

INCEPTION IMPACT ASSESSMENT

Inception Impact Assessments aim to inform citizens and stakeholders about the Commission's plans in order to allow them to provide feedback on the intended initiative and to participate effectively in future consultation activities. Citizens and stakeholders are in particular invited to provide views on the Commission's understanding of the problem and possible solutions and to make available any relevant information that they may have, including on possible impacts of the different options.

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| TITLE OF THE INITIATIVE | Review of the Agricultural State aid Guidelines Review of the Agricultural Block Exemption Regulation |
| LEAD DG (RESPONSIBLE UNIT) | DG AGRI – UNIT DDG3.1.2 State aid |
| LIKELY TYPE OF INITIATIVE | <i>Review of the framework of rules on State aid in the agriculture and forestry sectors and in rural areas, in view of adopting a new Block Exemption Regulation and new State aid Guidelines for the period 2021 to 2027</i> |
| INDICATIVE PLANNING | Q4 2020 |
| ADDITIONAL INFORMATION | https://ec.europa.eu/agriculture/stateaid/legislation_en |

The Inception Impact Assessment is provided for information purposes only. It does not prejudice the final decision of the Commission on whether this initiative will be pursued or on its final content. All elements of the initiative described by the Inception impact assessment, including its timing, are subject to change.

A. Context, Problem definition and Subsidiarity Check

Context

- *State aid is in principle incompatible with the EU internal market and is therefore, as a general rule, prohibited under the Treaty on the Functioning of the European Union (TFEU). However, the Commission may authorise State aid under certain conditions, notably for reasons of economic development or the common good. The Commission uses guidelines when assessing the aid in order to ensure that the assessment is transparent, consistent and coherent.*
- *To simplify State aid procedures, the Council has empowered the Commission to adopt block exemption regulations exempting certain categories of aid from the notification requirement.*
- *A specific framework of rules has been set up for the control of State aid in the agriculture and forestry sectors and in rural areas. The current framework comprises an Agricultural Block Exemption Regulation (“ABER”)¹ and State aid Guidelines². For an overview of the framework, see https://ec.europa.eu/agriculture/stateaid_en*
- *The validity of both the ABER and the Guidelines expires on 31.12.2020. An evaluation of both instruments is ongoing and includes an external evaluation study. The completion date of the evaluation is planned for April 2019.*
- *A new legal framework of the Common Agricultural Policy has been proposed for the period 2021 – 2027.*

Problem the initiative aims to tackle

- *The main problem drivers are, firstly, the expiry of the validity of the current State aid framework on 31 December 2020 and, secondly, the future new legal framework of the Common Agricultural Policy (CAP).*
- *Most affected are the Member States’ public authorities and undertakings active in agriculture or forestry.*
- *In absence of the ABER, Member States would as from 2021 have to start notifying to the Commission a large part of the aid measures that are currently exempted from the notification requirement. As a result, State aid procedures would become lengthier and heavier, causing a significant increase in administrative costs for both national administrations and the Commission services.*

¹ Commission Regulation (EU) No 702/2014 (OJ L 193, 1.7.2014, p.1)

² EU Guidelines for State aid in the agricultural and forestry sectors and in rural areas 2014 to 2020 (OJ C 204, 1.7.2014, p. 1)

- *In absence of the Guidelines, the Commission services would as from 2021 have to carry out State aid control directly on the basis of the Treaty without any common, transparent and coherent provisions to guide them. That would negatively affect the legal certainty of Member States and aid beneficiaries.*
- *State aid for agriculture, forestry and rural areas is embedded in the CAP. State aid control in the period 2021 to 2027 therefore needs to be adapted to the future legal framework of the CAP, in particular with regard to the proposed Regulation on CAP Strategic Plans³. Based on subsidiarity considerations, that proposal defines the basic policy in terms of overall objectives, broad interventions and basic requirements while Member States will be responsible for tailoring the CAP interventions at national level. State aid control applies to CAP interventions related to forestry and other non-agricultural activities. The level of detail of the eligibility conditions for granting State aid will have an impact of the delivery of the CAP in those areas.*
- *However, State aid control of national aid measures falling outside the scope of the CAP will still require detailed conditions.*
- *.Experience shows that some eligibility conditions have become obsolete or cause interpretation difficulties or are unnecessarily burdensome.*
- *Several aid measures that could be included in the scope of the ABER still require notification.*
- *The initiative is part of the Regulatory Fitness Programme (REFIT).*

Basis for EU intervention (legal basis and subsidiarity check)

- *Articles 107 and 108 TFEU constitute the legal basis for State aid rules.*
- *The initiative falls under the exclusive competence of the EU according to Article 3(1)(b) TFEU. Therefore, the subsidiarity principle does not apply.*

B. Objectives and Policy options

Questions/issues to consider

- *The general objective is to ensure effective and efficient State aid control within a framework of common and streamlined provisions for the period 2021 to 2027 and to simplify State aid procedures as far as possible.*
- *Option 1: Prolong the current State aid rules as they are (baseline scenario)*
- *Option 2: Adaptation of the State aid rules to the new legal framework of the CAP but without further changes.*
- *Option 3: Revise the State aid rules beyond adaptation to the new legal framework of the CAP, in particular as regards:*
 - *scope (removing or adding certain types of aid), notably the scope of the ABER;*
 - *eligibility conditions (removing or adding detail);*
 - *maximum aid intensities;*
 - *clarification of legal concepts;*
 - *simplification potential;*

Option 3 will present several sub-options. An option of discontinuation of the ABER or of the Guidelines is rejected based on the arguments in section A.

C. Preliminary Assessment of Expected Impacts

Likely economic impacts

The impact analysis will assess and compare the economic impacts of options 2 and 3 and their sub-options. Both options are likely to be superior to the baseline as they adapt to the new CAP context. The main impact will be for SMEs, taking into account the structures of the sectors concerned. Most agricultural holdings in the EU are SMEs (in 2016, 82,6 % were small enterprises and 10,4 % were medium-sized undertakings). The average size of forestry holdings is also small (around 13 hectares) although structures vary between Member States. The vast majority of beneficiaries under existing State aid schemes in both sectors are SMEs.

The analysis will then show which options and sub-options perform better in terms of:

- *efficiency and effectiveness in public spending;*
- *safeguarding the level playing field for undertakings active in agriculture or forestry;*
- *fostering the competitiveness and growth of enterprises active in agriculture or forestry, in particular SMEs, and facilitating their adaptation to new technologies, market conditions, EU policies and secondary legislation.*

³ Proposal for a Regulation of the European Parliament and of the Council establishing rules on support for strategic plans to be drawn up by Member States under the Common agricultural policy (CAP Strategic Plans) and financed by the European Agricultural Guarantee Fund (EAGF) and by the European Agricultural Fund for Rural Development (EAFRD)

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| Likely social impacts |
| <p>The impact analysis will assess and compare the social impacts of options 2 and 3 and their sub-options, compared to the baseline. This analysis will take into account at least the following features of the policy options:</p> <ul style="list-style-type: none"> • Updated conditions for aid measures relating to the economic and social fabric in rural areas. • Updated conditions for aid measures relating to the cultural, recreational or ecological activities in forests and rural areas. |
| Likely environmental impacts |
| <ul style="list-style-type: none"> • The impact analysis will assess and compare the environmental and climate impacts of options 2 and 3 and their sub-options, compared to the baseline. This analysis will take into account the updated conditions for aid measures relating to: • climate change mitigation, and adaptation, including coherence with the objectives of the EU 2030 climate and energy framework. • sustainable use of natural resources, water quality and quantity, waste, air quality, soil, biodiversity, ecosystem services and landscapes. |
| Likely impacts on fundamental rights |
| No impact on fundamental rights compared to the baseline scenario. |
| Likely impacts on simplification and/or administrative burden |
| <p>Compared to the baseline scenario, options 2 and 3 could have the following simplification impacts:</p> <ul style="list-style-type: none"> • For aid beneficiaries, possibly a reduction of regulatory burdens if the review makes it possible to remove eligibility conditions that may not be necessary for achieving aid objectives or safeguarding the internal market. • For public authorities, possibly a reduction of administrative costs if the review makes it possible to extend the scope of the ABER. • A review of the Guidelines would have a limited impact on public authorities because notification procedures as such would continue to apply. However, it would allow revising unclear provisions and removing interpretation difficulties, thereby facilitating the preparation and handling of notifications. • The Commission has committed to quantify the costs and benefits resulting from the review. |
| D. Evidence Base, Data collection and Better Regulation Instruments |
| Impact assessment |
| An Impact Assessment will be prepared to support the review and to inform the Commission's decision. According to tentative planning, the process should be completed in the first half of 2020. |
| Evidence base and data collection |
| <p><u>Existing information and data:</u></p> <ul style="list-style-type: none"> • Commission State aid decisions and information on aid being registered as exempted under the ABER are available in the Commission's competition case database: http://ec.europa.eu/competition/state_aid/register • Information on Member States' aid expenditures, based on Member States annual reporting, is comprised in the State Aid Scoreboard: http://ec.europa.eu/competition/state_aid/scoreboard/index_en.html • The State Aid Transparency Public Search page gives access to state aid individual award data provided by Member States in compliance with the European transparency requirements for state aid: https://webgate.ec.europa.eu/competition/transparency/public/search/home • In the context of the evaluation, the external evaluation study report provides data on the performance of the current State aid framework. <p><u>Additional data collection:</u></p> <ul style="list-style-type: none"> • The Commission will seek further information on stakeholders' experience of State aid procedures, impact on the internal market and simplification potential. • The draft regulation amending the ABER will be published for stakeholder feedback and will be submitted twice to the Advisory Committee on State aid, as required by Council Regulation (EU) 2015/1588. |
| Consultation of citizens and stakeholders |
| <p>The consultation activities to be conducted aim at seeking information from stakeholders and the wider public on the experience drawn from the application of the current framework of State aid rules and feedback on results from the on-going external evaluation study and on the possible design of the future State aid framework.</p> <p>The consultation activities will target in particular public authorities responsible for granting State aid, aid</p> |

beneficiaries and their competitors in the agriculture and forestry sectors and in rural areas, as well as NGOs and the civil society at large.

- In the first quarter of 2019, an open internet-based public consultation will be made available on the Public consultations website⁴ in all official EU languages for 12 weeks. The consultation questionnaire will address both the evaluation of the existing State aid framework and the Impact Assessment to be conducted for the State aid framework for the period 2021 – 2027 (i.e. a “back to back” single consultation for both initiatives). The results will feed into the preparation of the evaluation Staff Working Document and of the Impact Assessment report.*
- The launching of the open public consultation will be announced at the Public consultation web-site and at the Commission web-site on State aid in the agriculture and forestry sectors and in rural areas⁵.*
- At the end of the consultation, an overall synopsis report will be made available on the consultation website⁶.*

Will an Implementation plan be established?

An Implementation Plan is not relevant in the present context because State aid rules are not being transposed by Member States.

⁴ http://ec.europa.eu/info/consultations_en

⁵ https://ec.europa.eu/agriculture/stateaid_en

⁶ http://ec.europa.eu/agriculture/consultations/public/index_en.htm