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European Union Guidelines

for State aid in the agriculture and forestry sector and in rural areas 2014 to 2020
- DRAFT -

(Text with EEA relevance)

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I. COMMON PROVISIONS

1. INTRODUCTION

(1) Article 107(1) of the Treaty on the Functioning of the European Union (hereafter "the Treaty") stipulates that, "(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.".

(2) However, despite that general prohibition State aid may be necessary to address market failures so as to ensure a well-functioning and equitable economy. Therefore, the Treaty leaves room for the granting of State aid in respect of several policy objectives.

(3) With particular relevance to the agriculture sector and forestry, firstly in accordance with Articles 107(2)(b) Treaty, aid to make good the damage caused by natural disasters or exceptional occurrences shall be compatible with the internal market. Secondly, on the basis of Articles 107(3)(c) of the Treaty, the Commission may consider compatible with the internal market State aid to promote the economic development of the agriculture and forestry sector and in rural areas, provided that it does not adversely affect trading conditions.

(4) In these Guidelines, the Commission sets out the conditions and criteria under which aid for the agriculture and forestry sector and in rural areas will be considered to be compatible with the internal market and establishes the criteria for identifying the areas that fulfil the conditions of Article 107(3)(c) of the Treaty. As regards aid granted pursuant to Article 107(2)(b), the Commission hereby sets out conditions which will be verified in order to determine whether a measure constituting aid to make good the damage caused by natural disasters or exceptional occurrences is indeed covered by the exception.

(5) State aid to promote the economic development of the agriculture and forestry sector and in rural areas is enshrined in the broader Common agricultural policy (CAP)[1]. Within the CAP, the Union provides financial support to the agriculture and forestry

[1] For more details on the CAP, please refer to points (6), (7) and (11) of these Guidelines.

sector and in rural areas. Because the economic effects of aid do not change depending on whether it is (even partly) financed by the Union, or whether it is financed by a Member State alone, the Commission considers that there should in principle be consistency and coherence between its policy in respect of the control of State aid, and the support which is granted under the Union's own common agricultural policy. Consequently, the use of State aid can be justified only if it is in line with the objectives of this policy and, in particular, the underlying objectives of the CAP reform towards 2020. Therefore, when the Commission applies and interprets the rules of these Guidelines for specific aid schemes, it takes into regard the CAP and Rural development rules and policies.

(6) The following European instruments are of particular relevance for state aid considerations related to CAP:

- Regulation (EU) No 1308/2013 of the European Parliament and of the Council of 17 December 2013 establishing a common organisation of the markets in agricultural products and repealing Council Regulations **(**EEC) No 922/72, (EEC) No 234/79, (EC) No 1037/2001 and (EC) No 1234/2007 [sCMO Regulation][2] establishing a common organisation of the markets in agricultural products, which establishes common rules for agricultural markets. In particular, these rules concern public intervention in the markets, quota and aid schemes, marketing and production standards, and trade with third countries

- 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 [DP Regulation][3] establishing rules for direct payments to farmers under support schemes within the framework of the common agricultural policy, (DP Regulation), which governs direct payments granted directly to farmers in the form of a basic income support under certain support schemes.

- 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

[2] OJ L 347, 20.12.2013, p. 671.
[3] OJ L 347, 20.12.2013, p. 608.

repealing Council Regulation (EC) No 1698/2005 [RD Regulation],[4], which aims at promoting sustainable rural development throughout the Union in a complementary manner to the other instruments of the CAP (direct payments and market measures). It contributes to the development of a more territorially and environmentally balanced, climate-friendly and resilient, competitive and innovative Union agricultural sector and to the development of rural territories.

- 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 (Regulation 1306/2013)[5]

- Regulation (EU) No 1303/2013 of the European Parliament and of the Council of 17 December 2013 laying down common provisions on the European Regional Development Fund, the European Social Fund, the Cohesion Fund, the European Agricultural Fund for Rural Development and the European Maritime and Fisheries Fund and laying down general provisions on the European Regional Development Fund, the European Social Fund, the Cohesion Fund and the European Maritime and Fisheries Fund and repealing Council Regulation (EC) No 1083/2006[6] ("CPR")

- Council Regulation (EU) No 3/2008 of 17 December 2007 on information provision and promotion measures for agricultural products on the internal market and in third countries[7], or any replacing regulation, which governs information and promotion measures for agricultural products and their method of production as well as for food products based on agricultural products carried out on the internal market or in third countries [Promotion Regulation].

- Regulation of the European Parliament and of the Council (EU) No 228/2013 laying down specific measures for agriculture in the outermost regions of the

[4] OJ L 347, 20.12.2013, p. 487.
[5] OJ L 347, 20.12.2013, p. 549.
[6] OJ L 347, 20.12.2013, p. 320.
[7] OJ L 3, 5.1.2008, p. 1.

Union and repealing Council Regulation (EC) No 247/2006[8] [POSEI Regulation] and Regulation (EU) No 229/2013 of the European Parliament and of the Council of 13 March 2013 laying down specific measures for agriculture in favour of the smaller Aegean islands and repealing Council Regulation (EC) No 1405/2006[9] [smaller Aegean islands Regulation]. Under these regulations, support programmes are designed to take account of the geographical and economic handicaps of those regions. The EU´s outermost regions benefit from the POSEI ("Programme d'Options Spécifiques à l'Éloignement et l'Insularité") arrangements.

(7) The CAP is based on two pillars: the first pillar consists of instruments related to the functioning of agricultural markets and the food supply chain (sCMO Regulation) and to direct payments (DP Regulation) conditional upon statutory management requirements, good agricultural and environmental conditions. Combined, these measures provide a fundamental layer of support to EU farmers, creating the basis for keeping sustainable farming in place throughout the EU. First pillar measures are mandatory for Member States and, with very few exceptions, there is no co-financing. This ensures the application of a common policy within the internal market. The second pillar of the CAP is the Rural Development policy which aims at improving the competitiveness of agriculture, the sustainable management of natural resources and climate action and a balanced territorial development of rural areas. Rural development measures are largely voluntary, contractual in nature, co-financed and delivered within a strategic framework and realised via rural development programmes meeting the Union's priorities for rural development at national, regional and local level. According to Article 39(1) of the Treaty, the CAP shall have as its objectives to increase agricultural productivity, to ensure a fair standard of living for the agricultural community, to stabilize the markets and to assure the availability of supplies reaching the consumer at reasonable prices. According to Article 39(2) of the Treaty, in working out the CAP and the special methods for its application, account has to be taken of the particular nature of agricultural activity, which results from the social structure of agriculture and from structural and natural disparities between the various agricultural regions, the need to effect the appropriate adjustments by degrees and the fact that agriculture constitutes a sector closely linked with the economy as a whole.

(8) Agriculture has to adapt to new realities and to face challenges in terms of food

[8] OJ L 78, 20.3.2013, p. 23.
[9] OJ L 78, 20.3.2013, p. 41.

security, environment, climate change and keeping the rural economy alive. In order to address these major challenges, in the Communication on "The CAP towards 2020"[10] the Commission has outlined the following objectives for the future CAP: 1) viable food production; 2) sustainable management of natural resources and climate action; and 3) balanced territorial development.

(9) As an integral part of the CAP, the future rural development policy shall contribute to achieving the following objectives: (1) fostering the competitiveness of agriculture; (2) ensuring the sustainable management of natural resources, and climate action and (3) achieving a balanced territorial development of rural economies and communities including the creation and maintenance of employment. The achievement of these objectives of rural development shall be pursued through the following six Union priorities for rural development: (1) fostering knowledge transfer and innovation in agriculture, forestry, and rural areas; (2) enhancing farm viability and competitiveness of all types of agriculture in all regions and promoting innovative farm technologies and sustainable management of forests; (3) promoting food chain organisation, including processing and marketing of agricultural products, animal welfare and risk management in agriculture; (4) restoring, preserving and enhancing ecosystems related to agriculture and forestry; (5) promoting resource efficiency and supporting the shift towards a low carbon and climate resilient economy in agriculture, food and forestry sectors; and (6) promoting social inclusion poverty reduction and economic development in rural areas.[11]

(10) The objectives for the future CAP also fall within the scope of the objectives of the Europe 2020 strategy which sets targets in areas such as competitiveness, climate, energy and biodiversity In line with that strategy and its flagship initiative for a resource-efficient Europe[12], those broad objectives of rural development support for 2014-2020 are given more detailed expression through the following EU-wide priorities: fostering knowledge transfer and innovation in agriculture, forestry and rural areas; enhancing competitiveness of all types of agriculture and enhancing farm viability; promoting food chain organization and risk management in agriculture; restoring, preserving and enhancing ecosystems dependent on agriculture and forestry.

10 Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions. The CAP towards 2020; Meeting the food, natural resources and territorial challenges of the future. (Brussels, 18 November 2010, COM(2010) 672 final)

11 As defined in Articles 4 and 5 RD Regulation.

12 COM(2011) 21 of 26.1.2011.

(11) State aid policy in the agriculture and forestry sector and rural areas also has to be embedded into the overall State aid modernisation (SAM) initiative of the Commission. In its Communication on State aid modernisation[13], the Commission announced three objectives to be pursued through the modernisation of State aid control: to foster sustainable, smart and inclusive growth in a competitive internal market; to focus Commission ex ante scrutiny on cases with the biggest impact on the internal market while strengthening the cooperation with Member States in State aid enforcement; to streamline the rules and provide for faster decisions. In particular, the Communication called for a common approach in the revision of the different Guidelines and frameworks with a view to strengthening the internal market, promoting more effectiveness in public spending through a better contribution of State aid to the objectives of common interest, greater scrutiny on the incentive effect, limiting the aid to the minimum, and avoiding the potential negative effects of aid on competition and trade. The compatibility conditions set out in these Guidelines are based on those common assessment principles and are applicable to notified aid schemes and individual aid.

2. SCOPE AND DEFINITIONS

2.1. Effect of the CAP and the rural development policy on the scope of application

(12) In accordance with Article 42 of the Treaty, in so far as agricultural products listed in Annex I of the Treaty are concerned, the rules on State aid set out in Articles 107 to 109 of the Treaty apply only to the extent determined by the European Parliament and the Council.

(13) As a general rule, pursuant to Article 211(1) of the sCMO Regulation the rules on State aid are applicable to all agricultural products. However, there are various derogations from this general principle which are laid down in, amongst others, the sCMO Regulation, the RD Regulation, the DP Regulation, the Promotion Regulation, Regulation (EU) No 228/2013 of the European Parliament and of the Council of 13 March 2013 laying down specific measures for agriculture in the outermost regions of the Union and repealing Council Regulation (EC) No 247/2006[14] (Regulation for the outermost regions) and Regulation (EU) No 229/2013 of the European Parliament and of the Council of 13 March 2013 laying down specific measures for agriculture in favour of the smaller Aegean islands and repealing Council Regulation (EC) No 1405/2006 (Regulation for the

[13] COM(2012) 209 of 8.5.2012.
[14] OJ L 78 of 20.3.2013, p. 23.

smaller Aegean islands).[15][16]

(14) As regards support for rural development the general principle of the applicability of State aid rules in that context is set out in Article 81(1) of the RD Regulation. However, Articles 81(2) and 82 of that Regulation stipulates that the State aid rules do not apply to payments made by Member States pursuant to, and in conformity with the RD Regulation nor to additional national financing within the scope of Article 42 Treaty.

(15) Therefore, State aid rules apply neither to the co-financing of rural development support (both the EAFRD part and the national part) nor to additional national financing on top of such support, as long as the measure in question is related to an agricultural activity[17] falling within the scope of Article 42 Treaty and forms a part of the national/regional rural development programme.

(16) However, State aid rules apply fully for all aid measures (both the EAFRD part and the national part and to additional national financing) falling outside the scope of Article 42 of the Treaty, envisaged in the RD regulation in the following cases: (a) measures supporting activities in the rural areas and (b) forestry measures.

(17) If a Member State intends to finance exclusively from national funds (i.e. without any EAFRD co-financing) a measure which is designed largely in accordance with the conditions of a given rural development measure ("rural development like measure"), State aid rules fully apply.

2.2. Scope of application

(18) The Commission will apply these Guidelines to aid schemes and individual aid.

(19) Based on the above described general considerations, these Guidelines apply to State aid for the primary production of agricultural products, the processing of agricultural products resulting in another agricultural product and the marketing of agricultural products.

(20) In order to ensure coherence with the rural development policy and to achieve simplification for compliance with State aid rules, it is appropriate to include into

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15 OJ L 78, 20.3.2013, p. 41.

16 Articles 212(2) to 153 of the sCMO Regulation, Article 23 of the Regulation for the outermost regions, Article 17 of the Regulation for the smaller Aegean islands, Article 12 of Commission proposal for the Promotion Regulation, Article 13 of the Direct payments regulation.

17 Please refer to "Definitions", (38)a.a.i.11 and (38)a.a.i.5 of these Guidelines.

these Guidelines certain rural development measures falling outside Article 42 of the Treaty, whether co-financed under the EAFRD, additional national financing or rural development like measures financed purely through State aid.. Therefore, the current Guidelines are setting out the criteria for aid to the forestry sector and aid to undertakings active in rural areas which otherwise fall outside the scope of Article 42 of the Treaty.

(21) In view of the aforementioned considerations, the scope of the Guidelines covers the following categories of aid:

(1) measures in the agriculture sector, financed exclusively from national funds, which consist of:

(a) rural development like measures outside the framework of a rural development programme (Chapter 1.1 of Section II of these Guidelines)

(b) other measures which are not covered by the RD regulation, such as some risk and crisis management measures, aid for the livestock sector and promotion measures (Chapters 1.2 and 1.3 of Section II of these Guidelines).

(2) aid for the forestry sector, which can be granted as:

(a) part of the rural development programme or as a top-up for such rural development measure (Sub-chapters 2.1- 2.7 of Section II of these Guidelines);

(b) rural development like forestry measure financed from national resources (Sub-chapters 2.1- 2.7 of Section II of these Guidelines),

(c) stand-alone aid measures financed from national resources with the primary objective to maintain, improve or restore ecological, protective and recreational functions of forests, biodiversity and a healthy forest ecosystem.

(3) aid for undertakings active in rural areas which can be granted as

(a) aid measure included in the national/regional rural development programme, partly financed via the European Agricultural and Rural Development Fund and partly co-financed by the Member State pursuant to, and in conformity with the RD regulation, where the notified State aid measure is identical with the measure in the rural development programme; or

(b) as additional national financing related to a measure in the framework of a national/regional rural development programme.

(22) The "Leader approach" of the RD regulation, which involves individual projects

designed and executed by local partnerships to address specific local problems, can be covered by these Guidelines, to the extent that it meets the conditions of the related rural development measures as laid down in these Guidelines.

(23) These Guidelines in principle apply to aid to SMEs and to large undertakings.

(24) Large undertakings tend to be less affected by market failures than SMEs. Moreover, large undertakings in the agriculture and forestry sectors and in rural areas are more likely to be significant players on the market and, consequently, in specific cases, aid awarded to large undertakings may particularly distort competition and trade on the internal market. Aid to large undertakings in the agriculture and forestry sectors and in rural areas and to other large undertakings can potentially cause distortion of competition, State aid rules for large undertakings in these Guidelines should be harmonised with the general State aid rules, and in particular with the common assessment principles as laid down in the Regional aid Guidelines and the general block exemption regulation. Without prejudice to the above common assessment principles, as regards measures covered by the RD regulation, for reasons of consistency and coherence with the rural development policy, the State aid rules to large undertakings should be aligned with the relevant rules of the RD regulation. As regards aid measures for the livestock sector, not covered by the RD regulation, the Commission maintains its previous policy that large undertakings should be able to finance the costs of this measure themselves. Therefore, aid in the livestock sector should be limited to small and medium-sized undertakings.

(25) Undertakings in difficulty within the meaning of the Community Guidelines on State aid for rescuing and restructuring firms in difficulty[18] (R&R Guidelines), as replaced or repealed, in principle are excluded from the scope of these Guidelines. The Commission considers that when an undertaking is in financial difficulty, given that its very existence is in danger, it cannot be considered an appropriate vehicle for promoting other public policy objectives until such time as its viability is assured. Therefore, where the beneficiary of the aid is in financial difficulty within the meaning of R&R Guidelines, the aid will be assessed in accordance with R&R Guidelines, as replaced or repealed. This principle does not apply to compensatory aid for damage caused by natural disasters and exceptional occurrences which is always compatible with the internal market under Article 107 (2) (b) of the Treaty. If the financial difficulty of an agricultural undertaking has been caused by the risk

[18] OJ C 244, 1.10.2004, p. 2, as prolonged by OJ C 156, 9.7.2009, p. 3 and OJ C 296, 2.10.2012, p. 3. As explained in paragraph 20 of those Guidelines.

event referred to in sub-chapters 1.2.1.2. and 1.2.1.3 and 1.2.1.5 and 2.1.3 of section II of these Guidelines, compensatory aid for such risk events is still compatible with the internal market under Article 107(3)(c) of the Treaty.

(26) When assessing aid awarded to an undertaking which is subject to an outstanding recovery order following a previous Commission decision declaring an aid illegal and incompatible with the internal market, the Commission will take account of the amount of aid still to be recovered.[19] This does not apply to aid for compensation of damage caused by natural disasters under Article 107(2)(b) of the Treaty.

(27) The Commission will not authorise aid to export-related activities towards third countries or Member States which would be directly linked to the quantities exported, aid contingent upon the use of domestic over imported goods, or aid to establish and operate a distribution network or to cover any other expenditure linked to export activities. Aid towards the cost of participating in trade fairs, or of studies or consultancy services needed for the launch of a new or existing product on a new market in principle does not constitute export aid.

(28) These Guidelines apply provided there are no specific derogations laid down in the Treaties or in Union legislation. However, the aim of these specific derogations cannot be to call into question a Commission decision in which the Commission has already expressed its view on the aid in question[20].

(29) Member States are reminded that the system of financing, e.g. by parafiscal levies, should be notified, when this system forms an integral part of the aid measure (see Case T-275/11, TF1, §§ 41-44)[21].

(30) Where the conditions of Article 107(1) of the Treaty are met, Member States must notify to the Commission aid in the agriculture and forestry sector and in rural areas pursuant to Article 108(3) of the Treaty and shall not put the proposed measure in effect until this procedure resulted in a final decision.

(31) The Commission will assess measures which meet all the criteria of the ABER

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19 See in this respect the joint Cases T-244/93 and T-486/93, TWD Textilwerke Deggendorf GmbH v Commission of the European Communities, [1995] ECR II-02265.

20 CJEC, C-110/02, ECR 2004, I-6333, Commission v. Council.

21 See i.a. ECJ, 13.1.2005, Streekgewest Westelijk Noord-Brabant, C-174/02, ECR, 2005, p. I-85; ECJ, 7.9 2006, Laboratoires Boiron, C-526/04, ECR, 2006, p. I-7529,; ECJ, 11.3.1992, Compagnie commerciale de l'Ouest v. Receveur principal des douanes de La Pallice-Port, C-78/90, C-79/90, C-80/90, C-81/90, C-82/90 et C-83/90, ECR; ECJ, 23.4.2002, Nygard, C-234/99, ECR. p. I-3657.

and/or of the GBER but are nevertheless notified to the Commission on the basis of the substantial conditions set out in those Regulations.

(32) Individual aid granted under a notified investment scheme remains subject to the notification obligation pursuant to Article 108(3) of the Treaty, if the aid from all sources exceeds the notification threshold.[22]

(33) The Commission will assess any aid measures not covered by these Guidelines on a case-by-case basis directly on the basis of Article 107(3)(c) of the Treaty, taking into account the principles set out in Articles 107, 108 and 109 of the Treaty, the common agricultural policy and by analogy these Guidelines, where possible. Member States notifying aid for the agriculture and forestry sector not covered by these Guidelines will have to demonstrate that the state aid in question meets the common assessment principles as laid down in Chapter 3 of Section I of these Guidelines. The Commission will only approve such measures if the positive contribution to the development of the sector clearly outweighs the risks of distorting competition in the internal market and affecting trade between the Member States.

2.3. Horizontal rules and aid instruments applicable to the Agriculture and Forestry sector and to rural areas

(34) In view of the SAM objective to streamline State aid rules and due to the similarities between agricultural and non-agricultural undertakings, the general State aid rules, such as measures under R&R Guidelines [23], for research, development and innovation under the Community framework for state aid for research and development and innovation (R&D&I Framework)[24] and for environmental protection under the Community Guidelines on state aid for environmental protection[25] (EA GL) , as replaced or repealed, apply to the production, processing and marketing of agricultural products unless the present Guidelines provide specific rules.

(35) The Guidelines on regional State aid for 2014-2020 [26] do not apply to aid for the production of primary products due to the specificities of the sector. They shall however apply to the processing and marketing of agricultural products to the extent set out in these Guidelines.

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22 See Definitions (38) a.a.i.54 and points (487) and (606) and (167) of these Guidelines.
23 OJ C 244, 1.10.2004, p. 2, as prolonged by OJ C 156, 9.7.2009, p. 3 and OJ C 296, 2.10.2012, p. 3.
24 OJ C 323, 30.12.2006, p. 1.
25 OJ C 82, 1.4.2008, p. 1.
26 OJ C 209, 23.7.2013.

(36) Both, the general state aid rules and the more specific provisions of these Guidelines apply to undertakings active in the forestry sector or in the rural areas. Where Member States deem it appropriate, they may choose to notify such aid under the conditions and in compliance with general Union rules on State aid (in particular under the conditions of Regional aid Guidelines, the R&D&I Framework and the EA GL, as replaced or repealed, or set up a scheme in accordance with the conditions of GBER[27]. For example, where the same economic activity may have different aid intensity or different eligible costs, Member states may choose to notify an aid under the Regional aid Guidelines or under the present Guidelines.

(37) In addition to the aid instruments and rules described above, the following general rules, as replaced or repealed[28], concerning the definition of aid and of aid beneficiaries as well as the compatibility of aid with the Treaty are also applicable to the agriculture and forestry sector and to rural areas:

- Commission communication on State aids elements in sales of land and buildings by public authorities;[29]
- Commission Notice on the application of the State aid rules to measures relating to direct business taxation;[30]
- EU Guidelines for the application of State aid rules in relation to the rapid deployment of broadband networks;[31]
- Community Guidelines on State aid to promote risk capital investments in small and medium-sized enterprises;[32]
- Communication from the Commission - Criteria for the compatibility analysis of training State aid cases subject to individual notification;[33]
- Communication from the Commission - Criteria for the compatibility analysis of State aid to disadvantaged and disabled workers subject to individual notification;[34]

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27 Commission Regulation (EC) No 800/2008 of 6 August 2008 declaring certain categories of aid compatible with the common market in application of Article 87 and 88 of the Treaty (General block exemption Regulation), as repealed or replaced.

28 Other applicable instruments such as Methodological Guidance Paper on Evaluation in the field of State aid are in the legislative drafting process.

29 Expected to form part of the Notice on the notion of aid, which is currently being drafted.

30 Expected to form part of the Notice on the notion of aid, which is currently being drafted.

31 OJ C 25, 26.1.2013, p. 1.

32 OJ C 194, 18.8.2006, p. 2, as amended.

33 OJ C 188, 11.8.2009, p. 1.

34 OJ C 188, 11.8.2009, p. 6.

- Commission Notice on the application of Articles 87 and 88 of the EC Treaty to State aid in the form of guarantees;[35]
- Commission Recommendation of 6 May 2003 concerning the definition of micro, small and medium-sized enterprises;[36]
- The instruments related to services of general economic interest[37].

2.4. Definitions

(38) For the purposes of these Guidelines:

1. ‘aid’ means any measure fulfilling all the criteria laid down in Article 107(1) of the Treaty;
2. ‘individual aid’ means aid granted to a specific undertaking and includes ad hoc aid and awards of aid on the basis of an aid scheme;
3. ‘ad hoc’ aid means an aid not awarded on the basis of an aid scheme;
4. ‘aid scheme" means any act on the basis of which, without further implementing measures being required, individual aid awards may be made to undertakings defined within the act in a general and abstract manner and any act on the basis of which aid which is not linked to a specific project may be awarded to one or several undertakings;
5. ‘agricultural product’ means the products listed in Annex I to the Treaty, except fishery and aquaculture products listed in Annex I to Regulation (1379/2013 of the European Parliament and of the Council[38];

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[35] OJ C 155, 20.6.2008, p. 10.

[36] OJ L 124, 20.5.2003, p. 36.

[37] Communication from the Commission on the application of the European Union State aid rules to compensation granted for the provision of services of general economic interest (OJ C 8, 11.1.2012, p. 4), Commission Decision of 20 December 2011 on the application of Article 106(2) of the Treaty on the Functioning of the European Union to State aid in the form of public service compensation granted to certain undertakings entrusted with the operation of services of general economic interest (OJ L 7, 11.1.2012, p. 3), Communication from the Commission, European Union framework for State aid in the form of public service compensation (OJ C 8, 11.1.2012, p. 15), Commission Regulation of 25 April 2012 on the application of Articles 107 and 108 of the Treaty on the Functioning of the European Union to de minimis aid granted to undertakings providing services of general economic interest (OJ L 114 of 26.4.2012, p. 8).

[38] Regulation (EU) No 1379/2013 of the European Parliament and of the Council on the common organisation of the markets in fishery and aquaculture products, amending Council Regulations (EC) No 1184/2006 and (EC) No 1224/2009 and repealing Council Regulation (EC) No 104/2000, OJ L 354, 28.12.2013, p. 1.

6. ‘primary agricultural production’ means the production of products of the soil and stock farming listed in Annex I of the Treaty, without performing any further operation changing the nature of such products;
7. ‘processing of agricultural products’ means any operation on an agricultural product resulting in a product which is also an agricultural product, except on-farm activities necessary for preparing an animal or plant product for first sale;
8. ‘processing of agricultural products into non-agricultural products’ means any operation on an agricultural product resulting in a product which is not an agricultural product;
9. ‘marketing of agricultural products’ means holding or display with a view to sale, offering for sale, delivery or any other manner of placing on the market, except the first sale by a primary producer to resellers or processors and any activity preparing a product for such first sale; a sale by a primary producer to final consumers is considered as marketing of agricultural products if it takes place in separate premises reserved for that purpose;
10. ‘agricultural sector’ means all undertakings active in primary production, processing or marketing of agricultural products;
11. ‘agricultural activity’ means the production, processing and marketing of agricultural products;
12. ‘agricultural holding’ means a unit comprising of land, premises and facilities used for the production of primary agricultural products;
13. ‘land manager‘ means undertaking who manages land other than undertaking active in the agricultural sector;
14. ‘foodstuffs’ means foodstuffs which are not agricultural products and which are as listed in Annex I of Regulation (EU) No 1151/2012 of the European Parliament and of the Council of 21 November 2012 on quality schemes for agricultural products and foodstuffs[39];
15. ‘SME’ or ‘micro, small and medium-sized undertakings’ means undertakings fulfilling the criteria in Annex I to [ABER];

[39] OJ L 343, 14.12.2012, p. 1.

16. ‘aid intensity’ means the aid amount expressed as a percentage of the eligible costs;
17. ‘gross grant equivalent’ or ‘GGE’ means the discounted value of the aid expressed as a percentage of the discounted value of the eligible costs calculated at the moment of award of the aid on the basis of the discount rate applicable at that moment in time;
18. ‘rural development programme’ means rural development programme as provided for in Article 6 (1) of the RD regulation;
19. ‘quality product’ means an agricultural product, cotton or foodstuffs covered by a quality scheme within the meaning of point (269) of these Guidelines;
20. 'young farmer' means natural person who is no more than 40 years of age on the date of submitting the aid application, and who possesses adequate occupational skills and competences and is setting up for the first time in first time in an agricultural holding as sole head of that holding;
21. ‘fallen stock’ means animals which have been killed by euthanasia with or without definite diagnosis or have died (including stillborn and unborn animals) on a farm or any premise or during transport, but have not been slaughtered for human consumption;
22. ‘Transmissible Spongiform Encephalopathy (TSE) and Bovine Spongiform Encephalopathy (BSE) test costs’ means all costs, including those for test kits, taking, transporting, testing, storing and destruction of samples necessary for tests undertaken in accordance with Annex X, Chapter C to Regulation (EC) No 999/2001 of the European Parliament and of the Council;
23. ‘transaction cost’ means an additional cost linked to fulfilling a commitment, but not directly attributable to its implementation or not included in the costs or income-foregone that are compensated directly. It may be calculated on a standard cost basis;
24. ‘fixed costs arising from participation in quality scheme’ means the costs incurred for entering a supported quality scheme and the annual contribution for participating in that scheme, including, where

necessary, expenditure on checks required to verify compliance with the specifications of the quality scheme;

25. ‘date of award of the aid’ means the date when the Member State took a legally binding commitment to award the aid that can be invoked before the national courts;
26. ‘start of project or activity’ means either the actual start of construction works or activities, or the first firm commitment to order equipment or employ services. Purchase of land and preparatory works such as obtaining permits and conducting preliminary feasibility studies are not considered as start of works. The purchase of land referred to in point (145)(a) second [and third] sentence, (488)(1)(a)(1)(a) and (603)a), where the eligible costs for the land purchase equals to 100% of the eligible investment costs, is considered to be start of project or activity.
27. ‘tangible assets’ means assets relating to land, buildings and plant, machinery and equipment;
28. ‘intangible assets’ means assets entailed by the transfer of technology through the acquisition of patent rights, licences, know-how or unpatented technical knowledge;
29. ‘non-productive investment’ means investment which does not lead to a net increase in the value or profitability of the agricultural holding;
30. ‘agricultural area’: means any area taken up by arable land, permanent grassland or permanent crops as defined in Article 4 within the meaning of the DP Regulation;
31. ‘producer group/producer organization’ means a group/organization which is set up for the purpose of:

(i) adapting the production and output of producers who are members of such group/organization to market requirements, or

(ii) jointly placing goods on the market, including preparation for sale, centralisation of sales and supply to bulk buyers, or

(iii) establishing common rules on production information, with particular regard to harvesting and availability, or

(iv) other activities that may be carried out by producer groups/producer organization, such as development of business and marketing skills and organisation and facilitation of innovation processes;

32. ‘producer association’ means an association which consists of recognised producer groups and pursues the same objectives on a wider scale;
33. ‘member of a farm household’ means natural or legal persons or a group of natural or legal persons, whatever legal status is granted to the group and its members by national law, with the exception of farm workers. Where a legal person or a group of legal persons is considered as a member of the farm household, that member must exercise an agricultural activity on the farm at the time of the aid application;
34. ‘active farmer’ means natural or legal persons or a group of natural or legal persons within the meaning of Article 9 of DP Regulation;
35. ‘animal diseases’ means diseases mentioned in the list of animal diseases established by the World Organisation for Animal Health or in the Annex to Council Decision 2009/470/EC;
36. ‘EU standards’ means mandatory standards laid down in Union legislation setting the levels which individual undertakings must achieve, in particular as regards the environment, hygiene and animal welfare; however standards or objectives set at Union level which are compulsory for the Member State but not for the undertakings individually are not considered as mandatory EU standards;
37. ‘investments to comply with EU standards’ means investments made to comply with an EU standard after the expiry of the transitional period provided for in Union legislation;
38. ‘forest’ means an area of land spanning more than 0.5 hectares with trees higher than 5 meters and a canopy cover of more than 10 %, or trees able to reach these thresholds in situ. It does not include land that is predominantly under agricultural or urban land use. A Member State or region may choose to apply another forest definition based on existing national legislation or inventory system. The Member States or Regions shall provide the definition in the notification and when it relates to rural development measure, it should be provided in the rural development programme;

39. ‘wooded land’ means area of land not classified as ‘forest’ spanning more than 0,5 hectare, with trees higher than 5 meters and a canopy cover of 5-10 %, or trees able to reach those thresholds in situ, or with a combined cover of shrubs, bushes and trees above 10 %. The term does not include land that is predominantly under agricultural or urban use;
40. ‘agro-forestry systems’ means land use systems in which trees are grown in combination with agriculture on the same land. The minimum and maximum number of trees per hectare shall be determined by the Member State concerned taking account of local pedo-climatic, environmental conditions, forestry species and the need to ensure a sustainable agricultural use of the land;
41. ‘sustainable forest management’ means using forests and forest land in a way and at a rate that maintains their biodiversity, productivity, regeneration capacity, vitality and their potential to fulfil now and in the future, relevant ecological, economic and social functions at local, national and global levels and that does not cause damage to other ecosystems;
42. ‘trees for short rotation coppicing’ means tree species of CN code 06 02 9041 to be defined by Member States that consist of woody, perennial crops, the rootstock or stools of which remaining in the ground after harvesting, with new shoots emerging in the following season and with a maximum harvest cycle to be determined by the Member States as established in the Article 4(1)(k) in the Regulation (EU) No 1307/2013. The activities concern production of Annex I product of the Treaty;
43. ‘fast growing trees’ means short rotation forest, where trees are grown with a rotation time between 8-20 years (period between two harvest cuts on the same parcel);
44. ‘forest holder’ means the owner, user, tenant, manager of forest, who is legally entitled to use and manage the forest area;
45. ‘private forest holder’ means the private entity managing land of unspecified ownership. Regarding private undertakings, the definition is based on national law in each Member State/region. A state-owned

company could be a beneficiary falling under the category of `private forest-holder` in case the company is defined as `private` according to the national law;

46. ‘adverse climatic event which can be assimilated to a natural disaster’ means unfavourable weather conditions such as frost, storms and hail, ice, heavy rain or severe drought which destroy more than 30 % of the average of the annual production of a given agricultural undertaking:

(a) in the preceding three-year period or

(b) a three-year average based on the preceding five-year period, excluding the highest and the lowest entry;

47. ‘other adverse climatic event’ means unfavourable weather conditions such as frost, storms and heal, ice, heavy rain or severe drought which destroy less than 30 % of the average of the annual production of a given agricultural undertaking:

(a) in the preceding three-year period or

(b) a three-year average based on the preceding five-year period, excluding the highest and the lowest entry;

48. ‘catastrophic event’ means an unforeseen event of biotic or abiotic nature caused by human action that leads to important disturbances of agricultural production systems and forest structures, eventually causing important economic damage to the farming and forest sectors;

49. ‘environmental incident’ means a specific occurrence of pollution, contamination or degradation in the quality of the environment related to a specific event and of limited geographical scope, which destroys more than 30 % of the average annual production of the agricultural undertaking in the preceding three-year period or a three-year average based on the preceding five-year period, excluding the highest and lowest entry. It does not cover general environmental risks not connected with a specific event, such as climate change or atmospheric pollution;

50. ‘less developed regions’ means regions where the gross domestic product (GDP) per capita is less than 75 % of the average GDP of the EU-27;
51. ‘outermost regions’ means the regions referred to in the first paragraph of Article 349 of the Treaty;
52. ‘smaller Aegean islands’ means the smaller islands referred to in Article 1(2) of Regulation (EU) No 229/2013 of the European Parliament and of the Council of 13 March 2013 laying down specific measures for agriculture in favour of the smaller Aegean islands and repealing Council Regulation (EC) No 1405/2006[40];
53. ‘regional aid map’ means the list of areas designated by a Member State in accordance with the conditions laid down in the Regional Aid Guidelines and approved by the Commission;
54. ‘notification threshold’ for investment aid granted under Chapters 2 and 3 of section II of these Guidelines means aid amounts exceeding the thresholds set out in the table below:

Aid intensity	Notification threshold
10%	EUR 7,5 million
15%	EUR 11,25 million
25%	EUR 18,75 million
35%	EUR 26,25 million
50% and above	EUR 37,5 million

55. ‘sparsely populated areas’ mean those areas designated by the Member State concerned in accordance with paragraph 161 of the Regional aid Guidelines;

[40] OJ L 78, 20.3.2013, p. 41.

56. ‘a’ areas mean those areas designated in a regional aid map in application of the provisions of Article 107(3)(a) of the Treaty;
57. ‘c’ areas mean those areas designated in a regional aid map in application of the provisions of Article 107(3)(c) of the Treaty;
58. ‘advice’ means complete advice given in the framework of one and the same contract;
59. ‘short supply chain’: means a supply chain involving a limited number of economic operators, committed to co-operation, local economic development, and close geographical and social relations between producers, processors and consumers;
60. ‘protected animal’ means any animal protected either by EU or by national legislation;
61. ‘adjusted aid amount’ means the maximum permissible aid amount for a large investment project, calculated according to the following formula maximum aid amount = R × (50 + 0.50 × B + 0.34 × C), where: R is the maximum aid intensity applicable in the area concerned, excluding the increased aid intensity for SMEs. B is the part of eligible costs between EUR 50 million and EUR 100 million. C is the part of eligible costs above EUR 100 million;
62. ‘large investment project’ means an investment concerning the processing of agricultural products into non-agricultural products, the production of cotton, investments in the creation and development of non-agricultural activities or investments for basic services and village renewal with eligible costs exceeding EUR 50 million, calculated at prices and exchange rates on the date of award of the aid;
63. ‘funding gap’ means the difference between the total expected discounted costs of the aided project and its expected discounted revenues over the reference period;
64. ‘capital works’ means building and engineering works, undertaken by the agricultural undertaking, that create an asset;
65. ‘cluster’ means a grouping of independent undertakings - start-ups, small, medium and large undertakings as well as advisory bodies and/or research organisations - designed to stimulate economic/ innovative

activity by promoting intensive interactions, sharing of facilities and exchange of knowledge and expertise and by contributing effectively to knowledge transfer, networking and information dissemination among the undertakings in the cluster;

66. ‘research and knowledge-dissemination organisation’ means an entity (such as universities or research institutes, technology-transfer agencies, innovation intermediaries, research-oriented physical and/or virtual collaborative entities), irrespective of its legal status (organised under public or private law) or way of financing, whose primary goal is to independently conduct fundamental research, industrial research or experimental development, as defined in the R&D&I Framework, as replaced or repealed, and/or to widely disseminate the results of such activities on a non-discriminatory and non-exclusive basis, by way of teaching, publication or knowledge transfer; Where such entity also pursues economic activities, the costs and the revenues of economic activities must be accounted for separately. Undertakings that can exert influence upon such an entity, in the quality of, for example, shareholders or members, shall enjoy no preferential access to the research capacities of such an entity or to the research results generated by it;

67. 'arm's length' means that the conditions of the transaction between the contracting parties do not differ from those which would be stipulated between independent undertakings and contain no element of collusion. The setting up of an open, transparent and unconditional tender procedure for the transaction is considered as meeting the arm's length principle;

68. "herd book" means any book, register, file or data medium:
    (a) which is maintained by a breeders' organisation or association officially recognised by a Member State in which the breeders' organisation or association was constituted; and
    (b) in which pure-bred breeding animals of a given breed are entered or registered with mention of their ancestors;

69. [conservation of genetic resources in agriculture and in forestry means

(a) ‘in situ conservation’ in agriculture means the conservation of genetic material in ecosystems and natural habitats and the maintenance and recovery of viable population of species or feral breeds in their natural surroundings and, in the case of domesticated animal breeds or cultivated plant species, in the farmed environment where they have developed their distinctive properties;

(b) 'in situ conservation' in forestry means the conservation of genetic material in ecosystems and natural habitats and the maintenance and recovery of viable population of species in their natural surroundings;

(c) ‘on-farm or on-forest holding conservation’ means in situ conservation and development at farm or forest holding level;

(d) ‘ex situ conservation’ means the conservation of genetic material for agriculture or forestry outside their natural habitat;

(e) ‘ex situ collection’ means a collection of genetic material for agriculture or forestry maintained outside their natural habitat;]

70. [`establishment and development of short supply chains`, means only supply chains involving no more than one intermediary between farmer and consumer;]

71. [`establishment and development of local markets` means:

    a. markets in kilometric radius of [XXX] km from the farm of origin of the product, within which the activities of processing and sale to the final consumer have to take place; or

    b. markets for which the respective rural development programme sets out a kilometric radius from the farm of origin of the product, within which the activities of processing and sale to the final consumer have to take place; or

    c. markets for which the respective rural development programme sets out a convincing alternative definition;]

72. [`small operator` for the purposes of the co-operation measures means a microenterprise as defined in Commission Recommendation 2003/361[41], or a natural person;]

73. `small-scale infrastructure` means infrastructure with eligible costs limited to EUR 2 million;

41 Commission Recommendation of 6 May 2003 concerning the definition of micro, small and medium-sized enterprises (OJ L 124, 20.5.2003, p. 36).

3. COMMON ASSESSMENT PRINCIPLES

(39) To assess whether a notified aid measure can be considered compatible with the internal market, the Commission generally analyses whether the design of the aid measure ensures that the positive impact of the aid towards an objective of common interest exceeds its potential negative effects on trade and competition.

(40) The Communication on State aid modernisation of 8 May 2012 (SAM) called for the identification and definition of common principles applicable to the assessment of compatibility of all the aid measures carried out by the Commission. For this purpose, the Commission will consider an aid measure compatible with the Treaty only if it satisfies each of the following criteria.

(a) Contribution to a well-defined objective of common interest: a State aid measure must aim at an objective of common interest in accordance with Article 107(3) Treaty;

(b) Need for state intervention: a State aid measure must be targeted towards a situation where aid can bring about a material improvement that the market cannot deliver itself, by remedying a well-defined market failure;

(c) Appropriateness of the aid measure: the proposed aid measure must be an appropriate policy instrument to address the objective of common interest;

(d) Incentive effect: the aid must change the behaviour of the undertaking(s) concerned in such a way that it engages in additional activity which it would not carry out without the aid or it would carry out in a restricted or different manner;

(e) Proportionality of the aid (aid limited to the minimum necessary): the aid amount must be limited to the minimum needed to induce the activity in the sector concerned;

(f) Avoidance of major undue negative effects on competition and trade between Member States: the negative effects of aid must be sufficiently limited, so that the overall balance of the measure is positive;

(g) Transparency of aid: Member States, the Commission, economic operators, and the public, must have easy access to all relevant acts and to pertinent information about the aid awarded thereunder.

(41) Certain categories of schemes may further be made subject to a requirement of ex post evaluation with regard to their overall balance of effects, as described in point(687). In such cases, the Commission may limit the duration of those schemes (normally to four years or less) with a possibility to re-notify their prolongation afterwards.

(42) Moreover, if a State aid measure or the conditions attached to it (including its financing method when it forms an integral part of it) entail a non-severable violation of EU law, the aid cannot be declared compatible with the internal market.[42] In particular, the following aid is considered to entail a non-severable violation of EU law:

(a) aid the granting of which is subject to the obligation for the beneficiary to have its headquarters in the relevant Member State or to be predominantly established in that Member State;

(b) aid the granting of which is subject to the obligation for the beneficiary to use nationally produced goods or national services;

(c) aid restricting the possibility for the beneficiaries to exploit the research, development and innovation results in other Member States.

(43) The common assessment principles have to be seen in the specific context of the Common Agricultural Policy. Therefore, these general competition policy considerations apply to all aid under these Guidelines, unless derogations are provided in sub-chapters 3.1. to 3.7 of section I below of these Guidelines, due to particular considerations applicable in the agricultural sector.

3.1. Contribution to a common objective

(44) The objectives of aid in the agriculture and forestry sector and in rural areas are to ensure viable food production and to promote the efficient and sustainable use of resources in order to achieve intelligent and sustainable growth.

(45) Aid in the agriculture and forestry sector and in rural areas should relate closely to the CAP with clearly defined objectives and should be consistent with and contribute towards these objectives. State aid should therefore be consistent with the rural development objectives and State aid cannot be incompatible with the rules on the Organization of Common Markets (“CMO’).

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[42] See for instance Case C-156/98 Germany v Commission [2000] ECR I-6857, paragraph 78 and Case C-333/07 Régie Networks v Rhone Alpes Bourgogne [2008] ECR I-10807, paragraphs 94-116.

Rural development objectives

(46) The Commission considers that measures, implemented pursuant to and in conformity with the RD regulation and its implementing rules or as an additional national financing in the framework of a rural development programme, are per se consistent with the objectives of rural development.

(47) As regards rural development aid measures financed purely through State aid, in order to ensure coherence with the rural development measures proposed for co-financing under the rural development programmes, Member States should demonstrate how the State aid under consideration fits into and is consistent with the relevant rural development programmes. Every notification must be accompanied by such documentation. State aid that does not fulfil those requirements will not be authorised.

(48) The Commission considers that the principle is met regarding those other categories of aid measures (aid measures in sub-chapters 1.2 and 1.3 of section II of these Guidelines), which are outside the scope of rural development, and where the Commission has gained sufficient experience as to the consistency of those measures with rural development and CAP objectives and their contribution to those objectives.

(49) When awarding aid to individual investment projects on the basis of a scheme, the granting authority must confirm that the selected project will contribute towards the objective of the scheme and thus towards the objectives of aid in the agriculture and forestry sector and in rural areas. For this purpose, Member State can rely on the information provided by the applicant for aid where the positive effects of the investment on the area concerned must be described.

CMO rules

(50) Due to the specificity of the agriculture sector[43], although State aid rules are fully applicable to the agriculture sector, their application nevertheless remains subordinate to the provisions laid down in the regulations of the first pillar of the CAP. In other words, Member State's recourse to the measures provided for in Articles 107, 108 and 109 of the Treaty cannot take precedence over those of the sCMO Regulation or hinder the smooth running of the organisation of the market for

[43] See points (12) and (13) of these Guidelines.

the sector in question.[44]

(51) Further specific conditions on the compliance with the principles of the sCMO are set out in sub-chapter 1.1.1. on investment aid, in sub-chapter 1.1.4. on start-up of producer groups and organisations and in chapter 1.2.2. closing of production capacity, of section II of these Guidelines.

Environmental objectives

(52) Article 11 of the Treaty on the Functioning of the European Union provides that "Environmental protection requirements must be integrated into the definition and implementation of the Union policies and activities, in particular with a view to promoting sustainable development." The legal basis for the substantial environmental measures in the 1st and 2nd pillars of the CAP is Article 11 of the Treaty on the Functioning of the European Union which requires the integration of environmental concerns into other Union policies. In line with this requirement, the Union's priorities for rural development should be pursued in the framework of sustainable development. The Union's promotion of the aim of protecting and improving the environment as set out in Article~~s~~ 11 of the Treaty also takes into account the polluter pays principle[45] Particular attention therefore needs to be given to environmental issues in future State aid notifications. For example, in the case of an aid scheme for investments which are intended to increase production, and which involve an increased use of scare resources or an increase in pollution, it will be necessary to show that the scheme will not result in an infringement of the applicable Union legislation, including environmental protection legislation,[46] and the Good Agricultural and Environmental Conditions (GAECs) of cross-compliance (Regulation….). Where State aid is notified, which form part of the rural development programme, the environmental requirement for such State aid measure should be identical with that of the environmental requirement of the rural

44 Judgement of the European Court of Justice in Case 177/78 Pigs and Bacon Commission v. McCarren [1979] ECR 2161.

45 Recital 5 of Rural development regulation.

46 As regards to EU environmental legislation:, the Birds Directive (Directive 2009/147/EC, OJ L 20, 26.1.2010, p. 7); the Habitats Directive (Council Directive 92/43/EEC of 21 May 1992, OJ L 206, 22.7.1992, p. 7; the amended Nitrates Directive (Council Directive 91/676/EEC, OJ L 375 , 31.12.1991, p 1); the Water Framework Directive (Directive 2000/60/EC, OJ L 327, 22.12.2000, p. 1); the Groundwater Directive (Directive 2006/118/EC, OJ L 372, 27/12/2006, p. 19); the Sustainable Use of Pesticides Directive (Directive 2009/128/EC, OJ L 309, 24.11.2009, p.71); Regulation 1107/2009 concerning the placing of plant protection products on the market (OJ L 309, 27.11.2009, p. 1); the Environmental Impact Assessment Directive (Directive 2011/92/EU, OJ L 26, 28.1.2012, p. 1) and wherever applicable the Strategic Environmental Assessment Directive (Directive 2001/42/EC, OJ L 197, 21.7.2001, p. 30).

development measure. All State aid notifications should in the future contain an assessment whether the aided activity is expected to have any environmental impact. In cases where there is an environmental impact, State aid notifications should provide information demonstrating that the aid will not result in an infringement of applicable European environmental protection legislation.

3.2. Need for State intervention

(53) In order to assess whether State aid is necessary to achieve the objective of common interest, it is necessary first to diagnose the problem to be addressed. State aid should be targeted towards situations where aid can bring about a material improvement that the market cannot deliver itself. This holds especially in a context of scarce public resources.

(54) State aid measures can indeed, under certain conditions, correct market failures thereby contributing to the efficient functioning of markets and enhancing competitiveness. Furthermore, where markets provide efficient outcomes but these are deemed unsatisfactory from an equity or cohesion point of view, State aid may be used to obtain a more desirable, equitable market outcome.

(55) For the purposes of these Guidelines, the Commission considers that the market is not delivering the expected objectives without State intervention concerning the aid measure fulfilling the specific conditions laid down in Section II of these Guidelines,. Therefore, such aid should be considered compatible with the internal market pursuant to Article 107(3)(b) or 107(3)((c) of the Treaty, respectively.

3.3. Appropriateness of aid

(56) The notified aid measure must be an appropriate policy instrument to address the policy objective concerned. An aid measure will not be considered compatible if other less distortive policy instruments or other less distortive types of aid instrument make it possible to achieve the same positive contribution to the objectives of CAP and rural development. It is important to keep in mind that there may be other, better placed instruments such as regulation, market-based instruments, infrastructure development and improvement in the business environment to achieve the objectives.

Appropriateness among alternative policy instruments

(57) If a Member State decides to put in place a rural development measure like aid scheme financed purely through national resources, when at the same time the same measure is provided for in the relevant rural development programme, the Member

State should demonstrate the advantages of such a national aid instrument compared to the rural development programme measure at stake.

(58) As regards other aid granted in the agriculture and forestry sector and in rural areas, which fulfil the specific conditions laid down in the relevant sub-chapters of section II of these Guidelines, the Commission considers the State aid as an appropriate policy instrument.

Appropriateness among different aid instruments

(59) Aid can be awarded in various forms. The Member State should however ensure that the aid is awarded in the form that is likely to generate the least distortions of trade and competition.

(60) In this respect, if the aid is awarded in forms that provide a direct pecuniary advantage (as regards investment aid for example, direct grants, exemptions or reductions in taxes, social security or other compulsory charges, etc.), the Member State must demonstrate why other potentially less distortive forms of aid such as repayable advances or forms of aid that are based on debt or equity instruments (for example, low-interest loans or interest rebates, state guarantees or an alternative provision of capital on favourable terms) are not appropriate.

(61) In case of several categories of aid such as aid towards the costs of market research activities, product conception and design and for preparation of applications for recognition of quality schemes, aid for knowledge transfer and information actions, aid for advisory services, aid for farm replacements services, aid for promotional measures, aid to compensate for the costs of the prevention and eradication of animal diseases and plant pest and aid to livestock sector the aid shall be granted to the final aid beneficiaries indirectly, in kind, by mean of subsidized services. In these cases the aid is paid to the provider of the service or activity in question.

(62) The compatibility assessment of an aid measure with the internal market is without prejudice to the applicable public procurement rules and to the principles of transparency and openness and non- discrimination in the selection process of a service provider.

(63) The Commission considers that aid awarded in the form provided for in the respective rural development measure and in the applicable sub-chapter of Section II of these Guidelines, is an appropriate aid instrument.

3.4. Incentive effect and need for aid

(64) Aid in the agriculture and forestry sector and in rural areas can only be found compatible with the internal market, if it has an incentive effect. An incentive effect is present when the aid changes the behaviour of an undertaking in a way it engages in additional activity contributing to the development of the sector which it would not have engaged in without the aid or would only have engaged in such activity in a restricted or different manner. The aid must not subsidise the costs of an activity that an undertaking would have incurred in any event and must not compensate for the normal business risk of an economic activity.

(65) Unless exceptions are expressly provided for in Union legislation or in these Guidelines, unilateral State aid measures which are simply intended to improve the financial situation of undertakings but which in no way contribute to the development of the sector, and in particular aid which is granted solely on the basis of price, quantity, unit of production or unit of the means of production are considered to constitute operating aid which is incompatible with the common market. Furthermore, it should be noted that, by its very nature, such aid is also likely to interfere with the mechanisms regulating the organisation of the common market.

(66) These same reasons have led the Commission to authorise aid to facilitate compliance with obligatory standards only to the extent as it meets the objectives of rural development policy.

(67) For the same reason, aid which is granted retrospectively in respect of activities which have already been undertaken prior to the aid application by the beneficiary to the national authorities cannot be considered to include the necessary incentive element, and must be considered operating aid which is simply intended to relieve the beneficiary of a financial burden.

(68) Aid shall be considered to have an incentive effect if the beneficiary has submitted an application form for State aid to the Member State in question before work on the project or activity has started.

(69) The application for aid shall include at least the applicant's name and size, a description of the project, including its location and start and end dates, the amount of aid needed to carry it out and the eligible costs. In the application, beneficiaries must explain what would have happened without aid (i.e. the counterfactual scenario).

(70) In addition, large undertakings must submit documentary evidence in support of the counterfactual described in the application. SMEs are not subject to such obligation.

(71) The granting authority must carry out a credibility check of the counterfactual and confirm that the aid has the required incentive effect. A counterfactual is credible if it is genuine and relates to the decision-making factors prevalent at the time of the decision by the beneficiary regarding the activity.

(72) By derogation from points (68)-(71), aid in the form of tax advantages shall be deemed to have an incentive effect if it establishes a right to aid in accordance with objective criteria and without further exercise of discretion by the Member State and if it has been adopted and in force before work on the aided project or activity has started. The latter requirement shall not apply in the case of fiscal successor schemes provided the activity was already covered by the previous schemes in the form of tax advantages.

(73) By derogation from points (68)-(71), the following categories of aid, which have compensatory character, are not required to have an incentive effect: aid for disadvantages related to Natura 2000 areas and to the Water framework directive, aid to areas facing natural or other specific constraints, aid to make good the damage caused by natural disasters or exceptional occurrences, aid to compensate for losses caused by adverse climatic events, aid for combating animal diseases and plant pests aid for fallen stock and aid for damages caused by protected animals. This exception does not apply to the cost related to preventive measures.

(74) By derogation from points (68)-(71), the following aid categories shall be presumed to have an incentive effect: investment aid for meeting standards referred to in points (140) to (142), aid for investments in favour of conservation of cultural and natural heritage on the agricultural holding in accordance with sub-chapter 1.1.1.2 of section II of these Guidelines. aid for promotional measures in accordance with point (441) 2., 3. and 4., aid for research and development in accordance with sub-chapter 1.3.7 of section II of these Guidelines and aid for the maintenance, restoration and upgrading of the cultural and natural heritage of villages, rural landscapes and high nature value sites in accordance with point (611)(e) of these Guidelines.

Notified individual investment aid

(75) In addition to the requirements set out above, for notified individual aid, the Member State must provide clear evidence that the aid effectively has an impact on the

investment choice. To allow a comprehensive assessment, the Member State must provide not only information concerning the aided project but also a comprehensive description of the counterfactual scenario, in which no aid is awarded to the beneficiary by any public authority in the EEA.

(76) The Member States are invited to rely on documents, such as official board documents, risk assessments (including the assessment of location-specific risks), financial reports, internal business plans, expert opinions and other studies related to the investment project under assessment. Documents containing information on demand forecasts, cost forecasts, financial forecasts, documents that are submitted to an investment committee and that elaborate on various investment scenarios, or documents provided to the financial institutions could help the Member States to demonstrate the incentive effect.

(77) In this context the level of profitability can be evaluated by reference to methodologies which are standard practice in the sector concerned and which may include methods to evaluate the net present value of the project (NPV)[47], the internal rate of return (IRR)[48] or the average return on capital employed (ROCE). The profitability of the project is to be compared with normal rates of return applied by the company in other investment projects of a similar kind. Where these rates are not available, the profitability of the project is to be compared with the cost of capital of the company as a whole or with the rates of return commonly observed in the sector concerned.

3.5. Proportionality of the aid

(78) Aid is considered proportional only if the same result could not be achieved with less aid. The amount of aid must be limited to the minimum necessary. Proportionality can also depend on the degree of selectivity of the measure.

(79) Aid in the agriculture and forestry sector and in rural areas must always be proportionate. Aid is considered to be proportional if the aid amount per beneficiary is limited to the minimum needed to achieve the common objective aimed for.

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47 The net present value (NPV) of a project is the difference between the positive and negative cash flows over the lifetime of the investment, discounted to their current value (typically using the cost of capital).

48 The internal rate of return (IRR) is not based on accounting earnings in a given year, but takes into account the stream of future cash flows that the investor expects to receive over the entire lifetime of the investment. It is defined as the discount rate for which the NPV of a stream of cash flows equals zero.

Maximum aid intensities

(80) In principle, in order for the aid to be proportionate, the Commission considers that the aid amount shall be less than the eligible costs. The limited exceptions from this rule for environmental or other public incentives are expressively provided in the relevant sub-chapters 1.2.2 and 1.1.3 of section II of these Guidelines.

(81) In order to ensure predictability and a level playing field, in these Guidelines the Commission further applies maximum aid intensities for aid. Where the maximum aid intensity cannot be set, because eligible costs cannot be identified, for example in the case of start-up aid for young farmers and the development of small farms, or in order to provide simpler instruments for small amounts, maximum aid amounts defined in nominal terms are set out in order to ensure proportionality of the aid.

(82) If the eligible costs are correctly calculated and the maximum aid intensities or maximum aid amounts set out in Section II of these Guidelines are respected, the criterion of proportionality is deemed to be fulfilled.

(83) The maximum aid intensity and aid amount per project must be calculated by the granting authority when awarding the aid. For the purposes of calculating the aid intensity and the eligible costs, all figures used shall be taken before any deduction of tax or other charge. The eligible costs shall be supported by documentary evidence which shall be clear, specific and contemporary.

(84) Value added tax (VAT) shall not be eligible for aid, except where it is not recoverable under national VAT legislation.

(85) Where aid is awarded in a form other than a grant, the aid amount shall be the gross grant equivalent of the aid.

(86) Aid payable in several instalments shall be discounted to its value at the moment of granting. The eligible costs shall be discounted to their value at the moment of granting. The interest rate to be used for discounting purposes shall be the discount rate applicable at the time of granting the aid.

(87) Where aid is granted by means of tax advantages, discounting of aid tranches shall take place on the basis of the reference rates applicable when the tax advantage takes effect.

(88) As regards investment aid in rural areas, the maximum aid intensity for large investment projects must be scaled down using the mechanism as defined in point

(38).61. In addition large investment projects cannot benefit from the increased aid intensities for SMEs.

(89) Aid granted to compensate for losses, state aid for making good damage caused by adverse climatic events which can be assimilated to a natural disaster and caused by protected animals, aid for combating animal diseases and plant pests and aid for paying insurance premiums should be limited to helping agricultural undertakings facing various difficulties despite having undertaken reasonable efforts to minimise such risks. State aid should not have as its effect to entice agricultural undertakings into taking unnecessary risk. Agricultural undertakings should themselves bear the consequences of imprudent choices of production methods or products.

(90) Moreover, when assessing the compatibility of aid, the Commission will consider any insurance taken out, or which could have been taken out by the aid recipient. Regarding aid to compensate for losses caused by adverse climatic events which can be assimilated to natural disaster, in order to avoid the risk of distorting competition, aid at the maximum aid intensity shall be granted only for a party who cannot be covered by insurance. Therefore, compensation shall be reduced by 50% in respect of agricultural undertakings who have not taken out insurance for the product concerned. This is why, in order to further improve risk management, agricultural undertakings must be encouraged to take out insurance wherever possible. However, if a Member State can demonstrate convincingly that there is no financially accessible insurance available for a given type of event or product, State aid may be granted to offset the lack of insurance.

Additional conditions for notified individual investment aid and investment aid to large undertakings under notified schemes

(91) As a general rule, notified individual investment aid will be considered to be limited to the minimum, if the aid amount corresponds to the net extra costs of implementing the investment in the area concerned, compared to the counterfactual in the absence of aid. Likewise, in the case of investment aid granted to large undertakings under notified schemes, Member States must ensure that the aid amount is limited to the minimum on the basis of a ‘net-extra cost approach’.

(92) The aid amount should not exceed the minimum necessary to render the project sufficiently profitable, for example should not lead to increase its IRR beyond the normal rates of return applied by the undertaking concerned in other investment projects of a similar kind or, when available, to increase its IRR beyond the cost of capital of the undertaking as a whole or beyond the rates of return commonly

observed in the sector concerned.

(93) For investment aid to large undertakings under notified schemes, the Member State must ensure that the aid amount corresponds to the net extra costs of implementing the investment in the area concerned, compared to the counterfactual in the absence of aid. The method explained in point (92) must be used together with maximum aid intensities as a cap.

(94) As regards notified individual investment aid, the Commission will verify whether the aid amount exceeds the minimum necessary to render the project sufficiently profitable, by using the method set out in point (92). Calculations used for the analysis of the incentive effect can also be used to assess if the aid is proportionate. The Member State must demonstrate the proportionality on the basis of documentation such as that referred to in point (76). This requirement does not apply to investment related to the primary production of agricultural products.

Cumulation of aid

(95) Aid may be awarded concurrently under several schemes or cumulated with ad hoc aid, provided that the total amount of state aid for an activity or project does not exceed the limits set by the aid ceilings laid down in these Guidelines.

(96) Aid with identifiable eligible costs may be cumulated with any other State aid, as long as those measures concern different identifiable eligible costs. Aid with identifiable eligible costs may be cumulated with any other State aid, in relation to the same eligible costs, partly or fully overlapping, only if such cumulation does not result in exceeding the highest aid intensity or aid amount applicable to this aid under these Guidelines.

(97) Aid without identifiable eligible costs under sub-chapters 1.1.2 and 3.3. of section II of these Guidelines may be cumulated with any other State aid measure with identifiable eligible costs. Aid without identifiable eligible costs under sub-chapters 1.1.2 and 3.3. of section II of these Guidelines may be cumulated with other State aid without identifiable eligible costs, up to the highest relevant total financing threshold fixed in the specific circumstances of each case by these Guidelines or other state aid Guidelines or block exception regulation or decision adopted by the Commission.

(98) Union funding centrally managed by the institutions, agencies, joint undertakings or other bodies of the Union that is not directly or indirectly under the control of the Member State, does not constitute State aid. Where such Union funding is combined

with State aid, only the latter shall be considered for determining whether notification thresholds and maximum aid intensities and ceilings are respected, provided that the total amount of public funding granted in relation to the same eligible costs does not exceed the maximum funding rate(s) laid down in the applicable rules of Union law.

(99) Aid authorised under these Guidelines shall not be cumulated with de minimis aid in respect of the same eligible costs if such cumulation would result in an aid intensity or aid amount exceeding that is fixed in these Guidelines.

(100) Double funding of agricultural practices beneficial for the climate and the environment under sub-chapters 1.1.5.1., 1.1.6 and 1.1.8 of section II of these Guidelines and equivalent practices referred to in Article 43 of DP Regulation should be excluded. The revision clause foreseen in point (689) should also ensure avoiding double funding.

3.6. Avoidance of undue negative effects on competition and trade

(101) For the aid to be compatible, the negative effects of the aid measure in terms of distortions of competition and impact on trade between Member States must be limited and outweighed by the positive effects in terms of contribution to the objective of common interest.

General considerations

(102) In assessing the negative effects of the aid measure, the Commission will focus its analysis of the distortions of competition on the foreseeable impact the aid in the agriculture and forestry sector and in rural areas has on competition between undertakings in the product markets affected[49].

(103) As a starting point, if the aid is well targeted, proportionate and limited to the net extra costs, the negative impact of the aid is softened and the risk that the aid will unduly distort competition will be more limited. Second, the Commission establishes maximum aid intensities. These constitute a basic requirement for compatibility, the aim of which is to prevent the use of State aid for projects where the ratio between aid amount and eligible costs is to be deemed very high and particularly likely to be distortive. In general, the greater the positive effects the aided project is likely to give

[49] A number of markets may be affected by the aid, because the impact of the aid may not be restricted to the market corresponding to the activity that is supported but may extend to other markets, which are connected to that market either because they are upstream, downstream or complementary, or because the beneficiary is already present on them or may be so present in the near future.

rise to and the higher the likely need for aid, the higher the cap on aid intensity.

(104) However, even where aid is necessary and proportionate, aid may result in a change of the behaviour of the beneficiaries which distorts competition. This is more likely in the agricultural sector which differs from other markets by the specific structure of primary production that is characterized by a high number of small undertakings involved. On such market the risk of distortion of competition is high even when only small amounts of aid are granted.

(105) Two main potential distortions of competition and trade may be caused by aid for the agriculture and forestry sector and for rural areas. These are product market distortions and location effects. Both types may lead to allocative inefficiencies (undermining the economic performance of the internal market) and to distributional concerns (distribution of economic activity across regions).

(106) These two main potential distortions have to be seen in the light of the coherency of aid in the agricultural sector with the rural development policy. On the basis of the established experience in the 2007-2013 period, due to its positive effects to the development of the sector, the Commission considers that where an aid for the primary agricultural production fulfils the conditions and does not exceed the relevant maximum aid intensities, laid down in the applicable sub-chapters of Section II of these Guidelines, the negative effect on competition and trade is limited to the minimum.

(107) Because of the similarities between agricultural processing and marketing undertakings and non-agricultural undertakings, e.g. in the food processing sector,[50] the general competition policy considerations on effect on competition and trade shall apply equally to all those sectors, including investment aid in the processing and marketing in the agricultural sector, investment aid in rural areas and investment aid in the forestry sector. Therefore, the conditions described in points (108) - (120) have to be respected as regards such aid measures.

Investment aid schemes for processing of Annex I into Annex I products, for forestry and in rural areas

(108) Aid schemes must not lead to significant distortions of competition and trade. In particular, even where distortions may be considered limited at an individual level

[50] In the 2007-2013 Community Guidelines for State aid in the agriculture and forestry sector (OJ C 319, 27.12.2006, p. 1) rules applying to agricultural processing and marketing companies have been already harmonised with those applying to non-agricultural companies (point 17 of the 2007-2013 Guidelines).

(provided all conditions for investment aid are fulfilled), on a cumulative basis schemes might still lead to high levels of distortion. Such distortions might concern the output markets by creating or aggravating a situation of overcapacity or creating, increasing or maintaining the substantial market power of some recipients in a way that will negatively affect dynamic incentives. Aid available under schemes might also lead to a significant loss of economic activity in other areas of the EEA. In case of a scheme focusing on certain sectors, the risk of such distortions is even more pronounced.

(109) Therefore, the Member State has to demonstrate that these negative effects will be limited to the minimum taking into account, for example, the size of the projects concerned, the individual and cumulative aid amounts, the expected beneficiaries as well as the characteristics of the targeted sectors. In order to enable the Commission to assess the likely negative effects, the Member State could submit any impact assessment at its disposal as well as ex-post evaluations carried out for similar predecessor schemes.

Notified individual investment aid for processing of Annex I into Annex I products, forestry and in rural areas

(110) In appraising the negative effects of individual investment aid, the Commission places particular emphasis on the negative effects linked with the build-up of overcapacity in declining markets , the prevention of exit, and the notion of substantial market power. These negative effects are described below in points (111) to (120) and must be counterbalanced with the positive effects of the aid.

(111) In order to identify and assess the potential distortions of competition and trade, Member States should provide evidence permitting the Commission to identify the product markets concerned (that is to say, products affected by the change in behaviour of the aid beneficiary) and to identify the competitors and customers/consumers affected.

(112) The Commission uses various criteria to assess these potential distortions, such as market structure of the product concerned, performance of the market (declining or growing market), process for selection of the aid beneficiary, entry and exit barriers, product differentiation.

(113) A systematic reliance on State aid by an undertaking might indicate that the undertaking is not able to withstand competition on its own or that it enjoys undue advantages compared to its competitors.

(114) The Commission distinguishes two main sources of potential negative effects on product markets:

(a) cases of significant capacity expansion which leads to or deteriorates an existing situation of overcapacity, especially in a declining market and

(b) cases where the aid beneficiary holds substantial market power.

(115) In order to evaluate whether the aid may serve to create or maintain inefficient market structures, the Commission will take into account the additional production capacity created by the project and whether the market is underperforming.

(116) Where the market in question is growing, there is normally less reason to be concerned that the aid will negatively affect dynamic incentives or will unduly impede exit or entry.

(117) More concern is warranted when markets are in decline. In this respect the Commission distinguishes between cases for which, from a long-term perspective, the relevant market is structurally in decline (that is to say, shows a negative growth rate), and cases for which the relevant market is in relative decline (that is to say, shows a positive growth rate, but does not exceed a benchmark growth rate).

(118) Underperformance of the market will normally be measured compared to the EEA GDP over the last three years before the start of the project (benchmark rate); it can also be established on the basis of projected growth rates in the coming three to five years. Indicators may include the foreseeable future growth of the market concerned and the resulting expected capacity utilisation rates, as well as the likely impact of the capacity increase on competitors through its effects on prices and profit margins.

(119) In certain cases, assessing the growth of the product market in the EEA may not be appropriate to entirely assess the effects of aid, in particular if the geographic market is worldwide. In such cases, the Commission will consider the effect of the aid on the market structures concerned, in particular, its potential to crowd out producers in the EEA.

(120) In order to evaluate the existence of substantial market power, the Commission will take into account the position of the beneficiary over a period of time before receiving the aid and the expected market position after finalizing the investment. The Commission will take account of market shares of the beneficiary, as well as of market shares of its competitors and other relevant factors, including, for example

the market structure by looking at the concentration in the market, possible barriers to entry[51], buyer power[52] and barriers to expansion or exit.

3.7. Transparency

(121) The Member State concerned shall publish on a comprehensive State aid website at national or regional level the following information on the State aid schemes: the full text of the notified aid scheme and its implementing provisions, the granting authority, the names of the individual beneficiaries, the form (in particular the aid instrument) and amount of aid granted to each beneficiary, the region (at NUTS level II) in which the beneficiary is located and the principal economic sector in which the beneficiary has its activities, at NACE group level. These requirements also apply *mutatis mutandis* to ad hoc aid.

(122) The publication requirement laid down in point (121) applies only to individual aid awards exceeding:

(i) EUR 15 000 for beneficiaries in the primary agricultural production;

(ii) EUR 200 000 for beneficiaries in the sectors of processing of agricultural products, marketing of agricultural products, forestry or activities falling outside Article 42 of the Treaty.

(123) For schemes in a form of tax advantages, these conditions shall be considered fulfilled if Member States publish the required information on individual aid amounts by range of EUR 150 000 for primary agricultural production and EUR 2 million for processing of agricultural products, marketing of agricultural products, forestry or other activities falling outside Article 42 of the Treaty.

(124) If the individual aid award falls within the scope of RD Regulation and is either co-financed by the European Agricultural Fund for Rural Development (EAFRD) or granted as additional national financing for such co-financed measures, the Member State may choose not to publish it on the single state aid website, provided that the individual aid award has been published in accordance with Articles 111, 112 and

51 These entry barriers include legal barriers (in particular intellectual property rights), economies of scale and scope, access barriers to networks and infrastructure. Where the aid concerns a market where the aid beneficiary is an incumbent, possible barriers to entry may exacerbate the potential substantial market power wielded by the aid beneficiary and thus the possible negative effects of that market power.

52 Where there are strong buyers in the market, it is less likely that an aid beneficiary can increase prices vis-à-vis these strong buyers.

113 of Regulation (EU) No 1306/2013. In that case the Member State shall make on the single state aid website referred to in point (121) a reference to the website referred to in Article 111 of Regulation (EU) No 1306/2013.

(125) Such information must be published after the granting decision has been taken, must be kept for at least 10 years and shall be available for the general public without restrictions.[53] For reasons of transparency Member States shall carry out reporting and revision as required in chapter 2 of section III of these Guidelines.

II. CATEGORIES OF AID

1. MEASURES IN FAVOUR OF UNDERTAKINGS ACTIVE IN THE PRIMARY PRODUCTION, PROCESSING AND MARKETING OF AGRICULTURAL PRODUCTS

1.1. Rural development measures

(126) The RD Regulation sets out a series of support measures for rural development.

(127) These Guidelines take over the content of the measures of the RD regulation and its implementing regulations, as far as they are in line with the general principles on State aid.

(128) When analysing State aid, the Commission must take into account the conditions laid down in the RD Regulation and the implementing provisions and delegated act [established subsequent to these Guidelines] as far as they in line with the general principles on State aid.

1.1.1. Aid for investment

(129) This chapter applies to investment in agricultural holdings linked to the primary production of agricultural products, to investment in connection with the processing of agricultural products into agricultural products and to the marketing of agricultural products.

(130) In addition to complying with the common assessment principles, all aid for investment must comply with the following condition: where a common market organisation, including direct support schemes, financed by the European Agricultural Guarantee Fund (EAGF) places restrictions on production or limitations on EU support at the level of individual undertakings, holdings or processing plants,

[53] This information should be regularly updated (for example every six months) and shall be available in non-proprietary formats.

no investment which would increase production beyond those restrictions or limitations may receive State aid support.

1.1.1.1. Aid for investment in tangible and intangible assets on agricultural holdings linked to primary agricultural production

(131) Aid for investment in this sub-chapter shall be declared compatible with the internal market under Article 107(3)(c) of the Treaty if it complies with the general condition for investment aid set out in point (130) of these Guidelines and the following specific conditions:

(132) This sub-chapter applies to aid for tangible and intangible investments on agricultural holdings linked to the primary agricultural production. The investment shall be carried out by one or more beneficiaries or concern a tangible asset or intangible asset used by one or more beneficiaries.

(133) This sub-chapter also applies to tangible and intangible investment linked to the production of energy from renewable sources or the production of biofuels on holdings, which fulfils the following conditions.

(a) Where the investment is made in the production of biofuels within the meaning of Directive 2009/28/EC[54] on agricultural holdings, renewable energy production facilities are eligible for aid only if their production capacity is no more than equivalent to the annual average transport fuel consumption of the agricultural holding. The produced biofuel is not sold on the market.

(b) Where the investment is made in the production of thermal energy and/or electricity from renewable sources on agricultural holdings, the renewable energy production facilities are eligible for aid only if their production capacity is no more than equivalent to the combined average annual energy consumption of thermal energy and electricity on the agricultural holding, including the farm household. Regarding electricity, the selling of electricity is allowed into the grid as far as the annual self- consumption limit is respected. Where electricity is supplied to the grid, the producers shall be subject to a standard balancing responsibility where competitive intra-day balancing markets exist.

(134) Where more than one agricultural holdings carry out the investment in the production

[54] Directive 2009/28/EC of the European Parliament and of the Council of 23 April 2009 on the promotion of the use of energy from renewable sources and amending and subsequently repealing Directives 2001/77/EC and 2003/30/EC, OJ L 140, 5.6.2009, p. 16.

of energy or biofuel, the annual average consumption is accumulated to the amount equivalent to the average annual consumption of all beneficiaries.

(135) [Member States shall require compliance with minimum standards for energy efficiency for supported investments that consume or produce energy, where such standards exist at national or international level;

(136) Investments in installations, the primary purpose of which is electricity production from biomass, shall not be eligible for aid unless a minimum percentage of heat energy is utilised, to be determined by the Member States;

(137) Member States shall establish thresholds for the maximum proportions of cereals and other starch rich crops, sugars and oil crops used for bioenergy production, including biofuels, for different types of installations. Aid to projects producing biofuel or bioliquid shall be limited to biofuels or bioliquid meeting the sustainability criteria laid down in Article 17(2) to (6) of Directive 2009/28/EC of the European Parliament and of the Council. In that context, a general assessment should be included in the strategic environmental assessment of the rural development programme].

(138) If the production capacity of the installation exceeds the average annual consumption of the beneficiary(es), Member States shall comply with the conditions of the Environmental (and Energy) Aid Guidelines.

(139) The investment shall pursue the following objectives:

(a) improvement of the overall performance and sustainability of the agricultural holding, in particular through a reduction of production costs or the improvement and re-deployment of production;

(b) the improvement of the natural environment, hygiene or animal welfare standards, provided that the investment concerned aims going beyond the EU standard in force;

(c) the creation and improvement of infrastructure related to the development, adaptation and modernization of agriculture, including access to farm land, land consolidation and land improvement, the supply and saving of energy and water;

(d) the achievement of agri-environmental-climate objectives, including biodiversity conservation status of species and habitats as well as enhancing the public amenity value of a Natura 2000 area or other high natural value systems, as long as the investments are non –productive;

(e) the restoration of production potential damaged by natural disasters, exceptional occurrences or adverse climatic events which can be assimilated to natural disasters, animal diseases and plant pests, protected animals and the prevention and risk mitigation of damage caused by those before-mentioned events;

(f) meeting standards under the conditions specified in points (140) to (142) below.

(140) Aid may be granted to young farmers setting up for the first time in an agricultural holding as head of the holding in respect of investments to comply with Union standards applying to agricultural production, including occupational safety. Such aid may be provided for a maximum of 24 months from the date of setting up.

(141) Croatia can grant aid for the implementation of the mended Nitrates Directive within a maximum period of four years from the date of accession pursuant to Article 3(2) and Article 5(1) of that Directive.

(142) Where Union law imposes new requirements on agricultural undertakings aid may be granted for investments to comply with those requirements for a maximum of 12 months from the date on which they become mandatory for the agricultural undertaking.

(143) As regards irrigation in new and existing irrigated areas, only investments that fulfil the following conditions shall be considered as eligible costs:

(a) a river basin management plan, as required under the terms of the Water Framework Directive shall have been notified to the Commission for the entire area in which the investment is to take place, as well as in any other areas whose environment may be affected by the investment. The measures taking effect under the river basin management plan in accordance with Article 11 of that Directive and of relevance to the agricultural sector shall have been specified in the relevant programme of measures.

(b) water metering enabling measurement of water use at the level of the supported investment shall be in place or shall be put in place as part of the investment.

(c) an investment in an improvement to an existing irrigation installation or element of irrigation infrastructure shall be eligible only if it is assessed ex-ante as offering potential water savings of a minimum of between 5% and 25% according to the technical parameters of the existing installations or infrastructure. If the investment affects bodies of ground-or-surface water whose status has been identified as less than good in the relevant river basin management plan for reasons related to water quantity:

i. the investment shall ensure an effective reduction in water use, at the level of the investment, amounting to at least 50% of the potential water saving made possible by the investment;

ii. in the case of an investment on a single agricultural holding, it shall also result in a reduction to the holding`s total water use amounting to at least 50% of the potential water saving made possible at the level of the investment. The total water use of the holding shall include water sold by the holding;

iii. None of the conditions of point (c) shall apply to an investment in an existing installation which affects only energy efficiency or to an investment in the creation of a reservoir or to an investment in the use of recycled water which does not affect a body of ground or surface water.

(d) an investment resulting in a net increase of the irrigated area affecting a given body of ground or surface water shall be eligible only if:

i. the status of the water body has not been identified as less than good in the relevant river basin management plan for reasons related to water quantity; and

ii. an environmental analysis shows that there will be no significant negative environmental impact from the investment. Such an environmental impact analysis shall be either carried out by or approved by the competent authority and may also refer to groups of holdings.

(e) By way of derogation from sub-paragraph (d) (i) above, investments resulting in a net increase of the irrigated area may still be eligible if:

i. the investment is combined with an investment in an existing irrigation installation or element of irrigation infrastructure assessed ex-ante as offering potential water savings of a minimum of between 5% and 25% according to the technical parameters of the existing installation or infrastructure and

ii. the investment ensures an effective reduction in water use, at the level of the investment as a whole, amounting to at least 50% of the potential water saving made possible by the investment in the existing irrigation installation or element of infrastructure.

(f) By way of derogation, the condition of sub-paragraph (d) (i) above shall not apply to investments in the establishment of a new irrigation installation supplied with water from an existing reservoir approved by the competent authorities before 31 October 2013, if the following conditions are met:

i. the reservoir in question is identified in the relevant river basin management plan and is subject to the control requirements set out in articles 11(3) (e) of the Water Framework Directive;

ii. on 31 October 2013, there was in force either a maximum limit on total abstractions from the reservoir or a minimum required level of flow in water bodies affected by the reservoir;

iii. that maximum limit or minimum required level of flow complies with the conditions set out in article 4 of the Water Framework Directive; and

iv. the investment in question does not result in abstractions beyond the maximum limit in force on 31 October 2013 or result in a reduction of the level of flow in affected water bodies below the minimum required level in force on 31 October 2013.

(144) Areas which are not irrigated but in which an irrigation installation was active in the recent past, to be established and justified by Member States, may be considered as irrigated areas for the purpose of determining the net increase of the irrigated area.

Eligible costs

(145) The aid shall cover the following eligible costs:

(a) the costs for the construction, acquisition, including leasing, or improvement of immovable property, with land purchased only being eligible not exceeding 10 % of the total eligible costs of the operation concerned; In exceptional and duly justified cases, a higher percentage may be permitted for operations concerning environmental conservation;[For young farmers, that percentage may be up to […%] of the total eligible costs of the operation concerned];

(b) the purchase or lease purchase of machinery and equipment up to the market value of the assets;

(c) the general costs linked to the expenditure referred to in points (a) and(b), such as architect, engineer and consultation fees, fees relating to advice on environmental and economic sustainability, including feasibility studies. Feasibility studies can remain eligible costs even where based on their results, no expenditure under point (a) and (b) is incurred;

(d) the following intangible investments: acquisition or development of computer software and acquisition of patents, licenses, copyrights, trademarks;

(e) expenses for non-productive investments linked to the objectives referred to in Point (139) (d) above;

(f) in case of investment aimed at the restoration of agricultural production potential damaged by natural disasters, exceptional occurrences or adverse climatic events which can be assimilated to natural disasters, animal diseases or plant pests and protected animals the eligible costs may include the costs incurred for restoring the production potential up to a level as it was before the occurrence of those events;

(g) in case of investments aimed at the prevention of damage caused by natural disasters, exceptional occurrences, adverse climatic events which can be assimilated to natural disasters, animal diseases and plant pests and by protected animals, the eligible costs may include the costs of specific prevention actions aiming at reducing the consequences of such probable events.

(146) Aid shall not be granted in respect of the following:

(a) the purchase of production rights, payment entitlements and annual plants;

(b) the planting of annual plants;

(c) purchase of animals, with the exception of investment carried out for the objective of point (139) (e) of these Guidelines;

(d) investments to comply with EU standards in force with the exception of aid granted to young farmers, aid by Croatia for the implementation of the amended Nitrates Directive and aid for meeting newly introduced EU standards in accordance with the conditions of points (140) to (142) of these Guidelines;

(e) costs, other than those referred to (145) connected with leasing contracts, such as lessor's margin, interest refinancing costs, overheads and insurance charges shall not be considered as eligible costs.

(147) Aid for investments aiming at the restoration of agricultural production potential pursuant to point (139) (e) of these Guidelines shall not be cumulated with aid for compensation for material damage referred to in sub-chapters 1.2.1.1, 1.2.1.2, 1.2.1.3 and 1.2.1.5 of Section II of these Guidelines.

Aid intensity

(148) The aid intensity shall not exceed:

(a) 75% of the amount of the eligible costs for investment in the outermost regions;

(b) 75% of the amount of eligible costs for investment in the smaller Aegean Islands;

(c) 75% of the eligible costs for investment in Croatia for the implementation of the amended Nitrates Directive in accordance with point (141) of these Guidelines;

(d) 50 % of the amount of eligible costs in less developed regions and in all regions whose the gross domestic product (GDP) per capita for the 2007-2013 period was less than 75 % of the average of the EU-25 for the reference period but whose GDP per capita is above 75% of the GDP average of the EU-27;

(e) 40 % of the amount of the eligible costs in other regions.

(149) The above rates referred to in point (148) above may be increased by 20 percentage points provided that the maximum combined aid does not exceed 90 % for

(a) young farmers as defined in Point (38)20 or who have already set up during the five years preceding the application for aid;

(b) collective investments, such as storage facilities which are used by a group of farmers or facilities to prepare the agricultural products before marketing; and integrated projects covering several measures provided for in the RD Regulation, including those linked to merger of producer organisations;

(c) investments in areas facing natural and other specific constraints pursuant to

Article 32 of the RD Regulation;

(d) operations financed in the framework of the European Innovation Partnership (EIP), such as an investment in a new stable, allowing the testing of a new practice of animal housing, which have been developed in an operational group composed of farmers, scientists and animal welfare non-governmental organisations;

(e) investments to improvement of the natural environment, hygiene conditions or animal welfare standards, as referred to in point (139) (b) above; in this case the increased aid intensity as provided for in this point shall only apply to the additional costs necessary to obtain a level exceeding the EU standards in force and not leading to an increase in production capacity;

(f) investments to improvement of the sustainability of the agricultural holding, as referred to in point (139)(a), which are linked to agri-environmental-climate commitments and organic farming under sub-chapters 1.1.5.1. and 1.1.8 of section II of these Guidelines.

(150) As regards non-productive investments referred to in point (139)(d) and investments for the restoration of production potential referred to in (139)(e), the maximum aid intensity shall not exceed 100% of the eligible costs.

(151) As regards investment with preventive objectives in point (139)(e), the maximum aid intensity shall not exceed 80%. It may be increased up to 100% if the investment is carried out collectively by more than one beneficiary.

1.1.1.2. Aid for investments in favour of the conservation of cultural and natural heritage located on agricultural holdings

(152) Aid for investment aimed at the conservation of natural landscapes and buildings located on the agricultural holding which are cultural and natural heritage shall be considered compatible with the internal market under Article 107(3)(c) of the Treaty if it complies with the common assessment principles set out in these Guidelines, the general condition for investment aid set out in point (130) of these Guidelines and the following conditions.

(153) The aid shall be granted for heritage in form of natural landscapes and buildings which is formally recognized as cultural or natural heritage by the competent public authorities of the Member State.

Eligible costs

(154) The following costs intended for the conservation of cultural and natural heritage shall be eligible:

(a) investment costs in tangible assets;

(b) capital work undertaken by the farmer himself or by his workers.

Aid intensity

(155) The aid intensity shall not exceed:

(a) In case of investments aimed at the conservation of non-productive heritage features located on agricultural holdings, such as archaeological or historical features, the aid intensity shall be limited to 100% of the real costs incurred.

(b) In case of investments aimed at the conservation of productive heritage features located on agricultural holdings and provided that the investment does not entail any increase in the production capacity, the aid intensity shall be limited to

(i) 80% of the real costs incurred in areas facing natural constraints

(ii) 70% of the real costs incurred in less developed regions

(iii) 60 %of the real costs incurred on other areas.

(c) Where there is an increase in production capacity, the aid intensities for investments referred to in points (148) and (149) shall apply.

(d) Additional aid may be granted at a rate of up to 100% of the eligible costs to cover the extra costs incurred by using traditional materials necessary to maintain the heritage features of buildings on agricultural holdings.

(e) Notwithstanding these rules provided in points (a) to (d), the maximum aid intensity shall be limited to 100 % of the eligible costs, where the investment concerns small- scale infrastructures.

(f) The aid for capital work undertaken by the farmer or his worker shall be limited to EUR 10 000 per year.

1.1.1.3. Aid for investment concerning the relocation of farm buildings or other facilities

(156) Aid for investments concerning the relocation of farm buildings or other facilities in the public interest shall be considered compatible with the internal market under Article 107(3)(c) of the Treaty if it complies with the common assessment principles

of these Guidelines, the general condition for investment aid set out in point (130) of these Guidelines and the following conditions.

(157) The relocation of the farm building or other facilities located inside or close to rural settlements ("farm building") shall pursue an objective of public interest. The public interest invoked to justify the granting of aid under this sub-chapter shall be specified in the relevant provisions of the Member State concerned.

Eligible costs

(158) The eligible costs shall be:

(a) In the case of dismantling, removal and re-building of existing facilities: real costs incurred;

(b) in the case of involving modernization element: the increase in value of the old and the new facilities concerned;

(c) in the case of involving element of increasing production capacity: the costs relating to such increase.

Aid intensities

(159) The following aid intensities shall apply:

(a) Where the relocation of farm building consists of the dismantling, removal and re-building of existing facilities the aid intensity shall be limited to 100 % of the real costs incurred for such activities.

(b) Where, in addition to point (a) above, the relocation of farm building results in a modernization of facilities or in an increase in production capacity, the aid intensities for investments as referred to in points (148) and (149) shall apply in respect to the costs relating to the modernization of the facilities or the increase of the production capacity. For the purposes of this point, the pure replacement of an existing building or facilities by a new up-to-date building or facilities without fundamentally changing the production or the technology involved shall not be considered to be related to the modernization.

(c) Where the relocation concerns activities close to rural settlements, with a view to improving quality of life or increasing environmental performance of the settlement and concerns small-scale infrastructures, the aid intensity shall be limited to 100 % of the eligible costs.

1.1.1.4. Aid for investment in connection with the processing of agricultural products and the marketing of agricultural products

(160) Aid for investments in connection with the processing of agricultural products resulting in an agricultural product and their marketing is considered compatible with the internal market under Article 107(3)(c) of the Treaty if it complies with the common assessment principles of these Guidelines, the general condition for investment aid set out in point (130) of these Guidelines and with the following provisions.

(161) This sub-chapter applies to aid for investments in tangible and intangible assets in connection with the processing of agricultural products into an agricultural product and their marketing as referred in point (38).7. and 9. of these Guidelines.

(162) Member States may grant aid for investments in connection with the processing of agricultural products resulting in an agricultural product and their marketing if the aid fulfils all the conditions of one of the following aid instruments:

(a) GBER [COMMISSION REGULATION (EU) N° …/…of XXX declaring certain categories of aid compatible with the internal market in application of Articles 107 and 108 of the Treaty], as replaced or repealed or

(b) Guidelines on regional State aid for 2014-2020[55], or

(c) the conditions of this sub-chapter.

Eligible costs

(163) The eligible costs under Point (162)(c) shall be limited to:

(a) the costs for the construction, acquisition, including leasing, or improvement of immoveable property, with land only being eligible where it does not exceed 10 % of the total eligible costs of the operation concerned;

(b) the purchase or lease purchase of machinery and equipment up to the market value of the asset;

(c) the general costs linked to the expenditure referred to in points (a) and (b), such as architect, engineer and consultation fees, fees relating to advice on environmental and economic sustainability, including feasibility studies. Feasibility studies shall remain eligible expenditure even where, based on their

[55] OJ C 209, 23.7.2013.

results, no expenditure under points (a) and (b) is incurred;

(d) as regards to intangible assets: the acquisition or development of computer software and the acquisition of patents, licenses, copyrights and trademarks.

(164) The following costs are not eligible:

(a) Costs, other than those referred to point (163) connected with leasing contracts, such as lessor's margin, interest refinancing costs, overheads and insurance charges.

(b) Costs related to investments to comply with EU standards in force.

Aid intensity

(165) The maximum aid intensity under these Guidelines shall not exceed:

(a) 75 % of the amount of eligible investment costs in outermost regions;

(b) 75 % of the amount of eligible costs in the smaller Aegean islands;

(c) 50 % of eligible investment costs in less developed regions and in all regions whose GDP per capita for the 2007-2013 period was less than 75% of the average of the EU-25 for the reference period but whose GDP per capita is above 75% of the GDP average of the EU-27;

(d) 40 % of eligible investment costs in other regions.

(166) The aid rates referred to in point (165) above may be increased by 20%, provided that the maximum combined aid intensity dos not exceed 90% for operations:

(a) linked to a merger of producer organisations;

(b) supported in the framework of the EIP.

(167) Individual aid with eligible costs in excess of EUR 25 million, or where the gross grant equivalent exceeds EUR 12 million must be specifically notified to the Commission in accordance with Article 108(3) of the Treaty.

1.1.2. Start-up aid for young farmers and for the development of small farms

(168) Start-up aid for young farmers and start-up aid for the development of small farms shall be considered compatible with the internal market under Article 107(3)(c) of the Treaty if it complies with the common assessment principles of these Guidelines and the following conditions.

(169) The aid is granted to young farmers as defined in point (38)20. of these Guidelines,

who are micro- and small undertakings or to small farms. Small farms shall be defined by Member States based on objective criteria and shall be limited to micro- and small undertakings.

(170) Member States shall define upper and lower thresholds [in terms of production potential of the agricultural holding] for access to start-up aid for young farmers and the development of small farms. The lower threshold for access to start-up aid for young farmers shall be higher than the upper threshold for access to aid for the development of small farms. [Land shall only be taken into account for calculating the attainment of the threshold level if it is rented, or if the applicant can otherwise demonstrate that the threshold will be respected, for a period of at least five years starting from the date of the application for support.]

(171) The aid shall be conditional on the submission of a business plan to the competent authority of the Member State concerned, the implementation of which shall start within nine months from the date of the adoption of the decision awarding the aid.

(172) In the case of aid for young farmers, the business plan shall provide that the beneficiary has to comply with the definition of active farmer under Article 9 of Regulation (EC) No DP/2013, within 18 months from the date of setting up.

(173) [Young farmers who do not possess adequate occupational skills and competences as referred to in point (38)20 shall be entitled to receive aid provided that they commit to acquire those skills within 36 months form the date of the adoption of the decision on granting the aid. The commitment shall be included in the business plan.]

(174) [The business plan shall describe at least the following:

(a) In the case of start-up aid to young farmers:

(i) the initial situation of the agricultural holding;

(ii) milestones and targets for the development of the activities of the agricultural holding;

(iii) details of the actions required for the development of the activities of the agricultural holding, such as investments, training, advice or any other activity;

(b) In the case of start-up aid for the development of small farms:

(i) the initial situation of the agricultural holding; and

(ii) details of actions that could support the achievement of economic viability, such as investments, training, co-operation or any other action.]

(175) Aid shall be paid at least in two instalments over a period of five years. For young

farmers, the payment of the last instalment shall be conditional upon the correct implementation of the business plan referred to in point (172).

Aid intensity

(176) The maximum aid shall be limited to EUR 70 000 per young farmer and EUR 15 000 per small farm.

1.1.3. Aid for the transfer of agricultural holdings

(177) Aid for the transfer of agricultural holdings to an agricultural undertaking, participating in a small farmer scheme is considered compatible with the internal market under Article 107(3)(c) of the Treaty if it complies with the common assessment principles of these Guidelines and the following conditions.

(178) Aid is granted to agricultural undertakings who, at the time of submitting their aid application, have been eligible and have participated for at least one year in the small farmer's scheme established by Title V of DP Regulation and who commit to permanently transferring their entire holding and the corresponding payment entitlements to another farmer.

(179) The aid shall be paid as annual payment or as a one-off payment.

(180) The aid shall be paid from the date of transfer and until 31 December 2020.

Aid intensity

(181) The aid corresponds to 120 % of the annual payment that the beneficiary is eligible to receive under the small farmer scheme.

1.1.4. Start-up Aid for producer groups and organisations

(182) The Commission takes a favourable view for start-up aid for producer groups and producer organisations as it creates an incentive for bringing together farmers. It will therefore declare start-up aid for producer groups and producer organisations compatible with the internal market under Article 107(3)(c) of the Treaty if such aid complies with the common assessment principles of these Guidelines and with the following provisions.

(183) This sub-chapter applies to the entire agriculture sector, including primary production and the processing of agricultural products and their marketing.

(184) Only producer groups or organizations that have been officially recognised by the

competent authority of the Member State concerned on the basis of a submission of a business plan shall be eligible for aid.

(185) The aid shall be granted subject to the obligation of the Member State to verify that the objectives of the business plan have been reached within a period of five years from the date of the official recognition of the producer group or organization.

(186) The agreements, decisions and concerted practices concluded in the framework of the producer group or organization shall comply with the competition rules as they apply by virtue of Articles 206 to 210 of the sCMO Regulation.

(187) As an alternative to providing aid to producer groups or organizations, aid up to the same overall amount may be granted directly to producers to offset their contributions to the costs of running the groups or organizations during the first five years following the formation of the group.

(188) Member States may continue to grant aid up of producer groups even after they have been recognized as producer organisations under the conditions of the sCMO Regulation.

(189) Aid shall be limited to producer groups and producer organizations coming under the definition of SMEs. The Commission shall not authorise State aid towards the costs covered in this sub-chapter in favour of large undertakings.

(190) Aid schemes authorized under this section shall be subject to a condition requiring them to adjust to take account of any changes in the regulations governing the common organisations of the market.

Eligible costs

(191) The eligible costs may include the costs of the rental of suitable premises, the acquisition of office equipment, including computer hardware and software, administrative staff costs, overheads and legal and administrative fees. Where premises are purchased, the eligible costs for premises shall be limited to rental costs at market rates.

(192) Aid shall not be granted to:

(a) production organizations (entities/bodies) such as companies or co-operatives, the objective of which is the management of one or more agricultural holdings and which are therefore in effect single producers;

(b) other agricultural associations, which undertake tasks, such as mutual support and farm relief and farm management services, in the members' holdings without being involved in the joint adaptation of supply to the market;

(c) producer groups, organisations or associations, the objectives of which are incompatible with Articles 152 and 159 of sCMO.

(193) The aid shall be paid as a flat rate aid in annual instalments for the first five years from the date on which the producer group or organisation was officially recognized by the competent authority on the basis of its business plan. Member States shall pay the last instalment only after having verified the correct implementation of the business plan.

(194) Aids which are granted to producer group or organisations to cover expenses which are not linked to start-up costs, such as investments or promotion activities, will be assessed in accordance with the rules governing such type of aids.

Aid intensity

(195) The aid intensity shall be limited to 100 % of the eligible costs.

(196) The total amount of aid shall be limited to EUR 500 000. The aid shall be degressive.

1.1.5. Aid for agri-environmental-climate and animal welfare commitments

(197) This sub- chapter applies to primary production of agricultural products only.

1.1.5.1. Aid for agri-environmental-climate commitments

(198) Aid for agri-environmental-climate commitments shall be declared compatible with the internal market under Article 107(3)(c) of the Treaty if it fulfils the common assessment principles of these Guidelines and the following conditions.

(199) This sub-chapter applies for aid to agricultural undertakings and groups of agricultural undertakings who undertake, on a voluntary basis, to carry out operations consisting of one or more agri-environment-climate commitments on agricultural land to be defined by Member States, including but not limited to the agricultural area as defined under point (38).30 of these Guidelines.

(200) The measure shall aim at the preservation as well as at the promotion of the necessary changes to agricultural practices that make a positive contribution to the environment and climate.

(201) The aid will cover only those voluntary commitments going beyond the relevant mandatory standards established pursuant to Chapter I of Title VI of Regulation (EU) No 1306/2013, the relevant criteria and minimum activities as established pursuant to Article 4(1)(c) second and third indents respectively of DP Regulation, relevant minimum requirements for fertiliser and plant protection products use as well as other relevant mandatory requirements established by national legislation. All such mandatory requirements shall be identified and described in the notification.

(202) Member States shall endeavour to ensure that the undertakings that undertake to carry out operations under this measure are provided with the knowledge and information required to implement them, such as by commitment-related expert advice and/or by making aid under this measure conditional to relevant training.

(203) Commitments under this measure shall be undertaken for a period of five to seven years. However, where necessary in order to achieve or maintain the environmental benefits sought, Member States may determine a longer period for particular types of commitments, including by means of providing for their annual extension after the termination of the initial period.[56] For new commitments directly following the commitment performed in the initial period, Member States may determine a shorter period.

(204) Where relevant, the rules for area related payments set out in Article 47 of the RD Regulation and its delegated act shall be complied with.

(205) Aid for agri-environmental-climate commitments to other land managers and other groups of beneficiaries than agricultural undertakings can be granted under sub-chapter 3.4 of Section II these Guidelines.

(206) [Commitments under the agri-environment-climate measure to extensify livestock farming shall comply with at least the following conditions:

(a) the whole grazed area of the holding is managed and maintained to avoid over- and under-grazing;

(b) livestock density shall be defined taking account of all grazing livestock kept on the farm or, in the case of a commitment to limit nutrient leaching, all animals kept on the farm which are relevant to the commitment in question.

(207) Commitments under the agri-environment-climate measure to rear local breeds in

[56] For instance, in the case of sub-measures aimed at restoring and maintaining wetland habitats, aid could be granted for more than 7 years given the complexity of meeting these objectives.

danger of being lost to farming or to preserve plant genetic resources under threat of genetic erosion shall require:

(a) to rear farm animals of local breeds, genetically adapted to one or more traditional production systems or environments in the country, in danger of being lost to farming; or

(b) to preserve plant genetic resources naturally adapted to the local and regional conditions and under threat of genetic erosion.

(208) The following species of farm animals shall be eligible for aid: cattle; sheep; goats; equidae; pigs and birds.

(209) Local breeds shall be considered as being in danger of being lost to farming if the following conditions are fulfilled and if these are described and included in the notification:

(a) the number of breeding females at national level concerned is stated;

(b) that number and the endangered status of the listed breeds is certified by a duly recognised relevant scientific body;

(c) a duly recognised relevant technical body registers and keeps up-to-date the herd or flock book for the breed;

(d) the bodies concerned possess the necessary skills and knowledge to identify animals of the breeds in danger.

(210) Supported plant genetic resources shall be considered as being under threat of genetic erosion on condition that sufficient evidence of genetic erosion, based upon scientific results or indicators for the reduction of landraces/primitive local varieties, and their population diversity as well as (where relevant) indicators for modifications in the prevailing agricultural practices at local level is described and included in the notification.]

(211) Aid may be provided for the conservation and for the sustainable use and development of genetic resources in agriculture for operations not covered by the provisions under the above points (206) to (210) of this sub-chapter.

(212) [Operations for the conservation of genetic resources in agriculture shall include the following:

(a) targeted actions: actions promoting the in situ and ex situ conservation, characterisation, collection and utilisation of genetic resources in agriculture, including web-based inventories of genetic resources currently conserved in situ, including in situ/ on-farm conservation, and of ex situ collections and databases;

(b) concerted actions: actions promoting the exchange of information for the conservation, characterisation, collection and utilisation of genetic resources in Union agriculture, among competent organisations in the Member States;

(c) accompanying actions: information, dissemination and advisory actions involving non-governmental organisations and other relevant stakeholders, training courses and preparation of technical reports.]

Eligible costs

(213) Payments shall compensate beneficiaries for all or part of the additional costs and income foregone resulting from the commitments made. These payments shall be granted annually.

(214) In duly justified cases, for operations concerning environmental conservation, aid may be granted as a flat-rate or as a one-off payment per unit for commitments to renounce the commercial use of areas, calculated on the basis of additional costs incurred and income foregone.

(215) Where necessary the payments may also cover transaction costs to a value of up to 20% of the premium paid for the agri-environment-climate commitments. Where commitments are undertaken by groups of undertakings, the maximum level shall be 30%.

(216) However, if a Member State wants to compensate for transaction costs caused by entering into agri-environmental-climate commitments, it must provide convincing proof of such costs, for example by presenting cost comparisons with agricultural undertakings not entering into such commitments. The Commission will therefore not normally authorise State aid for transaction costs for the continuation of commitments already entered into in the past, unless a Member State demonstrates that such costs continue to occur or that new transaction costs are being incurred.

(217) Where transaction costs are calculated on the basis of average costs and/or average farms, Member States should demonstrate that in particular large undertakings are not overcompensated. For the purpose of calculating compensation, Member States shall take into account whether the transaction costs in question are incurred per undertaking or per hectare.

(218) No aid under this measure may be granted for commitments that are covered under the organic farming measure defined in sub-chapter 1.1.8 of section II of these Guidelines.

Aid intensity

(219) Aid shall be limited to the following maximum amounts: EUR 600 per ha per year for annual crops; EUR 900 per ha per year for specialised perennial crops; EUR 450 per ha per year for other land uses; EUR 200 per Livestock Unit ("LU") per year for local breeds in danger of being lost to farming.

(220) These amounts may be increased in duly substantiated cases taking into account specific circumstances to be justified, in favour of commitments which entail a real change of current agricultural practice and lead to a demonstrable and significant positive effect on the environment. Unless exceptional benefits for environmental protection can be demonstrated, such higher aid shall thus not be authorised in favour of agricultural holdings simply proposing not to change current agricultural practice on the land involved[57].

1.1.5.2. Aid for animal welfare commitments

(221) Aid for animal welfare commitments shall be declared compatible with the internal market under Article 107(3)(c) of the Treaty if it fulfils the common assessment principles of these Guidelines and the following conditions.

(222) This sub-chapter applies for aid to agricultural undertakings who undertake, on a voluntary basis, to carry out operations consisting of one or more animal welfare commitments and who comply with the definition of active farmers in Article 9 of DP Regulation.

(223) The aid covers only those commitments going beyond the relevant mandatory standards established pursuant to Chapter I of Title VI of Regulation (EU) No 1306/2013 and other relevant mandatory requirements. These relevant requirements shall be identified and described in the notification.

(224) [Animal welfare commitments eligible to receive aid shall provide upgraded standards of production methods in one of the following areas:

(a) water and feed in accordance with the natural needs of animal husbandry;

(b) housing conditions, such as space allowances, bedding, natural light;

(c) outdoor access;

[57] For example, for not changing extensive grazing into more intensive forms of production.

(d) practices which avoid mutilation and/or castration of animals or use of anaesthetics and anti-inflammatory medication in cases when mutilation or castration of animals is necessary.]

(225) Those commitments shall be undertaken for a renewable period of one to seven years.

(226) The mechanism of renewal of the commitments set out above shall be set up by the Member States in accordance with their relevant national rules. Such mechanism shall be communicated to the Commission as part of the notification of State aid pursuant this sub-chapter. The renewal shall always be subject to respect of conditions approved by the Commission for payments/aid pursuant to this sub-chapter.

Eligible costs

(227) The payments shall be granted annually and shall compensate agricultural undertakings for all or part of the additional costs and income foregone resulting from the commitment made.

(228) Where necessary, they may also cover transaction costs to the value up to 20% of the premium paid for the animal welfare commitments. However, if a Member State wants to compensate for transaction costs caused by entering into animal welfare commitments, it must provide convincing proof of such costs, for example by presenting cost comparisons with agricultural undertakings not entering into such commitments. The Commission will therefore not normally authorise State aid for transaction costs for the continuation of animal welfare commitments already entered into in the past, unless a Member State demonstrates that such costs continue to occur or that new transaction costs are being incurred.

(229) Where transaction costs are calculated on the basis of average costs and/or average farms, Member States should demonstrate that in particular large undertakings are not overcompensated. For the purpose of calculating compensation, Member States shall take into account whether the transaction costs in question are incurred per undertakings or per hectare.

Aid intensity

(230) Aid shall be limited to the following maximum amount: EUR 500 per LU.

1.1.6. Aid for disadvantages related to Natura 2000 areas and to the Water framework directive

(231) The Commission shall declare State aid for disadvantages related to Natura 2000

areas and to the Water framework directive compatible with the internal market under Article 107(3)(c) of the Treaty if it fulfils the common assessment principles of these Guidelines and the following conditions.

(232) This sub-chapter applies to agricultural undertakings active in the primary production of agricultural products.

(233) Aid to other land managers in duly justified cases can be granted in accordance with sub-chapter 3.5 of section II of these Guidelines.

Eligible costs

(234) Aid shall be granted to compensate beneficiaries for additional costs and income foregone resulting from disadvantages in the areas concerned, related to the implementation of the Habitats Directive, the Birds Directive and the Water Framework Directive.

(235) Aid linked to the Habitats Directive and the Birds Directive shall only be granted in relation to disadvantages resulting from requirements that go beyond the good agricultural and environmental condition provided for in article 94 and Annex II of Council Regulation (EU) No 1306/2013 and the relevant criteria and minimum activities as established pursuant to Article 4(1)(c) second and third indents respectively of DP Regulation.

(236) Aid linked to the Water Framework Directive shall only be granted in relation to specific requirements that:

a. were introduced by the Water Framework Directive, are in accordance with the programmes of measures of the river basin management plans for the purpose of achieving the environmental objectives of that Directive and go beyond the measures required to implement other Union legislation for the protection of water;

b. go beyond the statutory management requirements and the good agricultural and environmental condition provided for in Chapter I of Title VI of Regulation (EU) No 1306/2013 and the relevant criteria and minimum activities as established pursuant to Article 4(1)(c) second and third indents respectively of DP Regulation (EU);

c. go beyond the level of protection of the Union legislation existing at the time the Water Framework Directive was adopted as laid down in Article 4(9) of the Water Framework Directive;

d. and impose major changes in type of land use, and/or major restrictions in farming practice resulting in a significant loss of income.

(237) The requirements referred to in points (235) and (236) shall be identified and described in the notification.

(238) The following areas shall be eligible for aid:

1. Natura 2000 agricultural areas designated pursuant to the Habitats Directive and the Birds Directive;
2. Other delimited nature protection areas with environmental restrictions applicable to farming which contribute to the implementation of Article 10 of the Habitats Directive. These areas, shall not exceed 5% of the designated Nature 2000 areas covered by the territorial scope of the relevant rural development programme;
3. Agricultural areas included in river basin management plans according to the Water Framework Directive.

Aid intensity

(239) Aid shall be limited to the following amounts: 500 EUR per ha per year maximum in the initial period not exceeding five years; 200 EUR per ha per year maximum thereafter. Aid shall be 50 EUR per ha per year minimum for the Water framework directive payments.

(240) The maximum amounts of EUR 500 and EUR 200 may be increased in exceptional cases taking into account specific circumstances to be justified. The minimum amount of EUR 50 for the Water framework directive payments may be decreased in duly substantiated cases taking into account specific circumstances to be justified.

1.1.7. Aid to areas facing natural or other specific constraints

(241) The Commission shall declare State aid in mountain areas and other areas facing natural or other specific constraints compatible with the internal market under Article 107(3) (c) Treaty if the common assessment principles of these Guidelines and the following conditions are fulfilled.

(242) Aid can be granted to agricultural undertakings active in primary agricultural production who undertake to pursue their farming activity in areas designated pursuant to Article 32 of RD regulation and who comply with the definition of active farmers in Article 9 of DP Regulation.

Eligible costs

(243) The aid shall be granted in order to compensate agricultural undertakings for all or part of the additional costs and income foregone related to the constraints for agricultural production in the area concerned. Member States must demonstrate the constraints in question and provide proof that the amount of compensation to be paid does not go beyond income loss and additional costs resulting from these constraints.

(244) Additional costs and income foregone shall be calculated in comparison to areas which are not affected by natural or other specific constraints, taking into account payments pursuant to Chapter 3 of Title III of the DP Regulation.

(245) When calculating additional costs and income foregone, Member States may, where duly justified, differentiate the level of payment taking into account:

a) the severity of the identified permanent natural constraint affecting farming activities;

b) the farming system.

(246) The aid will be granted annually per hectare of agricultural area.

Aid intensity

(247) Payments shall be fixed between the minimum and maximum amount: EUR 25 minimum per ha per year on average of the area of the beneficiary receiving aid, EUR 250 maximum per ha per year, EUR 450 maximum per ha per year in mountain areas as defined in Article 32(2) of the RD Regulation.

(248) The maximum amounts may be increased in duly substantiated cases taking into account specific circumstances to be justified in the notification.

(249) Member States shall provide for degressivity of payments above a threshold level of area per holding, to be defined, except if the grant only concerns the minimum payment per ha per year as laid down in point (247) of these Guidelines. To that effect, notifications should specify the size of the farm that will benefit from these payments.

(250) In case of a legal person, or a group of natural or legal persons, Member States may apply the degressivity of payments at the level of the members of these legal persons or groups where national law provides for the individual members to assume rights and obligations comparable to those of individual farmers who have the status of head of holding, in particular as regards their economic, social and tax status,

provided that they have contributed to strengthening the agricultural structures of the legal persons or groups concerned.

(251) In addition to the payments provided for in point (247) Member States may grant payments under this measure to beneficiaries in areas which were eligible under Article 36(a)(ii) of Regulation (EC) No 1698/2005[58]. For beneficiaries in areas that are no longer eligible following the new delimitation referred to in Article 32(3) of the RD Regulation, those payments shall be degressive over a period of a maximum of four years starting on the date the delimitation in accordance with Article 32(3) of the RD regulation is completed and at the latest in 2018 shall amount to no more than 80% of the average payment fixed in accordance with Article 36(a)(ii) of Regulation (EC) No 1698/2005, and ending by 2020 at the latest shall be reduced to no more than 20%. When the level of the payment reaches 25 EUR due to degressivity, the Member State can continue payments at this level until the phasing out period is completed.

(252) Following completion of the delimitation, beneficiaries in the areas that remain eligible shall receive full payment under this measure.

1.1.8. Aid for organic farming

(253) The Commission shall declare aid for organic farming compatible with the internal market under Article 107(3)(c) of the Treaty if it fulfils the common assessment principles of these Guidelines and the following conditions:

(254) This sub-chapter applies only to primary production.

(255) Aid per hectare of agricultural area may be granted to agricultural undertakings or groups of agricultural undertakings who undertake on a voluntarily basis to convert to or maintain organic farming practices and methods as defined in Council Regulation (EC) No 834/2007[59] and who comply with the definition of active farmers in Article 9 of DP Regulation.

(256) Aid is granted only for commitments which go beyond the following standards and requirements listed in the notification. The requirements shall be identified and described in the notification:

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[58] Council Regulation (EC) No 1698/2005 of 20 September 2005 on support for rural development by the European Agricultural Fund for Rural Development (EAFRD), OJ L 277, 21.10.2005, p. 1.

[59] OJ L 189, 20.7.2007, p. 1.

(a) the relevant mandatory standards established under Chapter 1, Title VI of Regulation (EU) No 1306/2013;

(b) the relevant criteria and minimum activities as established pursuant to Article 4(1)(c) second and third indents respectively of DP Regulation;

(c) the relevant minimum requirements applicable to the use of fertiliser and plant protection products as well as

(d) other relevant mandatory requirements laid down in national legislation.

(257) Commitments must be carried out over an initial period of five to seven years. Where aid is granted for conversion to organic farming Member States may determine a shorter initial period corresponding to the period of conversion. Where aid is granted for the maintenance of organic farming, Member States may provide for annual extension after the termination of the initial period. For new commitments concerning maintenance directly following the commitment performed in the initial period, Member States may determine a shorter period.

(258) Where relevant, the rules for area related payments set out in Article 47 of the RD Regulation and its delegated act shall be complied with.

Eligible costs

(259) Aid covers compensation to beneficiaries for part of or all additional costs and loss of income resulting from the commitments.

(260) Where necessary, aid may also cover transaction costs with a maximum value of 20 % of the premium paid for the commitment. Where commitments are undertaken by groups of agricultural undertakings the maximum level is 30 %. This aid is granted on an annual basis.

(261) However, if a Member State wants to compensate for transaction costs caused by entering into organic farming commitments, it must provide convincing proof of such costs, for example by presenting cost comparisons with agricultural undertakings not entering into such commitments. The Commission will therefore not normally authorise State aid for transaction costs for the continuation of organic farming commitments already entered into in the past, unless a Member State demonstrates that such costs continue to occur or that new transaction costs are being incurred.

(262) Where transaction costs are calculated on the basis of average costs and/or average farms, Member States should demonstrate that in particular large undertakings are not overcompensated. For the purpose of calculating compensation, Member States shall take into account whether the transaction costs in question are incurred per undertakings or per hectare.

(263) Aid may not be granted under this sub-chapter for commitments covered by the agri-environment-climate measure, or for costs covered by the sub-chapter on aid to encourage the participation in quality systems.

(264) Aid for investment in primary production and the processing/marketing of organic products is subject to the provisions of sub-chapters on aid for investment.

Aid intensity

(265) The maximum amount of aid is: €600 per hectare per year for annual crops; €900 per hectare per year for specialised perennial crops; €450 per hectare per year for other land use.

(266) These ceilings may be exceeded in exceptional cases, taking into account specific circumstances which must be justified.

1.1.9. Aid for participation of producers of agricultural products in quality schemes

(267) The Commission shall declare the aid in favour of participation of producers of agricultural products and groups thereof in quality schemes compatible with the internal market under Article. 107(3)(c) of the Treaty if it fulfils the common assessment principles of these Guidelines and the following conditions:

(268) This sub-chapter applies only to producers of agricultural products. Only active farmers within the meaning of Article 9 of DP Regulation shall be eligible for aid under this sub-chapter.

Eligible costs

(269) The aid shall be granted for the following eligible costs:

a) costs for new participation in quality schemes;

b) costs for compulsory control measures in relation to the quality schemes as referred to in point (271)(a), (b) and (c) of these Guidelines undertaken pursuant to Union or national legislation by or on behalf of the competent authorities;

c) costs of market research activities, product conception and design and for preparation of applications for recognition of designations of origin, geographical indications and traditional specialities guaranteed in accordance with Regulation (EU) No 1151/2012[60].

(270) The aid must not be granted towards the costs of control undertaken by the beneficiaries themselves, or where Union legislation provides that the cost of control is to be met by producers of agricultural products and group thereof, without specifying the actual level of charges.

(271) Aid for new participation in quality schemes referred to in in point (269)a) of these Guidelines above shall be granted for the following categories of quality schemes:

(a) quality scheme established under the following Regulations and provisions:

(i) Part II, Title II, Chapter I, Section 2 of sCMO Regulation as concerns wine;

(ii) Regulation (EU) No 1151/2012 of the European Parliament and of the Council of 21 November 2012 on quality schemes for agricultural products and foodstuffs;

(iii) Council Regulation (EC) No 834/2007 of 28 June 2007 on organic production and labelling of organic products and repealing Regulation (EEC) No 2092/91;

(iv) Regulation (EC) No 110/2008 of the European Parliament and of the Council of 15 January 2008 on the definition, description, presentation, labelling and the protection of geographical indications of spirit drinks and repealing Council Regulation (EEC) No 1576/89;

(v) Council Regulation (EEC) No 1601/91[61];

(b) Quality schemes, including farm certification schemes, for agricultural products recognised by the Member States as complying with the following criteria:

(i) the specificity of the final product produced under such schemes is

[60] Regulation (EU) No 1151/2012 of the European Parliament and of the Council of 21 November 2012 on quality schemes for agricultural products and foodstuffs, OJ L 343, 14.12.2012, p. 1.

[61] Council Regulation (EEC) No 1601/91 of 10 June 1991 laying down general rules on the definition, description and presentation of aromatised wines, aromatised wine-based drinks and aromatised wine-product cocktails, OJ L 149, 14.6.1991, p. 1.

derived from clear obligations to guarantee

- specific product characteristics, or
- specific farming or production method, or
- a quality of the final product that goes significantly beyond the commercial commodity standards as regards public, animal or plant health, animal welfare or environmental protection;

(ii) the scheme is open to all producers;

(iii) the scheme involves binding final product specifications and compliance with those specifications is verified by public authorities or by an independent inspection body;

(iv) the scheme is transparent and assures complete traceability of agricultural products.

(c) voluntary agricultural product certification schemes recognized by the Member States concerned as meeting the requirements laid down in Commission Communication- Union best practice Guidelines for the operation of voluntary certification schemes relating to agricultural products and foodstuffs.[62]

(272) The aid shall be accessible to all those eligible undertakings in the area concerned, based on objectively defined conditions.

(273) Aid referred to in point (269)(b) and (c) of these Guidelines shall not involve direct payments to the producers of agricultural products. The aid referred to in (269)(b) and (c) of these Guidelines shall be paid to the organism responsible for control measures, the research provider or the consultancy provider.

Aid intensity

(274) The aid referred to in Point (269)a) above shall be granted for a maximum period of five years and shall be limited to EUR 3000 per beneficiary per year. It shall be granted in the form of an annual incentive payment, the level of which shall be determined according to the level of the fixed costs arising from the participation in quality schemes.

(275) The aid referred to in Point (269)b) and (269)c) shall be limited to 100 % of the real costs incurred.

[62] OJ C 341, 16.12.2010, p. 5.

1.1.10. Provision of technical support in the agricultural sector

(276) The current chapter covers aid for the provision of technical support in the agricultural sector (including primary production, processing and marketing of agricultural products), in so far as it concerns either knowledge transfer and information actions or advisory services or farm replacement services.

(277) The provision of technical support to primary producers can be undertaken by producer groups or other organisations, regardless of their size.

(278) The aid must be accessible to all those eligible in the area concerned, based on objectively defined conditions. Where the provision of technical support is undertaken by producer groups or other organisations, membership of such groups or organisations must not be a condition for access to the service. Any contribution of non-members towards the administrative costs of the group or organisation concerned must be limited to the costs of providing the service.

1.1.10.1. Aid for knowledge transfer and information actions

(279) The Commission will declare State aid for knowledge transfer and information actions compatible with the internal market within the meaning of Article 107(3)(c) of the Treaty if it fulfils the common assessment principles of these Guidelines, the general conditions for aid for technical support and the following conditions.

(280) The aid shall cover vocational training and skills acquisitions, including training courses, workshops and coaching, demonstration activities and information actions.

(281) The aid may also cover short-term farm management exchange and farm visits.

Eligible costs

(282) Aid may be granted in respect of the following eligible costs:

(a) the costs of organizing the vocational training, skills acquisition actions, demonstration activities or information actions;
(b) the costs of travel, accommodation and per diem expenses of the participants;
(c) the costs of the provision of replacement services during the absence of the farmer;
(d) in the case of demonstration projects:
   (i) the construction, acquisition, including leasing, or improvement of immovable property, with land only being eligible to an extend not exceeding 10% of total eligible costs of the operation concerned;
   (ii) the purchase or lease purchase of machinery and equipment up to the market

value of the asset;

(iii) general costs linked to expenditure referred to in points (a) and (b), such as architect, engineer and consultation fees, fees relating to advice on environmental and economic sustainability, including feasibility studies; feasibility studies shall remain eligible expenditure even where, based on their results, no expenditure under points (a) and (b) is made;

(iv) the following intangible investments costs: acquisition or development of computer software and acquisitions of patents, licenses, copyrights, trademarks.

(283) Bodies providing knowledge transfer and information services shall have the appropriate capacities in the form of staff qualifications and regular training to carry out those tasks.

(284) Aid referred to in point (282), (a), (c) and (d) shall not involve direct payments to the undertakings active in primary production, processing and marketing of agricultural products. The aid referred to in point (282)(a), (c) and (d) shall be paid to the provider of knowledge transfer and information action.

Aid intensity

(285) The aid intensity shall be up to 100% of the eligible costs.

1.1.10.2. Aid for advisory services

(286) The Commission will declare State aid for the provision of advisory services compatible with the internal market under Article 107(3)(c) of the Treaty if it fulfills the common assessment principles of these Guidelines, the general conditions for aid for technical support and the following conditions.

(287) The aid shall be designed to help undertakings active the agricultural sector and young farmers benefit from the use of advisory services for the improvement of the economic and environmental performance as well as the climate friendliness and resilience of their holding and/or investment.

(288) The advice shall be linked to at least one Union priority for rural development and shall cover as a minimum one of the following elements:

(a) obligations deriving from the statutory management requirements or standards for good agricultural and environmental conditions of land laid down in Chapter I of Title VI of Regulation (EU) No 1306/2013;

(b) where applicable, the agricultural practices beneficial for the climate and the environment laid down in Chapter 2 of Title III of DP Regulation and the maintenance of the agricultural area referred to in Article 4(1)(c) of that Regulation;

(c) measures aiming at modernization, competitiveness building, sectoral integration, innovation, market orientation as well as the promotion of entrepreneurship;

(d) requirements defined by Member States for implementing Article 11(3) of the Water Framework Directive;

(e) requirements defined by Member States for implementing Article 55 of 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 and repealing Council Directives 79/117/EEC and 91/414/EEC[63], and in particular the compliance with the general principles of integrated pest management as referred to in Article 14 of Directive 2009/128/EC of the European parliament and of the Council of 2 October 2009 establishing a framework for Community action to achieve the sustainable use of pesticides[64];

(f) where relevant occupational safety standards and safety standards linked to farms;

(g) specific advice for farmers setting up for the first time.

(289) Advice may cover other issues and in particular the information related to climate change mitigation and adaptation, biodiversity and protection of waters as laid down in Annex I to Regulation 1306/2013 linked to the economic and environmental performance of the agricultural holding, including competitiveness aspects. This may include advice for the development of short supply chains, organic farming and health aspects of animal husbandry.

(290) The aid shall not involve direct payments to undertakings active in the agricultural sector. The advisory services provider shall be the recipient of the aid.

(291) The bodies selected to provide the advisory service shall have the appropriate resources in the form of regularly trained and qualified staff and advisory experience and reliability with respect to the fields they advise in.

(292) When providing advice, advisory service providers shall respect the non-disclosure

[63] OJ L 309, 24.11.2009, p. 1.
[64] OJ L 309, 24.11.2009, p. 71.

obligations referred to in Article 13(2) of Regulation (EU) No 1306/2013.

(293) Where duly justified and appropriate, advice may be partly provided in group, while taking into account the situation of the individual user of advisory services.

Aid intensity

(294) The amount of aid is limited to EUR1 500 per advice.

1.1.10.3. Aid for farm replacement services

(295) Aid for farm replacement services shall be considered to be compatible with the internal market under Article 107(3)(c) of the Treaty if the common assessment principles of these Guidelines, the general conditions for aid for technical support and the conditions of this sub-chapter are fulfilled.

(296) The aid shall not involve direct payments to the farmer. The aid is paid to the provider of the farm replacement service.

Eligible costs

(297) Aid shall be granted in respect of the real costs incurred for the replacement of farmers or members of farm household who is a natural person or farm workers, during illness and holidays.

Aid intensity

(298) The aid intensity shall be up to 100% of the eligible costs.

1.1.11. Aid for co-operation in the agricultural sector

(299) The Commission shall declare State aid for co-cooperation in the agricultural sector compatible with the internal market under Article 107(3)(c) of the Treaty if the common assessment principles of these Guidelines and the following conditions are fulfilled.

(300) This sub-chapter applies to the agricultural sector, including primary production, processing and marketing of agricultural products.

(301) Aid shall be granted in order to promote forms of cooperation involving at least two entities and in particular:

1. co-operation approaches among different undertakings in the agricultural sector, food chain (only if the result of the processing is an agricultural product) and other actors active in the agricultural sector

that contribute to achieving the objectives and priorities of rural development policy, including producer groups, cooperatives and inter-branch organisation;

2. the creation of clusters and networks;

3. the establishment and operation of operational groups of the EIP for agricultural productivity and sustainability as referred to in Article 56 of future RD Regulation.

(302) The aid will be granted for cooperation relating, in particular, to the following activities:

1. pilot projects;

2. the development of new products, practices, processes and technologies in the agricultural and food (as far as agricultural products are concerned) sectors;

3. co-operation among small operators in the agricultural sector in organising joint work processes and sharing facilities and resources;

4. horizontal and vertical co-operation among supply chain actors for the establishment and development of short supply chains and local markets;

5. promotion activities in a local context relating to the development of short supply chain and local markets;

6. joint action undertaken with a view to mitigating or adapting to climate change;

7. joint approaches to environmental projects and ongoing environmental practices including efficient water management, the use of renewable energy[65] and the preservation of agricultural landscapes;

8. horizontal and vertical cooperation among supply chain actors in the sustainable provision of biomass for use in food production if the result is an agricultural product and energy production for own consumption;

9. implementation, in particular by groups of public and private partners other than those defined in point (b) of Article 32(2) of Regulation

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65 This applies to co-operation relating to the production of energy from renewables or the production of biofuels on holdings, provided that the conditions laid down in sub-chapter 1.1.1.1 of Section II of these Guidelines are complied with.

(EU) No 1303/2013, of local development strategies other than those defined in Article 2(19) of Regulation (EU) No 1303/2013 addressing one or more of the Union priorities for rural development.

(303) Aid for the creation of clusters and networks shall be granted only to newly formed clusters and networks and those commencing an activity that is new to them.

(304) Aid for activities under point (302)(1) and (2) may be granted also to individual actors. Where aid is granted to individual actors, the results of the supported project or activity shall be disseminated.

(305) Aid under this sub-chapter should comply with the relevant provisions of competition law, in particular with Articles 101 and 102 of the Treaty, as they apply by virtue of Articles 206 to 210 of the sCMO Regulation.

Eligible costs

(306) Aid may be granted to cover the following eligible costs in so far as they concern agricultural activities:

1. costs for studies of the area concerned, feasibility studies, and the drawing up of a business plan or local development strategy other than the one referred to in Article 33 of Regulation (EU) No 1303/2013;
2. costs for the animation of the area concerned in order to make feasible a collective territorial project or a project to be carried out by an operational group of the EIP for agricultural productivity and sustainability as referred to in Article 56 of RD Regulation. In the case of clusters animation may also concern networking between members and the recruitment of new members;
3. running costs of co-operation, such as the salary of a "co-ordinator";
4. direct costs of specific projects linked to the implementation of a business plan, environmental plan or equivalent, a local development strategy other than the one referred to in Article 33 of Regulation (EU) No 1303/2013 or other actions aimed at innovation including testing. Direct costs related to investments shall be limited to the eligible costs of investment aid, as specified in the sub-chapter 1.1.1.1 of Section II of these Guidelines on investment aid;
5. costs for promotion activities.

(307) Aid shall be limited to a maximum period of seven years except for collective

environmental action in duly justified cases.

Aid intensity

(308) The aid shall be granted up to 100% of the eligible costs.

(309) Direct costs related to investments, referred to in point (306)(4) above, shall be limited to the maximum aid intensity of investment aid, as specified in the sub-chapter on investment aid.

1.2. RISK AND CRISIS MANAGEMENT

(310) The granting of State aid can be an appropriate means of support with regards to certain types of risks in the agriculture sector, as the agricultural activity as a whole is particularly exposed to risks and crises. Differences exist however between primary producers and undertakings active in the processing and marketing of agricultural products, which normally have better possibilities to hedge risks. Some categories of aid in this chapter will therefore only be available for primary producers.

(311) When granting State aid to activities affected by these risks and crises, the Commission will take into consideration the need to avoid undue distortions of competition, by requiring a minimum contribution from producers to losses or the cost of such measures or some other adequate measures which should be taken to mitigate the risk of distortion of competition and ensure that the State aid is proportionate to the losses suffered. In its assessment, the Commission takes into account the need for the farmer to take adequate preventive measures to minimise the total amount of aid granted.

(312) In order to avoid a risk of the distortion of the conditions of competition, the Commission considers it important to ensure that aid to compensate undertakings for damage caused to agricultural production is paid as soon as possible after the occurrence of the adverse event concerned. Where aid is paid long after the occurrence of the event in question, there is a real danger that the payment of such aid will produce the same economic effects as operating aid. Therefore, the Commission will not approve proposals for aid which are submitted more than three years after the occurrence of the event, nor for aid to be paid out more than four years following the event. Where aid is paid in the form of soft loans or loan guarantees, the respective loans may expire beyond that four-years-deadline.

(313) The common assessment principles of these Guidelines and the common provisions

of risk and crisis management in points (310) to (312) are applicable to all sub-chapters below.

1.2.1. Aids to Compensate for Damage to Agricultural Production or the Means of Agricultural Production and to prevent damages

1.2.1.1. Aid to make good the damage caused by natural disasters or exceptional occurrences

(314) The Commission shall declare State aid to make good the damage caused by natural disasters or exceptional occurrences compatible on the basis of article 107(2) (b) of the Treaty if the common assessment principles of these Guidelines and the following conditions are fulfilled:

(315) This sub-chapter applies to the entire agriculture sector (primary production, processing and marketing of agricultural products).

(316) Because they constitute exceptions to the general prohibition of State aid within the internal market laid down by Article 107(1) of the Treaty, the Commission has consistently held that the notions of 'natural disaster' and 'exceptional occurrence' contained in Article 107(2)(b) of the Treaty must be interpreted restrictively. This has been confirmed by the Court of Justice of the European Union[66].

(317) Hitherto, the Commission has accepted that earthquakes, avalanches, landslides and floods brought about by waters overflowing river or lake banks may constitute natural disasters. Exceptional occurrences which have hitherto been accepted by the Commission include war, internal disturbances or strikes, and, with certain reservations and depending on their extent, major nuclear or industrial accidents and fires which result in widespread loss[67]. In addition, account is taken of the development within the framework of SAM, which permits to block exempt new categories of natural disaster events in accordance with point (322) below. The Commission will continue to evaluate proposals to grant State aid in accordance with Article 107 (2)(b) of the Treaty on a case-by-case basis, having regard to its previous practice in this field.

[66] Court of Justice, 11.11.2004, C 73/03, Spain v. Commission, par. 37; Court of Justice, 23.2.2006, C-346/03 and C-529/03, Giuseppe Atzeni and others, par. 79.

[67] The Commission did not accept that a fire at a single processing plant which was covered by normal commercial insurance could be considered as an exceptional occurrence. As a general rule the Commission does not accept that outbreak of animal disease or a plant pest can be considered constituting natural disasters or exceptional occurrences. However, in one case the Commission did recognise the very widespread outbreak of a completely new animal disease as an exceptional occurrence.

(318) State aid granted under this sub-chapter shall be subject to the formal recognition by the competent public authorities of the Member State concerned that a natural disaster has occurred.

(319) Member States will have to demonstrate a direct link between the exceptional occurrence or natural disaster and the damage suffered by the undertaking active in the agricultural sector.

(320) Aid shall be paid directly to the agricultural undertaking concerned or to a producer group of which the agricultural undertaking is a member. Where the aid is paid to a producer group, the amount of aid shall not exceed the amount of aid to which that agricultural undertaking is eligible.

(321) The aid schemes shall be established within three years from the date of the occurrence of the event, and the aid must be paid out within four years from that date.

(322) In order to facilitate rapid crisis management, the Commission will authorise ex ante framework aid schemes to compensate for the damage caused by the four types of natural disasters listed in point (317) as well as for tornadoes, hurricanes, volcanic eruptions and wild fires, provided that the conditions under which aid can be granted in cases of such natural disasters are clearly stipulated[68].

(323) Once an ex-ante framework scheme has been authorised by the Commission, the Member States shall grant aid, whenever an actual disaster events occur, provided they abide ex post by the following reporting obligations:

1. Within a deadline of [30 days] beginning from the start of measures implementing the notified framework scheme, the respective Member States' authorities inform the Commission services about the concrete case of application. In this context, information has to be submitted on the basis of which the presence of a natural disaster within the meaning of this sub-chapter can be proven. Also, the already implemented or planned measures and the estimated volumes of damage and aid have to be indicated.

2. In the aftermath of the implementation of the scheme in a concrete situation, at the latest within three months after the last individual aid

[68] Commission decisions: N 274b/2010, N 274a/2010, SA.33605, SA.33628, SA.36787.

has been granted regarding a certain natural disaster, the respective Member States' authorities transmit the respective final report. Conclusive information proving the presence of a natural disaster within the meaning of Article 107(2)(b) of the Treaty shall be submitted to the Commission services. In addition, information on all individual implementation measures and the concrete number of beneficiaries, as well as the overall aid amount shall be submitted.

(324) Aid granted to compensate for the damage caused by other types of natural disasters not mentioned in point (317) and for damage caused by exceptional occurrences, shall be individually notified to the Commission.

Eligible costs

(325) Member States have to present as precise assessment as possible of the damage suffered by the potential beneficiaries.

(326) Eligible shall be the costs of the damage incurred as a direct consequence of the natural disaster, as assessed by a public authority independent from the competent granting authority, an independent expert recognised by public authority or by an insurance undertaking.

(327) The damage may include the following:

1. material damage to buildings, equipment, machinery and stocks, and
2. loss of income resulting from the destruction of the agricultural production and the means of the primary agricultural production, the processing and the marketing of agricultural products.

(328) The damage shall be calculated at the level of the individual beneficiary. The material damage referred to in point (327).1 shall be calculated on the basis of the actual value of the buildings and equipment.

(329) Indexes may be used in order to calculate the annual agricultural production of the beneficiary provided that the calculation method used permits the determination of the real loss of the beneficiary in the given year.

(330) The Commission will accept other methods for the calculation of damages including regional reference values, provided it is satisfied that these are representative and not based on abnormally high yields. If the natural disaster or the exceptional occurrence has affected a wide area in the same way, aid payments may be based on average losses provided that these are representative and do not result in significant

overcompensation of any beneficiary.

(331) In order to avoid overcompensation, any payments received by the aid beneficiary, e.g. under insurance policies, as well as costs not incurred because of the natural disaster or exceptional occurrence should be deducted from the amount of eligible costs.

Aid intensity

(332) The amount of compensation shall not exceed what is needed to bring the beneficiary to the situation as from before the natural disaster or exceptional occurrence. The aid and any other payments received, including payments under insurance policies for the damage, shall not exceed 100 % of the eligible costs.

1.2.1.2. Aid to compensate for losses caused by adverse climatic events which can be assimilated to a natural disaster

(333) The Commission shall declare aid to compensate agricultural undertakings for damage to plants or animals or to farm buildings caused by adverse climatic events which can be assimilated to natural disasters compatible with the internal market within the meaning of Article 107(3)(c) of the Treaty if it fulfils the common assessment principles and the following conditions.

(334) This sub-chapter applies to aid granted towards damage caused by adverse climatic events which can be assimilated to a natural disaster as defined in point (38).46 in these Guidelines. It applies only to aid granted to the primary production of agricultural products.

(335) The occurrence of an adverse climatic event which can be assimilated to a natural disaster shall be formally recognised as such by the competent authority of the Member State concerned. Member States may, where appropriate, establish in advance criteria for the formal recognition of such event.

(336) In order to enable the Commission to assess such aid schemes, notifications of aid measures to compensate for damage caused by adverse climatic events which can be assimilated to a natural disaster should include appropriate supporting meteorological information.

(337) Aid shall be paid directly to the concerned agricultural undertaking active in the production of agricultural products or to a producer group of which those undertakings are members. Where the aid is paid to a producer group, the amount of aid shall not exceed the amount of aid to which that agricultural undertaking is

eligible.

(338) Aid schemes shall be established within three years following the date of the occurrence of the adverse climatic event assimilated to natural disaster. The aid shall be paid out within four years following the date of the occurrence of the adverse climatic event assimilated to natural disaster.

(339) [Aid for losses caused by drought shall be paid only by Member States which have fully implemented Article 9 of the Water Framework Directive in respect of agriculture, on water pricing and on the recovery of costs for water services.]

Eligible costs

(340) The aid shall compensate agricultural undertakings for the following eligible costs:

(a) Compensation for the reduction of the beneficiary`s income from the sale of agricultural product resulting from the occurrence of an adverse climatic event assimilated to natural disasters as referred to in point (341);

(b) Compensation for damage to farm buildings and farm equipment and machinery caused by adverse climatic event which can be assimilated to natural disasters as referred to in point (344) of these Guidelines.

(341) The reduction of beneficiary`s income from the sale of agricultural product resulting from the occurrence of an adverse climatic event which can be assimilated to natural disasters shall be calculated by subtracting value (a) from value (b) as specified below and with a possibility of adding the costs in point (c) and further reducing the amount by value (d):

(a) the result of multiplying the quantity of the agricultural products produced in the year of the adverse climatic event which can be assimilated to a natural disasters by the average selling price obtained during that year;
from

(b) the result of multiplying the average annual quantity of agricultural products produced in the preceding three-year period or a three year average based on the preceding five-year period (excluding the highest and lowest entry) by the average selling price obtained.

(c) other costs incurred by the beneficiary because of non-harvesting due to the adverse climatic event which can be assimilated to a natural disaster.

(d) any amount received under insurance schemes and by costs not incurred because of the adverse climatic event.

(342) Indexes may be used in order to calculate the annual agricultural production of the beneficiary provided that the calculation method used permits the determination of the real loss of the beneficiary in the given year. The measurement of the extent of the loss caused may be tailored to the specific characteristics of each type of product using:

(a) biological indexes (quantity of biomass loss) or equivalent yield loss indexes established at farm, local, regional or national level, or

(b) weather indexes (including quantity of rainfall and temperature) established at local, regional or national level.

(343) If the adverse climatic event which can be assimilated to a natural disaster has affected a wide area in the same way, aid payments may be based on average losses provided that these are representative and do not result in significant overcompensation of any beneficiary.

(344) The damage to farm buildings, farm equipment and farm machinery caused by the adverse climatic event which can be assimilated to a natural disaster shall be calculated on the basis of the actual value of the farm buildings, farm equipment and farm machinery, as assessed by a public authority independent from the competent granting authority, an independent expert recognised by public authority or by an insurance undertaking.

(345) The calculation of loss shall be made at the level of the individual beneficiary.

Aid intensity

(346) The gross aid intensity shall be limited to 80 % of the eligible costs and it may be increased up to 90 % of the eligible costs in areas facing natural constraints.

(347) Any aid granted under this sub-chapter shall be reduced by 50 % for beneficiaries who have not taken out insurance covering at least 50 % of their average annual production or production-related income and the statistically most frequent climatic risks in the Member State or region concerned for which insurance coverage is provided. Derogation from this condition is only possible if a Member State can convincingly show that, despite all reasonable efforts, affordable insurance covering the statistically most frequent climatic risks in the Member State or region concerned was not available at the time the damage occurred.

1.2.1.3. Aid for the costs of prevention and eradication of animal diseases and plant pests and aid to compensate for losses caused by animal diseases and plant pests

(348) This sub-chapter only applies to aid granted to undertakings active in primary production of agricultural products.

(349) The Commission shall declare aid to compensate for the costs of prevention and eradication of animal diseases or plant pests and aid to compensate for losses caused by animal diseases or plant pests compatible with the internal market under Article 107(3)(c) of the Treaty if the common assessment principles of these Guidelines and the following conditions are fulfilled:

(350) Aid shall only be paid:

(a) In relation to animal diseases or plant pests for which Union or national rules exist, whether laid down by law, regulation or administrative action;

(b) as part of a:

i. public programme at Union, national or regional level for the prevention, control or eradication of the animal disease or the plant pest concerned,

ii. emergency measures imposed by competent public authority, or

iii. measures to eradicate or contain a plant pest implemented in accordance with Council Directive 2000/29/EC.

(351) The public programmes or measures in point (350)(350)(b) above shall contain a description of the prevention, control and eradication measures concerned.

(352) The aid shall not relate to an animal disease or plant pest in respect of which Union legislation provides that the charges for control measures are to be borne by the beneficiary.

(353) The aid shall not relate to measures in respect of which Union legislation provides that the cost of such measures is to be borne by the beneficiary, unless the cost of such aid measures is entirely offset by compulsory charges on the beneficiaries.

(354) No individual aid shall be granted where it is established that the disease or the pest was caused deliberately or by negligence of the beneficiary.

(355) As regards animal diseases, the aid shall only be granted in respect of diseases referred to in the list of animal diseases established by the World Organisation for Animal Health or the animal diseases and zoonoses listed in Articles 3.1, 4.1, 14 and

in Annex I to Council Decision 2009/470/EC of 25 May 2009 on expenditure in the veterinary field[69].

(356) Aid schemes shall be introduced within three years following the date of occurrence of the cost or loss caused by the animal disease or plant pest. Aid shall be paid out within four years from that date.

Eligible costs

(357) Costs and losses which are not incurred directly due to the animal disease or plant pest and which should have been incurred otherwise by the beneficiary shall not be eligible.

(358) In the case of prevention measures, the aid shall cover the following eligible costs:

(a) health checks;
(b) analyses;
(c) tests and other screening measures;
(d) purchase and administration of vaccines, medicines and plant protection products;
(e) preventive slaughtering of animals or destruction of animal products and of crops.

(359) In the case of eradication measures, the aid shall cover the following eligible costs:

(a) purchase and administration of vaccines, medicines, treatments and plant protection products;
(b) slaughter and destruction of animals and destruction of animal products and of crops, including those that die or are destroyed as a result of vaccination or other measures ordered by the competent public authorities.

(360) The aid in relation to eligible costs specified in points (358) to (359) shall be granted in kind with the exception of eligible costs referred to in points (358)(d)(359)(a), and in the case of plants also in points (358)(e) and (359)(b) where real costs may be reimbursed to the beneficiary.

(361) In case of aid to compensate for losses caused by animal disease or plant pest,, compensation shall be calculated only in relation to:

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69 OJ L 155, 18.6.2009, p. 30.

(a) the market value of animals slaughtered or died or the animal products or plants destroyed

    (1) as a result of the animal disease or plant pest, or

    (2) as part of a public programme or measure referred to in point (350)(b) of these Guidelines.

(b) loss of income due to quarantine obligations and difficulties in restocking or replanting.

(362) The aid shall be limited to losses caused by animal diseases and plant pests for which the competent authority

(a) has formally recognized an outbreak, in the case of an animal disease, or

(b) has formally acknowledged their presence, in the case of plants pests.

Aid intensity

(363) The aid and any other payments received by the beneficiary, including payments under other national or Union measure or insurance policies for the same eligible costs shall not exceed 100% of the eligible costs.

1.2.1.4. Aid concerning TSE tests and aid for fallen stock

(364) The Commission will declare the following state aid concerning TSE tests and fallen stock compatible with the internal market under Article 107(3)(c) of the Treaty if the common assessment principles and the following conditions are fulfilled.

(365) This sub-chapter applies to primary producers only.

Aid intensity in relating to eligible costs:

(366) In relation to the below listed eligible costs, the following aid intensities apply:

(a) aid at a rate of up to 100 % of costs for the removal of fallen stock, and 75 % of the costs for the destruction of such fallen stock. Aid towards the costs of premiums for insurance covering the costs of removal and destruction of fallen stock can be granted in accordance with the provisions of sub-chapter 1.2.1.6 of Section II of these Guidelines;

(b) aid at a rate of up to 100 % of costs for the removal and destruction of fallen stock where the aid is financed through fees or through compulsory contributions destined for the financing of the removal and destruction of such fallen stock, provided that such fees or contributions are limited to and directly imposed on the meat sector;

(c) aid at a rate of 100 % of the costs for the removal and destruction of fallen stock where there is an obligation to perform TSE tests on the fallen stock concerned;

(d) aid at a rate of up to 100 % of the costs for TSE tests;

(e) aid at rate of EUR 40 per BSE test for compulsory BSE testing of bovine animals slaughtered for human consumption. That amount shall cover the BSE test costs, comprising the test-kit, taking, transporting, testing, storing and destruction of the sample and shall include all direct and indirect payments, including any Union payments.

(367) The aid referred to in points (366) (a) to (d) shall be conditional on the existence of a consistent monitoring programme which ensures the safe disposal of all fallen stock in the Member State.

(368) The aid referred to in point (366)(e) shall be subject to the condition that the obligation to carry out BSE testing is based on Union legislation or national laws.

(369) The aid shall not involve direct payment of money to the undertakings active in the livestock sector.

(370) The aid is paid for the eligible costs referred to in point (366) (a) to (c) to the economic operators that are active downstream from the undertakings active in the livestock sector, and that provide services linked to the removal and destruction of fallen stock.

(371) In relation to fallen stock and slaughterhouse waste, the Commission will maintain its policy not to authorise aid for fallen stock given to operators active in the processing and marketing of agricultural products and aid towards the costs of disposal of slaughterhouse waste. State aid for investments undertaken in relation to the disposal of slaughterhouse waste shall be examined under the relevant rules applying to investment aid.

1.2.1.5. Aid for damages caused by protected animals

(372) Damage to equipment, infrastructure, animals and plants caused by protected animals is a growing problem. The success of EU conservation policy depends partly on the effective management of conflicts between large carnivores and livestock farmers. As a consequence, and in respect of the principle of proportionality, the Commission

will declare aid to compensate for losses caused by protected animals as well as for certain indirect costs linked to the losses compatible with the internal market under Article 107(3)(c) of the Treaty if the common assessment principles and the following conditions are met.

(373) This sub-chapter applies to primary producers only.

(374) A minimum counterpart from the beneficiaries is requested to mitigate the risk of distortions of competition and to provide an incentive for minimising risk. This contribution must take the form of reasonable preventive measures (e.g. safety fences where possible, livestock guarding dogs, etc.) which are proportionate to the risk of damage caused by protected animals in the area concerned. If no preventive measures are possible, clear evidence should be submitted by the Member State concerned on the impossibility to take any preventive measures in order for the aid to be considered compatible.

(375) A direct causal link between the damage suffered and the behaviour of the protected animal has to be established by a public authority independent from the competent granting authority, an independent expert recognised by public authority or by an insurance undertaking.

(376) The aid requests must be introduced within [three years] following the occurrence of the loss or damage. The aid must be paid out within (four years) following the occurrence.

Eligible costs

(377) The aid shall be granted to compensate for losses for animals killed or plants destroyed. The eligible costs are based on the market value of the animal killed or of the plants destroyed by the protected animals. The following indirect costs can also be reimbursed: veterinary costs resulting from the treatment of wounded animals and labour costs related to the searching for missed animals and to the removal of animal carcasses.

(378) Aid can also be granted to compensate for damages to farm equipment, machinery and farm buildings. In that case, the eligible costs are based on the market value of the farm equipment, machinery and farm buildings, as assessed by a public authority independent from the competent granting authority, an independent expert recognised by public authority or by an insurance undertaking.

(379) Investments related to measures to prevent damage done by protected animals, can

be supported under the conditions of the sub-chapter 1.1.1.1 of Section II of these Guidelines on investment aid in agricultural holdings.

(380) In order to avoid overcompensation, any payments received by the aid beneficiary, e.g. under insurance policies, as well as costs not incurred because of the damage caused by protected animals should be deducted from the amount of eligible costs.

Aid intensity

(381) Compensation is allowed up to 100 % of the eligible costs.

(382) Compensation for indirect costs shall be proportionate in relation to the direct costs and shall not exceed [80%] of the total indirect eligible costs.

1.2.1.6. Aid for the payment of insurance premiums

(383) The Commission shall declare aid granted to agricultural undertakings for the payment of insurance premiums compatible with the internal market under Article 107(3)(c) of the Treaty if the common assessment principles and the following conditions are fulfilled.

(384) In many instances, insurance is a most helpful tool for good risk and crisis management. Therefore, and in view of the often reduced financing possibilities of farmers, the Commission takes a positive view as regards State aid for insurance premiums where the insurance concerns primary production.

(385) This sub-chapter applies only to aid granted to primary production.

(386) The aid must not constitute a barrier to the operation of the internal market for insurance services. In particular, the aid must not be limited to insurance provided by a single insurance company or group of companies, or be made subject to the condition that the insurance contract be taken out with a company established in the Member State concerned.

(387) Reinsurance schemes will be examined on a case by case basis.

Eligible costs

(388) Eligible are the costs of insurance premiums for insurance against losses caused by natural disasters or exceptional occurrences, adverse climatic events assimilated to natural disasters, animal diseases and plant pests, removal and destruction of fallen stock and by protected animals, as defined in sub-chapters 1.2.1.1., 1.2.1.2., 1.2.1.3., 1.2.3.4. and 1.2.1.5., as well as by other adverse climatic events and/or losses caused

by environmental incidents.

(389) In respect of aid for insurance premiums for insurance against losses caused by environmental incidents, the following condition has to be fulfilled: the occurrence of an environmental incident has to be formally recognised as such by the competent authority of the Member State concerned. Member States may, where appropriate, establish in advance criteria for the formal recognition of such event.

(390) Indexes may be used in order to calculate the annual production of the agricultural undertaking. The calculation method used shall permit the determination of the actual loss of an individual undertaking in a given year. The measurement of the extent of the loss caused may be tailored to the specific characteristics of each type of product using:

(a) biological indexes (quantity of biomass loss) or equivalent yield loss indexes established at farm, local, regional or national level, or

(b) weather indexes (including quantity of rainfall and temperature) established at local, regional or national level.

(391) The insurance shall compensate only the cost of making good losses referred to in point (388) above and shall not require or specify the type or quantity of future production.

Aid intensity

(392) The gross aid intensity must not exceed 65 % of the cost of the insurance premium, with the exception of aid for the removal and destruction of fallen stock, where the aid intensity shall not exceed 100% of the cost of the insurance premium as regards insurance premiums for the removal of fallen stock and 75 % of the cost of the insurance premium as regards insurance premiums for the destruction of such fallen stock.

(393) Member States may limit the amount of the premium that is eligible for aid by applying appropriate ceilings.

1.2.1.7. Aid for financial contributions to mutual funds

(394) The Commission shall declare aid for financial contributions to mutual funds to pay compensation to farmers for the losses caused by adverse climatic events assimilated to a natural disaster, animal diseases and plant pests as defined in sub-chapters 1.2.1.2. and 1.2.1.3.. and/or losses caused by environmental incidents compatible

with the internal market under Article 107(3)(c) of the Treaty if the common assessment principles and the following conditions are fulfilled.

(395) This sub-chapter applies only to aid granted to primary production.

(396) The mutual fund concerned shall:

(a) be accredited by the competent authority in accordance with national law;

(b) have a transparent policy towards payments into and withdrawals from the fund;

(c) have clear rules attributing responsibilities for any debts incurred.

(397) Member States shall define the rules for the constitution and management of the mutual funds, in particular for the granting of compensation payments, as well as for the administration and monitoring of compliance with these rules. Member States shall ensure that the fund arrangements provide for penalties in case of negligence on the part of the undertaking.

(398) The occurrence of an environmental incident has to be formally recognised as such by the competent authority of the Member State concerned. Member States may, where appropriate, establish in advance criteria on the basis of which such formal recognition shall be deemed to be granted.

Eligible costs

(399) The financial contributions referred to in point (394) above may only relate to the amounts paid by the mutual fund as financial compensation to agricultural undertakings.

Aid intensity

(400) Aid shall be limited to 65 % of the eligible costs.

(401) Member States may limit the costs that are eligible for aid by applying:

(a) ceilings per fund;

(b) appropriate per member/affiliate to the fund ceilings.

1.2.2. Aid for Closing Production Capacity

(402) This chapter applies to the whole of the agriculture sector (primary production, processing and marketing of agricultural products).

1.2.2.1. Closing of capacity for animal, plant or human health, sanitary or environmental reasons

(403) The Commission shall declare aid for the closing of capacity compatible with the internal market under Article 107(3)(c) of the Treaty if it fulfils the common assessment principles and the following conditions.

(404) The closing of capacity is done for animal, plant or human health, sanitary or environmental reasons, such as reduction of overall stocking densities.

(405) There must be a sufficient counterpart from the beneficiary of the aid. This counterpart will consist of a definitive and irrevocable decision to scrap or irrevocably close the production capacity concerned. This will involve either the complete closure of capacity by the undertaking concerned or where duly justified, partial closure of capacity. Legally binding commitments must be obtained from the beneficiary that the closure of the production capacity concerned is definitive and irreversible and that the beneficiary will not start the same activity elsewhere. These commitments must also bind any future purchaser of the land/facility concerned.

(406) Only agricultural undertakings that have actually been producing, and only production capacities that have actually been in constant use over the past five years before closing, shall be eligible for aid. In cases where the production capacity has already closed definitively, or where such closure appears inevitable, there is no counterpart on the part of the beneficiary, and aid may not be granted

(407) The Commission reserves the right to attach additional conditions to the authorisation of the aid.

(408) Only undertakings fulfilling EU standards are eligible for aid and undertakings which do not fulfil these standards and which would be obliged to stop production anyway are excluded.

(409) In order to avoid erosion and other negative effects on the environment, open farmland taken out of production must in principle be afforested or turned into nature area within two years and in such a way as to ensure that negative effects on the environment are avoided. Alternatively, open farmland may be re-used after 20 years following effective capacity closure. Until then, such farmland has to be maintained in good agricultural and environmental condition, in accordance with Chapter I Title VI of Regulation (EU) No 1306/2013, and with the relevant implementing rules. The closure of installations covered by Directive 2010/75/EU of the European Parliament and of the Council of 24 November 2010 on industrial emissions (integrated

pollution prevention and control)[70] shall be made in accordance with Article 11 and 22 of that Directive which requires that the necessary measures are taken to avoid any pollution risk and that the site of operation is returned to a satisfactory state.

(410) Aid granted under an aid scheme must be accessible to all eligible undertakings.

Eligible costs

(411) Aid shall be granted as compensation for the loss of value of assets – measured as the current selling value of the assets.

(412) In addition to the compensation of loss of value of assets, for the closing of capacity for environmental reasons, an incentive payment, which may not exceed 20% of the value of the assets, may be given.

(413) Compensation may also be granted for the costs of destruction of the production capacity.

(414) Aid may also be paid to offset the obligatory social costs resulting from the implementation of the closure decision.

(415) Aid for afforestation and conversion of land into nature areas shall be granted in accordance with the rules on afforestation in sub-chapter 2.1.2 of Section II and non-productive investment in sub-chapter 1.1.1.1 of Section II of these Guidelines.

(416) The provisions of this sub-chapter are without prejudice to the possibility of granting State aid for the transfer of agricultural holdings under sub-chapter 1.1.3. of section II of these Guidelines

Aid intensity

(417) The maximum aid amounts:

1. up to 100% for compensation of loss of value of assets, for compensation of the costs of destruction of the production capacity and to offset the obligatory social costs resulting from the implementation of the closure decision.

2. up to 120% for compensation of loss of value of assets where the closure is done for environmental reasons.

[70] OJ L 334, 17.12.2010, p. 17.

1.2.2.2. Closing of capacity for other reasons

(418) The Commission shall declare aid for the closing of capacity for other reasons than those laid down in sub-chapter 1.2.2.1 compatible with the internal market under Article 107(3)(c) of the Treaty if it fulfils the common assessment principles and the following conditions.

(419) The closure is done for the restructuring of the sector, for diversification or for early retirement.

(420) The conditions in points (405) to (409) are fulfilled.

(421) No aid may be granted which would interfere with the mechanisms of the common organisations of the market. Aid schemes applying to sectors which are subject to production limits or quota will be evaluated on a case by case basis:

(422) The aid is part of a programme which has defined objectives and a specific timetable aiming at restructuring of the sector, at diversification or at early retirement:

(423) In order to ensure rapid impact on the market, the duration of schemes aimed at closing capacity should be limited to a period of not more than six months for collecting applications for participation, and a further 12 months for actually closing down. The Commission will not accept aid schemes with duration of more than [3] years, since experience shows that these may result in postponing the necessary changes:

(424) The scheme should be accessible to all economic operators in the sector concerned under the same conditions. In order to achieve maximum impact, the Member State should use a transparent system of calls for interest which publicly invites all potentially interested producers to participate; at the same time, the organisation of the scheme should be managed in such a way that it neither requires nor facilitates anticompetitive agreements or concerted practices between the undertakings concerned.

(425) The provisions of this sub-chapter are without prejudice to the possibility of granting State aid for the transfer of agricultural holdings under sub-chapter 1.1.3 of section II of these Guidelines.

Eligible costs and aid intensity

(426) The provisions on eligible costs and on aid intensity of sub-chapter 1.2.2.1 of Section

II of these Guidelines are applicable, with the exception of the costs under point (412).

1.3. Other types of aid in the agricultural sector

1.3.1. Aid to the livestock sector

(427) The Commission takes a favourable view towards aid that contributes to the maintenance and improvement of the genetic quality of the EU livestock. It shall therefore declare State aid in the livestock sector compatible with the internal market under Article 107(3)(c) of the Treaty if the common assessment principles of these Guidelines and the following conditions are met.

(428) This sub-chapter applies to SMEs active in the primary production. The Commission shall not authorise State aid towards the costs covered by this sub-chapter in favour of large undertakings.

(429) Aid shall be granted for the establishment and maintenance of herd books as well as for tests performed by or on behalf of third parties, to determine the genetic quality or yield of livestock, with the exception of controls undertaken by the owner of the livestock and routine controls of milk quality.

Eligible costs

(430) The eligible costs are :

1. the following administrative costs of the establishment and maintenance of herd books referred to in point (429):

   (a) collection and administration of data on animals (e.g. origin of an animal, date of birth, date of insemination, date of death and reasons for it) and expert ´s evaluation, actualisation and processing of the data necessary for the establishment and maintenance of herd books;

   (b) administrative works relating to registration of relevant data on animals in the herd books;

   (c) actualisation of software for managing data in the herd books;

   (d) on-line publication of information about herd books and of data from the herd books, or

   (e) other related administrative costs.

2. the following costs for the tests to determine the genetic quality or yield of livestock referred to in point (429):

(a) costs of tests or controls;

(b) related costs of collection and evaluation of the data received from such tests and controls with regard to increasing the animal health and the level of environmental protection;

(c) related costs of collection and evaluation of the data received from such tests and controls aiming at assessing the genetic quality of animals for implementation of advanced breeding technique and for keeping the genetic diversity, or

(d) other related costs.

Aid intensity

(431) The aid can be authorised up to 100 % for the financing of the administrative costs of the establishment and maintenance of herd books.

(432) The aid shall be authorised up to 70 % for the costs of tests performed by or on behalf of third parties, to determine the genetic quality or yield of livestock.

1.3.2. Aid for the promotion of agricultural products

(433) The Commission shall declare aid for the promotion of agricultural products within the European Union compatible with the internal market under Article 107(3)(c) of the Treaty if the common assessment principles of these Guidelines and the following conditions are met.

(434) This sub-chapter applies to the primary production of agricultural products and to the processing and marketing of agricultural products. The beneficiaries of aid for organisation of competitions, trade fairs or exhibitions, referred to in point (445)(1) shall be limited to SMEs:

(435) The promotion activity is designed either to inform the public about the characteristics of agricultural products (e.g. by organising competitions, by participating in trade fairs and public relations activities, by the vulgarisation of scientific knowledge, by publications with factual information) or to encourage economic operators or consumers to buy the product in question by way of promotion campaigns.

(436) The promotion campaign must be focused on quality products as defined in point (38).19 of these Guidelines or it must be generic in character and for the benefit of all producers of the type of product concerned.

(437) The promotion campaign must comply with Article 2 of Directive 2000/13/EC[71] and, where appropriate, with specific labelling rules.

(438) Member States must send representative samples of promotion material when notifying aid or an aid scheme for a promotion campaign. If this material is not available at the time of the notification, a commitment should be taken to provide this material at a later stage and in any case before the launching of the promotion campaign.

(439) Promotion campaigns with an annual budget in excess of EUR [5] million must be notified individually.

(440) The provision of promotional measures may be undertaken by producer groups or other organisation regardless of their size. Where the promotional measure is undertaken by producer groups or other organisations, participation must not be subject to membership of these groups or organisations and any contribution in terms of administration fees for the group or organisation must be limited to the cost of providing the promotional measure.

(441) The aid shall be granted:

(a) in kind or

(b) on the basis of reimbursement of real costs incurred.

(442) Aid for promotion campaigns shall be granted only in kind.

(443) Where the aid is granted in kind the aid is paid to the provider of the promotional measures.

(444) The aid for symbolic prizes referred to in point (445)(1)(v) shall only be paid to the provider of the promotional measures if the prize has been actually awarded and upon presentation of a proof of the award.

Eligible costs

(445) The costs eligible for aid for the promotion of agricultural products within the Union are

[71] Directive 2000/13/EC of the European Parliament and of the Council of 20 March 2000 on the approximation of the laws of the Member States relating to the labelling, presentation and advertising of foodstuffs, OJ L 109, 6.5.2000, p. 29.

1. concerning the organisation of competitions, trade fairs or exhibitions, provided that aid is accessible to all those eligible in the area concerned, based on objectively defined conditions:

(i) participation fees;

(ii) travel costs;

(iii) costs of publications and websites announcing the event;

(iv) the rent of premises and stands and costs of their installation and dismantling;

(v) symbolic prizes up to a value of EUR [1000] per prize and winner of competition.

2. costs of publications and websites aiming at presenting factual information about producers from a given region or producers of a given product, provided the information is neutral and that all producers have equal opportunities to be represented in the publication.

3. costs for the dissemination of scientific knowledge and factual information on quality systems open to products from other countries, on generic products and on the nutritional benefits of generic products and suggested uses for them.

4. costs for consumer-targeted promotion campaigns organised in the media or at retail outlets as well as for all promotion material which is distributed directly to consumers.

Reference to individual companies, brands or origin

(446) Promotion activities referred to in point (445)(3) and (4), and in particular promotion activities which are generic in character and to the benefit of all producers of the type of product concerned, must not mention any enterprise, brand name or particular origin. Promotion campaigns, referred to in (445)(4), must not be earmarked for products of one or more particular company or companies.

(447) However, the restriction on the reference to origin shall not apply to promotion activities, focussed on Union-recognised denominations or on quality products, provided the following conditions are fulfilled:

1. where the promotion activity focuses on Union-recognised denominations, it may refer to the origin of products provided that the reference corresponds exactly to that registered by the Union;

2. where the activity concerns products bearing a quality label, the origin of the products may be mentioned provided it is secondary in the message. In order to determine whether the reference to origin is secondary, the Commission will take into account the overall amount of text and/or the size of the symbol including images as well as the general presentation referring to the origin as compared with the text and/or symbol referring to the key sales pitch (i.e. the part of the promotion not focused on the origin of the product.)

Aid intensity

(448) The aid intensity for eligible costs, referred to in point (445)(1) to (3), shall be up to 100% of the eligible costs.

(449) The aid intensity for promotion campaigns, focussed on quality products, referred to in point (447) may not exceed 50 % of the eligible costs of the campaign. If the sector contributes at least 50 % of the costs, irrespective of the form of the contribution, for example special taxes, the aid intensity may be up to 100 %[72].

(450) The aid intensity for generic promotion campaigns, referred to in point (436) may cover up to 100 % of eligible costs.

Promotion in third countries

(451) The Commission shall examine State aid for promotion in third countries and declare it to be compatible with the internal market under Article 107(3)(c) of the Treaty if the aid is in line with the conditions laid down in Regulation (EU) No 3/2008. However, the Commission will not declare compatible State aid for promotion which:

1. is granted to specific enterprises or to commercial brands;

2. risks endangering sales of or denigrates products from other Member States.

1.3.3. Aid for the outermost regions and the smaller Aegean islands

(452) The Commission shall declare aid for the outermost regions and the smaller Aegean islands compatible with the internal market under Article 107(3)(c) of the Treaty if the common assessment principles of these Guidelines and the following conditions are met.

[72] ECR, 27.9.2012, T-139/09, France c. Commission.

(453) This sub-chapter applies to primary production and to processing and marketing of agricultural products.

(454) In accordance with Article 23 (4) of the POSEI regulation, Articles 107, 108 and 109 of the Treaty do not apply as concerns the following aids granted by Member States in conformity with that Regulation:

1. measures in favour of local agricultural productions under Chapter IV,
2. aids granted by France to the sugar sector under Article 23 (3) of that Regulation,
3. aids for plant health programmes under Article 24 of that Regulation, and
4. aids granted by Spain for the production of tobacco in the Canary Islands under Article 28 of that Regulation.

(455) Save in those cases, the State aid rules do apply for measures with regard to the outermost regions, with the following particularity: Article 23(1) of the POSEI Regulation provides that the Commission may authorise operating aid in the sectors producing, processing and marketing of agricultural products falling within the scope of Annex I of the Treaty, to which Articles 107, 108 and 109 of the Treaty apply, with a view to alleviating the specific constraints on farming in the outermost regions as a result of their isolation, insularity and extreme remoteness.

(456) In accordance with Article 17 of the smaller Aegean islands Regulation, Articles 107, 108 and 109 of the Treaty do not apply to do not apply as concerns the following aids granted by Member States in conformity with that Regulation: measures in favour of local agricultural productions under Chapters III and IV of that regulation.

(457) Save in those cases, the State aid rules do apply for measures with regard to the smaller Aegean islands, with the following particularity: Article 17 (1) of the smaller Aegean islands Regulation provides that the Commission may authorise operating aid in the sectors producing, processing and marketing of agricultural products falling within the scope of Annex I of the Treaty, to which Articles 107, 108 and 109 of the Treaty apply, with a view to alleviating the specific constraints on farming in the smaller Aegean islands as a result of their insularity, small size, mountainous terrain and climate, their economic dependency on a small number of products and their distance from markets.

(458) In this context, the Commission will examine proposals to grant State aid designed to meet the needs of the outermost regions and the smaller Aegean islands on a case by case basis, on the basis of the common assessment principles and the specific legal provisions applying to these regions, and having regard, if applicable, to the compatibility of the measures concerned with the rural development programmes for the regions concerned, and their effects on competition both in the regions concerned and in other parts of the Union.

1.3.4. Aid towards legal and administrative costs related to land consolidation

(459) Aid for land consolidation shall be compatible with the internal market within the meaning of Article 107(3) (c) of the Treaty where it is granted in accordance with the common assessment principles and the specific conditions of this sub-chapter.

Eligible costs

(460) The eligible costs shall be limited to the legal, administrative and survey costs of land consolidation.

Aid intensity

(461) The aid intensity shall be up to 100 % of the real costs incurred.

1.3.5. Environmental aid

(462) In order to avoid discrimination and in order to allow Member States to implement environmental policy across all sectors, the Commission applies the EA GL and any Guidelines replacing them to the agriculture sector. For these reasons, apart from various measures that remain specific to the agriculture sector such as aid for agri-environmental-climate and animal welfare commitments, aid for disadvantages related to Natura 2000 areas and to the Water framework directive and aid for organic farming, the EA GL, as replaced or repealed, shall apply to the agriculture sector.

Environmental investment aid

(463) Aid for investment for environmental objectives in the field of primary production will be evaluated in accordance with the general rules set out in sub-chapter 1.1.1.1. of section II of these Guidelines.

(464) Aid for environmental protection in favour of undertakings active in the processing and marketing of agricultural products shall be declared compatible with the internal market under Article 107(3)(c) of the Treaty if it fulfils all the applicable conditions

of the EA GL.

Tax exemptions and reductions under Directive 2003/96/EC

(465) Aid schemes for tax exemptions and reductions under Directive 2003/96/EC shall be declared compatible with the internal market under Article 107(3)(c) of the Treaty if they fulfil all the applicable conditions of the Community Guidelines on State aid for environmental protection, as replaced or repealed.

1.3.6. Aid for rescue and restructuring undertakings in difficulty

(466) Aid for rescuing and restructuring undertakings in difficulty in the agricultural sector shall be assessed in accordance with the R&R Guidelines, as replaced or repealed.

(467) However, with regard to aid for rescuing and restructuring undertakings active in the primary production of agricultural products the following exceptions apply:

(468) By way of derogation from point [XX] of the R&R Guidelines, the Commission may also exempt aid for SMEs from individual notification if the SME concerned does not meet any of the criteria set out in point [XX].

(469) The principle that rescue or restructuring aid should be granted once only also applies to the sector of primary agricultural production. However, instead of the period of 10 years, set out in section [XX] of the R&R Guidelines, a five-year period will apply.

1.3.7. Aid for research and development

(470) The Commission shall declare aid for research and development in the agriculture sector compatible with the internal market under Article 107(3)(c) of the Treaty if it fulfils the common assessment principles and the following conditions.

(471) The aided project shall be of interest to all undertakings active in the particular agricultural sector or sub-sector concerned.

(472) Prior to the commencement of the aided project the following information shall be published on the internet:

(a) that the aided project is carried out;

(b) the goals of the aided project;

(c) an approximate date of the publication of the results expected from the aided project;

(d) the place of publication on the internet of the results expected from the aided project on the internet;

(e) reference that the results are available to all undertakings active in the particular agricultural sector or sub-sector concerned at no cost.

(473) The results of the aided project shall be:

(a) made available on the internet, for a period of at least 5 years;

(b) be published no later than any information which may be given to members of any particular organisation.

(474) Aid shall be granted directly to the research and knowledge-dissemination organisation. Aid shall not provide price support to undertakings active in the agricultural sector.

Eligible costs

(475) The eligible costs shall include:

(a) personnel costs;

(b) costs of instruments, equipment, buildings and land to the extent and for the period used for the aided project;

(c) cost of contractual research, knowledge and patents bought or licensed from outside sources at arm's length;

(d) costs of consultancy and equivalent services used exclusively for the aided project;

(e) additional overheads and other operating costs, including costs of materials, supplies and similar products, incurred directly as a result of the aided project.

Aid intensity

(476) The aid intensity shall be up to 100 % of the eligible costs.

(477) Aid for research and development in the agriculture sector which does not fulfil the above conditions shall be assessed in accordance with the applicable R&D&I Framework, as replaced or repealed.

2. AID FOR THE FOREST SECTOR WHICH IS CO-FINANCED BY THE EAFRD, GRANTED AS ADDITIONAL NATIONAL FINANCING TO SUCH CO-FINANCED MEASURES OR GRANTED AS A PURE STATE AID

(478) Forestry activities and the forest sector fall outside of the scope of Annex I and Article 42 of the Treaty on the Functioning of the European Union[73]. Articles 107, 108 and 109 of the Treaty apply to aid granted by Member States to the forest sector, in so far as it constitutes State aid within the meaning of Article 107(1) of the Treaty, taking also into account the interpretation of State aid given in the forthcoming Commission notice on the notion of aid[74]. Despite the fact that the production of natural cork, unworked, crushed, granulated or ground, waste cork (CN heading 4501) and the production of castanea/chestnut (CN code 0802 41 00) falls under Annex I of the Treaty, all aid for forestry activities fall under the present chapter of the Guidelines.

(479) The provisions of chapter 2 of these Guidelines are without prejudice to the possibility of granting State aid for the forest sector under Union rules common either to all sectors or to trade and industry. Investments in energy saving and renewable energies are excluded from the scope of chapter 2 of section II of these Guidelines. Such aid shall comply with GBER or the EA GL, as replaced or repealed.

(480) Under this chapter the Commission shall declare State aid for the forest sector compatible with the internal market under Article 107(3)(c) of the Treaty if the aid meets all the conditions laid down in the RD regulation, including any future modifications, its implementing regulations as well as the applicable provisions of these Guidelines (sub-chapter 2.8 of section II), including the common assessment principles of these Guidelines and any specific derogations from the rural development rules as laid down in these Guidelines (for example, regarding eligible activities).

(481) Aid to the forest sector can be granted either as :

(a) as a rural development measure partly financed via the European Agricultural and Rural Development Fund and partly co-financed by the Member State pursuant to, and in conformity with the RD regulation, where the notified State aid measure is identical with the measure in the rural development programme;

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73 Court of Justice, 23.2.2006, C-346/03 and C-529/03, Giuseppe Atzeni and others, paragraphs 37, 42 and 43.

74 Notice on the notion of aid (reference to be completed).

(b) or as additional national financing related to a forestry measure in the framework of a national/regional rural development programme;

(c) or a measure financed exclusively from national resources,

(i) which is a rural development like forestry measure foreseen in the RD regulation in line with the conditions of these Guidelines;

(ii) or benefits from the specific conditions of these Guidelines (sub-chapter 2.8 of section II of these Guidelines).

(482) Under these Guidelines, State aid can be granted for forestry measures primarily targeting environmental and ecological purposes following the principles of sustainable forest management. Exceptions to this rule concern rural development like measures under sub-chapters 2.1.5, 2.1.6, 2.6 and 2.7 of Section II of these Guidelines. Under this chapter, aid for the forest sector, in particular concerning investment aid, related to the use of wood as a raw material shall be limited to all working operations prior to industrial processing. These Guidelines do not apply to forest based industries. This does not exclude that aid to such activities may be granted under other Union State aid rules as referred in points (36) and (37) of these Guidelines.

2.1. Investments in forest area development and improvement of viability of forests

(483) The Commission shall declare aid for investments in forest area development and improvement of viability of forests compatible with the internal market under Article 107(3)(c) of the Treaty if the common assessment principles of these Guidelines and the following conditions are met.

(484) This sub-chapter concerns aid for afforestation and creation of woodland; the establishment of agro-forestry systems; the prevention and restoration of damage to forests from forest fires and natural disasters, and catastrophic events and climate related threats, pest and disease outbreaks; investments improving the resilience and environmental value as well as the mitigation potential of forest ecosystems and investments in forestry technologies and in the processing, in mobilizing and in the marketing of forest products.

(485) For holdings above a certain size, to be determined by the Member States in their rural development programmes (where the aid concerns a rural development co-financed measure) or otherwise, aid shall be conditional on the presentation of the relevant information from a forest management plan or equivalent instrument in line with sustainable forest management as defined by the Ministerial Conference on the

protection of Forests in Europe of 1993[75] (hereinafter "sustainable forest management").

(486) Limitations on the ownership of forests provided for in sub-chapters 2.1.1- 2.1.5 of section II of these Guidelines shall not apply to the tropical or subtropical forests and to the wooded land of the territories of the Azores, Madeira, the Canary Islands and the smaller Aegean islands[76] within the meaning of Council Regulation (EEC) No 2019/93 of July 1993 introducing specific measures for the smaller Aegean islands concerning certain agricultural products and the French overseas departments.

(487) Individual aid granted under a notified scheme remains subject to the notification obligation pursuant to Article 108(3) of the Treaty, if the aid from all sources exceeds the notification threshold, as specified in point (38)54.

(488) Concerning investments in the forest sector, the eligible costs shall be limited to the following costs:

(a) the costs for construction, acquisition, including leasing, or improvement of immovable property with land only being eligible to an extend not exceeding 10% of the total eligible costs of the operation concerned; In exceptional and duly justified cases, a higher percentage than 10% of the total eligible costs of the operation in question can be permitted for land for operations concerning environmental conservation;

(b) the purchase or lease purchase of machinery and equipment up to the market value of the asset;

(c) the general costs linked to the expenditure referred to in points (a) and (b), such as architect, engineer and consultation fees, fees relating to advice on environmental and economic sustainability, including feasibility studies; feasibility studies shall remain eligible expenditure even where, based on their results, no expenditure under in points (a) and (b) is incurred;

(d) the following intangible investments costs: acquisition or development of computer software and acquisitions of patents, licenses, copyrights, trademarks;

(e) the costs of establishing forest management plans and their equivalent instruments.

(489) Other costs connected to leasing contracts, such as lessor's margin, interest

[75] Second Ministerial Conference on the protection of Forests in Europe, 16-17 June 1993, Helsinki/Finland, "Resolution H1- General Guidelines for the Sustainable Management of Forests in Europe".

[76] Council Regulation (EEC) No 2019/93 of July 1993 introducing specific measures for the smaller Aegean islands concerning certain agricultural products, OJ L 184, 27.7.1993, p. 1.

refinancing costs, overheads and insurance charges shall not be eligible costs.

2.1.1. Aid for afforestation and creation of woodland

(490) The Commission shall declare aid for afforestation and creation of woodland compatible with the internal market under Article 107(3)(c) of the Treaty if the common assessment principles of these Guidelines and the following conditions are met.

Beneficiaries of the aid

(491) Aid for establishment costs and the annual premium shall be granted to public and private land-holders and their associations.

(492) Aid for afforestation of land owned by public authorities or for fast growing trees shall cover only the costs of establishment. In the case of state-owned land, aid can be granted if the body managing such land is a private body or municipality.

Eligible costs

(493) Aid shall be granted to cover the costs of establishment on agricultural and non-agricultural land. Aid in the form of an annual premium per hectare may furthermore be granted to cover the costs of agricultural income foregone and maintenance, including early and late cleanings, for a maximum period of twelve years.

(494) No aid shall be granted for the planting of trees for short rotation coppicing, Christmas trees or fast growing trees for energy production. Species planted shall be adapted to the environmental and climatic conditions of the area and comply with minimum environmental requirements.

(495) [The following minimum environmental requirements shall apply in the context of the afforestation and creation of woodland measure:

(a) the selection of species to be planted, of areas and of methods to be used shall avoid the inappropriate afforestation of sensitive habitats such as peat lands and wetlands and negative effects on areas of high ecological value including areas under high natural value farming. On sites designated as Natura 2000 pursuant to the Habitats Directive and the Birds Directive only afforestation consistent with the management objectives of the sites concerned and agreed with the Member State's authority in charge of implementing Natura 2000 shall be allowed;

(b) the selection of species, varieties, ecotypes and provenances of trees shall take account of the need for resilience to climate change and to natural disasters and the pedologic and hydrologic condition of the area concerned. The beneficiary shall be required to protect and care for the forest at least during the period for which the premium for agricultural income foregone and maintenance is paid. This shall include tending and thinnings, as appropriate, in the interest of the future development of the forest and regulating competition with herbaceous vegetation and avoiding the building up of fire prone undergrowth material. As regards fast-growing species, Member States shall define the minimum and maximum time before felling. The minimum time shall not be less than 8 years and the maximum shall not exceed 20 years;

(c) in cases where, due to difficult environmental or climatic conditions, including environmental degradation, the planting of perennial woody species cannot be expected to lead to the establishment of forest cover as defined under the applicable national legislation, the Member State may allow the beneficiary to establish other woody vegetation cover. The beneficiary shall provide the same level of care and protection as applicable to forests;

(d) in the case of afforestation operations leading to the creation of forests of a size exceeding a certain threshold, to be defined by Member States, the operation shall consist of either:

(i) the exclusive planting of ecologically adapted species and/or species resilient to climate change in the bio-geographical area concerned, which have not been found, through an assessment of impacts, to threaten biodiversity and ecosystem services, or to have a negative impact on human health; or

(ii) a mix of tree species which includes either: at least 10 % of broadleaved trees by area, or a minimum of three tree species or varieties, with the least abundant making up at least 10 % of the area.]

(496) In areas where afforestation is made difficult by severe pedo-climatic conditions aid may be provided for planting other perennial woody species such as shrubs or bushes suitable to the local conditions.

(497) The notification should contain sound description demonstrating compliance with the conditions of point (495) above and justifications where any derogation applies.

Aid intensity

(498) Aid can be allowed up to 100 % of eligible costs.

2.1.2. Aid for agro-forestry systems

(499) The Commission shall declare aid for agro-forestry systems compatible with the internal market under Article 107(3)(c) of the Treaty if the common assessment principles of these Guidelines and the following conditions are met.

(500) Aid can be granted for establishing land use systems in which trees are grown in

combination with agriculture on the same land as defined in point (38).40 of these Guidelines.

Beneficiaries of the aid

(501) Aid shall be granted to private land-holders, municipalities and their associations.

Eligible costs

(502) The aid shall cover the costs of establishment and an annual premium per hectare may be granted to cover the costs of maintenance for a maximum period of five years.

(503) Member States shall determine the minimum and maximum number of trees per hectare, taking account of local pedo-climatic and environmental conditions, forestry species and the need to ensure sustainable agricultural use of the land.

Aid intensity

(504) The aid can be up to 80% of the amount of the eligible investment costs for the establishment of agro-forestry systems, and up to 100 % of the annual premium.

2.1.3. Aid for the prevention and restoration of damage to forests from forest fire, natural disasters, adverse climatic events, diseases, pests and catastrophic events

(505) The Commission shall declare aid for the prevention and restoration of damage to forests from forest fire, natural disasters, adverse climatic events, diseases, pests, catastrophic events and climate change events pursuant to Article 24 of the RD Regulation compatible with the internal market under Article 107(2)(b)or, as the case may be, Article 107(3)(c) of the Treaty if the common assessment principles of these Guidelines and the following conditions are met.

Beneficiaries of the aid

(506) Aid can be granted to private and public forest holders and other private and public bodies and their associations.

Eligible costs

(507) Aid shall cover the costs for:

1. The establishment of protective infrastructure. In the case of firebreaks aid may also cover aid contributing to maintenance costs. No aid shall be granted for agricultural related activities in areas covered by agri-

environment commitments;

2. local, small scale prevention activities against fire or other natural hazards, including the use of grazing animals;

3. establishing and improving forest fire, pest and diseases monitoring facilities and communication equipment;

4. restoring forest potential damaged from fires, natural disasters, as well as catastrophic events and climate change related events, pests and diseases.

(508) In the case of restoration of forest potential, referred to (507) 4., the aid shall be subject to the formal recognition by the competent public authorities of the Member State that the before mentioned event has occurred and that either that event, or measures adopted in accordance with Directive 2000/29/EC to combat, eradicate or contain harmful organisms, has caused the destruction of at least 20% of the relevant forest potential.

(509) In the case of preventive actions concerning pests and diseases, the risk of occurrence must be supported by scientific evidence and acknowledged by scientific public organisations. Where relevant, the list of species of organisms harmful to plants which may cause a disaster must be provided in the notification.

(510) Eligible costs shall be consistent with the forest protection plan established by the Member States. For holdings above a certain size, to be determined by the Member States (if the measure is co-financed by EAFRD, it should be introduced in the rural development programme), the aid shall be conditional on the presentation of the relevant information from a forest management plan or equivalent instrument in line with sustainable forest management as defined by the Ministerial Conference on the protection of Forests in Europe of 1993, detailing the preventive objectives.

(511) Forest areas classified as medium to high forest fire risk according to the forest protection plan established by the Member States shall be eligible for aid relating to forest fire prevention.

(512) If the aid is put in place as a measure in the national/regional rural development programme or in relation to such a measure ("top up"), no aid shall be granted for loss of income resulting from fires, natural disasters, catastrophic events, climate change related events, pests and diseases..

(513) Where the State aid scheme is not implemented as a measure in the national/regional

rural development programme or does not relate to such measure ("top up"), but is instead financed purely from national resources, the following additional eligible costs can be taken into account: Aid may be granted to compensate for the loss of stock and for restocking costs up to the market value of the stock destroyed on the order of the authorities to fight the disease or pest in question. When calculating the market value of the increment loss, the potential increment of the stock destroyed until the normal felling age may be taken into consideration. In such case, Member States shall ensure that overcompensation as a result of the combination of the restoration measure and this compensatory mechanism is excluded.

Aid intensity

(514) Aid may be granted up to 100 % of the eligible costs.

(515) Member States shall ensure that overcompensation as a result of the combination of this measure and other national or Union support instruments or private insurance schemes is avoided.

2.1.4. Aid for investments improving the resilience and environmental value of forest ecosystems

(516) The Commission shall declare aid for investments improving the resilience and environmental value of forests ecosystems compatible with the internal market under Article 107(3)(c) of the Treaty if the common assessment principles of these Guidelines and the following conditions are met.

Beneficiaries of the aid

(517) Aid can be granted to natural persons, private and public forest holders and other private law and public bodies and their associations.

Eligible costs

(518) Investments shall be aimed at the achievements of commitments undertaken for environmental aims or providing ecosystem services and/or which enhance the public amenity value of forests and wooded land in the area concerned or improve climate change mitigation potential of ecosystems, without excluding economic benefits in the long term.

Aid intensity

(519) Aid may be granted up to 100 % of eligible costs.

2.1.5. Aid for investments in forestry technologies and in processing, mobilizing and marketing of forest products

(520) The Commission shall declare aid for investments in forestry technologies and in processing, mobilizing and marketing of forest products compatible with the internal market under Article 107(3)(c) of the Treaty if the common assessment principles of these Guidelines and the following conditions are met.

Beneficiaries of the aid

(521) Aid can be granted to private forest holders, municipalities and their associations and to SMEs for investments for the above purposes. In the territories of Azores, Madeira, the Canary islands, the smaller Aegean islands within the meaning of Regulation (EEC) No 2019/93 and the French overseas departments aid may also be granted to undertakings that are not SMEs.

Eligible costs

(522) Aid can be granted for investments enhancing forestry potential or relating to processing, mobilizing and marketing adding value to forest products.

(523) Investments related to the improvement of the economic value of forests shall be justified in relation to the expected improvements to forests on one or more holdings and may include investments for soil-friendly and resource friendly harvesting machinery and practices.

(524) Investments related to the use of wood as a raw material shall be limited to all working operations prior to industrial processing.

Aid intensity

(525) The aid intensity shall not exceed:

(a) 75% of the amount of eligible costs for investments in outermost regions;

(b) 75% of the amount of eligible costs for investments in the smaller Aegean islands;

(c) 50% of the amount of the eligible costs for investments in less developed regions and in all regions where GDP per capita for the 2007-2013 period was less than 75% of the average of the EU-25 for the reference period but whose GDP per capita is above 75% of the GDP average of the EU-27;

(d) 40% of the amount of eligible costs for investment in other regions.

2.1.6. Aid for investments in infrastructure related to the development, modernization or adaptation of forestry

(526) The Commission shall declare aid for investments in infrastructure related to the development, modernization or adaptation of forestry compatible with the internal market under Article 107(3)(c) of the Treaty if the common assessment principles of these Guidelines and the following conditions are met.

(527) Aid for investments in infrastructure related to the development, modernisation or adaptation of forestry granted to undertakings active in the forest sector shall be compatible with the internal market within the meaning of Article 107(3)(c) of the Treaty where it fulfils the specific conditions laid down below.

Eligible costs

(528) The aid shall cover tangible and intangible investments which concern infrastructure related to the development, modernization or adaptation of forests, including access to forest land, land consolidation and improvement, the supply and saving of energy and water.

Aid intensity

(529) The maximum aid intensity for forest roads, which are open to the public free of charge and which serve the multifunctional aspects of forest and for infrastructure investments aimed primarily at improving the environmental value of forests shall be limited to 100% of the eligible costs.

(530) In case of investments, which improve the short- or long term economic potential of forests, the aid intensity shall be limited to:

(a) 75% of the amount of the eligible costs for investment in outermost regions;

(b) 75% of the amount of the eligible costs for investment in the smaller Aegean islands;

(c) 50% of the amount of the eligible costs for investment in less developed regions and in all regions whose GDP per capita for the 2007 - 2013 period was less than 75% of the average of the EU-25 for the reference period but whose GDP per capita is above 75% of the GDP average of the EU-27;

(d) 40% of the amount of the eligible costs for investment in other regions.

2.2. Aid for disadvantages related to Natura 2000 forest areas

(531) The Commission shall declare aid for Natura 2000 payments in forest areas

compatible with the internal market under Article 107(3)(c) of the Treaty if the common assessment principles of these Guidelines and the following conditions are met.

Beneficiaries of the aid

(532) Aid can be granted to private forest holders and associations of private forest holders.

Eligible costs

(533) Aid under this measure shall be granted annually and per hectare of forest in order to compensate beneficiaries for additional costs incurred and income foregone resulting from disadvantages in the areas concerned, related to the implementation of the Habitats Directive and the Birds Directive.

(534) The following areas shall be eligible for payments:

1. Natura 2000 forest areas designated pursuant to the Habitats Directive and the Birds Directive;
2. Other delimited nature protection areas with environmental restrictions applicable to forests which contribute to the implementation of Article 10 of the Habitats Directive. Where the measure is co-financed by EAFRD as a rural development measure, these areas shall, per rural development programme, not exceed 5% of the designated Natura 2000 areas covered by its territorial scope. For aid measures financed exclusively from national funds, this later territorial restriction does not apply.

Aid intensity

(535) Aid shall be limited to the maximum amounts laid down in Annex I to the RD regulation: 500 EUR per ha per year maximum in the initial period not exceeding five years and 200 EUR per ha per year maximum thereafter. These maximum amounts may be increased in duly substantiated cases taking into account specific circumstances to be justified in the rural development programmes or otherwise (if the measure is purely State funded).

2.3. Aid for forest- environment and climate services and forest conservations

(536) The Commission shall declare aid for forest-environment and climate services and forest conservations compatible with the internal market under Article 107(3)(c) of the Treaty if the common assessment principles of these Guidelines and the

following conditions are met.

(537) Aid under this measure shall be granted per hectare of forest. For forest holdings above a certain threshold to be determined by Member States either in their rural development programmes or otherwise, aid shall be conditional on the presentation of the relevant information from a forest management plan or equivalent instrument in line with sustainable forest management as defined by the Ministerial Conference on the protection of Forests in Europe of 1993.

(538) Aid shall cover voluntary commitment(s) going beyond the relevant mandatory requirements established by the national forestry act or other relevant national legislation. The mandatory national requirement should be clearly identified. In the case of an EAFRD co-financed rural development measure, it should be identified in the rural development programme. In the case of aid measures financed exclusively from national funds, it should be identified in the state aid notification.

(539) Commitments shall be undertaken for a period between five and seven years. However, where necessary and duly justified, Member States may determine a longer period for particular types of commitments. In the case of EAFRD co-financed rural development measure, it should be specified in the rural development programme. In the case of aid measures financed exclusively from national funds, it should be identified in the state aid notification.

(540) Where relevant, the rules for area related payments set out in Article 47 of the RD Regulation and its delegated act shall be complied with.

Beneficiaries of the aid

(541) Aid can be granted to public and private forest holders and other private law and public bodies and their associations. In the case of state-owned forests, aid may only be granted if the body managing such a forest is a private body or a municipality.

(542) Public and private entities are eligible for aid for the conservation and promotion of forest genetic resources for operations not covered otherwise in this sub-chapter.

Eligible costs and modalities of payments

(543) The aid shall be granted per hectare of forest land.

(544) The aid shall compensate beneficiaries for all or part of the additional costs and income foregone resulting from the commitments made. Where necessary it may also cover transaction costs to a value of up to 20% of the aid paid for the forest-

environment commitments.

(545) In duly justified cases for operations concerning environmental conservation, aid may be granted as a flat-rate or one-off payment per unit for commitments to renounce commercial use of trees and forests, calculated on the basis of additional costs incurred and income foregone.

(546) Aid may be provided for the conservation and promotion of forest genetic resources for operations not covered by the provisions under the above points within this sub-chapter.

(547) [Operations for the conservation of genetic resources in forestry shall include the following:

(a) targeted actions: actions promoting the in situ and ex situ conservation, characterisation, collection and utilisation of genetic resources in forestry, including web-based inventories of genetic resources currently conserved in situ, including on-forest holding conservation, and of ex situ collections and databases;

(b) concerted actions: actions promoting the exchange of information for the conservation, characterisation, collection and utilisation of genetic resources in Union forestry, among competent organisations in the Member States;

(c) accompanying actions: information, dissemination and advisory actions involving non-governmental organisations and other relevant stakeholders, training courses and preparation of technical reports.]

Aid intensity

(548) The aid shall be limited to the maximum amount of EUR 200 ha/year as laid down in Annex I to the RD regulation. This amount may be increased in duly substantiated cases taking into account specific circumstances to be justified in the rural development programmes or otherwise in the notification.

2.4. Aid for knowledge transfer and information actions in the forestry sector

(549) The Commission shall declare aid for knowledge transfer and information actions in the forestry sector compatible with the internal market under Article 107(3)(c) of the Treaty if the common assessment principles of these Guidelines and the following conditions are met.

(550) Aid for knowledge transfer and information actions to benefit persons engaged in the forestry sector shall comply with the rules specified under sub-chapter 1.1.10.1 of section II of these Guidelines, including the possibility to give aid for short term forest management exchanges and forest visits.

(551) [Member States shall define the duration and the content of the short-term forest management exchange schemes and forest visits, where it concern EAFRD co-financed measure in their rural development programmes, where it concern nationally financed scheme in the notification. Such schemes and visits shall focus, in particular, on sustainable forestry methods and/or technologies, the development of new business opportunities and new technologies, and on the improvement of forest resilience.]

2.5. Aid for advisory services in the forestry sector

(552) The Commission shall declare aid for advisory services in the forestry sector compatible with the internal market under Article 107(3)(c) of the Treaty if the common assessment principles of these Guidelines and the following conditions are met.

(553) Aid for advisory services in the forest sector to forest holders shall be granted in accordance with the provisions stated under point 1.1.10.2 of section II of these Guidelines, with the following additional provisions relating to forestry :

Eligible costs

(554) Aid will be granted to help forest holders to benefit from the use of advisory services for the improvement of the economic and environmental performance as well as climate friendliness and resilience of their holdings, enterprise and/or investment.

(555) Advice to forest holders shall cover as a minimum the relevant obligations under the Habitats Directive, the Birds Directive and the Water Framework Directive. It may also cover issues linked to the economic and environmental performance of the forest holding.

2.6. Aid for co-operation in forestry sector

(556) The Commission shall declare aid for co-operation in the forest sector compatible with the internal market under Article 107(3)(c) of the Treaty if the common assessment principles of these Guidelines and the following conditions are met.

(557) Aid for co-operation in the forestry sector, where cooperation aims primarily at improving the environmental value of forests, shall be granted in accordance with the conditions stated under sub-chapter 1.1.11. of section II of these Guidelines including the maximum aid intensity of that sub-chapter. For any other aims of co-operations in the forestry sector, the conditions of sub-chapter 3.10. of section II of the these Guidelines apply.

(558) For the forestry sector the following additional provisions apply.

Eligible costs

(559) Aid for cooperation in the forestry sector may also relate to horizontal and vertical cooperation among supply chain actors in the sustainable production of biomass for energy production and industrial processes.

(560) Aid for cooperation in the forestry sector may also relate to drawing up of forest management plans or equivalent instruments.

(561) Without prejudice to the costs referred to in sub-chapters 1.1.11. and 3.10 of section II of these Guidelines, the following costs are eligible for co-operation actions in the forest sector: costs for studies of the area concerned, feasibility studies, and costs for the drawing up of a business plan or forest management plan or equivalent instrument, or local development strategy other than that referred to in Article 33 of Regulation (EU) No 1303/2013.

2.7. Start-up aid for producer groups and organisations in the forestry sector

(562) The Commission shall declare start-up aid for producer groups and organisations in the forestry sector compatible with the internal market under Article 107(3)(c) of the Treaty if the common assessment principles of these Guidelines and the following conditions are met.

(563) Only producer groups and organizations that have been officially recognised by the competent authority of the Member State concerned on the basis of a submission of a business plan shall be eligible for aid. The aid shall be granted subject to the obligation of the Member State to verify that the objectives of the business plan have been reached within a period of five years from the date of recognition of the producer group.

(564) The agreements, decisions and concerned practices concluded in the framework of the producer group and organization shall comply with the relevant provisions of competition law, in particular with Articles 101 and 102 of the Treaty.

(565) The aid must not be granted to

(a) Production group and organizations such as companies or co-operatives, the objective of which is the management of one or more forestry holdings and which are therefore in effect a single producer entity;

(b) Other forestry associations which undertake tasks at the level of production, such as mutual support and forestry advisory services, in the members' holding without being involved in the joint adaptation of supply to the market.

Beneficiaries of the aid

(566) Only producer groups and organizations coming under the definition of SMEs are eligible for aid. The Commission shall not authorize State aid towards the costs in this sub-chapter in favour of large undertakings.

(567) As an alternative to providing aid to producer groups or organizations, aid up to the same overall amount may be granted directly to producers to offset their contributions to the costs of running the groups or organisations during the first five years following the formation of the group.

Eligible costs

(568) The eligible costs may include the costs of the rental of suitable premises, the acquisition of office equipment, including computer hardware and software, administrative staff costs, overheads and legal and administrative fees.

(569) Where premises are purchased, the eligible costs for premises shall be limited to rental costs at market rates.

(570) The aid shall be paid as a flat rate aid in annual instalments for the first five years following the date on which the producer group was recognized on the basis of its business plan.

(571) Member States shall pay the last instalment only after having verified the correct implementation of the business plan.

Aid intensity

(572) The aid intensity shall be up to 100% of the eligible costs.

(573) The total amount of aid per year shall be limited to EUR 500 000. The aid shall be degressive.

2.8. Other aid to the forestry sector with environmental, climate, protective and recreational objectives

(574) In accordance with its established policy during the period of 2007-2013, in order to

contribute to the maintenance and improvement of forests and to promote their ecological, protective and recreational function, the Commission will declare that State aid measures, with the primary objective to maintain, improve or restore ecological, protective and recreational functions of forests, biodiversity and a healthy forest ecosystem are compatible with the internal market under Article 107(3)(c) of the Treaty.

(575) Member States should demonstrate that the measures directly contribute to maintaining or restoring the ecological, protective and recreational functions of forests, biodiversity and a healthy forest ecosystem.

(576) Under this sub-chapter, no aid shall be granted for felling the primary purpose of which is the commercially viable extraction of timber or for restocking where the felled trees are replaced by equivalent ones.

Aid intensity

(577) Aid for all measures described in this sub-chapter can be granted up to 100% of the eligible costs.

Beneficiaries of aid

(578) The beneficiaries of aid are forest holders. In duly justified cases, the managers of forests areas can also be aid beneficiaries.

2.8.1. Aid for the creation of wooded land for recreation purposes

(579) The Commission shall declare aid for the creation of wooded land for recreational purposes compatible with the internal market under Article 107(3)(c) of the Treaty if the common assessment principles of these Guidelines and the following conditions are met.

(580) Aid may be granted for afforestation measures to create wooded land for recreational purposes, including planning costs.

(581) Wooded land created for recreational purposes must be open to the public free of charge for recreational use. Access may be restricted if this is necessary to protect sensitive areas.

(582) The conditions of sub-chapter 2.1.1. of section II of these Guidelines on afforestation should be complied with.

2.8.2. Aid for maintaining and improving the soil quality in the forestry sector

(583) The Commission shall declare aid for maintaining and improving the soil quality in the forestry sector compatible with the internal market under Article 107(3)(c) of the Treaty if the common assessment principles of these Guidelines and the following conditions are met.

(584) Aid may be granted for maintaining and improving the soil quality in forests and ensuring balanced and healthy tree growth.

(585) Measures may include soil improvement by fertilisation and other treatments to maintain its natural balance, reducing excessive vegetation density and ensuring sufficient water retention and proper drainage. Member States should demonstrate that the measures do not reduce biodiversity, cause nutrient leaching or adversely affect natural water ecosystems or water protection zones.

(586) Aid may cover the planning costs of such measures.

2.8.3. Restoration and maintenance of natural pathways, landscape elements and features and natural habitat for animals in the forestry sector

(587) The Commission shall declare aid for the restoration and maintenance of natural pathways, landscape elements and features and natural habitat for animals in the forestry sector compatible with the internal market under Article 107(3)(c) of the Treaty if the common assessment principles of these Guidelines and the following conditions are met.

(588) Aid may be granted for restoration and maintenance of natural pathways, landscape elements and features and the natural habitat for animals, including planning costs.

(589) Measures aiming at the implementation of the Habitats Directive and the Birds Directive are excluded from this type of aid, as they should be put in place in accordance with the conditions of sub-chapter 2.2. of section II of these Guidelines.

2.8.4. Aid for damage caused by protected animals in the forestry sector

(590) The Commission shall declare aid to compensate for losses caused by protected animals in the forestry sector (in particular to equipment, infrastructure and living trees) as well as for certain indirect costs linked to the losses compatible with the internal market under Article 107(3)(c) of the Treaty under the following conditions.

(591) A minimum counterpart from the beneficiaries is requested to mitigate the risk of distortions of competition and to provide an incentive for minimising risk. This

contribution takes the form of reasonable preventive measures (e.g. safety fences where possible, etc.) which are proportionate to the risk of damage by protected animals in the forest area concerned. If no preventive measures are possible, clear evidence should be submitted by the Member State on the impossibility to take any preventive measures.

(592) A direct causal link between the damage or losses suffered and the behaviour of the animals has to be established by a public authority independent from the competent granting authority, an independent expert recognised by public authority or by an insurance undertaking

(593) The aid requests shall be introduced within [three years] following the occurrence of the loss or damage. The aid shall be paid out within four years following the occurrence.

Eligible costs

(594) Aid may be granted to compensate for the loss of stock and for restocking costs up to the market value of the stock destroyed by protected animals. When calculating the market value of the increment loss, the potential increment of the stock destroyed until the normal felling age may be taken into consideration.

(595) Aid can also be granted to compensate for damage to forestry equipment and forestry infrastructure. In that case, the eligible costs are based on the market value of the forestry equipment and forestry infrastructure, as assessed by a public authority independent from the competent granting authority, an independent expert recognised by public authority or by an insurance undertaking.

(596) In duly justified cases aid can also be granted for certain indirect costs linked to the losses.

Aid intensity

(597) Compensation is allowed up to 100 % of the eligible costs. Compensation for indirect costs shall be proportionate in relation to the direct costs and shall not exceed [80%] of the total indirect eligible costs.

(598) In order to avoid overcompensation, any payments received by the aid beneficiary, for example under insurance policies, as well as costs not incurred because of the damage caused by protected animals should be deducted from the amount of eligible costs.

3. AIDS IN RURAL AREAS WHICH ARE CO-FINANCED BY THE EAFRD OR GRANTED AS ADDITIONAL NATIONAL FINANCING TO SUCH CO-FINANCED MEASURES

Common provisions applicable to Chapter 3, Section II of these Guidelines

(599) Aid under Chapter 3, Section II of these Guidelines should be granted if it meets the following common conditions:

(a) The aid shall be granted in the framework of a rural development programme pursuant to and in conformity with the RD regulation either as aid co-financed by the EAFRD or as additional national financing to such aid.

(b) The aid shall fulfil the common assessment principles of these Guidelines and the specific conditions applicable to the particular aid measure.

(600) The provisions of chapter 3 of these guidelines are without prejudice to the possibility of granting State aid for rural areas under Union rules common either to all sectors or to trade and industry.

(601) As regards to investments under sub-chapters 3.1, 3.2, 3.6 and 3.10 of chapter 3 of section II of these Guidelines, the aid shall comply with the following common provisions as laid down in points (602) to (606) of section II of these Guidelines.

(602) Investments in energy saving and renewable energies are excluded from the scope of chapter 3 of section II of these Guidelines. Such aid shall comply with GBER or the EA GL.

Eligible costs for investments within Chapter 3, Section II of these Guidelines

(603) The eligible costs for investment aid measures within chapter 3, Section II of these Guidelines shall be limited to the costs of the following:

a) the construction, acquisition, including leasing, or improvement of immovable property with land only being eligible to an extent not exceeding 10% of the total eligible costs of the operation concerned. In exceptional and duly justified cases, a higher percentage may be permitted for operations concerning environmental conservation;

b) the purchase or lease purchase of machinery and equipment up to the market value of the asset;

c) the general costs linked to expenditure referred to in point (603) a) and b), such as architect, engineer and consultation fees, fees relating to advice on environmental and economic sustainability, including feasibility studies; feasibility studies shall remain eligible expenditure even where, based on their results, no expenditure under in point (603) a) and b) is incurred;

d) the following intangible investments costs: acquisition or development of computer software and acquisitions of patents, licenses, copyrights, trademarks;

(604) Costs, other than those referred to in point (603), connected with leasing contracts, such as lessor's margin, interest refinancing costs, overheads and insurance charges shall not be considered to be eligible costs.

Aid intensity for investment measures under Chapter 3, Section II of these Guidelines

(605) The aid intensity shall not exceed:

(a) in less developed regions:

(1) 50 % of the amount of the eligible costs for investment in regions whose GDP per capita is below 45 % of the EU-27 average;

(2) 35 % of the amount of the eligible costs for investment in regions whose GDP per capita is between 45 % and 60 % of the EU-27 average;

(3) 25 % of the amount of the eligible costs for investment in regions with a GDP per capita above 60 % of the EU-27 average;

(b) in outermost regions: the maximum aid intensities laid down in point (a) may be increased by up to 20 percentage points in outermost regions that have a GDP per capita below or equal to 75 % of the EU-27 average or by up to 10 percentage points in other outermost regions;

(c) in ‘c’ areas:

(1) 15 % of the amount of eligible costs for investment in sparsely populated areas and in NUTS 3 regions or parts of NUTS 3 regions that share a land border with a country outside the European Economic Area (EEA) or the European Free Trade Association (EFTA);

(2) 10 % of the amount of eligible costs for investment in non-predefined ‘c’ areas;

(3) In the former ‘a’ areas the aid intensities may be increased by up to 5 percentage points from 1 January 2014 to 31 December 2017;

(4) Where a ‘c’ area is adjacent to an ‘a’ area, the maximum aid intensity allowed in the NUTS 3 areas or parts of NUTS 3 areas within that ‘c’ area which are adjacent to the ‘a’ area may be increased as necessary so that the difference in aid intensity between both areas does not exceed 15 percentage points;

(d) with the exception of aid granted in favour of large investment projects, the maximum aid intensities laid down in points (a) to (c) above may be increased by up to 10 percentage points for medium-sized undertakings and by up to 20 percentage points for micro and small undertakings;

(e) in all other areas: 10% of the amount of eligible costs for investment for medium-sized undertakings and 20% of the amount of eligible costs for investment for micro and small undertakings;

(f) the maximum aid intensity for large investment projects must be scaled down using the mechanism as defined in Point (38).62. of these Guidelines .

(606) Individual investment aid granted under a notified scheme remains subject to the notification obligation pursuant to Article 108(3) of the Treaty, if the aid from all sources exceeds the notification threshold, as specified in point (38).54.

3.1. Aid for investments concerning the processing of agricultural products into non-agricultural products, the production of cotton or investments in the creation and development of non-agricultural activities

(607) Aid for investments concerning the processing of agricultural products into non-agricultural products, the production of cotton or investments in in the creation and development of non-agricultural activities shall be compatible with the internal market within the meaning of Article 107(3)(c) of the Treaty if it fulfils the common assessment principles of these Guidelines, the common provisions applicable to Chapter 3 of section II of these Guidelines and the following conditions.

(608) Aid under this measure shall cover tangible and/or intangible investments.

(609) This sub-chapter shall apply to:

(a) the processing of agricultural products where the output of the production process is a non-agricultural product;

(b) the production of cotton, including the activity of ginning;

(c) investments in non-agricultural activities which are granted to farmers, members of a farm household who diversify into non-agricultural activities and to micro and small undertakings and natural persons in rural areas.

3.2. Aid for basic services and village renewal in rural areas

(610) Aid[77] for basic services and village renewal in rural areas shall be compatible with the internal market within the meaning of Article 107(3)(c) of the Treaty if it fulfils the common assessment principles of these Guidelines, the common provisions applicable to Chapter 3 of section II of these Guidelines and the following conditions.

(611) Aid under this measure shall cover:

(a) the drawing up and updating of plans for the development of municipalities and villages in rural areas and their basic services and of protection and management plans relating to NATURA 2000 sites and other areas of high nature value;

(b) investments in the creation, improvement or expansion of all types of small scale infrastructure, excluding investments in renewable energy and energy saving;

(c) investments in the setting-up, improvement or expansion of local basic services for the rural population, including leisure and culture, and the related infrastructure;

(d) investments for public use in recreational infrastructure, tourist information and small-scale tourism infrastructure;

(e) studies and investments associated with the maintenance, restoration and upgrading of the cultural and natural heritage of villages, rural landscapes and high nature value sites, including related socio-economic aspects, as well as environmental awareness actions;

(f) investments targeting the relocation of activities and conversion of buildings or other facilities located inside or close to rural settlements, with a view to improving the quality of life or increasing the environmental performance of the settlement.

(612) Investments under this measure shall be eligible for aid where the relevant operations

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77 Articles 107, 108 and 109 of the Treaty apply to aid for basic services in rural areas, in so far as they constitute State aid within the meaning of Article 107(1) of the Treaty, taking also into account the interpretation of State aid given in the forthcoming Commission notice on the notion of aid.

are implemented in accordance with plans for the development of municipalities and villages in rural areas and their basic services, where such plans exist and shall be consistent with any relevant local development strategy.

(613) Aid referred to in point (611) (e) shall be granted for heritage which is formally recognized as cultural or natural heritage by the competent public authorities of a Member State.

Eligible costs

(614) The following costs shall be eligible:

(a) costs of drawing up and updating of development and management plans relating to rural areas and their basic services, and to high nature value sites;

(b) investment costs for tangible and intangible investments;

(c) costs for the preparation of studies associated with cultural and natural heritage, rural landscapes and high nature value sites; costs linked to environmental awareness actions;

(d) costs of capital works undertaken by the undertaking may be also eligible aid referred to in point (611)(e).

Aid intensity

(615) The aid intensity for activities under point (611)(a) and (b) shall not exceed 100% of the eligible costs.

(616) The aid intensity for activities under point (611)(c), (d) and (e) shall not exceed the estimated funding gap of the project and the maximum aid intensity shall not exceed 100% of the eligible costs.

(617) The aid intensity for activities under point (611) (f) shall not exceed:

(a) where the relocation of the activities or the conversion of buildings consists of the dismantling, removal and re-building of existing facilities, 100 % of real costs incurred;

(b) where the relocation of the activities or the conversion of buildings results, in addition to the dismantling, removal and re-building of existing facilities as referred to in point (617)(a), in a modernization of these facilities or in an increase in production capacity, the aid intensities laid down in point (605) in respect to the costs relating to the modernisation of the facilities or the increase of production capacity.

(618) For the purpose of point (617), the pure replacement of an existing building or facilities by a new up-to date building or facilities without fundamentally changing the production or the technology involved shall not be considered to be related to the modernisation.

3.3. Business start-up aid for non-agricultural activities in rural areas

(619) Business start-up aid for non-agricultural activities in rural areas shall be compatible with the internal market within the meaning of Article 107(3)(c) of the Treaty if it fulfils the common assessment principles of these Guidelines, the common provisions applicable to Chapter 3 of section II of these Guidelines and the following conditions.

(620) Aid shall be granted to farmers or members of the farm household diversifying into non-agricultural activities, to micro- and small undertakings and to natural persons in rural areas. Aid for the setting up of farm management, farm relief and farm advisory services, as well as forestry advisory services, including the Farm Advisory System referred to in Articles 12 to 14 of Regulation 1306/2013 may be granted also to medium-sized and large enterprises in rural areas.

(621) Aid shall be conditional on the submission of a business plan. Implementation of the business plan has to start within nine months from the date of the decision awarding the aid.

(622) [The business plan shall describe at least:

(i) the initial economic situation of the beneficiary applying for support;

(ii) milestones and targets for the development of the new activities of the beneficiary;

(iii) details of the actions required for the development of the activities of the beneficiary, such as details of investments, training, advice or other activity.]

(623) The aid shall be paid in at least two instalments over a period of maximum five years. The instalments may be degressive. The payment of the last instalment shall be conditional upon the correct implementation of the business plan.

(624) In determining the amount of aid, Member States shall also take into account the socio-economic situation of the programme area.

Aid intensity

(625) The aid amount shall be limited to EUR 70 000 per undertaking.

3.4. Aid for agri-environment-climate commitments in rural areas

(626) Aid for agri-environmental-climate commitments to land managers in rural areas shall be declared compatible with the internal market under Article 107(3)(c) of the Treaty if it fulfils the common assessment principles, the conditions laid down in sub-chapter 1.1.5.1 of section II of these Guidelines as well as the common provisions applicable to Chapter 3 of section II of these Guidelines and the following provisions relating to beneficiaries in rural areas.

(627) Aid for agri-environment-climate commitments shall be granted to groups formed of agricultural undertakings and land managers who undertake, on a voluntary basis, to carry out operations consisting of one or more agri-environment-climate commitments on agricultural land to be defined by Member States, including but not limited to the agricultural area as defined under (38).30 of these Guidelines.

(628) Where duly justified to achieve environmental objectives, aid for agri-environment-climate commitments may be granted to other land-managers or groups of other land-managers.

(629) Aid to undertakings in rural areas which are not active in the agricultural sector may be provided for the conservation and for the sustainable use and development of genetic resources in agriculture for operations not covered by the provisions under points (206) to (210) of sub-chapter 1.1.5.1. of section II of these Guidelines.

(630) Should eligible costs for activities referred to in point (629) fall within the scope of the R&D&I Framework, as replaced or repealed, the conditions of the framework apply.

3.5. Aid for disadvantages related to Natura 2000 areas to land managers in rural areas

(631) Aid for disadvantages related to Natura 2000 areas to land managers in rural areas shall be declared compatible with the internal market under Article 107(3)(c) of the Treaty if it fulfils the common assessment principles, the common provisions applicable to Chapter 3 of section II of these Guidelines and the following provisions relating to beneficiaries in rural areas.

(632) In duly justified cases aid may be granted to land managers in rural areas.

Eligible costs

(633) Aid shall be granted to compensate land managers for additional costs and income foregone resulting from disadvantages in the areas concerned, related to the implementation of the Habitats Directive and the Birds Directive

(634) Measures undertaken only in the following areas shall be eligible for aid:

1. Natura 2000 agricultural areas designated pursuant to Habitats Directive and the Birds Directive;

2. Other delimited nature protection areas with environmental restrictions applicable to farming which contribute to the implementation of Article 10 of the Habitats Directive.

Aid intensity

(635) Aid shall be limited to the following amounts: 500 EUR per ha per year maximum in the initial period not exceeding five years; 200 EUR per ha per year maximum thereafter. The maximum amounts of EUR 500 and EUR 200 may be increased in exceptional cases taking into account specific circumstances to be justified.

3.6. Aid for knowledge transfer and information actions in rural areas

(636) Aid for knowledge transfer and information actions in rural areas shall be declared compatible with the internal market within the meaning of Article 107(3)(c) of the Treaty if it fulfils the common assessment principles of these Guidelines, the common provisions applicable to Chapter 3 of section II of these Guidelines and the following conditions:

(637) Aid under this measure shall cover vocational training and skills acquisition actions (including training courses, workshops and coaching), demonstration activities and information actions. Aid may be granted also for the training of advisors linked to the advisory services referred to in sub-chapters 1.1.10.2., 2.5. and 3.7. of section II of these Guidelines.

(638) Aid shall be granted in favour of persons engaged in the food sector, land managers and SMEs in rural areas. Aid for the training of advisors may be granted also in favour of large undertakings in rural areas.

(639) Aid may be granted in rural areas in respect of the following eligible costs:

(a) the costs of organising and delivering the knowledge transfer or information action;

(b) in case of demonstration projects, aid may also cover relevant investment costs;

(c) costs for travel, accommodation and per diem expenses of participants.

(640) The aid referred to in point (639)(a) and (b) shall not involve direct payments to the undertakings active in rural areas. The aid shall be paid to the provider of training or other knowledge transfer and information action.

(641) The aid shall be accessible to all those eligible undertakings active in the rural area concerned, based on objectively defined conditions.

(642) Bodies providing knowledge transfer and information services shall have the appropriate capacities in the form of staff qualifications and regular training to carry out this task.

Aid intensity

(643) The aid intensity shall be limited to 50% of the eligible costs in case of large undertakings, to 60% in case of medium-sized undertakings and to 70% in case of micro and small undertakings. Aid for training for advisors shall be limited to EUR 200 000 per three years.

3.7. Aid for advisory services in rural areas

(644) Aid for advisory services in rural areas shall be compatible with the internal market within the meaning of Article 107(3)(c) of the Treaty if it fulfils the common assessment principles of these Guidelines, the common provisions applicable to Chapter 3 of section II of these Guidelines and the following conditions.

(645) Aid shall be granted to either to help land managers and SMEs in rural areas benefit from the use of advisory services for the improvement of the economic and environmental performance as well as climate friendliness and resilience of their enterprise and/or investment.

(646) Advice to SMEs in rural areas may cover issues linked to the economic and environmental performance of the beneficiary.

(647) Advice to land managers in rural areas shall cover as a minimum one of the elements set out in point (287) of sub-chapter 1.1.10.2. of section II of these Guidelines. It may also cover other issues, as referred to in point (289) above.

(648) The aid shall not involve direct payments to the beneficiaries. The aid shall be paid to the provider of advisory services.

(649) When providing advice, advisory services shall respect the non-disclosure obligations referred to in Article 13(2) of Regulation (EU) No 1306/2013.

(650) It may also cover other issues, as referred to in point (289) above. Where justified and appropriate, advice may be partly provided in group, while taking into account the situations of the individual user of advisory services.

Aid intensity

(651) Aid shall be limited to EUR 1 500 per advice.

3.8. Aid for new participation of active farmers in quality schemes for cotton and foodstuffs

(652) Aid for new participation of active farmers in quality schemes for cotton or foodstuffs shall be compatible with the internal market within the meaning of Article 107(3)(c) of the Treaty if it fulfils the common assessment principles of these Guidelines, the common provisions applicable to Chapter 3 of section II of these Guidelines and the following conditions.

(653) The aid concerns the first participation in one of the following categories of quality schemes:

(a) quality schemes for cotton or foodstuffs established by Union legislation;

(b) quality schemes for cotton or foodstuffs recognised by the Member States as complying with the following criteria:

i. the specificity of the final product under such schemes is derived from clear obligations to guarantee:

- specific product characteristics,

- specific farming or production methods, or

- a quality of the final product that goes significantly beyond the commercial commodity standards as regards public, animal or plant health, animal welfare or environmental protection;

ii. the scheme is open to all producers;

iii. the scheme involves binding product specifications and compliance with those specifications is verified by public authorities or by an independent inspection body;

iv. the scheme is transparent and assures complete traceability of products;

(c) voluntary agricultural product certification schemes recognised by the Member States as meeting the Union best practice Guidelines for the operation of voluntary certification schemes relating to agricultural products[78].

Eligible costs

(654) The aid shall be granted in the form of an annual incentive payment, to be determined according to the level of the fixed costs arising from participation in the quality schemes.

(655) The aid shall be granted for a period of a maximum of five years.

Aid intensity

(656) The aid shall be limited to EUR 3 000 per beneficiary per year.

3.9. Aid for information and promotion activities concerning cotton and foodstuffs covered by a quality scheme

(657) Aid for information and promotion activities concerning cotton and foodstuffs covered by a quality scheme shall be compatible with the internal market within the meaning of Article 107(3)(c) of the Treaty if it fulfils the common assessment principles of these Guidelines, the common provisions applicable to Chapter 3 of section II of these Guidelines and the following conditions.

Eligible costs

(658) Aid shall be granted for information and promotion activities concerning cotton and foodstuffs which are covered by a quality scheme for which aid is granted under sub-chapter 3.8. of section II of these Guidelines.

(659) The aid shall be granted to groups of producers implementing the information and promotion activities.

(660) [The aid shall cover the costs for actions:

(a) designed to induce consumers to buy the foodstuffs or the cotton covered by a quality scheme;

(b) drawing attention to specific features or advantages of the foodstuff or the cotton, notably to the quality, specific production method, high animal welfare standards and

[78] Commission Communication – EU best practice guidelines for voluntary certification schemes for agricultural products and foodstuffs, OJ C 341, 16.12.2010, p. 5.

respect for the environment linked to the quality scheme concerned.]

(661) The actions referred to in point (660) shall not incite consumers to buy a foodstuff or cotton due to their particular origin, except for those covered by the quality schemes introduced by Title II of Regulation (EU) No 1151/2012.

(662) The origin of the foodstuff or cotton may, nevertheless, be indicated, provided that the mention of the origin is subordinate to the main message.

(663) Activities related to the promotion of commercial brands shall not be eligible for aid.]

(664) Only information and promotion activities implemented in the internal market shall be eligible.

Aid intensity

(665) The aid intensity shall be up to 70% of the eligible costs.

3.10. Aid for co-operation in rural areas

(666) The Commission shall declare State aid for co-operation in rural areas compatible with the internal market under Article 107(3)(c) of the Treaty if the common assessment principles of these Guidelines, the common provisions applicable to Chapter 3 of section II of these Guidelines and the following conditions are fulfilled.

(667) The aid shall be granted in order to promote forms of cooperation among agricultural undertakings, undertakings active in the food chain and other actors that contribute to achieving the objectives and priorities of rural development policy, including producer groups, cooperatives and inter-branch organizations.

(668) The cooperation shall involve at least two entities, of which at least one is not an agricultural undertaking, and in particular:

1. co-operation approaches;
2. the creation of clusters and networks;
3. the establishment and operation of operational groups of the EIP for agricultural productivity and sustainability as referred to in Article 56 of the RD Regulation.

(669) The aid shall be granted to cooperation relating to the following activities:

1. pilot projects;

2. the development of new products, practices, processes and technologies in the food sector;

3. co-operation among small operators in organising joint work processes and sharing facilities and resources and for the development and/or marketing of tourism services relating to rural tourism;

4. horizontal and vertical co-operation among supply chain actors for the establishment and development of short supply chains and local markets;

5. promotion activities in a local context relating to the development of short supply chain and local markets;

6. joint action undertaken with a view to mitigating or adapting to climate change;

7. joint approaches to environmental projects and ongoing environmental practices, including efficient water management, the use of renewable energy and the preservation of agricultural landscapes;

8. horizontal and vertical cooperation among supply chain actors in the sustainable provision of biomass for use in food and energy production and industrial processes;

9. implementation, in particular by groups of public and private partners other than those defined in point (b) of Article 32(2) of Regulation (EU) No 1303/2013, of local development strategies other than those defined in Article 2(19) of Regulation (EU) No 1303/2013 addressing one or more of the Union priorities for rural development;

10. diversification of farming activities into activities concerning health care, social integration, community-supported agriculture and education about the environment and food.

(670) Aid for the creation of clusters and networks shall be granted only to newly formed clusters and networks and those commencing an activity that is new to them.

(671) Aid for pilot projects referred to in point (669)(1) and for the development of new products, practices, processes and technologies in the food sector referred to in point (669)(2) may be granted also to individual actors where this possibility is provided for in the rural development programme. The results of pilot projects under point (669)(1) and activities under (669)(2) carried out by individual actors shall be disseminated.

(672) Aid under this sub-chapter shall comply with the relevant provisions of competition law, in particular with Articles 101 and 102 of the Treaty.

(673) Aid shall be limited to a maximum period of seven years except for collective environmental action in duly justified cases.

Eligible costs

(674) Aid may be granted to cover the following eligible costs:

1. costs for studies of the area concerned, feasibility studies, and the drawing up of a business plan or local development strategy other than the one referred to in Article XX of future reg. CSF;
2. costs for animation of the area concerned in order to make feasible a collective territorial project or a project to be carried out by an operational group of the EIP for Agricultural Productivity and Sustainability as referred to in Article 56 RD Regulation. In the case of clusters, animation may also concern networking between members and the recruitment of new members;
3. running costs of co-operation, such as the salary of a 'co-ordinator';
4. direct costs of specific projects linked to the implementation of a business plan, an environmental plan, a local development strategy other than the one referred to in Article 29 of reg. (EU) NO (CSF/2012) or other actions targeted towards innovation, including testing;
5. costs for promotion activities.

(675) Direct costs under point (674) 4. related to investments shall be limited to the eligible costs of investment aid, as specified in points (603) to (604) and shall comply with the specific conditions referred to in point (602).

Aid intensity

(676) The aid intensity for eligible costs referred to in point (674) 1., 2., 3 and 5 as well as for direct costs which do not relate to investments referred to in point (674) 4 shall not exceed 50 % of the eligible costs.

(677) The aid intensity for direct costs related to investments under point (674) 4. shall not exceed those specified in point (605) of these Guidelines, including the scaling down mechanism for large investment projects. The aid intensity which applies to the area in which the investment is located will apply to all beneficiaries participating in the

co-operation project. If the investment is located in two or more areas, the maximum aid intensity for the investment will be the one applicable in the area where the largest part of the eligible costs are incurred.

(678) The notification threshold referred to in point (606) applies to aid for direct costs related to investments under point (674) 4.

3.11. Aid for setting-up of mutual funds

(679) The Commission shall declare aid for the setting up mutual funds compatible with the internal market under Article 107(3)(c) of the Treaty if the common assessment principles of these Guidelines, the common provisions applicable to Chapter 3 of section II of these Guidelines and the following conditions.

(680) The aid shall be granted pursuant to, and in conformity with, the RD regulation or as additional national financing in the framework of a rural development programme and the measure concerned shall be identical to the underlying rural development measure.

(681) The mutual fund concerned shall:

(a) be accredited by the competent authority in accordance with national law;

(b) have a transparent policy towards payments into and withdrawals from the fund;

(c) have clear rules attributing responsibilities for any debts incurred;

(d) pay financial contribution to agricultural undertakings for losses caused by adverse climatic events assimilated to natural disasters and animal diseases and plant pests as defined in sub-chapters 1.2.1.2. and 1.2.1.3. of section II of these Guidelines and/or losses caused by environmental incidents.

(682) Member States shall define the rules for the constitution and management of the mutual funds, in particular for the granting of compensation payments as well as for the administration and monitoring of compliance with these rules. Member States shall ensure that the fund arrangements provide for penalties in case of negligence on the part of the agricultural undertaking.

Eligible costs

(683) The aid above may only relate to the administrative costs of setting up the mutual

fund, spread over a maximum of three years in a degressive manner. Member States may limit the costs that are eligible for aid by applying ceilings per fund.

(684) No aid shall be given to initial capital stock.

Aid intensity

(685) Aid shall be limited to 65 % of the eligible costs.

III. PROCEDURAL MATTERS

1. Duration of schemes and mid-term evaluation

(686) Following the established practice in its previous Guidelines, in order to contribute to transparency and to the regular review of all existing aid schemes, the Commission shall only authorise aid schemes of limited duration. Schemes covering State aid for measures that can also benefit from EAFRD co-financing under the RD regulation[79] should be limited to the duration of the programming period 2014-2020. Where Union law so allows, and in accordance with the conditions set out therein, Member States may continue to make new commitments for rural development on the basis of the RD regulation and its implementing regulation.[80] The Commission will therefore apply these Guidelines also to such new commitments. Other aid schemes should not apply for more than seven years.

(687) To further ensure that distortions of competition and trade are limited, the Commission may require that certain schemes be subject to a shorter time limitation (of four years or less) and to an ex-post evaluation for determining the overall balance of certain categories of aid schemes. Evaluations will be carried out for schemes where the potential distortions are particularly high, that is to say, that may restrict competition significantly, if their implementation is not reviewed in due time.

(688) Given the objectives of the evaluation and in order not to impose a disproportionate burden on Member States in respect of smaller aid amounts, this obligation may be imposed only for aid schemes with large aid budgets, containing novel characteristics or when significant market, technology or regulatory changes are foreseen. The evaluation must be carried out by an expert independent from the State aid granting authority on the basis of a common methodology[81] and must be made public. The evaluation must be submitted to the Commission in sufficient time to allow for the

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[79] OJ XX.
[80] OJ XX.
[81] Such a common methodology may be provided by the Commission.

assessment of the possible prolongation of the aid scheme and in any case upon expiry of the scheme. The precise scope and the methodology for this evaluation to be carried out will be defined in the decision approving the aid scheme. Any subsequent aid measure with a similar objective must take into account the results of the evaluation.

2. Revision clause

(689) A revision clause shall be provided for operations undertaken pursuant to sub-chapters 1.1.5.1, 1.1.5.2., 1.1.8, 2.3. and 3.4. of section II of these Guidelines, in order to ensure their adjustment in the case of amendments of the relevant mandatory standards, requirements or obligations referred to in those sub-chapters beyond which the commitments have to go. If such adjustment is not accepted by the beneficiary, the commitment shall expire.

3. Reporting and monitoring

(690) In accordance with Council Regulation (EC) No 659/1999[82] and Commission Regulation (EC) No 794/2004 of 21 April 2004[83] Member States must submit annual reports to the Commission.

(691) The Commission reserves the right to seek additional information on existing aid schemes on a case by case basis, where this is necessary to enable it to fulfil its responsibilities under Article 108(1) of the Treaty.

(692) Where annual reports are not provided in accordance with these Guidelines, the Commission may proceed in accordance with Article 18 of Regulation (EC) No 659/1999.

(693) Member States must maintain detailed records regarding all aid measures. Such records must contain all information necessary to establish that the conditions regarding eligible costs and maximum aid intensities have been fulfilled. These records must be maintained for 10 years from the date of award of the aid and must be provided to the Commission upon request.

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82 Council Regulation (EC) No 659/1999 of 22 March 1999 laying down detailed rules for the application of Article 93 of the EC Treaty, OJ L 83, 27.3.1999, p. 3.

83 Commission Regulation (EC) No 794/2004 of 21 April 2004 implementing Council Regulation (EC) No 659/1999 laying down detailed rules for the application of Article 93 of the EC Treaty, OJ L 140, 30.4.2004, p. 1.

4. Application of these Guidelines

(694) The Commission shall apply these Guidelines to new State aid measures with effect from 1 July 2014.

The Commission will apply these Guidelines to all notified aid measures in respect of which it is called upon to take a decision after their entry into force, even where the projects were notified prior to that date. This includes individual aid granted under approved aid schemes and notified to the Commission pursuant to an obligation to notify such aid individually. [OR ALTERNATIVE OPTION "Aid schemes notified after [01 May 2014] will be assessed according to these Guidelines.]

(695) Unlawful aid will be assessed in accordance with the rules in force at the date on which the aid was granted.

(696) The former Community Guidelines for State aid in the Agriculture and Forestry sector 2007-2013 are repealed as of the date of application of these Guidelines. For the EAFRD co-financed rural development measures, where Union law so allows, and in accordance with the conditions set out in the rural development rules, Member States may continue to make new commitments under the former Guidelines for State aid in the Agriculture and Forestry sector 2007-2013 in accordance with its Point 189[84].

5. Proposals for appropriate measures

(697) In accordance with Article 108(1) of the Treaty the Commission proposes that Member States amend their existing aid schemes to conform with these Guidelines by [30 June 2015] at the latest. Existing aid schemes for meeting EU and national standards under chapter IV.E. of the Community Guidelines for State aid in the agriculture and forestry sector 2007-2013 and aid for purchase of forestry land used as nature protection areas have to be put to end by [30 June 2016]. Aid schemes for tax exemptions and reductions under Directive 2003/96/EC have to conform with the applicable horizontal rules for aid for environmental protection by [30 June 2016]. Existing aid schemes for early retirement should be phased out by 31.12.2018, at the latest.

(698) The Member States are invited to confirm that they accept these proposals for

[84] As modified on 19 November 2013, OJ C 339, 20.11.2013, p. 1.

appropriate measures in writing by [31 August 2014] at the latest.

(699) In the event that a Member State fails to confirm its acceptance in writing before that date, the Commission will apply Article 19(2) of Regulation (EC) No 659/1999 and, if necessary, initiate the proceedings referred to in that provision.

6. Expiry

(700) These Guidelines shall apply until 31 December 2020 unless the Commission decides to prolong their application. The Commission may decide to amend these Guidelines at any time if this should be necessary for reasons associated with competition policy or to take account of other Union policies, such as agricultural and rural development or human and animal health policy considerations, and international commitments, or for any other justified reason.