Long term scheme for BSE testing of cattle slaughtered for human consumption aged over 30 months and casualties aged 24-30 months slaughtered for human consumption; interim measure for BSE testing of 30-42 months Beef Assurance Scheme cattle and casualties aged 24-30 months slaughtered for human consumption

Sir,

The Commission wishes to inform the UK that, having examined the information supplied by your authorities on the aid referred to above, it has decided to raise no objections to the relevant aid as it is compatible with the EC Treaty.

*In reaching this decision, the Commission has relied on the following considerations:*

**I. PROCEDURES**

(1) In accordance with article 88 (3) of the EC Treaty, the United Kingdom Permanent Representation to the European Union notified the Commission of these measures by letter of 15 August 2003, registered on 18 August 2003. Further information was received by letter of 5 January 2004, registered on 8 January 2004, and by letter of 16 June 2005, registered on 17 June 2005.

The Right Hon Jack Straw MP
Secretary of State for Foreign and Commonwealth Affairs
King Charles Street
LONDON SW1A 2AH
United Kingdom
(2) As this scheme has been already applied, the dossiers were transferred onto the register of non-notified aid schemes under numbers NN 6/04 and NN 17/04.

II. DESCRIPTION

2.1. Title

(3) Long term scheme for BSE testing of cattle slaughtered for human consumption aged over 30 months and casualties aged 24-30 months slaughtered for human consumption;
   interim measure for BSE testing of 30-42 months Beef Assurance Scheme cattle and casualties aged 24-30 months slaughtered for human consumption

2.2. Budget

(4) Budgetary appropriations are as follows:

(5) BSE testing of cattle slaughtered for human consumption aged over 30 months and casualties aged 24-30 months slaughtered for human consumption:

<table>
<thead>
<tr>
<th>Year</th>
<th>Great Britain</th>
<th>Northern Ireland</th>
</tr>
</thead>
<tbody>
<tr>
<td>2003/2004</td>
<td>£ 2.503 million (£ 3.576 million)</td>
<td>£ 0.366 million (£ 0.523 million)</td>
</tr>
<tr>
<td>2004/2005</td>
<td>£ 11.016 million (£ 15.737 million)</td>
<td>£ 1.426 million (£ 2.037 million)</td>
</tr>
</tbody>
</table>

(6) For training of abattoir operators: £ 132,000/ € 188,571 in Great Britain and £1,000/ € 1,428 in Northern Ireland.

(7) Total: € 117,280,999
   (Great Britain € 102,496,571; Northern Ireland € 14,784,428)

2.3. Duration

(8) Until December 2008

2.4. Beneficiaries

(9) Long term scheme: The scheme will be open to any producer that slaughters any such animal for human consumption. It is not possible to predict exactly how many producers may be affected but, depending on the changes that are made to
the Over Thirty Month rule, between 360,000 and 765,000 animals may be affected. Training will be available to all operators of all fresh meat abattoirs that express an interest in receiving it (there are approximately 300 fresh meat abattoirs in Great Britain and 10 in Northern Ireland.)

(10) Interim measure: 45 Beef Assurance Scheme (BAS) farmers and the owners of approximately 1000 casualty animals in Great Britain and the owners of approximately 300 casualty cattle in Northern Ireland.

2.5. Measure

(11) The aim of the scheme is to monitor the prevalence and epidemiological spread of BSE within UK cattle destined for human consumption by testing all animals aged over 30 months destined for human consumption and 24-30 months casualties slaughtered for human consumption, to ensure that only animals aged over thirty months and casualties aged 24-30 months tested for BSE and found negative enter the food chain.

(12) Two different procedures will operate during the lifetime of this scheme. The first one will operate before the changes to the Over Thirty Month rule have been implemented. The second procedure will start from that moment.

(13) The UK is in a unique position in the Community as very few animals for human consumption require testing. The Over Thirty Month rule prevents the marketing, the exportation and importation of animals aged over thirty months for human consumption. Only casualty animals aged 24-30 slaughtered for human consumption and cattle from herds approved under the Beef Assurance Scheme (BAS) can be marketed in the UK thus require testing. Around 200 animals aged 30-40 months are marketed per year under the Beef Assurance Scheme and additionally there are approximately 1,300 casualty animals aged 24-30 months per year.

(14) The testing of these animals requires the removal of the head at the slaughterhouse, and the transportation of the head to a laboratory. The procedure is costly, but in UK there are not many competently trained and equipped abattoirs.

(15) The Over Thirty Month rule will be abolished from July 2005 on, so more animals will need to be tested, and the testing procedure will be simplified.

(16) In 2004 the Veterinary Laboratory Agency in Great Britain, and the Veterinary Service, Department of Agriculture and Rural Development in Northern Ireland offered training to all abattoirs that requested it. The eligible costs consist of provision of trainers, the trainers’ transport costs and the training materials.

2.5.1. Interim scheme for BSE tests of animals aged over thirty months and casualty animals aged 24-30 months
Only animals aged over thirty months from herds approved under the Beef Assurance Scheme (BAS) and casualty animals aged 24-30 months that are tested for BSE and found negative may enter the food chain in the UK.

Eligible costs for Great Britain are: training operators to take samples, sampling consumables, packing and transportation, EU approved rapid testing kits, undertaking EU approved rapid test. The cost is approximately £ 51 (€ 72) in the case of slaughterhouses with trained operators and £110 (€ 157) for slaughterhouses where the operators haven’t received the training yet.

Eligible costs for Northern Ireland are: training operators to take samples, provision of sampling consumables, packing and transportation of samples to the laboratory, EU approved rapid testing kits, testing of samples using EU approved rapid test. The cost is approximately £ 51 (72 EUR) in the case of slaughterhouses with trained operators and £110 (€ 157) for slaughterhouses where the operators haven’t received the training yet.

In Northern Ireland, from 1 October 2003, samples from casualty animals aged 24-30 months are being taken by abattoir operators and no longer transported to a central point for sampling and disposal. From 1 October 2003 on the cost to the Government of BSE testing has fallen below the € 40 limit in Northern Ireland. All other conditions remain unchanged.

2.5.2. Long term scheme for BSE texts

The Over Thirty Month rule will be abolished from July 2005 on, so more animals will need to be tested, and the testing procedure will be simplified.

Eligible costs for Great Britain and Northern Ireland are: EU approved rapid testing kits, undertaking EU approved rapid test.

The full laboratory costs are approximately £27/ €40. Other costs than the laboratory test including sampling consumables, packing, retention of the carcase and disposal as necessary will met by the operator.

2.6. Legal basis


National implementing provisions of Regulation 999/2001:

The TSE (England) Regulations 2002 (SI 2002/843)
The TSE (England) (Amendment) Regulations 2002 (SI 2002/1353)
The TSE (England) (Amendment) (No. 2) Regulations 2002 (SI 2002/2860)

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2.7. Aid intensity

(26) Up to 100%

2.8. Cumulation

(27) No cumulation with other aid schemes is possible.

III. ASSESSMENT

(28) In accordance with article 87(1) of the EC Treaty, any aid granted by a Member State or through state resources which distorts or threatens to distort competition by favouring certain undertakings or the production of certain goods, in so far as it affects trade between Member States, is to be deemed incompatible with the common market. It is clear that there is an important transborder trade in agricultural products.²

(29) The aid measure is financed by funds of the Department for Environment, Food and Rural Affairs (DEFRA). Therefore, it has to be qualified as being granted through State resources.

(30) It favours certain enterprises of the animal sector in the United Kingdom. These enterprises do not have to pay for TSE testing or training costs. Therefore their competitive position is improved compared to other farmers in the Community which do not receive the same type of aid. The scheme is therefore liable to distort competition and to affect trade between Member States. Therefore, Article 87(1) of the EC Treaty applies, which is subject to exemptions.

(31) In application of the derogation in Article 87(3) of the EC Treaty, the Commission may consider an aid compatible with the common market if it is found to facilitate the development of certain economic activities or of certain economic areas, where such aid does not adversely affect trading conditions to an extent contrary to the common interest.

(32) The UK authorities cannot rule out that aid might be granted to businesses other than SMEs. Thus, Commission Regulation (EC) No 1/2004 of 23 December 2003 on the application of Articles 87 and 88 of the EC Treaty to State aid to

² Trade in agricultural products of the United Kingdom with other Member States in 2002: imports €21 870 million, exports €10 568 million (source: Eurostat).
small and medium-sized enterprises active in the production, processing and marketing of agricultural products\(^3\) is not applicable.

(33) Therefore, the TSE tests, fallen stock and slaughterhouse waste guidelines (hereinafter: TSE Guidelines)\(^4\) and the Community Guidelines for State Aid in the Agriculture Sector\(^5\) (hereinafter: Agriculture Guidelines) apply for this aid scheme. In addition, the Commission Regulation (EC) No 1860/2004 on the application of Articles 87 and 88 of the EC Treaty to de minimis aid in the agriculture and fisheries sectors\(^6\) applies to BSE tests before 1 June 2004.

### 3.1. De minimis aid for BSE tests before 1 June 2004

(34) At the start, the interim measure did not comply with point 24 of the TSE Guidelines, as the cost is approximately £ 50/€ 72, and £ 110/€ 157 at abattoirs where operators have not been trained. The interim measure was for a transitional period and the UK complies with point 24 of the TSE Guidelines since June 2004 in Great Britain. In Northern Ireland, from 1 October 2003 samples from casualty animals aged 24-30 months are being taken by abattoir operators and the cost to Government of BSE testing has fallen below the € 40 limit.

(35) The UK authorities have assured that any aid granted before 1 June 2004 fulfils the criteria of Regulation No 1860/2004. Consequently, such aid is not state aid in the meaning of Article 87 (1) of the EC Treaty.

### 3.2. Long term scheme for BSE tests

(36) In accordance with point 23 of the TSE Guidelines, the Commission has decided to continue to approve aid of up to 100% of the costs for TSE tests meeting the principles of point 11.4 of the Agriculture Guidelines:

a) The measure must be part of an appropriate programme at Community, national or regional level for the prevention, control or eradication of the disease concerned (point 11.4.2);

b) the objective of the measure should be either preventive or compensatory, or a combination of the two (point 11.4.3);

c) the measure should be compatible both with the objectives and the specific provisions laid down in Community veterinary and plant health legislation (point 11.4.4);

d) the aid intensity should not exceed 100 % of the costs (point 11.4.5).

(37) In addition, the following conditions must be met under the TSE Guidelines:

e) From 1 January 2003, as far as compulsory BSE testing of bovine animals slaughtered for human consumption is concerned, support, including

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\(^3\) OJ L 1, 03.01.2004, p. 1.


\(^5\) OJ C 28, 1.2.2000, p. 2.

Community payments, may not be more than € 40 per test (see point 24 of the TSE Guidelines).

f) State aid towards the costs of TSE tests has to be paid to the operator where the samples for the tests have to be taken. If the aid is paid to test laboratories, it must be demonstrated that the full amount of State aid paid is passed on to the operator (point 25 of the TSE Guidelines).

(38) With regard to a): The measures serve to control BSE by testing slaughtered animals and fallen stock. Paying the costs should ensure that the measures are actually implemented. BSE is a notifiable animal disease. All the measures arise under, or are recommended by, Community law. The United Kingdom has submitted a programme on protecting against the risks of BSE.

(39) With regard to b) and c): Farmers are required under Community law to play a part in controlling BSE. The measure serves to compensate for the higher costs involved in the BSE tests and supplements Community programmes in this area.

(40) With regard to d): The maximum aid intensity will not exceed 100 %. There is no overcompensation for the costs of the test.

(41) With regard to e): There is compliance with the obligation of limiting the maximum amount of € 40 per bovine animal slaughtered for human consumption. From 1 June 2004 (Northern Ireland from 1 October 2003) on, the UK practise is in line with this amount.

(42) With regard to f): The meat hygiene fees arising were not levied on the livestock farmer. No aid was granted to test laboratories.

(43) The aid therefore meets the conditions of the TSE Guidelines.

3.3. Training aid

(44) Point 14 of the Agriculture Guidelines stipulates that the Commission takes a favourable view of certain ‘soft aids’, which help the agricultural sector with the development in the long-term viability, provided the conditions listed in point 14 are met.

(45) The UK authorities have emphasised that the training will be available to all those eligible in the area concerned based on objectively defined conditions, in line with the Agriculture Guidelines.

(46) According to point 14.3 of the Agriculture Guidelines, such aid may be granted at a rate of 100% of costs. The total amount of support granted should not exceed € 100,000 per beneficiary over any three-year period or, in the case of aid granted to undertakings falling within the scope of the Commission’s definition of small and medium-sized enterprises, 50% of eligible costs, whichever is greater. For the purpose of calculating the amount of aid, the beneficiary is regarded as

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the person receiving the services. The UK authorities will respect these conditions.

(47) The UK authorities undertake, that any contractors or all the services will be selected on market principles, in a non-discriminatory way, where necessary using tendering procedures in accordance with EC rules on public procurement. Aid for testing costs will be available to all operators that slaughter eligible animals. In GB the central laboratory used to undertake testing was chosen on the basis of a competitive tender. This decision does not prejudice any further analysis by the Commission as far as the respect of public procurement is concerned.

IV. DECISION

(48) The Commission notes with regret that the United Kingdom applied the measure in advance of notifying it.

(49) On the basis of the considerations above, the Commission decided to consider that the aid measures under the current aid scheme are compatible with the common market according to article 87(3) (c) of the EC Treaty.

(50) If this letter contains confidential information, which should not be disclosed to third parties, please inform the Commission within fifteen working days of receipt. If the Commission does not receive a reasoned request by that deadline, you will be deemed to agree to disclosure to third parties and to publication of the full text of this letter in the authentic language on Internet site http://europa.eu.int/comm/secretariat_general/sgb/state_aids/. Any such request should be sent by registered letter or fax to:

European Commission
Directorate-General for Agriculture
and Rural Development
Directorate H
Office: Loi 130 5/128
B-1049 Brussels
Fax No.: 00322 296 7672

Yours faithfully,

For the Commission

Mariann FISCHER BOEL
Member of the Commission