



EUROPEAN COMMISSION

Brussels, 11.1.2019

C(2019) 180 final

**Subject: State aid/Denmark
SA.51551 (2018/N)
Aid for extensification of contiguous areas in Natura 2000 sites**

Sir, /Madam,

The European Commission ("the Commission") wishes to inform Denmark that, having examined the information supplied by your authorities on the State aid scheme referred to above, it has decided not to raise any objections to the relevant scheme as it is compatible with the internal market pursuant to Article 107(3)(c) of the Treaty on the Functioning of the European Union ("TFEU").

The Commission has based its decision on the following considerations:

1. PROCEDURE

- (1) By letter of 9 July 2018, registered by the Commission on the same day, Denmark pre-notified the above mentioned aid scheme. The Commission sent a request for additional information to the Danish authorities on 19 July 2018, which the Danish authorities answered by letters of 21 August and of 31 October 2018, registered by the Commission on the same days.
- (2) By letter of 4 December 2018, registered by the Commission on the same day, Denmark notified, according to Article 108(3) TFEU, the above mentioned aid scheme.

Mr Anders Samuelsen
Minister for Foreign Affairs
Ministry of Foreign Affairs
Asiatisk Plads 2
DK -1448 Copenhagen

(Ce timbre porte sur l'ensemble des documents qui composent le dossier.*

2. DESCRIPTION

2.1. Title

- (3) Aid for extensification of contiguous areas in Natura 2000 sites.

2.2. Objective

- (4) The aim of the notified scheme is to create better conditions for nature conservation in Natura 2000 sites, by securing permanent extensification of agricultural areas that are currently being farmed intensively, and to link natural areas with high, or potentially high, conservation value.

2.3. Legal basis

- (5) The overall legal basis of the scheme is the Law on Nature Protection (*Lov om naturbeskyttelse*)
- (6) The scheme is implemented by the national order on grant of aid for contiguous areas in Natura 2000 sites (*Bekendtgørelse om tilskud til sammenhængende arealer i Natura 2000 områder*).

2.4. Duration

- (7) From the date of the Commission decision until 31 December 2020.

2.5. Budget

- (8) The overall budget is DKK 20 million, financed exclusively from the national budget.
- (9) The granting authority is the Danish Environmental Protection Agency (*Miljøstyrelsen*).

2.6. Beneficiaries

- (10) The beneficiaries are small and medium sized undertakings (SME) within the meaning of Annex I to Regulation (EU) No 702/2014¹.
- (11) Eligible for aid are undertakings active in primary agricultural production.
- (12) The total number of beneficiaries is estimated to between 51 and 100.
- (13) The Danish authorities confirmed that aid will not be granted to undertakings in difficulty, within the meaning of the definition stipulated in point 35(15) of the European Union Guidelines for State aid in the agricultural and forestry sectors and in rural areas 2014 to 2020² (the "Guidelines").

¹ Commission Regulation (EU) No 702/2014 of 25 June 2014 declaring certain categories of aid in the agricultural and forestry sectors and in rural areas compatible with the internal market in application of Articles 107 and 108 of the Treaty on the Functioning of the European Union, OJ L 193, 1.7.2014, p. 1.

² OJ C 204 of 1.7.2014, p. 1. Amended by the Notices published in OJ C 390, 24.11.2015, p. 4, OJ C 139, 20.4.2018, p. 3 and OJ C 403, 9.11.2018, p. 10.

- (14) Denmark committed to suspend the payment of the aid if the beneficiary still has at its disposal an earlier unlawful aid that was declared incompatible by a Commission Decision (either concerning an individual aid or an aid scheme), until that beneficiary has reimbursed or paid into a blocked account the total amount of the unlawful and incompatible aid including the corresponding recovery interest.

2.7. Aid instrument

- (15) Direct grant.

2.8. Description of the aid scheme

- (16) The aid scheme is set up in order to secure permanent extensification of agricultural land that is currently intensively farmed and that surrounds vulnerable natural areas in Natura 2000 sites and to link natural areas with high, or potentially high, conservation value.
- (17) Denmark's nature is fragmented and is generally under pressure due to significant amounts of nutrients deposited in nature through decades. For the designated habitats in Natura 2000 sites, the greatest threat to favourable conservation status is fragmentation and peripheral impact in the form of fertilizers and pesticides from the surrounding agricultural areas.
- (18) In order to remedy those weaknesses, the aid scheme should contribute to securing contiguous areas of extensively farmed land and coordinated management of semi-natural areas. Securing the extensification of land that surrounds natural areas will stop the negative impact of spray drift of fertiliser and pesticides. Moreover, the extensification will in itself lead to greater biodiversity on the land. The depletion of carbon stores in the soil will also end because working the soil will no longer be permitted. In the longer term, the natural hydrology will be restored on the land, as existing drainage systems in the soil are gradually broken down. Extensification will also reduce leaching of nutrients to fjords and inland watercourses, and will thereby have a positive impact on their ecological status in line with the objectives of the Water Framework Directive³.
- (19) Therefore, according to the analysis provided by the Danish authorities, the scheme will unequivocally promote environmental protection.
- (20) The measure is not part of the Danish Rural Development Programme as the Danish authorities wish to implement it purely by means of national funds in order to avoid the complex implementation mechanisms applicable to support financed by the European Agricultural Fund for Rural Development (EAFRD).

2.8.1. Relevant mandatory requirements

- (21) The Danish authorities confirmed that the aid is granted to farmers that undertake voluntary commitments going beyond the mandatory standards established pursuant to Annex II to Regulation (EU) No 1306/2013. The baseline for the

³ Directive 2000/60/EC of the European Parliament and of the Council of 23 October 2000 establishing a framework for Community action in the field of water policy (OJ L 327, 22.12.2000, p. 1).

commitments under the notified scheme are the statutory management requirements under Union law, as implemented in Danish law, and the standards for good agricultural and environmental condition of land established at national level. The requirements and standards relevant for the notified scheme are listed below. They are implemented in Denmark through various national acts and orders. The commitments go beyond them in the sense that they require a full renouncement from any practices necessary for soil production (see recital (22)), thereby permanently turning the areas concerned into extensive grazing or natural land. The national order implementing the aid scheme establishes that no aid may be granted if there is an obligation to perform under other legislation or registered easements.

Main issue	Statutory management requirements (SMRs) and standards for good agricultural condition of land (GAEC)	
Nitrates	SMR 1	Council Directive 91/676/EEC concerning the protection of waters against pollution caused by nitrates from agricultural sources ⁴
Protection of groundwater against pollution	GAEC 3	Prohibition of direct discharge into groundwater and measures to prevent indirect pollution through discharge on the ground and percolation through the soil of dangerous substances, as listed in the Water Framework Directive
Soil and carbon stock	GAEC 5	Minimum land management reflecting site specific conditions to limit erosion
	GAEC 6	Maintenance of soil organic matter level through appropriate practices
Biodiversity	SMR 2	Directive 2009/147/EC of the European Parliament and of the Council of 30 November 2009 on the conservation of wild birds ⁵
	SMR 3	Council Directive 92/43/EEC of 21 May 1992 on the conservation of natural habitats and of wild fauna and flora ⁶
Landscape	GAEC 7	Retention of landscape features
Plant protection products	SMR 10	Regulation (EC) No 1107/2009 of the European Parliament and of the Council of 21 October 2009 concerning the placing of plant protection products on the market ⁷

⁴ OJ L 375, 31.12.1991, p. 1

⁵ OJ L 20, 26.1.2010, p. 7

⁶ OJ L 206, 22.7.1992, p. 7

⁷ OJ L 309, 24.11.2009, p. 1

2.8.2. *Voluntary commitments*

- (22) The voluntary agri-environment-climate commitments comprise the following:
- a) Agricultural land must be set aside permanently to extensive grass or natural areas.
 - b) There must be no cultivation of soil in the areas.
 - c) The areas must not be supplied with manure other than manure left by grazing livestock.
 - d) The areas must not be supplied with soil improvers.
 - e) No plant protection products (pesticides) may be used in the areas.
 - f) The areas may not be used for the establishment of forests, energy forest or coppice forests.
 - g) The areas may not be used for crop cultivation, including seed production and the cultivation of energy crops, ornamental plants, ornamental greenery and Christmas trees. This does not prevent grass or other natural growth, for example bushes, on the areas from being used for grazing, pipe cutting, harvest of biomass or the like.
- (23) Each commitment area must be at least 1 ha and must be directly adjacent to one or more of the habitat types that are to be protected (i.e. pastures, alkaline fens and springs).
- (24) Extensive land use can continue on the areas. However, the restrictions on the supply of fertilizers, the use of pesticides and the banning of soil cultivation (i.e. no ploughing, harrowing or other forms of soil machining) mean that the areas will have the status of natural areas being grassed extensively. The Danish authorities explained that no production may take place on the areas but that extensive operation in the form of grazing, haymaking and removal of biomass is necessary to make the areas evolve into the desired habitats. The areas could otherwise lose the character of open-ended nature due to overgrowing, thereby making it difficult to achieve favourable conservation status. The Danish authorities confirmed that the extensive land use will have the character of non-commercial nature conservation.
- (25) The Danish Environmental Protection Agency will provide written guidance on how to comply with the commitments (“Vejledning om tilskud til sammenhængende arealer i Natura 2000 områder”). The Danish authorities consider that specific training is unnecessary, because the commitments mainly consist of abstaining from intensive farming.

2.8.3. *Commitment period*

- (26) The commitments are permanent and cannot be changed, not even following change of ownership, since the purpose of the grant scheme is permanent extensification.

- (27) Over time, natural habitats can spread and develop on the extensive areas. The Danish authorities explained that this development is time-consuming and that a shorter commitment period entails the risk that vulnerable habitat designations will again become fragmented and exposed to peripheral effects making it difficult to maintain the favourable conservation status.
- (28) The easements resulting from the commitments will be registered in the Danish national cadastre, which is the formal way to register rights and obligations associated with a particular property. For each property there is an electronic document containing a complete representation of the easements listed on the property. When selling the property, the seller must enclose an electronic bill of interest with reference to those easements. A potential buyer will therefore be aware of the easements linked the property and a future owner will be legally bound by them.

Eligible costs

- (29) The aid compensates for the farmer's income loss caused by the commitment to renounce from the commercial use of land in the sense that the areas concerned cannot be cultivated but must be permanently left as extensive grazing or natural land.
- (30) In addition to the compensation for income forgone, aid will be granted to compensate for transaction costs relating to consultancy services needed for entering into the commitments.

Calculation of aid amounts

- (31) The grant is calculated as a compensation corresponding to 20 years loss of income. The calculation first establishes the annual income loss and those amounts are subsequently re-calculated into a one-off payment. The Danish authorities consider a one-off payment to be the most appropriate form of compensation for the loss of the right to cultivate land and have explained that this is a well-established form of payment for permanent changes to land use in Denmark.
- (32) The calculation of aid amounts is performed by experts in the Department of Food and Resource economics of the University of Copenhagen (*Institut for Fødevarer og Ressourceøkonomi, IFRO*), based on own data and figures published by the Danish research body SEGES⁸.
- (33) The aid amounts are calculated on the basis of standard assumptions of income foregone, based on what has been cultivated on the area in previous years, taking into account potential yields and turnover, contribution margin, production expenses, etc.. The cost estimations do not include value added tax.
- (34) The estimated earnings and costs relate to two types of land: arable land and nature areas. For arable land, the estimated income is based on contribution margins including for instance the sale of grain and other crops, from which the

⁸ Farm online. <https://farmtalonline.dlbr.dk/Navigation/NavigationTree.aspx>

direct variable costs (seed grain, fertiliser, etc.) and costs for machinery, and labour are deducted. For grassland, the income is estimated on the basis of various possible types of grasslands and yield levels, from which the costs for fertilisers, machinery and labour are deducted. As regards both types of land, the calculation of contribution margin distinguishes between farms that obtain free animal fertilisers and farms that must purchase commercial fertilisers.

- (35) The extensive activities required to prevent overgrowing (see recital (24)) are not expected to generate any financial profits, according to IFRO's calculation.
- (36) On the basis of those estimations, IFRO has calculated an annual amount of income loss per hectare, which for arable land is DKK 3 200, corresponding to approx. EUR 430, and which for grassland is DKK 1 500, corresponding to approx. EUR 200.
- (37) The calculation of the one-off compensation is based on an annuity over 20 years. IFRO's calculation method discounts the value of future income loss to the value of today and the resulting amount is thus lower than the amounts of annual loss multiplied by 20 years. The total discounted aid amount will be approx. EUR 7 333 per hectare for arable land and approx. EUR 3 733 per hectare for permanent grassland. The corresponding annual aid amounts are approx. EUR 370 per hectare for arable land and EUR 190 per hectare for permanent grassland.
- (38) The amount of aid for transaction costs is calculated per hectare based on estimations of average costs for advisory services at the time of the application as well as in connection with the commitment. The Danish authorities confirmed that the aid amount does not exceed the value of 20 % of the premium paid for the income forgone resulting from the commitment.

2.8.4. Aid instrument

- (39) The Danish authorities consider a direct grant to be the most appropriate aid instrument to encourage extensification of agricultural land that is currently farmed intensively. Other aid instruments are less apt to create incentives for farmers to abstain from intensive land cultivation.

2.8.5. Aid application

- (40) The Danish authorities confirmed that aid will be granted only on the basis of a written application that includes the applicant's name and the size of the undertaking, a description of the project or activity, including its location and start and end dates, the amount of aid needed to carry it out and the eligible costs. No aid will be granted for activities that are started before the application is submitted.

2.9. Other commitments

- (41) The national order excludes from the notified scheme any action that may receive aid under other legislation for the same eligible costs.
- (42) The Danish authorities undertook to adjust the agro-environment-climate commitments subject to the notified State aid in case of amendments to the relevant mandatory standards.

- (43) Denmark has informed the Commission that, in order to comply with the transparency requirement, the publication of the aid scheme and the individual aid awards above EUR 60 000 will be done through the following web page: <https://webgate.ec.europa.eu/competition/transparency/public/search/home/>.

3. ASSESSMENT

3.1. Existence of aid - Application of Article 107(1) TFEU

- (44) According to Article 107(1) TFEU, "[s]ave as otherwise provided in the Treaties, any aid granted by a Member State or through State resources in any form whatsoever which distorts or threatens to distort competition by favouring certain undertakings or the production of certain goods shall, in so far as it affects trade between Member States, be incompatible with the internal market".
- (45) The qualification of a measure as aid within the meaning of this provision therefore requires the following cumulative conditions to be met: (i) the measure must be imputable to the State and financed through State resources; (ii) it must confer an advantage on its recipient; (iii) that advantage must be selective; and (iv) the measure must distort or threaten to distort competition and affect trade between Member States.
- (46) The scheme in question is imputable to the State and financed through State resources (recitals (6) and (8)). The notified scheme is selective because other undertakings in a comparable legal and factual situation, in the light of the objective pursued by the scheme, within the agricultural sector or other sectors, are not eligible for aid and thus will not receive the same advantage. The notified scheme therefore gives only certain undertakings (recital (11)) a selective economic advantage, by strengthening their competitive position on the market. According to the case law of the Court of Justice, the mere fact that the competitive position of an undertaking is strengthened compared to other competing undertakings, by giving it an economic benefit which it would not otherwise have received in the normal course of its business, points to a possible distortion of competition⁹.
- (47) Pursuant to the case law of the Court of Justice, aid to an undertaking appears to affect trade between Member States where that undertaking operates in a market open to intra-EU trade¹⁰. The beneficiaries of aid operate in the agricultural sector where intra-EU trade takes place¹¹. The sector concerned is open to competition at EU level and therefore sensitive to any measure in favour of the production in one or more Member States. Therefore, the present scheme is liable to distort competition and to affect trade between Member States.

⁹ Judgment of the Court of 17 September 1980 in Case 730/79 *Philip Morris Holland BV v Commission of the European Communities*, ECLI:EU:C:1980:209.

¹⁰ See in particular the judgment of the Court of 13 July 1988 in Case 102/87 *French Republic v Commission of the European Communities*, ECLI:EU:C:1988:391.

¹¹ Statistical data show that, in 2017, Danish trade with all agricultural products with EU countries amounted to EUR 9 688 million for exports and EUR 8 461.4 million for imports. Source: European Commission, Agriculture in the European Union and the Member States – Statistical factsheets, Denmark – May 2018 Available at: https://ec.europa.eu/agriculture/sites/agriculture/files/statistics/factsheets/pdf/dk_en.pdf

- (48) In light of the above, the conditions of Article 107(1) TFEU are fulfilled. It can therefore be concluded that the proposed scheme constitutes State aid within the meaning of that Article. The aid may only be considered compatible with the internal market if it can benefit from one of the derogations provided for in the TFEU.

3.2. Lawfulness of the aid – Application of Article 108(3) TFEU

- (49) The aid scheme was notified to the Commission on 4 December 2018. It has not been implemented yet. Therefore, Denmark has complied with its obligation under Article 108(3) TFEU.

3.3. Compatibility of the aid

3.3.1. Application of Article 107(3)(c) TFEU

- (50) Under Article 107(3)(c) TFEU, an aid may be considered compatible with the internal 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.
- (51) For this derogation to be applicable, the aid must comply with the relevant Union State aid rules.

3.3.2. Application of the Guidelines

- (52) As regards the notified aid scheme, Part II, Chapter 1, Section 1.1.5.1 of the Guidelines is applicable. Thus, the Commission will examine below whether the notified scheme complies with the common assessment principles of the Guidelines as well as the specific conditions in Part II, Section 1.1.5.1.

3.3.2.1. Common Assessment Principles

Contribution to a common objective

- (53) As described in recitals (4), (16) and (18), the notified aid scheme contributes to the common objective of nature conservation and biodiversity, in line with the provisions of points (43) and (44) of the Guidelines. The measure is not part of the Danish Rural Development Programme (recital (20)). However, it contributes to an objective of the rural development policy, as reflected in Article 28 of Regulation (EU) 1305/2013¹². The provisions of point (47) of the Guidelines are thus complied with.

Environmental objectives

- (54) As reflected in recitals (18) and (19) and, given its objective (recital (16)), the scheme is expected to have unequivocally positive effects on the environment. The provisions of point (52) of the Guidelines are thus complied with.

¹² Regulation (EU) No 1305/2013 of the European Parliament and of the Council of 17 December 2013 on support for rural development by the European Agricultural Fund for Rural Development (EAFRD) and repealing Council Regulation (EC) No 1698/2005, OJ L 347, 20.12.2013, p. 487.

Need for State intervention

- (55) As provided for in point (55) of the Guidelines, the Commission considers that the market is not delivering the expected objectives without State intervention concerning the aid measures fulfilling the specific conditions laid down in Part II of the Guidelines. The notified aid scheme fulfils the specific conditions laid down in Part II, Section 1.1.5.1 of the Guidelines, as described in recitals (65) to (74) below. The provisions of point (55) of the Guidelines are thus complied with.

Appropriateness of aid

- (56) As provided for in point (57) of the Guidelines, the Commission considers that aid granted in the agricultural sector, which fulfils the specific conditions laid down in the relevant Sections of Part II of the Guidelines, is an appropriate policy instrument. As the aid scheme fulfils the specific conditions laid down in Part II, Chapter 1.1.5.1 of the Guidelines, as described in recitals (65) to (74) below, point (57) of the Guidelines is complied with.
- (57) In order to encourage the extensification of intensively farmed land, a direct grant per hectare was chosen by Denmark as the most appropriate aid instrument (recital (39)). That aid instrument is appropriate for a premium aimed at compensating income loss resulting from the commitments undertaken in accordance with the specific conditions laid down in Part II, Section 1.1.5.1 of the Guidelines. Point (60) of the Guidelines is thus complied with.

Incentive effect and need for aid

- (58) The aid will be granted only for commitments that start after the submission of the application form which includes the information required by point (71) of the Guidelines (recital (40)). Therefore, the incentive effect requirements under points (70) and (71) of the Guidelines are complied with.

Proportionality of the aid and cumulation

- (59) As provided for in points (82) and (84) of the Guidelines, the Commission considers aid to be proportionate if the aid amount does not exceed the eligible costs, as correctly calculated, and respects the maximum aid ceilings or maximum aid amounts set out in Part II of the Guidelines. As shown in recitals (71) to (73) below, the notified scheme fulfils the specific conditions regarding eligible costs and maximum aid amounts laid down in Part II, Chapter 1.1.5.1 of the Guidelines. Points (82) and (84) of the Guidelines are thus complied with.
- (60) No aid is granted for value added tax (recital 33). Point (86) of the Guidelines is thus complied with.
- (61) Pursuant to point (93) of the Guidelines, Member States may fix the aid amount for the measures referred to in Section 1.1.5 of Part II of the Guidelines on the basis of standard assumptions of additional costs and income foregone. Member States should ensure that the calculations and the corresponding aid (a) contain only elements that are verifiable; (b) are based on figures established by appropriate expertise; (c) indicate clearly the source of the figures used; (d) are differentiated to take account of regional or local site conditions and actual land use, where applicable; and (e) do not contain elements linked to investments

costs. As shown in recital (32), criteria (a), (b) and (c) are fulfilled since the calculations were carried out by experts in the IFRO department of the University of Copenhagen, on the bases of own verifiable data and statistics published by a recognised research body, and since the source of the figures used was clearly indicated in the notification. Criterion (d) is fulfilled since IFRO's calculations take into account the various types of land use (recital (34)). Criterion (e) is fulfilled since the aid compensates only for income loss resulting from the renouncement of commercial use of land and transaction costs and do not involve any element linked to investments (recitals (33) and (38)). The provisions of point (93) of the Guidelines are thus complied with.

Cumulation

- (62) Aid granted under the notified scheme may not be cumulated with any other aid for the same eligible costs (recital (41)). The provisions of the Guidelines are thus complied with.

Avoidance of undue negative effects on competition and trade

- (63) As provided for in point (113) of the Guidelines, the Commission considers that where an aid fulfils the conditions and does not exceed the maximum aid intensities laid down in the applicable Sections of Part II of the Guidelines, the negative effect on competition and trade is limited to the minimum. The aid scheme fulfils the conditions laid down in Part II, in Section 1.1.5.1. of the Guidelines, as described in recitals (65) to (74) below, and therefore point (113) of the Guidelines is complied with.

Transparency

- (64) The transparency requirement is complied with as shown in recital (43).

3.3.2.2. Specific assessment according to the category of aid – Aid for agri-environment-climate commitments

- (65) Pursuant to point (208) of the Guidelines, aid for agri-environment-climate commitments applies to undertakings which undertake on a voluntary basis one or more agri-environment-climate commitments. Those conditions are fulfilled as shown in recitals (21) and (22).
- (66) In line with point (209) of the Guidelines, the scheme aims at the preservation as well as the promotion of necessary changes to agricultural practices that make a positive contribution to the environment and the climate (recital (18)).
- (67) Pursuant to point (210) of the Guidelines, the aid must cover only voluntary commitments that go beyond the relevant mandatory standards established pursuant to Chapter I of Title VI of Regulation (EU) No 1306/2013¹³, the relevant criteria and minimum activities established pursuant to points (c)(ii) and (c)(iii) of

¹³ Regulation (EU) No 1306/2013 of the European Parliament and of the Council of 17 December 2013 on the financing, management and monitoring of the common agricultural policy and repealing Council Regulations (EEC) No 352/78, (EC) No 165/94, (EC) No 2799/98, (EC) No 814/2000, (EC) No 1290/2005 and (EC) No 485/2008 (OJ L 347, 20.12.2013, p. 549)

Article 4(1) of Regulation (EU) No 1307/2013¹⁴, and relevant minimum requirements for fertiliser and plant protection products use as well as other relevant mandatory requirements established by national law. The Danish authorities have identified and described the mandatory standards and requirements which are relevant for the notified scheme (recital (21)). Point (210) of the Guidelines is thus complied with.

- (68) The Danish authorities have explained that the Danish Environmental Protection Agency will provide written guidance to undertakings on how to comply with the voluntary commitments (recital (25)). The Commission considers, on that basis, that point (211) of the Guidelines is complied with.
- (69) Pursuant to point (212) of the Guidelines, commitments must be undertaken for a period of five to seven years. However, where necessary and duly justified, Member States may determine a longer period for particular types of commitments, where this is necessary to achieve or maintain the environmental benefits sought. As the Danish authorities have demonstrated the need for a longer period (recitals (26) to (28)), point (212) of the Guidelines is complied with.
- (70) Point (213) of the Guidelines is not relevant, given that the easements resulting from the commitments will be registered in the Danish national cadastre and will thus become binding also for future land-owners (recital (28))
- (71) The eligible cost under the scheme is compensation for income forgone (recital (29)), which is in conformity with point (221) of the Guidelines, but the form of payment deviates from the general rule according to which the aid must be granted annually. However, point (222) of the Guidelines allows for a one-off payment in duly justified cases, for commitments to renounce the commercial use of areas in order to achieve environmental conservation. The Danish authorities have demonstrated that these conditions are fulfilled (recitals (22) and (24)) and the Commission therefore considers that point (222) of the Guidelines is applicable.
- (72) According to point (223) of the Guidelines, the aid may also cover transaction costs to a value up to 20 % of the premium paid for the agri-environment-climate commitment. As the transaction costs under the notified scheme are eligible and the aid to cover them does not exceed 20 % of the premium for the commitment (recital (38)), the conditions set out in point (223) are fulfilled.
- (73) According to point (228) of the Guidelines, the aid must be limited to the following maximum amounts: EUR 600 per hectare per year for annual crops; EUR 900 per hectare per year for specialised perennial crops and EUR 450 per hectare per year for other land uses. It follows from recital (36) that the annual aid amounts on the basis of which the one-off payment is calculated do not exceed the stipulated maximum aid amounts. Moreover, the annual aid amounts

¹⁴ Regulation (EU) No 1307/2013 of the European Parliament and of the Council of 17 December 2013 establishing rules for direct payments to farmers under support schemes within the framework of the common agricultural policy and repealing Council Regulation (EC) No 637/2008 and Council Regulation (EC) No 73/2009 (OJ L 347, 20.12.2013, p. 608)

corresponding to the discounted total aid amount are even lower (recital (37). Point (228) of the Guidelines is thus complied with.

- (74) In the light of the above, the Commission considers that the specific conditions laid down in Part II, Section 1.1.5.1 of the Guidelines are fulfilled.

3.4. Other commitments

- (75) The Commission takes note that aid will not be granted to undertakings in difficulty (recital (13)), in line with point (26) of the Guidelines.
- (76) The Commission takes note that the Denmark will suspend the payment of the notified aid if the beneficiary still has at its disposal an earlier unlawful aid that was declared incompatible by a Commission decision (recital (14)), in line with point (27) of the Guidelines.

4. CONCLUSION

The Commission has accordingly decided not to raise objections to the notified aid scheme on the grounds that it is compatible with the internal market pursuant to Article 107(3)(c) TFEU.

If any parts of this letter are covered by the obligation of professional secrecy according to the Commission communication on professional secrecy in State aid decisions¹⁵ and should not be published, please inform the Commission within fifteen working days of notification of this letter. If the Commission does not receive a reasoned request by that deadline Denmark will be deemed to agree to the publication of the full text of this letter. If Denmark wishes certain information to be covered by the obligation of professional secrecy please indicate the parts and provide a justification in respect of each part for which non-disclosure is requested.

Your request should be sent electronically via the secured e-mail system Public Key Infrastructure (PKI) in accordance with Article 3(3) of Commission Regulation (EC) No 794/2004¹⁶, to the following address: agri-state-aids-notifications@ec.europa.eu.

For the Commission

Phil HOGAN
Member of the Commission

¹⁵ Commission communication C(2003) 4582 of 1 December 2003 on professional secrecy in State aid decisions, OJ C 297, 9.12.2003, p. 6.

¹⁶ Commission Regulation (EC) No 794/2004 of 21 April 2004 implementing Council Regulation (EU) 2015/1589 laying down detailed rules for the application of Article 108 of the Treaty on the Functioning of the European Union (OJ L 140, 30.4.2004, p. 1).