



EUROPEAN COMMISSION

Brussels, 12.9.2016  
C(2016) 5894 final

**Subject: State aid/Cyprus  
SA.46048 (2016/N)  
Revised National State Aid Framework for the compensation of  
damage in agriculture in 2014–2020**

Sir,

The European Commission (hereinafter ‘the Commission’) wishes to inform Cyprus that, after examining the information provided by your authorities, it decided not to raise objections to the above mentioned scheme, which is compatible with the Treaty on the Functioning of the European Union (hereinafter ‘TFEU’).

*The Commission arrived at this decision on the following grounds:*

## **1. PROCEDURE**

- (1) This aid scheme was notified in accordance with Article 108(3) TFEU by letter sent by the Permanent Representation of Cyprus to the European Union dated 22 July 2016 and registered on the same date.
- (2) The notification was registered under reference SA.46048 (2016/N).
- (3) The Commission requested additional information in its letter dated 4 August 2016 and the Cypriot authorities provided this with their letter on 30 August 2016 (registered on the same date). The Cypriot authorities submitted further information by e-mail on 7 September 2016. This email was also registered on the same date.

## **2. DESCRIPTION**

### **2.1. Title**

- (4) Revised National State Aid Framework for the compensation of damage in the agricultural sector in 2014-2020

Mr Ioannis Kasoulidis  
Minister for Foreign Affairs  
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Cyprus

## **2.2. Objective of the aid**

- (5) This framework lays down the national policy of Cyprus on the management of damage to primary agricultural production. The framework may cover damage to agricultural production or production equipment, including buildings and crops, caused by natural disasters and exceptional occurrences, as well as adverse climatic events which can be assimilated to natural disasters. This policy also aims to ensure that the aid intended to cover such damage is paid to farmers as soon as possible, to prevent the risk of distortion of competition.

## **2.3. Legal basis**

- (6) Council of Ministers Decision of 13 June 2016 on the basis of the proposal to the Council of Ministers entitled 'Revised National State Aid Framework for the compensation of damage in the agricultural sector in 2014-2020'.

## **2.4. Form of aid**

- (7) Direct grant

## **2.5. Duration**

- (8) The scheme will enter into force upon its approval by the Commission and will remain in effect up until 31 December 2020.
- (9) The scheme relates to events/incidents that occur up to 31 December 2020. Compensation will be paid within four years of occurrence of the relevant event/incident.

## **2.6. Budget**

- (10) The total ceiling for the entire duration of the scheme is fixed at EUR 48 000 000 and the annual budget amounts to EUR 8 000 000.
- (11) The aid ceiling per beneficiary is fixed at EUR 100 000 over one year and EUR 200 000 over a five-year period, excluding collective crops. No aid amounting to less than EUR 50 per beneficiary will be granted.

## **2.7. Beneficiaries**

- (12) The aid is limited to supporting undertakings engaging in the primary agricultural sector if they incur damage to agricultural production or production equipment, despite making reasonable efforts to minimise the risk of damage.
- (13) It is understood that aid will be limited to supporting agricultural holdings that have made reasonable efforts to minimise the risks of damage. State aid should not entice undertakings into taking unnecessary risk. This is ensured thanks to the general and special limitations for the payment of aids in accordance with this scheme, described in recitals (24)-(25) below. In order to be able to be covered by this framework scheme, the affected land parcels must have been eligible for area-based payment in the year when the damage occurred. Therefore, they fulfil all the obligations of multiple compliance and of good agricultural practice. As a result, the relevant risks are minimised. Furthermore, agricultural holdings are not eligible for aid for damage due to negligence, culpability or failure to act by the

applicant for aid or a third person, for example when they embark on agricultural activities out of season or when the conditions of the area are not appropriate. Undertakings active in the agriculture sector should bear the consequences of imprudent choices of production methods or products themselves.

- (14) Beneficiaries may include natural or legal persons who are the possessors/managers of agricultural holdings situated in areas controlled by the Republic of Cyprus at the time when the damage occurs, and have no obligation to return aid which was found incompatible. As regards damage caused by natural disasters and exceptional occurrences as well as by adverse climatic events which can be assimilated to natural disasters, beneficiaries must be engaged in the primary sector.
- (15) In cases of beneficiaries only partly engaged in agriculture, the scheme will only cover the part of the holding devoted to agriculture.
- (16) Farmer means a natural or legal person who is the possessor/manager of an agricultural holding.
- (17) Possessor/manager of an agricultural holding means:
- (a) the owner of an agricultural holding;
  - (b) the lessee of an agricultural holding, provided that the lease is based on a duly ratified document, dated before the damage done;
  - (c) the possessor of an agricultural holding based on a power of attorney.
- It should be noted that points (b) and (c) are accepted provided that the farmer in question receives area-based payment for the corresponding land parcels in the year when the damage occurs.
- Ownership of an agricultural holding will be demonstrated by producing the relevant legal title.
- (18) Beneficiaries may not include:
1. Those who have, in the past, participated in a programme of the Ministry of Agriculture, Rural Development and Environment and have provided false information or breached, through their own fault, the terms and conditions they had undertaken to comply with.
  2. Those who have been convicted in the last three years before the damage or in the year the damage occurs or who are in prison as the result of a court judgment relating to one of the following: (a) fraud against the state; (b) trade in and growing of narcotics; (c) theft of animals; (d) destruction of the environment, concerning the specific activity and the specific place for which the request for State aid is submitted.
  3. (a) Natural persons who are not Cypriot nationals or nationals of another Member State;
  - (b) Legal persons whose majority shareholders are not Cypriot nationals or nationals of another Member State.
  4. Natural or legal persons possessing systematic holdings without holding a legal operating authorisation for the holding concerned.

## 2.8. Description of the measure

### *Definitions*

(19) The following definitions apply for the application of this framework:

1. 'Natural disaster' means an earthquake, landslide, avalanche or flood, as well as other types of natural disaster, on condition that they can be described with sufficient accuracy, e.g. a tornado.
  - An earthquake of such magnitude that can, objectively, cause damage to agricultural production and to plants and livestock. This includes earthquakes of a magnitude of 5.5 or more on the Richter scale or those resulting in the affected area being declared as 'earthquake stricken'.
  - Landslides where the ground moves or is detached, mainly due to strong rainfall or snowfall, earthquake, etc., thus causing destruction to the surface and sweeping away production equipment, or causing damage to production or to production equipment, or creating insurmountable obstacles to human activity, provided that the damage is not caused by human factors.
  - 'Flood' means the ingress and staying of water in crops, which is the result of either excessive rainfall or overflowing or breach of the natural or man-made boundaries of a stream or other freshwater body (overflowing of a lake, river, etc.), as well as the exit of water onto an onshore area, thus resulting in destruction/damage caused to production or production equipment. Flood, as defined above, does not include the ingress and staying of water in crops caused by intent, negligence, failure to act, human activity or other artificial causes.
  - 'Avalanche' means a large quantity of snow detached from its initial location and sliding down a mountain slope, dragging down increasingly large amounts of snow and eventually becoming so huge that it causes destruction.
  - 'Tornado' means an atmospheric phenomenon occurring in the form of a rotating column of air which, despite the relatively small amount of land that it affects, causes extensive damage to agricultural production and production equipment.
2. 'Exceptional occurrence' means war, internal disturbances or strikes and, subject to certain conditions and depending on the extent thereof, major nuclear or industrial accidents causing extensive losses.
3. 'Adverse climatic events which can be assimilated to natural disasters' means adverse weather conditions, such as frost, storms and hail, extremely low temperatures and heavy rainfall or intense drought destroying more than 30% of the average production, as calculated based on the previous three-year period or on a three-year average, calculated over the previous five-year period, exclusive of the maximum and minimum values per type of crop or production equipment.

'Adverse climatic events' include the following:

- Frost, which is when the temperature of the air drops to a level equal to or below zero degrees (0°) Celsius, resulting from radiation or a current of cold air, according to official data from the Department of Meteorology of

the Ministry of Agriculture, Rural Development and Environment, which causes damage to plant production.

- A storm, which is an atmospheric phenomenon marked with lightning, thunder, strong winds and heavy rain or hail.
  - Hail, which is atmospheric precipitation in the form of balls (usually) or irregularly shaped pieces of solid transparent ice.
  - Heavy rainfall, which is rainfall marked by great intensity (increased rainfall height and rate), long duration or repeated rainfall within a season.
  - Sea spray, which is droplets of salt water carried by the wind, causing burns to crops growing in seaside areas.
  - High temperature, which is when the temperature of the air rises above normal values for the season, both in terms of intensity (difference in excess) and duration, based on official data from the Department of Meteorology.
  - Temperature variation, which is great differences in temperature between day and night (increased daily range of temperatures).
  - Snowfall, which is precipitation in the form of snowflakes marked with increased intensity and duration, resulting in increased amounts of snow accumulating or in long periods of snow coverage.
  - Intense drought, which is the lack of sufficient rainfall (rainfall levels below normal) for a prolonged period of time.
  - Wind storm, which is very strong winds, at least 8 on the Beaufort scale, resulting at least in tree branches being broken off.
  - Unseasonal rainfall, which is out of season rainfall of such intensity and duration that can cause loss in agricultural production or/and deterioration in its quality.
  - Strong dry wind, which is the climatic event where the speed and the low humidity of the blowing wind causes dehydration of the leaves and the fruit, resulting in the loss of plant production from fruit drop or plant dehydration.
  - Hot dry wind, which is the climatic event where according to the official data of the Meteorological Service, the temperature of the wind exceeds 30 degrees Celsius while the relative humidity remains below 50% resulting in blossom dropping in the crops.
  - High atmospheric humidity, which is the climatic event where the relative atmosphere humidity exceeds the corresponding seasonal values both in terms of intensity (level of excess) and duration, according to the official data of the Meteorological Service.
  - Dust in the atmosphere, which is the climatic event where an unusually high concentration of dust particles is airborne in the atmosphere for a prolonged period of time, according to the official data of the Meteorological Service.
4. 'Agricultural holding' means well-structured agricultural and livestock holdings, and 'agricultural production' means plant and animal production.
5. 'Primary agricultural production' means the production of products of the soil and livestock products, as listed in Annex I to the Treaty, without any further intervention that changes the nature of such products.

6. 'Normal production' means the three-year average annual production based on the previous three or five-year period less the maximum and minimum values (reference period), resulting from official data of the State.
7. 'Damage' means damage to agricultural production or production equipment, when affected by unforeseen occurrences, such as natural disasters, adverse climatic events or other exceptional occurrences. Indirect damage, e.g. additional expense, lost profit, inability to cultivate a field, late production, etc., are not considered damage which can be covered by compensation. The damage is calculated on all crops or animals in a holding which belong to the same species or to a group of similar species in terms of plant or animal production, or to all similar facilities in a holding, in terms of fixed assets.
8. 'Percentage of damage' means the percentage ratio of loss of income to the reference period income, as assessed based on points 340, 341, 358 and 359 of the European Union Guidelines for State aid in the agricultural and forestry sectors and in rural areas 2014 to 2020<sup>1</sup> ('the guidelines'):

$$DP = \text{LoI} \times 100 / \text{RPI}$$

where:

$$\text{LoI} = \text{RPI} - \text{YoDI}$$

$$\text{RPI} = \text{ARPP} \times \text{ARPMP}$$

$$\text{YoDI} = \text{YoDP} - \text{AYoDP}$$

LoI = loss of income

RPI = reference period income

YoDI = year of damage income

ARPP = average reference period production

ARPMP = average reference period market price

YoDP = year of damage production

AYoDP = average year of damage price

The calculation of material damage must be based on the repair cost or economic value of the affected asset before the natural disaster or exceptional occurrence. The calculation must not exceed the repair cost or the decrease in fair market value caused by the natural disaster or the exceptional occurrence, that is to say the difference between the asset's value immediately before and immediately after the natural disaster or exceptional occurrence.

9. 'Similar crops' means crops that belong to the same or similar plant species.

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<sup>1</sup> OJ C 204, 01.07.2014, p. 1.

10. For the purposes of this framework, 'livestock unit' (LU) means the equivalent of the animals in a livestock holding in cows aged two years or more.

This equivalence is specified as follows:

- (a) cattle aged up to 6 months, 0.40 LU for each animal;
  - (b) cattle aged 6 months to 1 year, 0.50 LU for each animal;
  - (c) cattle aged 1 year to 2 years, 0.60 LU for each animal;
  - (d) cattle aged 2 years or more, 1.00 LU for each animal;
  - (e) ungulates aged up to one year, 0.40 LU for each animal;
  - (f) ungulates aged one year to two years, 0.60 LU for each animal;
  - (g) ungulates aged two years or more, 1.00 LU for each animal;
  - (h) lambs and kids aged up to one year, 0.06 LU for each animal;
  - (h) lambs and kids aged more than one year, 0.15 LU for each animal;
  - (i) piglets of a live weight of up to 20 kg, 0.03 LU for each animal;
  - (j) piglets of a live weight of 20 kg to 50 kg, 0.15 LU for each animal;
  - (k) pigs of a live weight of 50 kg or more, 0.25 LU for each animal;
  - (l) sows and boars, 0.40 LU for each animal;
  - (m) breeding and laying hens and guinea fowl, 0.013 LU for each animal;
  - (n) chickens for fattening and birds reared for hunting, 0.009 LU for each animal;
  - (o) large gallinaceous birds (turkeys, ducks, geese), 0.015 LU for each animal;
  - (p) rabbits and hares, 0.015 LU for each animal;
  - (q) ostriches aged up to four months (moulting), 0.20 LU for each animal;
  - (r) ostriches aged 4 to 12 months, 0.40 LU for each animal;
  - (s) ostriches aged 12 months or more, 1 LU for each animal.
- (20) To document the damage, according to the above definitions, it is necessary to collect various data, as appropriate, e.g. appropriate meteorological information concerning the type of weather phenomena at the time and place of the event, its relative importance and its impact on production, scientific opinion/documentation, photographs, etc., which are to be sent to the European Commission along with the annual reports in accordance with point 728 of the guidelines. The competent authority shall, using all the necessary information, formally recognise the character of the event as a natural disaster or exceptional occurrence or as an adverse climatic event which can be assimilated to a natural disaster.

*Damage thresholds and method of calculation thereof*

- (21) The damage thresholds per damage-causing event, above which aid can be granted under this scheme, are specified as follows:

1. Natural disasters - exceptional occurrences

Where the damage is proved to have been caused by a natural disaster (i.e. earthquake, avalanche, landslide, flood) or an exceptional occurrence (i.e. war, internal disturbances of the peace, strikes, major nuclear or industrial accidents), aid may be given to an agricultural holding provided that the cause concerned has affected a broader area, resulting in damage to infrastructure and holdings in the area and in a level of damage reaching at least 30% for all similar crops or animals or facilities in the holding, and on condition that the requirements laid down within this framework are met. As regards plant

production in particular, the 30% threshold for the damage must be calculated based on the previous three-year period or on a three-year average calculated over the previous five-year period, exclusive of the maximum and minimum values per type of crop or production equipment.

Moreover, a key requirement for payment of the aid is that the level of damage caused by natural disasters should be no less than 30% of animals and 30% of the facilities at producer level. In addition, as regards damage in plant production, it should be noted that for a parcel to be eligible, the percentage of its damage should be no less than 25%. Therefore only holdings or land parcels or facilities which have incurred damage at these percentages can be declared eligible for aid.

## 2. Adverse climatic events

Aid can be given for damage caused by adverse climatic events only where the impact of the damage is very serious and provided that they have been recognised officially by public authorities as ‘phenomena which can be assimilated to natural disasters’. To prove the seriousness of the impact, evidence must be provided that a broader area has been affected to such an extent that there is a risk of the local economy being affected. To ensure the most objective possible determination of the damage, a damage threshold has been defined, beyond which the damage can be considered a natural disaster and thus be eligible for inclusion in an aid scheme. This threshold has been fixed at 30% of normal production, as specified under point 3 of recital (19), of similar crops or animals or facilities in a broader area consisting of a set of communities marked with homogeneity in terms of crops and ground morphology. In case of drought, the threshold is fixed at 45%.

Moreover, a key requirement for payment of aid is that the level of the damage caused by adverse climatic events should be not less than 30% of animals and 30% of the facilities at a producer level. In addition, as regards damage in plant production, it should be noted that for a parcel to be eligible, the percentage of its damage should be not less than 25%. Therefore only holdings or land parcels or facilities which have incurred damage at these percentages can be declared eligible for aid.

Generally, the losses must be calculated at an individual holding level (assessment per holding). However, where adverse climatic events affect a broader area in the same way, aid payments may be based on average losses, provided that these are representative and do not lead to overcompensation paid to beneficiaries.

## 3. Disease:

Where there are plant diseases provably caused by adverse climatic events, which cannot be treated:

- because there are no appropriate means of response (e.g. grasshopper attack);
- because the weather conditions do not permit (e.g. on-going rainfall);
- due to the production phase during which the disease breaks out (e.g. during harvest);

thus resulting in loss of production.



In these cases, the aid measure must be accompanied by an opinion issued by a specialist body (institute, institution, etc.).

In these cases, the damage threshold beyond which the damage can be considered a natural disaster and thus be eligible for inclusion in an aid scheme is fixed at 50% of normal production (point 3 of recital (19)) of similar crops in a broader area consisting of a set of communities marked with homogeneity in terms of crops and ground morphology.

#### 4. Crop failure

Where there is crop failure in tree plantations proved to have been caused by adverse climatic events at the stage of flowering, the damage threshold beyond which the damage can be considered a natural disaster and thus be eligible for inclusion in an aid scheme is at 60% of normal production (point 3 of recital (19)) of similar crops in a broader area consisting of a set of communities marked with homogeneity in terms of crops and ground morphology.

- (22) The damage will be calculated on the basis of points 343 and 360 of the guidelines. In particular, the official data of the Statistical Service and the Ministry of Agriculture, Rural Development and Environment will be used. The Statistical Service gathers its data in accordance with Regulation (EC) No 543/2009 concerning crop statistics<sup>2</sup> and Regulation (EC) No 138/2004 on the economic accounts for agriculture in the Community<sup>3</sup>, and forwards these to EUROSTAT. The Ministry of Agriculture, Rural Development and Environment uses as sources for its data (a) the 'list of eligible actions', which is a necessary document for the implementation of Investment Measure (Scheme 4.1) of the Agricultural Development Programme 2014–2020 and was prepared on the basis of a market survey, and (b) the document 'Indicative Crop and Productive Animal Values for the Assessment of the Improvement Schemes' of the Agricultural Development Programme 2014–2020. This document was prepared on the basis of individual interviews with the use of questionnaires at the level of producers for each sector and on the basis of a market survey. Finally, it also uses (c) a database of the Ministry of Agriculture, Rural Development and Environment populated by monitoring a sample of producers appropriately distributed across the territory and representative in terms of areas and crops from whom data is collected on an annual basis for: a) cultivated species and varieties; b) areas of crops; c) dates of planting concerning certain seasonal crops, d) yields per decare and production per species, e) product sale price per species and varieties (producer price). It integrates consolidated data on all crops since 2013 and in some cases for previous years.

#### *Aid categories*

- (23) State aid is broken down into the following two categories:
- Aid for:
    1. reconstitution of plant stock;

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<sup>2</sup> OJ L 167, 29.06.2009, p. 1.

<sup>3</sup> OJ L 33, 05.02.2004, p. 1.

2. replacement of livestock;
3. repair of damage caused to fixed assets and equipment, excluding the constructions and the equipment of greenhouses.

State aid in these three cases will be paid on a one-off basis provided that the repair has been ascertained and verified, pursuant to this framework.

- Aid for:
  1. loss of income due to reconstitution of plant stock.  
To prevent overcompensation, State aid relating to additional aid for reconstitution of plant stock will be paid in instalments, and specifically:
    - (a) Additional aid for loss of production will be paid for fruit trees in four (4) annual instalments for grubbing up and replanting, and in three (3) annual instalments for cutting off at the bottom of the trunk, and in two (2) instalments for cutting off of primary branches.
    - (b) Aid for vines and kiwi trees will be paid in three (3) annual instalments for grubbing up and replanting and in two (2) instalments for cutting off primary branches.
  2. Loss of production (plants, animals)
  3. destruction of stored agricultural products - animal feed (only for damage caused by natural disasters or if the storage facility is destroyed by an occurrence that is covered by the framework concerned).

### *Exceptions*

#### (24) General limitations

No aid will be paid:

1. To applicants who failed to fulfil, within the prescribed period, any obligations relating to the payment of all necessary contributions under the Law on risk management in agricultural production (preliminary draft law).
2. For damage caused by exceptional occurrences or adverse climatic events affecting an individual agricultural holding if the surrounding holdings are not affected. The above limitation will not apply to isolated holdings, which may be declared eligible for compensation based on the other criteria. The risk of tornado is not subject to the above limitation.
3. For flood damage caused to agricultural holdings whose permanent or temporary facilities occupy areas within the perimeter of the high-water mark of natural or man-made streams or other freshwater bodies, which are exposed due to water level variation.
4. For damage caused by sea spray to crops grown so close to the sea that the producer is deemed to have acted negligently.
5. For damage caused by earthquake to fixed assets and equipment.
6. For damage caused by natural disasters, exceptional occurrences or adverse climatic events:
  - (a) to agricultural holdings where the provisions of the national and Community legislation on their legal operation are not met;
  - (b) to agricultural holdings where the damage is due to negligence, fault or failure to act by the applicant or a third party;
  - (c) to agricultural holdings carrying out their activities in an inappropriate season or in an area where the conditions are inappropriate, e.g. in unsuitable zones due to the local climate or due to the nature of the soil, etc.;

- (d) where the aid requests are not accompanied by official documents proving the cause, intensity and extent of the damage (e.g. meteorological data from the area concerned, etc.);
- (e) to the extent that the damage has been caused, expanded or extended because those affected failed to take timely and appropriate measures to prevent, limit or repair the damage;
- (f) to agricultural holdings developed in breach of the law and ministerial decisions;
- (g) to holdings which have been abandoned or are not operated systematically;
- (h) to beneficiaries already included in another aid scheme for damage to production or to production equipment, to the extent that they are subsidised for the same purposes;
- (i) in case of submission of false statements or misleading information relating to significant elements of the holding, e.g. ownership status, cultivated area, declaring a different holding, etc.;
- (j) to holdings which have received aid under aid schemes (improvement schemes), but the project was not properly accepted or the works, based on the approved design, were not completed, or they were completed but the unit was not put into operation;
- (k) to producers who failed to leave the necessary markers in place or distorted the picture of the holding by subsequent interventions;
- (l) to holdings which, despite being obliged to keep records, have failed to keep or provide production-related and financial information.

(25) Special limitations

A. Plants - plant production

No State aid will be paid for damage caused by natural disasters, exceptional occurrences or adverse climatic events:

1. to holdings which are not shown in the corresponding registers of the Cyprus Agricultural Payments Organisation for the year of the damage;
2. to agricultural parcels which are not eligible for area-based subsidy from the Cyprus Agricultural Payments Organisation for the year of the damage;
3. to forest trees and nurseries of these trees, as well as to forestry products (timber, wood charcoal, etc.);
4. to plants or the plant production of agricultural holdings, provided that:
  - (a) the number of trees per decare is lower than ten and per tree species is lower than three (in the case of different species of trees grown together);
  - (b) the area covered by non-irrigated crops is lower than half (1/2) a decare, that of irrigated crops is lower than one fifth (1/5) of the decare and that of cereals and non-irrigated forage plants is lower than one (1) decare in each independent agricultural parcel, with a minimum total area of three decares per holding;
  - (c) the crops of ornamental trees and shrubs do not include at least 100 similar plants in each independent agricultural parcel,
  - (d) the crops of potted plants do not include 100 similar plants in each production unit,
  - (e) nursery crops do not include 100 similar plants in each independent agricultural parcel.
5. to flowering plants and ornamental trees or shrubs procured by the holdings for trade;

6. to the plants or the plant production of crops grown in a controlled environment, where the damage is caused by destruction of structures or failure of mechanical equipment if the requirements and specifications for construction or the proper operating conditions are not met;
7. to plant production after the end of the growing period (non-harvested produce after the usual harvesting season, in each area), unless it relates to products whose cultivation technique requires that they stay in specific facilities after that season (dried grapes, figs, tobacco, etc.);
8. to adventitious plants;
9. to holdings with vines, where their regulatory obligations are not complied with;
10. where there are second seasonal crops (of the same or different species to the first one), to a parcel with seasonal plantations in cases where the producers have not submitted the crop declaration within the prescribed period in accordance with the Law on risk management in agricultural production (preliminary draft law).

#### B. Animals - animal production

No aid will be paid for damage caused by natural disasters, exceptional occurrences or adverse climatic events:

1. to animals or to animal production, where the damage is due to the destruction of the building facilities or the failure of mechanical equipment if the construction requirements and rules and the proper operating conditions are not met;
2. to animals or to animal production, where the holdings carry out their activities permanently or temporarily (travelling livestock farmers) in an unsuitable climatic zone;
3. to livestock holdings, where the requirements for rearing and exploiting the animals are not met;
4. to animals or animal production:
  - if the number of animals grown for each species is lower than two (2) livestock units per animal species or 10 beehives for bee swarms, in each holding;
  - if the level of the damage does not exceed half (1/2) a livestock unit per species or five (5) bee swarms (for bee swarms), in each holding.
5. to the animals or the animal production of holdings in which there are animals which exceed the acceptable age limit of productive life, in particular:
  - a. cows older than 13 years
  - b. bulls older than 6 years
  - c. ungulates older than 20 years
  - d. sheep and goats older than 6 years
  - e. sows older than 4 years
  - f. boars older than 5 years
  - g. birds exceeding the limits of economically productive life (typical rearing limits) depending on the species, breed, intended type of production, etc.;
6. to bee swarms, whose owners are not registered at the beekeeping registry of the Department of Agriculture
7. to animals, where they are incinerated immediately, before the damage is assessed, for reasons relating to public health, if there is no certificate issued by the competent service.

#### C. Fixed assets - mechanical equipment - consumables

No aid will be paid for damage caused by natural disasters, exceptional occurrences or adverse climatic events:

1. to building facilities or mechanical equipment if the construction requirements and rules and the proper operating conditions are not met;
2. to building facilities or mechanical equipment in agricultural holdings which are economically or functionally obsolete;
3. to fixed assets or machinery/mechanical equipment, where the damage is caused or expanded due to failure to take all the measures necessary to prevent or limit the damage;
4. to facilities and equipment used for the packaging, processing or transportation of agricultural products, e.g. wineries, olive mills, etc.;
5. to consumables, e.g. material used to cover greenhouses or low tunnels, rubber tubes, olive nets, hail protection nets, etc., unless it is proved that the materials referred to were purchased in the year of the damage or up to one year before the date of their destruction or depending on their expected life-cycle and according to their purchase invoices;
6. to seasonal material (e.g. ordinary plastics, irrigation nozzles, supporting rods, etc.);
7. to equipment which is not necessarily required for the operation of an agricultural holding, as well as to specialised equipment or unusual materials (e.g. electric fence wires, warehouse generators, etc.);
8. to transportable tools, equipment, etc., which are not kept in secure storage facilities;
9. to tools and equipment, where the cause of the damage occurred in a season that would not justify their existence in the area concerned (e.g. hoses left in the field after completion of the harvest of annual crops, etc.);
10. to self-propelled vehicles which must be insured under the law (e.g. farm tractors, gathering machinery, etc.).

#### D. STORED PRODUCTS

No State aid will be paid:

1. For damage caused to stored products by adverse climatic events, unless the cause of the destruction of the storage facility is covered by the framework.
2. For damage caused by natural disasters, exceptional occurrences or adverse climatic events:
  - (a) to stored fresh products or products kept in a specifically controlled environment (e.g. refrigerators);
  - (b) to stored products procured by the holdings for trading purposes (e.g. fruit from fruit-bearing trees without a there being the corresponding cultivation, animal feed without the corresponding animals, etc.);
  - (c) to supplies, such as fertilisers, medicinal products, etc.;
  - (d) to stored products which have undergone processing, packaging, etc. (e.g. wine, oil, etc.).

#### *Calculation of the aid*

Natural disasters - exceptional occurrences

- (26) Aid will be paid to farmer-beneficiaries for losses caused by natural disasters or exceptional occurrences, to compensate for material damage and loss of income. Such aid shall amount up to 60% of the damage assessed.

- (27) In cases of damage caused to medlar and banana crops, 15% of the amount of the damage will be deducted and the remainder will be multiplied by 60%.
- (28) The aid and any other payment to compensate the damage, including any payments under insurance policies, must not exceed 100% of the eligible costs.
- (29) State aid will be calculated at an individual beneficiary level after the expert evaluation report is finalised, pursuant to this framework and under point 341 of the guidelines, as stated in recital (19), point 8.

(a) Plants

- (30) In holdings where 30% or more of the plants per species are destroyed, aid will be granted under the conditions of the present scheme.
- (31) Additional aid will also be granted for loss of income due to the reconstitution of plant stock under point 338 of the guidelines. To prevent overcompensation, the additional aid will be paid in one or more annual instalments, depending on the intensity of the damage, as stated in recital (23).
- (32) In order to avoid overcompensation, any payments due, e.g. under insurance policies, will be deducted from the amount of aid. In any event, the aid may not exceed the amount fixed as the ceiling of the aid upon finalisation of the report.

(b) Animals

- (33) In holdings where 30% or more of the animals per species are destroyed, aid will be granted under the conditions of the present scheme.
- (34) In order to avoid overcompensation, any payments due, e.g. under insurance policies, will be deducted from the amount of aid. In any event, the aid may not exceed the amount fixed as the ceiling of the aid upon finalisation of the report.

(c) Fixed assets

- (35) In holdings where 30% or more of the fixed assets per type are destroyed, aid is granted under the conditions of the present scheme.
- (36) In order to avoid overcompensation, any payments due, e.g. under insurance policies, will be deducted from the amount of aid. In any event, the aid may not exceed the amount fixed as the ceiling of the aid upon finalisation of the report.

(d) - Stored agricultural products - animal feed

- (37) In holdings where 30% or more of the stored agricultural products or animal feed per type are destroyed:
- compared to their overall production, if they are derived from own production;
  - compared to their total stocks, if they are derived from a purchase;
- aid will be granted under the conditions of the present scheme.
- (38) In order to avoid overcompensation, any payments due, e.g. under insurance policies, will be deducted from the amount of aid.

#### (e) Plant and animal production

- (39) Where the expected production of a holding is destroyed by 25% or more per parcel, as regards damage in plant production, or 30% or more per affected livestock holding, the producer will be entitled to State aid granted under conditions of the present scheme.
- (40) In order to avoid overcompensation, any payments due, e.g. under insurance policies, will be deducted from the amount of aid.
- (41) The amount of aid may be increased by adding other costs incurred by the beneficiary, which are attributable to the natural disaster or exceptional occurrence and will be reduced by any costs not attributable to the natural disaster or exceptional occurrence, which would have been incurred by the beneficiary anyway.
- (42) In any event, the usual costs that a farmer has avoided (e.g. due to the fact that the products were not harvested) due to the natural disaster or exceptional occurrence will be deducted from the amount of aid.

#### Adverse climatic events

- (43) For losses due to adverse climatic events or plant diseases caused by such phenomena, aid will be paid to beneficiary-farmers to compensate for material damage and loss of income. The amount of this aid will be up to 40% of the damage assessed in cases where affordable insurance covering the statistically most frequent climatic risks is available at the time the damage occurred, unless it is given to beneficiaries who have taken out insurance covering at least 50% of their average annual production or production-related income and the statistically most frequent climatic risks. In cases where it can convincingly be shown that affordable insurance is not available at the time the damage occurred, up to 60% of the damage assessed may be covered.
- (44) In cases of drought, 20% of the amount of the damage will be deducted and the remainder will be multiplied by 60% or by 40% in cases where affordable insurance covering the statistically most frequent climatic risks is available at the time the damage occurred, unless it is given to beneficiaries who have taken out insurance covering at least 50% of their average annual production or production-related income and the statistically most frequent climatic risks.
- (45) In cases of damage caused to medlar and banana crops, 15% of the amount of the damage will be deducted and the remainder will be multiplied by 60% or by 40% in cases where affordable insurance covering the statistically most frequent climatic risks is available at the time the damage occurred, unless it is given to beneficiaries who have taken out insurance covering at least 50 % of their average annual production or production-related income and the statistically most frequent climatic risks.
- (46) The aid and any other payment to compensate the damage, including any payments under insurance policies, must not exceed 80% of the eligible costs.

#### (a) Plants

- (47) In holdings where 30% or more of the plants per species are destroyed, aid will be granted under the conditions of the present scheme.
- (48) Additional aid will also be granted for loss of income due to the reconstitution of plant stock under point 354 of the guidelines. To prevent overcompensation, the additional aid will be paid in one or more annual instalments, depending on the intensity of the damage, as stated in recital (23).
- (49) In order to avoid overcompensation, any payments due, e.g. under insurance policies, will be deducted from the amount of aid. In any event, the aid may not exceed the amount fixed as the ceiling of the aid upon finalisation of the report.

(b) Animals

- (50) In holdings where 30% or more of the animals per species are destroyed, aid will be granted under the conditions of the present scheme.
- (51) In order to avoid overcompensation, any payments due, e.g. under insurance policies, will be deducted from the amount of aid. In any event, the aid may not exceed the amount fixed as the ceiling of the aid upon finalisation of the report.

(c) Fixed assets

- (52) In holdings where 30% or more of the fixed assets per type are destroyed, aid will be granted under the conditions of the present scheme.
- (53) In order to avoid overcompensation, any payments due, e.g. under insurance policies, will be deducted from the amount of aid. In any event, the aid may not exceed the amount fixed as the ceiling of the aid upon finalisation of the report.

(d) Stored agricultural products - animal feed

- (54) In holdings where 30% or more of the stored agricultural products or animal feed per type are destroyed:
- compared to their overall production, if they are derived from own production;
  - compared to their total stocks, if they are derived from a purchase;
- aid will be granted under the conditions of the present scheme.
- (55) In order to avoid overcompensation, any payments due, e.g. under insurance policies, will be deducted from the amount of aid.

(d) Plant and animal production

- (56) Where the expected production of a holding is destroyed by 25% or more per parcel, as regards damage in plant production, or 30% or more per affected livestock holding, the producer will be entitled to State aid granted under the conditions of the present scheme.
- (57) In order to avoid overcompensation, any payments due, e.g. under insurance policies, will be deducted from the amount of aid.



- (58) Other costs incurred by the beneficiary because of an adverse climatic event which can be assimilated to a natural disaster may also be added to that amount of the aid. The costs that are not attributable to a climatic phenomenon which can be assimilated to a natural disaster, which would have been incurred by the beneficiary anyway, will be deducted.
- (59) In any event, the usual costs that a farmer has avoided (e.g. due to the fact that the products were not harvested) due to the natural disaster or exceptional occurrence will also be deducted.

#### Disease

- (60) For losses proved to be due to plant diseases caused by adverse climatic events which cannot be treated for the reasons stated in point 3 of recital (21), 25% of the amount of the damage will be deducted and the remainder will be multiplied by 60% or by 40% in cases where affordable insurance covering the statistically most frequent climatic risks is available at the time the damage occurred, unless it is given to beneficiaries who have taken out insurance covering at least 50 % of their average annual production or production-related income and the statistically most frequent climatic risks.

#### Crop failure

- (61) In cases where the losses are proved to be due to crop failure in tree plantations caused by adverse climatic events at the stage of flowering, 30% of the amount of the damage will be deducted and the remainder will be multiplied by 60% or by 40% in cases where affordable insurance covering the statistically most frequent climatic risks is available at the time the damage occurred, unless it is given to beneficiaries who have taken out insurance covering at least 50 % of their average annual production or production-related income and the statistically most frequent climatic risks.
- (62) After calculating the State aid, a report will be prepared with the detailed information of the aid, within three years of the date the event/incident occurs. The aid will be paid within four years of the date the event/incident occurs.
- (63) Information on the aid will be sent to the European Commission in accordance with points 727 and 728 of the guidelines.

#### *Competent bodies*

- (64) The competent bodies in each municipality or community responsible for carrying out the overall process of State aid for the damage to plant and animal production, plant and animal stock, and fixed assets covered by this procedure, are the bodies approved by the implementing authority, which will perform their duties according to the provisions laid down in this framework as well as circulars, guidelines and instructions from the competent authority.

#### *Damage report*

- (65) The authorised body must, within forty eight (48) hours of damage to plant and animal production, plant and animal stock, and fixed assets occurring as a result of the causes listed in recital (19), report the date of the damage, the cause of the damage, the affected species, the locations and extent of the damage to the district

office of the implementing authority. Reporting the damage is a necessary prerequisite for damage to be eligible under a State aid scheme. This procedure will be repeated in the event of subsequent damage caused to the same holdings.

- (66) The authorised body must, when submitting the report, provide the district office concerned with any information available from the competent services or bodies (e.g. geotechnical services, meteorological stations, municipalities, communities, agricultural cooperatives, agricultural associations).

*Evaluation-documentation committees*

- (67) Two committees will be set up, one at district and one at central level, to verify that the damage concerned was caused by natural disasters, exceptional occurrences or adverse climatic events.

- (68) The first committee will be called the District Committee (DC) and will consist of the heads of the district offices of the implementing authority and of the Department of Agriculture, or their representatives, as appointed each time. The above will be assisted, as appropriate, by various officials from the competent services, depending on the subject matter and the cause of the damage (e.g. the veterinary services, the Department of Meteorology, the Town Planning Department, etc.).

- (69) The regional head of the implementing authority will, upon receipt of a damage report, convene a meeting of the DC to evaluate the event that caused the damage.

- (70) The DC must, within 2 months, specify precisely the zones affected by the exceptional occurrence and carry out an evaluation of the likely damage. It will then draw up its final report, recommending whether the damage should be eligible under a State aid scheme or rejected. The DC's report must:

(a) clarify the cause of the damage and state the reasons why it is deemed to constitute an extreme, adverse or exceptional phenomenon;

(b) specify and document the nature and intensity of the cause of the damage, also indicating the means used to verify it (meteorological data, aerial and satellite photographs, videos, etc.);

(c) specify the geographical area affected by the cause of the damage (list of municipalities or communities);

(d) state the order of magnitude of the damage for each affected species;

(e) collect all yield-related data for the year of the damage and the reference period, concerning all the affected crops, as required to document the damage;

(f) assess the budgeted cost of the aid;

(g) assess, on a case-by-case basis, the impact of the damage on the economic activity of the area and its eligibility under the State aid scheme;

(h) state whether similar damage-causing events took place in previous years in the district for which State aid is requested;

(i) demonstrate that there is a direct link between the natural disaster or adverse climatic event which can be assimilated to a natural disaster or another exceptional occurrence and the damage incurred by the agricultural and livestock holdings.

- (71) The second committee will be called the Central Coordinating Committee (CCC) and will consist of three persons as follows:

- the general director of the Ministry of Agriculture, Rural Development and Environment;
- the director of the implementing authority or its representative;
- the director of the Department of Agriculture or his/her representative.

The CCC may be assisted in its tasks by a special scientific committee (SCC), appointed by decision of the implementing authority. The SCC will consist of, on a case-by-case basis, representatives of universities or scientific institutions in Cyprus, the Department of Agriculture, the Agricultural Research Institute, the Department of Meteorology, the Department of Veterinary Services and other specialists. The CCC will be convened upon receipt of the report(s) from the DCs. The CCC will:

- (a) collect, examine and evaluate the reports from the DCs;
- (b) collect additional information from committees or other bodies and services, as appropriate;
- (c) issue an opinion, after collecting all necessary information, on whether the requests forwarded by the DCs should be accepted or rejected.

After all the required material is collected by the CCC (findings of the SCC, meteorological data, photographs, DC reports, etc.) a comprehensive file will be set up and submitted to the Minister for Agriculture, Rural Development and Environment, and the latter will forward it to the Council of Ministers for approval.

#### *Submission of a damage declaration*

- (72) The implementing authority will, as soon as possible after the date on which the damage occurred and provided that the competent officials of the implementing authority have ascertained that the limits provided for under this framework are satisfied, make an announcement sent to both to its representative in the community and the media, inviting farmers to submit damage declarations, without any commitment and subject to final approval by the competent authority.
- (73) A producer whose agricultural holding suffers damage at a percentage higher than the thresholds provided for under this framework will have the right to submit, within 15 days of the day following the posting of the announcement by the representative of the implementing authority, either himself or through a third person, a damage declaration to the competent body of the municipality or community.
- (74) Every possessor of an agricultural holding will submit a damage declaration for all his affected activities in each municipality or community, accompanied by all such necessary documents as listed below. Where there is damage to activities carried out by the same producer in another municipality or community, a different declaration must be submitted, accompanied only by the documents necessary for that declaration, provided that the municipality or community to which the rest of the documents have been submitted is stated.
- (75) If the last day of the 15-day period is a non-business day, the deadline will expire on the next business day. A damage declaration submitted after the 15-day deadline will not be taken into consideration and the service will not be obliged to assess it. In exceptional cases, a damage declaration submitted after the 15-day deadline may be accepted only on condition that delayed submission is due to reasons of *force majeure*, which must be proved by official evidence, and

provided that it is submitted within one month of the end of the *force majeure* event at the latest.

- (76) In the event of exceptional damage, ascertained by the competent DCs, which is caused by the above mentioned causes and is not identified early enough (e.g. drought), damage declarations may be submitted even the 15-day deadline, following a report from the competent DC, a recommendation from the CCC and a decision of the competent Minister, which will lay down all the necessary details concerning submission of those applications.
- (77) The damage declaration will always be submitted in the name of the producer who is the possessor of the agricultural holding when the damage is incurred. Where, for any reason whatsoever, the possessor of the agricultural holding changes after the damage-causing occurrence takes place, the damage declaration may be submitted by the new possessor. However, it must be submitted in the name of the producer who was the possessor when the damage was incurred. The application must state the change of possessor and the reason for that change. In such cases, the submission will include all the supporting documents for the initial beneficiary (to ascertain whether he was, or was not, a beneficiary), a document justifying the change (e.g. a death certificate, a lease agreement, etc.) and the supporting documents for the new possessor of the agricultural holding, if the requested aid entails long-term commitments.
- (78) A special form will be used for the damage declaration depending on the type of damage (plant and animal production, or plant or animal stock, or fixed assets, or stored products). The damage declaration must indicate the full name of the person concerned, the identity card and bank account numbers (IBAN), his home address and telephone number, and the details of the holding (according to the form). The livestock holding code number must also be provided where aid is claimed for livestock.
- (79) A damage declaration will only be accepted if accompanied by all the documents required each time, including, but not limited to the following:
1. Proof of possession of the holding:  
Possession must be proved by submitting the relevant title.  
If the holding is leased, for the lessee to obtain aid for reconstitution, a private lease agreement must be submitted, effective prior to the date of the damage and with duration of not less than 5 or 10 years, as appropriate. In the case of annual crops, the lease agreement must be submitted for the year of the damage.  
Where an agricultural holding is included in a register (e.g. vineyard register, etc.) after the damage is incurred and it is ascertained that the farmer who is currently the crop possessor/administrator is not the same person as the producer who possessed the holding as of the date of the damage, but the former is related to the latter in the first degree:  
(a) if the beneficiary has, as of the date of the damage, taken all actions required for the reconstitution of his crop, the relevant aid for reconstitution will be paid to him; In this case, the current beneficiary must certify, by solemn declaration, that the holding will be maintained for the required length of time.  
(b) if the current crop possessor/administrator has taken the actions required for the reconstitution of the crop, he must: (i) submit all the supporting

- documents in order to ascertain whether or not he is entitled to the aid, (ii) submit the required documents, and (iii) submit authorisation for concession of the aid for reconstitution from the former possessor of the holding.
2. A copy of the application for single area-based subsidy for the year of the damage, indicating the details of the agricultural parcels that are eligible for subsidy and for which State aid is claimed.
  3. A photocopy of the bank account statement (IBAN) for the account in which he wishes the aid to be deposited.
  4. An establishment licence, operating authorisation, building permit, etc. for the holding, as appropriate.
  5. The constructor's warranty for the fixed assets, with regard to new structures in particular.
- (80) The interested party must, upon submission of the damage declaration, pay the assessment fees, if so specified in a ministerial decision. The competent body will, upon receipt of the damage declaration, sign it and hand over a copy thereof to the interested party, entering the date of receipt of the application.
- (81) All the documents must be either originals or clear photocopies ratified by a competent authority.
- (82) The body responsible for collecting the damage declarations will prepare and submit to the implementing authority a short memo concerning the declarations submitted, using a special form (depending on the type of damage).
- (83) Receipt of the damage declarations from producers (along with the required supporting documents, as specified each time) will be followed by an administrative check carried out by the district office. If it is found in connection with a damage declaration that there are certain supporting documents missing or there is a need to submit additional information, the producer concerned will be notified in writing to settle the matter within a set deadline. A damage declaration found to contain omissions, despite the written notice given, will be excluded from the aid scheme.

#### *Assessors*

- (84) The damage will be assessed by competent agronomists of the implementing authority who are duly authorised for that purpose. Where it is necessary, due to the nature of the damage, to appoint specialists from other disciplines (e.g. engineers) or specialised scientists (e.g. veterinarians) to carry out the assessment, the appointment will be made by decision of the chairman of the implementing authority. Assessment tasks may also be carried out by agronomists or other specialists, as the case may be, employed by public or semi-public services or individuals from the private sector. General government employees may be appointed as assessors following approval from the service in which they are employed. Performance of assessment tasks is an official duty for the employee appointed for that purpose.

#### *Assessment*

- (85) The timing of the assessment will be determined by the implementing authority depending on the nature and extent of the damage and the level of intervention

needed to repair the damage. Where, due to other unforeseeable factors, it is impossible to assess the individual damage early enough, the farmer must leave 'markers' in place, i.e. intact (uncultivated or unharvested) parts of his crop. More specifically:

- (a) for arable crops (excluding beans and potatoes), a one (1) metre wide section (strip), along the entire length of one of the sides of the parcel, and on either ends of it;
  - (b) for vines, the entire end lines specifying the boundaries of the parcel or the percentage of a vine stock per thirty (30) cultivated species;
  - (c) for tree crops, a number of trees scattered throughout the entire extent of the parcel, which must correspond to one (1) of every ten (10) trees;
  - (d) for beans and artichokes, a ten (10) square meter wide section in the centre and the four ends of each agricultural parcel.
- (86) For damage to flower crops - nurseries and stored products, as well as to animals and fixed assets, the assessment will be carried out immediately upon notification by the competent bodies or the parties concerned.
- (87) The damage in each affected holding will be assessed according to agricultural assessment rules, depending on the nature of the damage, by one assessor or, as appropriate, by a committee appointed by the implementing authority.
- (88) The assessor or the committee must carry out the assessment as soon as an order is received from the implementing authority.
- (89) The start date of the assessments in the area of each municipality or community will be announced to the parties concerned by a notice to be posted by the representative of the implementing authority in a conspicuous location in the municipality or community. The parties concerned and representatives of producer organisations may, if they wish to do so, attend the assessment in order to present their views or provide any relevant information or data about the damage.
- (90) The interested party must indicate the affected holding or must attend the assessment, if so requested by the assessor. He must provide the assessor with all the information and evidence requested, concerning the legality or ownership of the holding declared. Moreover, the interested party must, if so requested by the assessor, submit written figures (financial data or statistics) from previous years concerning the holding. This data may include those kept by the municipality or community, cooperative or other organisations, copies of sales invoices, any clearance documents, etc.
- (91) If the interested party refuses to:
- indicate the holding declared in order to carry out the assessment;
  - allow the assessor to enter the holding;
  - provide evidence to prove that he is the possessor of the affected holding;
  - attend the assessment, despite having been invited to do so either in person or through a representative, unless his absence is justified;
  - provide data and information to prove the legality of the holding, or if he wilfully indicates a different holding as being his own;
- he will be deemed to have withdrawn the application submitted.

- (92) In such cases, a record will be drawn up and signed by the assessor and the surveyor – or two witnesses, in the absence of a surveyor – or the representative of the implementing authority. A copy of the record will be sent, along with the findings of the assessment of the damage, and will be posted at the office of the representative of the implementing authority.
- (93) Mayors, presidents of communities, chairmen of cooperatives, general government employees, police officers, etc. must provide any such information or assistance as requested by the assessors or the officials of the implementing authority.
- (94) The assessors will enter the outcome of the administrative check and the findings of the assessment carried out, per species, separately for each holding, in a dedicated form whose format is subject to approval by the implementing authority.
- (95) After being processed on computer, the findings will be sent by the implementing authority to the representative of the relevant municipality or community. As regards, in particular, producers who are declared ineligible, the grounds for rejection must be stated in the ‘remarks’ column and the findings of the assessment will not be given to them.
- (96) The representative must, immediately and indeed on the very date of receipt, summon the parties concerned by posting an invitation in conspicuous locations in the municipality or community, to inform them of the findings of the assessment.
- (97) In order to simplify and shorten the processes and the duration of assessment, in certain cases where the damage is similar, an assessment may be carried out per area in order to determine the percentage of the damage, per species and per geographical zone, by a committee consisting of at least three (3) assessors, appointed by the implementing authority. Such an assessment by area will include all holdings in the affected geographical zone, per species, except for those explicitly stated and excluded in the expert evaluation record. Based on the percentage of the damage determined by the above assessment, the findings will be drawn up for each beneficiary, processed by computer and posted in the relevant municipality or community. The percentage of the damage determined by the committee will be binding on the implementing authority and the parties concerned and will be final and irrevocable and, therefore no re-assessment application can be submitted.

#### *Objection and re-assessment*

- (98) The findings of the assessment will become final fifteen days after the day following the posting of the invitation to the parties concerned to come and learn the results. Any objections submitted after that date will be rejected due to late submission.
- (99) Within the fifteen-day deadline, an interested party has the right to submit to the representative of the implementing authority:

A. An objection regarding the administrative check

All the supporting documents required for the applicant to be declared eligible for State aid must be attached to the application-objection against the administrative check. There is no charge for submitting this application.

I. If the applicant provides all the required supporting documents and is declared a beneficiary:

- He will be notified of the findings of the assessment, if one has been carried out.
- An assessment will be carried out and he will be notified of the findings.

In both cases, a request for re-assessment may be submitted if the interested party does not agree with the findings of the assessment.

II. If, following examination of the objection against the administrative check, the interested party is declared not to be a beneficiary, he will be notified of the outcome by the representative of the implementing authority and all further claims for financial aid will be definitively terminated.

#### B. Objections against the findings of the assessment

All the information in the findings for which re-assessment is requested, as set out therein, and the reasons why a re-assessment is requested will be stated in the application-objection against the findings of the assessment.

The application-objection will not be taken into consideration unless submitted within the set deadline and accompanied by payment of the re-assessment fees, if any.

Where the re-assessment application is submitted after expiry of the set deadline, the applicable provisions on the acceptance of an overdue application for damage will apply *mutatis mutandis*.

- (100) A re-assessment may also be requested by the implementing authority up until the findings of the assessment become final.
- (101) The re-assessment application will not be taken into consideration and the interested party will be deemed to have withdrawn it if he, despite having been called upon by the re-assessors, fails to furnish, within a set deadline, any documents, figures or information or fails to facilitate the conduct of the re-assessment. Furthermore, if the interested party refuses to indicate the holding for which the objection has been submitted, or refuses to allow the re-assessors to access the holding, or refuses to provide evidence to prove that he is the manager, he will be deemed to have withdrawn the re-assessment application.
- (102) The re-assessment will be carried out:
- (a) by an employee, appointed by the implementing authority, to consider objections submitted against an administrative check;
  - (b) by two assessors, appointed by the implementing authority, in the event of an objection submitted against the findings of the assessment.
- (103) If the re-assessors disagree, the director of the implementing authority will appoint another assessor, as an arbitrator, and the findings of the latter will be final.
- (104) All the provisions hereof relating to assessment will apply *mutatis mutandis* to the performance of re-assessment. The re-assessors or the arbitrator will enter the findings of the re-assessment carried out, per species, for each holding, in a special form whose format is subject to approval by the implementing authority.



Copies of the findings of re-assessments will be sent to the head of the competent district office who must, immediately and indeed on the very date of receipt, summon the parties concerned by posting an invitation in a conspicuous location in the municipality or community, to inform them of the findings of the re-assessment.

- (105) Neither the re-assessors nor the arbitrator are bound by the findings of the assessment, but will assess the damage from beginning.
- (106) Without prejudice to the provisions of this framework, the findings of the re-assessment will be final.

*Repeated damage and related damage*

- (107) Where repeated damage is caused to the same holding in the same crop period, if no assessment of the previous damage has been carried out, or if an assessment has been carried out but its findings were not finalised, the assessment will cover and include all previous damage, so that the findings drawn up relate to the overall damage in a uniform manner.
- (108) Where repeated damage is caused to plants in the same holding:
  - (a) if the damage has not been repaired, the new assessment will cover and include the previous damage too, so that the findings drawn up relate to the overall damage in a uniform manner.
  - (b) if the damage has been repaired, the new damage will be assessed, also taking into account any aid already paid.
- (109) Where there are parcels with seasonal plantations, the second seasonal crops (of the same or different species to the first one) may also be covered if the producers have submitted a crop declaration within the prescribed period in accordance with the Law on risk management in agricultural production (preliminary draft law).

*Revising the findings*

- (110) The director of the implementing authority may, at his own discretion and at any stage of the damage identification or clearance procedure, even after payment of the aid, lodge an appeal for the revision of the findings of the assessment if he becomes aware that the information included in the findings of the assessment was erroneous.
- (111) The appeal for a revision of the findings of the assessment must be lodged with the general director of the Ministry of Agriculture, Rural Development and Environment within a reasonable time after the information substantiating the appeal becomes known.
- (112) If the appeal is initially accepted, a final and definitive decision will be made thereon by a three-member revision committee comprised of the general director of the Ministry of Agriculture, Rural Development and Environment or his representative and experts, where appropriate, and appointed by the Minister for Agriculture, Rural Development and Environment. The findings of the expert evaluation (assessment and re-assessment) will not be binding on the committee and it may re-assess any of the information included in the findings. All the

provisions of this framework relating to re-assessment will apply *mutatis mutandis* to the performance of the revision.

- (113) The damage will be re-cleared based on the findings of the revision committee, pursuant to recitals (26)-(63) and (114) of the framework, and/or the interested party will be asked to refund the difference if he has unduly received too much aid, or the total aid will be recovered if it has been unduly paid, or any additional State aid due will be paid to him.

#### *Inspection of repair*

- (114) All those declared State aid beneficiaries, in accordance with the above, for the reconstitution of plant stock, replacement of animals and repair of damage to fixed assets must take the following actions in order to receive payment of the financial aid payable to them:

#### A. Damage repair time

To carry out the repair/reconstitution/replacement of their stocks within 2 years of the issuance of the ministerial decision, except in special, justified cases in which such repair may take place over 3 years, e.g. attack of nematodes.

#### B. Submission of supporting documents for repair

To submit the following, as appropriate:

- (a) For aid intended for the reconstitution of plant stock:

1. An 'application-solemn declaration for the repair of damage' using a dedicated form specified by the implementing authority, after the damage is repaired, requesting that an inspection be carried out to verify the repair works in order for the aid to be paid.

2. Original paid invoices, accompanied by consignment notes for the shipment of materials and saplings purchased from recognised nursery operators, etc. and service receipts indicating the costs incurred for the works carried out (removal of branches and roots, deep ploughing, etc.) or the machinery used.

The above invoices or service receipts must state the following: The name of the issuer-undertaking, the full name of the buyer, the number and type of the product purchased or the type of the service concerned, the value of the items purchased and, separately, the VAT charged, the dates of issuance and payment.

3. Where saplings are used, a certificate from the competent service will be submitted to demonstrate that the saplings are suitable from a phytosanitary point of view and their varieties are suitable for the area, based on the lists provided by the Department of Agriculture.

The Department of Agriculture will determine the suitable varieties of new saplings or grafts, in the event of replanting or grafting, and provide such guidance to producers as necessary for setting up a new plantation scheme and applying appropriate farming practices with a view to improving the resulting products.

It should be clarified that producers who have suffered serious damage to their plant stock may use any type of reconstitution to facilitate their subsequent work, but they will receive the aid provided for the type of repair which they should carry out due to the damage caused, based on the findings of the expert evaluation

carried out by the implementing authority and the restoration record drawn up by the committee that verified the repair of their damage. In specific cases, (e.g. destruction of a farm due to intense flooding), the beneficiary may proceed with the reconstitution of all his destroyed means of cultivation in another agricultural parcel possessed/managed by him. In this event, the reconstitution will not be declared eligible for aid if there is another crop already existing in the parcel.

The works for the reconstitution of the plants damaged must:

- I. be carried out in the appropriate season, according to the guidance provided by the Department of Agriculture, to prevent failure; and
- II. be completed as soon as possible.

(b) For aid intended for the replacement of animals:

Upon completion of all works and repair of the damage to livestock or to beehives with a swarm, the following must be submitted:

1. An 'application-solemn declaration for replacement of livestock' using a special form specified by the implementing authority, requesting that an inspection be carried out to verify the repair implemented in order for the aid to be granted.
2. Original invoices for purchasing animals and, in the absence thereof due to objective difficulties, any evidence of purchasing the animals that replaced those lost.
3. The supporting documents required to verify the marking.
4. A certificate from the veterinary officer of the district in which the holding operates to the effect that the animals purchased to replace those lost are free from infectious diseases.

All invoices must be issued in the name of the beneficiary-producer.

All the above supporting documents concerning the replacement will be submitted by the parties concerned to the district offices of the implementing authority, they will be stamped to the effect that State aid was received, and they will be kept in the producer's file.

(c) Concerning aid intended for the repair of damage to fixed assets and equipment:

Upon completion of all works and repair of damage, the following must be submitted:

1. An 'application-solemn declaration of repair of damage' using a special form specified by the implementing authority, requesting that an inspection be carried out to verify the restoration works in order for the aid to be paid.
2. Original paid invoices for purchasing spare parts/materials and items of agricultural and mechanical equipment intended to replace that destroyed, consignment notes for the materials, as appropriate, and service receipts (technicians-workers).

It should be noted that:

- Where machinery or equipment is imported (e.g. greenhouse materials), the corresponding vouchers must be formally translated into Greek by the Ministry of Foreign Affairs or the Cyprus Consulate in the country of origin or another competent body.
- Where the damage was repaired using unusual or expensive materials, the damage repair costs will be calculated based on the costs that would have been incurred if the repair had been done using ordinary modern materials.

### C. Verification of the repair

Upon submission of the supporting documents cited above, as appropriate, the implementing authority will verify that the damage has been repaired. This verification will be carried out by an employee of the implementing authority or by a committee, as appropriate. This will be a three-member committee appointed by decision of the director of the implementing authority, which will consist of two employees of the implementing authority and one employee carrying out a related job or three employees of the implementing authority. The employees of the implementing authority or the committees referred to above will verify the reconstitution of plant stock, replacement of livestock and repair of damage to fixed assets and equipment.

#### *Payment of State aid*

- (115) Upon completion of the checks, certificates of repair will be drawn up using special forms, as appropriate. The certificates of repair will indicate the type of reconstitution and provide a detailed description of the work carried out. If it is found that no work or only some of it has been carried out, it will be recorded and, after calculating the amounts that it corresponds to, the aid will be reduced accordingly.
- (116) In extraordinary cases, where exceptionally extensive damage has occurred or there are other special reasons, an advance may be paid to beneficiaries against the State aid they are entitled to, for them to be able to continue their production activity, on condition that their status as beneficiaries has been proved and the repair of the damage they have incurred is in progress. Where advances are paid and then the producer is either declared a non-beneficiary or fails to complete the repair of the damage he has incurred, these advances must be refunded including interest at a market rate. The aid will be paid by the implementing authority by crediting the bank accounts declared by the beneficiaries. The aid will be subject to deductions, as duly stipulated.

#### *Obligations of the beneficiaries*

- (117) State aid beneficiaries must accept all inspections by the competent national or Community authorities and must state that they have received knowledge of the aforementioned terms and conditions, as well as of the sanctions to be imposed for non-compliance.
- (118) The beneficiary must submit a solemn declaration, with regard to all the affected holdings or activities that are reported, for which he has submitted an application for State aid, stating whether he has obtained insurance from any insurance organisation or not.
- (119) If the beneficiaries fail to comply with any of the terms or provide false information, they must refund the sums paid to them with interest, pursuant to the applicable legal provisions.
- (120) If, while the damage assessed is being cleared on computer or during verification of the repair of the damage or during performance of inspections by the employees of the implementing authority, it is found that the aid amount or the

advance against the aid that has been paid to beneficiaries exceeds the amount they are entitled to in total, they must refund the difference as an undue payment.

- (121) If it is found that the loss of production was less than 30% of the normal production of the similar crop, any financial aid already granted to the affected producers must be recovered.
- (122) Producers who have received aid must maintain the entire holding for which the aid was granted for a period of time depending on the type of damage:
- (a) for tree crops, vines and kiwi trees, for five years continuously;
  - (b) for other perennial crops, for not less than three years;
  - (c) for repaired or reconstructed agricultural/livestock buildings and assets, for not less than ten years continuously;
  - (d) for machinery/mechanical equipment, not less than five years continuously;
  - (e) for their activity, not less than three years continuously, in the event of replacement of livestock.
- In all the above cases, the start date of the above temporal obligations will be the date of submission of the application for restoration by the beneficiary-producer.
- (123) During the procedure used for payment of State aid and in order to obtain approval for such aid, the heirs of a deceased beneficiary must submit the required supporting documents, in conjunction with the provisions of this framework, within a deadline of not more than 5 months of the date of death of the beneficiary.
- (124) In the event of change of an agricultural manager, the person who managed the holding as of the date of the damage will be entitled to State aid, subject to the limitations for the submission of a damage declaration laid down above and specifically in recitals (77)-(79).
- (125) If, during performance of a long-term obligation undertaken as a precondition for obtaining aid, the beneficiary transfers all or part of the holding to another person, the latter may subrogate the former only for the obligations for the remaining effective period, provided that the applicable requirements under the aid scheme are met and he has accepted the applicable commitments. If this does not happen, the initial beneficiary must refund the aid granted. In these cases, a document must be sent to the district office of the implementing authority, along with the relevant supporting documents, within one month of the transfer, to perform a check on the new beneficiary and update the file accordingly.
- (126) In the event of *force majeure* during performance of a long-term obligation, it is possible that the aid already granted to the beneficiary may not be claimed back. The following *force majeure* events in particular may be accepted, if they are proved by official documents:
- (a) death of the possessor of the agricultural holding;
  - (b) long-term incapacity for work;
  - (c) expropriation or re-parcelling of a large part of the holding if this was not known or anticipated as of the date on which the commitment was undertaken;
  - (d) a severe natural disaster seriously affecting the holding;
  - (e) an epizootic disease affecting all or a large part of the possessor's livestock.

- (127) In these cases, a document must be sent to the district office of the implementing authority, along with the corresponding evidence, within one month of the date on which the beneficiary is able to do so, for his file to be updated accordingly.

#### *Inspections*

- (128) The implementing authority will establish mechanisms intended to check payments and verify observance of the terms and conditions laid down in the relevant decisions.
- (129) The inspections will include administrative (inspection of the supporting documents submitted for the payments) and on site checks. Performance of the beneficiaries' long-term obligations will be verified as part of the annual ordinary checks carried out on a random sample, relating to all types of aid. An extraordinary check will be carried out where complaints are filed or doubts are expressed, as well as whenever this is deemed necessary. During the check and if they are chosen for inspection, beneficiaries must submit all the supporting documents which, in the opinion of the inspecting authority, will contribute to reaching safe conclusions concerning observance of their obligations. Failure to submit the above information or submission of inaccurate information will constitute breach of the terms and conditions and will incur the imposition of the relevant sanctions.
- (130) It is obligatory to notify impending inspections to the beneficiaries in a timely manner and inform them of the results of the inspections and the problems handled. If it is ascertained, following inspection by the competent inspecting authorities, that the procedures and provisions established have not been applied properly, payments will be suspended and, whenever appropriate, refunded.
- (131) Upon commencement of an inspection, the possessor or his representative must be informed of the provisions of the relevant decisions and whether he has complied with them or not. A record must be drawn up for each inspection, providing a thorough list of the holding's details, of what was inspected and of the findings and proposals. A copy of the record will be sent to the beneficiary.
- (132) Where irregularities are identified, the possessor of the agricultural holding must be notified, and a copy of the inspection record must be provided to him.
- (133) Objections may be submitted by beneficiaries within 10 days of communication of the record. The objections will be examined by a special committee to be set up by decision of the director of the implementing authority. The committee decisions will be definitive and will be announced to the parties concerned.
- (134) Aid beneficiaries must accept all inspections by the competent national or Community authorities. During the inspection, beneficiaries must submit all the supporting documents which, in the opinion of the competent services, will contribute to reaching safe conclusions concerning observance of their obligations.

#### *Annual reporting*

- (135) Pursuant to point 728 of the guidelines, an annual report will be submitted, which will include information concerning meteorological data relating to the type,

timeframe, magnitude and location of the climatic event which can be assimilated to a natural disaster or of the natural disaster.

*Revocation of a damage declaration or re-assessment application*

- (136) An applicant has the right to revoke a damage declaration submitted either by submitting an application to the representative of the implementing authority, not later than the business day prior to the date of assessment, or by submitting it to the assessor or mailing it to the competent district office of the implementing authority before payment of the aid.
- (137) In case of revocation of a damage declaration, the interested party will be deemed to have waived any right to State aid for any damage possibly caused to his holding. The assessment fees, if any, will not be refunded regardless of the phase of the process in which the declaration is revoked.
- (138) The interested party may request that the re-assessment he has asked for not be carried out, by submitting an application as per the above, acceptance of which will be at the absolute discretion of the re-assessors.

*No other fees charged*

- (139) The parties concerned will pay no fee or charge other than the assessment and re-assessment fees for completion of the procedure, at any time, from submission of the damage declaration to collection of the State aid.

*Expenses incurred by the authorities responsible for recording and verifying the damage*

- (140) Those involved in recording and marking the damage, carrying out expert evaluations, performing supervision, monitoring the development of damage to holdings and ascertaining the repair of such damage, upon the orders of the implementing authority, will be entitled to payment of their travelling and other expenses, as specified by relevant decisions.

## **2.9. Cumulation**

- (141) Aid may be granted under a number of schemes simultaneously or may be cumulated with special aid, on condition that the total amount of State aid does not exceed the ceiling of the aid, as specified under this measure. This provision applies to identical calculable eligible costs. Moreover, cumulation with measures under the Rural Development Programme referring to risk management instruments as well as *de minimis* aid is prohibited, if such cumulation would result in an aid intensity or aid amount exceeding that fixed under this measure.
- (142) Cumulation of investment aid intended for the restoration of production potential with aid intended for the repair of material damage under this measure is prohibited.

## **2.10. Transparency**

- (143) The implementing authority will publish on its official website ([www.moa.gov.cy](http://www.moa.gov.cy)) all the necessary information in accordance with points 128 and 131 of the guidelines, for example the full text of this State aid scheme.

## 2.11. General exceptions

- (144) Payment of any aid under the notified scheme to any undertaking which has benefited from previous illegal aid which was declared incompatible by decision of the Commission will be suspended until the undertaking concerned repays or deposits the total amount of the illegal and incompatible aid in an escrow account, including the relevant recovery interest.
- (145) The provisions of point 26 of the guidelines on undertakings in difficulty will be upheld. Thus, undertakings in difficulty are in principle excluded from the scope of application of this scheme for damage caused by adverse climatic events. This principle does not apply to aid for damage caused by adverse climatic events, if the financial difficulty of an undertaking active in primary agricultural production has been caused by the adverse climatic events.

## 3. EVALUATION

### 3.1. Application of Article 107(1) TFEU

- (146) For Article 107(1) TFEU to apply, the aid must be granted by the State or through state resources in any form. It must constitute an economic advantage for the beneficiaries. In addition, it must be selective in nature, meaning that it must be granted to certain undertakings, and must be capable of distorting competition and affecting trade between EU Member States.
- (147) This aid measure is financed through direct grants from the State budget (see recital (7)). Therefore, it is granted by the central government of Cyprus through State resources.
- (148) The aid measure favours all primary producers of agricultural products and undertakings engaging in the processing of and trade in agricultural products to the extent that these can be eligible for State aid in the event of damage caused by natural disaster and exceptional occurrences (see recitals (12)-(18)). These beneficiaries are entities engaging in economic activity and are deemed to constitute undertakings for the purposes of Article 107(1) TFEU<sup>4</sup>. The scheme provides the beneficiaries with an economic advantage, since they can perform promotional activities at reduced cost. Normally, they would have to bear these costs themselves in their day-to-day management or normal activities and, therefore, this type of aid distorts the conditions of competition<sup>5</sup>.
- (149) In addition, given that it favours only the agricultural sector in Cyprus, the aid is selective. As confirmed by the Court, a measure may constitute State aid even if it regards an entire economic sector<sup>6</sup>.
- (150) The aid measure has the potential to distort competition as it strengthens the recipients' competitive position. 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

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<sup>4</sup> Judgment in C-41/90, *Höfner and Elser v Macrotron GmbH*, EU:C:1991:161, paragraph 21.

<sup>5</sup> See *inter alia* Judgment in C-156/98, *Germany v Commission*, EU:C:2000:467, paragraph 30.

<sup>6</sup> Judgment in C-148/04, *Unicredito Italiano v Agenzia delle Entrate*, EU:C:2005:774, paragraphs 44-48; Judgment in C-66/02, *Italy v Commission*, EU:C:2005:768, paragraphs 94-98.



which it would not otherwise have received in the normal course of its business, points to a possible distortion of competition.<sup>7</sup>

- (151) Based on the case law of the Court of Justice of the European Union, aid to an undertaking may affect trade between Member States if that undertaking is active in a market open to intra-Union trade. The beneficiaries of the aid in question are active in the highly competitive market in agricultural products. Therefore, the aid measure may distort competition and affect trade between Member States and, thus, constitutes aid within the meaning of Article 107(1) TFEU.
- (152) Consequently, the conditions of Article 107(1) TFEU are satisfied. It may be inferred, therefore, that the proposed measure constitutes State aid within the meaning of that article. The aid may be regarded as compatible with the internal market only if it falls within any of the derogations laid down in the TFEU.

### **3.2. Compatibility with the internal market pursuant to Article 107(2)(b) TFEU and Article 107(3)(c) TFEU.**

- (153) In this particular case, due to the nature of the measures planned, i.e. compensating for damage and the nature of the causes, the only derogations that may be taken into consideration are the following:
- (a) as regards natural disasters and exceptional occurrences, that laid down in Article 107(2)(b) TFEU, which provides that aid to make good the damage caused by natural disasters or exceptional occurrences is compatible.
  - (b) as regards adverse climatic events which can be assimilated to a natural disaster, that provided for in Article 107(3)(c) TFEU, which provides that aid to facilitate the development of certain economic activities or of certain economic areas may be considered to be compatible with the internal market where such aid does not adversely affect trading conditions to an extent contrary to the common interest.
- (154) For those exceptions to apply, the following provisions must be satisfied:
- (a) as regards the exception set out in Article 107(2)(b) of the Treaty, the relevant provisions on the granting of aid under Section 1.2.1.1 of Part II of the guidelines must be complied with.
  - (b) as regards the exception set out in Article 107(3)(c) of the Treaty, the relevant provisions on the granting of aid under Section 1.2.1.2 of Part II of the guidelines must be complied with.

#### *3.2.1. Compensation for damage caused by natural disasters or exceptional occurrences*

##### *– Common assessment principles*

- (155) According to point 38 of the guidelines, common assessment principles apply to aid granted under Article 107(3) of the Treaty. However, they do not apply to aid

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<sup>7</sup> Judgment in *Philip Morris Holland BV v Commission of the European Communities*, 730/79, EU:C:1980:209.

granted under Article 107(2)(b) of the Treaty, such as where aid is granted for making good the damage caused by natural disasters or other exceptional occurrences, under Section 1.2.1.1 of Part II of the guidelines.

– Undertakings in difficulty

(156) According to point 26 of the guidelines, undertakings in difficulty are in principle excluded from the scope of these guidelines. The same point of the guidelines also provides that this principle does not apply to compensatory aid for damage caused by natural disasters or exceptional occurrences referred to in Section 1.2.1.1 of Part II of the guidelines, which is compatible with the internal market under Article 107(2)(b) of the Treaty.

– Outstanding recovery order

(157) Moreover, according to point 27 of the guidelines, the principle that, when assessing aid granted to an undertaking which is subject to an outstanding recovery order following a previous Commission decision declaring aid illegal and incompatible with the internal market, the Commission will take account of the amount of aid still to be recovered, does not apply to aid to make good the damage caused by natural disasters under Article 107(2)(b) of the Treaty. In any event, according to recital (144), the aid scheme must comply with this general exception in its entirety.

– Environmental objectives

(158) This scheme allows the payment of aid for damages to agriculture caused by natural disasters and adverse climatic events which can be assimilated to a natural disaster. Therefore, this scheme has no negative environmental impact within the meaning of point 52 of the Guidelines.

– Incentive effect of the aid

(159) With regard to the incentive effect of the aid, point 75(d) of the guidelines lays down that aid to make good the damage caused by natural disasters or exceptional occurrences in accordance with Section 1.2.1.1 of Part II is not required to have an incentive effect.

(160) In addition, point 69 of the guidelines states that aid granted under Section 1.2. of Part II of the guidelines should be limited to helping undertakings active in the agricultural and forestry sectors facing various difficulties despite having undertaken reasonable efforts to minimise such risks. The effect of State aid should not be to entice undertakings into taking unnecessary risk. Undertakings active in the agricultural and forestry sectors should themselves bear the consequences of imprudent choices of production methods or products. Recitals (12) and (13) limit the aid on the basis of this framework scheme in such a manner as to fulfil the conditions of point 69 of the guidelines.

– Cumulation

(161) As provided for by recital (141), the aid scheme does not allow the potential cumulation of aid and any other payment granted for compensation of the damage, including payments under insurance contracts, as well as measures under the Rural Development Programme referring to risk management instruments and

*de minimis* aid, to exceed the maximum aid limits laid down in the guidelines. Consequently, it is consistent with points 99, 100, 102 and 104 of the guidelines.

- (162) Moreover, the scheme prohibits aid for investments aimed at the restoration of agricultural production potential, as referred to in point 143(e) of the guidelines, from being cumulated with aid for the repair of material damage referred to in Section 1.2.1. This provision is to be found in recital (142) and is consistent with point 105 of the guidelines.

– Transparency

- (163) With regard to the principle of transparency, points 128, 131 and 132 of the guidelines are relevant in this respect. The conditions in points 128 and 131 of the guidelines are met as laid down in recital (143) above, the Cypriot authorities having undertaken the obligation to post all necessary information on a comprehensive website. The website to be used is that of the Department of Agriculture, i.e. the competent authority. As to the conditions in point 132 of the guidelines, recitals (63) and (135) provide for the submission of all relevant information to the Commission in annual reports.

– Duration

- (164) The scheme will enter into force following its approval by the Commission in accordance with recital (8) above.
- (165) According to point 719 of the guidelines, schemes covering State aid for measures that can also benefit from EAFRD co-financing under Regulation (EU) No 1305/2013 should be limited to the duration of the programming period 2014-2020. Indeed, recital (8) provides that this scheme will be in effect until 31 December 2020.

– Terms laid down in Section 1.2.1.1 of Part II of the guidelines

- (166) This scheme falls within the provision of point 335 of the guidelines, since it is a framework scheme for *ex-ante* approval, which aims to ensure rapid management in case of natural disasters or exceptional occurrences. The following recitals present an assessment of whether its terms are clearly formulated for the scheme to be approved. According to the above point of the guidelines, the Republic of Cyprus has undertaken, as described in recitals (63) and (135) and analysed in the previous recital, the reporting obligation laid down in point 728(b) of the guidelines.
- (167) This scheme relates to aid in the agricultural sector, as demonstrated by recitals (5) and (12)-(17) above. Therefore, it is consistent with point 328 of the guidelines.
- (168) As referred to in point 329 of the guidelines, the concepts ‘natural disaster’ and ‘exceptional occurrence’ referred to in Article 107(2)(b) of the Treaty must be interpreted restrictively. According to point 330 of the guidelines, the Commission has accepted that earthquakes, avalanches, landslides, floods, tornadoes, hurricanes, volcanic eruptions and wildfires of natural origin may constitute natural disasters. Exceptional occurrences which have been accepted in the past 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. The Commission will continue assessing the proposals for the granting of State aid under Article 107(2)(b) of the Treaty on a case-by-case basis, taking into account its past practice in this field. The definitions given by this scheme and described in points 1 and 2 of recital (19) are in accordance with the above.

- (169) Point 331 of the guidelines provides that (a) the competent authority of the Member State must have formally recognised the character of the event as a natural disaster or an exceptional occurrence, and (b) there must be a direct causal link between the natural disaster or the exceptional occurrence and the damage suffered by the undertaking. In compliance with point 331(a) of the guidelines, recital (20) provides that, using all the necessary information, the competent authority has to formally recognise the character of the event as a natural disaster or exceptional occurrence. The recognition procedure is described in detail in recitals (64)-(71). In addition, recital (70) letter (i) provides that the direct link between the natural disaster or exceptional occurrence and the damage caused must be documented, in compliance with point 331(b) of the guidelines. Moreover, indirect damage is excluded from this scheme in accordance with point 7 of recital (19).
- (170) According to point 332 of the guidelines, this scheme establishes in advance criteria on the basis of which the formal recognition referred to in point 331(a) of the guidelines is deemed to have been granted, as referred to in point 1 of recital (21).
- (171) As indicated in recitals (12) and (14)-(17), the scheme provides that aid will be directly granted to beneficiaries in the form of direct grants (recital (7)) in compliance with point 333 of the guidelines.
- (172) According to point 334 of the guidelines, recital (62) lays down that the scheme will cover natural disasters and exceptional occurrences within three years of their occurrence whilst the payment of the aid will take place within four years of occurrence of the event.

#### Eligible costs

- (173) As provided for under point 337 of the guidelines, eligible costs are the costs of the damage incurred as a direct consequence of the natural disaster or the exceptional occurrence, as assessed either by a public authority, by an independent expert recognised by the granting authority, or by an insurance undertaking. Indeed, recitals (67)-(71) describe the role of the public authorities in gathering and assessing all the information which, inter alia, evinces the direct link between the natural disaster or exceptional occurrence and the damage suffered by the agricultural holdings. In addition, competent evaluators authorised by public authorities perform the assessment of the damage in each holding and subsequently draft their findings, in accordance with recitals (84)-(97).
- (174) The types of damage covered by this scheme are described in recital (23) – the cases described in recitals (24) and (25) are exempted from the payment of aid – and are fully consistent with point 338 of the guidelines. The recitals describing the procedure for implementing this programme, and in particular those that refer to the individual damage declarations (recitals (72)-(83)), the assessment of the damage (recitals (84)-(97)) and the inspection of the repair of the damage (recital

(114)), as well as recital (27), demonstrate that the damage will be calculated at the level of the individual beneficiary, as required under point 339 of the guidelines. The calculation of the material damage and the loss of income, as explained in recital (19) point 8, is fully consistent with the provisions of points 340 and 341 of the guidelines. What is more, recital (15) confirms that in cases of beneficiaries only partly engaged in agriculture, this scheme will cover only the part of the holding devoted to agriculture. In addition, recital (114) requires the submission of original proof from each individual, which demonstrates the exact costs of the repair.

- (175) As foreseen in recitals (40) and (42), this amount may be increased by adding other costs incurred by the beneficiary which are attributable to the natural disaster or exceptional occurrence, and will be reduced by any costs not attributable to the natural disaster or exceptional occurrence which would have been incurred by the beneficiary anyway. In addition, any costs not incurred because of the natural disaster or the exceptional occurrence which would otherwise have been incurred by the beneficiary (e.g. non-harvesting of crops) are deducted. Therefore, the scheme is in compliance with point 342 of the guidelines.
- (176) At the same time, as described in recital (22), the indexes used for the calculation of the annual agricultural production of the beneficiaries are grounded in statistical data, whose calculation method is in accordance with EU legislation, and are also used in the Rural Development Programme 2014-2020 of Cyprus. They are therefore consistent with point 343 of the guidelines.

#### Aid intensity

- (177) In full compliance with point 345 of the guidelines, this scheme lays down that the aid intensity will not exceed 100% of the eligible costs, including payments under insurance contracts, as laid down in recitals (26)-(42).

#### *3.2.2. Compensation for damage caused by adverse climatic events which can be assimilated to natural disasters*

##### – Common assessment principles

- (178) In accordance with points 38 and 346 of the guidelines, the common assessment principles are applicable to aid granted under Article 107(3)(c) TFEU.

##### – Undertakings in difficulty

- (179) In accordance with point 26 of the guidelines, undertakings in difficulty are in principle excluded from the scope of these guidelines. Inter alia, this principle does not apply in cases of undertakings active in the agricultural sector which experience financial difficulties caused by adverse climatic events which can be assimilated to natural disasters. Recital (145) in principle excludes undertakings in difficulty from the scope of this framework for damage caused by adverse climatic events. This exception does not apply to compensatory aid for damage caused by adverse climatic events, if the financial difficulties experienced by an undertaking active in primary agricultural production are caused by the adverse climatic events. Thus, the scheme is in compliance with the provisions of the guidelines regarding undertakings in difficulty.

– Outstanding recovery order

(180) The Commission takes note of the fact that the scheme excludes undertakings which are subject to a recovery order for aid that was declared incompatible, as mentioned in recital (14). Moreover, the Cypriot authorities undertook an express relevant commitment in recital (144) above, according to point 27 of the guidelines. Therefore, the scheme is in line with the Deggendorf jurisprudence.<sup>8</sup>

– Contribution to a common objective

(181) The notified aid scheme contributes to a common objective in accordance with point 48 of the guidelines. There it is stated that the Commission considers that the principle of contribution to the objectives of rural development is met regarding aid measures in Section 1.2 of Part II of the guidelines.

– Environmental objectives

(182) In line with the observations in recital (158), this scheme is in compliance with point 52 of the guidelines.

– Need for State intervention

(183) In falling under Part II of the guidelines, the notified aid scheme fulfils the principles regarding the need for State intervention in accordance with point 55 of the guidelines, the appropriateness of aid in accordance with point 57 and the avoidance of effects on competition and trade in accordance with point 113.

– Appropriateness of aid

(184) Point 57 of the guidelines states that aid granted in the agricultural sector which fulfils the specific conditions laid down in the relevant Section of Part II of the guidelines is an appropriate policy instrument. In addition, point 60 of the guidelines provides that where a specific form is foreseen for an aid measure described in Part II of the guidelines, such form is considered as an appropriate aid instrument for the purpose of State aid law. The above conditions are fulfilled in this scheme, as analysed in recitals (192)-(196) below.

– Incentive effect of the aid

(185) Point 75(e) of the guidelines states that aid to compensate for the damage caused by adverse climatic events which can be assimilated to a natural disaster in accordance with Section 1.2.1.2 of Part II is not required to have an incentive effect.

(186) Moreover, the observations made in recital (160) regarding helping undertakings active in the agricultural sector facing various difficulties despite having undertaken reasonable efforts to minimise such risks are also applicable to aid for damage caused by adverse climatic events which can be assimilated to a natural disaster.

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<sup>8</sup> Judgment in *Textilwerke Deggendorf v Commission of the European Communities*, T-244/93 and 486/93, EU:T:1995:160, paragraphs 51-60.

– Proportionality of the aid

(187) As analysed in recital (195) below, aid under this scheme cannot exceed the eligible costs, whilst it does not exceed the maximum aid intensity set out in Section 1.2.1.2 of Part II of the guidelines. The maximum aid intensity and the amount of aid are calculated by the granting authority at the time of the granting of the aid. Therefore, the scheme is in compliance with points 82, 84 and 85 of the guidelines. Thereby the principle of proportionality is met.

– Cumulation

(188) The observations and conclusions in recitals (161)-(162) apply. According to them the scheme complies with the cumulation requirements.

– Avoidance of undue negative effects on competition and trade

(189) Point 113 of the guidelines states that, due to its positive effects on the development of the sector, the Commission considers that where aid fulfils the conditions and does not exceed the relevant maximum aid intensities laid down in the relevant Section 1.2.1.2 of Part II of the Guidelines, the negative effect on competition and trade is limited to the minimum. As analysed in recitals (192)-(196) this scheme fulfils the above conditions. Thus, it does not cause undue negative effects on competition and trade.

– Transparency

(190) The transparency requirements are also fulfilled in accordance with recital (163).

– Duration

(191) Pursuant to the analysis in recitals (164)-(165), the scheme complies with the relevant requirements.

– Terms laid down in Section 1.2.1.2 of Part II of the guidelines

(192) To the extent that the conditions laid down in Section 1.2.1.2 of Part II of the guidelines are the same as those in Section 1.2.1.1 of Part II of the guidelines, compliance of the scheme with them has been analysed and confirmed in recitals (166)-(176). This analysis is applicable mutatis mutandis to aid for damage caused by adverse climatic events which can be assimilated to a natural disaster. Therefore, the provisions in points 348-356 and 358-360 will not be examined here again.

(193) Point 3 of recital (19) lists the adverse climatic events which can be assimilated to a natural disaster in this scheme. The adverse climatic events contained therein are in accordance with the definition in point 35 (34) of the guidelines, to which point 347 of the guidelines refers. In addition, only those active in primary agricultural production can receive aid in cases of damage caused by these climatic events, as provided for in recital (14). This limitation is compatible with the corresponding one in point 347 of the guidelines.

(194) Point 357 of the guidelines requires that where the reduction of the beneficiary's income referred to in point (354)(b) is calculated on the basis of crop or livestock level, only the material damage related to that crop or livestock should be taken

into account. The scheme complies with this in point 7 of recital (19), which limits the calculation of the damage to crops or animals in a holding to those belonging to the same species or to a group of similar species in terms of plant or animal production, or to all similar facilities in a holding in terms of fixed assets. In addition, this calculation method is confirmed on a number of occasions in the scheme. With regard to plant production this is repeated in point 2 of recital (21) and in recital (47). With regard to animal production, references to the same effect are made again in point 2 of recital (21) and in recital (50). Lastly, recital (121) relies on the same calculation method, namely that of loss of production on each specific crop, in order to determine the obligation to recover aid in case of damage that falls below the 30% threshold of normal production.

- (195) As stated in recitals (43)-(59), the aid scheme provides for a maximum aid intensity of 80% of the eligible costs. Thus, in combination with the provisions of the scheme on cumulation, it is compatible with point 362 of the guidelines, which limits the maximum aid intensity to 80% of the eligible costs.
- (196) It is apparent from the combination of recitals (43), (44) and (45) with recital (46) that the scheme is in compliance with the provision in point 363 of the guidelines, which states that aid granted under Section 1.2.1.2 of Part II of the guidelines must be reduced by 50% unless it is given to beneficiaries who have 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 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. Indeed, recital (43) provides for a maximum aid intensity of 40% (i.e. half of 80%) of the damage assessed unless there was no affordable insurance covering the statistically most frequent climatic risks is available at the time the damage occurred or the aid is granted to beneficiaries who have taken out insurance covering at least 50% of their average annual production or production-related income and the statistically most frequent climatic risks. In these cases the maximum aid intensity foreseen is 60%. As to recitals (44) and (45), they provide for even lower percentages of the maximum aid intensity, unless the aid is given to beneficiaries who have taken out insurance covering in accordance with the provisions of point 363 of the guidelines. In this case, in accordance with recital (46), the maximum aid intensity must not exceed 80% of the eligible costs.

#### **4. CONCLUSION**

The Commission has therefore decided not to raise objections to the notified aid on the grounds that it is compatible with the internal market in accordance with Article 107(2)(b) and 107(3)(c) TFEU.

If any parts of this letter are covered by the obligation of professional secrecy according to the Commission communication on professional secrecy in State aid decisions<sup>9</sup> and should not be published, please inform the Commission within fifteen working days of

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<sup>9</sup> Commission communication C(2003) 4582 of 1 December 2003 on professional secrecy in State aid decisions, OJ C 297, 9.12.2003, p. 6.



notification of this letter. If the Commission does not receive a reasoned request by that deadline, Cyprus will be deemed to agree to the publication of the full text of this letter. If Cyprus 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 794/2004,<sup>10</sup> to the following address: [agri-state-aids-notifications@ec.europa.eu](mailto:agri-state-aids-notifications@ec.europa.eu).

For the Commission

Phil HOGAN  
Member of the Commission

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<sup>10</sup> Commission Regulation (EC) No 794/2004 of 21 April 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.