Subject: State aid – Germany (Brandenburg)
SA.43670 (2015/N)
Contractual nature conservation Brandenburg

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 23 November 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 requests for additional information to the German authorities on 21 January 2016 and on 24 March 2016 which the German authorities provided by letters of 15 February 2016 and 12 April 2016 respectively, registered by the Commission in each case on the same day.

2. **DESCRIPTION**

   2.1. **Background**

      (2) A comparable scheme on contractual nature conservation has already been in place in Brandenburg in the period 2008-2013 (cf. SA.25322 (N 128/08)) and has subsequently been prolonged until the end of 2015 (cf. SA.37496 (2013/N)).

      (3) The measures at hand are financed purely out of funds of the Land Brandenburg and do not form part of either the German National Framework Programme or the Rural Development Programme of Berlin and Brandenburg (RDP).

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1 The present decision does not cover funding which is granted as *de-minimis* aid, cf. footnote 2.

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authorities have explained that although some of the notified measures are similar to those contained in the RDP (measures 3.1.1a, 3.1.1d, 3.1.2a-d and 3.2.4, cf. paragraph (22)), they cannot, for various reasons, be financed under the RDP. The reasons invoked by the German authorities are for instance the actual animal stocking (Tierbesatz) of an area concerned or the minimum parcel size of 0.3 ha required under the RDP. The proposed measures therefore supplement the RDP measures and thus increase the flexibility of contractual nature conservation.

2.2. Title

(4) Contractual nature conservation Brandenburg.

2.3. Objective

(5) Pursuant to the German authorities, the notified aid scheme aims at the preservation as well as the promotion of the necessary changes to agricultural practices that make a positive contribution to the environment and climate.

(6) It supplements the RDP measures and thus increases the flexibility of contractual nature conservation in Brandenburg.

2.4. Legal basis

(7) Article 3, paragraphs 3 and 4 of the Federal Nature Protection Law (Bundesnaturschutzgesetz (BNatSchG)).

(8) Administrative rules on contractual nature conservation in Brandenburg (Verwaltungsvorschrift zum Vertragsnaturschutz in Brandenburg (VV-VN)).

(9) The German authorities submitted to the Commission a first draft of the administrative rules with the notification of the present scheme and an amended draft by letter of 15 February 2016.

2.5. Duration

(10) From the date of the approval by the Commission until 31 December 2022.

(11) Pursuant to the draft administrative rules contracts based on those administrative rules may only be concluded after the State aid authorisation of the present scheme by the European Commission.

(12) The German authorities explained that the landscaping measures financed under the notified scheme aim at achieving European biotope- and species protection goals. In order to ensure continuity in contractual nature conservation for the realisation of objectives in NATURA-2000 areas a longer duration is necessary. The duration of seven years of the present scheme is based on the programming period 2014-2020 and its prolongation options.

2.6. Budget

(13) The estimated annual budget is EUR 1.9 million and the overall amount foreseen for the notified scheme for the period 2016-2022 is EUR 13.3 million.
2.7. Beneficiaries

(14) Agricultural undertakings active in the primary production of agricultural products (SME).²

(15) The German authorities estimate the number of beneficiaries between 101 and 500.

(16) The German authorities confirmed that the aid would not apply to undertakings in difficulty within the meaning of point 35(15) of the European Union Guidelines for State aid in the agricultural and forestry sectors and in rural areas 2014 to 2020 (“the Guidelines”).³

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

2.8. Description of the aid scheme

(18) The notified contractual nature conservation measures are intended to compensate for reduced yields and/or remunerate the added effort necessary to maintain biotopes or carry out species conservation measures.

(19) Pursuant to the German authorities the present scheme aims particularly at:

– promoting ways of using agricultural land which are compatible with the protection and improvement of the environment, the landscape and its features, natural resources, the soil and genetic diversity, and the reduction of production costs;

– promotion of an environmentally-favourable extensification of farming and management of low-intensity pasture systems, improvement and re-deployment of production;

– conservation and quality increase of high nature-value farmed environments, which are under threat;

– the use of environmental planning in farming practice.

(20) The German authorities provided a detailed table listing for each measure the applicable mandatory cross compliance requirements (both SMR and GAEC) as well as the relevant mandatory requirements under the German laws on fertilisers

² The German authorities explained that also other land managers (such as nature protection associations or legal entities under public or private law) can receive aid under the present scheme. Such aid will, however, be granted pursuant to Regulation (EU) No 1407/2013 on the application of Articles 107 and 108 TFEU to de-minimis aid (OJ L 352, 24.12.2013, p. 1).

(Düngeverordnung) and on plant protection (Pflanzenschutzgesetz) and described how the proposed voluntary commitments go beyond those mandatory standards.

(21) The same authorities furthermore confirmed that points (c) (ii) and (c) (iii) of Article 4 (1) of Regulation (EU) No 1307/2013 will be respected as regards agricultural land.

(22) The following commitments are foreseen:

3.1 Measures on grassland:

For the purpose of the present scheme, ‘grassland’ means land use systems based on a vegetation cover of multiannual grass, legume and plant species (i.e. not temporary grassland). No soil turning or loosening may be carried out (i.e. no ploughing, grubbing or diskimg).

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<tr>
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<tr>
<td>3.1.a</td>
<td>additional technological effort for environmentally friendly use</td>
</tr>
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3.1.1 Extensive grassland use:

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<tbody>
<tr>
<td>3.1.1.a</td>
<td>non-use of chemical/synthetic nitrogen fertilisers and plant protection products (PPPs)</td>
</tr>
<tr>
<td>3.1.1.b</td>
<td>in addition to 3.1.1.a, non-use of mineral fertilisers</td>
</tr>
<tr>
<td>3.1.1.c</td>
<td>in addition to 3.1.1.a, non-application of slurry in undertakings in which slurry is produced</td>
</tr>
<tr>
<td>3.1.1.d</td>
<td>in addition to 3.1.1.a, non-use of fertilisers of all kinds</td>
</tr>
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<td>3.1.1.e</td>
<td>no maintenance measures (rollers/tractors)</td>
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3.1.2 Late and limited use of grassland with dates of use:

Use must consist of mowing or grazing and must be adapted to the objective of conservation.

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<tr>
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<tbody>
<tr>
<td>3.1.2.a</td>
<td>first use not before 16 June</td>
</tr>
<tr>
<td>3.1.2.b</td>
<td>first use not before 1 July</td>
</tr>
<tr>
<td>3.1.2.c</td>
<td>first use not before 16 July</td>
</tr>
<tr>
<td>3.1.2.d</td>
<td>first use up to 15 June (or earlier) and further use again after 31 August</td>
</tr>
<tr>
<td>3.1.2.e</td>
<td>first use not before 16 August</td>
</tr>
</tbody>
</table>

4 The numbering follows the structure in the VV-VN, cf. paragraph (8).
3.2 Measures on arable land:

These measures are intended to help to protect and develop segetal species (wild plants), create connecting corridors and protect breeding and refuge areas for the typical fauna of the agricultural landscape, as transitional zones bordering on environmentally sensitive areas within or adjacent to farmed arable land.

3.2.1 Buffer strips and closed areas:

| 3.2.1.a | arable land quality index 25 or lower | €90/ha |
| 3.2.1.b | arable land quality index 26 up to and including 42 | €250/ha |
| 3.2.1.c | arable land quality index 43 or higher | €405/ha |

3.2.2 Segetal species protection in cereals:

| 3.2.2 | segetal species protection in cereals | €200/ha |

3.2.3. Extensive production methods in arable farming:

The purpose of this measure is to compensate for farming handicaps and reduced yields as a result of the extensive cultivation of arable land. It is intended to help to improve the living conditions of typical flora and fauna on arable land in EU Habitats and Birds Directives areas.

| 3.2.3.a | non-use of chemical or synthetic fertilisers | €77/ha |
| 3.2.3.b | in addition to 3.2.3.a, using only solid organic manure (not slurry) | €30/ha |
| 3.2.3.c | in addition to 3.2.3.a, using no herbicides or insecticides | €91/ha |

3.2.4. Conversion of arable land into extensively used grassland:

This measure is aimed in particular at establishing farming adapted to local conditions with species-rich grassland and promoting moorland conservation.

| 3.2.4 | conversion of arable land into extensively used grassland | €556/ha |

3.3 Maintenance of special biotopes:

Aid is to be granted for the maintenance of Natura 2000 habitats and other sensitive areas in the farmed landscape such as inland salt meadow biotopes, fens, moor grass meadows and dry grassland. Requirements relating to mowing or landscape maintenance with animals (grazing) must be laid down individually for the areas covered by the contract in
line with the current maintenance situation and the maintenance target (maintenance plan). As a rule the remuneration is 100 % of the costs. The remuneration is to be calculated on a case-by-case basis using tried and tested calculation tables.

As a standard calculation for the various mowing or grazing methods the following remuneration rates apply:

<table>
<thead>
<tr>
<th>3.3.a</th>
<th>machine mowing, including clearing the land on semi-/dry grassland</th>
<th>€218/ha</th>
</tr>
</thead>
<tbody>
<tr>
<td>3.3.b</td>
<td>machine mowing, including clearing the land on water meadows</td>
<td>€328/ha</td>
</tr>
<tr>
<td>3.3.c</td>
<td>grazing of sheep and/or goats on ineligible areas</td>
<td>€294/ha</td>
</tr>
<tr>
<td>3.3.d</td>
<td>grazing of sheep and/or goats on eligible areas</td>
<td>€244/ha</td>
</tr>
<tr>
<td>3.3.e</td>
<td>grazing of bovine and/or equine animals on ineligible areas</td>
<td>€142/ha</td>
</tr>
<tr>
<td>3.3.f</td>
<td>grazing of bovine and/or equine animals on eligible areas</td>
<td>€92/ha</td>
</tr>
</tbody>
</table>

3.4. Species protection measures:

Aid is to be granted for measures to protect species and implement species conservation programmes. These also include, for example, measures to protect the fire-bellied toad and terrapin in the agricultural landscape.

Promoting wild flower flora by means of nature conservation requirements in beekeeping (e.g. no mass yields, colonisation of certain sites, pollen analyses) is limited only to biosphere reserves.

As a rule the remuneration is 100 % of the costs. The level of remuneration must be calculated on a case-by-case basis. The guide values in recognised costing methods, in their currently applicable version, of the Agricultural Engineering and Construction Association (KTBL) apply.

<table>
<thead>
<tr>
<th>3.4.a</th>
<th>promoting wild flower flora</th>
<th>€20 per bee colony (maximum €2 500 per year per undertaking)</th>
</tr>
</thead>
</table>

3.4.1. Water level maintenance:

This measure is aimed at protecting the habitats of water-bound species. The measure can only be included in contracts where the required water levels can be adjusted by means of regulating equipment.

Adjustment of the groundwater close to or level with the surface with pond formation.

<table>
<thead>
<tr>
<th>3.4.1.a</th>
<th>up to 30 April</th>
<th>€45/ha</th>
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<tr>
<td>3.4.1.b</td>
<td>up to 30 May</td>
<td>€100/ha</td>
</tr>
</tbody>
</table>
Commitments will be entered into for a duration of five to seven years. Only in cases where an agricultural undertaking had already performed a commitment for at least five years a shorter duration can be agreed.

The aid will be awarded as direct grant and will be granted annually.

The aid will be limited to a maximum amount of EUR 600 per hectare per year for annual crops.

The aid will be limited to EUR 450 per hectare per year for other land uses. The German authorities however explained that in cases of maintenance of special biotopes and species protection on very small areas the maximum aid amounts per hectare per year will have to be exceptionally higher. Those measures incur higher costs (such as for manual mowing) and the aid will therefore amount to 100% of costs. Pursuant to the administrative rules (VV-VN) the remuneration will be calculated on a case-by-case basis and will be documented in the respective contract. The calculation of the remuneration will be based on the reference values and data collection on landscaping of the Agricultural Engineering and Construction Association 2005 ("Richtwerttabelle und Datensammlung zur Landschaftspflege des KTBL Darmstadt (Kuratorium für Technik und Bauwesen in der Landwirtschaft) 2005), in their currently applicable version. If the harvest is used commercially, allowance must be made for the resultant proceeds.

The German authorities furthermore specified that for measure 3.4.a it is not possible to express the aid as amount per hectare since it is not possible to allocate a certain area to bee colonies.

The same authorities submitted detailed calculations for the different measures proposed and a calculation example to illustrate the calculation procedure for measures where the maximum aid amounts will exceptionally have to be exceeded (cf. paragraph (26)).

Germany undertook that double-funding under EAFRD measures will be excluded by means of a digital cross-check of the areas concerned. Furthermore, where areas have been applied for as ecological focus areas as part of greening, no contractual nature conservation remuneration may be paid.

Contracts must be concluded prior to the start of the measure. According to the German authorities the conclusion of a contract classifies as aid application and complies with the provisions of point 71 of the Guidelines.

Beneficiaries will be trained on the measures from a nature conservation point of view.

The German authorities furthermore confirmed that the rules for area related payments provided for in Article 47 of Regulation (EU) No 1305/2013 and in any delegated act adopted pursuant to that provision will be complied with.
The aid cannot be cumulated with aid received from other local, regional, national or Union schemes to cover the same eligible costs.

2.9. Other commitments

The German authorities made a commitment to publish the information required under point 128 of the Guidelines by the deadline set out in point 131 of the same Guidelines.

The German authorities furthermore undertook to adapt the present aid scheme to bring it in line with the State aid rules applicable after the expiry of the Guidelines.

3. Assessment

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

For Article 107(1) TFEU to apply, the scheme must provide an economic benefit to an undertaking which it would not have received in its normal course of business, the aid must be granted to certain undertakings, the benefit must be granted by a Member State or through State resources and the scheme must be capable of affecting trade between Member States.

The scheme in question confers an advantage on its recipients. This advantage is granted through State resources and it favours agricultural undertakings active in the primary production of agricultural products (cf. paragraph (14)), thus strengthening their 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.

Pursuant to the case law of the Court of Justice, aid to an undertaking is capable of affecting trade between Member States where that undertaking operates in a market open to intra-EU trade.

The beneficiaries of the notified aid operate in the agricultural sector, where intra-EU trade takes place. The sector concerned is open to competition at EU level and therefore sensitive to any measure in favour of the production in one or more Member States. Therefore, the present scheme is liable to distort competition and to affect trade between Member States.

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.

6 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.
7 For instance, as regards arable crops, total intra-EU trade in cereals amounted to some 46.8 million tons (arrivals) and some 51.6 million tons (dispatches) in 2012. Source: EU agriculture - Statistical and economic information – 2013: http://ec.europa.eu/agriculture/statistics/agricultural/2013/pdf/full-report_en.pdf
3.2. Lawfulness of the aid – Application of Article 108(3) TFEU

(40) The aid scheme was notified to the Commission on 23 November 2015. The German authorities have confirmed that aid can only be granted after the Commission approval of the present scheme (cf. paragraph (11)). Therefore, Germany has complied with its obligation under Article 108(3) TFEU.

3.3. Compatibility of the aid

(41) 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.

(42) For this derogation to be applicable, the aid must fulfil the requirements of the relevant Union State aid legislation.

(43) As regards the notified aid scheme, Part I, Chapter 3 and Part II, Chapter 1, Section 1.1.5.1 of the Guidelines are applicable.

(44) Point 207 of the Guidelines states that the Commission will consider aid for agri-environment-climate commitments compatible with the internal market under Article 107(3)(c) of the Treaty if it complies with the common assessment principles of those Guidelines and with the specific conditions set out in Section 1.1.5.1 of Part II thereof.

3.3.1. Conditions set out in Section 1.1.5.1 of Part II of the Guidelines

(45) Under the notified scheme agricultural undertakings active in the primary production of agricultural products undertake voluntary agri-environment-climate commitments on grassland and on arable land in connection with the maintenance of special biotopes and species protection, which is in line with points 206 and 208 of the Guidelines.

(46) Pursuant to the German authorities, the notified aid scheme aims at the preservation as well as the promotion of the necessary changes to agricultural practices that make a positive contribution to the environment and climate (cf. paragraph (5)). The description of the envisaged commitments (for example the non-use of fertilisers, cf. paragraph (22)) shows the environmental benefits of the individual measures. Therefore, the conditions of point 209 of the Guidelines are fulfilled.

(47) The German authorities demonstrated that the proposed commitments go beyond the relevant mandatory requirements for agricultural land (cf. paragraphs (20) and (21)), which is in compliance with point 210 of the Guidelines.

(48) The German authorities have explained that beneficiaries will be trained on the measures from a nature conservation point of view (cf. paragraph (31)). Therefore, the conditions of point 211 of the Guidelines are fulfilled.

(49) The German authorities confirmed that commitments will be entered into for a duration of five to seven years. They furthermore explained that in cases where an agricultural undertaking had already performed a commitment for at least five
years a shorter duration can be agreed (cf. paragraph (23)). The conditions of point 212 of the Guidelines are therefore also complied with.

(50) Germany moreover confirmed that the rules for area related payments provided for in Article 47 of Regulation (EU) No 1305/2013 and in any delegated act adopted pursuant to that provision will be complied with (cf. paragraph (32)), which is in line with point 213 of the Guidelines.

(51) Pursuant to point 221 of the Guidelines aid covers compensation to beneficiaries for all or part of the additional costs and income foregone resulting from the commitments they made. The aid must be granted annually.

(52) The German authorities confirmed that the aid will be paid annually and submitted detailed calculations of additional costs/income foregone of the individual measures. Point 221 of the Guidelines is therefore complied with in the case at hand.

(53) Pursuant to point 228 of the Guidelines aid must be limited to EUR 600 per hectare per year for annual crops and to EUR 450 per hectare per year for other land uses. Point 229 foresees that these amounts may be increased in duly substantiated cases taking into account specific circumstances to be justified in the notification to the Commission. Point 91 of the Guidelines furthermore specifies that where commitments under Section 1.1.5.1 of Part II of the Guidelines are expressed in units other than those set out in Annex II to Regulation (EU) No 1305/2013, Member States may calculate payments on the basis of those other units. In such cases, the Member States must ensure that the maximum amounts per year are complied with.

(54) The German authorities confirmed that the aid will be limited to a maximum amount of EUR 600 per hectare per year for annual crops (cf. paragraph (25)). As regards other land uses the same authorities explained that the aid will in principle be limited to EUR 450 per hectare per year with the exception of measures 3.3 and 3.4. Commitments under those measures will incur higher costs and the aid will therefore be limited to 100% of costs and the calculation will be done on a case by case basis (cf. paragraph (26)). The German authorities furthermore specified that for measure 3.4.a it is not possible to express the aid as amount per hectare since no specific area can be allocated to bee colonies (cf. paragraph (27)). The aid for this commitment will amount to EUR 20/bee colony and will be limited to EUR 2 500 per undertaking per year.8

(55) The Commission therefore considers that points 228 and 229, in connection with point 91 of the Guidelines, are complied with.

(56) On the basis of the above, the Commission concludes that the specific conditions set out in Section 1.1.5.1 of Part II of the Guidelines are fulfilled for the notified aid scheme.

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8 Taking into account an average size of 238 hectares for agricultural undertakings in Brandenburg (cf. "Statistischer Bericht - Größenstruktur der landwirtschaftlichen Betriebe im Land Brandenburg 2010", https://www.statistik-berlin-brandenburg.de/publikationen/Stat_Berichte/2011/SB_C4-7_2j-10_BB.pdf) a theoretical aid of EUR 10.5 per hectare per year can be calculated.
Furthermore, the national legal basis excludes from the scope of the beneficiaries undertakings in difficulties 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. Therefore the conditions of points 26 and 27 of the Guidelines are also fulfilled.

3.3.2. Common assessment principles

Part I, Chapter 3 of the Guidelines sets the common assessment principles.

3.3.2.1. Contribution to a common objective

According to point 43 of the Guidelines, the objectives of aid in the agricultural and forestry sectors 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. Pursuant to point 47 of the same Guidelines, Member States should demonstrate for rural development like measures financed exclusively from national funds, how those measures fit into and are consistent with the relevant rural development programmes.

The notified aid scheme at hand aims at promoting a sustainable use of resources by encouraging changes to agricultural practices that make a positive contribution to the environment and climate (cf. paragraph (5)). Furthermore, the proposed measures supplement the RDP of Berlin and Brandenburg, thus increasing the flexibility of contractual nature conservation (cf. paragraph (2)). Therefore, points 43 and 47 of the Guidelines are complied with.

3.3.2.2. Need for State intervention

According to point 55 of the Guidelines, the Commission considers that the market is not delivering the expected objectives without State intervention concerning the aid measures fulfilling the specific conditions laid down in Part II of those Guidelines. Therefore, such aid should be considered necessary to achieve the objectives of common interest specified under Section 3.1 of Part I of those Guidelines. The current aid scheme fulfils the specific conditions laid down in Sections 1.1.5.1 of Part II of the Guidelines (cf. paragraph (56)) and therefore point 55 of the Guidelines is complied with.

3.3.2.3. Appropriateness of aid

According to point 57 of the 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 those Guidelines, is an appropriate policy instrument. The current aid scheme fulfils the specific conditions laid down in Section 1.1.5.1 of Part II of the Guidelines, as indicated above, and therefore point 57 of the Guidelines is complied with.

3.3.2.4. Incentive effect and need for aid

Point 70 of the Guidelines states that aid does not present an incentive for the beneficiary wherever the work on the project has already started prior to the aid application by the beneficiary to the national authorities. Under the notified scheme potential beneficiaries will have to conclude contracts prior to the start of the measures. The German authorities confirmed that the conclusion of a contract
classifies as aid application and complies with the provisions of point 71 of the Guidelines. The Commission therefore considers that the proposed aid scheme is in line with the incentive effect requirement, foreseen in point 70 of the Guidelines.

3.3.2.5. Proportionality of the aid

(64) Points 82 and 84 of the Guidelines stipulate that if the aid amount does not exceed the eligible costs and if the aid intensity respects the ceilings set out in Part II thereof, the aid is deemed to be proportionate.

(65) As described above (cf. paragraphs (52) and (55)), the eligible costs and aid intensities respect the requirements of Section 1.1.5.1 of Part II of the Guidelines and thus are in line with point 84 of the same Guidelines. On this basis, the criterion of proportionality is deemed to be fulfilled.

(66) Furthermore, point 99 of the Guidelines states that aid may be granted 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 aid ceilings laid down in those Guidelines. In the case at hand the German authorities confirmed that the aid cannot be cumulated with aid from other sources in respect of the same eligible costs (cf. paragraph (33)). The provision on cumulation is therefore not relevant in the case at hand.

3.3.2.6. Avoidance of undue negative effects on competition and trade

(67) According to point 113 of the 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 those Guidelines, the negative effect on competition and trade is limited to the minimum. As already demonstrated above, the current aid scheme fulfils the conditions laid down in Section 1.1.5.1 of Part II of the Guidelines, and therefore point 113 of the Guidelines is complied with.

3.3.2.7. Transparency

(68) Germany has committed to respect the transparency requirements set out in point 131 of the Guidelines (cf. paragraph (34)). The German authorities furthermore undertook to adapt the present aid scheme to bring it in line with the State aid rules applicable after the expiry of the Guidelines (cf. paragraph (35)).

(69) In line with the foregoing, the Commission considers that the relevant provisions of the Guidelines are complied with.

4. CONCLUSION

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

If any parts of this letter are covered by the obligation of professional secrecy according to the Commission communication on professional secrecy 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(4) of Commission Regulation (EC) No 794/2004, to the following address: agri-state-aids-notifications@ec.europa.eu.

For the Commission

Phil Hogan
Member of the Commission

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