



EUROPEAN COMMISSION

Brussels, 15.03.2016

C(2016) 1550 final

Subject: State aid– Germany
SA.42887 (2015/N)
Hessen: Support of innovation and co-operation in agriculture and rural areas

Sir,

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

The Commission has based its decision on the following considerations:

1. PROCEDURE

- (1) By letter of 13 August 2015, registered by the Commission on the same day, Germany notified, according to Article 108(3) TFEU, the above mentioned aid scheme. The Commission sent a request for additional information to the German authorities on 8 October 2015 which the German authorities answered by letter of 11 November 2015, registered by the Commission on the same day. The Commission sent another request for additional information to the German authorities on 18 December 2015 which the German authorities answered by letter of 25 January 2016, registered by the Commission on the same day. Germany sent another letter with additional information on 2 February 2016, registered by the Commission on the same day.

Seiner Exzellenz Herrn Frank-Walter STEINMEIER
Bundesminister des Auswärtigen
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2. DESCRIPTION

2.1. Title

- (2) Hessen: Support of innovation and co-operation in agriculture and rural areas.

2.2. Objective and scope

- (3) With the present notification the German authorities wish to provide support for co-operation measures in the agriculture, forestry and rural areas in accordance with the underlying rural development measure M 16 "Cooperation" included in the Rural Development Program of Hessen for the period 2014-2020 (hereinafter: "RDP") and approved by the Commission¹. The notification covers the following measures: (a) co-operation in the agricultural sector financed entirely from the national budget; (b) co-operation in the forestry sector financed by the national budget or co-financed by the EAFRD and (c) co-operation (with the exception of innovation projects) in the rural areas co-financed by the EAFRD.

2.3. Legal basis

- (4) The legal basis is the Guidelines of Hessen on Support of innovation and co-operation in agriculture and rural areas (Richtlinien des Landes Hessen zur Förderung von Innovation und Zusammenarbeit in der Landwirtschaft und in ländlichen Gebieten), hereinafter: "national Guidelines".

2.4. Duration

- (5) From the date of approval by the Commission to 31 December 2020.

2.5. Budget

- (6) Overall budget is 10 million EUR. Annual budget is 1,67 million EUR.

2.6. Beneficiaries

- (7) In line with the 4 measures described in recital (14) below, the beneficiaries are as follows:
- Measure A – operational groups (OP) as referred to in Article 56 of Regulation (EU) No 1305/2013²; Members of the OP are undertakings active in the agricultural sector, research and scientific organisations, agricultural consultancy and service providers, NGOs, branch organisations and entities governed by public law;
 - Measure B – undertakings active in the agricultural and forestry sectors and food chain, research and scientific organisations;

¹ COMMISSION IMPLEMENTING DECISION C(2015) 851 of 13.02.2015 approving the rural development programme of the German Land Hessen for support from the European Agricultural Fund for Rural Development CCI 2014DE06RDRP010

² Regulation (EU) No 1305/2013 of the European Parliament and of the Council of 17 December 2013 on support for rural development by the European Agricultural Fund for Rural Development (EAFRD) and repealing Council Regulation (EC) No 1698/2005, OJ L 347, 20.12.2013, p. 487.

- Measure C – land users, research and scientific organisations, NGOs, branch organisations; other members of the cooperation can be entities governed by public law, undertakings and other actors active in the agricultural and forestry sectors and food chain, educational institutions, undertakings active in the tourism sector in rural areas;
 - Measure D – public entities, natural persons and legal persons govern by private law.
- (8) The following beneficiaries must be SMEs in the meaning of Annex I of Regulation (EU) No 702/2014³ - undertakings active in the agricultural and forestry sectors and food chain, land users and undertakings active in the tourism sector in rural areas.
- (9) Undertakings in difficulty in the meaning point 35.15 of the European Union Guidelines for State aid in the agricultural and forestry sectors and in rural areas 2014 to 2020⁴ (hereinafter "the EU Guidelines") are excluded from the scope of beneficiaries (point 8.7. in connection with point 3 of the national Guidelines).
- (10) Undertakings that are subject to an outstanding recovery order following a previous Commission decision declaring an aid illegal and incompatible with the internal market are excluded from the scope of beneficiaries (point 8.6. of the national Guidelines).

2.7. Aid instrument

- (11) Direct grant.

2.8. Description of the aid scheme

- (12) The aid scheme contains 4 co-operation measures that can be implemented in the agricultural sector, forestry sector and rural areas. These measures are included in the RDP and they will be predominantly co-financed by the European Agricultural Fund for Rural Development (EAFRD). However, the German authorities explained that some projects that are small-scale or risky projects can be financed entirely from the national budget because in this case the administrative costs will be smaller and more proportionate compared to the ones necessary for the EU co-financing projects.
- (13) The RDP includes a description of the key objectives of these measures: The stakeholders involved in the cooperation projects will have the potential to improve their environmental performance and resource efficiency, competitiveness and to contribute to the suitability of rural development. The aim is to favour innovative approaches and to strengthen the link between agriculture, forestry, research and innovation.
- (14) The notified measures at issue are the following:

³ Commission Regulation (EU) No 702/2014 of 25 June 2014 declaring certain categories of aid in the agricultural and forestry sectors and in rural areas compatible with the internal market in application of Articles 107 and 108 of the Treaty on the Functioning of the European Union, OJ L 193, 1.7.2014, p. 1

⁴ OJ C 204 of 1.7.2014, p. 1, as amended, OJ C 390, 24.11.2015.

- Measure A "EIP "Agricultural Productivity and Sustainability";
- Measure B "Cooperation in the framework of the short food chain and local markets";
- Measure C "Support for actions to mitigate and to adapt to climate change";
- Measure D "Support for local strategies other than those falling under the Community led local development".

Measure A " EIP "Agricultural Productivity and Sustainability"

- (15) Two types of operations will be supported: (a) the establishment of operational groups and the running cost of the cooperation inside the operational groups and (b) the implementation of innovation projects.
- (16) The task of the operational group is to bring together the stakeholders of innovation processes in the agri-food sector for a defined subject area (field of innovation) and to promote the transfer of innovation in the agricultural and food practices in the context of a specific project.
- (17) The operational group has to comply with the following conditions:
- it must be newly founded;
 - it must consist of at least 2 members, one of them being an undertaking active in the primary agricultural production;
 - the majority of the members must come from Hessen; in this regard the German authorities explained that it is not required that members of the group have their main headquarter in Hessen or be predominantly established in Hessen, it is sufficient to have a branch or office;
 - the members of the group have to regulate their relationships in a co-operation agreement, including designation of a member primary responsible for the projects, rights and duties, duration of cooperation arrangement, disputes and recoveries; The internal procedures must ensure that the decision-making is transparent and that conflicts of interest are avoided in accordance with Article 56 (2) of Regulation (EU) No 1305/2013;
 - the projects must address a problem or issue from Hessen; joint projects with other German provinces or Member States are possible but only the part that is carried out in Hessen will be supported;
 - it has to publish the results of the projects through the national EIP network.
- (18) The aid for the establishment of operational groups and the running cost of the cooperation inside the operational groups covers the following eligible costs:
- costs for the management and the staff of the operational group;

- general business expenses of the operational group;
 - expenditure on public relations, including meetings and trainings,
 - expenses incurred as part of the network activities of the EIP and expenditure for the cooperation with other operational groups, and
 - expenditure on preparation and amendment of action plan.
- (19) Innovation projects are projects that involve the development of new products, practices, processes and technologies in the agriculture and food industry or existing ways of working in a new context as well as pilot projects.
- (20) Only innovation projects in the agricultural and forestry sector are concerned. Innovation projects related to non-agricultural products in rural areas are excluded from the scope of the notification (recital 3).⁵
- (21) The aid for implementation of innovation projects covers the following eligible costs:
- costs of the cooperation partners arising from and directly connected with the cooperation;
 - costs for studies, designs, analysis, test and similar services,
 - material costs,
 - purchase of patents, copyrights, licenses, and
 - purchase of machines, equipment and other tangible assets necessary for the implementation of the innovation project.
- (22) The following costs are not eligible for aid:
- purchase of land,
 - purchase of second hand machines and equipment,
 - added value tax,
 - cashless own work,
 - applications for patents,
 - leasing,
 - purchase of motor vehicles, and
 - replacement investments, interests and financing expenses.

⁵ Germany explained that innovation projects related to non-Annex I products in rural areas will be carried out in compliance with COMMISSION REGULATION (EU) No 1407/2013 of 18 December 2013 on the application of Articles 107 and 108 of the Treaty on the Functioning of the European Union to de minimis aid.

- (23) The aid intensity depends on the activity or the project on the one side and on the sector on the other side, as follows.
- (24) The aid intensity for the establishment of operational groups, the animation activities and the running cost of the cooperation inside the operational groups that concerns only the agricultural sector is 100% of the eligible costs. The aid intensity for the establishment of operational groups and the running cost of the cooperation inside the operational groups that concerns also the forestry sector and rural areas is 50% of the eligible costs.
- (25) The aid intensity for innovation projects in the agricultural sector is 50%. The aid intensity for innovation projects in the forestry sector may vary depending on the subject of the project, as follows:

Subject of the project	Maximum aid intensity
Afforestation and creation of woodland Establishment of agro-forestry systems Prevention and restoration of damage to forests Investments improving the resilience and environmental value of forest ecosystems	100%
Investments in forestry technologies and in processing, in mobilising and in marketing of forest products Investments in infrastructure related to the development, modernisation or adaptation of forestry	40%
Infrastructure - non-productive investments, investments aimed exclusively at improving the environmental value of forests and investments for forest roads, which are open to the public free of charge and which serve the multifunctional aspects of forest	100%

The maximum amount of aid for one innovation project is limited to 200,000 EUR.

- (26) The aid is limited to maximum period of 5 years.

Measure B "Cooperation in the framework of the short food chain and local markets"

- (27) The objective of the aid is to support horizontal and vertical cooperation between actors in the food supply chain to create and develop short supply chains and local markets.

- (28) The definitions of the "short supply chain" and "local markets" are given in the national Guidelines and they follow the definition of these terms in the EU Guidelines (Numbers 35.56 und 35.60 thereof).
- (29) According to the national Guidelines the following definitions apply:
- "short supply chain" is a supply chain with a limited number of economic operators, committed to co-operation, local economic development and close geographical and social relations between producers, processing companies and consumers. Supply chains are referred to as a "short" when there is not more than one intermediary actor between producers and consumers, for example, retailer or processing company that after the purchase of the product from the farmers obtains the control of that product;
 - "local markets" are markets in radii of 75 km from the farms of origin of the product, within which the activities of processing and sale to the final consumer have to take place.
- (30) The eligible costs are:
- costs for development of concepts for cooperation, feasibility studies and action plan;
 - running costs of co-operation; and
 - costs for promotion activities related to the development of short supply chains and/or local markets in a local context.
- (31) The following costs are not eligible for aid:
- Investments,
 - added value tax,
 - cashless own work,
 - applications for patents,
 - leasing,
 - replacement investments, interests and financing expenses.
- (32) The aid is granted to newly founded cooperation between natural and legal persons of the agriculture, forestry and food industry as well as research and scientific organisations. The aid may be granted to individual members of the cooperation as project managers if they are bounded with the other partners through a cooperation agreement.
- (33) The cooperation must consist of at least 2 members, one of them being an undertaking active in the primary agricultural production. The members of the cooperation have to regulate their relationships in a co-operation agreement, including designation of a member primary responsible for the projects, rights and duties, duration of cooperation arrangement, disputes and recoveries.

- (34) The cooperation has to draw up an action plan which includes a description of the project, the expected results and the contribution to the horizontal and / or vertical co-operation between the involved actors.
- (35) The projects must be carried out in Hessen.
- (36) The following aid intensities apply as regards cooperation in the agricultural sector:
- as regards the cost for development of concepts for cooperation, feasibility studies and action plan as well as the costs for promotion activities – up to 50% of the eligible costs;
 - as regards the running costs of co-operation – up to 60 % during the first and second year after the creation of the cooperation, up to 50 % during the third year, up to 40% during the fourth year and up to 20% during the fifth year.

As regards cooperation in the forestry sector and in rural areas, the aid intensity is half of the percentage mentioned above.

- (37) The total amount of aid per project may not exceed 200,000 EUR.
- (38) The duration of the cooperation shall be limited to 5 years.

Measure C "Support for actions to mitigate and to adapt to climate change"

- (39) The objective is to contribute to the reduction or mitigation of climate change through joint actions. This will be achieved through the implementation of innovative approaches.
- (40) The eligible costs are:
- cost for development of concepts for cooperation, feasibility studies and action plan; and
 - running costs of co-operation.

- (41) The conditions described in recitals 31, 32, 33 (within the exception of the requirement that one of the members of the cooperation must be an undertaking active in the primary agricultural production), 34, 35, 36, 37 and 38 apply mutatis mutandis.

Measure D "Support for local strategies other than those falling under the Community led local development"

- (42) The objective is to initiate and organise development processes and to implement appropriate projects. These refer to local strategies outside the Community led local development in the meaning of Article 32 of Regulation (EU) No 1303/2013⁶ and include the following:

⁶ 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

- the development of concepts to achieve the objectives in the regions;
- support of staff and administrative expenditure, as well as third-party services for technical implementation of the concepts;
- measures to raise awareness of beneficiaries in cooperation with stakeholders from the regions with regard to the initiation of development processes, and
- design competitions and first implementation steps for the creation of innovative business models.

(43) The eligible costs are:

- cost for development of concepts for cooperation, feasibility studies and action plan; and
- running costs of co-operation

(44) The conditions described in recitals 31, 32 (with the exception that aid can be granted to individual members of the cooperation), 33 (within the exception of the requirement that one of the members of the cooperation must be an undertaking active in the primary agricultural production), 34, 35, 36, 37 and 38 apply mutatis mutandis. As regards the action plan it is necessary to submit the positive opinions of entities that implement other recognised local or regional development initiatives.

General conditions

(45) The beneficiary has to make a written application for aid to the competent granting authority before the start of the project. The official form has to be used. The application must contain the following information: name of the applicant and - if applicable - information on the size of the undertaking, description of the project or activity, including information on the location and on the start date and the time of completion of the project, information on the level of the implementation of the project or the activity, needed aid amount, list of eligible costs.

(46) The following documents have to be submitted together with the application: action plan and cooperation agreement. Large undertakings will also submit a description of a counterfactual scenario in absence of aid. If necessary, the granting authority may request further information from the applicant.

(47) The granting authority is the Regierungspräsidium Gießen, Abteilung Landwirtschaft, Schanzenfeldstraße 8, 35578 Wetzlar.

(48) The German authorities committed that they will comply with the relevant provisions of competition law, in particular with Articles 101 and 102 of the

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, OJ L 347, 20.12.2013, p. 320.

Treaty, as they apply by virtue of Articles 206 to 210 of Regulation (EU) No 1308/2013.

- (49) The national Guidelines include provisions on cumulation of aid (Part II, point 8 thereof). According to this, cumulation of aid under the current aid scheme and other aid schemes is excluded. Cumulation is only possible in cases of aid granted by the Landwirtschaftliche Rentenbank and the Foerderbanken der Laender, but only if the allowed State aid intensities are respected.
- (50) As regards the transparency requirement provided for in points 128-132 of the EU Guidelines, the German authorities informed the Commission that:
- The full text of the aid scheme and the name of the granting authority are published on the internet site of the Ministry of Environment, Climate Protection, Agriculture and Consumer Protection of Hessen.
 - The information on the individual aid awards will be published in accordance with point 128(c) or point 130 of the EU Guidelines depending on whether the aid is co-financed from EAFRD or not.

3. ASSESSMENT

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

- (51) For Article 107(1) TFEU to apply, the scheme must provide an economic advantage to an undertaking which it would not have received in its normal course of business, the aid must be granted to certain undertakings, the advantage must be granted by a Member State or through State resources and the scheme must be capable of affecting trade between Member States.
- (52) The notified scheme confers an advantage on its recipients. This advantage is granted through State resources (see recital (12)) and it favours the undertakings active in the agricultural and forestry sectors and in the food chain in rural areas by strengthening their competitive position on the market. According to the case law of the Court of Justice, the mere fact that the competitive position of an undertaking is strengthened compared to other competing undertakings, by giving it an economic benefit which it would not otherwise have received in the normal course of its business, points to a possible distortion of competition.⁷
- (53) Pursuant to the case law of the Court of Justice, aid to an undertaking appears to affect trade between Member States where that undertaking operates in a market open to intra-EU trade.⁸ The beneficiaries of aid operate on a market of agricultural products, forestry products and food products where intra- trade takes place. The EU intra trade of agricultural products in 2013 amounts to: for exports – 327,006.5 mio EUR and for imports - 321,135.7 mio EUR⁹. The EU trade (external and internal) of forestry products in 2013 amounts to: for exports – more

⁷ Judgment of the Court of 17 September 1980 in Case 730/79 *Philip Morris Holland BV v Commission of the European Communities*, ECLI:EU:C:1980:209.

⁸ See in particular the judgment of the Court of 13 July 1988 in Case 102/87 *French Republic v Commission of the European Communities*, ECLI:EU:C:1988:391.

⁹ Source: http://ec.europa.eu/agriculture/statistics/factsheets/pdf/eu_en.pdf.

than 110 000 mio EUR and for imports - more than 100 000 mio EUR¹⁰. The EU intra trade with food products amounts in 2013 to about 11% of the whole EU intra trade with goods¹¹. The sectors concerned are open to competition at EU level and therefore sensitive to any measure in favour of the production in one or more Member States. Therefore, the present scheme is liable to distort competition and to affect trade between Member States.

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

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

- (55) The aid scheme was notified to the Commission on 13 August 2015. The national Guidelines provide for that they entered into force on 1 January 2015. However the German authorities explained that no State aid has been granted yet and that any State aid will only be granted after the Commission decision authorising the aid scheme is adopted. Therefore, Germany has complied with its obligation under Article 108(3) TFEU.

3.3. Compatibility of the aid

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

- (56) Under Article 107(3)(c), an aid may be considered compatible with the internal market, if it is found to facilitate the development of certain economic activities or of certain economic areas, where such aid does not adversely affect trading conditions to an extent contrary to the common interest.
- (57) For this derogation to be applicable, the aid must fulfil the requirements of the relevant Union State aid legislation.

3.3.2. Application of the European Union Guidelines for State aid in the agricultural and forestry sectors and in rural areas 2014 to 2020

- (58) As regards the notified aid scheme, Part I and Part II, Chapter 1.1.11 "Aid for co-operation in the agricultural sector", Chapter 2.6."Aid for co-operation in forestry sector" and Chapter 3.10. "Aid for co-operation in rural areas" of the EU Guidelines are applicable.

3.3.2.1. Common Assessment Principles

Contribution to a common objective

- (59) The current aid scheme covers measures included the RDP of Hessen for the period 2014-2020 (recital 3). Therefore point (47) of the EU Guidelines is complied with.

¹⁰ http://ec.europa.eu/agriculture/markets-and-prices/market-statistics/pdf/2014/d22-3-422_en.pdf.

¹¹ http://ec.europa.eu/eurostat/statistics-explained/index.php/Intra-EU_trade_in_goods_-_recent_trends.

Need for State intervention

- (60) According to point (55) of the EU Guidelines, the Commission considers that the market is not delivering the expected objectives without State intervention concerning the aid measures fulfilling the specific conditions laid down in Part II of these Guidelines. Therefore, such aid should be considered necessary to achieve the objectives of common interest specified under Section 3.1. of Part I of these Guidelines. The current aid scheme fulfils the specific conditions laid down in Part II, in Chapter 1.1.11, Chapter 2.6 and Chapter 3.10 of the EU Guidelines, as described in recitals 69-78 below, and therefore point (55) of the EU Guidelines is complied with

Appropriateness of aid

- (61) According to point (57) of the EU Guidelines, the Commission considers that aid granted in the agricultural and forestry sectors and in rural areas, which fulfils the specific conditions laid down in the relevant Sections of Part II of these Guidelines, is an appropriate policy instrument. The aid scheme fulfils the specific conditions laid down in Part II, in Chapter 1.1.11, Chapter 2.6 and Chapter 3.10 of the EU Guidelines, as described in recitals 69-78 below and therefore point (57) of the EU Guidelines is complied with.
- (62) According to point (58) of the EU Guidelines, where a Member State decides to put in place a rural development like aid measure financed exclusively from national funds, 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. Germany explained that the rural development like measures will be implemented in addition to the rural development measure, and in particular as regards small scale projects and projects that bear risk (recital 12) in order to reduce the administrative burdens. Therefore, point (58) of the EU Guidelines is complied with since Germany has explained the additional advantages granted through the measures at issue.

Incentive effect and need for aid

- (63) As explained by the German authorities (see recital 45), an aid application is submitted by the beneficiary before the work on the project or the aided activity, has started. The content of the aid application meets the minimum requirements laid down in point (71) of the Guidelines. Large undertakings will submit a counterfactual scenario (recital 46). Therefore, the incentive effect requirement is complied with.

Proportionality of the aid

- (64) Maximum aid intensity: Points (82) and (84) of the EU Guidelines stipulate that if the aid amount does not exceed the eligible costs and that the aid intensity respects the ceilings set out in the Part II thereof, the aid is deemed to be proportionate. The current aid scheme fulfils the specific conditions regarding the eligible costs and the aid intensities laid down in Part II, Chapter 1.1.11, Chapter 2.6 and Chapter 3.10 of the EU Guidelines, as described in recitals 69-78 below and therefore points (82) and (84) of the Guidelines are complied with.

- (65) Cumulation: Cumulation is excluded or is only permitted up to the allowed State aid intensity (recital 49). Therefore, point (99) of the EU Guidelines is complied with.

Avoidance of undue negative effects on competition and trade

- (66) According to point (113) of the EU Guidelines, the Commission considers that where an aid fulfils the conditions and does not exceed the relevant maximum aid intensities laid down in the applicable Sections of Part II of these Guidelines, the negative effect on competition and trade is limited to the minimum. The aid scheme fulfils the conditions laid down in Part II, in Chapter 1.1.11, Chapter 2.6 and Chapter 3.10 of the EU Guidelines, as described in recitals 69-78 below, and therefore point (113) of the Guidelines is complied with.
- (67) As regards innovation projects involving investments in processing and marketing of agricultural products, in the forestry sector and in rural areas the negative effect is limited to the minimum taking into account the amount of aid per such project – maximum 200,000 EUR (recital 25). Therefore, the requirement of point (116) of the EU Guidelines is complied with.

Transparency

- (68) The German authorities have confirmed to comply with the transparency requirement of Part 1, Chapter 3.7 of the EU Guidelines as from 1 July 2016 (recital 50).

3.3.2.2. Specific assessment according to the category of aid

- (69) The notified aid scheme for cooperation encompasses in particular aid for co-operation approaches among different undertakings in the agricultural sector, forestry sector, food chain and other actors that contribute to achieving the objectives and priorities of rural development policy, including producer groups, cooperatives and inter-branch organisation as well as for the establishment and operation of operational groups of the EIP for agricultural productivity and sustainability as referred to in Article 56 of Regulation (EU) No 1305/2013. Therefore, the conditions of point (315), point (573) in connection to point (315), point 700 and point 701 of the EU Guidelines are fulfilled.
- (70) The aid is granted for cooperation relating to the following activities: (1) pilot projects and development of new products, practices, processes and technologies (Measure A), (2) horizontal and vertical co-operation among supply chain actors for the establishment and development of short supply chains and local markets (Measure B), (3) joint action undertaken with a view to mitigating or adapting to climate change (Measure C) and (4) implementation of local development strategies other than those defined in Article 2(19) of Regulation (EU) No 1303/2013. Therefore, the conditions of point (316), point (573) in connection to point (316) and point 702 of the EU Guidelines are fulfilled.
- (71) The aid for the establishment and development of short supply chains covers only supply chains involving one intermediary between farmer and consumer (recital 29). Therefore the conditions of point (319), point (573) in connection to point (319) and point 705 of the EU Guidelines are fulfilled.

- (72) Germany has committed to comply with the applicable competition rules (recital 48). Therefore the conditions of point (320), point (573) in connection to point (320) and point 706 of the EU Guidelines are fulfilled.
- (73) Aid covers the following eligible costs (recitals 18, 21, 30, 40 and 43) that fulfil the conditions of point (321), point (573) in connection to point (321) and point 708 of the EU Guidelines:
- the costs for studies and of drawing up an action plans;
 - the costs of animation 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;
 - the running costs of co-operation;
 - the direct costs of specific projects linked to the implementation of a business plan; and
 - the costs for promotion activities.
- (74) The aid is limited to maximum period of 5 years (recitals 26, 38, 41 and 44). Therefore the conditions of point (322), point (573) in connection to point (322) and point 707 of the EU Guidelines are fulfilled.
- (75) The aid intensity in the agricultural and forestry sectors for the eligible costs referred to in recital 73, first, second, third and fifth bullet can vary (from 10 % to 100%) but is limited to maximum 100% of those eligible costs (recitals 24, 36, 41, 44). Therefore, the condition of point (323) and point (573) in connection to point (323) of the EU Guidelines is fulfilled.
- (76) The aid intensity for cooperation in rural areas for the eligible costs referred to in recital 73, first, second, third and fifth bullet can vary (between 10% and 50%) but is limited to maximum 50% (recitals 24, 35, 41, 44). Therefore, the condition of point 710 of the EU Guidelines is fulfilled.
- (77) The aid intensity in the agricultural sector for the eligible costs referred to in recital 73, fourth bullet is up to 50% (recital 25). Therefore, the conditions of point (324) in connection with point 152(e) and point (153)(d) the EU Guidelines are fulfilled.
- (78) The aid intensities in the forestry sector for the eligible costs referred to in recital 73, fourth bullet vary depending on the subject of the innovation project and follow the aid intensities for the investment measures included in Part II, Chapter 2.1 of the EU Guidelines (recital 25). Therefore, the conditions of point 576 of the EU Guidelines are fulfilled.
- (79) The national Guidelines exclude from the scope of the beneficiaries undertakings in difficulty within the meaning of point (35)(15) of the EU Guidelines and undertakings which are subject to an outstanding recovery order following a previous Commission decision declaring an aid illegal and incompatible with the internal market (recitals 9 and 10). Therefore, the conditions of points (26) and (27) of the EU Guidelines are fulfilled.

4. CONCLUSION

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

If any parts of this letter are covered by the obligation of professional secrecy according to the Commission communication on professional secrecy in State aid decisions¹² and should not be published, please inform the Commission within fifteen working days of notification of this letter. If the Commission does not receive a reasoned request by that deadline Germany will be deemed to agree to the publication of the full text of this letter. If Germany wishes certain information to be covered by the obligation of professional secrecy please indicate the parts and provide a justification in respect of each part for which non-disclosure is requested.

Your request should be sent electronically via the secured e-mail system Public Key Infrastructure (PKI) in accordance with Article 3(3) of Commission Regulation (EC) No 794/2004¹³, to the following address: agri-state-aids-notifications@ec.europa.eu.

For the Commission

Phil HOGAN
Member of the Commission

¹² Commission communication C(2003) 4582 of 1 December 2003 on professional secrecy in State aid decisions, OJ C 297, 9.12.2003, p. 6.

¹³ Commission Regulation (EC) No 794/2004 of 21 April 2004 implementing Council Regulation (EU) 2015/1589 laying down detailed rules for the application of Article 108 of the Treaty on the Functioning of the European Union (OJ L 140, 30.4.2004, p. 1).