Subject: State aid – United Kingdom (Northern Ireland) SA.53381 (2019/N) Northern Ireland Agri-Food Investment Scheme (AFIS)

Sir,

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

The Commission has based its decision on the following considerations:

1. Procedure

(1) By letter of 29 June 2019, registered by the Commission on the same day, the United Kingdom notified, in accordance with Article 108(3) TFEU, the above mentioned aid scheme. The scheme was previously pre-notified on 1 February 2019. The Commission sent requests for additional information to the authorities of the UK on 11 March, 3 May and 24 July 2019, which the UK authorities answered by letter of 15 April, 7 June and 30 August 2019, registered by the Commission on the same dates.

2. Description

2.1. Title

(2) Northern Ireland Agri-Food Investment Scheme (AFIS).

2.2. Objective

The Rt Hon Dominic RAAB MP
Secretary of State for Foreign and Commonwealth Affairs
King Charles Street
London SW1A 2AH
UNITED KINGDOM
(3) With the present notification, the UK wishes to improve the economic performance and competitiveness of Northern Ireland’s agri-food sector through financial assistance for capital investment in equipment and buildings.

2.3. Legal basis

(4) The notified aid scheme has the following legal bases:
- the Industrial Development (Northern Ireland) Order 1982;
- the Industrial Development (Northern Ireland) Act 2002;
- the European Communities Act 1972;
- the Northern Ireland Act 1998 (Article 24);
- the Northern Ireland Agri-Food Investment Scheme.

2.4. Duration

(5) The scheme will run from the date of the Commission decision until 31 December 2020.

(6) On 29 March 2017, the United Kingdom submitted the notification of its intention to withdraw from the Union, pursuant to Article 50 of the Treaty on European Union (TEU). In accordance with Article 50(3) TEU, the Treaties are to cease to apply to the withdrawing State from the date of entry into force of a withdrawal agreement or, failing that, two years after the notification, unless the European Council, in agreement with the Member State concerned, unanimously decides to extend this period. The period has been extended three times, last time by European Council Decision (EU) 2019/1810, which extended it until 31 January 2020.

On 11 January 2019, by Decision (EU) 2019/274, the Council authorised the signature of the Withdrawal Agreement agreed at negotiators’ level on 14 November 2018. On 17 October 2019, the European Council endorsed the revised Withdrawal Agreement agreed at negotiators’ level. On 21 October 2019, the Council, on a proposal from the Commission, amended Decision (EU) 2019/274 so as to authorise the signature of the revised Withdrawal Agreement. The Union re-
confirmed that it stands ready to proceed swiftly with its signature and conclusion in the event the United Kingdom Parliament approves the Withdrawal Agreement. Part Four of the Withdrawal Agreement provides for a transition period starting on the date of entry into force of the Agreement, during which Union law is to continue to apply to and in the United Kingdom as laid down therein\(^6\).

In any event, this Decision applies only as long as Union law applies to and in the United Kingdom.

2.5. **Budget**

(7) The maximum budget is GBP 50 million (~EUR 56.3 million), allocated from the general budget of the State or, from the regional or local budget. The annual budget is GBP 25 million (~EUR 28.15 million).

2.6. **Beneficiaries**

(8) Large enterprises active in the processing of agricultural products in rural areas of Northern Ireland.

(9) The number of beneficiaries is estimated to be around 10.

(10) The UK authorities have committed to suspend the payment of the aid for any undertaking that has benefited from earlier unlawful aid declared incompatible by a Commission Decision (either as an individual aid or an aid under an aid scheme being declared incompatible), until that undertaking has reimbursed or paid into a blocked account the total amount of unlawful and incompatible aid and the corresponding recovery interest.

2.7. **Description of the aid scheme**

(11) The granting authority is Invest Northern Ireland (Invest NI), the lead economic development agency for Northern Ireland. Invest NI is a non-departmental public body (NDPB) of the Department of Economy (DIE) working with approximately 2,000 companies on a one-to-one relationship. Collectively, these companies employ over 100,000 people and deliver circa GBP 16 billion (~EUR 18 billion) annually of sales outside Northern Ireland. The agri-food sector is a priority for Invest NI over the period 2017 – 2021 of its Business Strategy.

(12) The Northern Ireland Agri-Food Investment Scheme (AFIS) will seek to improve the economic performance and competitiveness of Northern Ireland’s agri-food sector through financial assistance for capital investment in equipment and buildings. The main aims of AFIS are to:

- support businesses to improve their efficiency;
- improve competitiveness of the sector;

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\(^6\) It should be noted that, beyond Part Four, most provisions of the Withdrawal Agreement make specific rules of Union law applicable to and in the United Kingdom after the end of the transition period.
• support capacity building, growth, innovation and new product development and add value to local agricultural products.

(13) Once the scheme approved, Invest NI’s Food Sector Team will promote AFIS directly to the large agri-food processors within its portfolio of companies.

(14) AFIS supports the objectives of aid in the agricultural and forestry sectors and in rural areas, namely to ensure viable food production and to promote the efficient and sustainable use of resources in order to achieve intelligent and sustainable growth.

(15) AFIS will contribute to the rural development objective of fostering the competitiveness of agriculture and achieving a balanced territorial development of rural economies and communities including the creation and maintenance of employment. The scheme will pursue the Union priority for rural development of promoting food chain organisation, including the processing of agricultural products.

(16) The UK authorities have confirmed that support under the scheme will only be available to large enterprises active in the processing of agricultural products listed in Annex I TFEU (“Annex I products”) into Annex I products (with the exception of fish products) in rural areas of Northern Ireland.

(17) Northern Ireland's Rural Development Programme 2014 – 2020 was formally approved by the European Commission on 25th August 2015. The Programme included provision for an Agri-food Processing Investment Scheme (AfPIS) to replace the EU Processing & Marketing Grant Scheme (PMG) previously operated by Northern Ireland’s Department of Agriculture and Rural Development. AfPIS sought to improve the economic performance and competitiveness of the agri-food sector through financial assistance for capital investment in equipment and buildings.

(18) The evaluation of the PMG scheme recommended that consideration be given to including large companies in the successor 2014 – 2020 programme.

(19) Although some elements of the 2014 - 2020 Rural Development Programme have commenced, the collapse of Northern Ireland’s Executive has meant that the AfPIS element of the programme did not secure its final approval from Northern Ireland’s Department of Agriculture, Environment and Rural Affairs (DAERA).

(20) At the time it was seeking approval, the Rural Development Programme’s AfPIS scheme included SMEs only. Even if it were to be revised to include large companies, the absence of Government Minister in Northern Ireland meant that there were no means of supporting large processing companies’ investment projects.

(21) The notified State aid scheme therefore complements the elements of the Rural Development Programme that are currently running in Northern Ireland without duplicating existing measures, which are currently used to support SME’s.

(22) The UK authorities have explained that, as capital grant funding for large companies engaged in agricultural processing in Northern Ireland is not provided for under Northern Ireland’s Rural Development Programme, Northern Ireland is
at a disadvantage compared to other regions and a State aid measure as outlined is considered an appropriate instrument.

(23) Large agri-food processors in Northern Ireland regularly compete across their corporate entities for group funds, which could be allocated to projects anywhere across the group’s establishments. Frequently, these companies can access aid for the projects under consideration in, for example, other regions of the UK. Thus, projects, with their associated economic benefits, which could take place in Northern Ireland are at risk of being lost to other regions, weakening Northern Ireland’s agri-food industry and negatively its economy.

(24) In this context, sourcing of finance is being done at multiple levels and the ability of a regional/geographically independent establishment to secure State funds for an investment project is a key area in which influence can be exercised within an individual corporation’s capital planning process.

(25) Agri-food processing is carried out in a wide geographic spread of locations in Northern Ireland and as such is a vital component of Northern Ireland’s rural economy. Mobility of corporate funds is becoming increasingly evident with changes in ownership of some of Northern Ireland’s larger food businesses. The mobility of funds in the group is a very clear consideration in relation to agri-food processing investment projects.

(26) Invest NI therefore considers that the proposed scheme can bring forward a material improvement that the market cannot deliver on its own.

(27) The aid will be granted in the form of direct grants. The UK authorities have justified this choice by the fact that if aid does not take the form of a grant, Northern Ireland companies will not invest and would increasingly be at a competitive disadvantage to their UK counterparts and competitors. Moreover, a number of large Northern Ireland companies are part of group structures, which include other UK sites. In the event that an investment is to be subject of a ‘bidding’ process within the group, a less attractive aid package could also lead to competitive disadvantage.

(28) At the same time, the potential use of a less distortive form of aid was considered. However, Northern Ireland’s Food and Drinks Processing Sector achieves relatively low margins with the average net profit as a percentage of sales estimated at 4% in 2016. As a consequence, there is little enthusiasm among the processors to take on additional debt, the repayment of which would increase pressures on working capital with interest costs further eroding operating margins. On the other hand, the potential use of direct grant aid, as opposed to other aid measures, will also incentivise Northern Ireland companies to implement investment programmes to maintain and enhance their competitiveness. Favourable aid terms will be a crucial incentive to undertake an investment project rather than simply reflect on commencing one.

(29) The eligible costs will be limited to:

(a) the construction, acquisition, including leasing, or improvement of immovable property, with land purchased only being eligible to an extent not exceeding 10% of total eligible costs of the operation concerned;
(b) the purchase or lease purchase of machinery and equipment up to the market value of the asset;

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

(d) the acquisition or development of computer software and the acquisition of patents, licences, copyrights and trademarks.

The aid amount will not exceed the eligible costs.

(30) The following costs will not be eligible:

(a) costs, other than those referred to point 169 of the Guidelines connected with leasing contracts, such as lessor's margin, interest refinancing costs, overheads and insurance charges;

(b) working capital;

(c) costs related to investments to comply with Union standards in force.

(31) The UK authorities confirmed that the investments at which the aid is aimed cannot have as effect an increase in production beyond restrictions or exceed limitations on Union support.

(32) In the light of Northern Ireland’s GDP per capita and consequent regional aid 107 3(c) status, the maximum aid intensity under the Guidelines cannot exceed 40%. In practice, Invest NI expects that support will not routinely exceed 20%.

(33) The scheme will not grant aid for food-based biofuels.

(34) The UK authorities have confirmed that value added tax (VAT) is not eligible for support unless it is not recoverable under UK VAT legislation.

(35) The eligible costs will be supported by documentary evidence, which will be clear, specific and contemporary. For the purposes of calculating the aid intensity and the eligible costs, all figures used will be taken before any deduction of tax or other charge.

(36) Aid is generally payable against eligible vouched expenditure as set out in the beneficiary’s business plan. If appropriate, aid payable in several instalments will be discounted to its value at the moment of granting. Eligible costs will also be discounted to their value at the moment of granting. The interest rate to be used for discounting purposes is the discount rate applicable on the date of granting the aid.

(37) The UK authorities have given assurances that applications for aid will be subject to the standard criteria of commercial viability, incentive effect, economic efficiency and overall value for money.

(38) Invest NI will ensure that the aid amount is limited to the minimum on the basis of the net-extra cost approach. As such, the aid amount will not exceed the
minimum necessary to render the project sufficiently profitable, for example, it should not lead to an increase of its IRR beyond the normal rates of return applied by the undertaking concerned in other investment projects of a similar nature or, if these rates are not available, to an increase of its IRR beyond the cost of capital of the undertaking as a whole or beyond the rates of return commonly observed in the sector concerned.

(39) The UK authorities have confirmed that the eligible costs per individual investment project under the notified scheme will not exceed EUR 25 million euro.

(40) The assisted investment project will respect both the European Union legislation and the national legislation with regard to environmental protection. Invest NI will ensure that the commercial and economic appraisal process for each project considers the need for an independent environmental impact assessment in line with The Environmental Assessment of Plans and Programmes Regulations (Northern Ireland) 2004. To that end, Invest NI will make contact with the Northern Ireland’s Department of Agriculture, Environment and Rural Affairs (DAERA) in order to ensure that the relevant information is provided by companies as part of their application to AFIS. If necessary, any assessment will be conducted independently from Invest NI and the outcome of the assessment will be considered as part of the overall project approval process.

(41) The UK authorities have also indicated that the payment of financial assistance to projects that require planning permission will be contractually conditional on the beneficiary securing all necessary permissions. This includes completion of an Environmental Impact Assessment if required under the Planning (Environmental Impact Assessment) Regulations (Northern Ireland) 2012 (the "EIA Regulations") which reflects the various EU Directives on the assessment of the effects of public and private projects on the environment.

(42) The UK authorities have also explained that the contractual agreement under which investment projects will receive support through Invest NI will contain a standard clause by which the aid beneficiary undertakes to carry out an environmental impact assessment in relation to all aspects of a project that might negatively affect the environment. At the same time, the beneficiary must use all reasonable endeavours to adopt and implement an environmental policy in relation to all aspects of the investment project.

(43) The UK authorities confirmed that aid will not be provided to undertakings if work on the relevant investment project has already started prior to Invest NI receiving an application for aid. The application will include at least the applicant's name and the size of the undertaking, a description of the project or activity, including its location and start and end dates, the amount of aid needed to carry it out and the eligible costs.

(44) The UK authorities have also confirmed that the beneficiaries of the scheme must describe in the application the situation without the aid i.e. the counterfactual scenario and submit documentary evidence in support of the counterfactual described in the application. Invest NI will carry out a credibility check of the counterfactual and confirm, as part of its commercial and economic appraisal process, that the aid has the required incentive effect.
(45) The UK authorities explained that the level of beneficiaries’ profitability will be evaluated by reference to methodologies, which are standard practice in the sector concerned and may include methods to evaluate the net present value of the project (NPV), the internal rate of return (IRR) or the average return on capital employed (ROCE).

(46) The profitability of the project will be compared with normal rates of return applied by the undertaking in other investment projects of a similar kind. Where these rates are not available, the profitability of the project will be compared with the cost of capital of the undertaking as a whole or with the rates of return commonly observed in the sector.

**Cumulation of aid**

(47) As a general rule, financial assistance provided under AFIS will not be granted alongside aid under other schemes. However, should such circumstances arise, aid can be granted concurrently or cumulated with ad hoc aid, provided that the total amount of State aid does not exceed the aid intensity of 40%.

(48) Aid awarded under AFIS will not be cumulated with any *de minimis aid* in respect of the same eligible costs if such cumulation would result in an aid intensity or aid amount exceeding the aid intensity of 40%.

**Avoidance of undue negative effects on competition and trade**

(49) Invest NI works in partnership with fewer than 20 large Annex 1 to Annex 1 processors out of which it is expected that only 75% will present a project for assistance. Furthermore, it is likely that approximately 67% of the projects presented will receive a pass score. As such, the UK authorities estimate the number of projects to be assisted to be of approximately 10. Should more companies come forward or be successful, Invest NI believes that the total number of recipients will remain at the lower end of the 11 to 50 range. The support per project will be of around £5 million (approximately 5.63 million euro). At the same time, the size of Northern Ireland’s agri-food sector (est. £4.4 billion ~ 5 billion euro per annum), in comparison to the EU as a whole (£980 billion ~ 1103 billion euro), which would allow that any negative effects on the competition and trade will be limited to a minimum as provided for in point 116 of the Guidelines.

**Other commitments**

(50) Aid will not be granted to undertakings in difficulty, within the meaning of the definition stipulated in point 35 (15) of the European Union Guidelines for State Aid in the agricultural and forestry sectors and in rural areas 2014 to 2020⁷ (hereinafter “the Guidelines”).

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The UK authorities have informed the Commission that, in order to comply with the transparency requirement, the publication of the aid scheme and the individual aid awards above EUR 500 000 will be done through the following web pages: www.investni.com and https://www.economy-ni.gov.uk/articles/list-ni-state-aid-decisions. The UK committed that the information will be kept for at least 10 years and will be available for the general public without restrictions.

3. ASSESSMENT

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

According to Article 107(1) of the Treaty, "[s]ave as otherwise provided in the Treaties, any aid granted by a Member State or through State resources in any form whatsoever which distorts or threatens to distort competition by favouring certain undertakings or the production of certain goods shall, in so far as it affects trade between Member States, be incompatible with the internal market".

The qualification of a scheme as aid within the meaning of this provision therefore requires the following cumulative conditions to be met: (i) the scheme must be imputable to the State or, financed through State resources; (ii) it must confer an advantage on its recipient; (iii) that advantage must be selective; and (iv) the scheme must distort or threaten to distort competition and affect trade between Member States.

The scheme is imputable to the State and financed through State resources (see recital 7 and 11).

The scheme in question confers an advantage on its recipients. This advantage is granted through State resources referred to in recital 7. The notified scheme is selective because it is directed towards large enterprises who are active in the processing of Annex I to Annex I agricultural products. Other enterprises in a comparable legal and factual situation, in the light of the objectives pursued by the scheme, within the sector of processing of agricultural products or other sectors, will not be eligible for aid and thus will not receive the same advantage. The notified scheme therefore gives only certain large enterprises (see recital 8) a comparative economic advantage, by strengthening their position on the market. According to the case law of the Court of Justice, the mere fact that the competitive position of an undertaking is strengthened compared to other competing undertakings, by giving it an economic benefit, which it would not otherwise have received in the normal course of its business, points to a possible distortion of competition.⁸

In accordance with the case-law of the Court of Justice, aid to an undertaking appears to affect trade between Member States where that undertaking operates in a market open to intra-EU trade.⁹ The beneficiaries of aid are large agri-food

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⁹ See in particular the judgment of the Court of Justice of 13 July 1988 in Case C-102/87, French Republic v Commission of the European Communities, ECLI:EU:C:1988:391.
companies in Northern Ireland who operate mainly in the meat, fresh products and dairy sectors where intra-EU trade takes place. These sectors are open to competition at EU level and therefore sensitive to any measure in favour of the production in one or more Member States. Therefore, the present scheme is liable to distort competition and to affect trade between Member States.

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

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

(58) The aid scheme was notified on 29 June 2019. It has not been implemented yet. Therefore, the United Kingdom has complied with its obligation under Article 108(3) TFEU.

3.3. Compatibility of the aid

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

(59) Under Article 107(3)(c), an aid may be considered compatible with the internal market, if it is found to facilitate the development of certain economic activities or of certain economic areas, where such aid does not adversely affect trading conditions to an extent contrary to the common interest.

(60) For this derogation to be applicable, the aid must comply with the relevant Union State aid rules.

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

(61) According to point 165 of the Guidelines, The Commission will consider aid for investments in connection with the processing of agricultural products and the marketing of agricultural products compatible with the internal market under Article 107(3)(c) of the Treaty if it complies with the common assessment principles of the Guidelines, the general condition for investment aid set out in point (134) and with the conditions in Section 1.1.1.4 of the Guidelines.

(62) As regards the notified measure, the provisions of Part II, Section 1.1.1.4 of the Guidelines “Aid for investment in connection with the processing of agricultural products and the marketing of agricultural products” are applicable.

(63) According to point 134 of the Guidelines, all aid for investment under Sections 1.1.1.1, 1.1.1.2, 1.1.1.3. and 1.1.1.4. of Part II of these Guidelines must comply with the following condition: where a common market organisation, including direct support schemes, financed by the European Agricultural Guarantee Fund (EAGF) places restrictions on the production or limitations on Union support at the level of individual undertakings, holdings or processing plants, no investment which would increase production beyond those restrictions or limitations may receive State aid support. The UK authorities have confirmed that the investments at which the aid is aimed cannot have as effect an increase in production beyond
restrictions or exceed limitations on Union support for those sectors for which the common market organisation imposes such restrictions and limitations (see recital 31).

3.3.2.1 Common Assessment Principles

(64) According to points 38 of the Guidelines, the common assessment principles apply to aid granted in accordance with Article 107(3)(c) TFEU.

(65) The present aid scheme is conform to the common assessment principles of the Guidelines taking into account the following elements:

**Contribution to a common objective**

(66) According to point 43 of the Guidelines, the objectives of aid in the agriculture and forestry sectors and in rural areas are to ensure viable food production and to promote the efficient and sustainable use of resources in order to achieve intelligent and sustainable growth. The notified scheme aims at improving the economic performance and competitiveness of Northern Irish large agri-food enterprises through financial assistance for capital investment in equipment and buildings (see recital 3 and 12). It therefore complies with point 43 of the Guidelines.

(67) The notified scheme is consistent with the rural development objectives (see recital 15) and therefore satisfies the condition of point 44 of the Guidelines.

(68) *Rural development objectives:* The notified scheme concerns rural development like measures financed exclusively from national funds, therefore, in accordance with point 47 of the Guidelines, the Member State should demonstrate how the state aid scheme under consideration fits into and is consistent with the relevant rural development programme. The UK authorities have explained that the proposed national aid instrument complements the elements of the rural development programme that is currently running in Northern Ireland by being specifically addressed to large enterprises active in the processing of agricultural products (see recital 21).

(69) *Environmental objectives:* Point 52 of the Guidelines requires state aid cases with an environmental impact to provide information demonstrating that the supported measures will not result in an infringement of applicable Union environmental legislation. The UK authorities have given assurances that in the process of evaluation of each project the need for an independent environmental impact assessment will be considered (see recital 40). Furthermore, payments under the scheme will be conditional on the beneficiaries obtaining all the necessary planning permissions, including environmental ones (see recital 41), while contracts will contain a standard clause by which beneficiaries undertake to carry out an environmental impact assessment in relation to all aspects of a project that might negatively affect the environment (see recital 42). The Commission therefore considers that the requirements related to the environmental objectives as defined in point 52 of the Guidelines are observed.

**Need for state intervention**
As described in recital 26, the proposed scheme can bring forward a material improvement that the market cannot deliver on its own. Therefore, the Commission considers that the provisions of point 53 of the Guidelines are fulfilled.

As explained in recitals 23 and 24, the current state aid scheme will help correcting market failures and thus contribute to the efficient functioning of the market and the enhancement of competitiveness. Therefore, the provisions of point 54 of the Guidelines are fulfilled.

As provided for in point 55 of the Guidelines, the Commission considers that the market is not delivering the expected objectives without State intervention concerning the aid measures fulfilling the specific conditions laid down in Part II of the Guidelines. The aid scheme fulfils the specific conditions laid down in Section 1.1.1.4 of Part II of the Guidelines (recital 90). Therefore, in line with point 55 of the Guidelines, the Commission considers that there is a need for State intervention.

**Appropriateness of aid**

Since the notified scheme fulfils the specific conditions laid down in Section 1.1.1.4 of Part II of the Guidelines, the Commission considers in line with points 56 to 57 of the Guidelines that the aid is granted by means of an appropriate instrument to address an objective of common interest.

**Appropriateness among alternative policy instruments:** According to point 58 of the Guidelines, if a Member State decides to put in place a rural development like measure financed exclusively from national fund, when at the same time the same measure is provided for in the rural development programme, the Member State should demonstrate the advantages of such a national aid instrument compared to the rural development programme measure at stake. The UK authorities explained that capital grant funding for large companies engaged in agricultural processing in Northern Ireland is not provided for under Northern Ireland’s Rural Development Programme, as this has prioritised support to SMEs (recital 21). Hence, the Commission considers that the provisions of point 58 are fulfilled.

**Appropriateness among different aid instruments:** According to point 62 of the Guidelines, as regards investment aid not covered by Regulation (EU) No 1305/2013 as part of the rural development programme or as additional financing for such a rural development measure, where the aid is granted in forms that provide a direct pecuniary advantage (for example, direct grants, exemptions or reductions in taxes, social security or other compulsory charges, etc.), the Member State must demonstrate why other potentially less distortive forms of aid such as repayable advances or forms of aid that are based on debt or equity instruments (for example, low-interest loans or interest rebates, State guarantees

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or an alternative provision of capital on favourable terms) are less appropriate. The UK authorities have explained that the direct grant is considered to be the most appropriate form of aid in this case as it is the only form of aid that would create an incentive effect as far as investment programmes for large agri-food companies are concerned (see recitals 27 and 28). Therefore, the Commission considers that point 62 of the Guidelines is complied with.

**Incentive effect and need for aid**

(76) As indicated in recital 43, the conditions of Points 70 and 71 of the Guidelines are fulfilled. Moreover, as indicated in recital 44, the provisions of Points 72 and 73 of the Guidelines are complied with. The Commission therefore considers that the aid under the scheme has an incentive effect and that provisions of Section 3.4 of Chapter III the Guidelines are fulfilled.

**Proportionality of aid**

(77) As described in recital 29, the aid amount will not exceed the eligible costs, whereas the eligible costs are calculated accurately and the maximum aid intensities laid down in Section 1.1.1.4 of Part II of the Guidelines are respected (see recital 88). The Commission observes that the provisions of points 82 and 84 of the Guidelines are therefore respected. Furthermore, as also indicated in recitals 47 and 48 above, the current aid scheme does not allow for cumulating the aid with any other aid to cover the same eligible costs if such cumulation would result in an aid intensity or aid amount exceeding those laid down in the Guidelines. Thus, it is in line with points 84, 99 and 100 of the Guidelines and with the principle of proportionality of aid.

(78) The aid intensity and aid amount are calculated by the granting authority in line with point 85 of the Guidelines (see recital 35).

(79) The VAT will not be eligible for aid unless it is not recoverable (see recital 34) and aid payable in instalments will be discounted to its value at the moment of granting the aid (see recital 37). As such, the Commission remarks that the provisions of points 86 and 88 of the Guidelines are fulfilled.

(80) The UK authorities have moreover confirmed that the current aid scheme will respect the additional requirements applicable to investment aid for large enterprises as defined in points 96 and 97 of the Guidelines. More precisely they confirmed that the amount of aid will be limited to the minimum necessary to render the project sufficiently profitable based on a net extra-cost approach (see recital 38) and that individual aid will not exceed the threshold for individual notifiable aid of 25 million euros (recital 39).

**Avoidance of undue negative effects on competition and trade**

(81) Aid granted under the present aid scheme fulfils the requirements and does not exceed the relevant maximum intensities as indicated in Section 1.1.1.4 of Part II of the Guidelines (see recital 90). As such, in accordance with point 113 of the
Guidelines, the Commission considers that the negative effects on competition and trade are limited to a minimum.

(82) The UK authorities have also showed that the provisions of points 114 to 116 of the Guidelines, applicable to investment aid for undertakings active in the processing and marketing of agricultural products are respected. In particular, the UK authorities proved that the current aid scheme will not generate a significant distortion of competition or trade and that it will not result either in over-production nor in generating more market power or in maintaining or increasing this power for certain beneficiaries (see recital 63). Even more, as indicated by the UK authorities, the number of potential beneficiaries will remain at the lower end of 11 to 50 range while the size of Northern Ireland agri-food sector in comparison to the EU is very small (see recital 49). The Commission is therefore of the opinion that the negative effects on competition and trade are limited to a minimum.

**Transparency of aid**

(83) The conditions related to transparency are fulfilled (see recital 51).

3.3.2.2 Specific assessment according to the category of aid (Part II, Section 1.1.1.4)

(84) As requested under point 166 of the Guidelines, the UK authorities have confirmed that no aid for food based biofuels will be granted under the current scheme (see recital 33). Therefore, the Commission considers that the provisions of point 166 are fulfilled.

(85) As requested under point 167 of the Guidelines, the UK authorities have confirmed that the scheme will support investments in tangible and intangible assets in connection with the processing of agricultural products (see recital 12). Therefore, the Commission considers that the provisions of point 167 of the Guidelines are fulfilled.

(86) As far as eligible costs mentioned in recital 29 are concerned, the Commission observes that these are covered in point 169(a) to (d) of the Guidelines. The Commission therefore considers that point 169 of the Guidelines is complied with.

(87) The UK authorities have confirmed that the costs mentioned in point 170 of the Guidelines are not eligible (see recital 30). The Commission therefore considers that point 170 of the Guidelines is complied with.

(88) As far as aid intensities are concerned, the maximum limits described in recital 32 do not exceed the maximum aid intensity provided for in point 171(d) of the Guidelines. Subsequently, point 171 of the Guidelines is complied with.

(89) No individual aid that would exceed the notification thresholds set out in point 37(a) of the Guidelines will be granted under the notified scheme (see recital 39). Therefore, the provisions of point 173 of the Guidelines are fulfilled.

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In light of the above, the Commission notes that scheme fulfils the criteria of Section 1.1.1.4 of the Guidelines.

The Commission notes that in compliance with point 26 of the Guidelines, aid will not be granted to undertakings in difficulty (see recital 50).

Pursuant to point 719 of the Guidelines, the Commission only authorizes schemes of limited duration. Aid schemes other than those benefiting from co-financing under Regulation (EU) No 1305/2013 and its implementing regulation should not apply for more than seven years. It follows from recital 5 that this requirement is met.

In line with the foregoing, the Commission therefore concludes that the relevant provisions of the Guidelines are complied with.

CONCLUSION

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

If any parts of this letter are covered by the obligation of professional secrecy according to the Commission communication on professional secrecy in State aid decisions\textsuperscript{11} and should not be published, please inform the Commission within fifteen working days of notification of this letter. If the Commission does not receive a reasoned request by that deadline, the United Kingdom will be deemed to agree to the publication of the full text of this letter. If the United Kingdom 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\textsuperscript{12}, to the following address: agri-state-aids-notifications@ec.europa.eu.

For the Commission

Phil HOGAN  
Member of the Commission

\textbf{CERTIFIED COPY}\n
For the Secretary-General,  

\textbf{Jordi AYET PUIGARNAU}\n
Director of the Registry\n
EUROPEAN COMMISSION