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NOTE

From:	General Secretariat of the Council
To:	Delegations
Subject:	AOB for the meeting of the Competitiveness Council of 24 September 2026: Definition of Undertakings in Difficulty in the GBER revision - *Information from Netherlands, Austria, Belgium, the Czech Republic, France, Germany, Italy, Latvia, Luxemburg, Poland and Slovakia*

Request by the Netherlands, Austria, Belgium, the Czech Republic, France, Germany, Italy, Latvia, Luxembourg, Poland and Slovakia, for an AOB agenda item for the COMPET Council on 24 September 2026

Definition of Undertakings in Difficulty in the GBER revision

In the context of the ongoing revision of EU State aid frameworks, including the General Block Exemption Regulation (GBER) and the Rescue and Restructuring Guidelines (R&R Guidelines), the Netherlands initiated and coordinated a group of eight other Member States in calling for a revision of the definition of "Undertakings in Difficulty" (UID). **The second joint statement on Undertakings in Difficulty: Access to State Aid for Innovative Undertakings** was signed by Austria, Belgium, Czech Republic, Germany, Italy, Latvia, Luxembourg, Poland, Slovakia, and the Netherlands.

The main problem is that the current and the proposed UID definition has unintended negative consequences for companies such as SMEs, start-ups, scale-ups, especially deep tech companies, and social enterprises. Start-ups and scale-ups often formally qualify as “undertakings in difficulty”, despite having strong long-term economic and strategic potential, often also reflected by the ability to raise substantial investments including quasi-equity. Furthermore, the existing rules create unnecessary administrative complexity for both companies and implementing authorities. A revision of the proposed UID definition should contribute to strengthening Europe’s competitiveness, innovation, and strategic autonomy, and should be in line with EU policy objectives such as facilitating access to finance for our most innovative enterprises to grow.

While the European Commission’s proposed revisions to the GBER and the R&R Guidelines refer to this problem analysis and already introduce certain exemptions for innovative companies, the signatory Member States argue that these adjustments do not accurately reflect the problem analysis and still do not provide a sufficiently structural solution to support these undertakings. The second joint statement therefore calls once more for a fundamental revision of the UID concept within the EU State aid framework.

The signatory Member States express openness to work together with the European Commission to solve this issue, to ensure that the definition is fit for purpose and proportionate.