
Dominican Rep.					
§ 07020000	8640	Edible Vegetables And Certain Roots And Tubers	10	9	11
§ 27102019	19733	Mineral Fuels, Mineral Oils And Products Of Their Distillation; Bituminous Substances; Mineral Waxes	(-)	10,7	0
§ 34060000	13361	Soap, Organic Surface-Active Agents, Washing Preparations, Lubricating Preparations, Artificial Waxes, Prepared Waxes, Polishing Or Scouring Preparations, Candles And Similar Articles, Modelling Pastes, 'Dental Waxes' And Dental Preparations With A Basis Of Plaster	15	0	16
Saint Lucia					
§ 21039090	504		0	20	6
§ 27102019	2826	Mineral Fuels, Mineral Oils And Products Of Their Distillation; Bituminous Substances; Mineral Waxes	(-)	10,75	0
§ 48192000	578	Paper And Paperboard; Articles Of Paper Pulp, Of Paper Or Of Paperboard	0	0	20
Suriname					
§ 03038990	3616	Fish And Crustaceans, Molluscs And Other Aquatic Invertebrates	0	18,5	11
§ 10063098	3834	Cereals	25	10	21
§ 27101964	44048	Mineral Fuels, Mineral Oils And Products Of Their Distillation; Bituminous Substances; Mineral Waxes	0	10,7	0
§ 39259010	4555	Plastics And Articles Thereof	10	16,5	15
Trinidad and Tobago					
§ 27111397	715320	Mineral Fuels, Mineral Oils And Products Of Their Distillation; Bituminous Substances; Mineral Waxes	0	0	8

CN8	Import (€ ,000)	Product Category (CN2)	OdM Tax Differential (in %)		
	Total 2011-18		GLP	GUF	MTQ
§ 31021010	19440	Fertilisers	0	0	15
§ 72139110	32186	Iron And Steel	20	0	8
§ 84314300	20195	Nuclear Reactors, Boilers, Machinery And Mechanical Appliances; Parts Thereof	0	0	0
§ 22030001	6251		0	26	25
§ 22030001	5863		0	26	25

Source: *Own processing of data provided by French authorities*
Notes: *The total import is the sum of imports registered for the indicated products in the 2011-2018 period, except 2015 and 2017, for which no data are available. When the OdM applied to CN8 is further differentiated by CANA code, the average differential is reported in the table. In two cases, marked by (-), this leads to negative differentials, which means that the ordinary differential is zero, but on certain sub-products (designated by CANA code) a lower external rate is applied, which is not envisaged internally, because there is no local production of such goods.*

➢ TRADE AND TAX LEVELS FOR THE 48 PRODUCT IN THE CARIFORUM LIST OF INTEREST

In a note submitted to the Commission, CARIFORUM listed 48 products for which a request for removal of the OdM was made. The CARIFORUM list and the OdM differentials reported are reproduced in the table below.

Table 5 – The 48 products in the CARIFORUM list of interests

HS Code	Product Description	OdM differential (in %)		
		GUF	GLP	MTQ
0302.31.90	Fish, fresh or chilled (excl. fish fillets and other fish meat of heading 0304)	0	15	16
0306.19.10	Crustaceans, fit for human consumption, whether in shell or not, live, fresh, chilled, frozen, dried, salted or in brine, incl. crustaceans in shell cooked beforehand by steaming or by boiling in water; flours, meals and pellets of crustaceans, fit for human consumption	0	15	16
0306.19.90	Other	0	15	16
0307.91.10	Molluscs, fit for human consumption, whether in shell or not, live, fresh, chilled, frozen, dried, salted or in brine, incl. aquatic invertebrates (other than crustaceans and molluscs); flours, meals and pellets of aquatic invertebrates other than crustaceans, fit for human consumption	0	15	16
0307.99.10	Other	0	15	16
0702.00.00	Tomatoes, fresh or chilled	0	10	11
0709.60.10	Fresh or chilled fruits of the genus capsicum or pimenta	0	10	10
0801.11.00	Coconuts, brazil nuts and cashew nuts, fresh or dried, whether or not shelled or peeled	0	0	10
0801.19.00	Coconuts in shell	0	0	10
0804.30.00	Fresh or dried pineapples	0	0	10
0804.50.00	Fresh or dried guavas, mangoes and mangosteens	0	0	10
0805.20.10	Citrus fruit, fresh or dried	0	0	10
0807.11.00	Fresh watermelons	0	15	16
0813.40.30	Dried apricots, prunes, apples, peaches, pears, papaws papayas, tamarinds and other edible fruits, and mixtures of edible and dried fruits or of edible nuts (excl. nuts, bananas, dates, figs, pineapples, avocados, guavas, mangoes, mangosteens, citrus fruit and grapes, unmixed)	0	0	10
1006.30.00	Semi-milled or wholly milled rice, whether or not polished or glazed	20	25	10
1006.40.00	Broken rice	0	25	21
1101.00.00	Flour	0	25	25
1904.10.10	Prepared foods obtained by the swelling or roasting of cereals or cereal products, e.g. corn flakes; cereals (other than maize corn) in	0	0	6

HS Code	Product Description	OdM differential (in %)		
		GUF	GLP	MTQ
	grain form or in the form of flakes or other worked grains (except flour, groats and meal), precooked or otherwise prepared, n.e.s.			
2007.99.10	Jams, fruit jellies, marmalades, fruit or nut purée and fruit or nut pastes, obtained by cooking, whether or not containing added sugar or other sweetening matter	21,5	25	25
2008.11.10	Fruits, nuts and other edible parts of plants, prepared or preserved, whether or not containing added sugar or other sweetening matter or spirit (excl. prepared or preserved with vinegar, preserved with sugar but not laid in syrup, and jams, fruit jellies, marmalades, fruit purée and pastes, obtained by cooking)	15	0	25
2202.10.00	Waters, incl. mineral and aerated, with added sugar, sweetener or flavour, for direct consumption as a beverage	20	15	20
2202.90.11	Non-alcoholic beverages (excl. water, fruit or vegetable juices and milk)	19	20	20
2203.00.10	Beer made from malt	0	0	25
2208.40.00	Rum and tafia	27,5	20	20
2208.70.10	Liqueurs and cordials	27,5	30	30
2505.90.00	Natural sands of all kinds, whether or not coloured (excl. gold- and platinum bearing sands, zircon, rutile and ilmenite sands, monazite sands, and tar or asphalt sands)	0	10	8
2523.29.00	Portland cement (excl. white, whether or not artificially coloured)	0	13	20
2711.13.10	Butanes, liquefied	0	0	8
2712.20.00	Petroleum jelly, paraffin wax, microcrystalline petroleum wax, slack wax, ozokerite, lignite wax, peat wax, other mineral waxes, and similar products obtained by synthesis or by other processes, whether or not coloured	0	0	8
3102.10.10	Mineral or chemical nitrogenous fertilisers	0	0	15
3105.60.00	Mineral or chemical fertilisers containing two or three of the fertilizing elements nitrogen, phosphorus and potassium; other fertilisers	0	0	15
3402.90.10	Surface-active preparations, washing preparations, incl. auxiliary washing preparations and cleaning preparations (excl. those put up for retail sale, organic surface-active agents, soap and organic surface-active preparations in the form of bars, cakes, moulded pieces or shapes, and products and preparations for washing the skin in the form of liquid or cream)	0	5	20
3406.00.00	Candles and the like	0	10	15
3808.91.10	Insecticides, rodenticides, fungicides, herbicides, anti-sprouting products and plant-growth regulators, disinfectants and similar products, put up for retail sale or as preparations or articles, e.g. sulphur-treated bands, wicks and candles, and fly-papers	0	7	10
3923.21.00	Articles for the conveyance or packaging of goods, of plastics; stoppers, lids, caps and other closures, of plastics	20	15	15
3924.10.10	Household articles and toilet articles of plastics	0	10	10
3925.90.00	Building elements for the manufacture of floors, walls, partition walls, ceilings, roofs, etc., of plastic; gutters and accessories of plastic; railings, fences and similar barriers, of plastic; large shelves, for assembly and permanent installation in shops, workshops, etc., of plastics; architectural ornaments, e.g. friezes, of plastics; fittings and similar products for permanent mounting on buildings, of plastics	16,5	10	15
4407.29.00	Tropical wood	30	2	7
4818.10.00	Toilet paper	0	7	20
4818.30.00	Tablecloths and serviettes of paper pulp, paper, cellulose wadding or webs of cellulose fibres	0	7	20
4819.10.00	Cartons, boxes, cases, bags and other packing containers, of paper, paperboard, cellulose wadding or webs of cellulose fibres, n.e.s.; box files, letter trays, and similar articles, of paperboard of a kind used in offices, shops or the like	0	0	20

HS Code	Product Description	OdM differential (in %)		
		GUF	GLP	MTQ
4820.10.00	Registers, account books, note books, order books, receipt books, letter pads, memorandum pads, diaries and similar articles, of paper or paperboard	0	0	8
4820.30.00	Binders (other than book covers), folders and file covers, of paper or paperboard	0	0	8
4821.10.00	Paper or paperboard labels of all kinds, whether or not printed	0	7	16
7113.11.00	Articles of jewellery and parts thereof, of silver	0	0	10
7113.19.00	Articles of jewellery and parts thereof, of precious metal	0	0	10
7213.99.10	Bars and rods of iron or non-alloy steel, hot-rolled, in irregularly wound coils	0	0	16
7214.20.00	Bars and rods, of iron or non-alloy steel, with indentations, ribs, grooves or other deformations produced during the rolling process	7,5	20	20

Source: *CARIFORUM, provided by DG TAXUD*

The next table examines the imports value registered by French ORs for the products in the CARIFORUM list, broken down by country of origin. The values refer to the aggregated import in the 2011-2018 period (not including 2015 and 2017).

- Overall, the aggregated import value of the 48 products in the list amounted to € 75.0 million for the entire 2011-2018 period, i.e. some € 12.5 million annually, on average.
- Imports value exceeded one million for only 14 CN8 products, the remainder registered negligible trade value (and for 14 products no import at all was registered).
- The major exporters of products in the list were Dominican Rep. (€ 26.9 million), Trinidad and Tobago (€ 23.3 million) and Suriname (€ 17.7 million). Some smaller amounts are registered for Barbados (€ 3.4 million) and Dominica (€ 2.7 million). For all other countries negligible exports of these products were registered.
- Figure 1 further below shows that the total value of imports for the 48 products followed a reversed U-curve, i.e. it increased in the 2011-2012 period, then remained stable in 2013-2014, and eventually declined in the 2016-2018 period.

Table 6 – Import value for the 48 products in the CARIFORUM list of interest (aggregate 2011-2018, in € ,000)

CN code	Antigua and Barbuda	Bahamas	Barbados	Belize	Dominica	Grenada	Guyana	Haiti	Jamaica	Dominican Rep.	Saint Kitts and Nevis	Saint Lucia	Saint Vincent and the Grenadines	Suriname	Trinidad And Tobago	Total
§ 07020000										8640,4				15,8		**8656,2**
§ 07096010					0,1					446,9			0,1			**447,1**
§ 08011100			0,4		12,8					0,3				0,7		**14,2**
§ 08011900					24,0					0,2				1,6		**25,8**
§ 08043000					1,6					1731,1				0,1		**1732,8**
§ 08045000					16,4					179,0						**195,4**
§ 08071100										150,5				0,1		**150,5**
§ 10063048										0,2						**0,2**
§ 10063065							13,4			0,0				568,3		**581,8**
§ 10063067							21,3	0,8						1187,1		**1209,2**
§ 10063096							50,2							652,4		**702,7**
§ 10063098								0,5		0,0				3833,7		**3834,2**
§ 10064000							120,8	0,1						117,9		**238,8**
§ 11010015								11,3								**11,3**
§ 11010090												0,1				**0,1**
§ 19041010														6,2	0,1	**6,3**
§ 20081110														30,5		**30,5**
§ 22021000					27,6		4,4	21,4	133,0	19,2		143,9		341,9	3399,9	**4091,4**
§ 22029011								0,3	60,6						0,2	**61,1**
§ 22030010															276,6	**276,6**
§ 22084011			2,2		0,1		13,7	2,3	28,5	0,0		0,3			0,0	**47,3**
§ 22084031	0,1	1,9	1,4					0,1	1,6	14,4						**19.4**
§ 22084039			10,4												0,2	**10,6**
§ 22087010			269,7						51,8	3,7				1,3	2,4	**328,9**
§ 25059000					2645,1					9,2				33,4		**2687,6**
§ 25232900			639,5				7,6							4,2	53,6	**704,9**
§ 27122090										2216,3						**2216,3**
§ 31021010															19440,1	**19440,1**
§ 34029010					1,9										10,8	**12,7**
§ 34060000	10,2							0,1		13360,6						**13370,9**
§ 38089110										11,2						**11,2**
§ 39232100										56,2				403,0	2,2	**461,4**
§ 39259010										2,0				4554,7	9,7	**4566,3**
§ 39259020														2146,7	29,7	**2176,5**
§ 39259080										5,1				3179,3	18,5	**3202,9**
§ 44072983							5,2									**5,2**
§ 44072995														605,0		**605,0**
§ 44072998														11,9		**11,9**
§ 48181010						4,3								2,7		**7,0**
§ 48181090										0,0						**0,0**
§ 48183000														7,7		**7,7**
§ 48191000										15,3		188,8			6,3	**210,3**

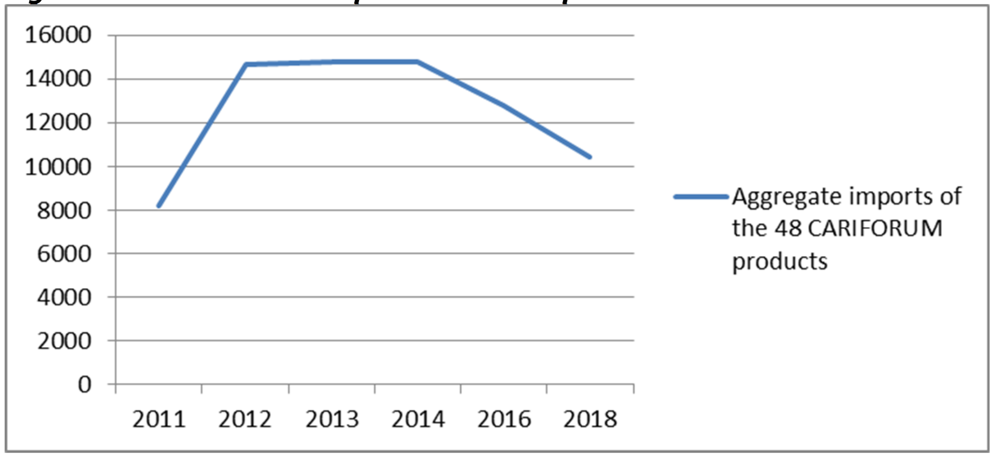
§ 48201010															1,5	**1,5**
§ 48201050															1,7	**1,7**
§ 48201090			0,1					0,1	0,0	0,1					1,5	**1,8**
§ 48203000															0,0	**0,0**
§ 48211010			1538,4							9,8					38,3	**1586,5**
§ 48211090	1,1		967,8							0,6					50,8	**1020,3**
§ 72142000														1,2		**1,2**
Total	**11,5**	**1,9**	**3429,9**	**0,0**	**2729,7**	**4,3**	**236,9**	**37,0**	**275,5**	**26872,2**	**0,0**	**333,0**	**0,1**	**17707,3**	**23344,1**	**74983,3**

Source: *Own processing of data provided by French authorities*
Notes: *The total import is the sum of imports registered for the indicated products in the 2011-2018 period, except 2015 and 2017, for which no data are available. Products indicated at CN6 level in the CARIFORUM list – e.g., CN 100063 – are split into the corresponding CN8 – e.g. § 10063048, § 10063065, § 10063067, § 10063096, § 10063098.*

Table 7 - Other CN products in the CARIFORUM list for which no import is registered

§ 03023190	§ 20079910
§ 03061910	§ 27111310
§ 03061990	§ 31056000
§ 03079110	§ 39241010
§ 03079910	§ 71131100
§ 08052010	§ 71131900
§ 08134030	§ 72139910

Figure 1 – Trend in the imports of the 48 products in the CARIFORUM list (EUR ,000)



The incidence of OdM differentials on the imports value of these product is roughly 10%, i.e. some € 7.8 million for the overall 2011-2018 period (based on 2018 rates). In this sense, the impact of OdM differentials on these 48 products seems greater than the impact registered for the overall imports from CARIFORUM.

However, this estimate does not consider the exemptions for production inputs that can deliberated by each ORs (*exonérations des intrants*). Such exemptions are only seldom available in an analytical format, and the fact that an exemption is possible does not necessary entail that all imports of such products are exempted (the exemption applies only for intermediate and not final consumption). The data on the amount of exemptions are unavailable so only rough estimates can be made.

Some considerations are possible based on the exemptions deliberated by Guadeloupe in 2019. Assuming such exemptions were in place throughout the period considered, some 16 CN8 products that are part of the CARIFORUM list would have access to it as indicated in the list below. The impact of tax differentials associated to these products is € 2.8 million, i.e. 35% of the total impact mentioned previously. This means that the exemptions for inputs may *de facto* remove the obstacles of OdM to trade of the concerned products by one-third. This is evidently only an indicative estimate, since a full analysis would require the data on the actual exemptions applied in all three ORs and for all the years considered – data which are unavailable.

Table 8 - CN products in the CARIFORUM list for which OdM exemption for production inputs is available in Guadeloupe

§ 08011100	§ 39259010
§ 08011900	§ 39259020
§ 27122090	§ 39259080
§ 31021010	§ 44072998
§ 31056000	§ 48211010
§ 34029010	§ 48211090
§ 38089110	§ 72139910
§ 39232100	§ 72142000

Source: *Dispositif d'éxoneration 'octroi de mer à l'importation, Guadeloupe, 2019.*

In the next step we examine the total imports of the 48 products in the CARIFORUM list including imports from the EU and other regions. The following table provides the aggregate value of import for the 2011-2018 region (not including 2015 and 2017) for all the CN8 level products corresponding to the CARIFORUM list, as well as the share by region of origin. Figures are also aggregated at the CN2 level.

- CARIFORUM is currently the main origin of French ORs import for several products of the CARIFORUM lists. In particular it is the primary import source for: tomatoes, watermelons, some types of rice, natural sands, petroleum jelly and paraffin wax, candles. In various other areas, CARIFORUM plays a major role in the import of ORs, including fertilizers, building elements, tropical wood, paper and paperboard products, as well as some tropical fruits, e.g. pineapples, guavas and mangoes.
- Conversely, there are areas of interest where imports from CARIFORUM are currently negligible, such as fish products, flour, fruit jams, insecticides, and articles of jewellery.
- However, as Figure 2 further below shows, CARIFORUM is in aggregate terms a major origin of products in the list, accounting for some 11% of the total import of such products in French ORs. For comparison, the overall 'weight' of CARIFORUM in French ORs import is only 1.1% (average for the 2011-2018 period).

Table 9 – Import of the 48 products in the CARIFORUM list by region of origin (in EUR and in %)

	Total Import (2011-2018) in EUR million									Share of import by origin (in %)							
	CARIF	CAR oth	FR	EU	LAC	NAM	OR	RoW	Total	CARIF	CAR oth	FR	EU	LAC	NAM	OR	RoW
§ 03			4.27	0.00				1.34	5.61	0%	0%	76%	0%	0%	0%	0%	24%
§ 03023190									0.00								0%
§ 03061910			0.19					0.09	0.29			66%					33%
§ 03061990			4.07					1.24	5.32			77%					23%
§ 03079110									0.00								0%
§ 03079910									0.00								0%
§ 07	9.10		5.76	3.66	0.76		0.12	0.45	19.85	46%	0%	29%	18%	4%	0%	1%	2%
§ 07020000	8.66		3.28	0.70	0.75		0.11	0.25	13.75	63%		24%	5%	5%		1%	2%
§ 07096010	0.45		2.49	2.96			0.01	0.20	6.10	7%		41%	48%				3%
§ 08	2.12		2.92	2.26	5.66	0.00	0.04	1.18	14.18	15%	0%	21%	16%	40%	0%	0%	8%
§ 08011100	0.01		1.28	0.02				0.58	1.89	1%		68%	1%				30%
§ 08011900	0.03		0.36	0.02				0.07	0.47	5%		76%	3%				15%
§ 08043000	1.73		0.11		4.77		0.03	0.02	6.66	26%		2%		72%		1%	0%
§ 08045000	0.20		0.03	0.02	0.62				0.87	23%		4%	2%	72%			0%
§ 08052010			1.13	2.20	0.23			0.51	4.07			28%	54%	6%			13%
§ 08071100	0.15		0.02		0.03		0.01		0.20	74%		8%		14%		3%	0%
§ 08134030					0.01				0.01					95%			0%
§ 10	6.57	0.00	22.14	9.40	0.09	0.96	0.27	16.91	56.34	12%	0%	39%	17%	0%	2%	0%	30%
§ 10063021									0.00								0%
§ 10063023			0.10					0.02	0.12			85%					15%
§ 10063025			0.18					0.04	0.22			81%					18%
§ 10063027			1.12	0.01				0.12	1.26			89%	1%				10%
§ 10063042								0.04	0.04								91%
§ 10063044			0.02		0.02			0.24	0.28			6%		8%			86%
§ 10063046			0.04	0.05					0.09			44%	52%				0%
§ 10063048			0.12	0.06				2.59	2.78			4%	2%				93%
§ 10063061			1.11						1.11			100%					0%
§ 10063063			0.04						0.04			97%					0%
§ 10063065	0.58		1.07	0.50		0.10		0.17	2.42	24%		44%	21%		4%		7%
§ 10063067	1.21		5.11	1.56		0.20	0.04	5.22	13.34	9%		38%	12%		2%		39%
§ 10063092			0.18	0.04				0.03	0.24			72%	15%				13%
§ 10063094			0.52	1.87				0.02	2.41			21%	78%				1%
§ 10063096	0.70		0.38	0.35	0.01	0.14		0.37	1.95	36%		20%	18%		7%		19%
§ 10063098	3.83		11.98	4.70	0.06	0.51	0.21	7.19	28.48	13%		42%	17%		2%	1%	25%
§ 10064000	0.24		0.17	0.25			0.02	0.86	1.53	16%		11%	16%			1%	56%
§ 11	0.01	0.00	18.77	0.80	0.01	0.20	5.44	0.29	25.52	0%	0%	74%	3%	0%	1%	21%	1%
§ 11010011			1.79	0.13		0.11	0.28	0.09	2.40			74%	5%		5%	12%	4%
§ 11010015	0.01		16.97	0.67	0.01	0.08	5.16	0.20	23.09			73%	3%			22%	1%
§ 11010090			0.01			0.01			0.02			47%			53%		0%
§ 19	0.01		5.57	0.75	0.00	0.28		0.03	6.64	0%	0%	84%	11%	0%	4%	0%	0%
§ 19041010	0.01		5.57	0.75		0.28		0.03	6.64			84%	11%		4%		0%
§ 20	0.03		1.33	0.45	0.00	1.26		0.01	3.09	1%	0%	43%	15%	0%	41%	0%	0%
§ 20081110	0.03		1.33	0.45		1.26		0.01	3.09	1%		43%	15%		41%		0%
§ 22	4.84	0.04	59.30	71.06	0.14	4.08	44.91	6.43	190.81	3%	0%	31%	37%	0%	2%	24%	3%
§ 22021000	4.09		45.86	65.85	0.07	3.95	28.19	5.81	153.82	3%		30%	43%		3%	18%	4%
§ 22029011	0.06		6.98	2.19		0.05	0.35	0.16	9.80	1%		71%	22%		1%	4%	2%
§ 22030010	0.28		1.79	2.05				0.36	4.47	6%		40%	46%				8%
§ 22084011	0.05	0.02	0.33	0.01	0.02		14.00	0.01	14.44			2%				97%	0%
§ 22084031	0.03	0.01	0.44	0.02	0.02	0.02	0.01	0.01	0.55	5%	1%	80%	3%	4%	4%	2%	1%
§ 22084039	0.01		0.14		0.03	0.01	0.27		0.46	2%		31%		6%	1%	58%	0%
§ 22084051							1.48		1.48							100%	0%
§ 22084091									0.00								0%
§ 22084099									0.01								0%
§ 22087010	0.33	0.01	3.76	0.94		0.05	0.60	0.08	5.77	6%		65%	16%		1%	10%	1%
§ 25	3.39	0.09	2.15	1.35	0.03	0.53	0.53	0.47	8.54	40%	1%	25%	16%	0%	6%	6%	6%
§ 25059000	2.69	0.09	1.15	0.14	0.03	0.12	0.05	0.47	4.74	57%	2%	24%	3%	1%	2%	1%	10%
§ 25232900	0.70		1.00	1.20		0.41	0.48	0.01	3.80	19%		26%	32%		11%	13%	0%
§ 27	2.22		0.20	1.14	0.00	0.02		0.12	3.69	60%	0%	5%	31%	0%	0%	0%	3%
§ 27122010			0.07	0.04					0.11			68%	32%				0%
§ 27122090	2.22		0.12	1.10		0.02		0.12	3.58	62%		3%	31%				3%
§ 31	19.44		22.16	0.93		0.16	2.41	1.21	46.31	42%	0%	48%	2%	0%	0%	5%	3%
§ 31021010	19.44		22.06	0.91		0.16	2.41	1.11	46.09	42%		48%	2%			5%	2%
§ 31056000			0.10	0.02				0.10	0.22			47%	8%				45%
§ 34	13.38	0.14	13.41	6.84	0.00	0.20	3.70	1.00	38.68	35%	0%	35%	18%	0%	1%	10%	3%
§ 34029010	0.01		5.05	0.85		0.02	1.57	0.22	7.73			65%	11%			20%	3%
§ 34060000	13.37	0.14	8.37	5.98		0.18	2.13	0.78	30.95	43%		27%	19%		1%	7%	3%

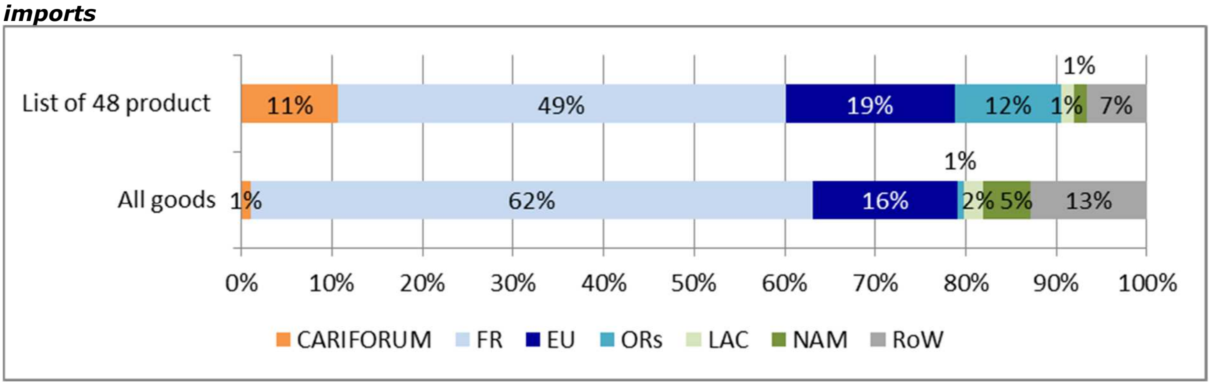
	Total Import (2011-2018) in EUR million									Share of import by origin (in %)							
	CARIF	CAR oth	FR	EU	LAC	NAM	OR	RoW	Total	CARIF	CAR oth	FR	EU	LAC	NAM	OR	RoW
§ 38	**0.01**		**10.87**	**1.14**		**0.09**		**0.27**	**12.37**	**0%**	**0%**	**88%**	**9%**	**0%**	**1%**	**0%**	**2%**
§ 38089110	0.01		10.87	1.14		0.09		0.27	12.37			88%	9%		1%		2%
§ 39	**10.41**	**0.00**	**68.07**	**7.36**	**1.05**	**0.52**	**2.58**	**6.06**	**96.05**	**11%**	**0%**	**71%**	**8%**	**1%**	**1%**	**3%**	**6%**
§ 39232100	0.46		20.90	1.06	0.89	0.07		3.19	26.57	2%		79%	4%	3%			12%
§ 39259010	4.57		7.90	2.15	0.06	0.09	0.56	0.57	15.90	29%		50%	14%		1%	4%	4%
§ 39259020	2.18		11.44	1.20		0.06	0.04	0.74	15.66	14%		73%	8%				5%
§ 39259080	3.20		27.83	2.95	0.10	0.30	1.98	1.57	37.92	8%		73%	8%		1%	5%	4%
§ 44	**0.62**	**0.00**	**0.53**		**2.56**	**0.03**	**2.93**	**1.48**	**8.16**	**8%**	**0%**	**7%**	**0%**	**31%**	**0%**	**36%**	**18%**
§ 44072915			0.27						0.27			100%					0%
§ 44072920									0.00								0%
§ 44072925					0.07			0.03	0.10					72%			28%
§ 44072960								0.75	0.75								100%
§ 44072983	0.01		0.03		0.33		0.13		0.48	1%		6%		67%		26%	0%
§ 44072995	0.60		0.22		1.49	0.03	2.55	0.55	5.45	11%		4%		27%	1%	47%	10%
§ 44072996					0.01				0.01					100%			0%
§ 44072998	0.01		0.01		0.66		0.26	0.15	1.10	1%		1%		60%		24%	14%
§ 48	**2.84**	**0.00**	**79.72**	**14.72**	**0.17**	**0.90**	**2.91**	**7.18**	**108.43**	**3%**	**0%**	**74%**	**14%**	**0%**	**1%**	**3%**	**7%**
§ 48181010	0.01		13.90	3.94	0.04	0.09	2.29	2.82	23.08			60%	17%			10%	12%
§ 48181090			5.06	1.45	0.11	0.01	0.18	2.32	9.13			55%	16%	1%		2%	25%
§ 48183000	0.01		8.82	2.69		0.32	0.01	0.46	12.31			72%	22%		3%		4%
§ 48191000	0.21		15.59	4.90		0.39	0.39	0.20	21.69	1%		72%	23%		2%	2%	1%
§ 48201010			2.93	0.07		0.03		0.08	3.13			94%	2%		1%		3%
§ 48201030			2.55	0.12		0.02	0.01	0.19	2.88			89%	4%		1%		6%
§ 48201050			7.10	0.26				0.17	7.54			94%	3%				2%
§ 48201090			3.24	0.11		0.01		0.12	3.49			93%	3%				3%
§ 48203000			11.39	0.58			0.02	0.48	12.47			91%	5%				4%
§ 48211010	1.59		4.94	0.21	0.01	0.02		0.20	6.97	23%		71%	3%				3%
§ 48211090	1.02		4.19	0.38	0.01	0.01		0.14	5.75	18%		73%	7%				2%
§ 71			**11.70**	**5.14**	**0.00**	**0.24**	**0.08**	**2.14**	**19.30**	**0%**	**0%**	**61%**	**27%**	**0%**	**1%**	**0%**	**11%**
§ 71131100			1.68	2.25		0.06		1.18	5.17			32%	43%		1%		23%
§ 71131900			10.02	2.89		0.18	0.08	0.95	14.13			71%	20%		1%	1%	7%
§ 72	**0.00**		**17.32**	**3.88**			**16.32**	**0.22**	**37.74**	**0%**	**0%**	**46%**	**10%**	**0%**	**0%**	**43%**	**1%**
§ 72139910			0.22						0.22			99%					0%
§ 72142000			17.09	3.88			16.32	0.22	37.52			46%	10%			44%	1%
Total	**74.99**	**0.27**	**346.20**	**130.87**	**10.48**	**9.46**	**82.24**	**46.80**	**701.31**	**11%**	**0%**	**49%**	**19%**	**1%**	**1%**	**12%**	**7%**

Source: *Own processing of data provided by French authorities*

Notes: *The total import is the sum of imports registered for the indicated products in the 2011-2018 period, except 2015 and 2017, for which no data are available.*

Legend: *FR=France**;** EU (except FR)= EU28 excluding France; Other CAR oth=Caribbean countries other than CARIFORUM members and French ORs; Other LAC=Central and South America countries other than Caribbean countries; NAM=USA and Canada; Other ORs=other French ORs; RoW=rest of the world.*

Figure 2 – Share of imports of the 48 products in the CARIFORUM list by origin, compared to all imports



Legend: *FR=France**;** EU (except FR)= EU28 excluding France; Other CAR oth=Caribbean countries other than CARIFORUM members and French ORs; Other LAC=Central and South America countries other than Caribbean countries; NAM=USA and Canada; Other ORs=other French ORs; RoW=rest of the world.*

The results of the analysis shows that French ORs already import from CARIFORUM a larger share – compared to other products - of their external demand for products included in the CARIFORUM list of interest and despite the higher incidence of OdM differentials registered. So, on the one hand the presence of the OdM seems not penalizing CARIFORUM's export of many of these products in relation to other regions, but on the other hand specific causal effects cannot be inferred, as it is possible that imports value be higher in the absence of the OdM.

As discussed in Annex C, we have tested the correlation between OdM differential and trade flows from CARIFORUM countries through a gravity model, but the outcome turned out not significant, so no quantitative measurement of the effect of tax differentials on the value of import from CARIFORUM can be reported.

- **IMPACT OF A POTENTIAL REMOVAL OF ODM DIFFERENTIAL FROM PRODUCTS IN THE CARIFORUM LIST**

Having in mind the above caveats, the last step consists in outlining the possible impact of removing the OdM tax differential from the 48 products in the CARIFORUM list. As described, the limited available data and the scope of the study allow only a general, rough estimation of the magnitude of this impact. The dynamics of international trade are very complex and would vary across product, country of origin, and region of destination. The estimates provided should therefore be considered as purely indicative.

For benchmarking, the table below shows the value of the French ORs internal production of the goods in the CARIFORUM list of interest (at CN8 level), in 2018.

- Overall, in 2018, the total internal production in the three ORs was worth € 6.7 million. The figure is quite reliable for Martinique and Guadeloupe. It is instead underestimated for F. Guiana, as the production value of goods with a zero internal rate is not reported in this region. Furthermore, the figure does not include the production value of small firms, which fall outside of the scope of OdM.[469]
- In the same year, the value of imports from CARIFORUM for the same products was € 10.2 million.
- Actually, for only a small part of the products in the CARIFORUM list the French ORs' internal production is significant, i.e. cement, rum, waters and, to a lesser extent, flour. These four products account altogether for 77% of the product panel considered.

Table 10 – French ORs' internal production of the goods in the CARIFORUM list of interest (2018, EUR ,000)

CN8	GUADELOUPE	F. GUIANA	MARTINIQUE	TOTAL
§ 07020000	25	4	49	**78**
§ 08043000	20	0	1	**21**
§ 08071100	14	0	0	**14**
§ 10063067	0	0	5	**5**
§ 10063098	128	0	39	**167**
§ 10064000	5	0	3	**8**
§ 11010015	303	0	277	**579**
§ 22021000	104	0	1022	**1125**
§ 22030010	0	2	0	**2**
§ 22084011	365	0	977	**1342**
§ 22084031	7	0	0	**7**
§ 22084051	206	0	125	**332**
§ 22084099	1	0	0	**2**
§ 22087010	75	5	31	**111**
§ 22087090	0	0	1	**1**
§ 25059000	15	0	83	**98**
§ 25232900	1110	203	508	**1820**
§ 31021010	18	0	138	**156**
§ 34029090	0	0	113	**113**
§ 34060000	33	0	29	**62**
§ 38089190	2	0	0	**2**
§ 39232100	0	0	46	**46**

[469] Firms with a relevant annual turnover not exceeding EUR 300,000 are outside of the scope of the OdM and their production value is currently not tracked in French ORs.

CN8	GUADELOUPE	F. GUIANA	MARTINIQUE	TOTAL
§ 39241000	0	0	4	**4**
§ 39259080	81	0	59	**141**
§ 44072983	0	0	2	**2**
§ 48181010	38	9	86	**133**
§ 48181090	20	0	0	**20**
§ 48183000	0	0	4	**4**
§ 48191000	162	0	0	**162**
§ 48201030	0	0	1	**1**
§ 48211010	9	0	38	**47**
§ 48211090	7	0	0	**7**
§ 71131900	0	0	8	**8**
§ 72142000	85	3	37	**125**
Total	**2834**	**226**	**3686**	**6747**

Source: *Own processing of data provided by French authorities.*
Notes: *Data for F. Guiana are largely underestimated, since the production value of goods with a zero internal rate is not reported in this region.*

For a rough simulation of the effects of a removal of OdM differential the results of the gravity model described in Annex C of the Study can be used. The model predicts trade flows between ORs and other countries - including the mainland - setting the imports value (defined at CN4 product category level) as the dependent variable and the OdM rates, as well as a series of variables including economic weight and distance of the trading partners, as the explanatory variables. As described in Annex C, various specifications were tested. In the simulation presented here, we follow the model focusing on French ORs only (i.e. not including Canary Islands and the AIEM regime) and we assume the OdM differential is removed by reducing the external rate to the level of the internal rate and not *vice versa*, as this seems more consistent with actual ORs policy on OdM differential.

According to these specifications a variation of one percentage point in OdM differential is associated with an opposite variation of imports value by 0.917 points. In the simulation laid down in the table below we assume this coefficient of variation applicable to the 48 products in the CARIFORUM lists and invariant by origin. As the table show, the removal of the current OdM differential (10.3% on average) from the panel of products considered can be theoretically associated to an increase of imports value by 9.9%[470].

This would translate in a potential increase of imports from CARIFORUM countries of ca. € 1.0 million /year, and a parallel increase in the import of these products from other countries of ca. € 11.3 million. In other words, in the absence of evidence of differentiated effects across regions, CARIFORUM would benefit of less than one-tenth of the export opportunities created by the removal of OdM differential from the products in the list. Compared to the total CARIFORUM's export to French ORs (€ 56.6 million / year in the 2016-2018 period), the impact of removal would remain limited, and accounting for a +1.7% growth in the total exports.

The estimates are evidently indicative, and the model does not clarify what would be the impact on local production, i.e. whether it would disappear (as the numbers *prima facie* suggests) or local players would find other ways to remain competitive.

[470] As the model is based on the logarithm of imports, the impact of tax reduction is not linear.

Table 11 – Simulation of the effects of a removal of OdM differential from the panel of products in the CARIFORUM's list

	Imports from CARIFORUM (2018)	Imports from all other origins (2018)	Average OdM differential applied to the product panel	Coefficient of variation of imports associated to OdM differential	Theoretical increase of imports from removal of OdM differential
Baseline	€ 10.2 million	€ 113.7 million	10.3%	-0.917	+9.9%
Removal of OdM differential	+ € 1.0 million	+ € 11.3 million	0%		

Source: *Own processing, based on the estimates reported in the previous tables and the results of the own gravity model (see Annex C for specifications)*

➢ **THE POSSIBLE EFFECTS OF CARIFORUM'S MARKET ACCESS OFFER**

In this last part of the Annex, we examine the market access offer made by CARIFORUM in the framework of the EPA agreement with the EU, in relation to the potential benefits for the French ORs from a reduction of the tariff envisaged. In simple terms, the underlying argument is that the negative impact for ORs following a removal of OdM differentials (as described in the simulation above) could be offset by the new opportunities for export to CARIFORUM countries offered by the prospective reduction/removal of customs tariff.

For a preliminary assessment of such potential benefits, we matched the CARIFORUM market access offer, with the list of goods internally produced in the ORs. The results are shown in table 12 below.

- Overall, there are some 339 goods internally produced in at least one French OR for which CARIFORUM market access offer is worth analysing.
- Of them, nearly half (149 or, 44% of the total) is actually excluded from the market access offer, so no benefits for the ORs can be expected.
- For another quarter (24%, or 80 products) no change of rate is envisaged until 2029 as compared to the current situation so, again, no concrete benefits can be expected.
- A progressive reduction/removal of tariff is envisaged for the remaining 110 products (one-third of the total) but for the majority of them the current production in the ORs is limited so there are no significant export opportunities.
- In conclusion, potential benefits would regard only 15% of the products considered (some 50). For these products, the average tariff reduction is of 6.6%

The analysis does not allow drawing any firm conclusion on whether the reduction of tariff can be effectively exploited by French ORs to increase their exports to CARIFORUM and by which extent, since this would require a detailed comparative assessment of CARIFORUM countries' competitiveness at product level, which is outside of the scope of this Study. Still, it emerges that for the majority of the products of interest for French ORs, the Market Access Offer envisages no change of the current situation.

Table 12 – Review of CARIFORUM's Market Access Offer

A) Status of goods produced in French ORs in the Market Access Offer

	Number of CN8 products	In %
Prospective tariff reduction on products relevant for ORs	50	15%
Prospective tariff reduction on products not relevant for ORs (negligible production)	60	18%
Products excluded from market access offer	149	44%
Products for which no change of tariff is envisaged	80	24%
Total	**339**	

B) Prospective tariff reduction for the products relevant for French ORs

Tariff reduction	No. of products relevant for ORs concerned
-3,0%	6
-5,0%	8
-6,0%	18
-8,0%	11
-10,0%	5
-12,0%	1
-17,0%	1
-6.6%	**Average**

Source: *Own processing of CARIFORUM Market Access Offer and of French ORs' data on internal production.*
Notes: *Internal production data used refers to 2018, which in the case of F. Guiana are incomplete. The datasets consulted refer to internally produced goods subject to OdM differentials, so the total products considered is possibly underestimated (but not significantly, since relevant internal productions are generally covered by OdM differentials).*

E.3 Trade with ESA countries

➢ **IMPORTS OF FRENCH ORS BY ORIGIN AND TRENDS**

Table 13 below shows the total imports of French ORs of the Indian ocean region, i.e. Réunion and Mayotte registered in the period 2011-2018, based on French customs data, and broken down by region of origin. For the analysis we have not included temporary imports, suspension regime, customs warehouse stocking regime, and other particular import regimes for which tariff and taxes are not applied. The main results are as follows:

- The total imports of the two ORs considered amounted to more than € 5.6 billion in 2016-2018, of which ca. € 5.2 billion for Réunion and some half billion for Mayotte. In the 2011-2014 period the total average was ca. € 4.6 billion but the figure is underestimated due to the lack of data for Mayotte before its regionalisation in 2014. At any rate, considering Réunion only, an average increase of imports of ca. 13% is registered between the two periods.
- Mainland France accounts for the bulk of imports, i.e. some 66% of the total in 2018. Beside fluctuations in the 2014-2016 period, the share of imports from the mainland appears substantially stable.
- Similarly, imports from the EU and other regions did not vary significantly over time, despite temporary fluctuations.
- Imports from ESA countries[471] amounted to € 60 million / year on average in the 2011-18 period, with an increase of ca. € 20 million between in 2016-2018 as compared to 2011-2014. In relative terms, this corresponds to a marginal increase of 0.2 percentage points in the share of imports from ESA.
- Imports from eastern and southern African countries other than ESA are limited – some 2.3% of the total – and declining (i.e. - 0.7% in 2016-2018 compared to previous period).
- Imports from the rest of the world (i.e. all countries not included above) registered a temporary peak in 2016 but in general have remained comprised between 15% and 20% of total imports.

[471] The group includes the countries that have stipulated an EPA with the EU, i.e. Madagascar, Mauritius, Comoros, Zimbabwe, Seychelles and Zambia.

Table 13 – Imports of Indian Ocean French ORs by origin (€ million)

	2011	2012	2013	2014	2016	2018
MYT				**538.8**	**470.2**	**509.3**
FR				328.0	276.9	313.2
EU				55.1	57.5	67.0
OR				7.5	6.4	5.7
ESA				11.5	21.7	11.4
Other AFR				7.8	9.5	10.7
RoW	0.0	0.0	0.0	128.9	98.1	101.3
REU	**4777.6**	**4803.8**	**4766.3**	**4065.1**	**5207.0**	**5125.9**
FR	3087.2	3213.3	3345.1	2585.6	2853.8	3397.1
EU	572.2	587.7	584.4	612.0	655.3	699.8
OR	3.0	4.1	3.1	2.9	2.1	1.9
ESA	42.5	55.8	49.8	53.0	46.5	67.6
Other AFR	125.4	133.8	109.3	100.1	82.5	104.4
RoW	947.3	809.1	674.8	711.5	1566.8	855.2
Total ORs	**4777.6**	**4803.8**	**4766.3**	**4603.9**	**5677.2**	**5635.3**
FR	3087.2	3213.3	3345.1	2913.5	3130.7	3710.3
EU	572.2	587.7	584.4	667.1	712.8	766.8
OR	3.0	4.1	3.1	10.4	8.5	7.6
ESA	42.5	55.8	49.8	64.5	68.3	79.0
Other AFR	125.4	133.8	109.3	107.9	92.0	115.1
RoW	947.3	809.1	674.8	840.4	1664.9	956.6
In %, by origin						
FR	64.6%	66.9%	70.2%	63.3%	55.1%	65.8%
EU	12.0%	12.2%	12.3%	14.5%	12.6%	13.6%
OR	0.1%	0.1%	0.1%	0.2%	0.2%	0.1%
ESA	0.9%	1.2%	1.0%	1.4%	1.2%	1.4%
Other AFR	2.6%	2.8%	2.3%	2.3%	1.6%	2.0%
RoW	19.8%	16.8%	14.2%	18.3%	29.3%	17.0%

Source: *Own processing of data provided by French authorities*
Notes: *Import data for Mayotte are unavailable for the 2011-2014 period. Data for 2015 and 2017 are unavailable for any OR.*
Legend: *FR=France**;** EU (except FR)= EU28 excluding France; OR=other French ORs; ESA=Eastern and Southern Africa countries that have stipulated an EPA with the EU; Other AFR= other African countries in the eastern and southern regions; RoW=rest of the world.*

Looking more closely at the trade between the French ORs considered and individual ESA countries the following considerations can be made:

- The major origin of French ORs imports is by far Mauritius, which accounts for 70% of the aggregate ESA value for the period 2011-2018 (except 2015 and 2017, whose data are unavailable). Imports from Mauritius have increased by ca. € 5.4 million on average in 2016-2018 as compared to 2011-2014.
- The second greatest partner is Madagascar, whose aggregate exports to French ORs amounted to nearly € 100 million in 2011-2018. The value of imports from Madagascar has increased from € 15 million on average in 2011-2014 to € 19.3 million in 2016-2018, albeit a decline is registered in 2018.
- French ORs' imports from other ESA countries is limited (i.e. 2.1% of the total), although generally on the rise.

Table 14 – Imports of Indian Ocean French ORs from ESA countries (€ ,000)

	2011	2012	2013	2014	2016	2018	Total	In %	Trend 2016-18 v. 2011-14
Madagascar	10.7	14.6	15.1	19.6	21.2	17.4	98.7	29.0%	*29%*
Mauritius	31.8	40.8	34.2	44.3	46.8	39.6	237.6	69.9%	*14%*
Comoros	0.0	0.0	0.0	0.2	0.1	0.1*	0.4	0.1%	*19%*
Zimbabwe	0.0	0.0	0.0	0.0	0.0	0.1	0.2	0.1%	*631%*
Seychelles	0.0	0.4	0.4	0.4	0.1	1.5	2.8	0.8%	*182%*
Zambia						0.2	0.2	0.1%	
Total	**42.5**	**55.8**	**49.8**	**64.5**	**68.3**	**59.0***	**339.9**		

Source: *Own processing of data provided by French authorities*
Notes: *Import data for Mayotte are unavailable for the 2011-2014 period. Data for 2015 and 2017 are unavailable for any OR. (*) An implausible import of 'banknotes' from Comoros in 2018, worth some € 20 million was not included, as it could not be verified.*

For benchmarking, the following table shows the extent of internal imports within ESA countries in comparison with total imports. For comparability, the analysis focuses on the four main trade partners of French ORs: Mauritius, Comoros, Madagascar and Seychelles. The data show that overall the internal trade within the four ESA countries amounts to some 3.0% of their total imports. In the same year (2016), French ORs imports from these countries represented some 1.2% of the total French ORs' imports – a value that is lower but in scale with the intra-ESA trade level. The table shows that differences between countries are small.

Table 14bis – Imports flow within the CARIFORUM as a percentage of total imports (2016)

		Importer					
		Comoros	Madagascar	Mauritius	Seychelles	World	**ESA**
Exporter	Comoros		1.3%	2.7%	0.0%	96.0%	4.0%
	Madagascar	0.0%		3.2%	0.4%	96.4%	3.6%
	Mauritius	0.1%	1.1%		1.5%	97.4%	2.6%
	Seychelles	0.0%	0.2%	2.1%		97.7%	2.3%
	Total USD million	**283.2**				**9470.5**	**3.0%**

Source: *Own processing of UN Comtrade data.*
Notes: *All figures refer to 2016. As French ORs' imports from Zambia and Zimbabwe are negligible, we have not included these countries in the analysis for better comparability.*

➢ IMPORTS FROM ESA COUNTRIES BY TYPE OF PRODUCT

The next table examines the composition of French ORs' imports from ESA region, showing the top imported products by value (aggregated figures for the 2011-2018 period), designated by CN8 code. In the table, products are also grouped by the corresponding sections of the Harmonised System (HS).

- Imports from ESA countries are distributed among several types of products, belonging to heterogeneous categories. The 24 main products by value account for less than 50% of total imports, and the rest is distributed across more than 2800 CN8 products.
- The highest import values regard: (a) fertilisers; (b) vegetables; (c) fish products; (d) beverages (beer and sugared waters); (e) aluminium articles (bars, rods windows and door frames etc.); (f) plastic bottles, flasks etc. For these categories of products the total imports from ESA in the period 2011-18 exceeded € 10 million.
- Other relevant imports include: (a) sea-going vessels; (b) propane gas; (c) flour; (d) certain soap and washing preparations; (e) t-shirts and other vests of cotton.

Table 15 – Main products imported from ESA by French ORs (€ ,000)

HS Section	CN8 / general description	Total import 2011-18	In % of the total
§ 03	§ 03028990	9,133	6%
§ 03	§ 03038990	3,676	2%
§ 03	§ 03061110	4,951	3%
§ 03 Total	**fish and crustaceans, molluscs and other aquatic invertebrates**	**17,760**	**11%**
§ 07	§ 07031019	3,755	2%
§ 07	§ 07131090	3,844	2%
§ 07	§ 07133390	5,143	3%
§ 07	§ 07133900	5,896	4%
§ 07 Total	**edible vegetables**	**18,638**	**11%**
§ 09	§ 09011100	4,741	3%
§ 09 Total	**coffee**	**4,741**	**3%**
§ 11	§ 11010015	9,652	6%
§ 11 Total	**flour**	**9,652**	**6%**
§ 22	§ 22021000	10,575	6%
§ 22	§ 22030001	6,219	4%
§ 22 Total	**beverages**	**16,794**	**10%**
§ 27	§ 27111900	6,350	4%
§ 27 Total	**propane**	**6,350**	**4%**
§ 31	§ 31052010	8,551	5%
§ 31	§ 31052090	10,866	7%
§ 31 Total	**fertilisers**	**19,417**	**12%**
§ 34	§ 34022090	6,327	4%
§ 34 Total	**soap, washing preparations**	**6,327**	**4%**
§ 39	§ 39233010	14,885	9%
§ 39 Total	**Carboys, bottles, flasks of plastics**	**14,885**	**9%**
§ 49	§ 49029000	3,826	2%
§ 49 Total	**newspapers**	**3,826**	**2%**
§ 61	§ 61091000	7,571	5%
§ 61 Total	**T-shirts, singlets and other vests of cotton**	**7,571**	**5%**
§ 63	§ 63053219	3,707	**2%**
§ 63 Total	**containers, for the packing of goods, of synthetic or man-made textile materials**	**3,707**	2%
§ 76	§ 76042990	3,656	2%
§ 76	§ 76101000	13,283	8%
§ 76 Total	**aluminium and articles thereof (bars, rods, doors, windows and their frames)**	**16,938**	**10%**
§ 89	§ 89019010	9,267	6%
§ 89 Total	**sea-going vessels**	**9,267**	**6%**
§ 90	§ 90212900	3,432	2%
§ 90 Total	**dental fittings**	**3,432**	**2%**
§ 95	§ 95069990	3,919	2%
§ 95 Total	**articles and equipment for sport and outdoor games**	**3,919**	**2%**
Grand Total		**163,224**	

Source: *Own processing of data provided by French authorities*
Notes: *The total import is the sum of imports registered for all ESA countries in the 2011-2018 period, except 2015 and 2017, for which no data are available. An implausible import of 'banknotes' from Comoros in 2018, worth some € 20 million was not included, as it could not be verified.*

The following table illustrates more specifically which are the most exported products from each individual ESA country to French ORs. The table indicates also the OdM differential applicable (if any) in the two ORs concerned.

Some specificities can be registered across countries, for instance:

- fish products are particularly important for Madagascar and Seychelles,
- Madagascar is also a major exporter of coffee and beans,
- imports from Mauritius are heterogeneous but consists primarily of manufactured goods, including food and beverage products, articles of plastics and of aluminium, and fertilisers,

- the limited imports from Zimbabwe include primarily flavourings and mixtures of odoriferous substances (used for instance in the beverage industry) as well as other mixture of natural and chemical substances,
- the main item imported from Comoros consists of dumpers.

Of the main products listed in the table below only two are subject to the OdM differential in Réunion, and five in Mayotte. For all other products no differential is in place. Overall the estimated additional tax paid due to differentials amounted to some € 1.1 million for the entire period 2011-18, i.e. ca. 1% of the import value of the products considered.

Table 16 – Main products imported from specific CARIFORUM countries by French ORs and OdM tax differential applied

CN8	Import In € , 000	Product	OdM Tax Differential (in %)	
	Total 2011-18		REU	MYT
	Madagascar			
§ 03028990	7763.9	Certain fresh or chilled fish	0	17.5
§ 07133900	5596.0	Dried, shelled beans	0	0
§ 03061110	4950.7	Frozen crawfish tails	0	0
§ 09011100	4740.7	Coffee	0	0
§ 07133390	4653.4	Dried, shelled kidney beans	0	0
	Mauritius			
§ 39233010	14884.3	Carboys, bottles, flasks of plastics	0	0
§ 76101000	12716.4	Doors, windows and their frames of aluminium	0	17.5
§ 31052090	10866.0	Fertilisers with a nitrogen content <= 10 %	0	0
§ 22021000	10449.9	Waters, with added sugar, sweetener or flavour	0	17.5
§ 11010015	9651.4	Flour of common wheat and spelt	0	0
§ 89019010	9248.5	Sea-going vessels	6.5	0
§ 31052010	8550.6	Fertilisers with a nitrogen content >10 %	0	0
	Comoro			
§ 87041010	83.2	Dumpers for off-highway use	14.75	0
	Zimbabwe			
§ 33021029	83.3	Preparations based on odoriferous substances	0	0
§ 38249996	36.6	Other chemical products and preparations including those consisting of mixtures of natural products	0	(-)
	Seychelles			
§ 03044990	1021.7	Certain fresh or chilled fillets of fish	0	17.5
§ 16041418	614.2	Prepared or preserved tunas	(-)	..
§ 03028990	480.0	Certain fish, fresh or chilled (other than 0304)	0	17.5

Source: *Own processing of data provided by French authorities*
Notes: *Import data for Mayotte are unavailable for the 2011-2014 period. Data for 2015 and 2017 are unavailable for any OR. (*) An implausible import of 'banknotes' from Comoros in 2018, worth some € 20 million was not included, as it could not be verified. When the OdM applied to CN8 is further differentiated by CANA code, the average differential is reported in the table. In two cases, marked by (-), this leads to negative differentials, which means that the ordinary differential is zero, but on certain sub-products (designated by CANA code) a lower external rate is applied, which is not envisaged internally, because there is no local production of such goods.*

- **TRADE AND TAX LEVELS FOR THE 46 PRODUCTS IN THE LIST SUBMITTED BY MAURITIUS**

In a note submitted to the Commission, Mauritius listed 46 products for which a request for removal of the OdM was made. The request regarded only the bilateral trade between Mauritius and Réunion, but the list can be used for a closer examination of the impact of OdM on trade between ESA countries and both Réunion and Mayotte. It should be noted that:

- The request for removal seemingly regards the OdM *tout court* and not only the differential tax regime, but in the scope of this Study we consider only impacts due to tax differentials.
- The list makes arguably reference to an outdated version of the CN classification, as certain codes seem no longer in use.
- Certain products are written as CN8 but actually refer to CN6 categories. In these cases, we have considered in the analysis all the corresponding CN8 sub-headings, indicating the average OdM differential applied. The same approach has been used for CN8 products that are further split through CANA codes.

The 46 products list and the OdM differentials currently applied are reproduced in the table below.

Table 17– The 46 products in the list submitted by Mauritius

CN8	Definition	OdM differential in %	
		REU	MYT
§ 03028900	Fresh or chilled fish, n.e.s.	3.3	17.5
§ 06031900	Fresh cut flowers and buds, of a kind suitable for bouquets or for ornamental purposes (excl. roses, carnations, orchids, chrysanthemums and lilies)	18.0	0.0
§ 11010000	Wheat or meslin flour	2.2	0.0
§ 16041419	Tuna, skipjack and bonito, other fillets	0.7	0.0
§ 19012000	Mixes and doughs of flour, groats, meal, starch or malt extract, not containing cocoa or containing < 40% by weight of cocoa calculated on a totally defatted basis, n.e.s. and of mixes and doughs of milk, cream, butter milk, sour milk, sour cream, whey, yogurt, kephir or similar goods of heading 0401 to 0404, not containing cocoa or containing < 5% by weight of cocoa calculated on a totally defatted basis, n.e.s., for the preparation of bakers' wares of heading 1905	9.0	17.5
§ 20055900	Unshelled beans "Vigna spp., Phaseolus spp.", prepared or preserved otherwise than by vinegar or acetic acid (excl. frozen)	6.5	0.0
§ 23099010	Fish or marine mammal solubles, to supplement feedingstuffs produced in the agricultural sector	6.5	10.0
§ 32149000	Non-refractory surfacing preparations for facades, inside walls, floors, ceilings and the like	6.5	0.0
§ 34022090	Washing preparations, incl. auxiliary washing preparations and cleaning preparations put up for retail sale (excl. organic surface-active agents, soap and surface-active preparations, and products and preparations for washing the skin in the form of liquid or cream)	6.5	17.5
§ 39232190	Sacks & bags (incl. cones), excl. 3923211 of ethylene polymers	18.0	0.0
§ 39232990	Sacks and bags, incl. cones, of plastics (excl. those of poly vinyl chloride and polymers of ethylene)	12.3	0.0
§ 39233000	Carboys, bottles, flasks and similar articles for the conveyance or packaging of goods, of plastics	18.0	0.0
§ 39252000	Doors, windows and their frames and thresholds for doors, of plastics	18.0	0.0
§ 48181090	Toilet paper in rolls of a width of <= 36 cm, weighing per ply > 25 g/m²	18.0	0.0
§ 48194000	Sacks and bags, incl. cones, of paper, paperboard, cellulose wadding or webs of cellulose fibres (excl. those having a base of a width of >= 40 cm, and record sleeves)	0.0	17.5
§ 48201000	Registers, account books, notebooks, order books, receipt books, letter pads, memorandum pads, diaries and similar articles, of paper or paperboard	6.5	0.0
§ 48211000	Paper or paperboard labels of all kinds, printed	18.0	17.5
§ 49019910	Textbooks not in single sheets	0.0	0.0
§ 49019990	Printed books, brochures, leaflets etc. excl. 490110-991	0.0	0.0
§ 49029020	Journals and periodicals	0.0	0.0
§ 49090000	Printed or illustrated postcards; printed cards bearing personal greetings, messages or announcements, whether or not illustrated, with or without envelopes or trimmings	18.0	20.0
§ 49119990	Other, Instructional charts	5.8	20.0

CN8	Definition	OdM differential in %	
		REU	MYT
§ 61034290	Other men's/boys' trouser, bib, breech, short etc. of cotton	0.0	0.0
§ 61044200	Women's or girls' dresses of cotton, knitted or crocheted (excl. petticoats)	0.0	0.0
§ 61044900	Women's or girls' dresses of textile materials, knitted or crocheted (excl. of wool, fine animal hair, cotton, man-made fibres and petticoats)	0.0	0.0
§ 61046210	W/girls trouser ,bib, breech, short, etc. of cotton knitted/crocheted	0.0	0.0
§ 61051000	Men's or boys' shirts of cotton, knitted or crocheted (excl. nightshirts, T-shirts, singlets and other vests)	0.0	0.0
§ 61061000	Women's or girls' blouses, shirts and shirt-blouses of cotton, knitted or crocheted (excl. T-shirts and vests)	0.0	0.0
§ 61091000	T-shirts, singlets and other vests of cotton, knitted or crocheted	0.0	0.0
§ 61099000	T-shirts, singlets and other vests of textile materials, knitted or crocheted (excl. cotton)	0.0	0.0
§ 61112000	Babies' garments and clothing accessories of cotton, knitted or crocheted (excl. hats)	0.0	0.0
§ 61130099	Other, whether or not as parts of ensembles	0.0	0.0
§ 62034210	Men/boy trouser breech & short of cotton not knitted/crocheted	0.0	0.0
§ 62034310	Men/boy trouser breech & short of synthetic fibre not knitted/crocheted	0.0	0.0
§ 62034910	Men/boy trouser breech & short of textile n.e.s. excl. 620341/43 not knit/crocheted	0.0	0.0
§ 62044200	Women's or girls' dresses of cotton (excl. knitted or crocheted and petticoats)	0.0	0.0
§ 62052090	Other men's or boys shirts of cotton	0.0	0.0
§ 62059000	Men's or boys' shirts of textile materials (excl. of cotton or man-made fibres, knitted or crocheted, nightshirts, singlets and other vests)	0.0	0.0
§ 62059900	Curtain, interior blind etc. of textile, n.e.s., not knitted/crocheted	0.0	0.0
§ 73069010	Iron/steel tubes, pipes/hollow profiles, riveted, n.e.s., galvanised	0.0	0.0
§ 73083000	Doors, windows and their frames and thresholds for doors, of iron or steel	9.0	17.5
§ 76101000	Doors, windows and their frames and thresholds for door, of aluminium (excl. door furniture)	18.0	17.5
§ 94017900	Seats, with metal frames (excl. upholstered, swivel seats with variable height adjustments and medical, dental or surgical furniture)	4.9	0.0
§ 94032090	Metal furniture excl. 9401, 9402, 940310/201	6.0	8.8
§ 94036090	Wooden furniture (excl. for offices or shops, kitchens, dining rooms, living rooms and bedrooms, and seats)	6.0	0.0
§ 96190019	Other napkins and napkin liners for babies	3.3	0.0

Source: *Own elaboration of list submitted by Mauritius, OdM figures are based on data provided by French authorities.*
Notes: *When the OdM differential applied to the listed products differ across sub-products the average differential is reported in the table.*

The next table examines the imports value registered by French ORs for the products in the above list, broken down by country of origin. The values refer to the aggregated import in the 2011-2018 period (not including 2015 and 2017).

- Overall, the aggregated import value of the 46 products in the list amounted to € 74.5 million for the entire 2011-2018 period, i.e. some € 12.4 million annually, on average.
- Imports value exceeded one million for 11 CN8 products; for the other listed products the import was negligible or absent. In particular plastic bottles and aluminium doors and windows frames account altogether for more than 37% of the total imports.

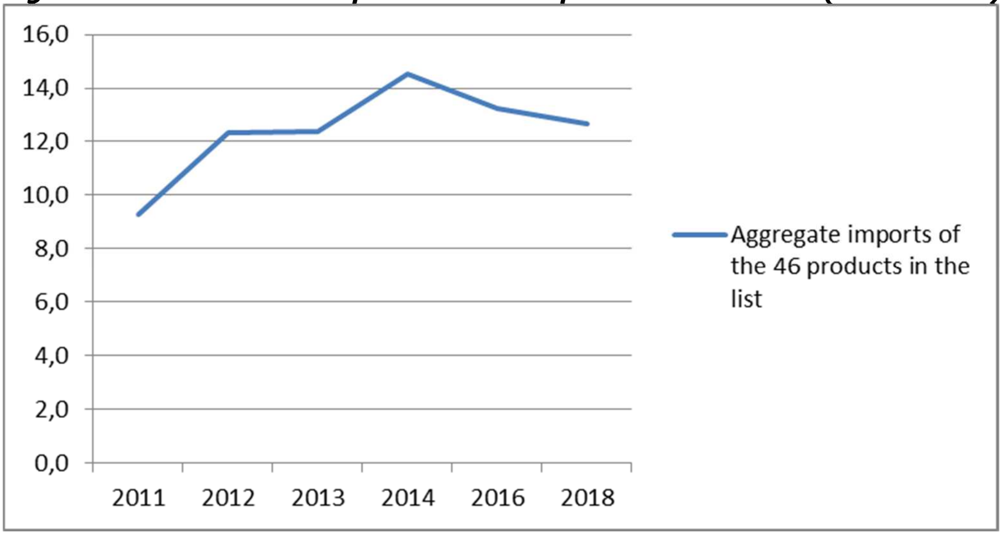
- The major exporter in the list was Mauritius, with some € 65 million, or 87% of the total. Evidently this figure mirrors the fact that the list represents the interest of Mauritius rather than the interest of all ESA countries. Madagascar is the second-largest exporter, with nearly € 9 million, but the bulk of it is represented by one CN8 products (belonging to the fish products category). Imports of the 46 products from other ESA countries were negligible (Comoros, Seychelles) or absent (Zambia, Zimbabwe).
- Figure 3 further below shows that the total value of imports for the 46 products followed a reversed U-curve, i.e. it increased in the 2011-2014 period, then slightly declined in the 2016-2018 period.

Table 18 – Import value for the 46 products in the list submitted by Mauritius (aggregate 2011-2018, in € ,000)

CN8	Madagascar	Mauritius	Comoros	Zimbabwe	Seychelles	Zambia	Total
§ 03028940	0.2						**0.2**
§ 03028990	7763.9	889.4			480.0		**9133.4**
§ 06031970		144.0					**144.0**
§ 06031980		495.2					**495.2**
§ 11010011	0.3	111.3					**111.5**
§ 11010015	0.2	9651.4					**9651.6**
§ 19012000		217.5					**217.5**
§ 20055900		1.1					**1.1**
§ 23099010		4.4					**4.4**
§ 32149000	24.0	1335.8					**1359.8**
§ 34022090	8.7	6318.7					**6327.5**
§ 39232990	13.9	819.7					**833.7**
§ 39233010	0.6	14884.3					**14884.9**
§ 39233090	0.9	1091.2					**1092.1**
§ 39252000	4.3	419.2					**423.6**
§ 48181090		100.6					**100.6**
§ 48194000	0.5	877.3					**877.9**
§ 48201010	2.4	21.0					**23.4**
§ 48201030	0.1	38.5					**38.6**
§ 48201050		1076.5					**1076.5**
§ 48201090		35.7					**35.7**
§ 48211010	8.0	983.4					**991.4**
§ 48211090	1.1	582.8					**583.9**
§ 49090000		238.6					**238.6**
§ 61044200	19.3	227.4					**246.8**
§ 61044900	2.4	157.5	0.3				**160.1**
§ 61051000	14.6	747.6					**762.2**
§ 61061000	6.5	74.5					**81.0**
§ 61091000	193.0	7377.9					**7570.9**
§ 61099020	22.2	345.9					**368.1**
§ 61099090	20.4	992.7	0.0				**1013.1**
§ 61112090	7.5	372.8					**380.3**
§ 62044200	52.4	408.7					**461.1**
§ 62059010		7.8					**7.8**
§ 62059080	44.3	66.8					**111.1**
§ 73083000	5.0	67.9					**72.9**
§ 76101000	563.6	12716.4	2.5				**13282.5**
§ 94017900	0.2	320.4					**320.5**
§ 94036090	136.3	869.6					**1005.9**
Total	**8916.9**	**65091.6**	**2.8**	**0.0**	**480.0**	**0.0**	**74491.3**

Source: *Own processing of data provided by French authorities*
Notes: *The total import is the sum of imports registered for the indicated products in the 2011-2018 period, except 2015 and 2017, for which no data are available. Products indicated at CN6 level in the list – e.g., CN 030289 – is split into the corresponding CN8 – e.g. § 03028940, and § 03028940. Products for which no import is registered are not displayed*

Figure 3 – Trend in the imports of the 46 products in the list (EUR million)



The incidence of OdM differentials on the import value of these product is roughly 9.3%, i.e. some € 6.9 million for the overall 2011-2018 period (based on 2018 rates). In this sense, the impact of OdM differentials on these 46 products seems greater than the impact registered for the overall imports from ESA countries.

However, this estimate does not consider the exemptions for production inputs that can deliberated by each ORs (*exonérations des intrants*). Such exemptions are only seldom available in an analytical format, and the fact that an exemption is possible does not necessary entail that all imports of such products are exempted (the exemption applies only for intermediate and not final consumption). The data on the amount of exemptions are unavailable so only rough estimates can be made.

Some considerations are possible based on the exemptions deliberated by Réunion in 2019. Assuming such exemptions were in place throughout the period considered, some 17 CN8 products that are part of the list laid down in Table 18 would have access to the exemption. The impact of tax differentials associated to these products is € 6.1 million, i.e. 88% of the total tax receipts due to the OdM differential, as mentioned previously. This means that the exemptions for inputs may *de facto* remove most obstacles to trade associated to the OdM differential applied to the concerned products. This is evidently only an indicative estimate, since a full analysis would require the data on the actual exemptions applied in all ORs and for all the years considered – data which are currently unavailable.

Table 19 - CN products in the list of Mauritius for which OdM exemption for production inputs is available in Réunion

§ 11010011	§ 48211010
§ 11010015	§ 48211090
§ 32149000	§ 61051000
§ 34022090	§ 61061000
§ 39232990	§ 61091000
§ 39233010	§ 61099020
§ 39233090	§ 61099090
§ 48194000	§ 62044200
§ 76101000	

Source: *Dispositif d'éxoneration octroi de mer à l'importation, Réunion, 2019.*

In the next step, we examine the total imports of the 46 products in the list including the share of imports originating in the EU and other regions. The following table provides the aggregate value of import for the 2011-2018 period (not including 2015 and 2017) for all the CN8 level products in the list, as well as the share by region of origin. Figures are also aggregated at the CN2 level.

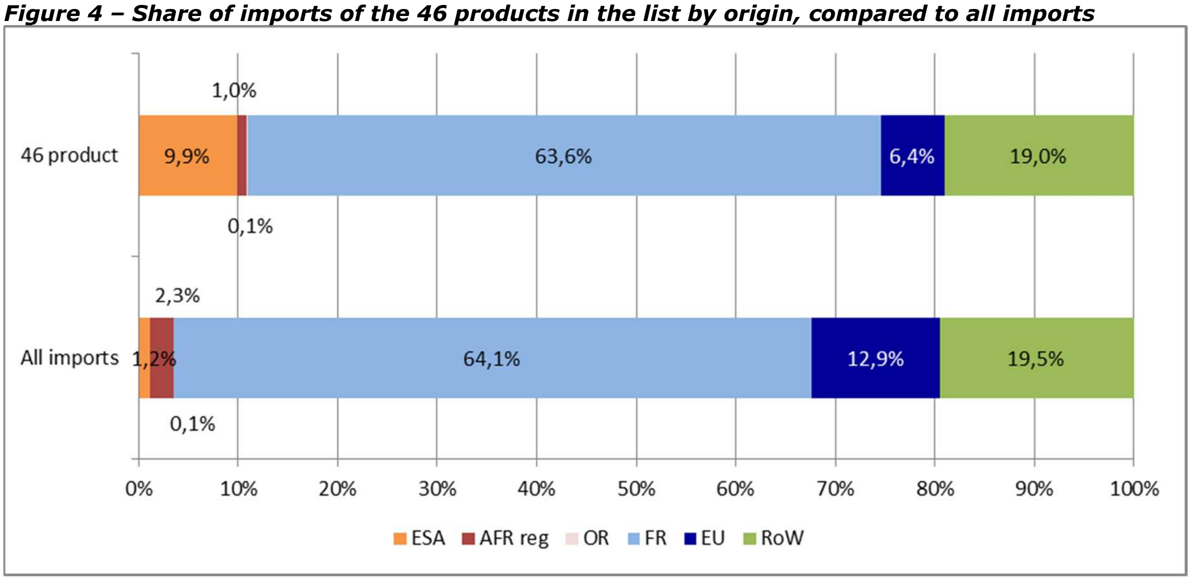
- ESA emerges as the main import origin for several products of the list. In particular, it is the primary source for certain fish products and plastic bottles. In various other areas, ESA plays a major role in the import of ORs, including cut flowers, door and window frames of aluminium, flour, printed paper, postcards, woman's or girl's dresses and t-shirts.
- Conversely, there are areas where imports from ESA are currently negligible, such as metal and wood furniture, mixes and doughs of flour, preparation for animal feeds, iron/steel tubes, and pipes/hollow profiles, among others.
- However, as Figure 4 further below shows, ESA is in aggregate terms a major origin of products in the list, accounting for some 9.9% of the total import of such products in French ORs. For comparison, the overall 'weight' of ESA on the total imports of ORs is only 1.2% (average for the 2011-2018 period).

Table 20 – Import of the 46 products in the list by region of origin (in EUR and in %)

CN	Import in EUR ,000 (2011-2018)							Share of import by origin (in %)					
	ESA	Oth AFR	FR	EU	OR	RoW	Total	ESA	Oth AFR	FR	EU	OR	RoW
§ 03	9133.5		1197.7	60.8		1800.0	12191.9	75%	0%	10%	0%	0%	15%
§ 03028939						4.1	4.1	0%	0%	0%	0%	0%	100%
§ 03028940	0.2					0.0	0.2	100%	0%	0%	0%	0%	0%
§ 03028990	9133.4		1197.7	60.8		1795.9	12187.7	75%	0%	10%	0%	0%	15%
§ 06	639.1	4930.0	31.2	594.3		2.6	6197.1	10%	80%	1%	10%	0%	0%
§ 06031970	144.0	349.7	7.3	433.9		0.0	934.9	15%	37%	1%	46%	0%	0%
§ 06031980	495.2	4580.3	23.9	160.4		2.6	5262.3	9%	87%	0%	3%	0%	0%
§ 11	9763.1	0.9	34326.4	2838.8	403.5	63.5	47396.2	21%	0%	72%	6%	1%	0%
§ 11010011	111.5		2044.4	48.3		38.4	2242.6	5%	0%	91%	2%	0%	2%
§ 11010015	9651.6	0.9	32278.1	2790.2	403.5	25.0	45149.4	21%	0%	71%	6%	1%	0%
§ 11010090			3.9	0.2		0.0	4.1	0%	0%	95%	5%	0%	0%
§ 19	217.5	0.1	21085.6	1249.7	11.1	600.1	23164.1	1%	0%	91%	5%	0%	3%
§ 19012000	217.5	0.1	21085.6	1249.7	11.1	600.1	23164.1	1%	0%	91%	5%	0%	3%
§ 20	1.1		1405.4	87.1	0.3	1.5	1495.4	0%	0%	94%	6%	0%	0%
§ 20055900	1.1		1405.4	87.1	0.3	1.5	1495.4	0%	0%	94%	6%	0%	0%
§ 23	4.4		1708.3	1164.6	150.0	90.0	3117.5	0%	0%	55%	37%	5%	3%
§ 23099010	4.4		1708.3	1164.6	150.0	90.0	3117.5	0%	0%	55%	37%	5%	3%
§ 32	1359.8	563.6	46020.6	4534.9	8.9	557.9	53045.7	3%	1%	87%	9%	0%	1%
§ 32149000	1359.8	563.6	46020.6	4534.9	8.9	557.9	53045.7	3%	1%	87%	9%	0%	1%
§ 34	6327.5	44.3	127864.7	5970.4	119.4	6716.8	147043.1	4%	0%	87%	4%	0%	5%
§ 34022090	6327.5	44.3	127864.7	5970.4	119.4	6716.8	147043.1	4%	0%	87%	4%	0%	5%
§ 39	17234.2	991.2	38744.9	9426.4	17.0	5743.7	72157.4	24%	1%	54%	13%	0%	8%
§ 39232990	833.7	23.4	21105.6	4833.0	16.7	3184.9	29997.2	3%	0%	70%	16%	0%	11%
§ 39233010	14884.9	795.3	12468.6	4423.0		1278.3	33850.2	44%	2%	37%	13%	0%	4%
§ 39233090	1092.1	172.6	2453.4	104.7		537.2	4359.9	25%	4%	56%	2%	0%	12%
§ 39252000	423.6		2717.3	65.6	0.3	743.3	3950.1	11%	0%	69%	2%	0%	19%
§ 48	3728.0	52.5	33039.9	4622.2	115.1	9494.8	51052.5	7%	0%	65%	9%	0%	19%
§ 48181090	100.6		1919.4	373.5	3.2	4342.1	6738.8	1%	0%	28%	6%	0%	64%
§ 48194000	877.9	44.3	13817.2	3077.7	44.3	3930.1	21791.5	4%	0%	63%	14%	0%	18%
§ 48201010	23.4	0.0	574.5	35.3	4.9	44.1	682.2	3%	0%	84%	5%	1%	6%
§ 48201030	38.6	0.5	2167.8	52.8	0.5	419.0	2679.1	1%	0%	81%	2%	0%	16%
§ 48201050	1076.5	4.2	6559.4	235.9	0.4	403.7	8280.2	13%	0%	79%	3%	0%	5%
§ 48201090	35.7		1904.8	63.6	0.4	134.8	2139.3	2%	0%	89%	3%	0%	6%
§ 48211010	991.4	3.0	3114.8	46.0	61.5	112.0	4328.7	23%	0%	72%	1%	1%	3%
§ 48211090	583.9	0.4	2982.1	737.4		108.9	4412.7	13%	0%	68%	17%	0%	2%
§ 49	238.6	25.6	827.6	117.6		108.3	1317.6	18%	2%	63%	9%	0%	8%
§ 49090000	238.6	25.6	827.6	117.6		108.3	1317.6	18%	2%	63%	9%	0%	8%
§ 61	10582.5	693.4	77793.1	4659.5	26.3	44125.5	137880.2	8%	1%	56%	3%	0%	32%
§ 61044200	246.8	21.8	448.2	27.6		644.4	1388.7	18%	2%	32%	2%	0%	46%
§ 61044900	160.1	15.3	728.5	0.7		37.6	942.2	17%	2%	77%	0%	0%	4%
§ 61051000	762.2	60.5	5588.3	323.4	3.9	5640.1	12378.5	6%	0%	45%	3%	0%	46%
§ 61061000	81.0	93.5	404.9	37.4		903.8	1520.6	5%	6%	27%	2%	0%	59%
§ 61091000	7570.9	477.4	43187.4	2672.8	11.5	26004.1	79924.1	9%	1%	54%	3%	0%	33%
§ 61099020	368.1	9.5	9331.7	256.3		1958.7	11924.3	3%	0%	78%	2%	0%	16%
§ 61099090	1013.1	15.4	4503.8	399.5	10.6	1128.7	7071.0	14%	0%	64%	6%	0%	16%
§ 61112010			13.7	5.8	0.2	0.8	20.5	0%	0%	67%	28%	1%	4%
§ 61112090	380.3		13586.7	936.1		7807.3	22710.3	2%	0%	60%	4%	0%	34%
§ 62	580.0	76.4	7890.4	818.2	1.8	5136.0	14502.7	4%	1%	54%	6%	0%	35%
§ 62044200	461.1	55.6	6543.6	785.0	0.3	4903.0	12748.7	4%	0%	51%	6%	0%	38%
§ 62059010	7.8	0.1	44.1	23.2		54.9	130.1	6%	0%	34%	18%	0%	42%
§ 62059080	111.1	20.8	1302.7	9.9	1.5	178.0	1624.0	7%	1%	80%	1%	0%	11%
§ 73	72.9	185.9	20572.5	1012.9	8.5	588.4	22441.1	0%	1%	92%	5%	0%	3%
§ 73083000	72.9	185.9	20572.5	1012.9	8.5	588.4	22441.1	0%	1%	92%	5%	0%	3%
§ 76	13282.5	111.3	5551.0	1877.4	91.8	15067.8	35981.8	37%	0%	15%	5%	0%	42%
§ 76101000	13282.5	111.3	5551.0	1877.4	91.8	15067.8	35981.8	37%	0%	15%	5%	0%	42%
§ 94	1326.5	78.1	62049.0	9056.6	36.9	53589.8	126136.9	1%	0%	49%	7%	0%	42%
§ 94017900	320.5	2.2	3308.9	802.8	0.7	8650.1	13085.2	2%	0%	25%	6%	0%	66%
§ 94036090	1005.9	75.9	58740.2	8253.8	36.2	44939.7	113051.7	1%	0%	52%	7%	0%	40%
§ 96			623.4	314.1	0.2	96.8	1034.5	0%	0%	60%	30%	0%	9%
§ 96190019			623.4	314.1	0.2	96.8	1034.5	0%	0%	60%	30%	0%	9%
Total	74491.3	7753.4	480731.8	48405.1	990.7	143783.5	756155.7	9.9%	1.0%	63.6%	6.4%	0.1%	19.0%

Source: *Own processing of data provided by French authorities*
Notes: *Import data for Mayotte are unavailable for the 2011-2014 period. Data for 2015 and 2017 are unavailable for any OR.*
Legend: *FR=France**;** EU (except FR)= EU28 excluding France; OR=other French ORs; ESA=Eastern and Southern Africa countries that have stipulated an EPA with the EU; Other AFR= other African countries in the eastern and southern regions; RoW=rest of the world.*

Figure 4 – Share of imports of the 46 products in the list by origin, compared to all imports



Legend: *FR=France; EU (except FR)= EU28 excluding France; OR=other French ORs; ESA=Eastern and Southern Africa countries that have stipulated an EPA with the EU; Other AFR= other African countries in the eastern and southern regions; RoW=rest of the world.*

The results of the analysis show that French ORs import from ESA a relevant share of their external demand for the products included in the list of interest submitted by Mauritius and that, for many of these products, ESA is the primary origin of imports. With respect to the impact of the OdM, on the one hand the presence of the OdM seems not penalizing ESA's export for many of these products in relation to other regions, on the other hand specific causal effects cannot be inferred, as it is possible that imports value would be higher in the absence of OdM differentials.

- **IMPACT OF A POTENTIAL REMOVAL OF ODM DIFFERENTIAL FROM PRODUCTS IN THE LIST**

Having in mind the above caveats, the last step consists in outlining the possible impact of removing the OdM tax differential from the 46 products of the list submitted by Mauritius. As described, the limited available and the scope of the study allow only a general, rough estimation of the magnitude of this impact. The dynamics of international trade are very complex and would vary across product, country of origin, and region of destination. The estimates provided should therefore be considered as purely indicative.

For benchmarking, the table below shows the value of the French ORs internal production of the goods in the list submitted by Mauritius (at CN8 level), in 2016 (data for 2018 are largely incomplete). Data were available only for product subject to OdM differential, but since the subject of analysis concerns the removal of differentials the dataset can be considered fairly representative. A more serious limitation is that production data were often available at CN4 or CN6 level but not at the CN8 level required. To formulate an estimation we therefore assumed that the distribution of local production be similar to the distribution of imports for a given CN4 / CN6 category. This is purely an operational assumption whose validity cannot be verified, so the figures laid down in Table 21 are purely indicative.

As shown in the table, in 2016, the total internal production of the concerned goods in the two ORs was (possibly) worth € 58.9 million. In the same year, the value of imports from ESA for the same products was € 11.6 million.

Table 21 – French ORs' internal production (estimated) of the goods in the list submitted by Mauritius (EUR ,000; 2016)

CN	MYT	REU	TOT
§ 03028900		1125.6	1125.6
§ 06031900		11.4	11.4
§ 11010000		5201.6	5201.6
§ 16041419		5829.3	5829.3
§ 19012000		2266.4	2266.4
§ 20055900		241.5	241.5
§ 23099010		5705.5	5705.5
§ 32149000		68.4	68.4
§ 34022090		646.6	646.6
§ 39232990		1171.1	1171.1
§ 39233000		1460.3	1460.3
§ 39252000		747.4	747.4
§ 48181090		2550.0	2550.0
§ 48201000		1183.3	1183.3
§ 48211000		1211.3	1211.3
§ 49090000	195.4	90.8	286.2
§ 73083000	493.1	3069.4	3562.5
§ 76101000	2540.3	21446.8	23987.1
§ 94036090		1677.4	1677.4
TOT	**3228.8**	**55704.3**	**58933.0**

Source: *Own processing of data provided by French authorities.*
Notes: *For most of the products listed the internal production data were not available at the level of granularity required but at CN& or CN4 level. In these cases, the amount corresponding to the CN8 level sought was estimated pro quota on the basis of the distribution of imports belonging to the same category. For this reasons the figure provided have to be taken as purely indicative.*

For a rough simulation of the effects of a removal of OdM differential the results of the gravity model described in Annex C of the Study can be used. The model predicts trade flows between ORs and other countries - including the mainland - setting the imports value (defined at CN4 product category level) as the dependent variable and the OdM rates, as well as a series of variables including economic weight and distance of the trading partners, as the explanatory variables. As described in Annex C, various specifications were tested. In the simulation presented here, we follow the model focusing on French ORs only (i.e. not including Canary Islands and the AIEM regime) and we assume the OdM differential is removed by reducing the external rate to the level of the internal rate and not *vice versa*, as this seems more consistent with actual ORs policy on OdM differential.

According to these specifications a variation of one percentage point in OdM differential is associated with an opposite variation of imports value by 0.917 points. In the simulation laid down in the table below we assume this coefficient of variation applicable to the 46 products in the lists of Mauritius and invariant by origin. As the table show, the removal of the current OdM differential (9.3% on average) from the panel of products considered can be theoretically associated to an increase of imports value by 8.9%[472].

This would translate in a potential increase of imports from ESA countries of ca. € 1.1 million /year, and a parallel increase in the import of these products from other countries of ca. € 11.4 million. In other words, in the absence of evidence of differentiated effects across regions, ESA would benefit of less than one-tenth of the export opportunities created by the removal of OdM differential from the products in the list. Compared to the total ESA's export to French ORs (€ 73.6 million / year in the 2016-2018 period), the impact of removal would remain limited, and accounting for a +1.5% growth in the total exports.

[472] As the model is based on the logarithm of imports, the impact of tax reduction is not linear.

The estimates are evidently indicative, and the model does not clarify what would be the impact on local production, i.e. whether it would disappear (as the numbers *prima facie* suggests) or local players would find other ways to remain competitive.

Table 11 – Simulation of the effects of a removal of OdM differential from the panel of products in the list of Mauritius

	Imports from ESA (2018)	Imports from all other origins (2018)	Average OdM differential applied to the product panel	Coefficient of variation of imports associated to OdM differential	Theoretical increase of imports from removal of OdM differential
Baseline	€ 12.7 million	€ 128.6 million	9.3%	-0.917	+8.9%
Removal of OdM differential	+ € 1.1 million	+ € 11.4 million	0%		

Source: *Own processing, based on the estimates reported in the previous tables and the results of the own gravity model (see Annex C for specifications)*

E.4 – Summing up

French ORs largely depend on external delivery of goods. Mainland France and the EU are by far the major origin of external goods, accounting for ca. 80% of total value of imports in French ORs. A minor share of imports – typically ranging between 1.0% and 1.5% of the total - originates in French ORs' neighbouring countries and in particular CARIFORUM countries for Guadeloupe, Martinique and French Guiana, and ESA (Eastern and Southern Africa) countries for Réunion and Mayotte. The figure is smaller but of similar scale of the share of intra-regional trade on the total imports of CARIFORUM (2.7%) and ESA countries (3%).

Actually, for certain categories of product CARIFORUM and ESA countries are major trade partners of French ORs, for instance: (a) petroleum products, certain iron and steel products, certain machinery parts, construction materials (pebbles, gravel, sands), fertilisers, as well as food and beverage products like rice, certain fish products and beer imported from CARIFORUM; and (b) fertilisers, plastic bottles, certain aluminium articles, as well as certain fish, vegetables and beverages imported from ESA countries.

Some of the main products imported from CARIFORUM and ESA countries are subject to OdM differentials, but the quantitative impact appears limited. On average, the OdM differential actually levied on the main items imported from each partner country considered amounted to ca. 3.6% of import value in the case of CARIFORUM and 1.0% in the case of ESA countries.

CARIFORUM and some ESA countries submitted a request for removal of the OdM from a list of products whose trade is claimed being hampered by the tax. In both cases, analysis revealed that listed products are at the same time more taxed but also more imported from CARIFORUM/ESA than from other regions. More specifically, CARIFORUM/ESA's shares on the import of listed products amount to 10-11% (against some 1.0%-1.5% for all products), while the average impact of OdM amounts to 9%-10%. Actually, this last figure does not consider the OdM exemptions on inputs that are applied by French ORs, which cover a large number of the product listed. Precise data are not available but, in theory, up to one-third of the OdM levied on CARIFORUM's listed products and nearly half of the OdM levied on ESA's listed products can be subject to this exemption, if imported for intermediate consumption. So, on the one hand the presence of the OdM seems not penalising CARIFORUM/ESA's export of many of these products in relation to other regions, but on the other hand specific causal effects cannot be inferred, as it is possible that imports value be higher in the absence of the OdM.

The impact of an hypothetical removal of the OdM differential from listed products would lead to an increase of imports, which in some ORs may cause a major, if not complete, substitution of local production of the concerned goods. The benefits for CARIFORUM /

ESA countries would amount to an increase of export of ca. € 1 million / year in each region. More significant benefits (some € 11 million / year) would be reaped by other countries, which also export to French ORs, first and foremost by mainland exporters. Even considering the small size of CARIFORUM / ESA countries' economies, the expected impact on import flows would be limited, with an expected total growth comprised between 1% and 2%. These results have to be considered as indicative, given the substantial data gaps encountered.

The local production loss would likely be greater (because of substitution with imports from other countries as well) and it would unlikely be compensated by the opportunities of export created by CARIFORUM's Market Access Offer, since a tariff reduction is envisaged only for few products actually relevant for French ORs. In this sense, if the objective is to increase the intra-regional trade, the examined removal of the OdM does not result as an efficient mechanism.

ANNEX F - BIBLIOGRAPHY

F.1 Documentary sources – AIEM

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COUNCIL DECISION No 895/2011/EU of 19 December 2011 amending Decision 2002/546/EC as regards its period of application	Extending the period of validity of the Decision 2002
COUNCIL DECISION No 1413/2013/EU of 17 December 2013 amending Decision 2002/546/EC as regards its period of application	Extending the period of validity of the Decision 2002
COUNCIL DECISION No 377/2014/EU of 12 June 2014 on the AIEM tax applicable in the Canary Islands	Renewal of the EU tax policy for AIEM, with revisions in the product lists and the permitted tax differentials. Legal basis currently in force until end of 2020
EU State Aid Decisions	
State Aid NN 22/2008 – Spain – Arbitrio sobre las Importaciones y Entregas de Mercancías en las Islas Canarias	Commission decision on AIEM State aid – regretting the adoption of the regime in breach of Article 88(3) of the Treaty, and ex post confirming the compatibility of the regime with Article 87(3)(a) of the EC Treaty
Aide d'État SA.31950 (N 544/10) – ES – Prolongation du regime d'aides NN 22/08 AIEM	Commission 'no objection' decision on the prolongation of the 2008 State aid decision on AIEM until end 2013
State aid No. SA 37835. (2013/N) – Spain Prolongation and increase of the budget of the approved State aid scheme NN 22/2008 Arbitrio sobre las Importaciones y Entregas de Mercancías en las Islas Canarias (AIEM)	Commission decision on the prolongation of AIEM SA regime until June 2014 (in parallel with the extended EU tax policy), and allowing a budget increase of up to 20%. After that date, the AIEM State aid has ben prolonged under the GBER.
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LEY 19/1994, DE 6 DE JULIO, DE MODIFICACIÓN DEL RÉGIMEN ECONÓMICO Y FISCAL DE CANARIAS (BOE n.o 161, de 7 de julio de 1994)	Law 1994 modifying the special economic and fiscal regime of Canary Islands
Ley 4/2014, de 26 de junio, por la que se modifica la regulación del arbitrio sobre importaciones y entregas de mercancías en las Islas Canarias.	Law revising and updating of the AIEM regime after 2014
Ley 8/2018, de 5 de noviembre, por la que se modifica la Ley 19/1994, de 6 de julio, de modificación del Régimen Económico y Fiscal de Canarias	Law revising certain aspects of the AIEM regime
DICTAMEN 192/2014 – Consejo Consultivo de Canarias	Advice of the Consultative Council of Canary Islands on the renewal of AIEM after 2014, and possible revisions

Régimen Económico Y Fiscal De Canarias - Normativa Estatal	Unified legal text on the special economic and fiscal regime of Canary Islands (updated 2014)
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National Reports	
AIEM - Analysis of its impact on local economic activities. Interim report. December 2005	Periodical Report prepared by Spanish authorities on the implementation of AIEM (pursuant Article 2, Council Decision No 2002/546/EC)
AIEM - Analysis of its impact on local economic activities. Interim report underpinning the request for prolongation. June 2010	Periodical Report prepared by Spanish authorities on the implementation of AIEM and supporting the request for prolongation of the duration of the regime (pursuant Article 2, Council Decision No 377/2014/EU)
AIEM - Analysis of its impact on local economic activities. Interim report 2014-2016. September 2017	Periodical Report prepared by Spanish authorities on the implementation of AIEM (pursuant Article 2, Council Decision No 377/2014/EU)
Commission Reports	
COM(2019) 116 final REPORT FROM THE COMMISSION TO THE COUNCIL on the application of the special arrangements concerning the AIEM tax applicable in the Canary Islands	Commission report assessing the impact of the AIEM and their contribution to the promotion or maintenance of local economic activities (in accordance with monitoring and reporting obligations of Decision 377/2014/EU).

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COUNCIL DECISION 2004/162 of 10 February 2004 concerning the dock dues in the French overseas departments and extending the period of validity of Decision 89/688/EEC	Establishing the legal basis for the revised OdM regime. Introduced product lists and maximum permitted tax differentials. Differentials are further increased for firms with turnover below €550,000 to exempt them from OdM
COUNCIL DECISION 2008/439 of 9 June 2008 amending Decision 2004/162/EC concerning dock dues in the French overseas departments	Amendment of the list of supported products in Annex to Decision 2004
COUNCIL DECISION No 448/2011/EU of 19 July 2011 amending Decision 2004/162/EC as regards the products that may benefit from exemption from or a reduction in dock dues	Amendment of the list of supported products in Annex to Decision 2004
COUNCIL DECISION 2014/162/EU of 11 March 2014 amending Decision 2004/162/EC with regard to its implementation in Mayotte from 1 January 2014	Extending the scope of Decision 2004 to Mayotte
COUNCIL DECISION No 378/2014/EU of 12 June 2014 amending Decision 2004/162/EC concerning the dock dues in the French overseas departments, as regards its period of application	Extending the validity of Decision 2004 until the end of 2014.
COUNCIL DECISION No 940/2014/EU of 17 December 2014 concerning the dock dues in the French outermost regions	Renewal of the EU tax policy for OdM, with revisions in the product lists and the permitted tax differentials. Legal basis currently in force until end of 2020. Firms with turnover below € 300,000 are outside of the scope of application of the tax. The maximum differential allowed for activities carried out by enterprises with a turnover below 300,000 is 30%. Agricultural and fisheries products falling within *Specific Supply Arrangements (SSA)* regime under the POSEI programme shall be excluded from the application of OdM

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